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UTILITIES COMMISSION

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	Case No. EDG-T-07-01
OF EDGE WIRELESS, LLC)	
FOR DESIGNATION AS AN ELIGIBLE)	EDGE WIRELESS, LLC
TELECOMMUNICATIONS CARRIER)	REPLY IN OPPOSITION
PURSUANT TO THE)	TO ITA MOTION FOR A
TELECOMMUNICATIONS ACT OF 1996)	STAFF INVESTIGATION
(RURAL AND NON-RURAL AREAS))	

Applicant Edge Wireless, LLC (“Edge”), by and through its attorneys of record Davis Wright Tremaine LLP and Richardson & O’Leary, P.L.L.C., files this Reply in Opposition to the Motion for a Staff Investigation, filed by the Idaho Telephone Association (“ITA”) on April 25, 2007 (“ITA’s Motion”). Edge urges the Commission to deny ITA’s Motion because it is based on a misreading of the law, an obfuscation of the facts, and is intended solely to further delay the public benefits to consumers in Idaho of designating Edge an eligible telecommunications carrier (“ETC”).¹

¹ In its Comments Regarding Whether Further Proceedings Are Needed, filed April 25, 2007 (“Edge’s April 25th Comments”), Edge anticipated many of the arguments set forth in ITA’s Motion and responded to them in advance. The Edge April 25th Comments are hereby incorporated herein by reference and attached for the Commission’s convenience.

REPLY

I. Introduction

ITA's Motion would have the Commission order Staff to "conduct a further investigation" to confirm what both the Staff and ITA already know, namely, that Edge does not currently serve all of its customers in the proposed ETC area with its own facilities.² If it did, there would be very little need for Edge to request ETC designation to receive funds to invest in facilities in these remote rural areas.

ITA's Motion is fundamentally flawed. ITA has misinterpreted the law to suggest that an ETC applicant must offer the supported services throughout the proposed ETC area *exclusively* through its own facilities. This is simply wrong. Federal law and this Commission's rules make abundantly clear that an ETC applicant can offer the supported services through its own facilities, the facilities of other carriers, or by constructing new facilities. In its Application, Edge has committed to responding to reasonable requests for service throughout the proposed ETC area, consistent with the six-step process in the Commission's rules. The Commission should reject ITA's request as it would waste valuable administrative resources to determine matters that are not relevant to the Commission's eligibility criteria.

II. The Legal Standard

As noted in Edge's April 25th Comments, the legal standard adopted by this Commission as well as the Federal Communications Commission ("FCC") requires that an ETC applicant show:

² ITA's Motion suggests that Commission Staff lacked information or was otherwise less than thorough in its investigation. *See* ITA Motion, p. 6. This is a gross mischaracterization. Staff was fully apprised of the extent of Edge's current network coverage and planned network coverage. In fact, Edge reviewed its coverage maps and build out plan in detail in a meeting with Commission Staff in early January, 2007. *See* Affidavit of Eric Anderson at ¶7.

that it will: (a) provide service on a timely basis to requesting customers within applicant's service area where the applicant's network already passes the potential customer's premises; and (b) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed area but outside its existing network coverage, if service can be provided at reasonable cost by (i) modifying or replacing the requesting customer's equipment; (ii) deploying roof-mounted antenna or other equipment; (iii) adjusting the nearest cell tower; (iv) adjusting network or customer facilities; (v) reselling services from another carrier's facilities to provide service; or (vi) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.³

This legal standard very clearly contemplates that the facilities of an ETC applicant will not necessarily reach all customers within the proposed ETC area. The eligibility criteria recognize that some customers will be reached through the resale of services from another carrier's facilities or the construction of new facilities, and that in certain circumstances it will be unreasonable to serve a requesting customer at all. Accordingly, the extent of current coverage from Edge's own facilities is irrelevant. Edge has made the required commitment to provide service consistent with the Commission's requirements. The rules also require Edge to report annually the number of requests for service from potential customers within its ETC service areas that were unfulfilled in the previous year along with an explanation of how it attempted to provide service to those potential customers. Thus, the Commission has a means in place for holding Edge accountable to its commitment.

III. Building Out Wireless Networks

ITA's Motion focuses exclusively on where Edge facilities provide coverage today.⁴

This focus is not only irrelevant under the applicable legal standard, it also ignores entirely the

³ Order No. 29841, Appendix p. 2 (Case No. WST-T-05-1, Aug, 4, 2005); see also *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 20 F.C.C.R. 637, ¶22.

⁴ ITA's allegations regarding the extent of existing coverage are not only irrelevant, but inaccurate. See Affidavit of Eric C. Anderson, ¶¶8-9.

reality of how wireless networks are built out and why universal service support for wireless carriers is an important means of furthering the public interest.⁵

Edge has FCC licensed spectrum covering the entire proposed ETC area. This spectrum is a significant infrastructure investment and is sufficient to provide service in the entire proposed ETC area. Edge has a switch in Pocatello and a customer care center in Idaho Falls that have capacity to provide service in the entire ETC area. Edge also has the employees and equipment necessary to construct, operate and maintain a network throughout the ETC area.⁶

Universal service support will enable Edge to build the cell sites needed to leverage these existing facilities and provide state-of-the art wireless voice service to rural areas, as well as the added benefit of wireless data services. The two year build-out plan is just the beginning. Edge is committed to build out the rural wire centers and has the proven ability to do so.

Edge Wireless launched its initial service in Idaho in December of 2000 with thirty-two (32) cell sites. In just over six years Edge has expanded its coverage by increasing its operating cell sites from thirty-two (32) to one hundred forty-seven (147), an average of nineteen (19) sites per year.⁷ This illustrates how wireless carriers launch networks and expand coverage and capacity over time. It also illustrates Edge's capabilities when it comes to building coverage in rural Idaho. In addition, Edge's two-year plan includes planned investment of universal service support to construct and enhance its facilities in many of these wire centers.⁸

ITA's Motion also suggests, again erroneously, that Edge's two-year plan somehow represents the sum total of all additional network investment that Edge will ever make in Idaho.⁹

⁵ ITA's focus is based upon an ILEC worldview, in which rural ILECs continue to receive universal service support to maintain networks that were built out years ago. Wireless carriers such as Edge, on the other hand, propose to use universal service support to build out new networks.

⁶ See Affidavit of Eric C. Anderson, ¶¶3-5.

⁷ *Id.* at ¶6.

⁸ *Id.* at ¶10. See also, Highly Confidential Exhibits D-Narrative through D-4.

⁹ See ITA Motion, p. 4.

It is important for the Commission to recognize that the two-year network plan is merely that – a plan showing how Edge will invest the universal service support it receives over the next two years. Under the Commission rules, as a condition to receiving continued support, Edge will file an updated two-year plan each year, showing not only what it accomplished in the preceding year, but also extending the plan out one additional year in the future. For example, the current two-year network plan shows planned investment for second quarter 2007 through first quarter 2009. Next year, Edge will file an updated plan showing planned investment through 2009. The following year, Edge will file an updated plan showing planned investment through 2010. And so on.

Finally, ITA's Motion would have the Staff determine whether Edge's depiction of its network coverage is accurate.¹⁰ Edge uses state-of-the-art software prediction tools to produce its coverage maps. This software is trusted in the wireless industry for accuracy in predicting Radio Frequency Signal propagation.¹¹ Having the Staff "confirm" the accuracy of these propagation maps is a complete waste of Commission resources.¹²

IV. The "Cream Skimming Analysis"

In support of its unprecedented request for a Staff investigation, ITA again misinterprets the law. In a blatant attempt to find any possible hook for its novel recommendation, ITA latches on to the Commission's statement that it will "conduct a cream skimming analysis" when an ETC applicant seeks designation below the study area level of a rural telephone company.¹³ This is completely inapposite in this case. Edge is not seeking designation below the study area

¹⁰ ITA Motion, p. 6.

¹¹ Affidavit of Eric C. Anderson, ¶11.

¹² Pursuant to a request from Commission Staff, attached hereto as Highly Confidential Exhibit A is a map showing Edge's current coverage map with the ILEC wire center boundaries superimposed. Attached as Highly Confidential Exhibit B is a map showing Edge's additional coverage from proposed GSM infrastructure investment pursuant to its two-year plan, with the ILEC wire center boundaries superimposed.

¹³ ITA Motion, p. 5.

level of any rural ILEC in Idaho. In fact, Edge has intentionally carved out several wire centers that otherwise fall within its licensed service area precisely because other wire centers in the same study area fall outside Edge's license area.¹⁴

Nor is the "cream skimming analysis" mentioned in the Commission's eligibility rules at all similar to the Staff investigation that ITA requests. A cream skimming analysis merely requires a comparison of population density between wire centers. Such an analysis is readily performed based on population statistics collected and published by the Census Bureau. It does not require a "Staff investigation."

Finally, ITA tries to claim that a "partial wire center" cream skimming analysis is required. This is wrong for two reasons. First, the cream skimming analysis refers to serving less than all the wire centers in a multiple wire center rural ILEC study area.¹⁵ It has nothing to do with partial wire centers. Second, Edge is not proposing to serve any partial wire centers. As discussed above, and in Edge's April 25th Comments, Edge's Application states that Edge will serve all reasonable requests from customers within the wire centers that comprise its ETC area, consistent with the six step process described in the Commission's rules.

CONCLUSION

For the foregoing reasons, Edge urges the Commission to deny ITA's Motion. ITA's Motion is based on a misreading of applicable law and a misstatement of the relevant facts. The Commission should see the ITA Motion for what it is, namely, another blatant attempt to unduly delay Edge's ETC designation. ITA has every incentive to delay, because ETC designation will make Edge a more formidable competitor, both for the ITA members in their capacity as rural ILECs and in their capacity as members of the Syringa Wireless consortium. Such tactics should

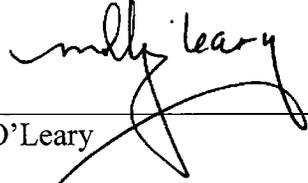
¹⁴ See Application at footnote 9.

¹⁵ See Order No. 29841 at 16.

not be condoned. The Commission should deny ITA's Motion and expeditiously process Edge's Application by Modified Procedure.

Respectfully submitted this 3rd day of May, 2007.

RICHARDSON & O'LEARY, PLLC

By 
Molly O'Leary

Attorneys for Edge Wireless, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of May, 2007 a true and correct copy of the within and foregoing EDGE WIRELESS, LLC's REPLY IN OPPOSITION TO ITA MOTION FOR A STAFF INVESTIGATION filed with the Idaho Public Utilities Commission and served on the parties as indicated below:

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Commission Secretary
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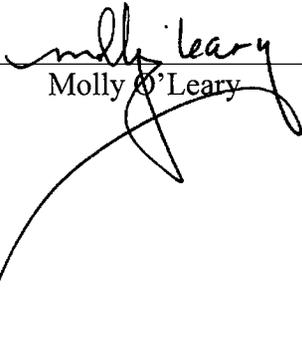
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Molly O'Leary

**AFFIDAVIT
OF
ERIC C. ANDERSON**

**HIGHLY CONFIDENTIAL
USE RESTRICTED PER
PROTECTIVE
AGREEMENT IN DOCKET
NO. EDG-T-07-01**

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) Case No. EDG-T-07-01
OF EDGE WIRELESS, LLC)
FOR DESIGNATION AS AN ELIGIBLE) AFFIDAVIT OF ERIC C.
TELECOMMUNICATIONS CARRIER) ANDERSON IN SUPPORT
PURSUANT TO THE) OF EDGE WIRELESS LLC
TELECOMMUNICATIONS ACT OF 1996) REPLY IN OPPOSITION
(RURAL AND NON-RURAL AREAS)) TO ITA MOTION

STATE OF OREGON)
) ss.
County of Bend)

ERIC C. ANDERSON, being first duly sworn upon oath, deposes and states as follows:

1. My name is Eric C. Anderson and I am Director of Engineering for Edge Wireless LLC.

2. In my capacity as Director of Engineering for Edge Wireless, LLC ("Edge") I am familiar with the technology and facilities required to provide wireless service in Edge's licensed service territory in Idaho.

3. Edge has FCC licensed spectrum covering the entire proposed eligible telecommunications carrier ("ETC") area. This spectrum is a significant infrastructure investment and is sufficient to provide service in the entire proposed ETC area.

4. Edge has a switch in Pocatello and a customer care center in Idaho Falls that have capacity to provide service in the entire ETC area. Edge also has the employees and equipment necessary to construct, operate and maintain a network throughout the ETC area.

5. Universal service support will enable Edge to build the cell sites needed to leverage these existing facilities and provide state-of-the art wireless voice service to rural areas, as well as the added benefit of wireless data services.

6. Edge Wireless launched its initial service in Idaho in December of 2000 with thirty-two (32) cell sites. In just over six years Edge has expanded its coverage by increasing its operating cell sites from thirty-two (32) to one hundred forty-seven (147), an average of nineteen (19) sites per year.

7. In conjunction with filing its Application for designation as an eligible telecommunications service, Edge reviewed its coverage maps and build-out plan in detail in a meeting with Commission Staff in early January, 2007.

8. Edge provides service in _____ . Edge provides service to the _____ with

Edge currently has

Edge currently provides service to

Edge also provides

9. Edge's two year plan proposes

10. Edge proposes building twenty-one (21) new cell towers in rural high cost areas over the next two (2) years as outlined in the Edge two year network plan. Edge intends to continue expanding its coverage in high cost areas in subsequent years. These expansions will be outlined annually during the recertification process.

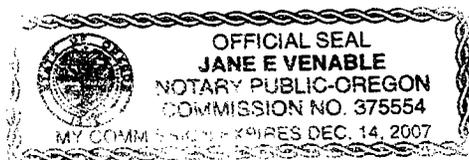
11. Edge uses state-of-the-art software prediction tools to produce its coverage maps. This software is trusted in the wireless industry for accuracy in predicting Radio Frequency Signal propagation.

DATED this 2nd day of May, 2007.



Eric C. Anderson

Subscribed and sworn to, before me, this 2nd day of May, 2007.



Jane E Venable
Notary Public for the State of Oregon
Residing at Redmond, Oregon
My Commission Expires 12/14/07

**EXHIBIT A
HIGHLY CONFIDENTIAL
USE RESTRICTED PER
PROTECTIVE
AGREEMENT IN DOCKET
NO. EDG-T-07-01**

**EXHIBIT B
HIGHLY CONFIDENTIAL
USE RESTRICTED PER
PROTECTIVE
AGREEMENT IN DOCKET
NO. EDG-T-07-01**

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	Case No. EDG-T-07-01
OF EDGE WIRELESS, LLC)	
FOR DESIGNATION AS AN ELIGIBLE)	COMMENTS OF EDGE
TELECOMMUNICATIONS CARRIER)	WIRELESS, LLC
PURSUANT TO THE)	REGARDING FURTHER
TELECOMMUNICATIONS ACT OF 1996)	PROCEEDINGS
(RURAL AND NON-RURAL AREAS))	

Applicant Edge Wireless, LLC ("Edge"), by and through its attorneys of record Davis Wright Tremaine LLP and Richardson & O'Leary, P.L.L.C., files these Comments pursuant to the schedule established in Commission Order No. 30286, in which the Commission ordered that "within twenty-eight (28) days of the service date of this Order Edge and ITA shall inform the Commission as to whether it believes a hearing is necessary in this matter or if the matter may continue to be processed by Modified Procedure."¹ For the reasons set forth below, Edge respectfully requests that the Commission continue to process this matter by Modified Procedure

¹ Order No. 30286, p. 3.

confidential exhibits to the Petition, opting instead to wait until the final day of the comment period to raise this issue, an obvious delay tactic.⁵

In response to ITA's request, the Commission ordered Edge and ITA to enter into a confidentiality agreement to allow ITA to review Edge's two-year network plan. The parties entered into such an agreement and confidential documents were exchanged, including the confidential exhibits to the Petition as well as additional confidential information requested by ITA. The parties also convened a conference call in order to permit ITA to ask clarifying questions regarding the material that had been provided.

COMMENTS

Based upon representations of counsel⁶, it is Edge's understanding that ITA will recommend to the Commission that it order Commission Staff to conduct a field audit to confirm that Edge's two-year plan will result in improved wireless coverage in rural wire centers as shown in Confidential Exhibit D-4.⁷ The Commission should reject this unprecedented request. The Commission Staff has already conducted an exhaustive review of the Petition and Exhibits, and has concluded that Edge's thorough and detailed two-year plan "indicates to Staff that Edge has made an effort to understand the rural wire centers' deficiencies and has determined how they plan to improve these wire centers."⁸ Furthermore, the Staff Comments correctly point out that "the annual submission of the Two-Year Network Improvement Plan and Progress Report

⁵ Edge Reply Comments, p. 4 (filed March 22, 2007).

⁶ Edge reserves the right to reply to ITA's Comments if necessary.

⁷ Confidential Exhibit D-4 contains two maps that show anticipated wireless signal strength related to the infrastructure investment contemplated in Edge's two-year network plan.

⁸ Staff Comments, p. 8.

insufficient there. This recommendation is flawed both on a legal basis and as a matter of public policy, and should be rejected. First and foremost, ITA's argument is based on a fundamental misunderstanding of the Commission's requirements. ITA appears to believe that Edge must show that it is currently providing ubiquitous service throughout its proposed ETC area. This is simply not the legal standard adopted by this Commission, or the Federal Communications Commission ("FCC"). The relevant eligibility requirement is certification by the applicant:

that it will: (a) provide service on a timely basis to requesting customers within applicant's service area where the applicant's network already passes the potential customer's premises; and (b) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed area but outside its existing network coverage, if service can be provided at reasonable cost by (i) modifying or replacing the requesting customer's equipment; (ii) deploying roof-mounted antenna or other equipment; (iii) adjusting the nearest cell tower; (iv) adjusting network or customer facilities; (v) reselling services from another carrier's facilities to provide service; or (vi) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.¹²

The extent of Edge's current coverage is, therefore, irrelevant. Edge has made the required commitment to provide service consistent with the Commission's requirements. The rules also require Edge to report annually the number of requests for service from potential customers within its ETC service areas that were unfulfilled in the previous year along with an explanation of how it attempted to provide service to those potential customers. Thus, the Commission has a means in place for holding Edge accountable to its commitment.

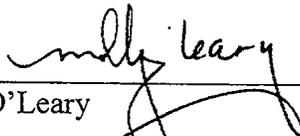
ITA's request to carve out the Challis wire center is also contrary to the public interest. Edge's two-year plan specifies that it intends to spend significant universal service funds to improve coverage in the Challis wire center.¹³ In fact, Edge intends to spend substantially more than the USF support available from that wire center because Edge would not otherwise be able

¹² Order No. 29841, Appendix p. 2 (Case No. WST-T-05-1, Aug. 4, 2005)

¹³ See Petition Confidential Exhibit D, Narrative, p. 2.

Respectfully submitted,

RICHARDSON & O'LEARY, PLLC

By 
Molly O'Leary

Attorneys for Edge Wireless, LLC