

OPEN MEETING ITEM

COMMISSIONERS
KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



0000101441

EXECUTIVE DIRECTOR

28

RECEIVED
ARIZONA CORPORATION COMMISSION

DATE: AUGUST 6, 2009 2009 AUG -6 A 11: 00

DOCKET NO: T-03446A-08-0055 AZ CORP COMMISSION DOCKET CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Order on:

ACCESS POINT, INC.
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 71118)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

AUGUST 17, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

AUGUST 25, 2009 and AUGUST 26, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED

AUG - 6 2009

DOCKETED BY *MM*

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

www.azcc.gov

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SBernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 ACCESS POINT, INC., FOR APPROVAL OF A
10 CERTIFICATE OF CONVENIENCE AND
11 NECESSITY TO PROVIDE COMPETITIVE
12 RESOLD LOCAL EXCHANGE AND
13 FACILITIES-BASED LOCAL EXCHANGE
14 TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-03446A-08-0055

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 71118

15 Open Meeting
16 August 25 and 26, 2009
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

19 Having considered the entire record herein and being fully advised in the premises, the
20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

21 **FINDINGS OF FACT**

22 1. On June 5, 2009, the Commission granted to Access Point, Inc. ("API" or
23 "Company"), a Certificate of Convenience and Necessity to provide competitive resold local
24 exchange and facilities-based local exchange telecommunications services in Decision No. 71118
25 ("Decision").

26 2. Pursuant to the Decision, API was required to file a performance bond or irrevocable
27 sight draft letter of credit in the amount of \$125,000. Additionally, the Company was ordered to file
28 the original performance bond or irrevocable sight draft letter of credit with the Commission's
Business Office and copies of the performance bond or irrevocable sight draft letter of credit with
Docket Control within 30 days of the effective date of the Decision.

3. Given the June 5, 2009, date of the Decision, this compliance item would have been
due from API on or about July 5, 2009.

4. On July 2, 2009, API timely filed a Motion for Extension of Time ("Motion")

1 requesting a 90-day extension to file the performance bond or irrevocable sight draft letter of credit.

2 5. On July 10, 2009, the Commission’s Utilities Division Staff (“Staff”) filed a Staff
3 Report recommending approval of the Company’s Motion.

4 6. According to API’s Motion, the Company has been unable to locate an insurance
5 carrier willing to issue a performance bond. The Company states that it will be able to post a letter of
6 credit, but it is in the process of re-negotiating its line of credit with its lender. However, API notes
7 that its lender does not issue letters of credit. As such, API will have to work with its lender and a
8 second financial institution in order to obtain the required letter of credit. The Company believes that
9 the process can be completed within 60 to 90 days and requests a 90-day extension for filing the
10 performance bond or irrevocable sight draft letter of credit.

11 8. Staff recommends that the Commission grant API’s Motion and extend the deadline
12 for filing of a performance bond or irrevocable sight draft letter of credit until October 5, 2009.

13 9. Given that the Company is diligently working toward acquiring the needed
14 performance bond or irrevocable sight draft letter of credit, it is reasonable to allow the Company
15 additional time to comply with the requirements of the Decision.

16 11. We find that Staff’s recommendation is reasonable and shall be adopted.

17 **CONCLUSIONS OF LAW**

18 1. API is a public service corporation within the meaning of Article XV of the Arizona
19 Constitution and A.R.S. §§40-281 and 40-282.

20 2. The Commission has jurisdiction over API and the subject matter of the Motion for
21 Extension of Time to comply with Commission Decision No. 71118.

22 3. Staff’s recommendation is reasonable and should be adopted.

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS THEREFORE ORDERED that Access Point, Inc.'s, Motion for Extension of Time to comply with Decision No. 71118, is granted, extending the compliance deadline for filing the performance bond or irrevocable sight draft letter of credit until October 5, 2009.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____

COMMISSIONER _____

COMMISSIONER _____

COMMISSIONER _____

COMMISSIONER _____

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2009.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST FOR: ACCESS POINT, INC.

DOCKET NO.: T-03446A-08-0055

Timothy J. Sabo
ROSHKA DeWULF & PATTEN
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Thomas M. Forte
TECHNOLOGIES MANAGEMENT INC.
2600 Maitland Boulevard, Suite 300
Maitland, Florida 32751

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Steve Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007