



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities
Chris Parker, Director
Bill Duncan, Telecommunications / Water Manager
Casey J. Coleman, Utility Technical Consultant

Date: January 5, 2012

Re: In the Matter of the Application of Common Point LLC, for a Certificate of Public Convenience and Necessity to Provide Switched Access Service within the State of Utah Docket No. 11-2547-01.

RECOMMENDATION:

The Division has reviewed the technical, managerial, and financial abilities of Common Point LLC (“Common Point”) and because of the distinctive nature of the application the Division believes the Commission should establish a schedule to deal with the unique elements this application presents.

EXPLANATION:

Common Point LLC (“Common Point or Applicant”) filed an application for a certificate of public convenience and necessity (“CPCN”) on December 20, 2011. The Division reviewed the application and found the following:

Common Point indicated that it is a telecommunications corporation as defined in Utah Code § 54-8b-2 (18) and seeks authority under Utah Code § 54-8b-2 (16). The service provided by Common Point will be a local tandem access service to telecommunications carriers including local exchange carriers and wireless carriers. It will not provide dial tone to end user customers and will not provide retail services. Common Point is not seeking authority to provide local exchange services as defined in Utah Code § 54-8b-2 (10).

In the application Common Point indicated that they are requesting the ability to offer services throughout the state of Utah. Utah Code § 54-8b-2 .1 (2) Competitive entry discusses the elements

the Commission must look at when granting a CPCN specifically if the applicant has sufficient technical, financial, and managerial resources and abilities to provide the public telecommunication services applied for and that the issuance of the certificate is in the public interest.

Because Common Point has requested to serve within the entire state of Utah, many exchanges will be subject to Utah Code § 54-8b-2 .1(3)(c). This statute allows the rural phone companies to intervene and prove that excluding the exchanges with less than 5,000 access lines from Common Point's CPCN is in the public interest.

The Division is requesting that the Commission either provide direction on the following two items or as an alternate establish a schedule for this docket to further examine the following:

1. Because Common Point is offering a tandem service and in their words not a "local exchange service" as defined by Utah Code § 54-8b-2 (10), is Common Point required to obtain a CPCN from the Commission to offer those services within the state of Utah?
2. If a CPCN is required of Common Point to offer tandem services, as mentioned above Utah Code § 54-8b-2 .1(3)(c) allows incumbent phone carriers with exchanges whose access lines are below 5,000 customers the process to establish with the Commission how excluding those exchanges from Common Point's CPCN is in the public interest.

Because of these two divergent characteristics of this application from the variety of other CPCN applications reviewed by the Division, the Division recommends creating a schedule to fully understand these items and if the Commission should grant a CPCN to Common Point.

cc: Thorvald A Nelson, Holland & Hart LLP
Joseph O'Hara, Common Point
Dahnelle Burton-Lee, Attorney, State of Utah