

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of Entelegent Solutions, )  
Inc., for Certificate of Service Authority to Provide Basic )  
Local Exchange, Nonswitched Local Exchange and )  
Interexchange Telecommunications Services in the )  
State of Missouri and to Classify Said Services and the )  
Company as Competitive. )

**File No. TA-2009-0415**

**ORDER GRANTING CERTIFICATE TO PROVIDE  
BASIC LOCAL, NONSWITCHED LOCAL, AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES**

Issue Date: September 21, 2009

Effective Date: October 1, 2009

**Syllabus:** This order grants a certificate of service authority to provide basic local, nonswitched local, and interexchange telecommunications services in the state of Missouri, classifies those services and the company as competitive, and waives certain statutes and regulations.

**Procedural History**

On May 18, 2009, Entelegent Solutions, Inc., applied for a certificate of service authority to provide basic local exchange, nonswitched local exchange, and interexchange telecommunications services within the state of Missouri, and for competitive classification. The company seeks certification to provide basic local statewide.

On May 21, 2009, the Commission issued its Notice of Applications, establishing an intervention deadline. No applications to intervene were received. On August 27, 2009, the Staff of the Commission filed its recommendation.

## Findings of Fact

The Missouri Public Service Commission has considered the verified pleadings and makes the following findings of fact:

1. Entelegent is a corporation organized under the laws of the State of North Carolina.<sup>1</sup>
2. Entelegent applied to the Missouri Public Service Commission on May 18, 2009, for a certificate of service authority to provide basic local, nonswitched local exchange, and interexchange telecommunications services in each of the exchanges in the state of Missouri.
3. Entelegent is authorized to do business in the State of Missouri as evidenced by its Certificate of Authority from the Missouri Secretary of State.<sup>2</sup>
4. Entelegent provided names and addresses for contact purposes.<sup>3</sup>
5. Entelegent has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court involving customer service or rates.<sup>4</sup>
6. Entelegent intends to file a tariff prior to providing service.<sup>5</sup>
7. Entelegent is financially, managerially, and technically qualified to provide telecommunications services in the state of Missouri.<sup>6</sup>

---

<sup>1</sup> *Application for Certificate of Service Authority to Provide Basic Local Exchange, Non-Switched Local Exchange and Intrastate Interexchange Telecommunications Service and for Competitive Classification*, (filed May 18, 2009), hereinafter "Application," para. 1.

<sup>2</sup> *Application*, para., Exhibit A

<sup>3</sup> *Application*, para. 2.

<sup>4</sup> *Application*, para. 15.

<sup>5</sup> *Application*, para. 12.

<sup>6</sup> *Application*, paras. 7 and 8; Exhibits B and C.

8. Entelegent will comply with all applicable Commission rules, except those that are waived, will file and maintain tariffs, and meet applicable minimum standards.<sup>7</sup>
9. Entelegent will offer basic local service as a separate and distinct service.<sup>8</sup>
10. Entelegent will compete with all incumbent local exchange and interexchange carriers in their respective service territories.
11. Entelegent's service areas will follow the respective exchange boundaries of each incumbent local exchange company and shall be no smaller than an exchange.<sup>9</sup>
12. The services Entelegent proposes to offer have previously been classified as competitive services.<sup>10</sup>
13. Granting the certificates will benefit the public by creating and enhancing competition, expanding customer service options, and increasing customer choice for telecommunications in the area.<sup>11</sup>
14. Staff recommended that the Commission grant Entelegent's basic local certificate, grant competitive classification, and grant the waivers requested.<sup>12</sup>
15. Staff recommended that the Commission grant Entelegent's basic local certificate subject to the following conditions:
  - A. The applicant's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom the applicant is competing pursuant to Sections 392.361.6 and 392.370, RSMo.

---

<sup>7</sup> *Application*, paras. 11.

<sup>8</sup> *Application*, para. 10.

<sup>9</sup> *Application*, para. 3.

<sup>10</sup> *Application*, para. 11.

<sup>11</sup> *Application*, para. 13.

<sup>12</sup> *Staff Recommendation*, (filed August 27, 2009).

- B. If the directly competing ILEC, in whose service area the applicant is operating, decreases its originating and/or terminating access service rates, the applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.
16. Enteleget acknowledged in its application that it will not exceed the corresponding exchange access rates in effect for the incumbent local exchange companies in its service area. Enteleget also agreed that if one of those incumbents decreases its current originating and/or terminating access service rates, in accordance with the Commission's Report and Order in File No. TO-99-596, Enteleget will file a tariff amendment to reduce its corresponding access rates in that service area within thirty days.<sup>13</sup>
17. Staff also recommended that the Commission grant Enteleget a certificate of interexchange service authority and a certificate of service authority for local exchange telecommunications service on the condition that this authority be restricted to providing dedicated private line services.
18. The Commission finds that competition in the intrastate interexchange and nonswitched local exchange telecommunications markets is in the public interest.
19. Enteleget is not delinquent in filing an annual report or in paying the PSC assessment, the Missouri Universal Service Fund, and Relay Missouri surcharges.<sup>14</sup>

---

<sup>13</sup> *Application*, para. 14.

<sup>14</sup> *Staff Recommendation*, Memorandum p. 2; See also, *Application*, para. 16.

## Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law:

1. The requirement for a hearing is met when the opportunity for a hearing was provided and no proper party requested the opportunity to present evidence.<sup>15</sup> Notice was issued in this case and no hearing has been requested.
2. Entelegent is an “alternative local exchange telecommunications company” as that term is defined by Section 386.020, RSMo.
3. The Commission is authorized to create a process by which to certify new entrants to provide local exchange telecommunications services in Missouri as common carriers, and is further authorized to grant such certificates where it is in the public interest.<sup>16</sup>
4. Entelegent has requested that the Commission grant it a certificate to provide basic local exchange telecommunications services to include all exchanges in the State of Missouri. Entelegent has satisfied the requirements of the Commission’s regulations and of Section 392.455, and consequently, the Commission concludes that Entelegent has complied with the certification process established by the Commission in satisfaction of Section 392.450.1.
5. The Commission may grant an application for a certificate of service authority to provide telecommunications service upon a showing that the applicant has met the statutory requirements, including relevant service standards,<sup>17</sup> and that the grant of

---

<sup>15</sup> *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm’n*, 776 S.W.2d 494, 495-496 (Mo. App. 1989).

<sup>16</sup> Sections 392.430, 392.450 and 392.455, RSMo.

<sup>17</sup> See Sections 392.450 and 392.451, RSMo (Cum. Supp. 2008) and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

authority is in the public interest.<sup>18</sup> Based on the verified application, including Entelegent's stated commitment to comply with all applicable rules, as well as Staff's uncontested recommendation, the Commission finds that Entelegent satisfies the requirements for certification and that granting such certificate is in the public interest. Therefore, the Commission shall grant the certificate expansion.

6. Entelegent requests that it and its basic local services be classified as competitive. The Commission may classify a telecommunications service as competitive if the Commission determines that it is subject to a sufficient degree of competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes the public interest.<sup>19</sup> The Commission may classify a telecommunications carrier as competitive if the Commission finds that a majority of its services are so classified.<sup>20</sup>
7. All the services to be provided by Entelegent in the state will be competitive. The Commission also found that the grant of Entelegent's certificates will benefit the public and will be in direct competition with other providers. Considering these findings, the Commission concludes that Entelegent will be subject to a sufficient level of competition to justify a lesser degree of regulation and its services and the company shall be classified as competitive.
8. The Commission may waive certain statutes and administrative rules for competitively classified carriers "if such waiver or modification is otherwise consistent with the other

---

<sup>18</sup> Sections 392.430 and 392.440.

<sup>19</sup> Section 392.361.2 and 4, RSMo (Cum. Supp. 2008).

<sup>20</sup> Section 392.361.3, RSMo (Cum. Supp. 2008).

provisions of Section 392.361 to 392.520 and the purposes of this chapter.”<sup>21</sup> The Commission has developed a standard list of statutes and regulations that have been waived for competitive local exchange carriers. The Commission finds that the waiver of those statutes and regulations is consistent with the purposes of Chapter 392, and will waive those provisions for Entelegent.

9. In addition to the Commission’s “standard waivers,” Entelegent requests that the Commission waive all of Section 392.300, RSMo, 4 CSR 240-3.550(4) and (5)(A), 32.060, 32.070, 32.080, 33.040 (except (4)), 33.045, 33.080(1), and 33.130(1), (4), and (5).<sup>22</sup> The Commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of Subsection 2 of Section 392.210, Subsection 1 of Section 392.240, and Sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340, RSMo.<sup>23</sup> In accordance with Section 392.420, RSMo, the Commission shall grant the requested waivers.
10. An applicant for a basic local certificate must meet the minimum service standards that the Commission requires of the competing incumbent local exchange carriers.<sup>24</sup> Entelegent has agreed to provide services that will meet the minimum basic local service standards required by the Commission. The Commission concludes that Entelegent has met the requirements of Section 392.450.2(2).

---

<sup>21</sup> Sections 392.361.5 and 392.420.

<sup>22</sup> *Application*, para. 11.

<sup>23</sup> Subsection 392.420, RSMo (Cum. Supp. 2008).

<sup>24</sup> Section 392.450.2(2), RSMo.

11. Entelegent has complied with each of the Commission's application requirements.<sup>25</sup>  
Entelegent has successfully operated as a telecommunications company since 2005, and the Commission has examined Entelegent's qualifications in a previous certificate case.
12. The Commission may also "require a telecommunications company to comply with any conditions reasonably made necessary to protect the public interest by the suspension of the statutory requirement."<sup>26</sup> Staff recommends that Entelegent's application be granted subject to the conditions set out above. Entelegent has agreed to these conditions. The Commission has considered the conditions proposed by Staff and concludes that they are reasonably necessary to protect the public interest and shall be adopted.
13. Prior to providing telecommunications service in the expanded area, Entelegent shall have in effect a tariff authorizing it to provide service in the area.<sup>27</sup>
14. The certificates of service authority granted in this order become null and void one year from the date of this order unless Entelegent has exercised its authority under that certificate.<sup>28</sup>
15. The Commission reminds the company that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

---

<sup>25</sup> *Application*, para. 11.

<sup>26</sup> Section 392.361.6, RSMo.

<sup>27</sup> Section 392.450.2(1).

<sup>28</sup> Section 392.410.5, RSMo Cum. Supp. 2008.



- A) The obligation to file an annual report, as established by Section 392.210, RSMo. Failure to comply with this obligation will make the utility liable to a penalty of \$100 per day for each day that the violation continues. 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.
  - B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo.
  - C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2000 per day of noncompliance, pursuant to Section 386.570, RSMo.
  - D) The obligation to keep the Commission informed of its current address and telephone number.
16. The company is reminded that its officers may not represent it before the Commission. The company must be represented by an attorney licensed to practice law in Missouri.
17. The Commission notes that before providing telecommunications services in Missouri, a party shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services; and (3) except for wireless providers, a tariff approved by the Commission.

**THE COMMISSION ORDERS THAT:**

1. Entelegent Solutions, Inc., is granted a certificate of service authority to provide basic local telecommunications services in all exchanges in the state of Missouri, subject to the conditions and recommendations contained in the Staff's Memorandum.

2. Entelegent Solutions, Inc., is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to all applicable statutes and Commission rules except as specified in this order.

3. Entelegent Solutions, Inc., is granted a certificate of service authority to provide nonswitched local exchange telecommunications services in the state of Missouri, limited to providing dedicated private line services, subject to all applicable statutes and Commission rules except as specified in this order.

4. Entelegent Solutions, Inc., and the services it offers are classified as competitive.

5. Entelegent Solutions, Inc.'s originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom Entelegent Solutions, Inc., is competing pursuant to Sections 392.361.6 and 392.370, RSMo.

6. If the directly competing ILEC, in whose service area Entelegent Solutions, Inc., is operating, decreases its originating and/or terminating access service rates, the applicant shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

7. Application of the following statutes and Commission rules is waived:

**Statutes**

- 392.210.2 - uniform system of accounts
- 392.240(1) - just and reasonable rates
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.300 - transfer of property and acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

**Commission Rules**

- 4 CSR 240-3.550(4) - records of applications
- 4 CSR 240-3.550(5)(A) - quality of service quarterly report
- 4 CSR 240-3.550(5)(C) - exchange boundary maps
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-32.060 - engineering and maintenance
- 4 CSR 240-32.070 - quality of service
- 4 CSR 240-32.080 - service objectives and surveillance levels
- 4 CSR 240-33.040(1)-(3)  
and (5)-(10) - billing and payment standards
- 4 CSR 240-33.045 - customer bills
- 4 CSR 240-33.080(1) - company name for billing disputes
- 4 CSR 240-33.130(1),  
(4), and (5) - operator service

8. The certifications granted herein are conditioned upon the company's compliance with the regulatory obligations set out in this order.

9. Enteleget Solutions, Inc., is advised that, by themselves, the grants of authority contained in this order may not be sufficient to permit Enteleget to lawfully provide telecommunications services in Missouri. Specifically, Enteleget cannot lawfully provide telecommunications services until it has a tariff in effect for such services. When

Entelegent submits such a tariff, it shall do so by filing a non-case tariff submission. The tariff submissions shall not be filed in this case.

10. This order and Entelegent Solutions, Inc.'s certificate shall become effective on October 1, 2009.

11. This file shall be closed on October 2, 2009.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Nancy Dippell, Deputy Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 21st day of September, 2009.