

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

**IN THE MATTER OF THE APPLICATION OF )  
COMMON POINT LLC FOR A CERTIFICATE OF )  
AUTHORITY TO PROVIDE TANDEM ACCESS AND ) Docket No. TC12-184  
SWITCHED ACCESS LOCAL EXCHANGE SERVICES )  
WITHIN THE STATE OF SOUTH DAKOTA )**

**SDTA Petition to Intervene**

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about October 31, 2012 Common Point LLC, hereinafter referred to as "Common Point" filed an "Application for a Certificate of Authority" (COA) seeking authorization from this Commission to provide "local exchange, tandem access, and switched access service to other telecommunications carriers throughout the State of South Dakota."

3. In regards to its Application, Common Point makes the following statements (in paragraph 4) concerning the types of services it seeks to offer, classes of customers it intends to serve, and where, geographically, it plans to provide its services:

Common Point LLC provides local tandem access to local exchange carriers and wireless carriers and will not provide dial tone to end user customers. The Common Point tandem will serve as the switching entity for Tandem-Switched Transport that has 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.

As Applicant is not provisioning dial tone to end users and its customers will exclusively be other carriers, operator services and access to 911 services will remain the responsibilities of Common Point LLC's carrier customers. The Applicant will not be providing alternate operator services. The Company intends to offer statewide service through all of South Dakota's exchanges and will seek applicable Interconnection Agreements upon completion of certification. . . ."

4. As to the geographic area over which Common Point will be providing its services, the Application is not perfectly clear. While the company, as indicated above appears to have statewide plans, it has also included with its Application (as Exhibit C) a listing of all of the exchanges where it "proposes to begin its initial service offerings." This listing notably only references Century Link exchange areas within the State.

6. All of the SDTA member companies operate as "rural telephone companies" for purposes of the Federal Telecommunications Act of 1996 and also the state laws enacted in 1998 addressing local exchange competition (SDCL § 39-31-69, et. seq.).

7. If the Application filed by Common Point seeks statewide certification for local exchange access services, all of the SDTA member local exchange carriers (LECs) have an interest in and stand to be impacted by this proceeding. SDTA seeks intervention herein based on the individual interests of each of its member ILECs and based on their common interests to ensure that the rural safeguard provisions contained in federal and state laws are properly considered and applied. With respect to the filed Application of Common Point, SDTA has a number of concerns.

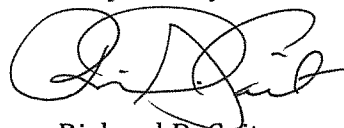
8. First, if Common Point is in fact seeking statewide authority to offer its access related services, the provisions of SDCL § 49-31-70 and ARSD 20:10:32:04 are applicable and require that notice of the Application be provided to other, already certified local exchange carriers. SDTA has reason to question whether or not this notice has in fact been

provided. Common Point has not indicated in its' application that it has complied with this requirement. Secondly, there is reason to question whether the request for certification in rural service areas is premature. As noted, Exhibit C to the Application indicates that the company's near term plans are limited to providing services within exchange areas that are part of Century Link's service area in South Dakota. Further, and most importantly, even though Common Point indicates it will not provide dial tone service to end user customers, it has not indicated anywhere in its Application that it is willing to accept a local exchange service COA that is limited to authorizing only the provisioning of carrier access services. If any COA for local exchange services granted to Common Point is not appropriately limited, SDTA believes that the additional service obligations imposed on competitive local exchange carriers entering rural service areas (found in SDCL § 49-31-73 and ARSD §§ 20:10:32:15 thru 20:10:32:17) must be viewed as applicable and must be addressed. The application at this time does not include a request for a waiver of these rural safeguard provisions, as is permitted under ARSD § 20:10:32:18. Under these provisions, Common Point, before being granted a COA and a waiver of the additional ETC service obligations imposed in South Dakota's rural service areas would have to prove that granting such a waiver would "not adversely impact universal service," would not impair the "quality of service" and that it would otherwise be consistent with the "public interest."

9. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status.

Dated this 16th day of November, 2012.

Respectfully submitted:



Richard D. Coit  
Executive Director and General Counsel

## CERTIFICATE OF SERVICE

I hereby certify that an original of the Petition for Intervention, dated November 16, 2012, filed in PUC Docket TC12-184, was served upon the PUC electronically, directed to the attention of:

Ms. Patty Van Gerpen, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501  
[patty.vangerpen@state.sd.us](mailto:patty.vangerpen@state.sd.us)

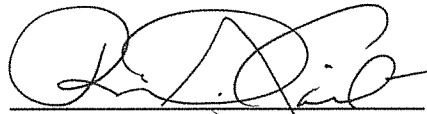
A copy was also sent by e-mail and/or US Postal Service First Class mail to each of the following individuals:

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Dated this 16<sup>th</sup> day of November, 2012



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