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February 21, 2006

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW, room TWB-204
Washington, D.C. 20554

Re: Beehive Telephone Companies Transmittal No. 31 - Request for Confidential Treatment Pursuant to Section 0.457 and 0.459 of the Commissions Rules

Dear Ms. Dortch:

AT&T Inc. ("AT&T") is filing the accompanying petition addressed to the above-referenced tariff filing by the Beehive Telephone Companies ("Beehive"). Exhibit 2 to the petition summarizes AT&T's 2005 access demand billed by Beehive, and the petition also contains certain specific references to such demand. This material in AT&T's petition constitutes confidential commercial and financial information within the meaning of Exemption 4 of the Freedom of Information Act ("FOIA"), and Sections 0.457(d) and 0.459 of the Commission's Rules, and its public disclosure would likely result in substantial competitive injury to AT&T. National Parks and Conservation Ass'n v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974). AT&T therefore requests confidential treatment of that portion of its petition, and the entirety of Exhibit 2. AT&T is concurrently filing with the Commission a copy of its petition that redacts this material.

Respectfully submitted,

/s/ Peter H. Jacoby
Senior Counsel
AT&T Services, Inc.

cc: B. Lynn F. Ratnavale, Esq.
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Beehive Telephone Company, Inc.
Beehive Telephone Co., Inc. Nevada

Tariff F.C.C. No. 1

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Transmittal No. 31

PETITION OF AT&T INC.¹

Pursuant to Section 1.773 of the Commission's rules, 47 C.F.R. § 1.773, AT&T Inc. ("AT&T") respectfully submits this petition requesting the Commission to reject or, in the alternative, suspend and investigate Transmittal No. 31, filed February 14, 2006 by Beehive Telephone Company, Inc. and Beehive Telephone Co., Inc. Nevada (collectively, "Beehive").² Beehive proposes to adopt a new switched tandem transport termination rate that will be applied on a per access minute basis at each end office, rather than charging its access customers the three tandem switched termination charges that are currently applied. Beehive is thereby

¹ On November 18, 2005, SBC Communications Inc. closed on its merger with AT&T Corp. The resulting company is now known as AT&T Inc. In these comments, "AT&T" refers to the merged company and its wholly-owned subsidiaries, including its ILEC operating subsidiaries, unless otherwise noted.

² A tariff is subject to rejection when it is *prima facie* unlawful, in that it demonstrably conflicts with the Communications Act or a Commission rule, regulation or order. *See, e.g., American Broadcasting Companies, Inc. v. AT&T*, 663 F.2d 133, 138 (D.C. Cir. 1980); *MCI v. AT&T*, 94 F.C.C.2d 332, 340-41 (1983). Suspension and investigation are appropriate where a tariff raises substantial issues of lawfulness. *See AT&T* (Transmittal No. 148), Memorandum Opinion and Order, 56 RR2d 1503 (1984); *ITT* (Transmittal No. 2191), 73 F.C.C.2d 709, 716 n.5 (1979) (citing *AT&T*, 46 F.C.C.2d 81, 86 (1974)).

proposing to increase its tandem termination rate from \$0.002772 to \$0.008163 per minute, but represents that the tariff revision will be revenue neutral because it has also adjusted downward the 2003 and 2004 demand on which its present rate is predicated.

However, AT&T's 2005 billed data indicates that Beehive's recent switched access demand has increased markedly and that Beehive will therefore recover significantly more than the revenue requirements used to develop its current switched access rates. Beehive's switched access rates must be reduced accordingly to reflect the inexplicable increase in demand or it will continue to overrecover in the 2006 and 2007 tariff period. Close scrutiny by the Commission of the proposed rates in the pre-effectiveness tariff review process is especially critical here in light of Beehive's well-documented history of inappropriately generating large volumes of traffic through various schemes in order to mulct its access customers for substantial billings.³

Beehive-Utah and Beehive-Nevada serve approximately 1,030 and 166 subscribers respectively.⁴ As a local exchange carrier ("LEC") that serves less than 50,000 access lines, Beehive's ratemaking is subject to Section 61.39 of the Commission's rules (47 C.F.R. § 61.39). Under this process, Beehive uses historical, rather than projected, cost and demand data for the two preceding years in its rate setting process and files tariffs biennially.⁵

³ See, e.g., *Beehive Telephone Company, Inc., Transmittal No. 6*, 13 FCC Rcd. 2736 (1998) ("*First Beehive Tariff Investigation Order*"), recon. 6, 3 FCC Rcd 11,795 (1998); See, e.g., *Beehive Telephone Company, Inc., Transmittal No. 11*, CC Docket No. 98-108, Memorandum Opinion and Order, FCC 98-320 (rel. December 1, 1998) ("*Second Beehive Tariff Investigation Order*"), recon., FCC 99-65 (rel. March 31, 1999), further recon., 14 FCC Rcd. 8077 (1999).

⁴ Universal Service Fund Data: NECA Study Results, 2004 Report, [USF05R04.ZIP \(405K\)](#) submitted 9/30/05.

⁵ See Beehive Transmittal No. 31, Description and Justification ("D&J"), page 3, filed February 14, 2006. Beehive must provide interested parties upon request as well as the Commission with cost support per Part 61.39(b) of the Rules.

On June 28, 2005 Beehive filed revised interstate access rates based on its 2003 and 2004 cost studies.⁶ The annual costs shown there reflected year over year increases of 33 percent, while demand increased 61 percent over that period.⁷ Despite these reported cost increases, the switched access rates filed by Beehive decreased overall due to the reported robust increases in demand.⁸ However, no explanation was provided for the significant growth in demand for these two small rural LECs, although Beehive has had a history of using dubious stratagems to increase its access traffic volumes exponentially to the detriment of its long distance carrier customers.⁹

The unexplained growth in historical demand reported by Beehive in its June 2005 biennial filing has not only continued in the current period, but has accelerated even more dramatically. Based on AT&T's 2005 billing data, Beehive's transport demand in Utah has increased an astonishing [REDACTED] percent and by nearly [REDACTED] percent for the Nevada and Utah study areas combined in one year's time.¹⁰ Indeed, AT&T's 2005 demand for the tandem facilities rate element has, in and of itself, exceeded Beehive's 2004 demand reported for the entire interexchange industry by [REDACTED] percent.

⁶ See Beehive Transmittal No. 28, filed June 28, 2005, D&J, p. 4.

⁷ See Exhibit 1, attached.

⁸ See Transmittal No. 28, filed June 28, 2005, D&J, p. 2.

⁹ See footnote 3, *supra*.

¹⁰ See Exhibit 2, attached. Because this material contains AT&T proprietary and confidential business information, AT&T is submitting it to the Commission concurrently with a request that it be withheld from public disclosure.

Beehive has neglected in its current transmittal to account for such extraordinary and anomalous growth in demand, and should be required by the Commission to perform a mid-course correction by appropriately taking such demand growth into account.¹¹ (If such growth also continues in 2006, Beehive should also be required to implement a mid-course filing in 2007 and adjust its rates accordingly.) Section 61.39(c) provides in relevant part that access charges filed by LECs such as Beehive pursuant to the procedures set forth there “*must* be calculated based on the [LEC’s] prescribed rate of return applicable to the period during which the rates are effective” (emphasis supplied). As shown above, the enormous growth in demand during 2005 billed by Beehive to AT&T already virtually guarantees that Beehive will considerably exceed its authorized return of 11.25 percent during the 2006-2007 period. Moreover, because it files its tariffed access rates pursuant to Section 61.39, Beehive is not subject to the biannual rate-of-return monitoring and refund process provided for elsewhere in the Commission’s rules, as is the case with larger rate-of-return LECs.¹² Accordingly, unless the Commission rejects Beehive’s current proposed rate increases (or in the alternative suspends and investigates that tariff filing), access customers will effectively be deprived of any remedy for Beehive’s entirely predictable overearnings.

¹¹ There is no reason to believe that Beehive’s 2005 financial and demand results for it to perform a mid-course correction are not available by this time.

¹² See Sections 65.700-701 of the Commission’s rules (47 C.F.R. §§ 65.700-701) (establishing monitoring process); Section (47 C.F.R. § 61.39(c)) (providing that “[LECs] filing under this section are not required to comply with §§ 65.700 through 65.701 inclusive”).

CONCLUSION

For the reasons stated above, the Commission should reject Beehive's tariff filing or, in the alternative, suspend and investigate the proposed tariff revision for the full five months and impose an accounting order.

Respectfully submitted,

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February 21, 2006

CERTIFICATE OF SERVICE

I, Otis Robinson, state that copies of the foregoing Petition of AT&T Inc. were delivered via facsimile, e-mail and hand delivery on this day, Tuesday, February 21, 2006, to the following:

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EXHIBIT 1

Beehive Telephone**Exhibit 1**

Comparison of 2004 over 2003 Growth

Source: Worksheet 3 and 4, T-28, June 28, 2005

Rev Rqmt	Local Swtg	Tandem Swtg	Transport Facility	Transport Termination	Total	Yr/Yr Chg
Pre MAG						
UT-2004	\$1,797,125	\$199,842	\$791,221	\$625,386	\$3,413,574	
UT-2003	\$1,349,462	\$150,997	\$798,417	\$409,496	\$2,708,372	26.04%
NV-2004	\$330,440	\$308,147	\$1,452,666	\$538,181	\$2,629,434	
NV-2003	\$204,983	\$191,955	\$1,026,053	\$389,960	\$1,812,951	45.04%
Tot-2004	\$2,127,565	\$507,989	\$2,243,887	\$1,163,567	\$6,043,008	
Tot-2003	\$1,554,445	\$342,952	\$1,824,470	\$799,456	\$4,521,323	33.66%
Grand Tot	\$3,682,010	\$850,941	\$4,068,357	\$1,963,023	\$10,564,331	
Post MAG						
Tot-2004	\$1,414,155	\$507,989	\$2,243,887	\$1,163,567	\$5,329,598	
Tot-2003	\$1,033,212	\$342,952	\$1,824,470	\$799,456	\$4,000,090	33.24%
Grand Tot	\$2,447,367	\$850,941	\$4,068,357	\$1,963,023	\$9,329,688	

Demand	Tandem Minutes	Termination Minutes	Yr/Yr Chg
UT-2004	33,332,495	92,981,029	
UT-2003	16,705,573	45,566,948	104.05%
NV-2004	114,737,148	344,099,468	
NV-2003	75,160,778	225,404,928	52.66%
Tot-2004	148,069,643	437,080,497	
Tot-2003	91,866,351	270,971,876	61.30%
Grand Tot	239,935,994	708,052,373	

EXHIBIT 2
(REDACTED)