

**BEFORE THE
UTAH PUBLIC SERVICE COMMISSION**

_____)
Application of)
)
COMMON POINT LLC) Docket No. _____
)
for a Certificate of Public Convenience and)
Necessity to Provide Switched Access)
Service in the State of Utah)
_____)

APPLICATION OF COMMON POINT LLC

Pursuant to Utah Code Ann. § 54-8b-1 *et seq.*; Utah Admin. Code § 746-349-1 *et seq.*; and the federal Telecommunications Act of 1996, 47 U.S.C. § 151 *et seq.*, Common Point LLC, an Illinois limited liability company (“Common Point”), hereby submits this application (the “Application”) to the Utah Public Service Commission (the “Commission”) for a Certificate of Public Convenience and Necessity (“CPCN”) authorizing it to provide switched access service throughout all of Utah.

Because certain financial information of Common Point is competitively and commercially sensitive, Common Point requests that such information be treated as confidential. Pursuant to standard Commission practice, the materials submitted with this Application for which Common Point seeks confidential treatment are printed on yellow paper and stamped “CONFIDENTIAL.”

I. BASIC APPLICATION INFORMATION

1. Common Point’s legal name and principal place of business are:

Common Point LLC
3130 Pleasant Run
Springfield, IL 62707

2. Common Point is a limited liability company organized under the laws of Illinois with its principle place of business located at Springfield, Illinois. A copy of Common Point's Articles of Organization and authorization to conduct business in Utah are attached to this Application as Exhibit A.

3. Common Point's registered agent in the State of Utah is:

Corporation Service Company
2180 South 1300 East, Suite 650
Salt Lake City, UT 84106

4. Correspondence or communications pertaining to this Application should be directed to:

Thorvald A. Nelson
c/o Holland & Hart LLP
6380 South Fiddler's Green Circle, Suite 500
Greenwood Village, CO 80111
Telephone: (303) 290-1601
Facsimile: (303) 975-5290
tnelson@hollandhart.com

5. Questions concerning the ongoing operations of Common Point following certification should be directed to:

Joseph O'Hara
Common Point LLC
3130 Pleasant Run
Springfield, IL 62711
Toll-Free Telephone: (877) 366-2674
Facsimile: (217) 698-0100
regulatoryaffairs@anpisolutions.com

6. For purposes of consumer inquiries, the contact information will be:

Joseph O'Hara
Common Point LLC
3130 Pleasant Run
Springfield, IL 62711

Toll-Free Telephone: (877) 366-2674
Facsimile: (217) 698-0100
regulatoryaffairs@anpisolutions.com

7. Common Point is a telecommunications corporation as defined in Utah Code § 54-8b-2 (18) and seeks authority under Utah Code § 54-8b-2.1 (1) to provide switched access, a public telecommunications service as defined in Utah Code § 54-8b-2 (16). Common Point is not seeking authority to provide local exchange service as defined in Utah Code § 54-8b-2 (10).

II. SUPPORTING INFORMATION UNDER UTAH ADMIN. CODE § R746-349-3

In support of its Application, Common Point provides the following information pursuant to Utah Admin. Code § R746-349-3:¹

1. *Exhibits.* Exhibits in support of the Application are set forth and explained in the following sections.

2. *Proof of Bond.* Common Point respectfully requests a waiver of the requirement in R746-34-2(A)(2) for proof of a bond in the amount of \$100,000. If the requested authority is granted, Common Point will not serve retail Utah customers and will not provide local exchange service. Rather, Common Point's switched access service will be solely provided to other telecommunications carriers including local exchange carriers and wireless carriers. Further, as demonstrated by the financial statements provided as Exhibit B, which include an income statement, balance sheet, and statement of cash flow, Common Point has the financial resources to cover any potential liabilities to its Utah telecommunications customers.

3. *Facilities, Resale of ILEC Services.* Common Point will provide local tandem access service to telecommunications carriers including local exchange carriers and wireless

¹The paragraphs in this section are numbered to match the subsection designations of § R746-349-3.

carriers. It will not provide dial tone to end user customers and will not provide retail services. Common Point will use its tandem switching system as the switching entity for tandem-switched transport that has billing and recording capabilities. The tandem switched transport will also be used to connect and switch trunk circuits between and among end offices and between and among end offices and carriers' aggregation points, points of termination, or points of presence, and to provide switched exchange access services. In order to provide its services, Common Point will operate existing facilities owned by one of its members, ANPI, LLC ("ANPI"), which also operates as Common Point's manager pursuant to a contractual agreement. Common Point will also utilize previously constructed fiber backbone facilities and special facilities leased from other providers.

4. *Services to be Offered.*

a. *Classes of Customers.* Common Point will provide local switched tandem access service only to other telecommunications carriers; specifically, it will provide services to local exchange carriers, wireless carriers and interexchange carriers. It will not serve retail customers in Utah.

b. *Location of Service.* Common Point will provide switched access service throughout all of Utah.

c. *Types of Services to be Offered.* Common Point will offer switched neutral tandem access services on a wholesale basis. As noted above in Section II.3, Common Point will provide these services by operating existing facilities owned by ANPI and will also utilize previously constructed fiber backbone facilities and special facilities leased from other providers.

5. *Access to Standard Services.* Common Point will not separately provide access to ordinary intraLATA and interLATA message toll calling, operator services, directory assistance, directory listings, and emergency services such as 911 and E911; such services are offered by various telecommunications carriers to whom Common Point intends to provide its services.

6. *Implementation Schedule Pursuant to 47 U.S.C. § 252(c)(3).* Common Point will not provide retail service to business or residential customers in Utah. It intends to begin marketing wholesale services to telecommunications carriers in Utah as soon as the Commission issues a CPCN in this proceeding.

7. *Professional Experience and Education of Managerial Personnel.* Common Point has already received certification to provide telecommunications services and/or deployed similar telecommunications services in many other states, which are listed in Section II.16. Additionally, ANPI, which operates Common Point pursuant to a management agreement, has over 15 years of applicable telecommunications experience. ANPI began providing resold interexchange services to incumbent local exchange carriers and their affiliates in 1996 in the State of Illinois. Since 1996, ANPI has expanded its service to similar customers in a number of states. Finally, the personnel who will administer Common Point's Utah operations have extensive applicable experience. Exhibit C describes the telecommunications and managerial experience of the key personnel who will be responsible for Common Point's operations in Utah.

8. *Organization Chart.* Common Point is a limited liability company whose members are Egyptian Internet Services, Inc., MTCO Communications, Inc., Cass Switch, Inc., and ANPI. Common Point was created in 2004. Common Point has no employees and does not plan to operate an office in Utah. ANPI, as a member of Common Point, operates Common

Point pursuant to a management agreement; responsibility for Utah operations will be handled by ANPI's sole member's management team from Common Point's headquarters in Illinois.

9. *Chart of Accounts.* A chart of accounts for Common Point, including account numbers, names and brief descriptions, is attached to this Application as confidential Exhibit D.

10. *Financial Statements.*

a. Attached as confidential Exhibit B are the most recent balance sheet, income statement and cash-flow statement for Common Point. The financial statements are unaudited therefore they do not contain the necessary disclosures to qualify as being prepared in accordance with generally accepted accounting principles (GAAP). With the exceptions of the required disclosures, the financial statements are prepared in accordance with GAAP.

b. Attached as Exhibit E is a letter from Joseph O'Hara, the Assistant Treasurer of Common Point and the Chief Financial Officer of ANPI, the contract manager of Common Point, attesting to the accuracy, integrity and objectivity of the financial statements in Exhibit B, and that they were prepared in accordance with GAAP, except with regard to the required disclosures.

11. *Financial Ability.* Common Point has the financial backing and wherewithal to provide the telecommunications services outlined in this Application. Specifically, Common Point has the financing and capital necessary to conduct its telecommunications operations as specified in this Application. In particular, (a) Common Point has a positive net worth, as indicated in Exhibit B, and (b) there is sufficient cash flow from Common Point's operations to provide the necessary cash flow for the services Common Point intends to offer in Utah (see Exhibit B and Exhibit F).

12. *Expected Operations.*

a. *Proforma Projection.* Common Point's five-year projection, including proforma income statements and proforma cash flow statements, is attached hereto as a confidential Exhibit F.

b. *Technical Description of Technology.* After obtaining certification, Common Point will use its tandem switching system as the switching entity for tandem-switched transport that has billing and recording capabilities. The tandem switched transport will also be used to connect and switch trunk circuits between and among end offices and between and among end offices and carriers' aggregation points, points of termination, or points of presence, and to provide switched exchange access services.

c. *Proposed Facility Locations.* Common Point does not have any present plans to install its own facilities in Utah. In order to provide its services, Common Point will operate existing facilities owned by ANPI or lease facilities from other telecommunications providers.

13. *Implementation Schedule Pursuant to 47 U.S.C. § 252(c)(3).* Common Point will not provide retail service to business or residential customers in Utah. It intends to begin marketing its services to telecommunications carriers in Utah as soon as the Commission issues a CPCN in this proceeding.

14. *Technical and Managerial Abilities.* Due to their extensive previous experience, Common Point's manager and the officers who will operate its Utah operations have the necessary managerial and technical abilities to provide the proposed services. Biographies of the

key personnel of ANPI who will be responsible for Common Point's operations in Utah are attached to this Application as Exhibit C.

Other Jurisdictions. Common Point has received certification to provide telecommunications services in the following states: California (U 7211 C), Illinois (05-0330), Indiana (44090), Iowa (Reg-4262), Kentucky (undocketed), Missouri (LA-2009-0278), Montana (undocketed), New Mexico (undocketed), North Dakota (undocketed), Pennsylvania (provisional), Texas (IX110017), Vermont (CPG 945), Washington (UT-081865), and Wisconsin (1317-NC-100).

15. *Public Interest.* Common Point will provide its telecommunications carrier customers with a high-quality and affordable choice for switched access services. Competition for switched access services promotes efficient delivery of services and the development of new and better services. Competition also promotes lower prices for our customers that can, in turn, be passed through to their retail customers in Utah.

16. *Authority to Do Business in Utah.* Attached as Exhibit A are (a) the Articles of Organization of Common Point, filed with the Secretary of State of the State of Illinois on December 28, 2004, and (b) a copy of Common Point's authority to transact business as a foreign corporation in Utah.

17. *Complaint of Unauthorized Switching.* No complaints have been made nor has any investigation been undertaken against Common Point or any other affiliate in any jurisdiction for unauthorized switching ("slamming") or any other illegal activities.

18. *Unauthorized Switching; Solicitation of New Customers.* Common Point will abide by all applicable federal and state laws and regulations in providing its switched access

services. Common Point will market its service to local exchange carriers and wireless carriers through standard industry marketing techniques such as industry forums and word of mouth.

III. REQUEST FOR CERTIFICATE

WHEREFORE, Common Point respectfully requests that the Utah Public Service Commission issue a CPCN authorizing Common Point to provide switched access services in the State of Utah, as set forth in detail in the body of this Application.

DATED this 15th day of December, 2011.

James A. Holtkamp
HOLLAND & HART LLP
222 South Main Street, Suite 2200
Salt Lake City, UT 84101
Telephone: (801) 799-5847
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Thorvald A. Nelson
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Greenwood Village, CO 80111
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ATTORNEYS FOR COMMON POINT LLC

LIST OF EXHIBITS

EXHIBIT A	Articles of Organization and Authorization to Operate in Utah of Common Point LLC
EXHIBIT B	Unaudited Financial Statements of Common Point LLC [CONFIDENTIAL]
EXHIBIT C	Managerial and Technical Qualifications of Personnel
EXHIBIT D	Common Point LLC's Chart of Accounts [CONFIDENTIAL]
EXHIBIT E	Attestation of Joseph O'Hara in Support of Financial Statements
EXHIBIT F	Five-Year Projection of Common Point LLC [CONFIDENTIAL]
EXHIBIT G	VERIFICATION

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of December, 2011, an original and five (5) true and correct copies of the **Application of Common Point LLC** were hand-delivered, and an electronic copy of the foregoing was delivered, to:

Ms. Julie Orchard
Commission Administrator
Public Service Commission of Utah
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84111
psc@utah.gov

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