

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of SWITCHPOINT NETWORKS,)
INC., fka AIRSWITCH CORPORATION, for)
Discontinuance of Service to Springville and)
American Fork, Utah)

DOCKET NO. 01-2260-01
REPORT AND ORDER

ISSUED: August 24, 2001

SYNOPSIS

The service discontinuance appearing to conform with applicable law, and no detriment to the public interest appearing, the Commission approved the same.

By The Commission:

PROCEDURAL HISTORY

On May 31, 2001, SwitchPoint Networks, Inc. (Petitioner), filed its petition seeking Commission approval for discontinuance of its service to customers in Springville, Utah. On July 16, 2001, Petitioner filed an amended petition seeking approval for extension of the discontinuance to American Fork, Utah. The matter was referred for investigation, review, and recommendation to the Division of Public Utilities, Utah Department of Commerce (DPU), which filed its memorandum recommending approval, annexed hereto and incorporated herein by this reference, on July 26, 2001. We adopt the factual findings incorporated in said Memorandum as our own findings, and based on §§ R746-349-8(3) and R746-349-8(6), Utah Administrative Code, we conclude as a matter of law that the Petition should be granted. Accordingly, we enter the following

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- SWITCHPOINT NETWORKS, INC., be, and it is, authorized to discontinue its existing service in Springville and American Fork, Utah, with the proviso that it provide 30 days notice of said termination to its customers, provide continued service during said interim, and assist them in finding service from other providers.
- Any person aggrieved by this Order may petition the Commission for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal to the Utah Supreme Court.

Dated at Salt Lake City, Utah, this 24th day of August, 2001.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

[DIVISION LETTERHEAD]

July 23, 2001

TO: PUBLIC SERVICE COMMISSION

FROM: DIVISION OF PUBLIC UTILITIES

Lowell Alt, Director

Ingo Henningsen, Manager, Telecommunications

Peggy Egbert, Technical Consultant

Bart Croxford, Regulatory Analyst

Re: Request of SwitchPoint Networks, Inc. (f/k/a AirSwitch) for Discontinuance of Service in Springville and American Fork under Docket No. 01-2260-02

Issues:

SwitchPoint Networks, Inc. ("SwitchPoint") requests the Commission's approval for the discontinuation of broadband data services to certain areas within its service territory. It provides extremely high-speed Internet services through proprietary, stand-alone physical networks installed in Springville and Spanish Fork to approximately 894 subscribers in the Springville network and 1,053 subscribers in American Fork but does not provide any voice-grade telephone service through its networks.

SwitchPoint's Springville network was its first and was built using now-outdated and obsolete equipment and this has resulted in many service problems, including frequent service outages caused by lightning strikes, cable cuts, and switch malfunctions. It is a startup company with very limited cash resources that has shifted the focus from the time when the Springville network was constructed. Continuing construction and operation of similar networks by SwitchPoint itself is not planned.

The company has concluded that, based on an analysis of the Springville and American Fork networks, that an upgrade would cost approximately \$5-6 million. SwitchPoint is not presently able to justify making such an investment in these networks, in view of the company's very limited resources as a startup, the redirection in the focus of the company and its obligations to its shareholders.

It is SwitchPoint's understanding that households in the segments selected for discontinuation have access to alternative Internet connection services, including but not limited to dial-up, digital subscriber lines (DSL) from Qwest Corporation or others and/or satellite Internet services from Starband Communications or Direct PC. It also believes the cost of these alternative services is not burdensome to the customers.

SwitchPoint also proposes to provide customers whose service is to be discontinued prior written notice of no fewer than 30 days and to provide service at no charge during such notice period. Its call center personnel will also be available to answer customers' questions and provide some information about alternative Internet service providers during this notice period. SwitchPoint believes that this notice and assistance will be sufficient for customers to comfortably transition to an alternative service and that customer complaints will thereby be eliminated.

The Division has already recommended approval of a similar application for discontinuation of service in the Springville area only in a memo dated July 2, 2001. This application includes both the Springville and American Fork areas.

Recommendation:

The Division recommends that the Commission grant SwitchPoint's request to discontinue service to high-risk customers pursuant to Rule 746-349-8(3), which requires competitive local exchange carriers ("CLEC") to furnish service if they are able to obtain, retain and maintain suitable access rights and facilities, without unreasonable expense as well as Rule 746-349-8(6), which states that all construction of facilities will be undertaken at the discretion of the CLEC, consistent with budgetary responsibilities and consideration for the impact on the CLEC's other customers and contractual responsibilities.

CC: Dallas R. Martin, SwitchPoint Corporation

Division of Public Utilities

Michael Ginsberg, Assistant Attorney General

Committee of Consumer Services