

# WILLKIE FARR & GALLAGHER

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December 3, 1999

Ms. Magalie Roman Salas  
Secretary, Office of the Secretary  
Federal Communications Commission  
The Portals, TW-B-204  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

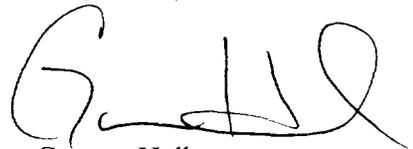
Re: Comments of Teligent, Inc. on Local Competition and Broadband Reporting  
CC Docket No. 99-301

Dear Ms. Salas:

Enclosed please find an original and nine copies, plus a diskette version in WP 5.1 read-only format of the Comments of Teligent, Inc. in the above-referenced proceeding.

Please do not hesitate to call me at 202/429-4716 if you have any questions.

Very truly yours,

  
Gunnar Halley

Enclosures

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BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

RECEIVED  
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In the Matter of )  
 )  
Local Competition and ) CC Docket No. 99-301  
Broadband Reporting )

**COMMENTS OF TELIGENT, INC.**

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December 3, 1999

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BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

In the Matter of )  
 )  
Local Competition and ) CC Docket No. 99-301  
Broadband Reporting )

**COMMENTS OF TELIGENT, INC.**

Teligent, Inc. ("Teligent") hereby submits its comments in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION**

Teligent supports the Commission's goals of collecting timely and reliable information in order to evaluate the effectiveness of federal and State regulatory actions in promoting the development of local competition and the deployment of advanced broadband services. The collection and analysis of this information will enable the Commission to gauge changing market conditions in these dynamic markets and will allow it to determine where regulatory forbearance is warranted or, by contrast, where regulatory intervention has become necessary to accomplish regulatory objectives. At the same time, Teligent is pleased to note the Commission's mindfulness of the burdens associated with reporting requirements and its desire to minimize those burdens while accomplishing its goals. Teligent encourages the Commission to work with States to

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<sup>1</sup> Local Competition and Broadband Reporting, CC Docket No. 99-301, *Notice of Proposed Rulemaking*, FCC 99-283 (rel. Oct. 22, 1999)("Notice").

eliminate burdensome and duplicative information collection and filing requirements so that carrier resources are not unnecessarily diverted from the growth of local competition and the deployment of broadband services.

**II. THE COMMISSION SHOULD MINIMIZE REPORTING BURDENS BY ELIMINATING THE NEED FOR DUPLICATE REPORTING TO STATE AGENCIES.**

The Commission enjoys a unique ability to obtain the information that State agencies require for their own regulatory purposes while minimizing burdens on reporting entities. NARUC clearly contemplated implementation of such abilities when it supported "federal efforts to collect consistent data on local competition and broadband deployment on a state-by-state basis."<sup>2</sup> Indeed, NARUC expressly urged cooperative efforts between the Commission, States, and industry in a manner that will promote data collection efforts that "are not unduly burdensome or costly."<sup>3</sup>

In an effort to give effect to NARUC's resolution and to minimize unnecessary burdens on reporting entities, Teligent recommends a comprehensive federal reporting requirement disaggregated to the State level and implemented, at a maximum, on a semi-annual basis (although an annual reporting requirement would be less burdensome, would allow for more comprehensive reporting and would permit a more meaningful trend analysis and, hence, would be preferable). Moreover, Teligent urges the Commission to work cooperatively with State agencies in determining the appropriate information to be collected. The Commission recognizes that

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<sup>2</sup> "Resolution On The Importance Of Systematically Collecting Data On Local Competition And Broadband Deployment," Resolutions Adopted by NARUC Board of Directors, Washington, D.C., Feb. 24, 1999.

<sup>3</sup> Id.

"carriers serving different states may need to keep multiple sets of records in order to meet similar, but not identical, reporting requirements."<sup>4</sup> It explains that "a properly designed federal program can complement state efforts and end up reducing the reporting burdens imposed, overall, on carriers."<sup>5</sup>

Teligent strongly supports the Commission's direction to its staff to work closely with State public utility commission staffs in developing the reporting system to eliminate as much duplication as possible.<sup>6</sup> The Commission should strive to adopt a reporting requirement that will accommodate both federal and State data collection needs to such a degree that State agencies would find it unnecessary to require carriers to report on the status of local competition and broadband deployment efforts directly to State agencies.

A reporting entity should be subject to the burdens of information collection and reporting only once. The Commission should make all reasonable efforts to eliminate duplicative or onerous reporting obligations at the State level. By this proposal, Teligent does not seek to impair the information gathering and analysis efforts of State agencies. To the contrary, a properly designed reporting obligation will provide both the Commission and State regulatory bodies with the requisite information for more effective regulation of the telecommunications industry. The achievement of this goal depends upon full participation by the State agencies and requires an efficient and comprehensive approach to designing the data collection process -- a task that is fully within the competence of the Commission and the State agencies.

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<sup>4</sup> Notice at ¶ 15.

<sup>5</sup> Id. at ¶ 16.

<sup>6</sup> See id.

### III. THE COMMISSION HAS PROPOSED REASONABLE REPORTING ELIGIBILITY THRESHOLDS.

The utility of the information collected by the Commission depends to a large degree on the scope of the survey's coverage. The Commission must obtain information from a sufficiently large percentage of telecommunications carriers (and other providers of relevant services) such that the dynamics of the marketplace can be reasonably approximated. Teligent supports the Commission's proposal to require carriers with 50,000 or more local access lines or channels nationwide, or 50,000 or more subscribers nationwide to file information.<sup>7</sup> These carriers represent a sufficiently strong force in the telecommunications arena that they are legitimately queried for purposes of determining the status of local competition.<sup>8</sup> This eligibility requirement is consistent with the Commission's objective of collecting "sufficient information about the evolving status of local competition to achieve the regulatory flexibility, pro-competition, and universal service objectives of the 1996 Act, while imposing on carriers the fewest burdens consistent with [its] need for information."<sup>9</sup>

At the same time, the information derived from smaller carriers by the reporting requirements may be outweighed by the burdens they impose on those carriers. Consequently,

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<sup>7</sup> Id. at ¶ 25.

<sup>8</sup> Teligent is pleased to note the Commission's tentative conclusion that the obligation to complete the survey should not depend on the technology used to provide service. Notice at ¶ 27. Teligent ardently believes that technological neutrality should inform the Commission's rules and supports the Commission's proposal to pursue that course in this proceeding.

<sup>9</sup> Notice at ¶ 24.

Teligent supports the Commission's proposal to exempt from the reporting requirements those carriers serving fewer than 50,000 nationwide local access lines.<sup>10</sup>

**IV. THE COMMISSION SHOULD STRIVE TO PRESERVE THE REASONABLE CONFIDENTIALITY CONCERNS OF REPORTING ENTITIES.**

Although the collection and analysis of comprehensive marketplace information is an important component of effective regulation, the collection process should not disrupt marketplace forces by revealing commercially sensitive information that might not otherwise be available to competitors. Teligent supports the Commission's tentative conclusion that "all information submitted pursuant to this information collection program should be publicly released."<sup>11</sup> However, the Commission should adopt procedures that ensure that carriers need not file information of a commercially sensitive nature.

The Commission already has proposed to take some of the necessary precautions. For example, the Commission declines to propose asking carriers for information about investments, rates, revenues, earnings, traffic volumes, or other operational matters.<sup>12</sup> The Commission also tentatively concludes that information should be reported on a statewide basis.<sup>13</sup> Further geographic disaggregation of information reporting obligations could increase the ability of competitors to map and predict the strategic operations of other carriers. This may lead some carriers to adopt strategies designed to deter competitive entry in certain geographic areas rather

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<sup>10</sup> Id. at ¶ 37.

<sup>11</sup> Id. at ¶ 74.

<sup>12</sup> Id. at ¶ 4.

<sup>13</sup> Id. at ¶ 48.

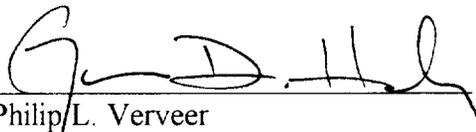
than tailoring their construction goals to market demand. To avoid this anticompetitive scenario, the Commission should maintain the highest level of aggregation for reporting consistent with preserving the utility of the information derived therefrom. To the extent that the Commission seeks more detailed information on specific rural areas or urban centers for purposes of developing regulatory policies, it may wish to extend confidential treatment to more geographically detailed reports. Alternatively, it could release information without publicly identifying the reporting carrier or carriers.

**V. CONCLUSION**

For the foregoing reasons, Teligent respectfully urges the Commission to design a federal reporting program that will provide the Commission and State agencies with the information necessary to maximize their effectiveness in regulating the telecommunications industry while minimizing the burdens imposed on participating carriers.

Respectfully submitted,

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