

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Beehive Telephone Company, Inc.)	
Beehive Telephone, Inc. Nevada)	
)	Transmittal No. 6
Tariff F.C.C. No. 1)	

SUSPENSION ORDER

Adopted: August 5, 1997

Released: August 5, 1997

By the Chief, Competitive Pricing Division, Common Carrier Bureau:

I. INTRODUCTION

1. On July 22, 1997, Beehive Telephone Company Inc. (Beehive) made two tariff filings under its Transmittal No. 6, both of which are scheduled to become effective on August 6, 1997. The first filing proposes to revise Beehive's 1997 biennial access tariff as required by Section 69.3(a) of the Commission's rules, 47 C.F.R. § 69.3(a).¹ The second filing, among other things, proposes to change terms and conditions defining how Beehive measures and applies access tandem transport.

2. For the reasons set forth below, we find that the first filing made under Transmittal No. 6 raises significant issues of lawfulness regarding the proposed local switching rates for switched access service. We therefore suspend this filing made under Transmittal No. 6 for one day, initiate an investigation into the lawfulness of its provisions, and impose an accounting order.

II. PLEADINGS

3. On July 29, 1997, AT&T Corp. (AT&T) filed a petition to reject or, alternatively, to suspend and investigate Beehive's Transmittal No. 6. AT&T points out that since 1994, when Beehive ceased to concur in the rates filed by the National Exchange Carrier Association (NECA), Beehive has had effective access rates of \$0.47 per minute through July 1995 and \$0.14 per minute from July 1995 through the current period.² AT&T argues that these rates have been

¹ Beehive Access Tariff FCC No. 1, Transmittal No. 6 (July 22, 1997) (Transmittal No. 6) made pursuant to Special Permission Nos. 97-218 and 97-223.

² AT&T Petition at 2.

among the highest in the nation.³ It notes that Beehive Transmittal No. 6 proposes to increase its premium local switching rate from \$0.03480 to \$0.04012 per minute and to decrease its premium local transport facility and termination rates, resulting in an overall decrease in access rates for one mile of transport.⁴ Nevertheless, AT&T contends that, given Beehive's current excessive rate levels and its alleged ongoing efforts to manipulate the existing rate setting procedures, it is unclear whether Beehive's proposed rate reductions comply with the Commission's prescribed rate of return.⁵ Finally, AT&T claims that Beehive's proposal to apply an "average mileage rate" to all carriers is ambiguous in violation of Section 61.2 and 61.54(j) of the Commission's rules.⁶ AT&T states that, although Beehive's proposed local transport facility charge per mile is \$0.00066, it is unclear as to how many miles Beehive will assess AT&T or any other specific customer for local transport.⁷

4. On August 4, 1997, Beehive filed a reply to AT&T's petition against its transmittal. Beehive contends that AT&T has failed to demonstrate that its tariff should be suspended and investigated as required by Section 1.773 of the Commission's rules.⁸ With respect to AT&T's argument that its proposed increase in premium switching rates is unlawful, Beehive states that the proposed rate increase will be more than offset by the proposed 11.67 percent reduction in its premium local transport charges and the proposed 10.94 percent decrease in its aggregate rate.⁹ In any event, Beehive asserts that the proposed increase its switching rate is fully justified by increases in its interstate usage and expense levels.¹⁰

5. Beehive agrees with AT&T's objection to the use of "average mileage" to determine local transport charges and has filed with the Commission an application for special permission to withdraw this regulation from its tariff.¹¹ Instead, Beehive indicates that it will measure and apply access tandem transport in accordance with the mileage provisions in the NECA's FCC Tariff No. 5.¹²

³ *Id.*

⁴ *Id.* at 3.

⁵ *Id.* at 3-4.

⁶ AT&T Petition at 4-5, *citing* 47 C.F.R. §§ 61.2 and 61.45(j).

⁷ AT&T Petition at 5.

⁸ Beehive Reply at 4, *citing* 47 C.F.R. § 1.773(a)(1).

⁹ Beehive Reply at 6-7.

¹⁰ *Id.* at 7.

¹¹ *Id.* at 10.

¹² *Id.*

III. DISCUSSION

6. The first filing made under Transmittal No. 6 raises significant questions of lawfulness, including whether it: (1) is unreasonably discriminatory in violation of Section 202(a) of the Communications Act, and (2) contains any unjust and unreasonable charge, practice, classification, or regulation in violation of Section 201(b) of the Communications Act. In particular, we are not persuaded based on the present record that Beehive has shown that its proposed rate levels are justified under existing rules governing its interstate access charges. We therefore, shall suspend the first filing made under Transmittal No. 6 for one day, impose an accounting order, and initiate an investigation into the lawfulness of its proposed rate revisions.¹³ In addition, we will issue a separate order designating the issues to be investigated and establishing a pleading cycle.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that pursuant to Sections 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the first filing made under Beehive Telephone Company, Inc. Transmittal No. 6 IS SUSPENDED FOR ONE DAY and an investigation of the provisions of this transmittal IS INSTITUTED.

8. IT IS FURTHER ORDERED that, pursuant to Section 204(a) of the Communications Act, as amended, 47 U.S.C. § 204, Beehive Telephone Company, Inc. SHALL KEEP ACCURATE ACCOUNT of all earnings, costs, and returns associated with the rates that are subject to this investigation, and of all amounts paid thereunder and by whom such amounts are paid.

9. IT IS FURTHER ORDERED that Beehive Telephone Company, Inc. SHALL FILE a tariff supplement within five business days of the release date of this Order reflecting this suspension. Beehive should cite the "DA Number" of this Order as its authority for making these changes.

¹³ Beehive filed its Application No. 4 on August 4, 1997, requesting special permission to remove the transport language to which AT&T objected and to reference instead NECA Tariff No. 5. On August 5, 1997, The Common Carrier Bureau's Competitive Pricing Division granted Beehive's application and assigned Special Permission No. 97-247.

10. IT IS FURTHER ORDERED that the petition to suspend and investigate filed by AT&T Corp. IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION



James D. Schlichting
Chief, Competitive Pricing Division
Common Carrier Bureau