



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF)
COMMON POINT LLC FOR AUTHORITY) ORDER
TO PROVIDE LOCAL EXCHANGE)
TELECOMMUNICATIONS SERVICES)
IN THE STATE OF NEW JERSEY) DOCKET NO. TE12090882

Parties of Record:

Joseph O'Hara, Chief Financial Officer, for the Petitioner
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated September 24, 2012, Common Point LLC ("Petitioner" or "Common Point") filed a Verified Petition with the New Jersey Board of Public Utilities ("Board") requesting competitive local exchange authority to provide tandem access services to local exchange carriers and wireless carriers throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed a Motion for Confidentiality along with a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12.1 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Common Point is a limited liability company organized under the laws of the State of Illinois. ANPI, LLC, a telephone communications services provider regulated by the Board, Egyptian Internet Services, Inc., MTCO Communications, Inc. and Cass Switch, Inc. are the principal owners, each having 25% ownership interest in the company. Petitioner's principal offices are located at 3130 Pleasant Run, Springfield, Illinois 62711.

Petitioner has submitted copies of its Certificate of Organization from the State of Illinois and its New Jersey Certificate of Authority to operate as a Foreign Limited Liability Company. Petitioner is currently authorized to offer telecommunications services in Alabama, Alaska, Arizona, Arkansas, California, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Missouri, Montana, New Mexico, New York, North Dakota, Oregon, Pennsylvania,

South Carolina, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction, and it has not been the subject of any civil or criminal proceedings. Petitioner has not yet begun negotiations to enter into an interconnection agreement with Incumbent Local Exchange Carriers.

Petitioner seeks competitive local exchange authority to provide local tandem access services to local exchange carriers and wireless carriers throughout New Jersey. Petitioner will not provide dial tone to end user customers. Petitioner's tandem will serve as the switching entity for Tandem-Switched Transport that possess billing and recording capabilities and is used to connect and switch trunk circuits between and among End Offices and between and among End Offices and carrier's aggregation points, points of termination, or points of presence, and to provide Switched Exchange Access Services. Petitioner's target customer base will be limited entirely to other Telecommunications Carriers. Petitioner or its parent and/or subsidiary do not own or control telephone network facilities in New Jersey. Petitioner has no plans to provide residential service in New Jersey. Petitioner maintains a toll-free number for customer service inquiries.

Pursuant to N.J.A.C. 14:10-5.6(b), Petitioner has filed an initial tariff concurrently with its petition under Docket No. TT12090883 which will become effective 30 days after the Board approves its petition for local exchange authority.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located in Springfield, Illinois. Petitioner also states, upon written notice from the Board or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, Common Point states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who, according to Common Point, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

By letter dated October 9, 2012, the Division of Rate Counsel advised the Board that it "does not object to the grant of Common Point's Verified Petition as soon as it has retained representation by New Jersey counsel." Id. at 2. Relying on N.J.S.A. 1:1-5.1 and New Jersey Court Rule 1:21-2, Rate Counsel notes that "the application is deficient due to the lack of representation by New Jersey counsel," and therefore "the Board should defer action on this application . . ." Id. at 1.

DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. § 151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. § 253(a).

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. § 253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. § 253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Regarding Rate Counsel's assertion that Common Point's petition "is deficient due to the lack of representation by New Jersey counsel," the Board notes that the cited authorities are not applicable to this petition, as it does not constitute a contested-case proceeding as defined in N.J.S.A. 52:14B-2.¹

Therefore, having reviewed Common Point's Petition and the information supplied in support thereof, as well as Rate Counsel's comments, the Board **FINDS** that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** the Petitioner to provide local exchange telecommunications services throughout the State of New Jersey.

The Board also **FINDS** that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52, the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively.

The Board **HEREBY ORDERS** that:

- 1) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31st of each year, which is due on or before March 31st of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.

¹ N.J.A.C. 14:1-9.5 and N.J.A.C. 14:1-3.1 permit a non-attorney to file a Petition before the Board in uncontested cases.

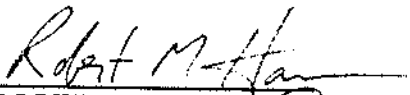
- 2) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31st of each year, which is due on or before June 1st of the following year.


On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31st of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31st and June 1st of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

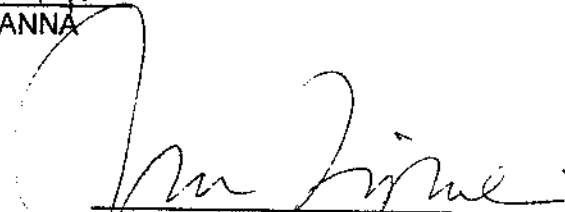
Regarding the Petitioner's request for waiver of the Board rules, the Board **FINDS** that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board all expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board **APPROVES** the Petitioner's request for the exemption from maintaining its books and records in accordance with USOA and in New Jersey.


DATED: 12/19/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

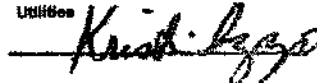

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


MARYANNA HOLDEN
COMMISSIONER

ATTEST: 
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF THE VERIFIED PETITION OF COMMON POINT LLC
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES IN THE
STATE OF NEW JERSEY

DOCKET NO. TE12090882

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