Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Petition of	)	
	)	
BEEHIVE TELEPHONE CO., INC.	)	
and BEEHIVE TELEPHONE CO.	)	
INC. NEVADA	)	
	)	
For a Declaratory Ruling that the	)	WC Docket No. 10-36
Commission Does Not Entertain Actions	)	
by Incumbent Local Exchange Carriers to	)	
Recover Their Tariffed Access Charges	)	
from Interexchange Carriers	)	
	)	

REPLY COMMENTS OF GVNW CONSULTING, INC.

Jeffry H. Smith
Vice-President and Division Manager – Western Region
Chairman of the Board of Directors
GVNW Consulting, Inc.
8050 SW Warm Springs Street, Suite 200
Tualatin, Oregon 97062

Raymond A. Hendershot
Vice-President

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EXECUTIVE SUMMARY

GVNW respectfully recommends that the Commission make the determination that the mere allegation that the terminating carrier acted improperly does not relieve an interexchange carrier of its payment obligations to all the transporting carriers.

The Sprint comments work diligently to draw attention to the arguments surrounding procedural issues. Their pleadings ignore one important and basic fact: Sprint used Beehive's facilities to transit and terminate traffic to their customers. Interexchange carriers have been constantly disputing intercarrier compensation and universal service payments to rural carriers since the implementation of the Telecommunications Act of 1996.

Beehive has chosen to meet the needs of customers in very rural areas that no other carriers chose to serve, and thus must depend on the ability to earn a compensatory rate of return in order to stay in business and serve the rural customers. A refusal by a carrier such as Sprint to pay for access to Beehive facilities that is chooses to access works contrary to Beehive being able to stay viable and meet the needs of rural customers.

The refusal of interexchange carriers to pay lawful access charge rates works against the public policy objective of robust networks being available for rural customers.

INTRODUCTION AND BACKGROUND

The purpose of these reply comments is to respond to the Commission's Public Notice released by the Wireline Competition Bureau on February 12, 2010, related to Beehive's Petition for Declaratory Ruling. In simplest terms, the Sprint comments attempt to overlook some fundamental public policy concerns related to Beehive's Petition.

GVNW Consulting, Inc. (GVNW) is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.

GVNW respectfully recommends that the Commission make the determination that the mere allegation that the terminating carrier acted improperly does not relieve an interexchange carrier of its payment obligations to all the transporting carriers.

THERE ARE SIGNIFICANT POLICY ISSUES UNDERLYING THE DISPUTE

The Sprint comments work diligently to draw attention to the arguments surrounding procedural issues. Their pleadings ignore one important and basic fact: **Sprint used Beehive's facilities to transit and terminate traffic to its customers.** The NECA access tariff rates used by Beehive are used by small carriers across the country to provide an averaged access rate to interexchange carriers.

As we stated in a recent filing[1], illustrating the point that interexchange carriers have been constantly disputing intercarrier compensation and universal service payments to rural carriers since the implementation of the Telecommunications Act of 1996: "*We hope, as this important work continues, the Commission will indeed be able to meet [the] stated objective of working closely with small telcos in creating 'a competitive telecommunications marketplace that leaves no one behind and keeps all of America connected.' We agree with the Chairman that small and rural LECs are 'vitally important' to our national telecommunications future as they 'are building the infrastructure that will keep rural America connected.'* If interexchange carriers (IXCs) are permitted to avoid paying carriers such as Beehive the tariffed access charges, then the infrastructure that keeps rural America connected will not be able to be maintained. When an IXC refuses to pay the access charges for one NECA member, it has an impact on every member that is a part of the NECA access pool.

[1] GVNW Comments in GN Docket No. 09-51 and WC Docket No. 05-337, filed January 22, 2010, page 10.

THE SPRINT COMMENTS IGNORE THE REGULATORY REALITY FACED BY BEEHIVE

Sprint has thousands upon thousands of customers from which to extract monthly revenue streams. Beehive has chosen to meet the needs of customers in very rural areas[2] that no other carriers chose to serve, and depends on the ability to earn a compensatory rate of return in order to stay in business and serve these rural customers. A refusal by a carrier such as Sprint to pay access charges when it uses Beehive facilities works contrary to Beehive being able to stay viable and meet the needs of rural customers.

The overarching principle that the Commission must adhere to is that rate-of-return carriers are entitled, as a matter of law, to a **full** recovery of their costs in providing interstate services. One of the key components of this cost recovery is the revenue received from access charges. Federal access charges are an interstate cost recovery approach that compensates rural carriers when interexchange carriers use local exchange carrier facilities.

The need for this recovery is exacerbated when serving areas that are comprised of sparse populations creates a different business case. While some may suggest that shifting costs to end-user customers in the form of a Subscriber Line Charge (SLC) or some analogous scheme is the direction that policy should take, the denominator in this rate equation simply is not sufficient for many rural carriers.

[2] Beehive serves an area in Utah that is over 10,000 square miles, and another over 2,000 square miles in the state of Nevada. In sum, this roughly 12,039 square miles is more than the entire state of Hawaii or Massachusetts, as well as being larger than the individual states of Vermont, New Hampshire, New Jersey, Connecticut, Delaware, Rhode Island or the District of Columbia.

THE SPRINT POSITION APPEARS TO IGNORE THE IMPORTANCE OF NETWORKS IN RURAL AREAS

Carriers such as Sprint utilize the rural networks of carriers such as Beehive to reach some of their customers. There are recent filings that address the issues surrounding the importance of deploying and maintaining rural networks such as the one offered by Beehive. For example, in a recent docket[3] the filing of the Western Telecommunications Alliance (WTA) states: "*The critical flaws in the logic . . . . is that it ignores the facts that: (1) RLECs and other carriers invest in, build and operate networks rather than individual customer lines… Most state COLR requirements mandate that RLECs and other COLRs maintain individual customer lines in place even after the customer terminates his or her service*." The refusal of interexchange carriers to pay lawful access charge rates works against the public policy objective of robust networks being available for rural customers.

In this same docket, the Independent Telephone & Telecommunications Alliance (ITTA)[4] adds the following thoughts in its filing: "*The proposed reallocations do not account appropriately for the manner in which rural networks are constructed, and would threaten the viability of carriers of last resort serving rural areas at a time when those networks and carriers will play critical roles in National broadband deployment….ILEC networks are built in a manner that enables the carrier to meet its COLR obligations throughout the entire study area. .*"

[3] Western Telecommunications Alliance Comments in GN Docket No. 09-51 and WC Docket No. 05-337, filed January 22, 2010, pages 14-15.
[4] ITTA Comments in GN Docket No. 09-51 and WC Docket No. 05-337, filed January 22, 2010, pages 2, 3 and 8.

Respectfully submitted,

Submitted via ECFS

Jeffry H. Smith
Vice-President and Division Manager – Western Region
Chairman of the Board of Directors
GVNW Consulting, Inc.
Email: jsmith@gvnw.com

March 11, 2010