

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of New Edge)	
Network, Inc. d/b/a New Edge Networks for a)	
Certificate of Service Authority to Provide)	<u>Case No. TA-2000-311</u>
Interexchange and Non-Switched Local)	<u>Tariff No. 200000417</u>
Exchange Telecommunications Services in the)	
State of Missouri and for Competitive)	
Classification.)	

ORDER APPROVING INTEREXCHANGE AND NON-SWITCHED LOCAL EXCHANGE CERTIFICATES OF SERVICE AUTHORITY AND ORDER APPROVING TARIFF

New Edge Network, Inc. d/b/a New Edge Networks (New Edge) applied to the Missouri Public Service Commission (Commission) on October 29, 1999, for certificates of service authority to provide intrastate interexchange and non-switched local exchange telecommunications services in Missouri under Section 392.410-.450, RSMo 1994, and RSMo Supp. 1998¹. New Edge asked the Commission to classify it as a competitive² company and waive certain statutes and

¹ All further statutory references are to the Revised Statutes of Missouri 1994 unless otherwise indicated.

² In the body of its application, New Edge requested classification as a competitive company. However, in the prayer of its application, New Edge requested that the Commission "...classify Applicant and its services as competitive...." This cannot be done under Missouri statutes; thus, the Commission will grant the request for classification as a competitive company. Sections 386.020(9) and (10), RSMo 1998 Supp., distinguish between a competitive company and a competitive service. The sections state:

rules as authorized by Sections 392.361 and 392.420. New Edge is a Delaware corporation, with its principal office located at 3000 Columbia House Boulevard, Suite 106, Vancouver, Washington 98661.

The Commission issued a Notice of Applications for Intrastate Certificates of Service Authority and Opportunity to Intervene on November 9, 1999, directing parties wishing to intervene to file their requests by November 24, 1999. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has asked permission to intervene or requested a hearing, the Commission may grant the relief requested based on the verified application.

New Edge filed a proposed tariff in conjunction with its application. On December 8, 1999, New Edge filed a substitute tariff, which is to be substituted for the entire tariff filed on October 29, 1999. On December 10, 1999, New Edge filed substitute tariff sheets.

[As used in this chapter, the following phrases mean:] ...
(9) "Competitive telecommunications company", a telecommunications company which has been classified as such by the commission pursuant to section 392.361, RSMo;
(10) "Competitive telecommunications service", a telecommunications service which has been classified as such by the commission pursuant to section 392.361, RSMo, or which has become a competitive telecommunications service pursuant to section 392.370, RSMo....

In addition, Section 392.361(1) requires an applicant for a certificate of service authority for telecommunications authority to choose to have itself or its services classified as competitive. The section states, in part, that a telecommunications company "...may file with the commission a petition to be classified as a competitive telecommunications company...or to have [its] services classified as competitive...."

The tariff's original effective date was December 13, 1999, but on November 30, 1999, New Edge extended the effective date until December 22, 1999, and on December 14, 1999, New Edge extended the effective date until December 24, 1999. New Edge's tariff describes the rates, rules, and regulations it intends to use, identifies New Edge as a competitive company, and lists the waivers requested. New Edge intends to provide interexchange and non-switched local exchange telecommunications services including private line services.

On November 9, 1999, the Commission entered its Notice Requiring Filing, stating that New Edge had not cited the proper statutes in its application and that New Edge had not filed a copy of its registration of its fictitious name with its application. On November 18, 1999, New Edge filed its Addendum to Exhibit 1 of its Application and Addition to List of Statutory Citations; these filings cured the previous deficiencies.

In its memorandum filed on December 15, 1999, the Staff of the Commission (Staff) stated that New Edge's proposed services are similar to existing IXC offerings. Staff recommended that the Commission grant New Edge a certificate of interexchange service authority, and a certificate of service authority for local exchange telecommunication services on condition that this authority be restricted to providing dedicated, non-switched local exchange private line services. Staff recommended that the Commission grant New Edge competitive status, and waiver of the statutes and rules listed in the Notice. Staff recommended that the Commission approve the proposed tariff as amended to become effective on December 24, 1999.

The Commission finds that competition in the intrastate interexchange and non-switched local exchange telecommunications markets is in the public interest and New Edge should be granted certificates of service authority. The Commission finds that the services New Edge proposes to offer are competitive and New Edge should be classified as a competitive company. The Commission finds that waiving the statutes and Commission rules set out in the ordered paragraph below is reasonable and not detrimental to the public interest.

The Commission finds that New Edge's proposed tariff details the services, equipment, and pricing it proposes to offer, and is similar to tariffs approved for other Missouri certificated interexchange and non-switched local exchange carriers. The Commission finds that the proposed substitute tariff filed on December 8, 1999, as amended by substitute tariff sheets filed December 10, 1999, shall be approved to become effective on December 24, 1999³.

IT IS THEREFORE ORDERED:

1. That New Edge Network, Inc. d/b/a New Edge Networks is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to the conditions of certification set out above.

2. That New Edge Network, Inc. d/b/a New Edge Networks is granted a certificate of service authority to provide local exchange telecommunications services in the state of Missouri limited to

³ The substitute tariff and the substitute tariff sheets both erroneously listed the effective date as December 13, 1999.

providing dedicated, non-switched local exchange private line services, subject to all applicable statutes and Commission rules except as specified in this order.

3. That New Edge Network, Inc. d/b/a New Edge Networks is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived:

Statutes

- 392.240(1) - ratemaking
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.340 - reorganization(s)
- 392.330, RSMo Supp. 1998 - issuance of securities, debts and notes

Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.010(2)(C) - rate schedules
- 4 CSR 240-30.040 - Uniform System of Accounts
- 4 CSR 240-32.030(1)(B) - exchange boundary maps
- 4 CSR 240-32.030(1)(C) - record-keeping
- 4 CSR 240-32.030(2) - in-state record-keeping
- 4 CSR 240-32.050(3) - local office record-keeping
- 4 CSR 240-32.050(4) - telephone directories
- 4 CSR 240-32.050(5) - call intercept
- 4 CSR 240-32.050(6) - telephone number changes
- 4 CSR 240-32.070(4) - public coin telephone
- 4 CSR 240-33.030 - minimum charges rule
- 4 CSR 240-33.040(5) - financing fees

4. That the substitute tariff filed by New Edge Network, Inc. d/b/a New Edge Networks on December 8, 1999, under tariff number 200000417, is approved as amended by substitute tariff sheets filed December 10, 1999, to become effective on December 24, 1999. The tariff approved is:

P.S.C. Mo. No. 1

5. That this order shall become effective on December 24, 1999.

6. That this case may be closed on December 25, 1999.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Bill Hopkins, Senior Regulatory Law Judge,
by delegation of authority pursuant
to 4 CSR 240-2.120(1) (November 30,
1995) and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 17th day of December, 1999.