

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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| In the Matter of the Petition of All |) | |
| American Telephone Co., Inc. For a <i>Nunc</i> |) | DOCKET NO. 08246901 |
| <i>Pro Tunc</i> Amendment of Its Certificate |) | |
| of Authority to Operate as a Competitive |) | <u>REPORT AND ORDER</u> |
| Local Exchange Carrier Within the |) | |
| State of Utah. |) | |

SYNOPSIS

By this Report and Order, the Public Service Commission of Utah (“the Commission”) grants AATCO’s petition for a *nunc pro tunc* amendment to its Certificate of Public Convenience and Necessity to operate as a competitive local exchange carrier (“CLEC” hereinafter) within the state of Utah. The Commission, having considered the record, hereby makes, adopts and enters the following Report and Order.

By the Commission:

PROCEDURAL HISTORY

On March 7, 2007, AATCO was granted a Certificate of Public Convenience and Necessity in Docket No. 06-2469-01 authorizing it to operate as a CLEC within the state of Utah, excluding those local exchanges of less than 5,000 access lines of incumbent telephone corporations with fewer than 30,000 access lines in the state.

On June 11, 2007, AATCO and Beehive Telephone Co., Inc. (“Beehive”) filed an interconnection agreement with the Commission. This interconnection agreement was approved by the Commission on September 10, 2007 pursuant to 47 U.S.C. § 252(e)(4). However, if the terms of the March 7, 2007 Certificate, are viewed in isolation, independently of the

interconnection agreement, AATCO technically may be deemed to lack authority to operate as a CLEC in the area certificated to Beehive.

FINDINGS OF FACT

1. AATCO and Beehive have been operating under the terms of their June 11, 2007 interconnection agreement on the assumption that AATCO had authority to operate as a CLEC in the area certificated to Beehive.

2. In order to conform AATCO's CLEC certificate to the facts of the operating arrangements that have existed between AATCO and Beehive since the certificate was granted, AATCO is requesting that the Commission to amend AATCO's certificate *nunc pro tunc*, as of the date the certificate was issued.

3. Such an amendment will make certain the implicit operating authority already granted by the Commission, and will not operate to extend AATCO's operating authority into any other local exchange carrier's certificated territory.

4. Beehive has filed a consent to AATCO's petition.

CONCLUSIONS OF LAW

1. Because this petition affects only two parties, AATCO and Beehive, both of whom favor the action requested, there is no reasonable expectation of opposition to petitioner's request and therefore the petition is hereby adjudicated informally under Utah Code Ann. § 63-46b-5 and R746-110 of the Commission's Rules.

2. Based on the Commission's March 7, 2007 Report in Docket No. 06-2469-01, it has been determined that AATCO meets each of the statutory requirements for issuance of a Certificate as a telecommunications corporation. *See* Utah Code Ann. § 54-8b-2.1, *et seq.*

3. AATCO meets each of the statutory requirements for authorization to operate as a CLEC in the area currently certificated to Beehive. *See Utah Code Ann. § 54-8b-2.1, et seq.*

4. The *nunc pro tunc* amendment which AATCO seeks is in accord with the legislative policy declarations set forth in Utah Code Ann. § 54-8b-1.1.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. AATCO's Petition for a *nunc pro tunc* amendment to its Certificate of Public Convenience and Necessity, dated March 7, 2007, is **GRANTED**.

2. Since March 7, 2007, AATCO is deemed to have been authorized by the Commission to operate as a CLEC in the area currently certificated to Beehive.

DATED at Salt Lake City, Utah, this ____ day of _____, 2008.

/s/Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this ____ day of _____, 2008, as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard, Commission Secretary