

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

In the Matter of	)	
	)	
Beehive Telephone, Co., Inc. and	)	
Beehive Telephone Co. Inc. Nevada	)	WC Docket No. 10-36
	)	
Petition for Declaratory Ruling	)	
_____	)	

**COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.**

Sprint Communications Company L.P. (“Sprint”), pursuant to the Public Notice DA 10-473 issued March 19, 2010, by the Federal Communication Commission’s (“Commission”) Wireline Competition Bureau (“WCB”) in the above-captioned docket, hereby respectfully submits its Comments on the so-called Amendment to the Petition for Declaratory Ruling filed by Beehive Telephone Company, Inc. and Beehive Telephone Company Inc. Nevada (collectively “Beehive”). The Commission should reject both Beehive’s declaratory ruling petition as well as Beehive’s amendment.

The purpose of a declaratory ruling is to terminate a controversy or remove uncertainty, *see* 47 C.F.R. § 1.2. But this proceeding does not involve any issues that are controversial or uncertain. Rather, as Sprint explained in its Opposition, the sole purpose of Beehive’s petition is to have the Commission interject itself into litigation before the United States District Court for the District of Utah to tell the court that it was wrong when it dismissed Beehive’s complaint against Sprint. The court dismissed Beehive’s complaint because Beehive had first filed an informal complaint against Sprint in which it argued that Sprint’s actions were unlawful under

the Communications Act. Thus the court found that the plain language of Section 207 of the Communications Act, 47 U.S.C. § 207, barred Beehive from filing a complaint with the court on the same basic issue. Sprint Opposition, *passim*. See also Comments of AT&T at 1 (Beehive “asks the Commission to rescue Beehive for the litigation choices that it now regrets.”); Verizon Reply Comments at 1-2 (“Beehive finds itself in a mess of its own making” since [h]aving elected to pursue separate actions against Sprint before both the Commission and in court, Beehive took the risk that it would run afoul of the election of remedies provision in Section 207 of the Act.”).

Beehive’s effort to “amend” its petition for declaratory ruling does not resolve the problems with Beehive’s original petition. In fact, Beehive does not even appear to “amend” the relief that it is seeking in its declaratory ruling petition. In the instant pleading, Beehive asks that the Bureau issue a “letter ruling” on delegated authority that would essentially tell Beehive what was in Beehive’s informal complaint. Specifically, it asks the Bureau to rule (1) that Beehive’s informal complaint did not allege that it was damaged by Sprint’s “conduct for which liability is imposed on carriers under 47 U.S.C. § 206, or include “a claim for the recovery of damages sustained by such conduct”; and (2) Beehive’s informal complaint “included the statement that Beehive was not (a) alleging damages or (b) seeking the recovery of damages.” Amendment at 1. But this request is essentially the same relief that it asks for in its declaratory ruling petition. See Petition at 7-12; 17. And, as Sprint explained in its Opposition to the Beehive’s petition, the granting of the requested relief would have the FCC taking the place of the 10<sup>th</sup> Circuit reviewing the merits of the district court’s dismissal order. Moreover there is no need for this Commission to tell the 10<sup>th</sup> Circuit, let alone Beehive, what Beehive’s informal complaint said.

Beehive's request also asks the Commission to confirm something that is not correct: that Beehive's informal complaint did not allege that it was damaged by Sprint's conduct, which is a different question from whether Beehive sought damages. The precise reason Beehive filed its informal complaint with the Commission was to obtain a ruling that Sprint's conduct violated the Act and as a result damaged Beehive. Indeed, Beehive's informal complaint listed the amounts that Sprint withheld that Beehive says Sprint should have paid. Informal Complaint at 5. Upon reviewing Beehive's informal complaint, the district court had no difficulty in concluding that Beehive was an entity claiming to be damaged by Sprint's conduct, something Beehive did not contest in court. Yet Beehive now wants the Commission to tell the court it was wrong as to what Beehive alleged in its informal complaint.

The other declarations Beehive seeks are equally inexplicable. Beehive seeks a ruling that the Commission will not entertain complaints that seek to recover, or state an action for, unpaid access charges. Again, Beehive's petition already requests a ruling that this Commission does not entertain collection actions or their equivalent. As Sprint previously pointed out, the court found the issue of whether the Commission will entertain collection actions "extraneous" to its decision. Sprint Comments at 2,13.

Beehive may be seeking this ruling so that it could then argue before the district court that the Commission had no jurisdiction over the informal complaint. But such position is inconsistent with Beehive's position in its informal complaint, its petition and its reply comments, that the Commission had jurisdiction over the informal complaint as filed. *See* Sprint Comments at 14-15; Beehive Reply Comments at 6-7.

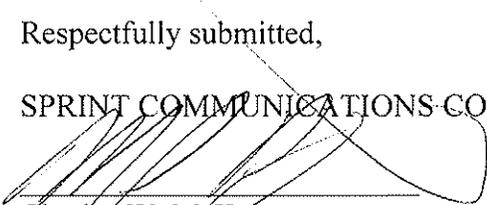
Finally, Beehive seeks a ruling that the Commission cannot dismiss a complaint because of the absence of direct damages. But Beehive fails to explain why such a ruling – which is

based upon the plain language of Section 208 of the Act, 47 U.S.C. § 208, would meet the standards for issuing a declaratory ruling as set forth in 47 C.F.R. § 1.2 or for that matter why such a ruling would be relevant.

In sum, Beehive provides no explanation of why it seeks the rulings it does or what it sees as their implications. This failing emphasizes the absence of any procedural basis justifying its request. Beehive does not say what authorizes a letter ruling, on delegated authority, based on an unexplained "amendment" to the petition the Commission already put out for notice and comment.

Respectfully submitted,

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