

BEFORE THE NEBRASKA PUBLIC SERVICE  
COMMISSION

In the Matter of the Application	)	Application No. C-2128
of New Edge Network, Inc., d/b/a	)	
New Edge Networks of Vancouver,	)	
Washington, seeking to obtain a	)	GRANTED
Certificate of Public Convenience	)	
and Necessity to provide resold	)	
and facilities-based, switched and	)	
dedicated, local exchange	)	
telecommunications services.	)	Entered: December 15, 1999

APPEARANCES:

For the Applicant:	For Arapahoe Telephone; Com-
Eric Anderson, Attorney-at-Law	pany; Benkelman Telephone
14301 FNB Parkway	Company; Cozad Telephone Com-
Suite 207	pany; Wauneta Telephone Com-
Omaha, Nebraska	pany; Hemingford Cooperative
	Telephone Company; and Henderson
	Cooperative Telephone Company:

For the Commission:	Mark A. Fahleson
Michael T. Loeffler	Rembolt, Ludtke & Berger
300 The Atrium	1201 Lincoln Mall, Suite 102
1200 "N" Street	Lincoln, Nebraska 68508
Lincoln, Nebraska 68508	

BY THE COMMISSION:

By its application filed September 29, 1999, New Edge Network, Inc., d/b/a New Edge Networks of Vancouver, Washington (Applicant or New Edge), seeks authority to obtain a Certificate of Public Convenience and Necessity to provide resold and facilities-based, switched and dedicated, local exchange telecommunication services in the state of Nebraska. Notice of the application appeared in The Daily Record on September 30, 1999. The following parties filed Petitions of Formal Intervention: Arapahoe Telephone Company, Benkelman Telephone Company; Cozad Telephone Company; Wauneta Telephone Company; Hemingford Cooperative Telephone Company; and Henderson Cooperative Telephone Company (collectively, Intervenor). A hearing was held December 7, 1999, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application, applicant produced one witness, Susan McAdams, vice-president of Government and Industry Affairs, for New Edge Networks. Ms. McAdams testified as follows:

Applicant is a Washington state corporation authorized to do business in the state of Nebraska. Applicant has been granted competitive local exchange carrier (CLEC) authority in fourteen other states with a pending application in the state of Indiana. While it is the intent of the applicant to eventually provide CLEC

services statewide, the application is to initially provide service within the service areas of US West, GTE, Sprint and ALLTEL. The geographic areas to be served by the applicant will be subject to the rural and 2 percent exemptions established in the Federal Telecommunications Act of 1996.

New Edge is focused on initially providing digital subscriber line (DSL), broad band data services which are primarily used for access to the Internet. New Edge is focused on second- and third-tier markets, which are small and mid-sized communities throughout Nebraska. Services will be provided to customers through collocation of data equipment in the central offices of the incumbent local exchange carriers (ILECs) and then obtaining unbundled loops from the local exchange carrier to deliver DSL services to the end-user.

Ms. McAdams further testified that New Edge has assembled a senior management team with over 75 accumulated years in the telecommunications industry. New Edge's chief executive officer has over 20 years telecommunications experience. Senior officers also have a wide range of long involvement in the telecommunications industry. New Edge employs state of the art technology in their operations including their backroom operations.

As far as financial capability, New Edge received its first influx of venture capital the month following incorporation. New Edge has also received a commitment for a second round of equity funding. The company is also in the final stages of negotiating vendor financing arrangements with two major equipment vendors.

The applicant has already ordered collocation space in a number of Nebraska central offices. These central offices are in Kearney, Columbus and Fremont. New Edge expects to start delivering DSL services in the first quarter of 2000. New Edge will be marketing primarily to Internet Service Providers as a wholesaler. Their market focus will include regional and small town players as well as to other CLECs and to small independent telephone companies.

Initially, sales persons will reside outside of Nebraska, but the company looks to, at sometime, establish a local presence within the state.

Ms. McAdams believes that New Edge's presence in the state will allow additional advanced data services to be brought to the small and mid-sized communities in the state. New Edge further expects to be competitive and to bring the benefits of a competitive market to consumers.

Ms. McAdams reiterated that the applicant does not seek removal or exception to the 2 percent or rural exemption pursuant to the federal Telecommunications Act. She further testified that this application does not represent a bona fide request for interconnection pursuant to the federal Telecommunications Act.

#### O P I N I O N   A N D   F I N D I N G S

The Commission considers this application for authority in light of the following criteria and standards established in the Commission's telecommunications rules:

- (a) Whether applicant has provided the information required by the Commission;
- (b) Whether applicant has provided a performance bond, if required;
- (c) Whether applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting applicant a certificate preserves and advances universal service, protects the public safety and welfare, ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Telecommunications Act of 1996 (Act).

Applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide local exchange service on a resale basis in Nebraska. No party to this proceeding refuted the applicant's competence. No performance bond is required.

Before the applicant is allowed to provide local exchange service to its users:

- (a) The applicant, either through negotiation or adoption, must reach an interconnection agreement with US West, GTE, ALLTEL or Sprint.
- (b) The Commission must approve the interconnection agreement; and
- (c) Applicant must file, and the Commission must approve, a tariff in accordance with the provisions of Section 002.21 of Neb. Admin. R. & Regs. Title 291, Chapter 5.

Further, prior to providing local exchange service to any area outside the respective US West and GTE service areas, the applicant must obtain additional authority from this Commission to expand its service territory.

Applicant has entered into a stipulation with the intervenors not to oppose the application; however, the Intervenor maintain the right and opportunity to contest any future application of the

applicant to expand its service territory. Nothing in the stipulation shall in any way limit applicant's right in connection with any such future application to demonstrate to the Commission, Applicant's satisfaction of any such criteria or standards established by the Commission.

As a provider of local exchange service in the state of Nebraska, the applicant should be subject to the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange company except those obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-2128 be, and it is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement and tariff, applicant is granted authority to provide local exchange service on a resale basis in the areas served by US West, GTE, ALLTEL and Sprint. The applicant must make further application to this Commission for authority to provide local exchange service outside these areas.

IT IS FURTHER ORDERED that applicant shall abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to other local exchange carriers except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

IT IS FURTHER ORDERED that, to the extent the applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-1302 - 86-1306 (Relay Act) and defined in Neb. Admin. R. & Reg. tit. 291, ch. 5, § 001.01B, the applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the Relay Act and the Commission's annual orders establishing the amount of the Relay Surcharge, and shall remit to the Commission the proceeds from the Relay Surcharge, as provided by the Relay Act.

IT IS FURTHER ORDERED that applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with this Commission consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission.

If such reports are unavailable, applicant shall file a balance sheet and income statement for the previous year of operation, and for the state of Nebraska on a combined interstate-intrastate basis, the investment in telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

IT IS FINALLY ORDERED that this order be, and hereby is made, the Commission's official Certificate of Public Convenience and Necessity to applicant to provide local exchange service within the territory described herein in Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 15th day of December, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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