

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6458

Petition of New Edge Network, Inc., d/b/a New )  
Edge Networks for Approval of a Transfer of )  
Control )

Order entered: 5/7/2001

**I. INTRODUCTION**

This case involves a petition filed on November 7, 2000, by New Edge Network, Inc., d/b/a New Edge Networks ("NEN" or the "Petitioner"), seeking Vermont Public Service Board ("Board") approval, under 30 V.S.A. § 107, of an indirect minority transfer of control resulting from the issuance of preferred stock by NEN's ultimate parent company in exchange for equity financing.

On April 13, 2001, the Vermont Department of Public Service ("Department") submitted a letter to the Board indicating that the Department had no objection to the transfer of control. The Department noted that the transaction would be transparent to Vermont consumers and would not involve a change in the management or services of NEN. Further, the Department also had no objection to the issuance of an order without hearing or further investigation, as provided under 30 V.S.A. § 107.

**II. FINDINGS OF FACT**

Based upon the petition and accompanying documents, the Board makes the following findings of fact.

1. NEN, a wholly-owned subsidiary of Holding Company, is a corporation authorized by the Board to provide telecommunications service in Vermont. A Certificate of Public Good (CPG No. 516-R) was issued to NEN on January 5, 2000. Petition at 1.
2. Holding Company is not currently authorized to provide telecommunications services in Vermont. Petition at 1.
3. NEN's ultimate parent, Holding Company, intends to issue shares of preferred stock in exchange for approximately \$77 million in equity financing. The additional equity contribution

will result in the dilution of current shareholders' interests in Holding Company, and the creation of new minority shareholders. The single largest investor will acquire approximately 21% ownership interest in Holding Company, resulting in an indirect minority transfer of control of NEN. Following the transaction, NEN will continue to operate in all respects as it currently operates, pursuant to present operating authority. Neither the name of nor the terms and conditions of service offered by NEN will be affected by the transaction. In addition, NEN currently has no customers in Vermont. Accordingly, the transaction should not inconvenience customers within the State of Vermont. Petition at 1-2.

4. Completion of the proposed transaction will serve the public interest in that it will promote competition among telecommunications providers by providing NEN with the opportunity to strengthen its competitive positions and to pursue marketing and business plans more effectively. Petition at 4.

### **III. CONCLUSIONS OF LAW AND DISCUSSION**

The proposed transaction requires Board approval under 30 V.S.A. § 107, which applies to a direct or indirect acquisition of a controlling interest in a Vermont utility.<sup>1</sup> Under Section 107, a "controlling interest" is defined as 10% or more of the outstanding voting securities of a company. Section 107 requires a finding that the transfer of control will promote the public good. This standard is met in this case. The proposed transaction will promote the public good, because the transfer of control of NEN will allow the Petitioner to operate in a more flexible manner. In the competitive arena of telecommunications, the overall effect of this transfer may promote more customer choice in terms of services, with stronger competitors in the Vermont telecommunications market. It should also be noted that the transfer of control will not have an adverse impact on Vermont consumers as NEN will continue to operate according to its present authority.

For all of the above reasons, the proposed indirect, minority transfer of control of NEN through the creation of new minority shareholders in its parent company should be approved.

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1. Approval under 30 V.S.A. §§ 231 and 311 is not required because the current holder of the Certificate of Public Good, NEN, will continue to be the entity providing telecommunications service in Vermont.

**IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The indirect, minority transfer of control of New Edge Network, Inc., d/b/a New Edge Networks, is approved.
2. Petitioner shall notify the Board, within one week, upon completion of the transfer of control.

DATED at Montpelier, Vermont, this 7<sup>th</sup> day of May, 2001.

<u>s/Michael H. Dworkin</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

Filed: May 7, 2001

Attest: s/Susan M. Hudson

Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us).*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*