

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition and Request)	
for an Amendment and Clarification of)	<u>DOCKET NO. 06-051-02</u>
Beehive Telephone Company's Dangling)	<u>REPORT AND ORDER AMENDING</u>
Rope Certificate of Public Convenience)	<u>CERTIFICATE</u>
and Necessity)	

SYNOPSIS

The Commission grants the request of Beehive Telephone Company, Inc. to revise its certificated service territory in the Glen Canyon National Recreation Area.

ISSUED: September 11, 2006

By The Commission:

PROCEDURAL HISTORY

On May 8, 2006, Beehive Telephone Company, Inc. ("Beehive") filed a Petition and Request for Amendment and Clarification ("Petition") seeking revision of its certificated service territory to include the area encompassing the Dangling Rope Marina at Lake Powell in the Glen Canyon National Recreation Area.

On May 22, 2006, the National Park Service ("NPS"), the federal entity that administers the Glen Canyon National Recreation Area, filed a memorandum opposing approval of the Petition.

On July 17, 2006, the Division of Public Utilities ("Division") filed a memorandum recommending the Commission approve the Petition.

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On July 20, 2006, the Commission issued a Notice of Hearing setting hearing to proceed before the Commission's Administrative Law Judge on August 31, 2006. At hearing, Beehive was represented by Judith Hooper. Art Brothers, Beehive's President, testified on Beehive's behalf. Patricia Schmid, Assistant Attorney General, appeared for the Division. Mr. Paul Anderson, utility analyst, testified on behalf of the Division. The National Park Service was represented by Kevin Jones. Mr. Cordell Roy, NPS Utah State Coordinator, testified for the NPS.

DISCUSSION, FINDINGS, AND CONCLUSIONS

On September 8, 1982, in Docket No. 82-051-01, the Commission granted Beehive a Certificate of Public Convenience and Necessity ("Certificate") to provide telephone service to the Rainbow Marina at Lake Powell. The Commission's Order described the Beehive service territory approved therein as follows:

Telephone service to the anchored marina facilities upon the waters of Lake Powell up to and including the high water mark of said lake within T42 S, and T43 S, Range 8 and 8 ½ E.

However, sometime thereafter, the NPS moved its marina facilities from the Rainbow Marina encompassed by the service territory description noted above to the current Dangling Rope Marina location. All parties agree Beehive's current certificated service territory does not include the Dangling Rope Marina or its surroundings. However, based on the Commission's earlier grant of authority to Beehive to provide telephone service at the Rainbow Marina, the NPS permitted Beehive to install and operate telephone service at the Dangling Rope Marina

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("Marina"). Beehive currently provides telephone service at the Marina by means of a pay telephone located on the floating dock at the Marina.

By its Petition, Beehive seeks to amend its Certificate to remove the territory comprising the former Rainbow Marina and add the territory in and around Dangling Rope Marina. Beehive describes this territory as follows:

Sections 30 and 31, Township 42 South, Range 8 East, Kane County,
Utah.

In amending its Certificate to apply to the above-described territory, Beehive has indicated its desire not only to operate the pay telephone at the Marina but also to serve those NPS and concessioner employees or other personnel who reside or work in the dormitories, homes, and businesses within the Marina's shore and land areas.

The NPS opposes amendment of Beehive's Certificate, noting that, while it does not seek removal of Beehive's pay telephone, it has no desire to see Beehive expand its telephone service to other locations at or associated with the Marina. The NPS believes the communications services already available at the Marina, including cellular and satellite telephone service and two-way radio service, are sufficient to meet its needs, and those of park visitors and concessioner employees. The NPS also notes the Marina may be converted to a seasonal facility as early as late fall 2006 so that during the winter months there would be no operations or employees at the Marina and, therefore, even less need for expanded telephone service. Finally, the NPS is concerned by Beehive's historical and continuing failure to abide by the requirements of the permits by which it is authorized to operate within the Glen Canyon National Recreation Area.

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The Division, on the other hand, believes approval of the Petition would be in the public interest. The Division notes Beehive's call records and observed waiting lines for use of the pay phone indicate continuing customer demand for telephone service at the Marina. However, no other incumbent local exchange carrier has presented a proposal to provide service at the Dangling Rope Marina. Furthermore, public emergency access is not readily available except for Beehive's public pay telephone. Because of this continuing customer demand and the need for public access to emergency telephone service, the Division recommends amendment of Beehive's Certificate as requested to authorize Beehive to operate at the Dangling Rope Marina. The Division is aware of both Beehive's desire to expand its service offering at the Marina and the NPS's opposition to such expansion. However, the Division notes, and the other parties agree, that amending the certificated service territory as requested will not relieve Beehive of the obligation to seek permission from the NPS to install and operate additional telephone communications facilities at the Marina. Therefore, the Division sees no harm accruing to the interests of the NPS from approval of the Petition.

Having reviewed the evidence presented, and having considered the parties' arguments, we find and conclude that amendment of Beehive's certificate to revise its authorized service territory is in the public interest. The demonstrated use of Beehive's installed pay telephone, as well as the need for public telephone access in an emergency situation, make clear the desirability of authorizing the provision of public telecommunications services at the Dangling Rope Marina. As Beehive currently operates such services and no other ILEC has shown interest in doing so, it is reasonable and in the public interest that we amend Beehive's

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Certificate to include the Marina within Beehive's service territory. We understand the NPS's concerns, but we concur with the Division in its recognition that the placement of any additional telecommunications facilities on NPS land will require the assent of the NPS. We therefore encourage Beehive and the NPS to work together to ensure appropriate telecommunications services are made available to the public while abiding by all applicable regulations and licensing requirements.

Wherefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed

ORDER

Amending the service territory specified in the Certificate of Public Convenience and Necessity granted to Beehive Telecommunications Company, Inc. on September 8, 1982 in Docket No. 82-051-01 to read as follows: "Sections 30 and 31, Township 42 South, Range 8 East, Kane County, Utah."

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply

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with the requirements of *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 11th day of September, 2006.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 11th day of September, 2006, as the Report and Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G# 50346