

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Interconnection)
Agreement between Citizens) DOCKET NO. 09-2218-01
Telecommunications Company of Utah,)
d/b/a Frontier Communications of Utah, and) REPORT AND ORDER REJECTING
Beehive Telecom, Inc.) INTERCONNECTION AGREEMENT
)

ISSUED: March 26, 2009

SYNOPSIS

The Interconnection Agreement at issue being defective as involving service outside the certificated territory of one of the carriers, the Commission rejects the Interconnection Agreement.

By The Commission:

On January 22, 2009, Citizens Telecommunications Company of Utah d/b/a/ Frontier Communications of Utah (“Citizen”) filed with the Commission an Interconnection Agreement (“the Agreement”) with Beehive Telecom, Inc., (hereafter “CLEC” (Competing Local Exchange Carrier)). The Commission asked the Division of Public Utilities, Utah Department of Commerce (“DPU”), to review the matter and the DPU filed its Memorandum on February 26, 2009, recommending rejection of the Agreement. The Commission rejects the Agreement submitted herein.

47 U.S.C. §252(e)(2) provides the basis upon which we may reject a negotiated interconnection agreement. That section, in part, provides that: “The State commission may only reject - (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that -

(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity. . .”

The fact that CLEC is not certificated to provide services within the area contemplated by the Agreement is dispositive in our consideration of this interconnection agreement. Utah law is clear that entities which provide public telecommunication services are public utilities subject to the provisions of Utah’s public utility laws. As of the date of this Order, CLEC has only been granted a certificate “to interconnect with, collocate in and to purchase wholesale facilities from Beehive Telephone Co., Inc. ("Beehive Telephone") in order to facilitate Grantee’s service in Qwest service territory, the service territory for which Beehive Telephone serves as the incumbent local exchange carrier, and excluding all other local exchanges of less than 5,000 access lines of incumbent telephone corporations with fewer than 30,000 access lines in the state.” The DPU notes that CLEC’s authority to operate is limited to Qwest service territories and a limited aspect within Beehive Telephone’s service territory. It does not include Citizen’s territory, specifically the Moab exchange.

In this context, we conclude that the Agreement must be rejected as “not consistent with the public interest, convenience, and necessity” in attempting to position CLEC to provide public telecommunication services in areas of the State of Utah outside its certificate. We conclude that it would also “discriminate against [all other] telecommunications carrier[s] not a party to the Agreement” that have complied with Utah law and obtained their certificates to provide the services their certificates authorize and within the areas designated.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. We enter this Order rejecting the Interconnection Agreement submitted January 22, 2009. The rejection is without prejudice, permitting the Agreement to be resubmitted when Beehive Telecom has received authorization to provide telecommunications services within the service territory contemplated in the Interconnection Agreement..

2. Any person aggrieved by this Order may petition the Commission for review of this Order pursuant to the Utah Administrative Procedures Act, U.C.A. §§63G-4-101 et seq.

DATED at Salt Lake City, Utah, this 26th day of March, 2009.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#61202