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MEMORANDUM

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AZ CORP COMMISSION

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TO: THE COMMISSION

FROM: Utilities Division

DATE: November 6, 2015

RE: IN THE MATTER OF THE APPLICATION OF ACCESS POINT, INC. TO RESCIND THE BOND REQUIREMENT CONTAINED IN DECISION NO. 71118 (DOCKET NO. T-03446A-15-0360)

Arizona Corporation Commission

DOCKETED

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INTRODUCTION

On October 20, 2015, Access Point, Inc. ("Access Point" or "Applicant") submitted an Application with the Arizona Corporation Commission ("Commission" or "ACC") requesting rescission of the bond requirement contained in ACC Decision No. 71118.

In its Application, Access Point states that it has maintained the \$125,000 irrevocable sight draft letter of credit ("ISDLOC") as required by Decision No. 71118 since October 7, 2009.

BACKGROUND

On June 5, 2009, in Decision No. 71118, the Commission ordered Access Point to procure a performance bond or ISDLOC in the amount of \$125,000 and docket proof of the bond or ISDLOC. On September 2, 2009, in Decision No. 71270, the Commission granted Access Point an extension of time for filing the performance bond or ISDLOC. On October 7, 2009, the Applicant docketed a copy of the \$125,000 ISDLOC, issued by Wachovia Bank, N.A.; Access Point had obtained and delivered the original to the Commission's Business Office. Subsequently, on December 11, 2014 the Business Office received an original \$125,000 ISDLOC, issued by PNC Bank, N.A., to replace the expired ISDLOC previously issued by Wachovia Bank, N.A. A copy of the ISDLOC issued by PNC Bank, N.A. was docketed on October 30, 2015.

Staff has confirmed the Commission is in possession of the original \$125,000 ISDLOC issued by Wachovia Bank, N.A. and the original \$125,000 ISDLOC issued by PNC Bank, N.A. Access Point is requesting the return of both of these documents to the contact listed below.

COMPLAINTS AND COMPLIANCE

The Consumer Services Section of the Utilities Division reports there have been no complaints or opinions filed against Access Point from January 1, 2012 to October 30, 2015. Access Point filed its 2014 Utilities Annual Report on April 20, 2015. According to the Commission's Corporations Division, Access Point is in good standing. The Compliance Section of the Utilities Division reports that Access Point is currently in compliance.

STAFF RECOMMENDATIONS

The Commission, in appropriate circumstances, has relieved telecommunications providers of the obligation to maintain a performance bond or ISDLOC. Staff recommends that Access Point be relieved of the \$125,000 performance bond or ISDLOC obligation contained in Decision No. 71118.

The Applicant states that in order to release the ISDLOC, it is sufficient for the Commission, in its Decision and Order, to include in an ordering paragraph language authorizing the Applicant to cancel, rescind, discontinue and be released from the performance bond or ISDLOC requirements set by Decision Nos. 71118 and 71270 and authorizing the cancellation of the ISDLOC.

Access Point has communicated to Staff that upon approval of this Application, all bond documents, ISDLOCs, riders, and associated documents on file with the Commission on behalf of Access Point should be released and returned to the following name and address:

Mr. Mark Henry
Treasury Analyst
Access Point, Inc.
1100 Crescent Green, Suite 109
Cary, North Carolina 27518



for

Thomas M. Broderick
Director
Utilities Division

TMB:PJG:red\RWG

ORIGINATOR: Pamela J. Genung

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BEFORE THE ARIZONA CORPORATION COMMISSION

SUSAN BITTER SMITH
Chairman
BOB STUMP
Commissioner
BOB BURNS
Commissioner
DOUG LITTLE
Commissioner
TOM FORESE
Commissioner

IN THE MATTER OF THE APPLICATION)
OF ACCESS POINT, INC. TO RESCIND)
THE BOND REQUIREMENT)
CONTAINED IN DECISION NO. 71118.)

DOCKET NO. T-03446A-15-0360
DECISION NO. _____
ORDER

Open Meeting
December 8 and 9, 2015
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On October 20, 2015, Access Point, Inc. ("Access Point" or "Applicant") submitted an Application with the Arizona Corporation Commission ("Commission" or "ACC") requesting rescission of the bond requirement contained in ACC Decision No. 71118.

2. In its Application, Access Point states that it has maintained the \$125,000 irrevocable sight draft letter of credit ("ISDLOC") as required by Decision No. 71118 since October 7, 2009.

Background

3. On June 5, 2009, in Decision No. 71118, the Commission ordered Access Point to procure a performance bond or ISDLOC in the amount of \$125,000 and docket proof of the bond or ISDLOC. On September 2, 2009, in Decision No. 71270, the Commission granted Access Point an extension of time for filing the performance bond or ISDLOC. On October 7, 2009, the Applicant docketed a copy of the \$125,000 ISDLOC, issued by Wachovia Bank, N.A.; Access Point had obtained and delivered the original to the Commission's Business Office. Subsequently, on December

1 11, 2014 the Business Office received an original \$125,000 ISDLOC, issued by PNC Bank, N.A., to
2 replace the expired ISDLOC previously issued by Wachovia Bank, N.A. A copy of the ISDLOC
3 issued by PNC Bank, N.A. was docketed on October 30, 2015.

4 4. Staff has confirmed the Commission is in possession of the original \$125,000
5 ISDLOC issued by Wachovia Bank, N.A. and the original \$125,000 ISDLOC issued by PNC Bank,
6 N.A. Access Point is requesting the return of both of these documents to the contact listed below.

7 **Complaints and Compliance**

8 5. The Consumer Services Section of the Utilities Division reports there have been no
9 complaints or opinions filed against Access Point from January 1, 2012 to October 30, 2015. Access
10 Point filed its 2014 Utilities Annual Report on April 20, 2015. According to the Commission's
11 Corporations Division, Access Point is in good standing. The Compliance Section of the Utilities
12 Division reports that Access Point is currently in compliance.

13 **Staff Recommendations**

14 6. The Commission, in appropriate circumstances, has relieved telecommunications
15 providers of the obligation to maintain a performance bond or ISDLOC. Staff recommends that
16 Access Point be relieved of the \$125,000 performance bond or ISDLOC obligation contained in
17 Decision No. 71118.

18 7. The Applicant states that in order to release the ISDLOC, it is sufficient for the
19 Commission's Decision and Order to include in an ordering paragraph language authorizing the
20 Applicant to cancel, rescind, discontinue and be released from the performance bond or ISDLOC
21 requirements set by Decision Nos. 71118 and 71270 and authorizing the cancellation of the ISDLOC.

22 8. Access Point has communicated to Staff that upon approval of this Application, all
23 bond documents, ISDLOCs, riders, and associated documents on file with the Commission on behalf
24 of Access Point should be released and returned to the following name and address:

25 Mr. Mark Henry
26 Treasury Analyst
27 Access Point, Inc.
1100 Crescent Green, Suite 109
Cary, North Carolina 27518

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CONCLUSIONS OF LAW

1. Access Point, Inc. is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. The Commission has jurisdiction over Access Point, Inc. and the subject matter of this filing.

3. The Commission, having reviewed the filing and Staff's Memorandum dated November 6, 2015, concludes that it is in the public interest to approve the Access Point, Inc. Application as proposed and discussed herein.

ORDER

IT IS THEREFORE ORDERED that the Application of Access Point, Inc. to terminate the performance bond or irrevocable sight draft letter of credit requirement contained in Decision No. 71118 be and hereby is approved.

IT IS FURTHER ORDERED that Access Point, Inc. may cancel, rescind, discontinue and be released from any performance bond, irrevocable sight draft letter of credit or other instrument obtained in compliance with the performance bond or irrevocable sight draft letter of credit requirements set by Decision Nos. 71118 and 71270.

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1 IT IS THEREFORE ORDERED that all bond documentation in the name of Access Point,
 2 Inc. on file with the Commission be returned to the following name and address provided by the
 3 Applicant:

4 Mr. Mark Henry
 5 Treasury Analyst
 6 Access Point, Inc.
 1100 Crescent Green, Suite 109
 Cary, North Carolina 27518

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

8
 9 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

10
 11 _____
 12 CHAIRMAN

COMMISSIONER

13
 14 _____
 15 COMMISSIONER

COMMISSIONER

COMMISSIONER

16 IN WITNESS WHEREOF, I, JODI JERICH, Executive
 17 Director of the Arizona Corporation Commission, have
 18 hereunto, set my hand and caused the official seal of this
 Commission to be affixed at the Capitol, in the City of
 Phoenix, this _____ day of _____, 2015.

19
 20 _____
 21 JODI JERICH
 22 EXECUTIVE DIRECTOR

23 DISSENT: _____

24
 25 DISSENT: _____

26 TMB:PJG:red\RWG

1 SERVICE LIST FOR: Access Point, Inc.
DOCKET NO. T-03446A-15-0360

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Mr. Timothy J. Sabo
Snell & Wilmer, L.L.P.
One Arizona Center
400 East Van Buren Street
Phoenix, Arizona 85004

Mr. Thomas M. Broderick
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Janice M. Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street

Mr. Dwight Nodes
Chief Administrative Law Judge, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007Phoenix, Arizona 85007