

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE
October 31, 2012

IN RE:

APPLICATION OF COMMON POINT LLC FOR A
CERTIFICATE OF CONVENIENCE AND NECESSITY
TO PROVIDE COMPETING LOCAL
TELECOMMUNICATIONS SERVICES

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DOCKET NO.
12-00113

ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Kenneth C. Hill, Director Herbert H. Hilliard and Director James M. Allison of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 15, 2012. The panel considered the *Application of Common Point, LLC for a Certificate of Convenience and Necessity to Provide Competing Local Telecommunications Services* (the "*Application*") filed on September 26, 2012 by Common Point, LLC ("Common Point" or "Applicant"). In its *Application*, Common Point seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local telecommunications services in Tennessee.

LEGAL STANDARD

Common Point's *Application* was made pursuant to and considered in light of the criteria for granting a CCN as set forth in Tenn. Code Ann. § 65-4-201, which provides, in pertinent part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already

receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

* * *

(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

- (1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and
- (2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

* * *

Furthermore, pursuant to Tenn. Code Ann. § 65-5-112 (2004), a competing telecommunications provider is required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

OCTOBER 15, 2012 AUTHORITY CONFERENCE

Pursuant to Tenn. Code Ann. § 65-4-204 (2004), public notice was issued by the Hearing Officer on October 5, 2012, setting the matter for hearing during the Authority Conference on October 15, 2012. No persons sought intervention prior to or during the Hearing. On October 11, 2012, Common Point filed a *Motion to Appear and Participate Telephonically at*

Hearing. On October 11, 2012, the Hearing Officer granted Common Point's motion in an *Order Granting Telephonic Appearance in Hearing.*

During the Hearing, convened during a regularly scheduled Authority Conference on October 15, 2012, Joseph O'Hara, Chief Financial Officer, who is responsible for the financial affairs of ANPI, LLC and Common Point, LLC, participated in the Hearing telephonically. Mr. O'Hara affirmed his pre-filed testimony, filed on September 26, 2012, and was subject to examination by the panel.

In accordance with the *Order Granting Telephonic Appearance in Hearing*, Erica Liapakis, a licensed Notary Public in good standing in the State of Illinois, County Of Sangamon, administered the testimonial oath and remained present with Mr. O'Hara throughout his examination and testimony. In addition, the Authority received a properly executed *Witness Certification* and a *Notary Public Affidavit* on October 23, 2012. Mr. Henry Walker, Esq., who appeared personally at the Hearing, represented the Company.

FINDINGS & CONCLUSIONS

I. Common Point's Qualifications

1. Common Point is a limited liability corporation organized under the laws of the State of Illinois on May 26, 2011 and was authorized to transact business in Tennessee by the Secretary of State as of May 27, 2011.
2. Common Point's corporate office and principal place of business is located at 3130 Pleasant Run, Springfield, Illinois 62711. The telephone number is (217) 698-0100.
3. The *Application* and information in the record indicate that Common Point has the requisite technical and managerial ability to provide the applied for telecommunications services

within the State of Tennessee. Specifically, Common Point's senior management team possesses sufficient business, technical and operational experience.

4. Common Point has the necessary capital and financial ability to provide the services it proposes to offer.

5. Common Point has represented that it will adhere to all applicable statutes, policies, rules, and orders of the Authority.

II. Proposed Services

Common Point intends to offer competitive, tandem switching services to local exchange carriers in order to originate and terminate toll calls in all areas of Tennessee where such competitive entry is permitted by state and federal law. The Applicant does not intend to offer dial tone service to end users,¹ but it may subsequently seek authority to offer additional telecommunications services in the future.²

III. Permitting Competition to Serve the Public Convenience and Necessity

Approval of Common Point's *Application* would inure to the benefit of the present and future public convenience by furthering competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications services.

IV. Small and Minority-Owned Telecommunications Business Participation Plan and Business Assistance Program

Common Point has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

¹ *Application of Common Point, LLC for a Certificate of Public Convenience and Necessity to Provide Competitive Local Exchange Services*, Docket No. 12-00113, p. 1 (September 26, 2012).

² *Id.* at 5.

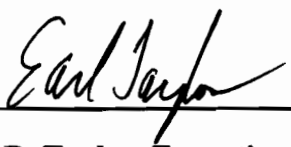
Upon review of the *Application* and the record in this matter, the panel found that approval of Common Point's *Application* met the requirements of Tenn. Code Ann. § 65-4-201 and TRA Rules 1220-4-8.02 through 1220-4-8.04. Further, the panel found that Common Point has demonstrated that it has sufficient managerial, financial, and technical qualifications to provide the services for which it has applied and has affirmed that it will adhere to all applicable Authority policies, rules, and orders.

IT IS THEREFORE ORDERED THAT:

1. The *Application of Common Point, LLC for a Certificate of Convenience and Necessity to Provide Competing Local Telecommunications Services* is approved.
2. Common Point, LLC shall file an official tariff that conforms to the requirements of the statutes and rules of the Tennessee Regulatory Authority, which includes notation of the appropriate issued and effective dates.

Chairman Kenneth C. Hill, Director Herbert H. Hilliard and Director James M. Allison concur.

ATTEST:



Earl R. Taylor, Executive Director