

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendments to Parts 1, 2, 87 and 101)	
of the Commission’s Rules)	WT Docket No. 99-327
To License Fixed Services)	
at 24 GHz)	
To: The Commission		

**REPLY IN RESPONSE TO OPPOSITION
TO THE PETITION FOR RECONSIDERATION
OF THE RURAL TELECOMMUNICATIONS GROUP**

The Rural Telecommunications Group (“RTG”), by its attorneys, hereby respectfully submits this reply in response to the opposition of Teligent, Inc. (“Teligent”) to RTG’s Petition for Reconsideration of the Federal Communications Commission’s (“FCC” or “Commission”) August 1, 2000 *Report and Order*¹ in the above-captioned proceeding.

As RTG noted in its petition, the *Report and Order* set the auction and service rules for the 24.25-24.45 GHz and 25.05-25.25 GHz bands (“24 GHz band”) – rules that three out of the five FCC Commissioners noted would disadvantage 24 GHz buildout in rural areas. As RTG noted in its petition, the concerns of the three Commissioners better reflect FCC policy since the release of the *Report and Order*. RTG’s petition for reconsideration represents a chance for the Commission to bring the 24 GHz auction in line with current FCC spectrum policy that recognizes the need for smaller geographic license areas.

Not surprisingly, Teligent, which stands to benefit the most from the Commission's use of large Economic Areas ("EAs") that are tailor-made for such a company with nationwide ambitions, has opposed RTG's petition for reconsideration, brushing aside the congressional mandate under Section 309(j) of the Communications Act of 1934. The Communications Act directs the Commission to disseminate licenses to small business and rural carriers.² Teligent, in the sole opposition to RTG's petition for reconsideration, assures the Commission that the use of EA-based license areas will ensure that competitive fixed wireless telecommunications services will be provided in all areas of the nation, including rural areas. While RTG admires Teligent's expertise regarding the delivery of local exchange competition to approximately fifty of the country's largest cities, RTG is not persuaded by Teligent's bland assurance that "carriers that acquire EA licenses containing rural areas will provide service to those areas."³ To date, Teligent has yet to venture beyond its densely-populated, urban-centric base.⁴ And there is no evidence that Teligent, nor other carriers without a business presence in rural communities, will ever do so.⁵

¹ *In the Matter of Amendments to Parts 1, 2, 87 and 101 of the Commission's Rules To License Fixed Services at 24 GHz*, Report and Order, WT Docket No. 99-327, FCC 00-272, (rel. Aug. 1, 2000). ("Report and Order")

² 47 U.S.C. § 309(j).

³ Teligent Opposition at 6.

⁴ Attachment 1.

⁵ RTG notes that, according to Teligent's November 14, 2000 10-Q Form filed with the U.S. Securities and Exchange Commission, that Teligent has an outstanding loan balance of \$550 million under its credit facilities. Even with an influx of \$250 million in financing on December 8, 2000, Teligent has stated that it has only enough funding to make it through 2001. RTG seriously doubts that Teligent will attempt to revive its flagging fortunes through a buildout initiative in low-density, low-profit, rural regions even if it has enough cash on hand to continue operations or purchase licenses.

Teligent argues that the use of EA-based licenses “is a predictive judgment by the Commission based on sound economic principles aimed at achieving several public policy objectives.”⁶ If the Teligent opposition is any predictive guide, Teligent itself does not predict that it will ever serve any rural areas. Instead, it leaves the deployment of the 24 GHz service in rural areas to other “carriers.” Moreover, the supposed “market-based spectrum policy”⁷ that Teligent urges upon the Commission does not reflect the Commission’s most recent public policy thinking as to the distribution of spectrum. The FCC’s *Competitive Bidding Order*⁸ encourages the use of smaller geographic license areas in order to speed the delivery of new spectrum-based services to rural areas – a clear indication that previous Commission spectrum policy has overlooked rural markets.

RTG submits that the Commission should follow the predictive judgment of Congress in Section 309(j) when it recognized that rural carriers are the key to the provision of new spectrum-based services in rural areas. Section 309(j) of the Communications Act, as amended, requires the FCC to disseminate licenses to a wide variety of applicants, including small businesses and rural telephone companies, and to promote the development and rapid deployment of new technologies to the public, including those residing in rural areas.⁹ The Commission’s 24 GHz auction will not accomplish these objectives, but instead will place large EA-based licenses in the hands of city-based carriers like Teligent that have never indicated any intent to serve rural markets. In its *Competitive Bidding Order*, the Commission suggested that the Section 309(j) mandate could be best met by service-specific small

⁶Teligent Opposition at 3.

⁷Teligent Opposition at 6.

⁸*In the Matter of Amendment of Part 1 of the Commission’s Rules – Competitive Bidding Procedures*, Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rulemaking, WT Docket No. 97-82, (rel. Aug. 14, 2000). (“*Competitive Bidding Order*”)

license areas.¹⁰ If the Commission truly desires a 24 GHz presence in rural areas any time in the near future, it must reconsider its *Report and Order* along the lines of its latest policy determinations.

After resoundingly supporting the Commission’s “predictive judgment” in the *Report and Order*, Teligent admits that the “Commission cannot reliably predict public demand for services” and suggests that the FCC’s secondary markets proceeding will “go a long way toward ensuring” the flow of spectrum to rural markets.¹¹ RTG, like Teligent, heartily endorses the Commission’s commitment to secondary spectrum markets. However, RTG notes that the Commission itself recently rejected Teligent’s view of trickle down spectrum economics for rural communities. In its Policy Statement on secondary markets, the Commission points out that secondary market transactions will “complement” the auction process and are “not a substitute for finding additional spectrum when needed and should not supplant our spectrum allocation process.”¹² In other words, the Commission is still bound by its duties under Section 309(j) to devise auction mechanisms to deliver spectrum-based services to rural carriers and rural areas during the initial auction process.

The FCC’s spectrum allocation policy has shifted dramatically even since the 24 GHz *Report and Order*. The statements of three out of five Commissioners who encouraged the use of smaller geographic license areas were a harbinger of that change. With RTG’s petition, the Commission has a chance to revise its 24 GHz policies by allowing the use of smaller license areas in the 24 GHz auction. Without this change, the Commission will be ensuring that rural

⁹ 47 U.S.C. § 309(j).

¹⁰ *Competitive Bidding Order* at ¶ 53.

¹¹ Teligent Opposition at 7.

carriers anxious to utilize 24 GHz spectrum to bring broadband access to unserved customers will be held hostage to the city-specific plans of large, national carriers.

RURAL TELECOMMUNICATIONS GROUP

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¹² *In the Matter of Principles for Promoting the Efficient Use of Spectrum by Encouraging the Development of Secondary Markets*, Policy Statement, FCC 00-401, (rel. December 1, 2000).

Attachment I:

Cities where Teligent is located according to its website (<http://www.teligent.com/docs/location.html>)

Arizona

Phoenix

7850 S. Hardy Dr.,
Suite 122
Tempe, AZ 85284

California

Los Angeles/Ventura

660 South Figueroa St.,
Suite 800
Los Angeles, CA 90017

Orange County

217 Technology Dr.,
Suite 200
Irvine, CA 92618

Sacramento

980 Ninth St.,
Suite 2350
Sacramento, CA 95814

San Diego

9605 Scranton Rd.,
Suite 850
San Diego CA 92121

San Francisco/Oakland

1111 Broadway,
Suite 1300
Oakland, CA 94607

San Jose

1737 N. 1st St.,
Suite 680
San Jose, CA 95112

Colorado

Denver

1873 South Bellaire,
Suite 825
Denver, CO 80222

Missouri

St. Louis

515 N. 6th St.,
Suite 1200
St. Louis, MO 63101

New Jersey

Hackensack

433 Hackensack Ave., 4th Floor
Hackensack, NJ 07601

New York

New York - Downtown

83 Maiden Ln.,
Suite 1200
New York, NY 10038

New York - Midtown

546 5th Ave., 7th Floor
New York, NY 10036

White Plains

1311 Mamaroneck Ave.,
Suite 120
White Plains, NY 10605

North Carolina

Charlotte

15800 John J. Delaney Dr.,
Suite 400
Charlotte, NC 28277

Raleigh

2501 Blue Ridge Rd.,
Suite 230
Raleigh, NC 27607

Connecticut

**Hartford, New Haven,
Springfield**
10 Columbus Blvd., 6th Floor
Hartford, CT 06106

Florida

Fort Lauderdale/West Palm Beach

500 West Cypress Creek Rd.,
Suite 410
Ft. Lauderdale, FL 33309

Jacksonville

6650 Southpoint Parkway,
Suite 200
Jacksonville, FL 32216

Miami

5200 Blue Ridge Lagoon Dr.,
Suite 400
Miami, FL 33126

Orlando

250 Rio Dr.
Orlando, FL 32810

Tampa

5401 Kennedy Blvd.,
Suite 880
Tampa, FL 33609

Georgia

Atlanta

3480 Preston Ridge Rd.,
Suite 250
Alpharetta, GA 30005

Illinois

Chicago

River Center Building
111 N. Canal St.,
Suite 550
Chicago, IL 60606

Chicago - Oakbrook

1 Lincoln Center
18 W. 140 Butterfield Rd.,
Suite 100
Oakbrook Terrace, IL 60181

Ohio

Cincinnati

5181 Natorp Blvd.,
Suite 205
Mason, OH 45040

Cleveland

2 Summit Park Dr.,
Suite 610
Cleveland, OH 44131

Columbus

180 E. Broad St.,
Suite 822
Columbus, OH 43215

Oregon

Portland

1 SW Columbia,
Suite 450
Portland, OR 97258

Pennsylvania

Philadelphia

1 Bala Plaza,
Suite 326
Bala Cynwyd, PA 19004

Pittsburgh

600 Grant St.,
Suite 5320
Pittsburgh, PA 15219

Tennessee

Nashville

6 Cadillac Dr.,
Suite 240
Brentwood, TN 37027

Texas

Austin

106 6th St.,
Suite 550
Austin, TX 78701

Dallas I

1950 North Stemmons Freeway,
Suite 5021
Dallas, TX 75207

Indiana

Indianapolis

300 North Meridian St.,
Suite 1600
Indianapolis, IN 46204

Kansas

Kansas City

6900 College Blvd.,
Suite 500
Overland Park, KS 66211

Louisiana

New Orleans

1515 Poydras St.,
Suite 2030
New Orleans, LA 70112

Maryland

Baltimore

201 North Charles St.,
Suite 1802
Baltimore, MD 21201

Massachusetts

Boston

100 Summer St., 30th Floor
Boston, MA 02110

Boston - Waltham

800 South St.,
Suite 305
Waltham, MA 02453

Michigan

Detroit

21200 Melrose Ave.,
Suite 310
Southfield, MI 48075

Minnesota

Minneapolis/St. Paul

3030 Lexington Ave.,
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Eagan, MN 55121

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12201 Merit Dr.,
Suite 100
Dallas, TX 75251

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1301 Fannin St.,
Suite 1150
Houston, TX 77002

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8500 Vicar Dr.,
Suite 1150
San Antonio, TX 78218

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Alexandria

625 Slaters Ln.,
Suite 102
Alexandria, VA 22314

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700 East Main St.,
Suite 1651
Richmond, VA 23219

Vienna - Teligent Corporate HQ

8065 Leesburg Pike,
Suite 400
Vienna, VA 22182

Washington

Seattle

1551 Eastlake Ave. East,
Suite 102
Seattle, WA 98102

Washington DC

Washington DC

5335 Wisconsin Ave. NW
Washington, DC 20015

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735 N. Water St.,
Suite 1250
Milwaukee, WI 53202