

GERALD HOWE 10/23/2012

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

| | | |
|------------------------------|---|-----------------------|
| BIG RIVER TELEPHONE |) | |
| COMPANY, LLC, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| vs. |) | Case No. TC-2012-0284 |
| |) | |
| SOUTHWESTERN BELL TELEPHONE, |) | |
| d/b/a AT&T MOBILE, |) | |
| |) | |
| Respondent. |) | |

DEPOSITION OF GERALD HOWE
TAKEN ON BEHALF OF RESPONDENT
OCTOBER 23, 2012

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I N D E X

WITNESSES

ALL WITNESSES:

PAGE:

For Respondent:

Gerald Howe:

Direct Examination by Mr. Germann

5:10

EXHIBITS

NO.: DESCRIPTION:

PAGE:

For Respondent:

1 Big River's first supplemental responses
to AT&T's first set of interrogatories:
(Retained by court reporter)

10:23

2 Rebuttal testimony:
(Retained by court reporter)

26:1

3 Article from Connected Planet:
(Retained by court reporter)

31:9

4 Big River Telephone Company, Missouri
P.S.C. Tariff No. 1:
(Retained by court reporter)

49:17

5 Big River Telephone Company Master Service
Agreement:
(Retained by court reporter)

51:9

6 Cover Letter to the Minnesota Public
Service Commission:
(Retained by court reporter)

55:23

7 Big River's annual report:
(Retained by counsel)

62:1

8 Direct Testimony:
(Retained by court reporter)

67:14

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

BIG RIVER TELEPHONE)
COMPANY, LLC,)
Complainant,)
vs.) Case No. TC-2012-0284
SOUTHWESTERN BELL TELEPHONE,)
d/b/a AT&T MOBILE,)
Respondent.)

DEPOSITION OF GERALD HOWE, produced, sworn, and
examined on October 23, 2012, between the hours of
eight o'clock in the forenoon and six o'clock in the
afternoon of that day, at the office of Big River
Telephone Company, LLC, 12444 Powerscourt Drive, Suite
270, St. Louis, Missouri, before Stephanie D. Darr, a
Certified Shorthand Reporter and Notary Public within
and for the State of Missouri, in a certain cause now
pending before the Public Service Commission, State of
Missouri in re: BIG RIVER TELEPHONE COMPANY, LLC vs.
SOUTHWESTERN BELL TELEPHONE, d/b/a AT&T MOBILE; on
behalf of the Respondent.

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1 IT IS HEREBY STIPULATED AND AGREED by
2 and between counsel for the Complainant and counsel
3 for the Respondent that this deposition may be taken
4 in shorthand by Stephanie D. Darr, CCR and Notary
5 Public, and afterwards transcribed into printing, and
6 signature by the witness expressly waived.

7 * * * * *

8 (WHEREIN, deposition proceedings began
9 at 1:03 p.m.)

10 GERALD HOWE,
11 of lawful age, produced, sworn, and examined on behalf
12 of Respondent, deposes and says:

13 EXAMINATION

14 QUESTIONS MR. GERMANN:

15 Q. Good afternoon, Mr. Howe. I'm Hans
16 Germann. I'm an attorney for AT&T Missouri. Have you
17 been deposed before?

18 A. In this case?

19 Q. No. In any case?

20 A. Yes.

21 Q. When was the last time you were
22 deposed?

23 A. Sitting here I can't recall.

24 Q. Has it been a while though?

25 A. I think so.

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1 Q. I would distinguish it from lease.
2 That's a distinction I have drawn.

3 A. Yeah. In some cases we lease the
4 connection.

5 Q. Are there cases where Big River owns
6 that connection?

7 A. I can't think sitting here.

8 MR. GRYZMALA: I'm sorry?

9 THE WITNESS: I can't think sitting
10 here if there are any.

11 Q. (By Mr. Germann) In those cases where
12 a Big River retail customer has IP customer premises
13 equipment, and can I use the term CPE for that?

14 A. Uh-huh.

15 Q. Is that okay?

16 A. Yes.

17 Q. Okay. I just didn't want to use too
18 many acronyms here. Where a Big River customer has IP
19 CPE, does Big River generally use a cable company's
20 facilities to reach that customer, or to reach that
21 customer's home?

22 A. Yes. Sometimes we do use a cable
23 company's facility to reach those customers.

24 Q. Is that in the majority of cases for
25 those customers?

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1 A. Yes. I think so.

2 Q. What about -- well, can you give me an
3 example of where Big River serves an end user customer
4 that has IP CPE and Big River is not using the last
5 mile facility of a cable company?

6 A. We've used DSL or possibly wireless.

7 Q. In Missouri specifically does Big
8 River use all three of those, cable company, DSL or
9 wireless?

10 A. I'm not sure if we use wireless in
11 Missouri.

12 Q. Switching gears and going back to the
13 set of customers that does not have CPE that converts
14 signals to Internet protocol. With respect to those
15 customers, are there retail customers with respect to
16 whom Big River owns the last mile facility?

17 A. That's probably similar to the answer
18 I gave to the previous question. Not that I can sit
19 here and think of where we have ownership of the last
20 mile.

21 Q. And you mentioned local wholesale
22 complete and resale. Are there cases where Big River
23 releases a UNE loop from an incumbent carrier?

24 A. Not under those two arrangements.

25 Q. Apart from those two arrangements, are

1 Exhibit 2, this is your rebuttal testimony, is it not?

2 A. Yes.

3 Q. Okay.

4 A. It appears that it's my rebuttal
5 testimony.

6 Q. Filed in this case. So I take it
7 you've seen this before?

8 A. Yes.

9 Q. Okay. I'm going to ask you, please,
10 to turn to Page 4. I'm looking in particular at the
11 first five lines at the top of the page. Beginning on
12 line three it states Big River, however, is not and
13 has never claimed to be an interconnected VoIP service
14 provider. So does Big River provide interconnected
15 VoIP service?

16 A. No.

17 Q. What is it about Big River's telephone
18 service that does not make it interconnected VoIP
19 service?

20 MR. HOWE: I'm going to object to the
21 question as it calls for a legal conclusion and
22 statutory interpretation. Subject to that you can
23 answer.

24 A. One, in the State of Missouri if you
25 do provide interconnected VoIP service you have to

1 register with the state. We are not registered with
2 the state to provide that service.

3 Q. (By Mr. Germann) Were you done with
4 your answer? I didn't want to interrupt if you
5 weren't.

6 A. Yes.

7 Q. What about outside of Missouri, does
8 Big River provide interconnected VoIP service in other
9 states?

10 MR. HOWE: Same objection. Subject to
11 that.

12 A. No.

13 Q. (By Mr. Germann) What if Big River
14 were to obtain a certificate from Missouri to provide
15 interconnected VoIP service, would its telephone
16 services or some of its telephone services qualify as
17 interconnected VoIP service?

18 MR. HOWE: I'm going to object as
19 calling speculation.

20 Q. (By Mr. Germann) Could you answer,
21 please?

22 A. Restate the question.

23 MR. GERMANN: Could you read it back,
24 please.

25 (WHEREIN, question was read back by

1 court reporter.)

2 A. I would guess that would.

3 Q. (By Mr. Germann) I'll just go on.
4 With respect to customers in Missouri served by Big
5 River who have IP customer premises equipment, if Big
6 River were registered or certificated as an
7 interconnected VoIP provider, would that service be
8 interconnected VoIP service?

9 MR. HOWE: I'm going to object again
10 as calling for speculation and legal conclusion,
11 statutory interpretation. You can answer it subject
12 to that.

13 A. Some of it could and some of it might
14 not.

15 Q. (By Mr. Germann) With respect to Big
16 River customers that have IP customer premises
17 equipment where their telephone calls are converted to
18 IP format at the customer premises, is there a
19 broadband connection to those customer's location?

20 A. I think so.

21 Q. Are those customers using IP
22 compatible customer premises equipment?

23 A. Yes. As you stated as a premise of
24 your question that would be the case.

25 Q. And the telephone service that Big

1 River provides over that connection, does that allow
2 Big River customers to engage in two way voice
3 communications?

4 A. In some cases, yes.

5 Q. In real time as people talk? In real
6 time communication?

7 A. In some cases, yes.

8 Q. Are there cases where a Big River
9 customer does not have that capability to engage in a
10 real time two way voice communication?

11 A. Yes.

12 Q. Can you tell me in what circumstances
13 would a customer not have that capability?

14 A. Faxes, calling an information service,
15 calling messaging to replay a message, calling any
16 type of service where there is not a live person on
17 the other end to talk to.

18 Q. Let me clarify and reask the question
19 because I'm asking more broadly about the capabilities
20 provided to Big River customers. So are there cases
21 where Big River provides a customer only fax service
22 using IPC PE and the customer is unable to make voice
23 telephone calls?

24 A. There might be.

25 Q. Are you aware of any fax only

1 customers?

2 A. Not sitting here, no.

3 Q. Are you aware of any customers, any
4 retail customers with IP CPE whose service plan does
5 not allow them to make voice telephone calls?

6 A. I'm not aware of any.

7 Q. Is it safe to say that the majority of
8 Big River retail customers with IP CPE have the
9 ability to make voice telephone calls?

10 A. Yes.

11 Q. And that voice telephone service
12 includes the ability to make telephone calls to people
13 who are served on the PSTN?

14 A. Yes.

15 Q. And to receive calls from persons
16 calling from the PSTN?

17 A. Yes.

18 Q. I'm going to come back to Exhibit 2.
19 But first I'd like to go to another exhibit, if I can
20 find it.

21 MR. HOWE: You can get that marked,
22 and I'm going to take a quick break.

23 MR. GERMANN: Can you mark that as
24 Exhibit 3.

25 (WHEREIN, Respondent's Exhibit 3 was

1 interexchange telecommunication services in Minnesota.
2 So in 2007 did Big River apply for a certificate to
3 provide local and interexchange telecommunication
4 services in Minnesota?

5 A. Yes.

6 Q. Do you know if that application was
7 granted?

8 A. Yes.

9 Q. And does Big River currently provide
10 telephone service in Minnesota?

11 A. I believe we do.

12 Q. I'm going to count in pages because
13 these are not -- let me see if it is numbered. I'm
14 looking at attachment four, which I think is about the
15 ninth page in. It says Attachment 4, Technology and
16 Service Plan?

17 A. Yes.

18 Q. Now this attachment describes how Big
19 River proposed to provide telephone service in
20 Minnesota; is that correct?

21 A. Yes.

22 Q. And the first sentence of the second
23 paragraph states the customers will be accessed
24 through the broadband connections of local Cable T.V.
25 operators, with whom Big River will have a contractual

1 relationship for installation, maintenance and
2 support. Does that describe how Big River currently
3 provides service in Minnesota?

4 A. I'm not aware. If we're providing
5 service that would probably apply.

6 Q. Does Big River provide service in this
7 manner in other states? To be clear, when I say in
8 this manner I mean in the broadband connections of
9 local cable T.V. operators?

10 A. Yes.

11 Q. The next sentence here states the
12 cable T.V. operator will put a device called a
13 Multi-Terminal Adaptor, MTA, at the customer's
14 premises. Is this MTA device similar to the -- is
15 this the same CPE that Big River uses in other states
16 where it provides telephone service using broadband
17 connection?

18 A. It's the same type or category device.

19 Q. Right below Figure 4-1, the first
20 sentence there is once the call is originated by the
21 customer via the MTA, the call will be carried via the
22 managed IP network of the cable T.V. operator to Big
23 River's switching center, or gateway. Now, in other
24 states where Big River provides telephone service to
25 customers using the broadband connection of a local

1 cable operator, is that generally how calls are
2 carried when they're originated by the customer?

3 A. Yes.

4 Q. Okay. I take it at the Big River
5 switching center, is that a place where there would be
6 routers?

7 A. Yes.

8 Q. Looking back at Attachment 7, Billing.
9 The third sentence begins as the vast majority of
10 customers. It says as the vast majority of customers
11 sign up for Big River's Local and Unlimited Long
12 Distance plan which also includes, and then it goes
13 on. Really my question is in the other states where
14 Big River provides telephone service to its customers
15 using the broadband connection of a cable operator, do
16 most of those customers sign up for both local and
17 unlimited long distance service?

18 A. Yes.

19 Q. Then I'm flipping back to Attachment
20 19, which is from the end, it's the fourth page from
21 the end. Attachment 19, Jurisdictions Where Big River
22 Offers Services. There are, what, eight states listed
23 here. At the time when this was filed were these the
24 only states where Big River provided retail local and
25 interexchange service?