

Lampert, O'Connor & Johnston, P.C.

1776 K Street NW, Suite 700
Washington, DC 20006

Jennifer P. Bagg
bagg@lojlaw.com

tel (202) 887-6230
fax (202) 887-6231

September 15, 2009

Via Electronic Delivery

Ms. Marlene H. Dortch
Federal Communications Commission
The Portals, TW-A325
445 12th Street SW
Washington, DC 20554

Re: *Ex Parte* – GN Dkt. 09-51, *National Broadband Plan
Workshop Response – Deployment Wired – General*

Dear Ms. Dortch:

EarthLink, Inc. (“EarthLink”) and its wholly-owned subsidiary New Edge Network, Inc. (“New Edge”) submit this filing in response to the FCC’s September 1, 2009, Public Notice, “The Commission Welcomes Responses to Staff Workshops.” Attached are a letter and presentation discussing the consumer benefits of fully functional and comprehensive operation support systems (“OSS”) for broadband services by promoting greater broadband service deployment and adoption. EarthLink and New Edge believe that the need for real-time broadband OSS and its impact on consumer adoption and broadband deployment is a topic that should have been discussed at the broadband workshop of August 12, 2009, “Deployment Wired – General” and bring it to your attention for consideration in the development of the National Broadband Plan.

Pursuant to the FCC’s rules, one copy of this memorandum is being filed electronically in the above-referenced docket for inclusion in the public record. Please do not hesitate to contact me directly if you have any questions.

Respectfully submitted,



Jennifer P. Bagg
*Counsel for EarthLink, Inc. and
New Edge Network, Inc.*

Attachments

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September 14, 2009

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Federal Communications Commission
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445 12th Street SW
Washington, DC 20554

Re: *Ex Parte* – GN Dkt. 09-51, *National Broadband Plan*

Dear Ms. Dortch:

EarthLink, Inc. (“EarthLink”) and its wholly-owned subsidiary New Edge Network, Inc. (“New Edge”) submit this letter as a follow-up to the *ex parte* meeting of Friday, August 21, 2009, with Julie Veach, then Acting Bureau Chief of the Wireline Competition Bureau, regarding the above-referenced proceeding. At the meeting, EarthLink and New Edge discussed the consumer benefits of fully functional and comprehensive operation support systems (“OSS”) for broadband services by promoting greater broadband service deployment and adoption.

Wholesale broadband services, especially as they serve homes and businesses in smaller areas and outside of the former Bell Operating Company territories, are an essential component of increasing our national broadband deployment and uptake. As the Federal Trade Commission (“FTC”) recently stated, “measures to promote competition and consumer protection should be the foundation on which the [National] Broadband Plan is built. . . . Competitive firms are constantly searching for superior profit opportunities as they seek to win the favor of customers, who effectively vote for preferred products and services with their dollars.”¹ EarthLink and New Edge are proud to have a major role in providing both residential consumers and businesses the benefits of these broadband services. Notably, EarthLink’s successful relationships with wholesale providers such as Verizon and Time Warner, who currently offer fully functional and comprehensive OSS for wholesale broadband service ordering, have increased the number of consumers that enjoy the benefits of broadband services and competition.

Unfortunately, at the same time, the lack of adequate, fully functional and real-time OSS by some wholesale broadband providers has been a gating impediment to bringing even more consumers competitive broadband services. In many markets, especially those served by mid-sized incumbent carriers, the carriers simply do not have real-time, efficient OSS for wholesale broadband customers. In these areas, competitive wholesale broadband providers such as EarthLink and New Edge are unable to pre-qualify customers efficiently (if at all) to determine

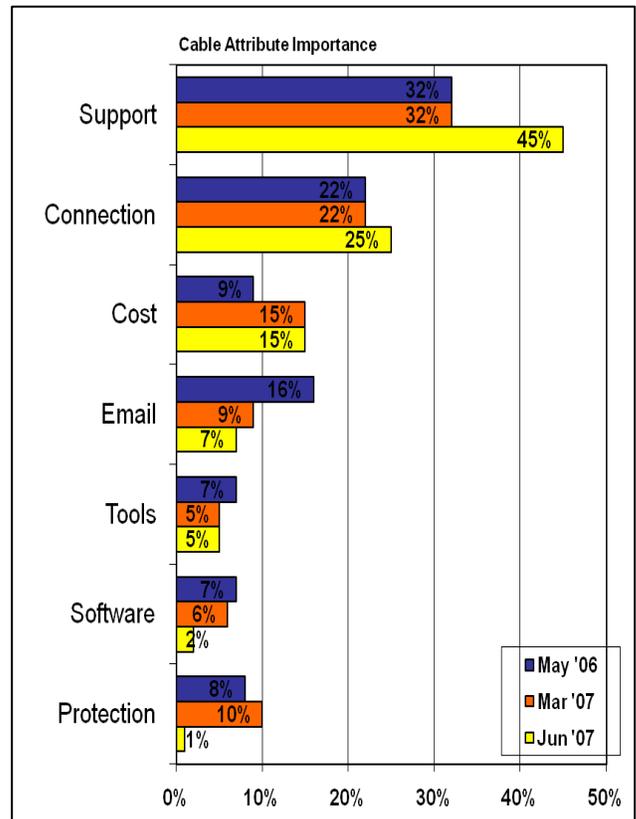
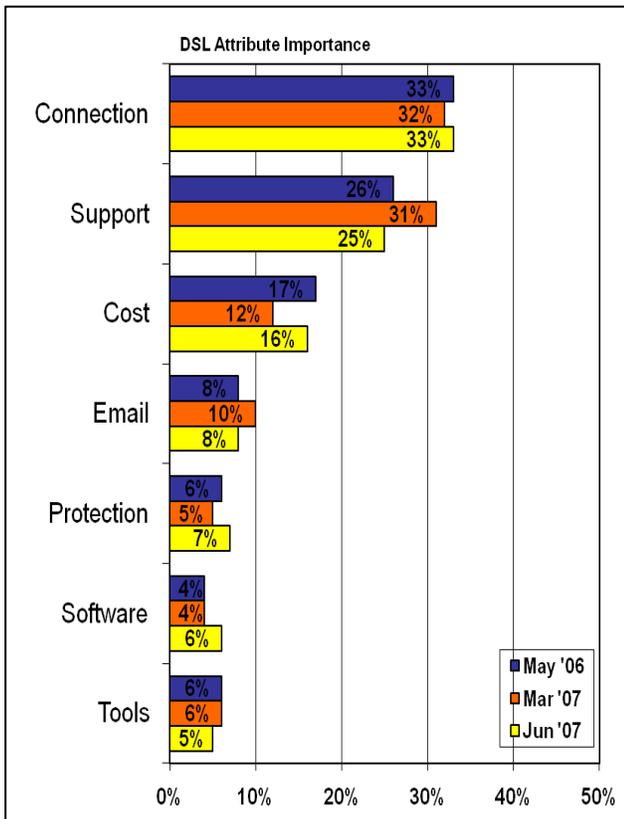
¹ Comments of the Federal Trade Commission at 3, GN Dkt. 09-51 (Sept. 2, 2009).

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broadband eligibility, are often required to fax, email or manually enter orders, and are unable to obtain ordering and trouble ticketing updates. On top of these problems, very few providers are offering wholesale broadband services at rates and on terms that make it feasible to truly offer a competitive alternative. Not only do these inadequacies result in consumer dissatisfaction, increased delays, higher error rates and increased costs, the carriers' failure to provide the automation and speedy response time that consumers require in today's technology-driven, fast-paced environment effectively undermines competition, which is the engine of broadband deployment. Just as with every significant technological advance in our nation's history, consumer penetration and growth are best driven by automation and the providers' ability to leverage the efficiencies technology creates. EarthLink and New Edge believe that the FCC's ensuring that all wholesale broadband service providers have efficient, real-time OSS is critical for the FCC in meeting its goals of broadband deployment.

Significantly, the availability of competitors that utilize wholesale broadband service inputs adds significantly to consumer satisfaction and broadband adoption. EarthLink, serving primarily residential and some business customers, today has about 800,000 broadband subscribers. EarthLink surveys underscore that features specific to EarthLink's broadband service offerings, such as award-winning customer and technical support, email and online protection are important to customers in choosing EarthLink as their broadband service provider.



Notably, 15% of EarthLink DSL customers and 12% of EarthLink cable customers indicate that they moved to EarthLink's broadband service due to certain features EarthLink

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provided that the underlying carrier did not or because they were generally dissatisfied with the service of the underlying carrier. In addition, 10% of EarthLink DSL customers and 5% of EarthLink cable customers chose EarthLink as their initial broadband provider, likely due to recommendation or brand recognition and loyalty.

Reason customer moved to EarthLink	EarthLink DSL	EarthLink Cable
It's your first Internet Provider	10%	5%
EarthLink provided a particular feature they wanted	6%	6%
Too many problems with previous ISP	9%	6%
Wanted to upgrade their service	26%	24%
Have Internet at work and wanted it at home also	5%	7%
Needed cheap service to check email	9%	18%
Wanted faster Internet Connection	34%	33%
Wanted to downgrade service	1%	1%
Wanted a backup ISP	0%	1%

Even more important, EarthLink ranked higher in customer satisfaction than the incumbent provider in two out of four regions of the United States based on performance and reliability, cost of service, offerings and promotions, billing and customer service.²

Moreover, over the past 3 years, approximately 149,000 customers have migrated from EarthLink's dial-up services to EarthLink broadband services. Interestingly, while this number demonstrates that EarthLink's wholesale broadband services have impelled many consumers to migrate from dial-up to broadband, it is equally important that many new broadband subscribers (not just former EarthLink dial-up customers), are selecting EarthLink's services over the services of incumbent providers. In other words, EarthLink's presence in the broadband marketplace is attracting customers who may not have otherwise subscribed to broadband services. Specifically, over the past 3 years, more than 60% of new EarthLink DSL and more than 90% of new EarthLink cable modem subscribers were new to EarthLink's services all-together.

² See "2008 Internet Service Provider (ISP) Residential Customer Satisfaction Study," available at [http://www.jdpower.com/telecom/articles/2008-Internet-Service-Provider-\(ISP\)-Residential-Customer-Satisfaction-Study](http://www.jdpower.com/telecom/articles/2008-Internet-Service-Provider-(ISP)-Residential-Customer-Satisfaction-Study) (EarthLink ranked higher than the incumbent provider in the East and West regions of the United States).

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Likewise, New Edge, with a focus on building and managing private wide area networks for businesses, is able to attract business customers by offering a “one-stop solution” to businesses that have locations throughout the nation. Where the incumbent provider cannot or will not provide a solution across regions, New Edge, as a provider of wholesale broadband services, is able to operate as a single-source provider for high-speed network connectivity. With a nationwide footprint, New Edge services businesses across the U.S. and provides unique benefits to its customers. For instance, by eliminating the inconvenience and complexity of managing multiple carrier relationships, New Edge customers benefit from one seamless network, one provider, one bill and one point of contact. Indeed, New Edge has been able to leverage its status as a wholesale provider, especially outside of the former Bell Operating Company territories and in smaller and rural areas, by providing customers with networks where no other competitive options exist.

With better access to fully functioning and comprehensive OSS, EarthLink and New Edge, as well as other competitive broadband service providers, will be able to serve more customers and assist in deploying more broadband across the country, resulting in wider adoption and bringing greater competition to consumers. For these reasons, as part of the National Broadband Plan (“NBP”)³, EarthLink and New Edge urge the Federal Communications Commission (“FCC”) to make an explicit determination that up-to-date, real-time and efficient OSS for wholesale broadband services is needed not only to encourage deployment and adoption of broadband generally, but also to promote competition in the broadband services market. To ensure its efforts are targeted, the FCC should also commit to obtaining additional data for assessment of wholesale broadband services OSS, with an emphasis on consumer-oriented wholesale services. As part of its data assessment, the FCC should seek information regarding current OSS for wholesale services and seek to obtain data regarding OSS by Recovery Act grantees providing wholesale broadband services.⁴ Further, the NBP should define baseline OSS parameters to include electronic, real-time and Internet-based requirements. Finally, the NBP should include an FCC commitment to review OSS functions for wholesale broadband services affected by mergers and similar transactions.

³ *A National Broadband Plan for Our Future*, Notice of Inquiry, 24 FCC Rcd. 4342 (2009) (“NOI”).

⁴ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009). Applicants for broadband funding will receive additional consideration if they commit to offering wholesale access to the project facilities at reasonable rates and terms.

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Respectfully submitted,



Jennifer P. Bagg
*Counsel for EarthLink, Inc. and
New Edge Network, Inc.*

cc: (via *electronic mail*)
Julie Veach (julie.veach@fcc.gov)



August 21, 2009



National Broadband Plan

EarthLink and New Edge applaud the work of the FCC to establish an open and transparent process for promoting broadband services across America, which is especially vital in rural areas and beyond top tier markets.



EarthLink, Inc.

- ❑ Serves primarily residential and some business customers
- ❑ Over 10 years experience providing broadband services
- ❑ Over 800,000 broadband subscribers
- ❑ Highest in Customer Satisfaction Among Dial-Up Internet Service Providers, J.D. Power and Associates, 2008
- ❑ Top Three in Customer Satisfaction Among DSL Providers, East and West Regions, J.D. Power and Associates, 2008

New Edge Network, Inc.

- ❑ Serves primarily business customers
- ❑ Over 10 years experience providing broadband services
- ❑ Over 49,000 broadband subscribers; collocated in 499 central offices
- ❑ Service of the Year, Frost & Sullivan, 2008
- ❑ Communications Innovator Award for Most Innovative Competitive Carrier, New Paradigm Resources Group and Pipeline Magazine, 2008



Narrow Issue:

Carriers providing wholesale broadband services should implement fully functional and comprehensive Operation Support Systems (OSS) to promote broadband deployment, competition and consumer broadband adoption.



Access to Wholesale Broadband Services

- The offering of wholesale broadband service, especially to serve homes and businesses outside of the former Bell Operating Company territories, is essential to the growth of broadband deployment and will help increase adoption.
- Diverse providers (including Internet Service Providers and competitive carriers) are well-positioned to bring broadband to consumers and provide additional market choices.
- Recovery Act implementation underscores the benefits of wholesale broadband services. Applicants for broadband funding will receive additional consideration if they commit to offering wholesale access to the project facilities at reasonable rates and terms.
- When carriers offer wholesale broadband service, the services should be provided on terms that enable consumers to benefit from competition in a rapid and efficient manner.



Up-to-date OSS is essential to enhance broadband deployment and usage.

- Fully functional, comprehensive OSS is necessary to promote broadband deployment and competition throughout America, including rural, semi-rural and non-urban areas.
- Real-time broadband pre-qualification, ordering and trouble ticketing best serve consumers.
- Experience underscores that the lack of adequate OSS can be a gating factor to bringing consumers competitive broadband services.



EarthLink is able to bring some consumers the benefits of fully functional and comprehensive OSS today.

- Verizon – Real-time, electronic OSS allows wholesale customers to service diverse consumers, including those who prefer “stand-alone” broadband services.
- AT&T and Time Warner also utilize fully functional and comprehensive OSS for wholesale broadband services.
- BUT:
 - Many markets, especially those served by mid-sized incumbent carriers, do not have real-time, efficient OSS for wholesale broadband customers.
 - Mergers are exacerbating problems; integration issues hinder ability to bring broadband to consumers.



Lack of adequate OSS creates obstacles to broadband deployment and usage.

- Especially in markets beyond the territory of the former Bell Operating Companies, wholesale broadband service ordering often relies on outdated and manual ordering processes that increase delays and are error-prone. Consumer dissatisfaction, delays and costs of broadband all increase due to problems associated with OSS.
 - **PRE-QUALIFICATION:** Wholesale providers cannot pre-qualify customers to determine whether they are broadband eligible without submitting manual requests.
 - **ORDERING and STATUS UPDATES:** Many orders must be faxed or emailed and manually entered into ordering systems, sometimes repeatedly. Difficult to check status of orders and make changes.
 - **TROUBLE TICKETS and UPDATES:** Trouble tickets often must be faxed and updates are unavailable.



The FCC has consistently recognized the importance of OSS and should reiterate its importance to broadband deployment.

- Implementation of the Local Competition Provisions, First R&O: Finding that lack of access to ILEC OSS “represent[s] a significant potential barrier to entry” and “operational interfaces are essential to promote viable competitive entry.”
- CenturyTel/Embarq Merger, MO&O: CenturyTel’s problems with manual OSS “put competitors at a disadvantage in the marketplace in competing for time-sensitive business customers.”
- Qwest Application to Provide In-Region Inter-LATA Services MO&O: “The Commission consistently has found that nondiscriminatory access to OSS is a prerequisite to the development of meaningful local competition.”



The National Broadband Plan should:

- Explicitly find that fully functional and comprehensive OSS for wholesale broadband services is needed to promote broadband deployment to consumers, broadband competition and broadband adoption.
- Define baseline parameters for fully functional and comprehensive OSS, including electronic, real-time, and Internet-based.
- Seek additional data for assessment of wholesale broadband service OSS, with an emphasis on consumer-oriented wholesale services.
 - Seek information regarding current OSS for wholesale broadband services.
 - Commit to review OSS functions for wholesale broadband services in mergers.
 - Obtain data regarding OSS by Recovery Act grantees providing wholesale broadband services.