

ORIGINAL

WASHINGTON OFFICE  
3000 K STREET, NW, SUITE 300  
WASHINGTON, DC 20007-5116  
TELEPHONE (202) 424-7500  
FACSIMILE (202) 424-7647

NEW YORK OFFICE  
919 THIRD AVENUE  
NEW YORK, NY 10022-9998  
TELEPHONE (212) 758-9500  
FACSIMILE (212) 758-9526

September 17, 1999

**VIA OVERNIGHT DELIVERY**

Blaco S. Bayo  
Director, Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

991417-TX

Re: Application of New Edge Network, Inc. d/b/a New Edge Networks for Authority to Provide Alternative Local Exchange Service Within the State of Florida


Dear Ms. Bayo:

On behalf of New Edge Network, Inc. d/b/a New Edge Networks ("New Edge"), please find enclosed for filing an original and five (5) copies of New Edge's Application for Authority to Provide Alternative Local Exchange Service Within the State of Florida. Also enclosed is a check in the amount of \$250.00 to cover the requisite filing fee.

Exhibit B to the Application contains confidential financial information and, as such, is being submitted under seal. New Edge respectfully requests that this information not be made a part of the public record or otherwise be disclosed to the public.

Please date stamp the enclosed extra copy of this filing and return it in the self-addressed, postage-prepaid envelope provided. Should you have any questions concerning this matter, please do not hesitate to call.

Respectfully submitted,

  
Eric J. Branfman  
Michael P. Donahue

Counsel for New Edge Network, Inc.  
d/b/a New Edge Networks

Enclosures

cc: Stacey Waddell

Conf. DV 11300-99

This document has been placed in confidential storage pending advice on handling from OPR staff.

SEARCHED  
SERIALIZED  
INDEXED  
FILED  
SEP 21 1999  
FBI - TAMPA  
Michael P. Donahue

DOCUMENT NUMBER - DATE

11299 SEP 21 99

SPSAC 8713486/REPORTING

ORIGINAL

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

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WASHINGTON, DC 20007-5116  
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991417-TX

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Director, Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

DEPOSIT                      DATE  
D 1 9 9 9                      SEP 21 1999

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Michael P. Donahue

Counsel for New Edge Network, Inc.  
d/b/a New Edge Networks

Enclosures

cc: Stacey Waddell

# SWIDLER-BERLIN SHEREFF FRIEDMAN, LLP

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September 17, 1999

## VIA OVERNIGHT DELIVERY

Blaco S. Bayo  
Director, Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

Re: Application of New Edge Network, Inc. for a Certificate of Public Convenience and Necessity

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP  
WASHINGTON, DC 20007

0112108

Filing Fee

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP  
3000 K STREET, N.W., SUITE 300  
WASHINGTON, DC 20007



FIRST UNION NATIONAL BANK

0112108

NO.

15-122/540

Exactly Two Hundred Fifty &-----00/100

DATE

AMOUNT

September 17, 1999

\$250.00

PAY  
TO THE  
ORDER  
OF

Florida Public Service Commission

GENERAL ACCOUNT  
TWO SIGNATURES REQUIRED ABOVE \$10,000

0112108

**\*\* FLORIDA PUBLIC SERVICE COMMISSION \*\***

**DIVISION OF TELECOMMUNICATIONS**  
**BUREAU OF CERTIFICATION AND SERVICE EVALUATION**

**APPLICATION FORM**  
**for**  
**AUTHORITY TO PROVIDE**  
**ALTERNATIVE LOCAL EXCHANGE SERVICE**  
**WITHIN THE STATE OF FLORIDA**

991417-TX

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Instructions

- ◆ This form is used as an application for an original certificate and for approval of the assignment or transfer of an existing certificate. In the case of an assignment or transfer, the information provided shall be for the assignee or transferee (See Appendix A).
- ◆ Print or type all responses to each item requested in the application and appendices. If an item is not applicable, please explain why.
- ◆ Use a separate sheet for each answer which will not fit the allotted space.
- ◆ Once completed, submit the original and six (6) copies of this form along with a non-refundable application fee of \$250.00 to:

**Florida Public Service Commission**  
**Division of Records and Reporting**  
**2540 Shumard Oak Blvd.**  
**Tallahassee, Florida 32399-0850**  
**(850) 413-6770**

- ◆ If you have questions about completing the form, contact:

**Florida Public Service Commission**  
**Division of Telecommunications**  
**Bureau of Certification and Service Evaluation**  
**2540 Shumard Oak Blvd.**  
**Tallahassee, Florida 32399-0850**  
**(850) 413-6600**

## APPLICATION

1. This is an application for  (check one):

**Original certificate** (new company).

**Approval of transfer of existing certificate:** Example, a non-certificated company purchases an existing company and desires to retain the original certificate of authority.

**Approval of assignment of existing certificate:** Example, a certificated company purchases an existing company and desires to retain the certificate of authority of that company.

**Approval of transfer of control:** Example, a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of company:

New Edge Network , Inc. ("New Edge" or "Applicant")

3. Name under which the applicant will do business (fictitious name, etc.):

New Edge Networks

4. Official mailing address (including street name & number, post office box, city, state, zip code):

3000 Columbia House Boulevard, Suite 106

Vancouver, WA 98661

5. Florida address (including street name & number, post office box, city, state, zip code):

New Edge does not currently have an office in Florida. If New Edge does establish a Florida office in the future, New Edge will provide this information to the Commission, upon request.

6. Structure of organization:

- ( ) Individual                      ( ) Corporation  
( ✓ ) Foreign Corporation      ( ) Foreign Partnership  
( ) General Partnership        ( ) Limited Partnership  
( ) Other \_\_\_\_\_

7. **If individual**, provide:

**Name:** Not Applicable

**Title:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Telephone No.:** \_\_\_\_\_ **Fax No.:** \_\_\_\_\_

**Internet E-Mail Address:** \_\_\_\_\_

**Internet Web site Address:** \_\_\_\_\_

8. **If incorporated in Florida**, provide proof of authority to operate in Florida:

(a) **The Florida Secretary of State corporate registration number:**

Not Applicable

9. **If foreign corporation**, provide proof of authority to operate in Florida:

(a) **The Florida Secretary of State corporate registration number:**

As copy of New Edge's Certificate of Authority to transact business in Florida is attached hereto as Exhibit A. New Edge's corporate registration number is F99000004363

10. **If using fictitious name-d/b/a**, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida:

(a) **The Florida Secretary of State fictitious name registration number:**

A copy of New Edge's Registration of Fictitious Name is attached hereto as Exhibit A. New Edge's fictitious name registration number is G99242900131.

11. **If a limited liability partnership**, provide proof of registration to operate in Florida:

(a) **The Florida Secretary of State registration number:**

Not Applicable

12. **If a partnership**, provide name, title and address of all partners and a copy of the partnership agreement.

**Name:** Not Applicable

**Title:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

**Telephone No.:** \_\_\_\_\_

**Fax No.:** \_\_\_\_\_

**Internet E-Mail Address:** \_\_\_\_\_

**Internet Web site Address:** \_\_\_\_\_

13. **If a foreign limited partnership**, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable.

(a) **The Florida registration number:** Not Applicable

14. Provide **F.E.I. Number** (if applicable): 94-3331274

15. Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. Provide explanation

No officer, director, or any of the ten largest stockholders of New Edge have previously been adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, nor will any such actions result from pending proceedings.

(b) an officer, director, partner or stockholder in any other Florida certificated telephone company.

(c) If yes, give name of company and relationship. If no longer associated with company, give reason why not.

J. Peter Wagner is on the Board of Directors of 2<sup>nd</sup> Century Communications Holdings and Northpoint Communications Group. Richard Shapero is on the Board of Directors of Covad Communications and Bluestar Communications, Inc.

16. Who will serve as liaison to the Commission with regard to the following?

(a) The application:

**Name:** Eric J. Branfman, Esq. and Michael P. Donahue, Esq.  
Swidler Berlin Shereff Friedman, LLP

**Title:** Counsel for New Edge Network, Inc. d/b/a New Edge Networks

**Address:** 3000 K St., N.W., Suite 300

**City/State/Zip:** Washington, D.C. 20007-5116

**Telephone No.:** (202) 424-7500 **Fax No.:** (202) 424-7645

**Internet E-Mail Address:** ejbranfman@swidlaw.com and mpdonahue@swidlaw.com

**Internet Web site Address:** http://www.swidlaw.com/

(b) Official point of contact for the ongoing operations of the company:

**Name:** Stacey Waddell

**Title:** Vice President, New Edge Network, Inc.

**Address:** 3000 Columbia House Boulevard, Suite 106

**City/State/Zip:** Vancouver, WA 98661

**Telephone No.:** (360) 693-8554 **Fax No.:** (360) 693-9997

**Internet E-Mail Address:** swaddell@newedgenetworks.com

**Internet Web site Address:** www.newedgenetworks.com



(c) Complaints/Inquiries from customers:

**Name:** Stacey Waddell

**Title:** Vice President, Carrier Relations

**Address:** 3000 Columbia House Boulevard, Suite 106

**City/State/Zip:** Vancouver, Washington 98661

**Telephone No.:** (360) 693-8554 **Fax No.:** (360) 693-8554

**Internet E-Mail Address:** swaddell@newedgenetworks.com

**Internet Web site Address:** www.newedgenetworks.com

17. List the states in which the applicant:

(a) has operated as an alternative local exchange company.

New Edge has not operated as an alternative local carrier in any state.

(b) has applications pending to be certificated as an alternative local exchange company.

New Edge currently has pending applications for authority to provide intrastate interexchange and local exchange telecommunications services in the following states: Arizona, California, Colorado, Connecticut, Idaho, Kentucky, Maryland, Massachusetts, Nevada, New York, Oregon, Texas, Utah, and Wyoming.

(c) is certificated to operate as an alternative local exchange company.

New Edge is certificated as an alternative local exchange company in the States of Colorado, Montana, and Washington.

(d) has been denied authority to operate as an alternative local exchange company and the circumstances involved.

New Edge has not been denied authority to offer service in any state.

- (e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

No regulatory agency has imposed any penalties on New Edge for any violations of telecommunications statutes in any jurisdiction.

- (f) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

New Edge has not been involved in civil court proceedings with an IXC, LEC, or other telecommunications entity.

18. Submit the following:

A. Financial capability.

The application **should contain** the applicant's audited financial statements for the most recent 3 years. If the applicant does not have audited financial statements, it shall so be stated.

The unaudited financial statements should be signed by the applicant's chief executive officer and chief financial officer affirming that the financial statements are true and correct and should include:

1. the balance sheet;
2. income statement; and
3. statement of retained earnings.

**NOTE:** This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

Further, the following (which includes supporting documentation) should be provided:

1. **written explanation** that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.
2. **written explanation** that the applicant has sufficient financial capability to maintain the requested service.
3. **written explanation** that the applicant has sufficient financial capability to meet its lease or ownership obligations.

Please see **Exhibit B**.

- B. **Managerial capability:** give resumes of employees/officers of the company that would indicate sufficient managerial experiences of each.

**Please see Exhibit C.**

- C. **Technical capability:** give resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance.

**Please see Exhibit B.**

**\*\* APPLICANT ACKNOWLEDGMENT STATEMENT \*\***

1. **REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of .15 of one percent of gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
2. **GROSS RECEIPTS TAX:** I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra and interstate business.
3. **SALES TAX:** I understand that a seven percent sales tax must be paid on intra and interstate revenues.
4. **APPLICATION FEE:** I understand that a non-refundable application fee of \$250.00 must be submitted with the application.

**UTILITY OFFICIAL**

*Anthony Waddell*  
Signature

Date

Vice President, Carrier Relations  
Title

(360) 693-8554  
Telephone No.

Address: 3000 Columbia House Boulevard, Suite 106  
Vancouver, WA 98661

(360) 693-9997  
Fax No.

**ATTACHMENTS:**

- A - CERTIFICATE SALE, TRANSFER, OR ASSIGNMENT STATEMENT
- B - INTRASTATE NETWORK
- C - AFFIDAVIT

**CERTIFICATE SALE, TRANSFER, OR ASSIGNMENT STATEMENT**

1, (Name) Not Applicable

(Title) \_\_\_\_\_ of (Name of Company)

and current holder of Florida Public Service Commission Certificate Number # \_\_\_\_\_

, have reviewed this application and join in the petitioner's request for a:

sale

transfer

assignment

of the above-mentioned certificate.

**UTILITY OFFICIAL:**

Signature

\_\_\_\_\_  
Date

Title

\_\_\_\_\_  
Telephone No.

Address: \_\_\_\_\_

\_\_\_\_\_  
Fax No.

\_\_\_\_\_  
\_\_\_\_\_

**INTRASTATE NETWORK (if available)**

**New Edge does not presently own any facilities or switches in the State of Florida and has not finalized plans for acquiring its intrastate network. Initially, New Edge will offer its services on a resale basis. New Edge will supply the Commission with any information concerning the construction or acquisition of facilities promptly once it becomes available.**

Chapter 25-24.825 (5), Florida Administrative Code, requires the company to make available to staff the alternative local exchange service areas only upon request.

**1. POP: Addresses where located, and indicate if owned or leased.**

1) _____	2) _____
_____	_____
3) _____	4) _____
_____	_____

**2. SWITCHES: Address where located, by type of switch, and indicate if owned or leased.**

1) _____	2) _____
_____	_____
3) _____	4) _____
_____	_____

**3. TRANSMISSION FACILITIES: POP-to-POP facilities by type of facilities (microwave, fiber, copper, satellite, etc.) and indicate if owned or leased.**

<u>POP-to-POP</u>	<u>OWNERSHIP</u>
1) _____	_____
2) _____	_____
3) _____	_____
4) _____	_____

**AFFIDAVIT**

By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide alternative local exchange company service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

**Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."**

**UTILITY OFFICIAL:**

Henry Laddell  
Signature

Date

Vice President, Carrier Relations  
Title

(360) 693-8554  
Telephone No.

Address: 3000 Columbia House Boulevard, Suite 106  
Vancouver, WA 98661

360) 693-9997  
Fax No.

**EXHIBITS**

Exhibit A	Certificate of Authority to Transact Business In Florida and Registration of Fictitious Name
Exhibit B	Financial Qualifications
Exhibit B	Managerial and Technical Qualifications
Exhibit B	Proposed Initial Tariff





**FLORIDA DEPARTMENT OF STATE**  
**Katherine Harris**  
**Secretary of State**

August 23, 1999

**C T CORPORATION SYSTEM**  
**TALLAHASSEE, FL**

Qualification documents for **NEW EDGE NETWORK, INC.** were filed on August 23, 1999 and assigned document number **F99000004363**. Please refer to this number whenever corresponding with this office.

Your corporation is now qualified and authorized to transact business in Florida as of the file date.

A corporation annual report will be due this office between January 1 and May 1 of the year following the calendar year of the file date. A Federal Employer Identification (FEI) number will be required before this report can be filed. If you do not already have an FEI number, please apply NOW with the Internal Revenue by calling 1-800-829-3676 and requesting form SS-4.

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have any questions regarding this matter, please telephone (850) 487-6091, the Foreign Qualification/Tax Lien Section.

**Buck Kohr**  
**Corporate Specialist**  
**Division of Corporations**

**Letter Number: 599A00042278**

# TRANSMITTAL LETTER

TO: Qualification/Tax Lien Section  
Division of Corporations

SUBJECT: New Edge Network, Inc.  
(Name of corporation - must include suffix)

SECRET  
DIVISION OF CORPORATIONS  
99 AUG 23 PM 3:59

Dear Sir or Madam:

The enclosed "Application by Foreign Corporation for Authorization to Transact Business in Florida", "Certificate of Existence", and check are submitted to register the above referenced foreign corporation to transact business in Florida.

Please return all correspondence concerning this matter to the following:

Ms. Connie Bryan

(Name of Person)

CT Corporation

(Firm/Company)

660 East Jefferson St.

(Address)

Tallahassee, FL 32301

(City/State/Zip)

Should you need to call someone concerning this matter, please call:

Ms. Connie Bryan

(Name of Person)

at ( 850 )

222-1092

(Area Code & Daytime Telephone Number)

## COURIER ADDRESS:

Qualification/Tax Lien Sec.  
Division of Corporations  
409 E. Gaines St  
Tallahassee, FL 32399

## MAILING ADDRESS:

Qualification/Tax Lien Section  
Division of Corporations  
P. O. Box 6327  
Tallahassee, FL 32314

APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA:

STATE OF FLORIDA  
DIVISION OF CORPORATIONS  
96 AUG 23 PM 3:59

- 1. New Edge Network, Inc. (Name of corporation: must include the word "INCORPORATED", "COMPANY", "CORPORATION" or words or abbreviations of like import in language as will clearly indicate that it is a corporation instead of natural person or partnership if not so contained in the name at present.)
2. Delaware (State or country under the law of which it is incorporated)
3. 36-3617386 (FEI number, if applicable)
4. June 1, 1999 (Date of Incorporation)
5. Perpetual (Duration: Year corp. will cease to exist or "perpetual")
6. Upon qualification (Date first transacted business in Florida. (SEE SECTIONS 607.1501, 607.1502, AND 817.155, F.S.))
7. 3000 Columbia House Blvd., Ste. 106. Vancouver, WA 98661

(Current mailing address)

8. Provide telecommunications service, including switched access. (Purpose(s) of corporation authorized in home state or country to be carried out in the state of Florida)

9. Name and street address of Florida registered agent: (P.O. Box or Mail Drop Box NOT acceptable)

Name: C T Corporation System

Office Address: 1200 South Pine Island Road

Plantation, Florida, 33324 (Zip Code)

10. Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

[Handwritten signature]

(Registered agent's signature)

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

12. Names and addresses of officers and/or directors: (Street address ONLY- P. O. Box NOT acceptable)

**A. DIRECTORS (Street address only- P. O. Box NOT acceptable)**

Chairman: (See attached rider) \_\_\_\_\_

Address: \_\_\_\_\_

Vice Chairman: \_\_\_\_\_

Address: \_\_\_\_\_

Director: \_\_\_\_\_

Address: \_\_\_\_\_

Director: \_\_\_\_\_

Address: \_\_\_\_\_

**B. OFFICERS (Street address only- P. O. Box NOT acceptable)**

President: (See attached rider) \_\_\_\_\_

Address: \_\_\_\_\_

Vice President: \_\_\_\_\_

Address: \_\_\_\_\_


Secretary: \_\_\_\_\_

Address: \_\_\_\_\_

Treasurer: \_\_\_\_\_

Address: \_\_\_\_\_

**NOTE:** If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13.   
(Signature of Chairman, Vice Chairman, or any officer listed in number 12 of the application)

14. Daniel G. Moffat, President  
(Typed or printed name and capacity of person signing application)

RECEIVED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
99 AUG 23 PM 3:59

# NEW EDGE NETWORK, INC.

## Corporate Officer

Daniel G. Moffat  
President, Vice-President, Treasurer  
New Edge Network, Inc.  
3000 Columbia House Blvd., Suite 106  
Vancouver, Washington 98661

Howard Clowes - Secretary  
Gray, Cary, Ware and Freidenrich  
400 Hamilton Ave.  
Palo Alto, California 94301

## Board of Directors

Roger Evans - General Partner  
Greylock  
755 Page Mill Road  
Building A, Suite 100  
Palo Alto, California 94304-1018

Jay Misra  
31 River Court # 2603  
Jersey City, New Jersey 07310

Daniel G. Moffat - President & CEO  
New Edge Network, Inc.  
3000 Columbia House Blvd., Suite 106  
Vancouver, Washington 98661

Rich Shapero - General Partner  
Crosspoint Venture Partners  
2925 Woodside Road  
Woodside, California 94062

J. Peter Wagner - General Partner  
Accel Partners  
428 University Avenue  
Palo Alto, California 94301

FILED  
DIVISION OF CORPORATIONS  
99 AUG 23 PM 3:59



**Cathey, Hutton & Associates, Inc.**  
Telecommunications Management Consulting

3721 Executive Center Drive  
Suite 200  
Austin, Texas 78731-1639  
Voice (512) 343-2544  
Facsimile (512) 343-6119

September 13, 1999

Qualification/Tax Lien Section  
Division of Corporations  
409 E. Gaines Street  
Tallahassee, Florida 32399

RE: Document Number F99000004363

Dear Sir or Madam:

This letter is to inform you that the Federal Employer Identification (FEI) number for New Edge Network, Inc. is incorrect, as reported on the Application by Foreign Corporation for Authorization to Transact Business in Florida, and the Fictitious Name Registration.

The correct FEI number for New Edge Network, Inc., which will be operating in Florida under the fictitious name of New Edge Networks, is 94 - 3331274. Please revise all necessary records to reflect the correct number.

We apologize for any confusion this error may have caused.

Please refer any questions to me at 512-343-2544.

Sincerely,

Jean M. Langkop  
Authorized Representative for  
New Edge Networks

JML/lz

cc: Ms. Stacey Waddell, Vice President Carrier Relations, New Edge Network, Inc.  
✓ Mr. Jeff Heins, Swidler Berlin Shereff Friedman, LLP (via facsimile)

2711 (B) Freeway  
Suite 500  
Dallas, Texas 75234-7321  
Voice (972) 484-2323  
Facsimile (972) 243-6139

8115 Shawnee Mission Pkwy.  
Suite 200  
Merriam, Kansas 66202-2945  
Voice (913) 362-9966  
Facsimile (913) 362-5460

12503 Southeast Mill Plain Blvd.  
Suite 200  
Vancouver, Washington 98684-4009  
Voice (360) 253-5500  
Facsimile (360) 253-5380

3300 Halcumb Bridge Road  
Suite 282  
Norcross, Georgia 30092-3236  
Voice (770) 446-7242  
Facsimile (770) 446-7243



**FLORIDA DEPARTMENT OF STATE**  
**Katherine Harris**  
**Secretary of State**

August 30, 1999

**NEW EDGE NETWORKS**  
**3000 COLUMBIA HOUSE BLVD., SUITE 106**  
**VANCOUVER, WA 98661**

**Subject: NEW EDGE NETWORKS**

**REGISTRATION NUMBER: G99242900131**

This will acknowledge the filing of the above fictitious name registration which was registered on August 30, 1999. This registration gives no rights to ownership of the name.

Each fictitious name registration must be renewed every five years between July 1 and December 31 of the expiration year to maintain registration. Three months prior to the expiration date a statement of renewal will be mailed.

**IT IS THE RESPONSIBILITY OF THE BUSINESS TO NOTIFY THIS OFFICE IN WRITING IF THEIR MAILING ADDRESS CHANGES.** Whenever corresponding please provide assigned Registration Number.

Should you have any questions regarding this matter you may contact our office at (850) 488-9000.

Reinstatement Section  
Division of Corporations

Letter No. 699A00043218

**REGISTRATION OF FICTITIOUS NAME**

Section 1

1. New Edge Networks  
Fictitious Name to be Registered

---

2. 3000 Columbia House Blvd. Sta. 106  
Mailing Address of Business  
Vancouver, WA 98661  
City State Zip Code

3. Florida County of principal place of business: multiple

---

4. FEI Number: 36-3617386

FILED  
 30 AUG 30 PM 12:43  
 COUNTY OF STATE  
 TALLAHASSEE, FLORIDA

This space for office use only

Section 2

**A. Owner(s) of Fictitious Name if Individual(s): (Use an attachment if necessary):**

1. Last First M.I. Address City State Zip Code SS#

2. Last First M.I. Address City State Zip Code SS#

**B. Owner(s) of Fictitious Name if other than an individual: (Use an attachment if necessary):**

1. New Edge Network, Inc.  
Entity Name  
3000 Columbia House Blvd. Sta. 106  
Address  
Vancouver WA 98661  
City State Zip Code  
Florida Registration Number F99000004363  
FEI Number: 36-3617386  
 Applied for  Not Applicable

2. Entity Name Address City State Zip Code Florida Registration Number FEI Number:  Applied for  Not Applicable

Section 3

I (we) the undersigned, being the sole (all the) party(ies) owning interest in the above fictitious name, certify that the information indicated on this form is true and accurate. I (we) further certify that the fictitious name shown in Section 1 of this form has been advertised at least once in a newspaper published in chapter 50, Florida Statutes, in the county where the applicant's principal place of business is located. I (we) understand that the signature(s) below shall have the same legal effect as if made under oath. (At Least One Signature Required)

[Signature] Date 8/19/99

Signature of Owner Date

Phone Number: (360) 693-9009

Signature of Owner Date

Phone Number: \_\_\_\_\_

Section 4

**FOR CANCELLATION COMPLETE SECTION 4 ONLY:  
 FOR FICTITIOUS NAME OWNERSHIP CHANGE COMPLETE SECTIONS 1 THROUGH 4:**

I (we) the undersigned, hereby cancel the fictitious name \_\_\_\_\_  
 \_\_\_\_\_, which was registered on \_\_\_\_\_ and was assigned  
 registration number \_\_\_\_\_

Signature of Owner Date

Signature of Owner Date

Mark the applicable boxes  Certificate of Status-- \$10  Certified Copy-- \$30  
**FILING FEE: \$50**

Note: Acknowledgments/certificates will be sent to the address in Section 1 only. CR4E-001 (5/96)



**Exhibit A**

**Certificate of Authority to Transact Business In Florida  
And  
Registration of Fictitious Name**

## Exhibit B

### **Financial Qualifications**

New Edge has sufficient financial capability to provide and maintain its interexchange and local exchange telecommunications services throughout the State of Florida and sufficient financial capability to meet any lease or ownership obligations it may incur. New Edge will rely upon its existing personnel and technological and financial resources to provide intrastate services. In support of its application, New Edge submits its verified financial statements, signed by New Edge's Chief Executive Officer and Controller, as well as a letter from Silicon Valley Bank verifying New Edge's accounts. New Edge is a privately-held corporation and its financial statements are not a part of the public record in any jurisdiction. New Edge is submitting this financial information in a separate sealed envelope and respectfully requests that this information be given confidential treatment and that it not be made a part of the public record or otherwise be made available for public disclosure.

**Exhibit C**

**Managerial and Technical Qualifications**

## **Managerial and Technical Qualifications**

New Edge's officers are well qualified to execute its business plan, to provide its proposed telecommunications services and to operate and maintain New Edge's facilities over which such services will be deployed.

New Edge is technically qualified to operate and manage its telecommunications operations in the State of Florida. New Edge plans to initially lease fiber optic transmission facilities and related telecommunications equipment in connection with its provision of the proposed telecommunications services in Florida. Specifically, New Edge plans to collocate state-of-the-art telecommunications equipment in central offices of incumbent local carriers and lease fiber-optic network infrastructure which will be able to provide trunking facilities to the incumbent local exchange carrier ("ILEC") and/or New Edge's internet service provider and competitive local exchange carrier customers. The fiber-optic network infrastructure will be able to connect New Edge's network to major ILEC central offices and customers in the areas of business concentration in each market. New Edge's network will also be able to connect to certain IXC points of presence. As each customer is obtained, service will be provisioned by leasing unbundled loops or other facilities (*e.g.*, T1s) from the ILEC to connect the end user to New Edge's network. New Edge will also provide around-the-clock network monitoring and customer service centers.

Descriptions of the extensive telecommunications and managerial experience of New Edge's key personnel are attached hereto.

## **MANAGEMENT BIOGRAPHIES**

### **Dan Moffat - President/CEO**

Years of Telecommunications Experience - 22 years

Former Chief Marketing Office/SVP Sales, Marketing and Service for GST Telecom. President of GST Whole Earth Networks responsible for Internet and data services. Founder and Principal of the telecom strategy consulting firm Access Value Services later sold to Cathey, Hutton and Associates. Director of Marketing for Pacific Telecom. VP Marketing/Sales for US Intelco Networks (Illuminet). Regional Sales Manager for IBM/ROLM. Director of Operations for US West - Netech.

BS Finance - Cal State Chico, MBA - Santa Clara University, MS Telecom - Golden Gate University.

### **Natalie Diggins - VP Operations**

Years of Telecommunications Experience - 10 years

Formerly VP Operations for GST Whole Earth Networks the Internet and Data Wide Area Networking group for GST Telecom a super-regional Competitive Local Exchange Carrier (CLEC). Responsible for systems administration, provisioning, billing, network monitoring and customer service.

General Manager for Call America - Internet Services. Former President of the Central Coast Software and Technology Association. Founding member of Women in Telecommunications.

Cal State Long Beach - Architectural Engineering

### **John Dornstetter - VP Sales/Marketing**

Years of Telecommunications Experience - 10 years

Former VP Sales and Regional Manager for GST Telecom responsible for government sales, alternate channel marketing and major accounts. VP Sales TACAN Corporation a fiber optical component manufacturer. Semi-conductor industry background.

B.S. Naval Science/Naval Aviator - US Naval Academy. MBA Pepperdine University.

**Steve Hensley - Chief Technical Officer/VP Operations**

Years of Telecommunications Experience - 21 years

Former VP Engineering GST Telecom with overall responsibility for fiber, local exchange and data services. Prior to this, VP of Data Engineering - GST Telecom responsible for Internet, Asynchronous Transfer Mode (ATM) and Frame Relay engineering.

Manager Data Engineering Pacific Telecom responsible for Frame Relay and other data services. Regional Manager for Alaska for Motorola Corp.

BS EE Washington State.

**Stacey Waddell - VP Carrier Relations/Program Management**

Years of Telecommunications Experience - 10 years

Most recently Senior Director for Network Deployment - WinStar Telecommunications a national CLEC. Responsible for central office deployment including construction, installation and interconnection arrangements. Director Business Markets for Electric Lightwave Inc. a super regional CLEC. Responsible for management of wholesale and retail telecom products. American Pioneer Telephone - Financial and IS Manager.

BS Finance, University of Central Florida.

## Exhibit D

### **Proposed Initial Tariff**

New Edge seeks authority to provide all forms of telecommunications services. New Edge seeks authority to provide services which allow its customers to originate and terminate local calls to other customers served by New Edge as well as customers served by all other authorized local exchange carriers. New Edge also requests authority to provide switched access services to interexchange carriers, which will allow New Edge's customers to originate and terminate intrastate and interstate calls to and from customers of interexchange carriers

New Edge requests authority to offer local exchange services to customers located in all exchanges in Florida. Exchange services may include, but will not be limited to the following: (i) local exchange access services to single-line and multi-line customers (including basic residential and business lines, direct inward/outward PBX trunk service, Centrex services, and ISDN); (ii) local exchange usage services to customers of New Edge's end user access line services; and (iii) switched and special carrier access services to other common carriers. New Edge seeks authority to provide Digital Subscriber Loop services, by leasing local loops of ILECs and CLECs currently operating in Florida. In addition, New Edge seeks authority, through interconnection with other carriers, to offer 911 and enhanced 911 emergency services, directory assistance and operator assisted calling, dual party relay services, and other miscellaneous services currently provided by incumbent local exchange carriers.

New Edge also requests authority to offer interexchange services throughout the state of Florida, including both inbound and outbound intraLATA services. This will be accomplished through a combination of its own facilities and through the resale of the facilities of other certificated carriers.

Initially, New Edge plans to offer services through a combination of purchased and leased assets. New Edge does not currently own any telecommunications facilities in the State of Florida.

New Edge intends to provide service to subscribers from all points within the State of Florida, and therefore seeks authorization to provide local exchange, exchange access and interexchange service statewide. To the extent that areas of Florida are served by carriers that qualify as small or rural local exchange carriers under the Telecommunications Act of 1996, New Edge does not intend to provide service in those areas at this time. A copy of New Edge's proposed local exchange tariff is attached.



TITLE SHEET

FLORIDA TELECOMMUNICATIONS PRICE LIST

This price list contains the descriptions, regulations, service standards, and rates applicable to the furnishing of service and facilities for telecommunications services provided by New Edge Network, Inc. d/b/a New Edge Networks, with principal offices at 3000 Columbia House Boulevard, Suite 106, Vancouver, WA 98661. This price list applies for services furnished within the state of Florida. This price list is on file with the Florida Public Service Commission, and copies may be inspected, during normal business hours, at the Company's principal place of business.

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Issued:

Effective

By:

Daniel Moffat, President  
New Edge Network Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Ste. 106  
Vancouver, Washington 98661

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CHECK SHEET

<u>Sheet No.</u>	<u>Revision</u>	<u>Sheet No.</u>	<u>Revision</u>
1	Original	29	Original
2	Original	30	Original
3	Original	31	Original
4	Original	32	Original
5	Original	33	Original
6	Original	34	Original
7	Original	35	Original
8	Original	36	Original
9	Original	37	Original
10	Original	38	Original
11	Original	39	Original
12	Original	40	Original
13	Original	41	Original
14	Original	42	Original
15	Original	43	Original
16	Original	44	Original
17	Original	45	Original
18	Original	46	Original
19	Original		
20	Original		
21	Original		
22	Original		
23	Original		
24	Original		
25	Original		
26	Original		
27	Original		
28	Original		

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EXPLANATION OF SYMBOLS

- (C) To signify a changed listing, rule or condition which may affect rates or charges.
- (D) To signify discontinued material, including but not limited to a listing, rate, rule or condition.
- (I) To signify an increase.
- (M) To signify material relocated from or to another part of tariff schedule with no change in text, rate, rule, or condition.
- (N) To signify new material including a listing, rate, rule, or condition.
- (R) To signify a reduction.
- (T) To signify a change in wording of text but no change in rate, rule, or condition.
- (Z) To signify a Correction

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PRICE LIST FORMAT SHEETS

- A. Sheet numbering - Sheet numbers appear in the upper right hand corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the price list. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheets added between sheets 14 and 15 would be 14.1.
- B. Sheet revision numbers - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current sheet version on file with the FPSC. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc., the FPSC allows in their price list approval process, the most current sheet number on file with the Commission is not always the price list page in effect. Consult the Check Sheet for the sheet currently in effect.
- C. Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2.
  - 2.1.
  - 2.1.1.
  - 2.1.1.A.
  - 2.1.1.A.1
  - 2.1.1.A.1.(a).
  - 2.1.1.A.1.(a).I.
  - 2.1.1.A.1.(a).I.(i).
  - 2.1.1.A.1.(a).I.(i).(1)
- D. Check Sheets: When a price list filing is made with the FPSC, an updated check sheet accompanies the price list filing. The check sheet lists contained in the price list, with a cross reference to the current revision number. When new pages are added the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this page if these are the only changes made to it. (i.e. the format, etc. remains the same, just revised revision levels on some pages). The price list user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the FPSC.

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DEFINITIONS

**Advance Payment:** Part or all of a payment required before the start of Service.

**Company:** New Edge Network Incorporated d/b/a New Edge Networks, the issuer of this tariff.

**Customer:** The person, firm or corporation which orders Service and is responsible for the payment of charges and compliance with the terms and conditions of this tariff.

**Dedicated:** A facility or equipment system or subsystem set aside for the sole use of a specific Customer or End User.

**DSL:** Digital Subscriber Line.

**End Office:** The switching system office or serving wire center where loops are terminated for purposes of interconnection to each other and/or to trunks.

**End User:** A person, firm or corporation who is designated by the Customer as a user of Company's Service furnished to the Customer. The End User must be specifically identified in the Application for Service.

**End User Premises Equipment:** Equipment provided by the Customer, the End User, or any party other than the Company that is located on the End User's premises and is connected to the Company's network.

**FCC:** Federal Communications Commission.

**FPSC:** Florida Public Service Commission.

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DEFINITIONS (Continued)

**Individual Case Basis:** A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the Customer and at the Company's sole discretion.

**Kbps:** Kilobits per second, denotes thousands of bits per second.

**Mbps:** Megabits per second, denotes millions of bits per second.

**Origination Point:** The point of demarcation between the Company's facilities and those of the End User.

**Premises:** The space occupied by a Customer or End User in a building or buildings or contiguous property.

**Recurring Charges:** The monthly charges to the Customer for Services, facilities and equipment, which continues for the agreed-upon duration of the Service.

**Services:** The services, or combination thereof, offered by the Company and contained in this Tariff.

**Service Order:** The request for Company Services submitted by the Customer in the format devised by the Company. The submission of a Service Order by the Customer and confirmation thereof by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff.

**Special Facilities:** Any facilities, goods, supplies, products, equipment, fixtures or other installation specifically installed or constructed for Customer by Company pursuant to a negotiated agreement between Company and Customer.

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DEFINITIONS (Continued)

**Term Agreement:** An agreement between the Company and a Customer for the delivery of Services for a stated minimum duration.

**Termination Point:** The demarcation point between Company's facilities and the Customer's facilities.

**Transmission Speed:** Transmission speed or rate, in bits per second (bps), as agreed to by Company and Customer.

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**SECTION 1. APPLICATION OF TARIFF**

This tariff sets forth rules applicable to the provision of interstate high speed digital access and high capacity private line Services using a variety of digital transmission technologies within the State of Florida.

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New Edge Network Inc. d/b/a New Edge Networks  
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**SECTION 2. RULES AND REGULATIONS**

**2.1 Undertaking of the Company**

The Company undertakes to furnish Services in accordance with the terms and conditions set forth in this tariff.

**2.2 Terms and Conditions**

The Company shall have no responsibility with respect to billings, charges, or disputes related to Services used by the Customer which are not included in the Services herein including, without limitation, any local, regional or long distance services not offered by the Company. The Customer shall be fully responsible for the payment of any bills for such services and for the resolution of any disputed or discrepancies with the appropriate service provider.

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**SECTION 2. RULES AND REGULATIONS**

**2.3 Application for Service**

Customers desiring to obtain Service must submit Service Orders in the form and format specified by Company.

**2.3.1 Cancellation of Application for Service**

If a Customer cancels a Service Order after Company has commenced installation of Service, a cancellation charge may apply.

**2.3.2 Cancellation of Service**

Subject to cancellation charges referenced herein, the Customer may have Service discontinued upon thirty (30) days' written notice to the Company. The Company shall hold the Customer responsible for payment of all bills for Service furnished until the effective cancellation of Service. As specified in 2.10.2 below, a termination charge may apply to early cancellation of a Term Agreement.

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**SECTION 2. RULES AND REGULATIONS**

**2.4 Assignment or Transfer**

All Service provided under this tariff is directly or indirectly controlled by the Company and the Customer may not transfer or assign the use of Service (except in the case of a merger or sale of substantially all the assets of Customer) without the express prior written consent of the Company, and then only when such transfer or assignment can be accomplished without interruption of the use or change in the location of Service. All terms and conditions contained in this tariff shall apply to any and all such transferees or assignees. The Customer shall, unless otherwise expressly agreed by the Company in writing, remain liable for the payment of all charges due under this tariff or any applicable agreements.

**2.5 Contracts**

The Company may also offer intrastate exchange access services on a non-tariffed, contractual basis. The terms and conditions of this tariff do not apply to such contractual services, except to the extent expressly incorporated into a contract.

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**SECTION 2. RULES AND REGULATIONS**

**2.6 Deposits**

- A. The Company may, in order to safeguard its interests, require any Customer to make a deposit prior to or at any time after Service is provided to the Customer, to be held by the Company as a guarantee of the payment of rates and charges.
- B. A deposit may not exceed: (i) the actual or estimated rates and charges, including non-recurring charges, for the Service for a one month period; or (ii) the charges that would apply for the minimum period for a Service which has a minimum term of more than one month, plus any applicable termination charge. The fact that a deposit has been made in no way relieves the customer from complying with the Company's requirement as to the prompt payment of bills.
- C. At such time as the provision of the Service to the Customer is terminated, the amount of the deposit will be credited to the Customer's account and any credit balance which may remain will be refunded.
- D. In case of a cash deposit, for the period the deposit is held by the Company, simple annual interest will be applied to the deposit for the number of days from the date the Customer deposit is received by the Company to and including the date such deposit is credited to the Customer's account or the date the deposit is refunded by the Company.
- E. If at any time the amount of a deposit is less than required to meet the requirements specified above, the Customer shall be required to pay an additional deposit upon request.

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**SECTION 2. RULES AND REGULATIONS**

**2.7 Notices**

Any notice Company may give to a Customer shall be deemed properly given when delivered, if delivered in person, or when sent via facsimile, electronic mail or when deposited with the U.S. Postal Service or other express delivery service.

**2.8 Payment and Rendering of Bills**

- A. The Company shall bill all charges incurred by and credits due to the Customer. The Customer may choose to receive bills in either paper or electronic format. Such bills are due within thirty (30) days after the date of issuance thereof, regardless of the media utilized. The Company shall bill in advance charges for all Services to be provided during the ensuing billing period except for charges associated with Service usage. Adjustments for the quantities of Service established or discontinued in any billing period beyond the minimum period will be prorated to the number of days based on a 30 day month. The Company will, upon request and if available, furnish such detailed information as may reasonably be required for verification of the bill.
- B. The Company shall bill for all Services rendered within 90 days of when those Services are provided.

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**SECTION 2. RULES AND REGULATIONS**

**2.8 Payment and Rendering of Bills (Continued)**

- C. All bills for Service provided to the customer by the Company are due thirty (30) days from the date of issuance of the bill. If any portion of the payment is received by the Company after the payment due date as set forth above, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, then a late payment penalty shall be due the Company. The late payment penalty shall be a portion of the payment not received by the payment due date times a late factor. The late factor shall be 1.5% per month (0.049315% per day) or 18% annually, or the highest rate allowed by law, whichever is the lesser. The late factor will be applied for the number of days from the payment due date to and including the date that the Customer makes the late payment funds immediately available to the Company.
- D. Customer shall be responsible for payment of all sales, use, gross receipts, excise, access, bypass, franchise or other local, state and Federal taxes, fees, charges, or surcharges, however designated, imposed on or based upon the provision, sale or use of the Services rendered by Company, (excepting Company's income taxes). Such taxes shall be separately stated on the Customer's invoice.

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**SECTION 2. RULES AND REGULATIONS**

**2.9 Disputed Bills**

In the event that a billing dispute occurs concerning any charges billed to the Customer by the Company, the Customer must pay the undisputed portion of the invoice in full and submit a documented claim for the disputed amount. The Customer shall submit all documentation as may reasonably be required to support the claim. All claims must be submitted to the Company within 60 days of receipt of billing for those Services. If the Customer does not submit a claim as stated above, the Customer waives all rights to filing a claim thereafter. Unless disputed, the invoice shall be deemed to be correct and payable in full by Customer. If the Customer is unable to resolve any dispute with the Company, then Customer may file a complaint with this Commission.

If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, no interest or penalties will apply.

---

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**SECTION 2. RULES AND REGULATIONS**

**2.10 Discontinuance and Restoration of Service**

**2.10.1 Cancellation by the Company**

- A. For Nonpayment: The Company may, upon ten (10) days written notice to the Customer, discontinue Service or cancel an application for Service without incurring any liability when there is an unpaid balance for Service that is overdue.
- B. For Returned Checks: A Customer whose check or draft is returned unpaid for any reason shall be subject to discontinuance of Service in the same manner as provided for nonpayment of overdue charges.
- C. For any violation of law or rules: A Customer shall be subject to discontinuance of Service, without notice, for any violation of any law, rule, regulation or policy of any government authority having jurisdiction over Service, or by reason of any order or decision of a court or other government authority having jurisdiction which prohibits the Company from furnishing such Service.
- D. For the Company to comply with any order or request of any governmental authority having jurisdiction: The Customer shall be subject to discontinuance of Service, without notice, for the Company to comply with any order or request of any governmental authority having jurisdiction.

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**SECTION 2. RULES AND REGULATIONS**

**2.10 Discontinuance and Restoration of Service (cont'd)**

**2.10.1 Cancellation by the Company (cont'd)**

- E. For Other Causes: A Customer shall be subject to discontinuance of Service, without notice, in the event of suspected fraud or other unlawful use of the Service, or fraud or misrepresentation in any submission of information required in a Service Order or any other information submitted to Company.
- F. For any Customer filing of bankruptcy or reorganization or failing to discharge an involuntary petition therefor within the time permitted by law: The Company may immediately discontinue or suspend Service under this tariff without incurring any liability.

**2.10.2 Cancellation of Term Agreement**

Upon the cancellation of Service provided under a Term Agreement, an early termination charge may apply.

**2.10.3 Resumption of Service**

If Service has been discontinued for nonpayment or as otherwise provided herein and the Customer wishes it continued, Service shall, at the Company's discretion, be restored when all past due amounts are paid or the event giving rise to the discontinuance (if other than nonpayment) is corrected to the satisfaction of Company in Company's sole and absolute discretion and Customer pays a deposit at Company's discretion. All applicable nonrecurring charges shall apply when Services are restored.

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**SECTION 2. RULES AND REGULATIONS**

**2.11 Information to be Provided to the Public**

The Company will use reasonable efforts to advise Customers who may be affected of new, revised or optional rates applicable to their Service.

**2.12 [Intentionally left blank]**

**2.13 Credit Allowance for Interruptions**

A credit allowance will be given on a per line basis for service interruptions, defined as any period during which any line subscribed to by the Customer hereunder and/or, if applicable, Company-provided equipment attached thereto is out of service, except as specified below. Out of service conditions are defined as complete loss of data transmission capability. Credit allowances, if any, shall be deducted from the charges payable by the Customer hereunder and shall be expressly indicated on the next bill to the Customer. An interruption period begins the earlier of when the Customer reports a malfunction in Service to the Company or Company becomes independently aware of such malfunction. A malfunction period ends when the affected line and/or associated equipment is fully operative.

**A. Credit allowances do not apply to interruptions:**

- 1) caused by the Customer, any End User or any third party;
- 2) due to failure of power or equipment provided by the Customer or others;
- 3) during any period in which the Company is not given access to the Premises;

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**SECTION 2. RULES AND REGULATIONS****2.13 Credit Allowance for Interruptions (Continued)**

- 4) due to scheduled maintenance and repair; or
- 5) due to Acts of God or other events listed in section 2.19(C) below.

**B. Interruption of Twenty-Four (24) Hour or Less - Portion of Daily Per-Line Charge**

<u>Length of Service Interruption</u>	<u>Credit</u>
-Less than 4 hours	None
-4 hours up to but not including 8 hours	1/3 of day
-8 hours up to but not including 12 hours	1/2 of day
-12 hours up to but not including 16 hours	2/3 of day
-16 hours up to 24 hours	one day

Two or more Service interruptions of the same type to the same line/equipment of two (2) hours or more during any one twenty-four (24) hour period shall be considered as one interruption. In no event shall such interruption credits for any one line/equipment exceed one (1) day's fixed recurring charges for such line/equipment in any twenty-four (24) hour period.

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SECTION 2. RULES AND REGULATIONS

2.13 Credit Allowance for Interruptions (Continued)

C. Interruptions over Twenty-Four (24) Hours

Service interruptions over twenty-four (24) hours will be credited four (4) hours for each four (4) hour period or fraction thereof. No more than one (1) full day's credit will be allowed for any period of twenty-four hours.

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**SECTION 2. RULES AND REGULATIONS**

**2.14 Service Connections**

- A. All Service along the facilities between the point identified as the Company's origination point and the point identified as the Company's termination point will be furnished by the Company, its agents or contractors.
- B. Customer shall allow Company continuous access and right-of-way to both Customer and End User Premises to the extent reasonably determined by the Company to be appropriate to the provision and maintenance of Services, equipment, facilities and systems relating to this tariff.
- C. The Company may undertake to use reasonable efforts to make available Services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the regulations contained in this tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing Service to any Customer.

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**SECTION 2. RULES AND REGULATIONS**

**2.14 Service Connections (cont'd)**

- D. The Company undertakes to use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer or End User. Neither the Customer or the End User may, nor permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
  
- E. Title to all facilities (except such equipment and/or facilities as are sold to or independently provided by a Customer or End User), including terminal equipment, shall remain with the Company. The operating personnel and the electric power consumed by such equipment on the Premises of Customer or End User shall be provided by and maintained at the expense of the Customer.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- F. Equipment the Company provides or installs at the Customer's or End User's Premises for use in connection with the Services shall not be used for any purpose other than that for which the Company provided it.
- G. The Company shall not be responsible for the operation or maintenance of any Customer or End User provided communications equipment. The Company may install certain Customer or End User provided communications equipment upon installation of Service; unless otherwise agreed by the Company in writing, Company shall not thereafter be responsible for the operation or maintenance of such equipment. Where such equipment is connected to the facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities; subject to this responsibility the Company shall not be responsible for:
- 1) The proper origination of signals by Customer provided equipment or for the quality, or defects in, such signals; or
  - 2) The reception of signals by Customer provided equipment.
- H. The Customer shall be responsible for the payment of service charges for visits by the Company's agents or employees to the Premises when the Service difficulty or trouble report results from the improper or inappropriate use of equipment or facilities by the Customer or End User.

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**SECTION 2. RULES AND REGULATIONS**

**2.14 Service Connections (Continued)**

- I. In the event Company places Company equipment on Customers' premises for the purpose of furnishing service under this agreement, unless otherwise stipulated, Company is solely responsible for operating and maintaining such equipment. In the event that Customer attempts to operate or maintain any such equipment without first obtaining Company's written approval, in addition to any other remedies of Company for a breach by Customer of Customer's obligations hereunder, Customer shall pay Company for any damage to Company's equipment caused or related to such unauthorized operation or maintenance of Company's equipment upon receipt by Customer of a Company invoice therefor. In no event shall Company be liable to Customer, End User or any other person for interruption of the Service or for any other loss, cost or damage caused or related to Customer's improper or inappropriate use of Company-provided equipment.
- J. Customer agrees to allow Company to remove all Company-provided equipment from Customer or End User's premises:
- 1) upon termination, interruption or suspension of the Service in connection with which the equipment was used; and
  - 2) for repair, replacement or otherwise as Company may determine is necessary or desirable.
- K. At the time of such removal, such equipment shall be in the same condition as when delivered to Customer or installed in Customer or End User's premises, normal wear and tear only excepted. Customer shall reimburse Company for the unamortized cost of any such equipment in the event the foregoing conditions are not met.

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**SECTION 2. RULES AND REGULATIONS**

**2.14 Service Connections (Continued)**

- L. The Customer or End User is responsible for ensuring that Customer- or End User-provided equipment connected to Company equipment and facilities is compatible with such Company equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company provided equipment and wiring or injury to the Company's employees or to other persons. Customer will submit to Company a complete manufacturer's specification sheet for each item of equipment that is not provided by the Company and which shall be attached to the Company's facilities. The Company shall approve the use of such item(s) of equipment unless such item is technically incompatible with Company's facilities. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.
  
- M. Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Service, and the channels, facilities, or equipment of others shall be provided at the Customer's expense.

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**SECTION 2. RULES AND REGULATIONS**

**2.15 Limitation of Service Equipment or Facilities**

- A. Service is offered subject to the provisions of this tariff and the availability of the necessary facilities and/or equipment, and is limited to the ongoing availability and capacity of the Customer's facilities as well as the facilities the Company may require from other carriers to furnish Service. The Company may decline Service Orders to or from a location where, in the Company's sole discretion, the necessary facilities or equipment are not available. The Company may discontinue furnishing Service in accordance with the terms of this tariff.
- B. The Company reserves the right to discontinue or limit Service when necessitated by conditions beyond its control, or when Service is used in violation of provisions of this tariff or the law.
- C. The Company does not undertake to transmit messages, but offers the use of its Service when available, and, as more fully set forth elsewhere in this tariff, shall not be liable for errors in transmission or for failure to establish connections.
- D. The Company reserves the right to discontinue Service, limit Service, or to impose requirements as required to meet changing regulatory or statutory rules and standards, or when such rules and standards have an adverse material affect on the business or economic feasibility of providing Service, as determined by the Company in its reasonable judgment.
- E. The furnishing of Service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities, as well as facilities the Company may obtain from other carriers to furnish Service from time to time as required at the sole discretion of the Company.

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**SECTION 2. RULES AND REGULATIONS**

**2.16 Prohibited Uses**

- A. The Services of the Company shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all governmental approvals, authorizations, licenses, consents and permits, required to be obtained by the Customer with respect thereto.
- B. The Company may require applicants for Service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company offerings complies with relevant laws and the FPSC's regulations, policies, orders, and decisions.
- C. The Company may, without obtaining any further consent from the Customer, assign any rights, privileges, or obligations under this tariff. The Customer or End User may not assign, transfer in any manner the Service or any rights associated with the Service without the written consent of the Company.
- D. The Company may require a Customer to immediately shut down its transmission of signals if Company concludes, in its sole discretion, that such transmission is causing interference to others.

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**SECTION 2. RULES AND REGULATIONS**

**2.16 Prohibited Uses (cont'd)**

- E. The Customer may not use the Services so as to interfere with or impair Service over any facilities and associated equipment, or so as to impair the privacy of any communications over such facilities and associated equipment.
  
- F. A Customer or End User shall not represent that its services are provided by the Company, or otherwise indicate to its Customers that its provision of Services is jointly with the Company, without the prior written consent of the Company. The relationship between the Company and Customer shall not be that of partners or agents for one or the other, and shall not be deemed to constitute a partnership or agency agreement.

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**SECTION 2. RULES AND REGULATIONS**

**2.17 Non-Routine Installation**

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

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**SECTION 2. RULES AND REGULATIONS**

**2.18 Obligations of the Customer**

The Customer (or the End User, as the case may be) shall be responsible for:

- A. The payment of all charges applicable to the Services.
- B. Damage or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or End User or the non-compliance by the Customer or End User with the provisions of this tariff; or by fire or theft or other casualty on the premises of the Customer or End User unless caused by the negligence or willful misconduct of the employees or agents of the Company;
- C. Providing as specified from time to time by the Company any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the Premises, and providing the level of power, heating and air conditioning necessary to maintain the proper environment on such Premises;

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**SECTION 2. RULES AND REGULATIONS**

**2.18 Obligations of the Customer (Continued)**

- D. Obtaining, maintaining, and otherwise having full responsibility for rights of way necessary to install equipment to provide Service to the Customer or End User from the minimum point of entry or the property line of the land on which the structure wherein any termination point or origination point used by the Customer or End User is placed or located, whichever is applicable, through the point of entry into the structure, throughout the structure, to the location of the equipment space. Any and all costs associated with the obtaining and maintaining of the rights of way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be borne entirely by the Customer. The Company may require the Customer to demonstrate its compliance with this section prior to accepting a Service Order.
  
- E. Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the Premises. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury to Company employees or property might result from installation or maintenance by the Company.

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**SECTION 2. RULES AND REGULATIONS**

**2.18 Obligations of the Customer (Continued)**

- F. Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the Premises at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of Service as stated herein, removing the facilities or equipment of the Company;
- G. Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which Service is interrupted for such purposes.
- H. Keeping the Company's equipment and facilities located on the Customer's premises or rights-of-way obtained by the Customer free and clear of any liens or encumbrances relating to the Customer's use of the Company's Services or from the locations of such equipment and facilities.
- I. Providing, operating and maintaining Customer provided or End User equipment on the Premises. Conformance of Customer provided or End User premises equipment with part 68 of the FCC Rules is the responsibility of the Customer.

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**SECTION 2. RULES AND REGULATIONS**

**2.19 Liability of the Company**

- A. The Services the Company furnishes are subject to the terms, conditions, and limitations specified in this tariff and to such particular terms, conditions, and limitations as set forth in the special regulations applicable to the particular Services and facilities furnished under this tariff.
  
- B. The liability of the Company for damages arising out of the furnishing of these Services, including but not limited to mistakes, omissions, interruptions, delays, tortious conduct or errors, or other defects, representations, or use of these Services or arising out of the failure to furnish the Service, whether caused by acts of commission or omission, shall be limited to the extension of allowances for interruption. The extension of such allowances for interruption shall be the sole remedy of the Customer or End User and the sole liability of the Company. The Company will not be liable for any special, consequential, exemplary or punitive damages a Customer may suffer, whether or not caused by the intentional acts or omissions or negligence of the Company's employees or agents.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company (Continued)

- C. The Company shall not be liable for, nor shall any Service Credits be extended for, any failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, action, or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or any civil or military authority, national emergencies, insurrections, riots, wars, unavailability of rights-of-way or materials, or strikes, lock-outs, work stoppages, or other labor difficulties.
- D. The Company shall not be liable for any act or omission by any entity furnishing to the Company or to the Company's Customers facilities or equipment used for or with the Services the Company offers.
- E. The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of Customer-provided equipment or facilities.
- F. Company shall not be liable for the claims of vendors supplying equipment to Customers of the Company which may be installed at premises of the Company, nor shall the Company be liable for the performance of any such vendor or vendor's equipment.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company (Continued)

- G. The Company does not guarantee nor make any warranty with respect to installations it provides for use in an explosive atmosphere. The Customer indemnifies and holds the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location, or use of any installation so provided.
- H. The Company is not liable for any defacement of or damage to the Premises resulting from the furnishing of Services, equipment, or associated wiring on such Premises or the installation or removal thereof, except where such defacement or damage is the result of negligence or willful misconduct on the part of the agents or employees of the Company.
- I. The Company shall not be liable for any damages resulting from delays in meeting any Service dates.

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**SECTION 2. RULES AND REGULATIONS**

**2.19 Liability of the Company (Continued)**

K. The Company shall not be liable for any damages whatsoever associated with service, facilities, or equipment which the Company does not furnish or for any act or omission of Customer or any other entity furnishing services, facilities or equipment used for or in conjunction with Service.

L. THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

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**SECTION 2. RULES AND REGULATIONS**

**2.20 Indemnification**

The Customer and any End User, jointly and severally, shall indemnify, defend and hold the Company harmless from claims, loss, damage, expense (including attorney's fees and court costs), or liability (including liability for patent infringement) arising from: (1) any claims made against Company by any End User in connection with the delivery or consumption of Services; (2) combining with, or using in connection with facilities the Company furnished, facilities the Customer or End User furnished; or (3) use of facilities the Company furnished in a manner the Company did not contemplate and over which the Company exercises no control. In the event that any infringing use is enjoined, the Customer, at its option and expense, may obtain immediately a dismissal or stay of such injunction, obtain a license or other agreement so as to extinguish the claim of infringement, terminate the claimed infringing use, or modify such combination so as to avoid any such infringement. In addition and without limitation, the Customer and any End Users shall defend, on behalf of the Company and upon request by the Company, any suit brought or claim asserted against the Company for any such claims.

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**SECTION 2. RULES AND REGULATIONS**

**2.21 Maintenance and Testing**

- A. Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the Customer for the period during which the Company makes such tests, adjustments, or inspections.
  
- B. Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer or End User is complying with the requirements set forth above for the installation, operation, and maintenance of Customer provided facilities, equipment, and wiring in the connection of Customer provided facilities and equipment to Company-owned facilities and equipment. If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten (10) days of receiving this notice, the Customer must take such action. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of Service, to protect its facilities, equipment, and personnel from harm.

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**SECTION 2. RULES AND REGULATIONS**

**2.22 Determination of Jurisdiction of Mixed Interstate and Intrastate Service**

When mixed interstate and intrastate Service is provided over a dedicated facility, the jurisdiction will be determined as follows:

1. If the Customer's estimate of the intrastate traffic on the Service equals 10% or more of the total traffic on that Service, the Service will be provided according to the applicable rules and regulations of this tariff.
2. If the Customer's estimate of the intrastate traffic on the Service is less than 10% of the total traffic on that Service, the Service will be provided according to the applicable rules and regulations of the Company's interstate tariff.
3. If the jurisdiction of interstate traffic on the Service changes to the extent that it alters the jurisdiction of the Service, the Customer must notify the Company of any required change in status. The affected Service will revert to the appropriate jurisdictional tariff within the next full billing cycle. No retroactive rate adjustments will apply to the period prior to the change in the Company's records. Any applicable Term Agreement will be transferred with the jurisdictional change.

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**SECTION 3. DESCRIPTION OF SERVICES**

The Company provides data transport between End Users and its Customers using a variety of digital transmission technologies, over the Company's own facilities and/or facilities of other carriers.

Depending on distance from the Company's facilities, Services may not be available to all customers. Special construction charges may apply in each case. Company's Services are data services only and will not be accompanied by 411, 911, or other voice services. In addition to the charges specified for each Service, additional charges may apply for transfers of data per month, at certain times in excess of certain thresholds, or for certain billing, monitoring or other services. Other services may be provided by the Company on an Individual Case Basis, depending on such factors as length of loops involved, quality of loops and other factors.

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**SECTION 4. RATES AND CHARGES**

**Access Services for Interstate Communication Services**

**Description of Services**

The Company provides data transport between End-Users and its Customers using a variety of digital transmission technologies, over the Company's own facilities and/or facilities of other carriers.

Depending on distance from the Company's facilities, service may not be available to all customers. Special construction charges may apply in each case. Company's services are data services only and will not be accompanied by 411, 911, or other voice services. In addition to the charges specified for each service, additional charges may apply for transfers of data per month, at certain times, in excess of certain thresholds, or for certain billing, monitoring or other services. Other services may be provisioned by the company on an individual case basis (ICB), depending on such factors as length of loops involved, quality of loops and other factors.

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**SECTION 4. RATES AND CHARGES**

**4.1 Local Loop (per month)**

144 kbps IDSL	\$75
160 kbps	\$75
200 kbps	\$90
416 kbps	\$125
784 kbps	\$165
1040 kbps	\$199
1.54 Mbps	\$250

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**SECTION 4. RATES AND CHARGES**

**4.2 Aggregation**

Time From Interconnection	With New Edge Provided DS-3 link (up to 25 miles)	Without DS-3 Link
First Month	\$1000	\$500
Second Month	\$2000	\$1000
Third Month	\$3000	\$1750
Fourth Month (After)	\$4000	\$2500
	Note: DS-3 links of more than 25 miles will be priced on an ICB basis.	Note: applies to customers in same collocation space as well as those who purchase or provide their own DS3 interconnection.

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**SECTION 4. RATES AND CHARGES****4.3 Non-recurring Charges**

Standard Installation	\$375
Nonstandard Installation (materials extra)	\$375 + \$40 per hour after 2 <sup>nd</sup>
Reschedule visit due to lack of exit	\$95
Standard Inside move	\$150
Non standard in-side move (materials extra)	\$150 + \$40 per hour after 2 <sup>nd</sup>
Outside Move	\$375
Cancellation of order— within ILEC cancellation period	\$50
Cancellation of order— outside ILEC cancellation period	\$275
Site survey (on request)	\$95
Speed Change	\$100
Inside wiring repair (materials extra)	\$95 + \$40/hour after 1 <sup>st</sup>

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