

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of an Agreement between BEEHIVE TELEPHONE COMPANY and U.S. WEST COMMUNICATIONS, INC., for Provision of Extended Area Service (EAS) from Cedar City to Cedar Highlands))))))	<u>DOCKET NO. 99-051-02</u> <u>REPORT AND ORDER</u>
--	----------------------------	--

ISSUED: September 22, 1999

SYNOPSIS

The affected subscribers having expressed a desire for Extended Area Service, the Commission approved the proposed agreement.

By The Commission:

PROCEDURAL HISTORY

On February 5, 1999, Beehive Telephone Company (BTC) petitioned for a declaratory Order from the Commission to the effect that the Cedar Highlands Subdivision, located approximately a mile south of Cedar City, Utah, was part of the Cedar City local calling area and thus exempt from the imposition of Extended Area Service (EAS) charges. Cedar City itself, and surrounding communities, are served by U.S. West Communications, Inc. (USWC). The original petition was opposed by the Division of Public Utilities, Utah Department of Commerce (DPU). Eventually, BTC and USWC reached an agreement under the terms of which BTC would pay USWC its costs for serving the area, BTC to pass those costs on to its subscribers under the aegis of an EAS arrangement between the two telephone companies. Approval of that contract has now become the subject of this proceeding, BTC having abandoned its original petition and USWC having joined the petition for contract approval. On August 31, 1999, the DPU filed a memorandum recommending approval of the Contract.

No opposition to the contract approval appearing likely, and an evidentiary hearing appearing unnecessary to the resolution of this matter, we have determined to dispose of it without further proceedings. The Administrative Law Judge, having been fully advised in the matter, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT

1. The contract's signatories are each telephone corporations certificated by this Commission.
2. The contract would obligate BTC's subscribers in the Cedar Highlands Subdivision to pay a monthly surcharge of \$5.16 per month for the first year of EAS with annual adjustments thereafter based on actual usage.
3. The DPU has contacted all but two of BTC's current subscribers (12) in the subdivision, and all have signified their willingness to pay the surcharge. We will accept this work by the DPU in lieu of the formal customer service survey we ordinarily require before implementing EAS.
4. The DPU recommends approval of the contract, but not implementing tariffs heretofore filed by BTC.

DISCUSSION

It is clearly in the public interest to resolve this matter and afford BTC's subscribers the ability to call their neighbors a mile away. The proposed contract appears to accomplish that with a reasonable charge.

The only sticking point is the DPU's recommendation that the approval be afforded without concomitant approval of BTC's implementing tariffs already filed. Frankly, we do not see how we can allow BTC to collect the proposed EAS charge without an approved tariff. Rather than delay the implementation of EAS for BTC's subscribers through a hearing on the tariffs already filed, we will require BTC to file a tariff relating solely to the Cedar Highlands EAS.

CONCLUSIONS OF LAW

The petition should be approved, subject to the condition outlined above.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The Contract between BTC and USWC for the provision of EAS to BTC's customers in the Cedar Highlands subdivision be, and it is, approved, subject to annual review and subject to the filing of an effective tariff as provided below.

The extension of EAS between Cedar City and Cedar Highlands be, and it is, approved.

BTC shall immediately file a tariff sheet implementing the \$5.16 EAS charge and incorporating no other subject matter. Provided said tariff meets the aforementioned terms, it shall be effective on one day's notice.

Any person aggrieved by this Order may petition the Commission for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal to the Utah Supreme Court.

DATED at Salt Lake City, Utah, this 22nd day of September, 1999.

/s/ A. Robert Thurman
Administrative Law Judge

Approved and Confirmed this 22nd day of September, 1999, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary