

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

<b>In the Matter of the Application for Approval</b>	)	
<b>of the Transfer of Control of New Edge</b>	)	<b>Case No. TM-2006-0307</b>
<b>Network, Inc., d/b/a New Edge Networks,</b>	)	
<b>to EarthLink, Inc.</b>	)	

**APPLICANTS RESPONSE TO MOTION TO DISMISS**

Come now New Edge Network, Inc. (“New Edge”), d/b/a New Edge Networks and EarthLink, Inc. (“EarthLink” and, together with New Edge, “Applicants”), and in response to Staff’s Motion to Dismiss For Lack of Jurisdiction the Applicants’ January 23, 2006 Application for Approval of Transfer of Control, state the following:

1. After reviewing Staff’s Motion, the Applicants agree with Staff that the Commission does not have jurisdiction over the transaction described in the Application. Due to the significance of the transaction and the potential consequences associated with transferring control without proper Commission approval, the Applicants filed their Application because they believed it prudent to give the Commission an opportunity to review the transaction.

For the reasons stated above, the Applicants support the Staff’s Motion to Dismiss for Lack of Jurisdiction.

Respectfully submitted,

/s/ Mark P. Johnson

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**ATTORNEYS FOR APPLICANTS  
NEW EDGE NETWORK, INC., AND  
EARTHLINK, INC.**

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served by First-Class United States mail, postage prepaid, on this 14<sup>th</sup> day of February, 2006, on the following:

William Haas, Esq.  
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/s/ Mark P. Johnson

Attorney for Applicants