

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00	:	
2. BUREAU: LAW	:	
3. SECTION(S):	:	
5. APPROVED BY:	:	4. PUBLIC MEETING DATE:
DIRECTOR:	:	00/00/00
SUPERVISOR:	:	
6. PERSON IN CHARGE:	:	7. DATE FILED: 04/06/06
8. DOCKET NO: C-20066105	:	9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: LAW BUREAU PROSECUTORY STAFF

RESPONDENT/APPLICANT: ACCESS POINT, INC

COMP/APP COUNTY:

UTILITY CODE: 310557

ALLEGATION OR SUBJECT

LAW BUREAU PROSECUTORY STAFF COMPLAINT AGAINST ACCESS POINT, INC. FOR FAILURE TO FILE ITS 2004 ANNUAL REPORT. THE LAW BUREAU REQUEST THAT THE COMMISSION CANCEL THE CERTIFICATE OF PUBLIC CONVENIENCE AND DIRECT THE RESPONDENT TO PAY A CIVIL PENALTY IN THE AMOUNT OF \$1,000.

DOCUMENT
FOLDER

DOCKETED
APR 10 2006

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ORIGINAL

APR 10 2006
BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Law Bureau Prosecutory Staff

v.

Access Point, Inc.
(2006.0116.00)

Docket No. C-2006 6105

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COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings that are prosecutory in nature to the Law Bureau and to other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, 66 Pa. C.S. §701, the Law Bureau Prosecutory Staff hereby represents as follows:

1. Access Point, Inc. (Respondent), maintains its principal place of business at 1100 Crescent Point, Cary, NC, 27511.
2. Respondent was issued a Certificate of Public Convenience by the Commission on May 9, 2002 at A-310557 to provide telephone service in the Commonwealth of Pennsylvania.
3. That based on the Commission's records; Respondent has failed to file an Annual Report for 2004.
4. By first class mail and then again by certified mail, return receipt requested, Respondent was notified that it failed to file an Annual Report for 2004.
5. Respondent, by failing to file an Annual Report for 2004, is in violation of Section 504 of the Public Utility Code, 66 Pa. C.S. §504.

PA P.U.C.
SECRETARY'S BUREAU

2006 APR 26 AM 10:47

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WHEREFORE, for failure to file its 2004 Annual Report, Law Bureau Prosecutory Staff hereby requests that the Commission cancel the Certificate of Public Convenience of Access Point, Inc. pursuant to 66 Pa. C.S. §3301 and direct Access Point, Inc. to pay a civil penalty in the amount of \$1,000.

Respectfully submitted,

Rhonda L. Daviston

Rhonda L. Daviston
Law Bureau Prosecutory Staff Counsel
P.O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Kerry Klinefelter of the Bureau of Fixed Utilities, hereby state that the facts above set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to the unsworn falsification to authorities.

April 5, 2005
Date

Kerry Klinefelter
Kerry Klinefelter
Bureau of Fixed Utilities

N-O-T-I-C-E

A. You must file an Answer within 30 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this Complaint and notice. *See* 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense and must reference the complete caption and Docket Number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within 30 days, Law Bureau Prosecutory Staff will request that the Commission issue an Order canceling your Certificate of Public Convenience.

C. You may elect not to contest this Complaint by filing your 2004 Annual Report within 30 days along with payment of the late fee in the amount of \$250. Your 2004 Annual Report should be forwarded to the Pennsylvania Public Utility Commission, Bureau of Fixed Utilities (Annual Reports Section), P.O. Box 3265, Harrisburg, PA 17105-3265. If you file your 2004 Annual Report within 30 days along with a check in the amount of \$250 payable to the Commonwealth of Pennsylvania, Law Bureau Prosecutory Staff will withdraw this complaint.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, Law Bureau Prosecutory Staff will request the Commission to issue an Order imposing the penalty set forth in the Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the penalty set forth in this Complaint, and may assess additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. *See* 52 Pa. Code §§1.21-1.22.

G. Alternative formats of this material are available for persons with disabilities by contacting the Public Utility Commission at (717) 787-5620.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE
2006.0116.00

Date of Service: April 10, 2006

Jason Brown
Access Point, Inc.
1100 Crescent Point, Suite 109
Cary, NC 27511

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APR 10 2006

C-2006 6105

Law Bureau Prosecutory Staff

v.

Access Point, Inc.
(2006.0116.00)

**DOCUMENT
FOLDER**

Dear Sir/Madam:

The Pennsylvania Public Utility Commission has delegated its authority to initiate prosecutory proceedings to several bureaus in the Commission with enforcement responsibilities. Pursuant to this delegated authority and Section 701 of the Public Utility Code, 66 Pa. C.S. §701, Law Bureau Prosecutory Staff has filed the attached **Complaint** against you seeking a monetary penalty and/or revocation of your **Certificate of Public Convenience** for failure to file your **2004 Annual Report**.

Please refer to the "Notice" at the front of the Complaint for detailed instructions on how to proceed. Any questions may be directed to the Bureau of Fixed Utilities (Annual Reports Section), 717-787-2029.

Very truly yours,

James J. McNulty
Secretary

cc: Rhonda L. Daviston, Assistant Counsel
Kerry Klinefelter, Bureau of Fixed Utilities



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE
2006.0116.00

April 26, 2006

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
400 Commonwealth Keystone Building
2nd Floor
Harrisburg, PA 17120

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SECRETARY'S BUREAU

2006 APR 26 AM 1:07

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Re: LBPS v. Access Point, Inc.
Docket No. C-20066105 (2006.0116)

Dear Secretary McNulty:

Enclosed for filing, please find an original and three copies of the Certificate of Satisfaction filed by the Law Bureau Prosecutory Staff of the Pennsylvania Public Utility Commission in the above-captioned matter. Copies have been served according to the attached Certificate of Service.

DOCUMENT
FOLDER

Very truly yours,

Rhonda L. Daviston

Rhonda L. Daviston
Law Bureau Prosecutory Staff

Enclosure
cc: Per Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY'S BUREAU
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LAW BUREAU PROSECUTORY STAFF :
(2006.0116) Complainant :
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 v. :
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 Access Point, Inc. :
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 Respondent :

Docket No. C-20066105

DOCUMENT
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CERTIFICATE OF SATISFACTION

AND NOW comes the Bureau of Fixed Utilities Services of the Pennsylvania Public Utility Commission, by and through its counsel the Law Bureau Prosecutory Staff (Prosecutory Staff), after having carefully reviewed the facts and the law concerning this matter, hereby certifies as follows:

1. That Access Point, Inc. (Access Point) is an entity with a mailing address at 1100 Crescent Point, Suite 109, Cary, NC 27511, and holds a certificate of public convenience at Docket No. A-310557.
2. That Access Point failed to file its 2004 reseller Annual Report pursuant to 66 Pa. C.S. §504.
3. That Access Point's failure to file its 2004 reseller Annual Report is in violation of Section 504 of the Public Utility Code, 66 Pa. C.S. §504.

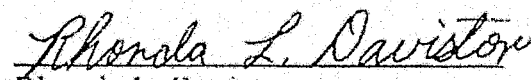
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4. That Prosecutory Staff filed a Formal Complaint with the Commission at this docket on April 6, 2006, regarding Access Point's failure to file its 2004 reseller Annual Report.

5. That Access Point filed its 2004 CLEC Annual Report in November 2005 and its outstanding 2004 reseller Annual Report on March 31, 2006. Because Access Point had some confusion as to which report it filed, we will waive the \$250 late filing fee. However, Access Point is hereby put on notice, that failure to file all reports when due will result in the imposition of future penalties.

That the Bureau of Fixed Utility Services is now satisfied that the filing of Access Point's 2004 reseller Annual Report satisfies the company's annual report requirements for 2004-2005, and Access Point is now current in the filing of all annual reports pursuant to 66 Pa. C.S. §504.

WHEREFORE, the Law Bureau Prosecutory Staff hereby respectfully requests that the Complaint filed at the above captioned docket be dismissed.


Rhonda L. Daviston
Law Bureau Prosecutory Staff

Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Dated: April 26, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served the foregoing document, Certificate of Satisfaction, upon all persons listed below in accordance with the requirements of 52 Pa. Code §1.54:

Service by hand delivery:

Mr. Kerry Klinefelter
Bureau of Fixed Utilities Services
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Service by First Class Mail Addressed as follows:

Mr. Jason Brown
Access Point, Inc.
1100 Crescent Point, Suite 109
Cary, NC 27511

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PA PUC
SECRETARY'S BUREAU

Rhonda L. Daviston

Rhonda L. Daviston
Law Bureau Prosecutory Staff

Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-6166

Dated: April 26, 2006