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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

In the Matter of	)	
	)	
The Development of a National Framework to	)	RM 9474
Detect and Deter Backsliding to Ensure	)	
Continued Bell Operating Company Compliance	)	
With Section 271 of the Communications Act	)	
Once In-region InterLATA Relief is Obtained	)	

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OFFICE OF THE SECRETARY

Reply Comments of Teligent, Inc.

Teligent, Inc. ("Teligent"), by its undersigned counsel, and pursuant to Section 1.405 of the Commission's rules, 47 C.F.R. § 1.405, hereby submits its reply comments in the above-captioned proceeding.

On February 5, 1999, the Commission placed Allegiance Telecom, Inc.'s ("Allegiance") above-captioned petition ("Allegiance's Petition") on public notice requesting interested parties to submit comments in support of, or in opposition to, the Petition within 30 days *i.e.,* by March 8, 1999. Allegiance's Petition requests that the Commission promptly institute a rulemaking to develop a national framework for addressing Bell Operating Company ("BOC") backsliding once a BOC obtains in-region long distance entry authority pursuant to Section 271 of the Telecommunications Act of 1996.[1] The proposals set forth by Allegiance are designed to ensure that a BOC has the

[1] Pub L. 104-104, § 271, February 8, 1996, 110 Stat.86; (hereinafter "1996 Act"); 47 USC§ 271.

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appropriate incentives to sustain the procompetitive activities which it necessarily has to meet in order to obtain 271 authority in the first place.[2]

Of the more than 20 parties represented by the comments filed on Allegiance's Petition, the majority, overwhelmingly, support Allegiance's request.[3] Teligent will not herein reiterate the proposals presented by Allegiance in its Petition or the numerous reasons it has advanced to support the need for an expedited rulemaking. Neither will Teligent discuss the myriad variations and alternative methods of detecting and deterring backsliding advanced by other commenters in support of Allegiance's Petition. The specifics of these proposals are best saved for the rulemaking proceeding. It is worth highlighting, however, that a common theme emerges in each statement filed in support of Allegiance's Petition -- because the BOCs are taking an "inch by inch" approach to gaining 271 authority, doing only the minimum necessary to technically meet the Competitive

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[2] While Allegiance's Petition deals principally with post-271 authority remedies, Allegiance raises certain issues related to pre-271 authority. See Allegiance's Petition at Section IV.A.4. While Teligent will not herein comment on these issues except to indicate its support, with respect to pre-271 authority generally, Teligent is compelled to caution the Commission against any lessening of the standards for 271 entry merely because a solid national framework for dealing with post-271 non-compliance may ultimately be adopted. For competition to flourish and perpetuate, the BOCs must be strictly held to the requirements set forth in Section 271 (c) of the Act at the time that, as well as after, Section 271 authority is granted.

[3] Teligent is an active member of the Association for Local Telecommunications Services ("ALTS") which submitted a statement in support of Allegiance's Petition on March 8, 1999. Because ALTS' Comments reflect Teligent's views with respect to Allegiance's request for rulemaking, Teligent did not submit a separate statement in support. See Comments of The Association for Local Telecommunications Services, KMC Telecom, Inc. and Focal Communications Corporation In Support of Petition For Expedited Rulemaking, RM 9474, filed March 8, 1999 hereinafter ("ALTS Comments")

Checklist requirements, a robust national framework to prevent backsliding from occurring, and to penalize it when it does occur, must be developed[4].

Not surprisingly, with only two exceptions, those parties opposing Allegiance's Petition are the regional BOCs ("RBOCs").[5] The fact that the RBOCs so vehemently oppose the proposals advanced by Allegiance underscores the critical importance of a comprehensive national framework within which to expeditiously and effectively address and deter post-271 non-compliance activity. Teligent submits that the RBOCs oppose Allegiance's rulemaking request because they fear the adoption of bright line standards which set forth unambiguous criteria to evaluate their post-271 compliance or lack thereof. The RBOCs are far better served when no clearly defined set of parameters exists, enabling disputes before state and federal regulatory commissions to drag on for months or years to determine whether, and to what extent, the RBOC is violating an on-going obligation and what, if any, action should be taken. All the while, the CLEC and,

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[4] See e.g., Comments of RCN Telecom Services, Inc. at 2; Comments of ALTS, KMC and FOCAL at 2; Comments of PAC WEST Telecom, Inc. at 3; Comments of CoreComm at 2; Comments of State Commissions at 4; Letter of Telergy Network Services at 2; Comments of Time Warner Telecom at 2; and Statement of Winstar at Section B.

[5] The only other parties that did not wholeheartedly endorse Allegiance's Petition to the extent it called for a rulemaking directed expressly at post-271 compliance were the New York Public Service Commission, ("NYPSC") which agrees that effective backsliding prevention measures are necessary and important to ensuring that local exchange markets remain open to competitive entry, yet believes that the measures it has adopted will sufficiently address these concerns, and AT&T, which thinks the FCC should give guidance to the states and industry on appropriate anti-backsliding measures but in the context of on-going proceedings. Both of these parties, however, agree that backsliding is an issue which must be addressed now.

ultimately, the public, fail to obtain any immediate relief and the BOCs are able to continue to engage in the anticompetitive activity which gave rise to the dispute in the first place.

Yes, the RBOCs are correct in asserting that the Commission is currently addressing some of the issues raised by Allegiance in other on-going proceedings. The outcome of these proceedings will no doubt provide useful information for post-271 authority regulatory and industry oversight. Teligent notes that these proceedings, however, have not been instituted expressly for the purpose of developing a systematic, prospective approach to deterring backsliding through the development of: 1) processes to rapidly and effectively deal with non-compliance; and 2) specific remedies and penalties when it does occur.

Yes, the RBOCs are also correct that Section 271(d)(6) does empower the Commission to address BOC post-271 non-compliance and sets forth the remedies it may use. What the RBOCs refuse to acknowledge, however, is that in order for the Commission to effectively implement this crucial provision of the 1996 Act, a rulemaking proceeding geared specifically for this purpose must be convened and must be convened now.

Finally, Teligent notes that the NYPSC has registered concern that a comprehensive Commission rulemaking to address post-271 backsliding may disrupt on-going state enforcement mechanisms currently being developed or already in place to address this issue. In addition, the NYPSC is concerned that such efforts may limit the ability of states to conduct independent enforcement proceedings. Teligent commends

New York for its dedicated efforts in this area to date and, like Allegiance, believes that New York's procedures should be carefully considered by the Commission as a potential

foundation for a post-271 national framework.[6] Unfortunately, not all states have the resources or the inclination to undertake such an effort. For this reason, Teligent, like others, believes that a comprehensive national framework of minimum standards, remedies and procedures for addressing post-271 anticompetitive activity must be adopted by the Commission. Teligent believes this can and should occur in a way that permits those states which seek to develop more stringent standards or enforcement mechanisms to do so, yet gives guidance to those that otherwise do not.[7] The states have a critical and valuable role to play in continuing to ensure that checklist compliance continues after Section 271 authority is granted to a particular BOC. Teligent fears, however, that unless the Commission undertakes this rulemaking, the BOCs incentive to backslide will outweigh their incentive to comply in all but a handful of states.

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[6] See Petition For Expedited Rulemaking, Allegiance Telecom, Inc. at Section IV. A.

[7] See also Comments of the Competition Policy Institute at 9; Comments of ALTS, KMC and FOCAL at Sec. III; Statement of Hyperion at Section I.B. and; Comments of MCI Worldcom at 6.

For all of the foregoing reasons, Teligent respectfully urges the Commission to expeditiously institute the rulemaking proceeding requested in Allegiance's Petition.

Respectfully submitted,

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March 23, 1999

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