

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

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| IN THE MATTER OF THE APPLICATION OF) | ORDER GRANTING |
| COMMON POINT LLC FOR A CERTIFICATE) | CERTIFICATE OF |
| OF AUTHORITY TO PROVIDE LOCAL) | AUTHORITY |
| EXCHANGE SERVICES IN SOUTH DAKOTA) | |
|) | TC12-184 |

On October 31, 2012, Common Point LLC (Common Point) filed an application for a Certificate of Authority to provide tandem access and switched access local exchange telecommunications services to other telecommunications carriers in South Dakota. Common Point states it will not provide dial tone to end user customers.

On November 1, 2012, the Commission electronically transmitted notice of the filing and the intervention deadline of November 16, 2012, to interested individuals and entities. On November 16, 2012, the Commission received Petitions to Intervene from South Dakota Telecommunications Association (SDTA) and South Dakota Network (SDN). On December 4, 2012, the Commission granted Intervention to SDTA and SDN. On January 15, 2013, the Commission received a Joint Stipulation of the Parties Resolving All Issues (Joint Stipulation). On January 22, 2013, the Commission received a response to Staff's Data Request 1.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3, 49-31-69 through 49-31-75, and ARSD 20:10:32:03.

In the Joint Stipulation, SDN and SDTA agreed to the issuance of Common Point's requested Certificate of Authority as long as the order issuing the certificate of authority incorporated the following agreement of the parties:

The parties agree that the Certificate of Authority granted by the Commission to Common Point would authorize Common Point to offer its services statewide throughout South Dakota. However, with respect to rural telephone companies, Common Point agrees that it would not provide local exchange telecommunications services directly to end user residential and business customers of rural telephone companies. The local exchange telecommunications services in rural telephone company service areas excluded from this certification include but are not limited to the direct provisioning of telephone exchange service, switched access telecommunications services, special access telecommunications services, and dedicated trunking facilities to either residential or business end user customers in rural telephone company service areas. The Commission Order related to Common Point's request for local service authority would provide that with respect to rural telephone companies, Common Point would have to come before the Commission in another proceeding before being able to directly provide any local exchange telecommunications services to either residential or business end user customers in rural telephone company service areas. In such subsequent proceeding, the provisions of 47 U.S.C. § 253(f), SDCL § 49-31-73, and the Commission's administrative rules, which allow the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(e)(1) for designation as an eligible telecommunications carrier, would apply. In addition, the granting of authority to Common Point to offer its services statewide will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f).

In recognition of the centralized equal access configuration in South Dakota, Common Point agrees to deliver all interexchange traffic originating from and terminating to any customers of SDN's member company ILECs and affiliated CLECs via the SDN tandem switch in Sioux Falls, South Dakota. Nothing contained herein shall be construed as a limitation of any rights granted to SDN pursuant to the FCC Order in File No. W-P-C-6486, or in South Dakota Public Utilities Commission Order F3860.

At its regularly scheduled meeting on January 30, 2013, the Commission considered Common Point's request for a certificate of authority. Commission Staff recommended granting a Certificate of Authority with the condition that Common Point not offer any prepaid services to retail end user customers including prepaid calling cards and not accept or require any deposits or advance payments from retail customers without prior approval of the Commission, and subject to the conditions as agreed to in the Joint Stipulation.

The Commission voted unanimously to approve Common Point's application for a certificate of authority. The Commission finds that the conditions agreed to by the parties in the Joint Stipulation are reasonable conditions. The Commission further finds that Common Point's certificate of authority should be subject to the condition that Common Point not offer any prepaid services to retail end user customers (including prepaid calling cards) and not accept or require any deposits or advance payments from retail customers without prior approval of the Commission. Subject to such conditions, the Commission finds that Common Point has met the legal requirements established for the granting of a certificate of authority. Common Point has, in accordance with SDCL 49-31-1, demonstrated sufficient technical, financial, and managerial capabilities to offer telecommunications services in South Dakota.

The certificate of authority for Common Point shall authorize it to offer its local exchange telecommunications services statewide in South Dakota, except for local exchange telecommunications services directly to residential and business customers of rural telephone companies. The local exchange telecommunications services in rural telephone company service areas excluded from this certification include, but are not limited to, the direct provisioning of telephone exchange service, switched access telecommunications services, special access telecommunications services, and dedicated trunking facilities to either residential or business end user customers in rural telephone company service areas. Common Point must come before the Commission in another proceeding before being authorized to directly provide any local exchange telecommunications services to either residential or business end user customers in rural telephone company service areas. In such subsequent proceeding, the provisions of 47 U.S.C. § 253(f), SDCL 49-31-73, and the Commission's administrative rules which allow the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(e)(1) for designation as an eligible telecommunications carrier, will apply. In addition, the granting of authority to Common Point to offer its services statewide will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f). Finally, as agreed to in the Joint Stipulation, Common Point shall deliver all interexchange traffic originating from and terminating to any customers of SDN's member company ILECs and affiliated CLECs via the SDN tandem switch in Sioux Falls, South Dakota. Nothing contained in this Order shall be construed as a limitation of any rights granted to SDN pursuant to the FCC Order in File No. W-P-C-6486 or in the Commission's Order F-3860.

It is therefore

ORDERED, that Common Point's application for a certificate of authority to provide its local exchange services as described above is granted, subject to the condition that Common Point not offer any prepaid services to retail end user customers (including prepaid calling cards) and not accept or require any deposits or advance payments from retail customers without prior approval of the Commission. It is

FURTHER ORDERED, that this certificate of authority authorizes Common Point to offer its services in South Dakota, subject to the conditions as set forth in detail above. It is

FURTHER ORDERED, that this order constitutes Common Point's Certificate of Authority as described above.

Dated at Pierre, South Dakota, this 6th day of February, 2013.

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| <p align="center">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.</p> <p>By: <u>[Signature]</u></p> <p>Date: <u>2-6-13</u></p> <p align="center">(OFFICIAL SEAL)</p> |
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BY ORDER OF THE COMMISSION:

[Signature]
GARY HANSON, Chairman

[Signature]
CHRIS NELSON, Commissioner

[Signature]
KRISTIE FIEGEN, Commissioner