

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF UTAH

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In the Matter of the)
Application of Access) HEARING
Point, Inc., for a)
Certificate of Public) Docket Number
Convenience and Necessity) 08-2488-01
to Provide Resold and)
Facilities-Based Local) Judge Ruben Arredondo
Exchange Services within)
the State of Utah.)
)
)

September 25, 2008 * 9:30 a.m.

Location: Heber M. Wells Building
160 East 300 South, Room 403
Salt Lake City, Utah

Reporter: Kathy Morgan, CSR, RPR
Notary Public in and for the State of Utah

A P P E A R A N C E S

REPRESENTING ACCESS POINT, INC.:

(Present telephonically)

Richard Brown, Chief Financial Officer

Tom Forte, Consultant

ACCESS POINT, INC.

1100 Crescent Green, Suite 109

Cary, North Carolina 27518

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REPRESENTING THE DEPARTMENT OF PUBLIC UTILITIES:

MICHAEL L. GINSBERG

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GENERAL

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Telephone: 801.366.0353

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I N D E X

Witness:

SHAUNA BENVEGNO-SPRINGER: PAGE

Direct Examination by Mr. Ginsberg _____ 5

E X H I B I T S

NUMBER DESCRIPTION PAGE

DPU-1 Recommendation to the Commission
submitted by the Utah Division of
Public Utilities _____ 9

1 SEPTEMBER 25, 2007 - 9:30 A.M. - SALT LAKE CITY, UTAH

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P R O C E E D I N G S

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THE COURT: This is the Public Service

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Commission hearing regarding the Application of

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Access Point, Inc. for a Certificate of Public

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Convenience and Necessity to Provide Resold

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Facilities-Based Local Exchange Services Within the

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State of Utah, Public Service Commission docket

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number 08-2488-01. I'm Ruben Arredondo, the

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Administrative Law Judge for the Commission. I've

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been assigned by the Commission to hear this matter.

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Notice of this hearing was issued by the Commission

15

September 3rd, 2008.

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So we'll go ahead and take appearances.

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Mr. Ginsberg?

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MR. GINSBERG: Michael Ginsberg appearing

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for the Division of Public Utilities.

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THE COURT: Thank you. Then on the phone

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we have Mr. Forte; is that right?

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MR. FORTE: Yes. Thomas Forte, Consultant

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to Access Point from Technologies Management, Inc.

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THE COURT: And then the purpose of this

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hearing is just Access Point has applied for a

1 Certificate of Public Convenience and Necessity.

2 MR. FORTE: There is one other person on
3 the line.

4 THE COURT: Oh, is there? Go ahead.

5 MR. BROWN: Yeah. Richard Brown with
6 Access Point. I'm the CEO.

7 THE COURT: All right. And then,
8 Mr. Ginsberg, you have just one witness with you; is
9 that right?

10 MR. GINSBERG: Yes. I guess my plan was
11 to go ahead and put our witness on the stand and
12 introduce the Division's memorandum and have her give
13 a brief explanation of what she did and her
14 recommendation. And I don't know whether they
15 intended to put something on the record also.

16 THE COURT: Well, we're just going to take
17 administrative notice, Mr. Forte, of the application
18 and all your supporting documents, and then after
19 Mr. Ginsberg puts his witness on, we'll give you a
20 chance if you want to add anything else. Is that
21 okay?

22 MR. FORTE: I'm having trouble hearing.

23 THE COURT: I'm sorry. What we'll do is
24 Mr. Ginsberg will put on his witness. We'll take
25 administrative notice of your application and your

1 supporting documents, and then after Mr. Ginsberg, if
2 you want to add anything else, we'll go ahead and let
3 you speak.

4 MR. FORTE: That's fine.

5 THE COURT: Mr. Ginsberg, we'll start with
6 you.

7 MR. GINSBERG: Okay. Did you want to
8 swear us in?

9 THE COURT: Yes. Ms. Benvegnu? Is that
10 right?

11 MS. BENVEGNUM-SPRINGER: Uh-huh
12 (affirmative).

13 THE COURT: What's your first name again?

14 MS. BENVEGNUM-SPRINGER: Shauna.

15 THE COURT: Okay.

16 (The witness was sworn.)

17 DIRECT EXAMINATION

18 BY MR. GINSBERG:

19 Q. Would you state your name for the record.

20 A. Shauna Benvegnum-Springer.

21 Q. And you're employed by the Division of
22 Public Utilities?

23 A. Correct.

24 Q. And you were assigned by the Division to
25 investigate this certificate application and provide

1 the Commission with your findings and
2 recommendations?

3 A. Yes.

4 Q. You've provided a memorandum to the
5 Commission which was dated September 22, 2008. Can
6 we have that marked as DPU Exhibit 1. And I was not
7 going to offer into evidence the confidential
8 attachments the Commission had, but we could offer
9 them as Confidential Exhibit DPU-1. I didn't provide
10 the court reporter with one, but the Commission does
11 have it.

12 THE COURT: Okay. I'll just take
13 administrative notice of that.

14 Q. (By Mr. Ginsberg) You prepared this
15 memorandum?

16 A. I did.

17 Q. And your recommendation is that the
18 certificate be granted?

19 A. Yes.

20 MR. GINSBERG: Could we have that
21 memorandum entered into evidence, please.

22 THE COURT: All right, we'll enter that.
23 I have the copy you provided us.

24 MR. GINSBERG: Okay.

25 Q. (By Mr. Ginsberg) And could you provide a

1 brief summary of your recommendations and your
2 findings.

3 A. Yes. Based on the application of the
4 Applicant, we have found that they provided the
5 information that has been asked for in the rules of
6 the Commission. They're asking to provide local
7 exchange service in Qwest territory, also to provide
8 intraLATA and interLATA message tolling, operator
9 services, customer calling features, directory
10 assistance, directory listings, emergency service,
11 911 and E911 services. Their managerial and
12 technical services are sufficient to provide these
13 types of services.

14 One area that did come into question was
15 regarding their financial analysis. The Commission
16 does have a rule regarding having a positive net
17 worth. In this case the company does have a negative
18 net worth, although they did provide some mitigating
19 situations where they have a contract with a national
20 client that they've provided under confidential
21 records, plus proposals that are anticipated to be
22 signed by the end of the fiscal year, which also will
23 put this company in a positive net worth position by
24 the end of the fiscal year. And based on that, those
25 contracts and that proposed positive net worth

1 position, we are asking that the Commission then
2 waive the net worth requirement, positive net worth
3 requirement at this time.

4 In addition, the company has also asked
5 for a waiver on the \$100,000 bond requirement since
6 they would not be requiring customer deposits or
7 prepayments of any kind also.

8 MR. GINSBERG: I think that pretty much
9 completes our recommendation. We are recommending
10 that the certificate be granted with limitation to
11 the Qwest service area.

12 THE COURT: Okay. Mr. Forte, is there
13 anything that you wanted to add or that Mr. Brown
14 wanted to add?

15 MR. FORTE: I have nothing to add, but
16 Mr. Brown may want to add something. I'm not sure.

17 MR. BROWN: Yes. We certainly appreciate
18 the opportunity to service the customers there in
19 your state, and we just appreciate your
20 consideration. Thank you.

21 THE COURT: All right. Thank you,
22 Mr. Brown.

23 And then what we'll do is I'll take this
24 matter under advisement. I have the application, and
25 we'll also note there's two waivers requested in the

1 application, and then we'll issue an order shortly on
2 that. Anything else?

3 MR. GINSBERG: That's all.

4 THE COURT: Mr. Forte, anything else?

5 MR. FORTE: No, thank you. Nothing from
6 here.

7 THE COURT: All right, then, we'll go
8 ahead and adjourn.

9 (EXHIBIT DPU-1 WAS MARKED.)

10 (The proceedings were concluded at 9:49 a.m.)

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REPORTER'S HEARING CERTIFICATE

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, Kathy H. Morgan, Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That prior to being examined, the witnesses were duly sworn to tell the truth, the whole truth, and nothing but the truth;

That said proceeding was taken down by me in stenotype on September 25, 2008, at the place therein named, and was thereafter transcribed, and that a true and correct transcription of said testimony is set forth in the preceding pages;

I further certify that I am not kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 6th day of October, 2008.

Kathy H. Morgan, RPR, CSR
Notary Public