



ORIGINAL

414 OPEN MEETING ITEM

MEMORANDUM

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Arizona Corporation Commission

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2001 NOV 19 P 4: 54

TO: THE COMMISSION

FROM: Utilities Division

NOV 19 2001

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: November 19, 2001



RE: IN THE MATTER OF THE EMERGENCY APPLICATION OF TELIGENT SERVICES, INC., TO DISCONTINUE LOCAL EXCHANGE SERVICE AND FOR A WAIVER OF R14-2-1107(B) (DOCKET NO. T-03761A-01-0911)

On November 15, 2001, Teligent Services, Inc. ("Teligent") filed an "emergency" Application to discontinue basic local service effective December 15, 2001, and for approval of a waiver of R14-2-1107(B). This Application was filed on the day a hearing was to be held on another Teligent docket filed on September 11, 2001. In that docket, Teligent and TAC License Corp. filed for emergency approval to assign the Certificate of Convenience and Necessity ("CC&N") and all the assets and operations of Teligent to TAC License Corp. On October 24, 2001, Staff filed its Staff Report on the matter recommending approval following a hearing. On October 29, 2001, the Hearing Division issued a Procedural Order setting a hearing on the matter for November 15, 2001.

Teligent holds Arizona CC&Ns to provide local telecommunications service, intrastate facilities-based and resold intrastate toll and non-switched private line services. On May 21, 2001, Teligent, Inc., and all of its direct and indirect subsidiaries including Teligent, filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code with the U.S. Bankruptcy Court in order to restructure its long-term debt. In conjunction with the bankruptcy proceedings, Teligent Inc., entered into an interim arrangement with its lenders to provide funds for near-term operations for itself and its subsidiaries.

As stated in the Application at issue, Teligent Inc.'s creditors have indicated that they will not continue to "...make sufficient funds available to continue all of Teligent's current operations" and that by December 15, 2001, Teligent will not have sufficient funds to continue basic local service. Thus, Teligent requests approval to discontinue local service on December 15, 2001, and also requests approval of a waiver of part of the Commission Rule that governs service abandonment. Teligent will, however, continue to provide fixed wireless services including private line, transport, and wholesale services, in addition to resold services in Arizona.

Approximately 174 business customers will be affected by abandonment of local service.

R14-2-1107 addresses applications to discontinue local exchange service. Part A. of the Rule lists the information that must be included in an application. Included in that information

THE COMMISSION

November 19, 2001

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must be verification "that all affected customers will have access to an alternative local exchange service provider". As of this writing, Staff has received a call from one customer who contacted Qwest as soon as he received Teligent's notice to discontinue service. He was told by Qwest they could provide him service in 60 to 90 days.

Part B. of the Rule provides Staff 20 days to find the Application to be "in proper form". The applicant must file legal notice of the Application in all counties affected by the Application. Then, interested parties have 30 days to "file objections to the Application, to request a hearing, and to submit a motion to intervene in the proceeding." Part C. of the Rule allows the Commission to grant the Application without a hearing.

The emergency Application indicates that Teligent believes that R14-2-1107 does not apply to bankruptcies, but that in the event that the Commission finds the Rule to be applicable, it asks the Commission to grant a waiver of R14-2-1107 (B). Teligent asserts that the cost of compliance with Part B. would be unduly burdensome. In place of the legal notice requirement, Teligent has provided customers individual notice by overnight courier.

If the Commission were to grant a waiver to part B, customers would have a much shorter period in which to participate in this docket. Also, if Part B were waived, and abandonment of service were immediately approved, customers' businesses could be severely impacted if they cannot receive service from another utility until after December 15th.

Staff recommends that the Commission deny the waiver of R14-2-1107(B). If Teligent is able to continue providing other services, Teligent's obligations to local service customers should not be waived. Furthermore, Staff sees no compelling reason to reduce the time necessary to process the Application to abandon service when customers are having difficulty finding and receiving alternative service within the time requested by Teligent. The time requirements of the Rule should not be reduced. Staff recommends denial of the Application for a waiver of R14-2-1107(B) without a hearing.



Ernest G. Johnson
Director
Utilities Division

EGJ:LAJ:jbc/CCK

Originator: Linda A. Jaress

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
Chairman
3 JIM IRVIN
Commissioner
4 MARC SPITZER
Commissioner
5

6 IN THE MATTER OF THE EMERGENCY)
7 APPLICATION OF TELIGENT SERVICES, INC.,)
TO DISCONTINUE LOCAL EXCHANGE)
8 SERVICE AND FOR A WAIVER OF)
R14-2-1107(B))
9)
10 _____)

DOCKET NO. T-03761A-01-0911

DECISION NO. _____

ORDER

11 Open Meeting
November 27 and 28, 2001
12 Phoenix, Arizona

13 BY THE COMMISSION:

14 FINDINGS OF FACT

15 1. On November 15, 2001, Teligent Services, Inc. ("Teligent") filed an "emergency"
16 Application to discontinue basic local service effective December 15, 2001, and for approval of a
17 waiver of R14-2-1107(B). This Application was filed on the day a hearing was to be held on another
18 Teligent docket filed on September 11, 2001.

19 2. In that docket, Teligent and TAC License Corp. filed for emergency approval to assign
20 the Certificate of Convenience and Necessity ("CC&N") and all the assets and operations of Teligent
21 to TAC License Corp.

22 3. Teligent holds Arizona CC&Ns to provide local telecommunications service, intrastate
23 facilities-based and resold intrastate toll and non-switched private line services.

24 4. On May 21, 2001, Teligent, Inc., and all of its direct and indirect subsidiaries including
25 Teligent, filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code with the
26 U.S. Bankruptcy Court in order to restructure its long-term debt. In conjunction with the bankruptcy
27 proceedings, Teligent Inc., entered into an interim arrangement with its lenders to provide funds for
28 near-term operations for itself and its subsidiaries.

1 5. As stated in the Application at issue, Teligent Inc.'s creditors have indicated that they will
2 not continue to "...make sufficient funds available to continue all of Teligent's current operations" and
3 that by December 15, 2001, Teligent will not have sufficient funds to continue basic local service.

4 6. Thus, Teligent requests approval to discontinue local service on December 15, 2001, and
5 also requests approval of a waiver of part of the Commission Rule that governs service abandonment.
6 Teligent will, however, continue to provide fixed wireless services including private line, transport,
7 and wholesale services, in addition to resold services in Arizona.

8 7. Approximately 174 business customers will be affected by abandonment of local service.

9 8. R14-2-1107, addresses applications to discontinue local exchange service. Part A. of the
10 Rule lists the information that must be included in an application. Included in that information must
11 be verification "that all affected customers will have access to an alternative local exchange service
12 provider".

13 9. As of this writing, Staff has received a call from one customer who contacted Qwest as
14 soon as he received Teligent's notice to discontinue service. He was told by Qwest they could provide
15 him service in 60 to 90 days.

16 10. Part B. of the Rule provides Staff 20 days to find the Application to be "in proper form".
17 The applicant must file legal notice of the Application in all counties affected by the Application.
18 Then, interested parties have 30 days to "file objections to the Application, to request a hearing, and
19 to submit a motion to intervene in the proceeding." Part C. of the Rule allows the Commission to
20 grant the Application without a hearing.

21 11. The emergency Application indicates that Teligent believes that R14-2-1107 does not
22 apply to bankruptcies but that in the event that the Commission finds the Rule to be applicable, it asks
23 the Commission to grant a waiver of R14-2-1107 (B). Teligent asserts that the cost of compliance with
24 Part B would be unduly burdensome. In place of the legal notice requirement, Teligent has provided
25 customers individual notice by overnight courier.

26 12. If the Commission were to grant a waiver to part B, customers would have a much shorter
27 period in which to participate in this docket. Also, if Part B were waived, and abandonment of service
28 were immediately approved, customers' businesses could be severely impacted if they cannot receive

1 service from another utility until after December 15th.

2 13. Staff recommends that the Commission deny the waiver of R14-2-1107(B). If Teligent
3 is able to continue providing other services, Teligent's obligations to local service customers should
4 not be waived. Furthermore, Staff sees no compelling reason to reduce the time necessary to process
5 the Application to abandon service when customers are having difficulty finding and receiving
6 alternative service within the time requested by Teligent.

7 14. The time requirements of the Rule should not be reduced. Staff recommends denial
8 of the Application for a waiver of R14-2-1107(B) without a hearing.

9 CONCLUSIONS OF LAW

10 1. Teligent Services, Inc., is a public service corporation within the meaning of Article XV,
11 Section 2, of the Arizona Constitution.

12 2. The Commission has jurisdiction over Teligent Services, Inc., and the subject of the
13 Application.

14 3. The waiver of R14-2-1107(B) is not in the public interest and should be denied.

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ORDER

1 IT IS THEREFORE ORDERED that Teligent Services, Inc.'s Application for approval of a
2 waiver of R14-2-1107(B) is hereby denied.

3 IT IS FURTHER ORDERED that this Decision should become effective immediately.

4 **BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

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6 CHAIRMAN COMMISSIONER COMMISSIONER

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IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2001.

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BRIAN C. McNEIL
Executive Secretary

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15 DISSENT: _____

16 EGJ:LAJ:jbc/CCK

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1 SERVICE LIST FOR: Teligent Services, Inc.
DOCKET NO. T-03761A-01-0911

2 Mr. Michael W. Patten, Esq.
3 Roshka, Heyman & Dewulf
400 East Van Buren Street, Suite 800
4 Phoenix, Arizona. 85004

5 Mr. Ernest G. Johnson
Director, Utilities Division
6 Arizona Corporation Commission
1200 West Washington
7 Phoenix, Arizona 85007

8 Mr. Christopher C. Kempley
Chief Counsel
9 Arizona Corporation Commission
1200 West Washington
10 Phoenix, Arizona 85007

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