

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 2, 2009

IN RE:

APPLICATION OF ENTELEAGENT SOLUTIONS, INC. FOR A  
CERTIFICATE TO PROVIDE FACILITIES-BASED  
COMPETING LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES IN TENNESSEE

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DOCKET NO.  
09-00025

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ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

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This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a Hearing held on August 24, 2009 to consider the *Application of EnTelegent Solutions, Inc. for a Certificate to Provide Facilities-Based Competing Local Exchange and Interexchange Telecommunications Services in Tennessee* (the "*Petition*") filed by EnTelegent Solutions, Inc. ("EnTelegent" or "Petitioner") on February 19, 2009. In its *Petition*, EnTelegent seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide facilities-based competing local exchange and interexchange telecommunications services in Tennessee.

**Legal Standard for Granting Certificate of Public Convenience and Necessity**

EnTelegent's *Petition* was made pursuant to and considered in light of the criteria for granting a CCN as set forth in Tenn. Code Ann. § 65-4-201 (Supp. 2008), which provides, in pertinent part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and

hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

\* \* \*

(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

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Furthermore, pursuant to Tenn. Code Ann. § 65-5-112 (2004), a competing telecommunications provider is required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

#### **The August 24, 2009 Hearing**

Pursuant to Tenn. Code Ann. § 65-4-204 (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on August 5, 2009. No persons sought intervention prior to or during the Hearing. At the Hearing held on August 24, 2009, Mr. David L. Gibson, Vice President of Operations of EnTelegent, participated in the Hearing, adopted his pre-filed testimony as modified and was subject to examination by the panel.

## **I. EnTelegent's Qualifications**

1. EnTelegent is a corporation organized under the laws of the State of North Carolina and was licensed to transact business in Tennessee by the Secretary of State as of January 20, 2009.

2. The complete street address of the corporate office of EnTelegent is 3800 Arco Corporate Drive, Suite 310, Charlotte, North Carolina 28273. The telephone number is (704) 936-2365.

3. The *Petition* and supporting documentary information existing in the record indicate that EnTelegent has the requisite technical and managerial ability to provide the applied for telecommunications services within the State of Tennessee. Specifically, EnTelegent's senior management team possesses sufficient business, technical and operational experience.

4. EnTelegent has the necessary capital and financial ability to provide the services it proposes to offer.

5. EnTelegent has represented that it will adhere to all applicable statutes, policies, rules and orders of the Authority.

## **II. Proposed Services**

EnTelegent plans to provide point-to-point data services in Tennessee. EnTelegent provided the Authority with documentation which reflects that it served notice of its *Petition* to provide competing local telecommunications services to all eighteen Incumbent Local Exchange Carriers in Tennessee on February 18, 2009.

## **III. Permitting Competition to Serve the Public Convenience and Necessity**

Upon a review of the *Petition* and the record in this matter, the panel found that approval of EnTelegent's *Petition* would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the

development of an efficient, technologically advanced statewide system of telecommunications services.

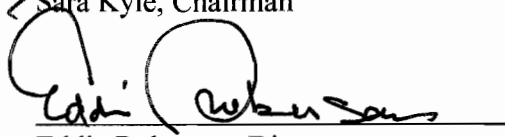
**IV. Small and Minority-Owned Telecommunications Business Participation Plan and Business Assistance Program**

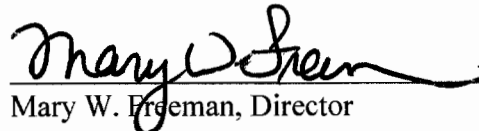
EnTelegent has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

**IT IS THEREFORE ORDERED THAT:**

*The Application of EnTelegent Solutions, Inc. for a Certificate to Provide Facilities-Based Competing Local Exchange and Interexchange Telecommunications Services in Tennessee* filed by EnTelegent Solutions, Inc. is approved.

  
Sara Kyle, Chairman

  
Eddie Roberson, Director

  
Mary W. Freeman, Director