

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Excel Tele-  
communications, Inc. for a Certificate of )  
Public Convenience and Necessity to Provide) Case No. 97-502-TP-ACE  
Local Telecommunications Services. )

ENTRY ON REHEARING

The Commission finds:

- (1) This application of Excel Telecommunications, Inc. (Excel, applicant) was filed on May 5, 1997 and automatically approved on July 5, 1997.
- (2) On July 31, 1997, motions for intervention and a hearing filed by the Office of Consumer's Counsel (OCC) and the Edgemont Neighborhood Coalition (Edgemont) were granted.
- (3) On August 6, 1997 and August 25, 1997, OCC filed respectively, an application for rehearing of the automatic approval of the case and a motion to suspend automatic approval ex post facto.
- (4) By entry dated August 27, 1997, the application for rehearing and motion to suspend filed by OCC were denied. Further, the entry directed that a hearing proceed in this matter on a date to be set by subsequent entry.
- (5) On September 2, 1997, OCC filed a second application for rehearing. In this application for rehearing, OCC requested that the Commission clarify whether the hearing in this proceeding would be a certification hearing, in which case the applicant would bear the burden of proof, or a hearing on whether or not Excel's certificate should be revoked, in which case OCC and Edgemont would bear the burden of proof.
- (6) On September 19, 1997, Excel and OCC filed a joint motion to withdraw the application for rehearing, to cancel the proposed hearing, and to close the docket in this case (joint motion to withdraw). In support of the motion, Excel and OCC state that they have communicated extensively regarding the concerns expressed by OCC. As a result, Excel and OCC state that they have reached a satisfactory agreement regarding the proposed operations, and that there is no reason to proceed with a

hearing. Based on the agreement, OCC requests that its September 2, 1997 application for rehearing be withdrawn. Further, Excel and OCC request that the proposed hearing be canceled and that the instant record be closed subject to the Commission's continuing jurisdiction.

- (7) On September 30, 1997, Edgemont filed a letter noting its agreement with Excel regarding the resolution of outstanding concerns in the case. Further, the letter stated Excel's intention to extend to Edgemont all of the considerations in Excel's settlement with OCC.
- (8) In light of the agreement among the parties, the Commission finds that the joint motion to withdraw is reasonable and should be granted. The application for rehearing therefore should be considered withdrawn, and the hearing ordered in this proceeding canceled. Excel should be issued authority to operate as a local exchange carrier.

It is, therefore,

ORDERED, That the joint motion to withdraw filed by Excel and OCC be granted, including the cancelation of the hearing ordered in this proceeding. It is, further,

ORDERED, That this case be closed subject to the Commission's continuing jurisdiction, and that Excel be issued authority to operate as a local exchange carrier. It is, further,

ORDERED, That copies of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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Craig A. Glazer, Chairman

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Jolynn Barry Butler

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Ronda Hartman Fergus

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David W. Johnson

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Judith A. Jones