

DT 00-141

ACCESS POINT, INC.

**Petition for Authority to Provide
Local Telecommunications Services**

Order Nisi Granting Authorization

O R D E R N O. 23,541

July 24, 2000

On June 20, 2000, Access Point, Inc. (AP) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to the policy goals set by the New Hampshire Legislature in RSA 374:22-g, effective July 23, 1995.

Pursuant to Puc Chapter 1300, an applicant's petition for certification shall be granted when the Commission finds that (1) all information listed in Puc 1304.02 has been provided to the Commission; (2) the applicant meets standards for financial resources, managerial qualifications, and technical competence; and, (3) certification for the particular geographic area requested is in the public good.

The Commission Staff (Staff) has reviewed AP's petition for compliance with these standards. Staff reports that the company has provided all the information required by

Puc 1304.02. The information provided supports AP's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b), (e), (f), and (g). Staff, therefore, recommends approval of AP as a New Hampshire CLEC.

AP has requested a waiver of its requirement to publish local exchange directories as AP will include its limited customer list in the existing directories of the incumbent local exchange. Staff recommends granting the waiver.

AP has requested a waiver of its reporting requirements. Since revenues generated in New Hampshire must be filed with the Commission on an annual basis as part of the New Hampshire Public Utilities Commission Annual Report, Staff recommends denying the waiver.

AP has provided a sworn statement and request for waiver of the surety bond requirement in Puc 1304.02(b) stating that it does not require advance payments or deposits of its customers in the normal course of business. In the event a customer seeks to obtain local service from AP and the customer has no credit or bad credit, AP may request a deposit rather than deny service to the customer. Staff recommends denying the waiver unless all customers are included in the

requirement for no advance payments or deposits.

We find that AP has satisfied the requirements of Puc 1304.01(a)(1) and (2). In addition, we find that certification of AP in its intended service area, Bell Atlantic's current service area, is in the public good, thus meeting the requirement of Puc 1304.01(a)(3). In making this finding, as directed by RSA 374:22-g, we have considered the interests of competition, fairness, economic efficiency, universal service, carrier of last resort, the incumbent's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. This finding is further supported by the Telecommunications Act of 1996 (TAct). Because AP has satisfied the requirements of Puc 1304.01(a), we will grant certification.

As part of its application, AP agreed to abide by Bell Atlantic's present and future rates for intraLATA switched access or to charge a lower rate. If, at any point, AP seeks to exceed Bell Atlantic's access rates it shall first contact the Staff to review the proposal. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop. CLECs charging higher access rates than it, in turn, pay Bell Atlantic could inhibit intraLATA toll competition which would call into question Section 253 of the

TAct.

We note that as new competitors enter the market, greater pressure is put on the 603 area code, so long as today's antiquated number assignment process remains in effect. Accordingly, we will require that AP request and use numbers responsibly and conservatively, and to join in exploring alternative mechanisms to use existing numbers as efficiently as possible and thereby avert the need for a new area code. By granting this authority AP is required to comply with our orders on number conservation including Order No. 23,385 issued January 7, 2000 and Order No. 23,392 issued January 27, 2000 as well as further orders issued by the Commission concerning this matter.

Based upon the foregoing, it is hereby

ORDERED NISI, that AP's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Bell Atlantic, is GRANTED, subject, inter alia to the requirements of Puc 1304.03; and it is

FURTHER ORDERED, that Access Point, Inc. is required to comply with our Order No. 23,385 issued January 7, 2000, Order No. 23,392 issued January 27, 2000, and further orders issued by the Commission concerning number conservation; and

it is

FURTHER ORDERED, that request for waiver of the publication of local exchange directories is granted; and it is

FURTHER ORDERED, that request for waiver of the reporting of the revenues generated in New Hampshire, which must be filed with the Commission on an annual basis as part of the New Hampshire Public Utilities Commission Annual Report, is denied; and it is

FURTHER ORDERED, that request for waiver of the surety bond requirement per Puc 1304.02(b), unless offered to all customers, is denied; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than July 31, 2000 and to be documented by affidavit filed with this office on or before August 7, 2000; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi shall submit their comments or file a written request for a hearing on this matter before the Commission no later than August 10, 2000; and it is

FURTHER ORDERED, that this Order Nisi shall be

effective August 21, 2000, unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Petitioner shall file, ten days prior to commencing service, a rate schedule including the name, description and price of each service, with the Commission in accordance with N.H. Admin. Rules, Puc 1304.03(b).

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary