

Exhibit No.:
Issue: Expansion of Authority
Witness: Gerard J. Howe
Sponsoring Party: Big River Telephone
Company, LLC

Type of Exhibit: Direct Testimony
Case No.: TA-2007-0093

BIG RIVER TELEPHONE COMPANY, LLC

DIRECT TESTIMONY

OF

GERARD J. HOWE

TA-2007-0093

FILED²

MAR 07 2007

December 15, 2006

Missouri Public
Service Commission

Big River Exhibit No. 3-A
Case No(s). TA-2007-0093
Date 2/13/07 Rptr NW

1 STATE OF Missouri)
2) SS.
3 COUNTY OF ST LOUIS)
4

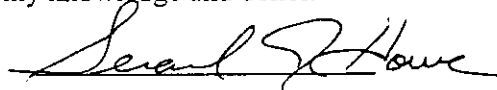
5 BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
6

7 In the Matter of the Application of Big)
8 River Telephone Company, LLC to)
9 Expand its Certificate of Basic Local)
10 Service Authority to include provision) Case No. TA-2007-0093
11 of Basic Local Exchange)
12 Telecommunications Services in the)
13 Exchanges of BPS Telephone Company)
14 and to Continue to Classify the)
15 Company and its Services as)
16 Competitive.)
17

18 **AFFIDAVIT OF GERARD J. HOWE**
19

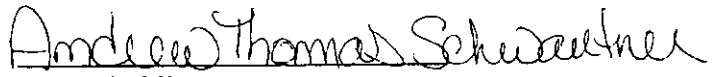
20 COMES NOW Gerard J. Howe, of lawful age, sound of mind and being fist duly
21 sworn, deposes and states:
22

- 23 1. My name is Gerard J. Howe. I am the CEO for Big River Telephone Company,
24 LLC.
25 2. Attached hereto and made a part hereof for all purposes is my Direct Testimony
26 in the above-referenced case.
27 3. I hereby swear and affirm that my statements contained in the attached
28 testimony are true and correct to the best of my knowledge and belief.
29

30 
31

32 Gerard J. Howe
33

34
35 SUBSCRIBED AND SWORN to before me, a Notary Public, this 15th day of
36 December, 2006.
37

38 
39 Notary Public
40

41 My Commission Expires: 5/31/2010
42 (SEAL)

ANDREW THOMAS SCHWANTNER
Notary Public - Notary Seal
STATE OF MISSOURI
Jefferson County
Commission #06893876
My Commission Expires 5 / 31 / 2010

**PRE-FILED DIRECT TESTIMONY
OF
GERARD J. HOWE**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A.**My name is Gerard J. Howe. My business address is 24 So. Minnesota Ave., Cape
3 Girardeau, Missouri, 63703.

4 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

5 **A.**I am the CEO of Big River Telephone Company and have been employed there in that
6 capacity since December 21, 2001.

7 **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

8 **A.**Prior to joining Big River, I worked in the telecommunications industry for 23 years, 18
9 of which as an executive with Southwestern Bell Telephone Company, now known as
10 AT&T. Immediately prior to joining Big River, I was the President and Chief
11 Operating Officer of Gabriel Communications, which was a full service
12 telecommunications company that operated in 13 states, and is now known as NuVox.
13 Prior to joining Gabriel, I was the Senior Vice President in charge of Financial
14 Operations at Brooks Fiber Properties. Brooks Fiber was a leading full-service
15 provider of competitive local and long distance communications services in 44

1 metropolitan areas across the U.S. Brooks constructed and operated digital fiber
2 networks providing high speed data, voice and video services to businesses and
3 governmental entities. During my tenure at Southwestern Bell, I held a variety of
4 positions in finance, regulatory, Information Technology and Customer Service. From
5 1993 through 1995, I served as the Chief Financial Officer of SBC Cablecomms, U.K.,
6 a competitive cable/telephone service provider in the U.K. I have a B.S. in
7 Mathematics from Southern Illinois University and an MBA from St. Louis University.
8 My full CV is attached as Exhibit A.

9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10 **A.** The purpose of my testimony is to support the Application of Big River to expand its
11 service territory to include provision of basic local exchange telecommunications
12 services in the exchanges of Bernie, Parma and Steele, all of which are served by
13 incumbent BPS Telephone Company.

14 **Q. PLEASE DESCRIBE THE CORPORATE STRUCTURE OF BIG RIVER.**

15 **A.** Big River is a limited liability company duly organized and existing under and by
16 virtue of the laws of the State of Delaware. It is a privately-owned entity with no other
17 affiliate companies. Big River has been duly authorized to conduct business in the
18 State of Missouri. Exhibit B attached hereto is a copy of Big River's certificate of good
19 standing and authority to conduct business in the State of Missouri.

1 **Q. PLEASE DESCRIBE BIG RIVER'S OPERATIONAL HISTORY.**

2 **A.** Big River began operations upon the completion of a PSC-approved acquisition of
3 LDD, Inc. on December 21, 2001 (See Case No. TM-2001-700, copy of order attached
4 hereto as Exhibit C) and has been successfully running the business for the past five
5 years. Prior to the acquisition by Big River, LDD, Inc. had been a long distance
6 provider since 1983 and had initiated local telephone service in 1999. LDD and its
7 employees, essentially all of which Big River retained, had a significant amount of
8 operational experience and infrastructure to provide reliable local and long distance
9 telephone services. Big River augmented the existing LDD work force with the
10 introduction of key management personnel that brought additional telecommunications
11 management experience to Big River's operations. Big River currently has
12 approximately 50 employees.

13 **Q. DOES BIG RIVER HAVE THE TECHNICAL AND MANAGEMENT**
14 **CAPABILITY TO OPERATE IN THE EXPANDED TERRITORY?**

15 **A.** Yes, Big River remains managerially and technically qualified to provide basic local
16 telecommunications services in the State of Missouri. Since it commenced operations
17 in 2001, it has been successfully providing basic local and advanced telephone services.
18 I have attached hereto as Exhibit D, the biographies of some of the other key
19 management personnel of Big River.

1 **Q. WHAT IS THE CURRENT SCOPE OF BIG RIVER'S LOCAL SERVICE**
2 **AUTHORITY IN THE STATE OF MISSOURI?**

3 **A.** In 2001, the Commission granted Big River's initial authority to provide basic local
4 exchange telecommunications service in the service territory of AT&T, formerly
5 Southwestern Bell Telephone, as well as interexchange and non-switched local
6 exchange service throughout the State in Case No. TA-2001-699. On September 28,
7 2003, in Case No. LA-2003-0551, Big River's service territory was expanded when it
8 was granted authority to provide basic local exchange telecommunications service in
9 the territory served by CenturyTel of Missouri and Spectra Communications Group.
10 The Commission authorized Big River to expand its basic local service territory to
11 include the areas served by Sprint Communications (now Embarq) on July 25, 2005 in
12 Case No. TA-2005-0415. Copies of these Commission orders are attached hereto as
13 Exhibits E, F and G.

14 **Q. IS BIG RIVER SEEKING TO CHANGE ITS EXISTING CLASSIFICATION AS**
15 **A CLEC OR THE MANNER IN WHICH IT IS REGULATED?**

16 **A.** No. Big River has operated as a CLEC and this request anticipates that it will continue
17 to operate as a CLEC. It is and will remain a competitive company offering competitive
18 services, as previously determined by the Commission. Under its current authority to
19 operate, Big River was granted waivers from various statutes and Commission rules.
20 We request that those waivers remain in effect throughout the expanded service
21 territory as well.

1 **Q. WHERE DOES BIG RIVER OPERATE IN THE STATE OF MISSOURI?**

2 A. Big River is currently authorized to, and does, provide basic local exchange
3 telecommunications service within the service territory of AT&T, pursuant to approved
4 tariffs. Big River is currently authorized to provide basic local exchange
5 telecommunications services within the service territory of Sprint, CenturyTel and
6 Spectra and is completing the process of making necessary arrangements to provide
7 service there. Copies of Big River's current tariffs are attached hereto as Exhibit H.

8 **Q. DOES BIG RIVER OPERATE OUTSIDE OF THE STATE OF MISSOURI?**

9 A. Yes. In addition to local and long distance services provided across a number of
10 communities in Missouri, Big River currently provides local and long distance
11 telephone service in Arkansas, Kentucky, Mississippi and Tennessee. Big River will
12 soon be rolling out local and long distance services in Illinois, Kansas and Nebraska, as
13 well.

14 **Q. DOES BIG RIVER OPERATE IN THE TERRITORY OF SMALL**
15 **INCUMBENT TELEPHONE COMPANIES IN THE OTHER STATES IT**
16 **OPERATES?**

17 A. Yes, we do. In Kentucky and Tennessee, Big River has been operating in service
18 territories of three small independent local telephone companies under the same rules as
19 it does with larger incumbents in those states such as BellSouth. We have been able to

1 successfully co-exist, compete and interconnect with each of the independent telephone
2 companies in whose territories we operate in those states.

3 **Q. WHAT AREA SPECIFICALLY WILL BIG RIVER SERVE IF IT RECEIVES**
4 **AUTHORIZATION IN THIS DOCKET?**

5 **A.** Big River will provide service throughout the entire service area of BPS' exchanges in
6 Bernie, Parma and Steele, Missouri. Big River's new exchanges will follow the
7 boundaries of BPS's respective exchanges and will not be smaller than BPS's respective
8 exchanges.

9 **Q. HOW DOES BIG RIVER INTEND TO PROVIDE SERVICE THROUGHOUT**
10 **THE EXPANDED SERVICE TERRITORY?**

11 **A.** Big River currently partners with various cable television companies and provides
12 packet-based telephone service over the hybrid fiber coax network of its cable partners.
13 Currently, Big River provides service to approximately 4,500 customers by accessing
14 the customer's premise via a hybrid fiber coax connection. Big River already has
15 network access agreements with the Cable TV operators that are franchised and provide
16 service in Bernie, Parma and Steele.

17 To the extent that some areas of the exchanges do not have access to the network of one
18 of our Cable partners, Big River intends to enter an Interconnection Agreement with
19 BPS Telephone that will allow us to lease network access wholesale from BPS and

1 resell services to those few end-user customers that are not accessible via the cable TV
2 network.

3 Using the access to the customer via the network of our Cable TV partner, Big River
4 will provide all basic switching, as well as all basic and advanced telephone features
5 and ancillary telephone services from Big River's switching center in Cape Girardeau,
6 Missouri.

7 **Q. DOES BIG RIVER CURRENTLY PROVIDE SERVICES IN SUCH A**
8 **MANNER?**

9 **A.** Yes. Big River currently provides basic and advanced telephone service to
10 approximately 4,500 customers that are located in southeast Missouri, western and
11 central Kentucky, western Tennessee, and northern Mississippi. The service is as
12 reliable and provides the same level of quality as traditional telephone service provided
13 over a twisted pair network. Big River's service currently meets Commission standards
14 and will continue to do so in the new exchanges.

15 **Q. WHAT TYPES OF SERVICES AND FEATURES WILL BE PROVIDED WITH**
16 **BIG RIVER'S SERVICE IN BPS' TERRITORY?**

17 **A.** Big River provides basic local service that consists of a two-way switched voice single
18 residential line with touch tone dialing and access to all advanced and CLASS features.
19 Our local calling scope will match the expanded calling scope included in BPS' local

1 exchange tariff. We will offer throughout the BPS exchanges all telecommunications
2 services which the Commission has determined are essential for purposes of qualifying
3 for state universal service fund support. (See 4 CSR 240-31.010(6)). Our customers
4 will have access to Enhanced 911 services via connectivity to the 911 Selective Router
5 located in Sikeston that serves these communities. Big River already has connectivity
6 and provides Enhanced 911 services using the 911 Selective Router located in Sikeston
7 that serves Bernie, Parma and Steele. In addition, Big River's customers will have
8 access to basic local operator services, basic local directory assistance, equal access
9 (presubscribed '1+' dialing) to the long distance provider of their choice (including a
10 full variety of long distance services from Big River), and standard intercept service.
11 Our customers will be provided a standard white pages directory listing for inclusion in
12 the white page directory covering the community in which they live. Also, any
13 customer will be able to elect to block outbound toll calls from their phone line, as well
14 as other toll restriction services such as International and '900' call blocking.

15 Big River will continue to offer basic local service as a separate and distinct service,
16 including in the new exchanges.

17 **Q. DOES BIG RIVER HAVE THE FINANCIAL CAPABILITY TO MANAGE THE**
18 **EXPANSION INTO THIS ADDITIONAL TERRITORY AND OPERATE IT**
19 **EFFECTIVELY?**

1 **A.** Big River has substantial experience in expanding into new service territories. We are
2 well aware of the financial and operational costs associated with the expansion into
3 BPS territory and will be able to handle such costs with existing operating cash flow. I
4 have attached, as Exhibit I, an Income Statement and Balance Sheet for the
5 consolidated operations of Big River for the 12 month period ending September 30,
6 2006 for the Commission's review. This Exhibit is classified as proprietary under the
7 protective order issued in this case, because it is confidential and private financial and
8 business information.

9 **Q. HOW DOES BIG RIVER INTEND TO MARKET ITS SERVICES IN THESE**
10 **NEW AREAS?**

11 **A.** Big River advertises its services through a number of media. Big River will advertise
12 our services on television, radio and in local print media. We will also communicate
13 the availability of our services, service features, and outline packages and pricing via
14 direct mail. The details of our offers will also be available on our website.

15 Big River will also leverage our working relationship with the cable TV operator in this
16 new service territory. As such, we will work with them to advertise our services over
17 their cable TV network as well as the possibility of using billing inserts with their cable
18 TV service bills. Also, we will have point of sale information available in the offices of
19 our cable TV partners located in the area.

1 Finally, we will encourage the customers that we do sign up, to encourage their
2 neighbors and friends to consider Big River for telephone service. In most cases, Big
3 River will allow our cable partner to contract the services for us with the customer.

4 We will advertise the availability of essential services and the charges therefore using
5 media of general distribution.

6 **Q. HOW WILL THE PUBLIC INTEREST BE SERVED BY ALLOWING BIG**
7 **RIVER TO EXPAND INTO THE SERVICE TERRITORY OF BPS?**

8 **A.** Big River will bring new services as well as existing services at lower prices than what
9 are currently available from BPS. While BPS provides a wide range of basic and
10 advanced telephone services, Big River will leverage the capabilities of its Voice Over
11 IP switching infrastructure to bring integrated voice and data offerings to residential
12 and business customers in Bernie, Parma and Steele. Further, Big River will establish
13 packages and pricing of its services differently than BPS currently does. For instance,
14 one of Big River's most popular packages is for local telephone service, including
15 touch-tone capability, caller-ID, three-way calling, call forwarding, call waiting, voice
16 mail and unlimited domestic long distance services.

17 We also offer a limited long distance package with all of the telephone features
18 mentioned in the package above, but with 60 minutes of domestic long distance calling
19 per month.

1 Bottom line, telephone customers in Bernie, Parma and Steele will benefit from a wider
2 availability of services and packages from which to select. They will benefit from the
3 fact that Big River will be leveraging the existing cable TV network that is already
4 capable of supporting telephone services, coupled with Big River's switching and
5 service platform located in Cape Girardeau.

6 The Commission granted Big River its current certificates of service authority, based in
7 part upon finding that such action was in the public interest. The grant of this
8 Application will also further the public interest by increasing equitable access for
9 Missourians, regardless of where they live or their income, to affordable
10 telecommunications services. Big River's proposed services will create and enhance
11 competition and expand customer service options consistent with the legislative goals
12 set forth in the Federal Telecommunications Act of 1996 and Chapter 392 RSMo. In
13 particular, the public will benefit directly through the use of the competitive basic local
14 exchange service to be offered by Big River. The public will also benefit indirectly
15 because the competitive presence of Big River will increase the incentives for the
16 incumbent and others to operate more efficiently, offer more innovative services,
17 reduce prices, and improve the quality and coverage of services.

18 Granting this Application will promote the availability of quality services and increased
19 consumer choice. Big River's expertise in telecommunications will allow it to provide

1 economic and efficient services in the new service area, thereby affording more
2 customers with an optimal combination of price, quality, and customer service. Big
3 River anticipates that expansion of its basic local service territory will increase
4 consumer choice for innovative, diversified, and reliable service offerings and
5 otherwise further the public interest.

6 **Q. DOES BIG RIVER INTEND TO PROVIDE ITS SERVICES UNDER TARIFFS**
7 **FILED WITH THE COMMISSION?**

8 **A.** Yes. Big River currently provides and intends to continue providing its telephone
9 services under tariffs filed with the Commission. In fact, Big River will comply with
10 all of the requirements of §392.451 that an applicant must meet in order to be granted a
11 certificate to provide basic local telecommunications service in an area that is served by
12 a small, incumbent local exchange telecommunications company. Big River has
13 requested additional time to file its proposed tariff changes in order to have all
14 necessary arrangements in place. Big River will file tariffs in a manner consistent with
15 Commission requirements before providing basic local service in the BPS exchanges.

16 **Q. HOW DOES THE EXISTENCE OF YOUR WAIVERS FROM CERTAIN**
17 **STATUTES AND COMMISSION RULES ALLOW BIG RIVER TO 'COMPLY**
18 **WITH ALL OF THE SAME RULES AND REGULATIONS AS THE**
19 **COMMISSION MAY IMPOSE ON THE INCUMBENT LOCAL EXCHANGE**

1 **TELECOMMUNICATIONS COMPANY WITH WHICH THE APPLICANT**
2 **SEEKS TO COMPETE', AS REQUIRED IN §392.451?**

3 A. The waivers Big River currently operates under and which we seek to preserve are for
4 statutes and rules that were established in the past under an industry structure where the
5 telephone company was a monopoly and regulations were put in place to protect the
6 rate-paying public from potential abuses by a monopoly telephone company. For
7 example, in that past structure, rates had to be established based on costs and the
8 company's book of accounts were structured in such a way as to facilitate the
9 ratemaking process. As such, regulations were put in place to establish a common
10 system for keeping accounts.

11 Further, certain restrictions were placed on the monopoly telephone companies to
12 protect the public interest in regards to capital structure and capital funding activities.
13 The capital structure of monopoly telephone companies where rates were established
14 based on costs, had significant impact on basic telephone rate levels. As a result, the
15 Commission has had long-standing regulations over such capital funding activities.

16 The specific statutes and regulations for which Big River has sought continued waiver
17 in this case are as follows:

1	<u>Statutes</u>	<u>Missouri Public Service Commission Rules</u>
2	392.210.2	4 CSR 240-10.020
3	392.240 (1)	4 CSR 240-30.040
4	392.270	4 CSR 240-3.550(5)(C)
5	392.280	
6	392.290	
7	392.300.2	
8	392.310	
9	392.320	
10	392.330	
11	392.340	
12		

13 Since Big River is in a competitive market, competing against an incumbent provider
14 with essentially 100% market share, Big River's prices will have to be lower in order
15 for it to be successful in the marketplace. Big River will set prices based on a
16 competitive assessment, which eliminates the need for regulations established for rate
17 setting purposes.

18 Big River will comply with all applicable Commission rules, except those that are
19 waived by the Commission, in providing basic local service in the BPS exchanges,
20 including by filing and maintaining tariffs and meeting minimum quality of service and
21 billing standards, as the Commission requires of BPS.

1 Big River will make reports and other informational filings with the Commission as is
2 required of BPS.

3 Section 392.451 does not require the Commission to subject a competitive new market
4 entrant to statutes which were designed for monopoly interests. Further, BPS is free to
5 seek waiver of the same statutes as Big River. The few regulations for which Big River
6 seeks waiver clearly should not apply to it as a CLEC. No public utility will be
7 affected by these waivers.

8 **Q. DOES BIG RIVER UNDERSTAND THAT ITS SWITCHED ACCESS RATES**
9 **ARE RESTRICTED?**

10 A. Yes. Notwithstanding the provisions of Sections 392.500 and 392.510 R.S.Mo., as a
11 condition of the requested certification and competitive classification, Big River agrees
12 that, unless otherwise ordered by the Commission, Big River originating and
13 terminating switched exchange access rates in the new service area will be no greater
14 than the lowest Commission-approved corresponding access rates in effect for BPS in
15 its service area. Additionally, pursuant to the Commission's Report and Order in Case
16 No. TO-99-596, Big River agrees that if BPS decreases its current originating and/or
17 terminating access service rates, Big River shall file an appropriate tariff amendment to
18 reduce its corresponding originating and/or terminating access rates within thirty (30)
19 days of BPS's reduction of its originating and/or terminating access rates in order to

1 maintain aforesaid cap on switched exchange access rates. Big River agrees that,
2 absent contrary legal authority, any increase in switched access rates above the
3 aforesaid maximum shall be subject to Section 392.200 RSMo and cost-justified
4 pursuant to Sections 392.220 and 392.230 RSMo.

5 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

6 **A.** Yes.

CURRICULUM VITAE

Gerard J. Howe
Big River Telephone Company, LLC
24 S. Minnesota Ave
Cape Girardeau, MO 63703
(573) 651-3373

EDUCATION

St. Louis University, St. Louis, MO.
MBA (Finance), 1982.

Southern Illinois University, Edwardsville, Il.
BS (Mathematics), 1977.

EMPLOYMENT AND POSITIONS

BIG RIVER TELEPHONE COMPANY; Chief Executive Officer, 2001 – 2006.
Oversee all operations of company and direct strategic initiatives.

GABRIEL COMMUNICATIONS; President, Chief Operating Officer, 1998 – 2001.
Oversaw all operations of the company and provided input to strategic direction and supported financial policies and capital funding efforts.

BROOKS FIBER PROPERTIES; Sr. Vice President Finance, 1996-1998.
Oversaw financial operations of company, established finance and accounting policies, implemented and managed finance systems and coordinated finance/accounting policies with all departments of the company. Also managed daily accounting, finance and treasury operations.

SOUTHWESTERN BELL YELLOW PAGES; Sr. Vice President Customer Services, 1995-1996.
Managed customer service / call center operations. Established customer service policies and operational objectives.

SBC CABLECOMMS(UK); Vice President, Chief Financial Officer, 1993-1995.
Oversaw all accounting, finance, and treasury operations for the company. Established finance and accounting policies, implemented finance/accounting systems, and integrated accounting policies across all departments of the company. Also oversaw Human Resources and Regulatory departments and related responsibilities and policies.

SOUTHWESTERN BELL YELLOW PAGES; Vice President, Chief Financial Officer, 1990-1993.

Oversaw all accounting, finance, and treasury operations for the company. Responsibilities included establishing finance and accounting policies, implemented finance/accounting systems, and integrated accounting policies across all departments of the company. Directed strategic and long range planning, as well as oversaw Security and Corporate Administrative functions.

SBC CORPORATION; Director-Earnings Requirements, 1987-1990.

Sr. Manager-Earnings Requirements / Capital Research, 1985-1987.

Responsible for capital market research, directed econometric analysis of domestic US economy, developed finance policies, and established annual and long range earnings objectives for SBC and each operating business unit.

Manager-Internal Audit, 1984-1985.

Oversaw and conducted audits of various operations of SBC corporate activities as well as its unregulated subsidiaries.

SOUTHWESTERN BELL TELEPHONE COMPANY; Manager-Auditor, 1983-1984.

Oversaw corporate wide audit of divestiture of Southwestern Bell Telephone Company from AT&T, specifically managed team of auditors that oversaw the establishment of a shared network facilities agreement between Southwestern Bell Telephone and AT&T for the management of shared networks subsequent to divestiture and assured compliance with federal court order.

Manager-EDP Auditor, 1982-1983.

Conducted audits of internal EDP systems and related operational functions

Specialist-Auditor (Missouri Operations), 1982-1983.

Conducted financial and operational audits of Southwestern Bell Telephone Company's operations in the state of Missouri.

Specialist-Labor Cost Accounting, 1980-1982.

Established accounting procedures and coordinated requirements with IT organization for the accounting of all network installation and maintenance technicians and related department costs to the appropriate network investment and cost accounts.

Asst. Staff Manager-Cost Accounting, 1977-1980.

Designed and developed accounting software applications for the input of detail accounting transaction data into the company's property and cost accounting systems.

STATE OF MISSOURI



Robin Carnahan
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

BIG RIVER TELEPHONE COMPANY, LLC

using in Missouri the name

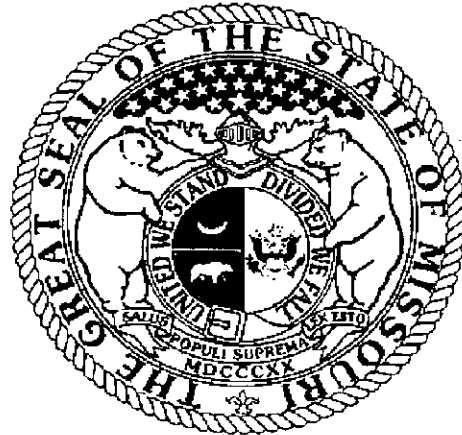
**BIG RIVER TELEPHONE COMPANY, LLC
FL0051606**

a DELAWARE entity was created under the laws of this State on the 4th day of June, 2001, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 13th day of December, 2006

A handwritten signature in cursive script that reads "Robin Carnahan".

Secretary of State



Certification Number: 9260876-1 Reference:
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Big River Telephone Company, LLC, and LDD, Inc., for Approval of the Transfer of Assets and Subscribers of LDD, Inc., and for waiver of Commission Rule 4 CSR 240-33.150.) Case No. TM-2001-700

ORDER APPROVING TRANSFER OF ASSETS, GRANTING MOTION FOR EXPEDITED TREATMENT, AND GRANTING A WAIVER OF 4 CSR 240-33.150

This order approves the transfer of assets and subscribers of LDD, Inc., to Big River Telephone Company, LLC, and grants a waiver of Commission rule 4 CSR 240-33.150.

On June 20, 2001, Big River and LDD filed a joint application for approval of the transfer of assets and subscribers of LDD to Big River and for a waiver of Commission rule 4 CSR 240-33.150. LDD was granted a certificate by the Commission in Case No. TA-98-338. The Commission takes notice that Big River has filed a separate application with the Commission on June 20, 2001, in Case No. TA-2001-699, requesting a certificate of service authority to provide basic local, local exchange, and interexchange telecommunications services in Missouri under Sections 392.410-.430, RSMo 2000. The Commission granted the application for certificate of service authority on August 13, 2001.

Applicants further request a waiver of 4 CSR 240-33.150, which requires customer authorization and verification of changes in telecommunications providers. Applicants state that in order to create a seamless transaction for LDD's customers, Big River will offer the same rates, terms, and conditions as LDD, and will adopt LDD's

current tariffs. Simultaneously with the issuance of this order, the Commission is granting LDD's certificate in Case No. TA-2001-699.

The contract for the proposed sale of assets and transfer of customers from LDD to Big River is subject to termination if not closed by August 31, 2001. The applicants filed a Motion for Expedited Treatment, requesting that the Commission make a determination on or before August 15, 2001 to help facilitate its transaction. The Commission determines that the motion should be granted.

The applicants stated that the sale of assets will have no tax impact on any political subdivision in Missouri and that the companies have no pending or final judgments against them from any state or federal agency that involve customer service or rates. Applicants stated that they were current on Missouri assessments and fees and in filing annual reports.

The Commission's Staff filed its recommendation regarding the sale of assets on August 6, 2001. Staff recommended approval of the proposed transactions and recommended that the Commission grant a waiver of the applicable subscribed authorization and verification requirement, 4 CSR 240-33.150, and that the Commission order notice to customers. Staff notes that Big River must obtain interexchange certification prior to the transfer of services due to this transaction. Staff further notes that Big River must have an effective tariff to permit certification to be effective. Big River has applied for basic local, local exchange, exchange access and interexchange telecommunications service authorized in Case No. TA-2001-699. Big River has not made an application for adoption of the IXC or other tariffs of LDD. Staff states that following certification of Big River as an IXC and CLEC with approved tariffs, customer service transfer may proceed. The Staff recommended that Big River be required to adopt LDD's tariff within ten days after the effective date of an order approving the sale of assets. Staff also recommended that the Commission grant the required waiver of 4 CSR 240-33.150. The rule requires, among other things, that no subscriber's selection

of a provider of telecommunications service will be changed without that subscriber's authorization and without the carrier's confirmation of that authorization. Staff stated that it believes that the rule is not intended to be applied in the instant situation, but rather in situations where one company seeks to improperly acquire the subscriber of another for a particular telecommunications service without the approval of the subscriber. Staff notes that this is clearly not the intent in the instant case.

The Staff stated that it has reviewed the application and believes that it meets the requirements of 4 CSR 240-2.060. Staff has no objections to the proposed transaction and recommends that the Commission issue an order approving the proposed sale of assets.

The standard for approval of a sale of assets is that the sale will not be detrimental to the public interest. The Commission has reviewed the application and Staff's recommendations and finds that the proposed sale of assets will have no adverse impact on the Missouri customers of LDD and Big River. The Commission finds that the transaction is not detrimental to the public interest and should be approved. In addition, the Commission finds that the conditions recommended by Staff are appropriate. The Commission also determines that waiver of 4 CSR 240-33.150 is consistent with the purposes of Chapter 392, RSMo, and reasonable so long as the customers of the applicants receive the notice provided in the application. Therefore, the Commission will grant a waiver of 4 CSR 240-33.150.

IT IS THEREFORE ORDERED:

1. That the joint application of Big River Telephone Company, LLC, and LDD, Inc., for approval of a sale of assets is granted.
2. That Big River Telephone Company, LLC, and LDD, Inc., are authorized to take any and all lawful actions necessary to carry out the proposed sale of assets presented to the Commission.
3. That Big River Telephone Company, LLC, shall file an adoption notice,

adopting the tariff of LDD, Inc., in this case no later than August 20, 2001.

4. That the Motion for Expedited Treatment is granted.

5. That waiver of Commission rule 4 CSR 240-33.150, Verification of Orders for Changing Telecommunications Service Provider, is granted.

6. That Big River Telephone Company, shall notify its customers that it has assumed the provision of the telecommunications services in the next regular billing cycle of its customers.

7. That this order shall become effective on August 15, 2001.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law

Judge

(S E A L)

Nancy Dippell, Senior Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 13th day of August, 2001.

Big River Executive Biographies

Kevin Cantwell

Mr. Cantwell is the President of Big River. Mr. Cantwell has over 19 years experience in the information/communications industry, including 11 years at AT&T. Immediately prior to joining Big River, Mr. Cantwell was the Vice-President of Emerging Markets at WorldWide Technology. At WorldWide, Mr. Cantwell developed a business unit focused on the new carriers in the telecommunication industry. His experience and industry knowledge helped formulate a thriving organization that increased its revenues from \$610M in 2000 to almost \$1B dollars in 2001.

Immediately prior to his stint at WorldWide, Mr. Cantwell spent 2 years with Abiliti Solutions as Vice President – Sales. Abiliti Solutions is a leading provider of Telecommunications Billing software for the competitive local telecommunications and long distance providers in the United States. Mr. Cantwell was recruited to Abiliti from Convergys. At Convergys he was the Vice President of Sales and had extensive international experience forging business relationships with PTT's across the globe. His organization was focused on providing Operation Support Services software to Internet service providers.

During his years with AT&T Communications, Mr. Cantwell held a variety of executive positions in the areas of Sales and Marketing. He managed resources throughout the country focused on selling long distance and Internet services to corporate accounts.

Mr. Cantwell has a B.S. in Business and in Education from Central Methodist College and an MBA from Lindenwood University.

Kevin Keaveny

Mr. Keaveny is Vice President - Engineering and Operations at Big River Telephone. Prior to joining Big River, he was Corporate Director of Network Engineering and a co-founder of Gabriel Communications, Inc (now NuVox Communications).

Mr. Keaveny has more than 20 years experience in the telecommunications industry. During his time at Gabriel Communications he held various positions overseeing the Network Management Control Center, field operations and network engineering. At Gabriel, Mr. Keaveny oversaw the company's network capital budget, equipment selection and procurement process and related professional services, as well as vendor relations and contract administration. He led the engineering and installation of 130 co-location sites in Gabriel Communications 13 city network.

Prior to joining Gabriel, Mr. Keaveny served as Director of Network Management for Brooks Fiber Properties where he managed the company's two Network Management Centers. Mr. Keaveny oversaw the monitoring and technical support for more than 600 metro SONET rings, over 3000 SONET transport elements, Class 5 Switch Network and all network telemetry systems. The Network Control Centers were operationally certified by AT&T after passing rigorous network integrity and process compliance testing by company quality auditors.

Mr. Keaveny served in a number of management positions at GTE in the areas of technical support and engineering. From 1984 through 1988, he held various engineering positions with Nortel, and prior to that, at Bell Canada in the Computer Communications Group.

Mr. Keaveny is an Electronics Engineering graduate from DeVry University in Toronto, Canada, as well as attending advanced computer and systems management courses at Maryville University in St. Louis.

John F. Jennings

Mr. Jennings is Vice President and Chief Financial Officer of Big River. Prior to joining Big River Telephone, Mr. Jennings spent 11 years in various Accounting and Finance positions, 6 of which were in the local exchange telecommunications industry. Immediately prior to joining Big River Telephone, Mr. Jennings was the Senior Manager of Operational Accounting at Gabriel Communications. At Gabriel, he oversaw Billing, Revenue and Cost Assurance, Collections, and various general accounting and reporting functions. Prior to joining Gabriel Communications, Mr. Jennings was Assistant Controller at Brooks Fiber Properties.

Mr. Jennings has a B.S. in Business - Accounting from the University of Missouri and is a Certified Public Accountant.

Chris Simmons

Mr. Simmons is General Manager of Big River. Mr. Simmons oversees daily operations and directs all related activities and development of all procedures and integration of all of the Company's systems. Mr. Simmons has seven years experience in telecommunications, specializing in IT system deployment and support, customer service operations, network management and billing operations.

Mr. Simmons has a B.S. in Computer Science from Southeast Missouri State University.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Big River Telephone Company, LLC, for Certificates of Service Authority to Provide Basic Local, Local Exchange, Exchange Access, 2001-699 and Interexchange Telecommunications Services in the State of Missouri and to Classify Said Services and the Company as Competitive. Case No. TA-

**ORDER GRANTING CERTIFICATE TO PROVIDE BASIC LOCAL,
LOCAL EXCHANGE, AND INTEREXCHANGE
TELECOMMUNICATIONS SERVICES**

This order grants a certificate of service authority to provide basic local, local exchange, and interexchange telecommunications services to Big River Telephone Company, LLC.

Procedural History

Big River applied to the Missouri Public Service Commission on June 20, 2001, for a certificate of service authority to provide basic local, local exchange, exchange access and interexchange telecommunications services in Missouri under Sections 392.410 - .450, RSMo 2000.^[1] On the same date, Big River also filed a motion for expedited treatment, requesting that the Commission issue its order in this case prior to August 15, 2001. The Commission takes notice that Big River and LDD, Inc., have filed, in Case No. TM-2001-700, a joint application for approval of the transfer of assets and subscribers of LDD to Big River and for a waiver of Commission Rule 4 CSR 240-33.150.

The Commission issued a notice and schedule of applicants on July 3, 2001, directing interested parties wishing to intervene to do so by August 2, 2001. There

were no applications to intervene. The Staff of the Commission filed a recommendation on August 6, 2001. Staff filed an amendment to its recommendation on August 8, 2001.

Findings of Fact

The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence.

[2] Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the verified application. The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

Big River is a Delaware limited liability company with principal offices located at 24 South Minnesota, Cape Girardeau, Missouri 63072. Commission Rule 4 CSR 240-2.060 requires a foreign company applying for certification to provide telecommunications services to include in its application a certificate from the Secretary of State showing that it is authorized to do business in Missouri, a description of the types of service it intends to provide, a description of the exchanges where it will offer service, and a proposed tariff with a 45-day effective date. Big River has provided the required documentation.

Exhibit B to the application lists the names and qualifications of Big River's management team. In addition to academic credentials, the team members have experience in various areas of the telecommunications industry. Staff stated that in its opinion Big River possesses sufficient technical and managerial experience to provide basic local exchange telecommunications service.

Big River submitted as Exhibit C to its application the necessary financial information. In addition, Staff stated that in its opinion Big River passes the minimum standard to provide basic local exchange telecommunications service.

The Commission finds that Big River possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service.

Big River stated in its application that it will provide services that will meet the minimum basic local service standards required by the Commission, including quality of service and billing standards. In its recommendation, Staff concurs with this allegation. The Commission finds that Big River proposes to offer basic local services that satisfy the minimum standards established by the Commission.

Big River is seeking certification to provide basic local exchange telecommunications services in portions of Missouri that are currently served by Southwestern Bell Telephone Company. Big River is not asking for certification in any area that is served by a small incumbent local exchange carrier (ILEC). Staff stated in its recommendation that in its opinion, Big River has sufficiently identified the geographic area in which it proposes to offer basic local service and that the area follows ILEC exchange boundaries and is no smaller than an exchange. The Commission finds that Big River has sufficiently identified the geographic area in which it proposes to offer service and that Big River has demonstrated that the area follows ILEC exchange boundaries and is no smaller than an exchange.

Big River states that all the services it proposes to offer will be subject to sufficient competition to justify a lesser degree of regulation. Big River is proposing to offer all forms of basic local exchange and interexchange telecommunications service. Big River intends to provide all forms of resold and facilities-based basic local, local exchange, and interexchange telecommunications services in the state of Missouri.

Big River stated that it will offer basic local telecommunications service as a separate and distinct service and that, in compliance with Section 392.455(5), it will provide equitable access, as determined by the Commission, for all Missourians within the geographic area in which it will offer basic local services. In its recommendation,

Staff concurs with this statement. Therefore, the Commission finds that Big River will provide basic local exchange service as a separate and distinct service and that Big River has committed to provide equitable access.

Staff recommends that Big River be classified as a competitive telecommunications carrier. Staff also recommends that Big River's certificate be conditioned upon certain limitations on its ability to charge for its access services and that Big River's certificate become effective when its tariff becomes effective. Staff's recommended conditions are as follows:

- A. If Big River provides access service, its originating and terminating access rates will be no greater than the lowest Commission approved corresponding access rates in effect for each ILEC within whose service area Big River seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230, RSMo.
- B. The service authority and service classification for switched exchange access is granted conditioned on the continued applicability of Section 392.200, RSMo, and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to Sections 392.220 and 392.230, RSMo, and not Sections 392.500 and 392.510, RSMo.
- C. If the directly competing ILEC, in whose service area Big River is operating, decreases its originating and/or terminating access service rates, Big River shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

The Commission finds that there is sufficient evidence to find that Big River and its services should be classified as competitive.

In its Motion for Expedited Treatment, Big River requested that the Commission issue its order in this case prior to August 15, 2001. Staff indicated that it has no objection to the company's request for expedited treatment.

Staff notes that Big River requests that the Commission grant it certificate of

service authority to provide "basic local, local exchange, exchange access and interexchange telecommunications services." Staff points out that neither the Revised Statutes of Missouri nor the Commission's rules provide for a certificate of service authority to provide exchange access alone. However, Staff states that the provision of basic local exchange services allows for the provision of exchange access. Staff also recommends that the Commission approve Big River's certificate of service authority to provide intrastate interexchange services.

Conclusions of Law

Certificate of Service Authority

The Commission has the authority to grant certificates of service authority to provide telecommunications service within the state of Missouri. Big River has requested certification under Sections 392.410 - 392.450, which permit the Commission to grant a certificate of service authority where it is in the public interest. The federal Telecommunications Act of 1996 and Section 392.455 were designed to institute competition in the basic local exchange telecommunications market in order to benefit all telecommunications consumers.^[3]

Section 392.455, RSMo 2000, sets out the requirements for granting certificates to provide basic local telecommunications service to new entrants. A new entrant must: (1) possess sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service; (2) demonstrate that the services it proposes to offer satisfy the minimum standards established by the Commission; (3) set forth the geographic area in which it proposes to offer service and demonstrate that such area follows exchange boundaries of the ILEC and is no smaller than an exchange; and (4) offer basic local telecommunications service as a separate and distinct service. In addition, the Commission must give due consideration to equitable access for all Missourians to affordable telecommunications services,

regardless of where they live or their income.

The Commission finds that Big River meets the statutory requirements for provision of basic local telecommunications services and has stated it will abide by those requirements in the future. The Commission determines that granting Big River a certificate of service authority to provide basic local exchange telecommunications services is in the public interest.

Competitive Classification

Big River requested that its basic local services be classified as competitive and that the application of certain statutes and regulatory rules be waived. The Commission may classify a telecommunications provider as a competitive company if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation.^[4] In making that determination, the Commission may consider such factors as market share, financial resources and name recognition, among others.

^[5] In addition, the Commission may classify a telecommunications company as a competitive telecommunications company only upon a finding that all telecommunications services offered by such company are competitive telecommunications services pursuant to Section 392.361.3. The Commission has found that whether a service is competitive is a subject for case-by-case examination and that different criteria may be given greater weight depending upon the service being considered.^[6]

The Commission finds that competition in the basic local exchange and intrastate interexchange telecommunications market is in the public interest. The Commission has found that all the telecommunications services offered by Big River are competitive telecommunications services and that the telecommunication services Big River proposes to offer are subject to sufficient competition to justify a lesser degree of regulation.

Therefore, the Commission concludes that Big River should be classified as a competitive company.

Waivers and Conditions

Subsection 392.470.1 authorizes the Commission to impose conditions upon a telecommunications service provider which the Commission deems reasonable and necessary and which are in the public interest and consistent with the purposes of Chapter 392. Sections 392.361 and .420 authorize the Commission to modify or suspend the application of its rules and certain statutory provisions for companies classified as competitive or transitionally competitive.

The Commission finds that Big River has met the requirements of 4 CSR 240-2.060 for applicants for certificates of service authority to provide telecommunications services.

Big River requested a waiver of the following statutes: Sections 392.210.2, 392.240(1), 392.270, 392.280, 392.290, 392.300.2, 392.310, 392.320, 392.330, and 392.340. Big River also requested that the application of these Commission rules be waived: 4 CSR 240-10.020, 4 CSR 240-30.010(2)(C), 4 CSR 240-30.040, 4 CSR 240-32.030(4)(C), 4 CSR 240-33.030, and 4 CSR 240-35.

The Commission has found that the telecommunication services Big River proposes to offer are subject to sufficient competition to justify a lesser degree of regulation. The Commission has also found that Big River is a competitive company. Therefore, the Commission determines that Big River should be granted the same waivers of the statutes and rules as the Commission usually grants to competitive companies. The waivers are set out in the ordered paragraph below.

The Commission also finds that the conditions that the Staff recommends are reasonable and necessary to protect the public interest and that they further the purposes of Chapter 392 as stated in Section 392.185. Therefore, the Commission finds

that Big River's competitive classification and certification should be expressly conditioned as recommended by Staff and as ordered below.

IT IS THEREFORE ORDERED:

1. That Big River Telephone Company, LLC, is granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri, subject to the conditions of certification set out below and to all applicable statutes and Commission rules except as specified in this order.

2. That Big River Telephone Company, LLC, is granted a certificate of service authority to provide intrastate interexchange telecommunications services in the state of Missouri, subject to all applicable statutes and Commission rules except as specified in this order.

3. That Big River Telephone Company, LLC, is granted a certificate of service authority to provide local exchange telecommunications services in the state of Missouri limited to providing dedicated private line services, subject to all applicable statutes and Commission rules except as specified in this order.

4. That Big River Telephone Company, LLC, is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived for the provision of basic local telecommunications services:

Statutes

392.210.2	-	uniform system of accounts
392.240.1	-	rates-rentals-service & physical connections
392.270	-	valuation of property (ratemaking)
392.280	-	depreciation accounts
392.290	-	issuance of securities
392.300.2	-	acquisition of stock
392.310	-	stock and debt issuance
392.320	-	stock dividend payment
392.340	-	reorganization(s)
392.330	-	issuance of securities, debts and notes

Commission Rules

4 CSR 240-10.020	-	depreciation fund income
4 CSR 240-30.010(2)(C)	-	posting of tariffs
4 CSR 240-30.040	-	uniform system of accounts
4 CSR 240-32.030(4)(C)	-	exchange boundary maps
4 CSR 240-33.030	-	minimum charges
4 CSR 240-35	-	reporting of bypass and customer-specific arrangements

5. That Big River Telephone Company, LLC, is classified as a competitive telecommunications company. Application of the following statutes and regulatory rules shall be waived for the provision of interexchange and nonswitched local exchange telecommunications services:

Statutes

392.210.2	-	uniform system of accounts
392.240.1	-	rates-rentals-service & physical connections
392.270	-	valuation of property (ratemaking)
392.280	-	depreciation accounts
392.290	-	issuance of securities
392.300.2	-	acquisition of stock
392.310	-	stock and debt issuance
392.320	-	stock dividend payment
392.340	-	reorganization(s)
392.330	-	issuance of securities, debts and notes

Commission Rules

4 CSR 240-10.020	-	depreciation fund income
4 CSR 240-30.010(2)(C)	-	posting of tariffs
4 CSR 240-30.040	-	uniform system of accounts
4 CSR 240-33.030	-	minimum charges
4 CSR 240-35	-	reporting of bypass and customer-specific arrangements

6. That if Big River Telephone Company, LLC, provides access service, its originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange carrier within whose service area Big River is providing service, unless authorized by

the Commission pursuant to Sections 392.220 and 392.230, RSMo 2000.

7. That the certification and competitive status herein granted to Big River Telephone Company, LLC, are expressly conditioned upon the continued applicability of Section 392.200, RSMo 2000, and on the requirement that any increases in switched access service rates above the maximum switched access service rates set out above must be cost-justified pursuant to Sections 392.220 and 392.230, RSMo 2000, rather than Sections 392.500 and 392.510, RSMo 2000.

8. That if a directly competing incumbent local exchange carrier, in whose service area Big River Telephone Company, LLC, is operating, decreases its originating or terminating access service rates, Big River Telephone Company, LLC, shall file an appropriate tariff amendment to reduce its originating or terminating access rates in that directly competing incumbent local exchange carrier's service area within 30 days of the directly competing incumbent local exchange carrier's reduction of its originating or terminating access rates.

9. That this order shall become effective on August 19, 2001.

10. That this case may be closed on August 20, 2001.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Vicky Ruth, Senior Regulatory Law
 Judge, by delegation of authority pursuant
 to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
 on this 13th day of August, 2001.

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- [1] All statutory references are to Revised Statutes of Missouri 2000 unless otherwise indicated.
- [2] *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).
- [3] See Section 392.185.
- [4] Section 392.361.2.
- [5] *In the Matter of the Investigation for the Purpose of Determining the Classification of the Services Provided by Interexchange Telecommunications Companies Within the State of Missouri*, 30 Mo. P.S.C. (N.S.) 16 (1989); *In the Matter of Southwestern Bell Telephone Company's Application for Classification of Certain Services as Transitionally Competitive*, 1 Mo. P.S.C. 3d 479, 484 (1992).
- [6] *Id.* at 487.

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 18th day
of September, 2003.

In the Matter of the Application of Big River Telephone)
Company, LLC, to Expand Its Certificate of Basic Local)
Service authority to Include Provision of Basic Local) **Case No. LA-2003-0551**
Telecommunications Service in CenturyTel and Spectra)
Exchanges and to Continue to Classify the Company)
and Its Services as Competitive.)

**ORDER APPROVING EXPANSION OF
CERTIFICATE OF SERVICE AUTHORITY**

Syllabus: This order expands the certificate of service authority of Big River Telephone Company, LLC, to provide basic local telecommunications services, classifies those services and the company as competitive, and waives certain statutes and regulations.

Procedural History

Big River applied to the Missouri Public Service Commission on June 12, 2003, for permission to expand its certificate of service authority to provide basic local exchange telecommunications services in Missouri. Big River sought to remain classified as a competitive company, and asked the Commission to grant the standard waivers. Also, Big River asked the Commission to temporarily waive 4 CSR 240-3.510(1)(C) to allow it time to obtain interconnection agreements with CenturyTel of Missouri, LLC, and Spectra Communications Group, LLC.

The Commission granted Big River's current certificate in Case No. TA-2001-699. The certificate permits Big River to serve customers in the service territory of Southwestern Bell Telephone Company, as well as interexchange telecommunications services and nonswitched local exchange telecommunications services (limited to providing dedicated, nonswitched local exchange private line services) throughout the state of Missouri. In that same case, the Commission granted Big River competitive classification and the standard waivers. In this application, Big River seeks the additional authority to provide facilities-based and resold basic local exchange telecommunications service in the exchanges comprising the service territories of CenturyTel and Spectra.

On June 16, 2003, Big River filed a motion for a protective order, which the Commission granted by order issued June 17, 2003.

On June 23, 2003, Big River filed a motion for leave to file an amended application, along with the amended application and its additional financial information. The Commission granted leave to file the amended application by order issued July 2, 2003.

On June 24, 2003, the Commission issued a Schedule of Applicants for Basic Local and Nonswitched Local Exchange Service Authority and Opportunity to Intervene. The notice told parties who wished to intervene to file their requests by July 24, 2003. Spectra and CenturyTel filed a timely application to intervene on July 21, 2003, which was later granted by the Commission.

The Staff of the Missouri Public Service Commission filed its recommendation on August 12, 2003. Staff recommended that the Commission expand Big River's current

certificate, grant competitive classification and grant the standard waivers. Staff also recommended the Commission waive Commission Rule 4 CSR 240-3.510(1)(C).

On August 22, 2003, the Commission issued an order that, among other things, directed Spectra and CenturyTel to file a supplemental pleading clarifying whether they object to Big River's application. Spectra and CenturyTel filed a supplemental pleading on August 27, 2003, stating that they do not oppose Big River's application.

Discussion

Big River asks the Commission to expand its certificate to allow it to serve customers in the exchange boundaries of Spectra and CenturyTel. The areas Big River would like to serve are no smaller than an exchange.

The Commission may grant an application for a certificate of service authority to provide basic local telecommunications service upon a showing (1) that the applicant has met the statutory requirements,¹ and (2) that the grant of authority is in the public interest.² The applicant must also comply with the Commission's procedural rules.³

Big River also requests that it and its basic local services be classified as competitive. The Commission may classify a telecommunications service as competitive if the Commission determines that it is subject to a sufficient degree of competition to justify a

¹ See Sections 392.450 and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

² Sections 392.430 and 392.440.

³ See Chapter 2, 4 CSR 240.

lesser degree of regulation.⁴ The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.⁵

In addition, Big River asks the Commission to waive certain statutes and Commission rules. Along with the "standard waivers" it requests, Big River also asks the Commission to temporarily waive 4 CSR 240-3.510(1)(C). The Commission may waive the application of certain statutes and of its rules to a competitive carrier if it determines that such waiver is consistent with the purposes of Chapter 392.⁶

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

A. Requirements of the Commission's Rules:

Commission Rules 4 CSR 240-2.060(1) and 4 CSR 240-3.510(1)(C) require an entity seeking certification to provide basic local telecommunications services to provide various items of information to the Commission in its application. These include a description of the business organization of the applicant, supported by the certificate of the

⁴Section 392.361.2.

⁵Section 392.361.3.

⁶See Sections 392.185, 392.361.3 and 392.420.

Missouri Secretary of State; names and addresses for contact purposes; a disclosure of any pending or final judgments or decisions against it from any state or federal agency or court involving customer service or rates; a verified statement that there are no outstanding annual reports or assessment fees owed to this Commission; a request to be classified as a competitive telecommunications company, if applicable, and a description of the types of service the applicant intends to provide; the exchanges in which service is to be offered; and a proposed tariff with an effective date which is not fewer than 45 days after its issue date.

The Commission finds that Big River has complied with each of these requirements except for the proposed tariff, 4 CSR 240-3.510(1)(C). Big River requests a temporary waiver of 4 CSR 240-3.510(1)(C) until it has entered into interconnection agreements with the incumbent LECs and those agreements have been approved by the Commission. The Commission finds that a temporary waiver of 4 CSR 240-3.510(1)(C) is consistent with the purposes of Chapter 392, and the Commission will waive 4 CSR 240-3.510(1)(C).

B. Requirements of Section 392.450:

Section 392.450.1 provides that the Commission may grant a basic local certificate only upon a finding, after notice and a hearing, that the applicant has complied with the certification process established under Section 392.455. Thus, an applicant's satisfaction of the requirements of the Commission's regulations and of Section 392.455 also satisfies Section 392.450.1. As explained below, the Commission finds that Big River has satisfied the requirements of the Commission's regulations and of Section 392.455,

and consequently finds that Big River has complied with the certification process established by the Commission in satisfaction of Section 392.450.1.

Section 392.450.2 provides that an applicant for a basic local certificate must (1) file and maintain tariffs with the Commission in the same manner as the incumbent local exchange carriers and (2) meet the minimum service standards, including quality of service and billing standards, that the Commission requires of the competing incumbent local exchange carriers.⁷

Big River did not file a proposed tariff in support of its application. However, Big River states that it will comply with all applicable Commission rules except those expressly waived by the Commission. Thereby, Big River has agreed to provide services that will meet the minimum basic local service standards required by the Commission, including quality of service and billing standards. Staff recommends that the Commission grant the certificate. The Commission finds that Big River has met the requirements of Section 392.450.2.

C. Requirements of Section 392.455:

Section 392.455 authorizes the Commission to establish a process to grant basic local certification to new entrants and to grant certificates to new entrants to provide basic local telecommunications service on a common carriage basis. That section further requires that a new entrant (1) possess sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service; (2) demonstrate that the services it proposes to offer satisfy the minimum standards established by the

⁷ "Incumbent local exchange carrier," or "ILEC," is a term of art in the telecommunications industry which refers to a telephone company authorized to provide local telephone service in a specific geographic area as of December 31, 1995. See Section 386.010(22).

Commission; (3) set forth the geographic area in which it proposes to offer service and demonstrate that such area follows the exchange boundaries of the incumbent local exchange telecommunications company and is no smaller than an exchange; and (4) offer basic local telecommunications service as a separate and distinct service. Finally, that section also requires that the Commission give due consideration to equitable access for all Missourians to affordable telecommunications services, regardless of where they live or their income.

Big River stated in its application that it has sufficient technical, financial and managerial resources to provide service in these additional areas. Because the Commission has already approved of Big River's certificate in Case No. TA-2001-699, and because of the Staff's recommendation, the Commission finds that Big River has sufficient technical, financial and managerial resources.

As noted previously, Big River has stated that it will comply with all applicable Commission rules except those expressly waived by the Commission. Based on this statement, the Commission finds that Big River has demonstrated that the services it proposes to offer satisfy the minimum standards established by the Commission, in satisfaction of Section 392.455(2).

Big River seeks certification throughout all exchanges currently served by the incumbent local exchange telecommunications companies of CenturyTel and Spectra, as set forth in the list of exchanges attached to the amended application. Staff agrees that Big River has sufficiently identified the exchanges in which it seeks certification and recommends that the application be approved. Having reviewed Big River's application, amended application, and supporting materials, as well as Staff's Memorandum and

Recommendation and the supplemental pleadings of Spectra and CenturyTel, the Commission finds that Big River has met the requirements of Section 392.455(3) in that it has set forth the geographic area in which it proposes to offer service and has demonstrated that such area follows the exchange boundaries of the incumbent local exchange telecommunications companies and is no smaller than an exchange.

In its verified application, Big River states that it will offer basic service as a separate and distinct service. Based on this statement, the Commission finds that Big River has met the requirements of Section 392.455(4), that all providers offer basic local telecommunications service as a separate and distinct service.

In its verified application, Big River states that it will give consideration to equitable access for all Missourians, regardless of where they reside or their income, to affordable telecommunications service. Therefore, granting the requested certificate will further the goal announced by the Legislature.

D. Requirements for Competitive Classification:

If the Commission grants Big River competitive classification, Big River will compete with an incumbent local exchange carrier in each exchange in which it provides basic local telecommunications service. The Commission finds that Big River will thus be subject to a sufficient level of competition to justify a lesser degree of regulation. Furthermore, all of the services Big River will offer are thus qualified for classification as competitive services.

Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law:

Jurisdiction:

The Commission is authorized to create a process by which to certify new entrants to provide local exchange telecommunications services in Missouri as common carriers, and is further authorized to grant such certificates where it is in the public interest.⁸ The Commission is also authorized to classify services and companies as competitive or transitionally competitive and to waive certain statutory provisions and Commission rules.⁹ The Commission may also impose any reasonable and necessary condition or conditions upon telecommunications service providers if such conditions are in the public interest and consistent with the provisions and purposes of this chapter.¹⁰

The Public Interest:

Having found that Big River has met all of the requirements for certification to provide basic local telecommunications service as a common carrier, the Commission must determine whether it is in the public interest to grant the requested certificate. The public interest is found in the

positive, well-defined expression of the settled will of the people of the state or nation, as an organized body politic, which expression must be looked for and found in the Constitution, statutes, or judicial decisions of the state or nation, and not in the varying personal opinions and whims of judges or courts, charged with the interpretation and declaration of the established law, as to what they themselves believe to be the demands or interests of the public.¹¹

⁸ Sections 392.430, 392.450 and 392.455.

⁹ Section 392.361.

¹⁰ Section 392.470.1.

¹¹ *In re Rahn's Estate*, 316 Mo. 492, 501, 291 S.W. 120, 123 (1926), *cert. den'd*, 274 U.S. 745, 47 S.Ct. 591, 71 L.Ed. 1325.

"[i]f there is legislation on the subject, the public policy of the state must be derived from such legislation."¹²

The Commission notes that the General Assembly has expressly provided that "[t]he provisions of this chapter shall be construed to . . . [p]romote diversity in the supply of telecommunications services and products throughout the state of Missouri; [and to] . . . [a]llow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest[.]"¹³ In consideration of the foregoing, and based upon its finding that Big River has met all of the requirements for certification, the Commission concludes that granting the expansion of Big River's certificate is in the public interest.

Competitive Classification:

Big River has previously been found to be a competitive company and the Commission has found that Big River will be subject to sufficient competition to justify a lesser degree of regulation. The Commission has further found that all of Big River's services will be entitled to classification as competitive services. In consideration of these findings and of the public interest as announced by the General Assembly, the Commission concludes that granting competitive classification to Big River is consistent with the protection of ratepayers and promotes the public interest. Big River shall continue to be classified as a competitive company.

¹² *Moorshead v. Railways Co.*, 203 Mo. 121, 165, 96 S. W. 261, 271 (banc 1907).

¹³ Section 392.185.

Waivers:

The Commission may waive certain statutes and administrative rules for competitively classified carriers, "if such waiver or modification is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter."¹⁴

The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange carriers. The Commission will waive these provisions for Big River because to do so furthers the purpose of Chapter 392 to foster and encourage the development of competition in the telecommunications industry.

The Commission may also "require a telecommunications company to comply with any conditions reasonably made necessary to protect the public interest by the suspension of the statutory requirement."¹⁵ Staff recommends that Big River's application be granted subject to the following conditions:

- A. Big River's originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each ILEC within whose service area Big River seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230, RSMo.
- B. The certificate and service classification for switched exchange access is granted conditioned on the continued applicability of Section 392.200 RSMo, and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to Sections 392.220 and 392.230 RSMo, and not Sections 392.500 and 392.510 RSMo.
- C. If the directly competing ILEC, in whose service area Big River is operating, decreases its originating and/or terminating access service rates, Big River shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

¹⁴ Sections 392.361.5 and 392.420.

¹⁵ Section 392.361.6.

The Commission has considered the conditions proposed by Staff and concludes that they are reasonably necessary to protect the public interest and should be adopted.

The Commission reminds Big River that prior to providing telecommunications service, a party shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services; and (3) except for wireless providers, a tariff approved by the Commission.

IT IS THEREFORE ORDERED:

1. That Big River Telephone Company, LLC, is granted an expansion of its certificate of service authority to provide basic local telecommunications services.

2. That Big River Telephone Company, LLC's certificate of service authority to provide basic local telecommunications services in the state of Missouri shall include the exchanges of Spectra Communications Group, LLC, and CenturyTel of Missouri, LLC, as listed in Exhibit 2 of the Application of Big River Telephone Company, LLC to Expand Certificate of Basic Local Service Authority, filed on June 12, 2003, and amended on June 23, 2003, subject to the conditions of certification set out above and to all applicable statutes and Commission rules except as specified in this order.

3. That Big River Telephone Company, LLC, will remain classified as a competitive telecommunications company.

4. That Big River Telephone Company, LLC's certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo 2000, and on the requirement that any increases in switched access service rates above the maximum switched access service rates set forth in the agreement must be cost-

justified under Sections 392.220, RSMo 2000, and 392.230, rather than Sections 392.500 and 392.510.

5. That Big River Telephone Company, LLC's originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each incumbent local exchange company within whose service area Big River seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230, RSMo 2000.

6. That the certificate and competitive service classification for switched exchange access is granted conditioned on the continued applicability of Section 392.200, RSMo 2000, and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to Sections 392.220 and 392.230, RSMo 2000, and not Sections 392.500 and 392.510, RSMo 2000.

7. That if the directly competing incumbent local exchange company (ILEC) in whose service area Big River Telephone Company, LLC, is operating decreases its originating and/or terminating access service rates, Big River shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

8. That application of the following statutes and Commission regulations is waived:

Statutes

392.210.2 - uniform system of accounts
392.240(1) - just and reasonable rates

- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.300.2 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

- 4 CSR 240-3.545(2)(C) - posting of tariffs
- 4 CSR 240-3.550(5)(C) - exchange boundary maps
- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-33.030 - minimum charges
- 4 CSR 240-35 - reporting of bypass and
customer-specific arrangements

9. That Commission Rule 4 CSR 240-3.510(1)(C) is waived. Big River Telephone Company, LLC, may not operate in the service areas of Spectra Communications Group, LLC, and CenturyTel of Missouri, LLC, until it has submitted its tariffs to the Commission and the Commission approves them.

10. That this order and Big River Telephone Company, LLC's certificate expansion shall become effective on September 28, 2003.

11. That this case may be closed on September 29, 2003.

BY THE COMMISSION

(SEAL)

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Simmons, Ch., Murray, Gaw,
Forbis, and Clayton, CC., concur.

Ruth, Senior Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Big River)
Telephone Company, LLC to Expand its Certificate)
of Basic Local Service Authority to include provision) **Case No. TA-2005-0415**
of Basic Local Exchange Telecommunications Service)
in Sprint Exchanges and to Continue to Classify the)
Company and its Services as Competitive.)

ORDER APPROVING EXPANSION OF
CERTIFICATE OF SERVICE AUTHORITY

Issue Date: July 15, 2005

Effective Date: July 25, 2005

Syllabus: This order expands Big River Telephone Company's certificate of service authority to provide basic local telecommunications services, classifies those services and the company as competitive, and waives certain statutes and regulations.

Procedural History

Big River applied to the Missouri Public Service Commission on May 13, 2005, for permission to expand its certificate of service authority to provide basic local exchange telecommunications services in Missouri. Big River also sought to remain classified as a competitive company, and asked the Commission to grant the standard waivers. Also, Big River asked the Commission to temporarily waive the requirement found in 4 CSR 240-3.510(1)(C) to file its tariff with its application and the requirement in 4 CSR 240-3.510(1)(D) to file certain financial data.

The Commission granted Big River's current certificates in Case Nos. TA-2001-699 and LA-2003-0551. The certificates currently permit Big River to serve

customers in the exchanges of Southwestern Bell Telephone Company, CenturyTel of Missouri, LLC, and Spectra Communications Group, LLC, as well as provide interexchange telecommunications services (limited to providing dedicated, nonswitched local exchange private line services) throughout the state of Missouri. In those cases, the Commission granted Big River competitive classification and the standard waivers.

On May 24, 2005, the Commission issued a Schedule of Applicants for Basic Local and Nonswitched Local Exchange Service Authority and Opportunity to Intervene. The notice told parties who wished to intervene to file their requests by June 8, 2005. No parties responded to the notice.

The Staff of the Missouri Public Service Commission filed its Recommendation on June 23, 2005. Staff recommended that the Commission expand Big River's current basic local certificate, grant competitive classification and grant the standard waivers. Staff asked the Commission to grant Big River's expanded basic local certificate subject to certain conditions. Staff also recommended that the Commission deny the waiver of Commission Rule 4 CSR 240-3.510(1)(C), as it was not necessary under the recently revised rule.

Discussion

Big River asks the Commission to expand its certificate to allow it to serve customers in the exchange boundaries of Sprint. Big River is not asking for certification in any area that is served by a small incumbent local exchange provider. The areas Big River would like to serve are no smaller than an exchange.

The Commission may grant an application for a certificate of service authority to provide basic local telecommunications service upon a showing (1) that the applicant has met the statutory requirements,¹ and (2) that the grant of authority is in the public interest.²

Big River also requests that it and its basic local services continue to be classified as competitive. The Commission may classify a telecommunications service as competitive if the Commission determines that it is subject to a sufficient degree of competition to justify a lesser degree of regulation.³ The Commission may only classify a telecommunications carrier as competitive if all of its services are so classified.⁴

In addition, Big River asks the Commission to waive certain statutes and Commission rules. The Commission may waive the application of certain statutes and of its rules to a competitive carrier if it determines that such waiver is consistent with the purposes of Chapter 392.⁵

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider

¹ See Sections 392.450 and 392.455, RSMo 2000. All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

² Sections 392.430 and 392.440.

³ Section 392.361.2.

⁴ Section 392.361.3.

⁵ See Sections 392.185, 392.361.3 and 392.420.

relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

A. Requirements of the Commission's Rules:

Commission Rules 4 CSR 240-2.060(1) and 4 CSR 240-3.510 require an entity seeking certification to provide basic local telecommunications services to provide various items of information to the Commission in its application. This information includes: a description of the business organization of the applicant, supported by the certificate of the Missouri Secretary of State; names and addresses for contact purposes; a disclosure of any pending or final judgments or decisions against it from any state or federal agency or court involving customer service or rates; a verified statement that there are no outstanding annual reports or assessment fees owed to this Commission; a request to be classified as a competitive telecommunications company, if applicable, and a description of the types of service the applicant intends to provide; the exchanges in which service is to be offered; and before providing service, a proposed tariff with an effective date which is not fewer than 45 days after its issue date.

The Commission finds that Big River has complied with each of these requirements with the exception of filing its financial information and filing its proposed tariff. Big River requests a waiver of 4 CSR 240-3.510(1)(C) and (D). As Staff states in its recommendation, 4 CSR 240-3.510(1)(C) has recently been revised to provide that the filing of the tariff with the application is "optional." Therefore, Big River has exercised its right to delay the filing of its tariff and the Commission need not grant a waiver of this rule. Big River must have a tariff approved by the Commission that provides for the provision of services in the exchanges of Sprint before Big River may offer services in those exchanges.

Big River cited to the financial information it had previously provided in Case No. LA-2003-0551. Staff did not object to Big River's request and indicated it had sufficient information to make its recommendation. Therefore, the Commission finds that good cause exists to waive the requirement to file certain financial data with its application as required in 4 CSR 240-3.510(D).

B. Requirements of Section 392.450:

Section 392.450.1 provides that the Commission may grant a basic local certificate only upon a finding that the applicant has complied with the certification process established under Section 392.455. Thus, an applicant's satisfaction of the requirements of the Commission's regulations and of Section 392.455 also satisfies Section 392.450.1. As explained below, the Commission finds that Big River has satisfied the requirements of the Commission's regulations and of Section 392.455, and consequently finds that Big River has complied with the certification process established by the Commission in satisfaction of Section 392.450.1.

Section 392.450.2 provides that an applicant for a basic local certificate must (1) file and maintain tariffs with the Commission in the same manner as the incumbent local exchange carriers and (2) meet the minimum service standards, including quality of service and billing standards, that the Commission requires of the competing incumbent local exchange carriers.

Big River did not file a proposed tariff in support of its application. However, Big River states that it will comply with all applicable Commission rules except those expressly waived. Thereby, Big River has agreed to provide services that will meet the minimum basic local service standards required by the Commission, including quality of

service and billing standards. Staff recommends that the Commission grant the certificate. The Commission finds that Big River has met the requirements of Section 392.450.2.

C. Requirements of Section 392.455:

Section 392.455 authorizes the Commission to establish a process to grant basic local certification to new entrants and to grant certificates to new entrants to provide basic local telecommunications service on a common carriage basis. That section further requires that a new entrant (1) possess sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service; (2) demonstrate that the services it proposes to offer satisfy the minimum standards established by the Commission; (3) set forth the geographic area in which it proposes to offer service and demonstrate that such area follows the exchange boundaries of the incumbent local exchange telecommunications company and is no smaller than an exchange; and (4) offer basic local telecommunications service as a separate and distinct service. Finally, that section also requires that the Commission give due consideration to equitable access for all Missourians to affordable telecommunications services, regardless of where they live or their income.

Big River stated in its application that it has sufficient technical, financial and managerial resources to provide service in these additional areas. Because the Commission has previously approved Big River's certificate to serve other exchanges, and because of the Staff's recommendation of approval, the Commission finds that Big River has sufficient technical, financial and managerial resources and has met the requirements of Section 392.455(1).

As noted previously, Big River has stated that it will comply with all applicable Commission rules except those expressly waived by the Commission. Based on this statement, the Commission finds that Big River has demonstrated that the services it proposes to offer satisfy the minimum standards established by the Commission, in satisfaction of Section 392.455(2).

Big River seeks to add certification throughout all exchanges currently served by the incumbent local exchange telecommunications carrier, Sprint. Staff agrees that Big River has sufficiently identified the exchanges in which it seeks certification and recommends that the application be approved. Having reviewed Big River's application and supporting materials, as well as Staff's Memorandum and Recommendation, the Commission finds that Big River has met the requirements of Section 392.455(3) in that it has set forth the geographic area in which it proposes to offer service and has demonstrated that such area follows the exchange boundaries of the incumbent local exchange telecommunications companies and is no smaller than an exchange.

In its verified application, Big River states that it will offer basic service as a separate and distinct service. Based on this statement, the Commission finds that Big River has met the requirements of Section 392.455(4), that all providers offer basic local telecommunications service as a separate and distinct service.

Big River also states that it will give consideration to equitable access for all Missourians, regardless of where they reside or their income, to affordable telecommunications service. Big River states that the public interest will be served by the Commission's approval of its application because its proposed services will enhance competition in portions of northern Missouri, and increase the variety of telecommunications service

available. The Commission finds these representations are consistent with the legislative goals set forth in the Telecommunications Act of 1996 and Chapter 392, RSMo. Therefore, the Commission finds that granting the requested certificate will further the goals announced by the Legislature.

D. Requirements for Competitive Classification:

If the Commission grants Big River competitive classification, Big River will compete with an incumbent local exchange carrier in each exchange in which it provides basic local telecommunications service. The Commission finds that Big River will thus be subject to a sufficient level of competition to justify a lesser degree of regulation. All of the services Big River will offer are thus qualified for classification as competitive services. Since all the services offered by Big River are competitive services, the Commission finds that Big River should remain classified as a competitive company. The Commission further finds that waiving the statutes and Commission rules set out in the ordered paragraphs below is reasonable and not detrimental to the public interest.

Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law:

Jurisdiction:

The Commission is authorized to create a process by which to certify new entrants to provide local exchange telecommunications services in Missouri as common carriers, and is further authorized to grant such certificates where it is in the public interest.⁶ The Commission is also authorized to classify services and companies as competitive or

⁶ Sections 392.430, 392.450 and 392.455.

transitionally competitive and to waive certain statutory provisions and Commission rules.⁷ The Commission may also impose any reasonable and necessary condition or conditions upon telecommunications service providers if such conditions are in the public interest and consistent with the provisions and purposes of this chapter.⁸

The Public Interest:

Having found that Big River has met all of the requirements for certification to provide basic local telecommunications service as a common carrier, the Commission must determine whether it is in the public interest to grant the requested certificate. The public interest is found in the

positive, well-defined expression of the settled will of the people of the state or nation, as an organized body politic, which expression must be looked for and found in the Constitution, statutes, or judicial decisions of the state or nation, and not in the varying personal opinions and whims of judges or courts, charged with the interpretation and declaration of the established law, as to what they themselves believe to be the demands or interests of the public.⁹

"[I]f there is legislation on the subject, the public policy of the state must be derived from such legislation."¹⁰

The Commission notes that the General Assembly has expressly provided that "[t]he provisions of this chapter shall be construed to . . . [p]romote diversity in the supply of telecommunications services and products throughout the state of Missouri; [and to] . . . [a]llow full and fair competition to function as a substitute for regulation when consistent

⁷ Section 392.361.

⁸ Section 392.470.1.

⁹ *In re Rahn's Estate*, 316 Mo. 492, 501, 291 S.W. 120, 123 (1926), cert. den'd, 274 U.S. 745, 47 S.Ct. 591, 71 L.Ed. 1325.

¹⁰ *Moorshead v. Railways Co.*, 203 Mo. 121, 165, 96 S. W. 261, 271 (banc 1907).

with the protection of ratepayers and otherwise consistent with the public interest[.]”¹¹ In consideration of the foregoing, and based upon its finding that Big River has met all of the requirements for certification, the Commission concludes that granting the expansion of Big River’s certificate is in the public interest.

Competitive Classification:

Big River has previously been found to be a competitive company and the Commission has found that Big River will be subject to sufficient competition to justify a lesser degree of regulation. The Commission has further found that all of Big River’s services will be entitled to classification as competitive services. In consideration of these findings and of the public interest as announced by the General Assembly, the Commission concludes that granting competitive classification to Big River is consistent with the protection of ratepayers and promotes the public interest. Big River shall continue to be classified as a competitive company.

Waivers:

The Commission may waive certain statutes and administrative rules for competitively classified carriers, “if such waiver or modification is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter.”¹² The Commission has developed a standard list of statutes and regulations that it waives for competitive local exchange carriers. The Commission will waive these provisions for Big River because to do so furthers the purpose of Chapter 392 to foster and encourage the development of competition in the telecommunications industry.

¹¹ Section 392.185.

¹² Sections 392.361.5 and 392.420.

The Commission may also "require a telecommunications company to comply with any conditions reasonably made necessary to protect the public interest by the suspension of the statutory requirement."¹³ Staff recommends that Big River's application be granted subject to the following conditions:

- A. Big River's originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each ILEC within whose service area Big River seeks authority to provide service, unless authorized by the Commission pursuant to Sections 392.220 and 392.230, RSMo.
- B. The certificate and service classification for switched access service is granted conditioned on the continued applicability of Section 392.200 RSMo, and the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be made pursuant to Sections 392.220 and 392.230 RSMo, and not Sections 392.500 and 392.510 RSMo.
- C. If the directly competing ILEC, in whose service area Big River is operating, decreases its originating and/or terminating access service rates, Big River shall file an appropriate tariff amendment to reduce its originating and/or terminating access rates in the directly competing ILEC's service area within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

The Commission has considered the conditions proposed by Staff and concludes that they are reasonably necessary to protect the public interest and should be adopted.

The Commission reminds the company that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

- A) The obligation to file an annual report, as established by Section 392.210, RSMo 2000. Failure to comply with this obligation will make the utility liable to a penalty of

¹³ Section 392.361.6.

\$100 per day for each day that the violation continues. 4 CSR 240-3.540 requires telecommunications utilities to file their annual report on or before April 15 of each year.

B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000.

C) The obligation to comply with all relevant laws and regulations, as well as orders issued by the Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2000 per day of noncompliance, pursuant to Section 386.570, RSMo 2000.

D) The obligation to keep the Commission informed of its current address and telephone number.

Furthermore, the company is reminded that, if it is a corporation, its officers may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice law in Missouri.

The Commission reminds Big River that prior to providing telecommunications service, it shall possess the following: (1) an interconnection agreement approved by the Commission; (2) except for wireless providers, a certificate of service authority from the Commission to provide interexchange or basic local telecommunications services; and (3) except for wireless providers, a tariff approved by the Commission.

In addition, the company is reminded that Section 392.410.6, RSMo Supp. 2004, renders the company's certificate of service authority null and void one year from the date of this order unless it has exercised its authority under that certificate.

IT IS THEREFORE ORDERED:

1. That for the purposes of this case, Big River Telephone Company is granted a waiver of 4 CSR 240-3.510(D) requiring it to submit certain financial information with its application.

2. That Big River Telephone Company is granted an expansion of its certificate of service authority to provide basic local telecommunications services to include the exchanges of Sprint Missouri, Inc., subject to the conditions of certification set out above and to all applicable statutes and Commission rules except as specified in this order.

3. That Big River Telephone Company will remain classified as a competitive telecommunications company.

4. That Big River Telephone Company's originating and terminating access rates will be no greater than the lowest Commission-approved corresponding access rates in effect for each ILEC within whose service area Big River seeks authority to provide service, unless authorized by the Commission under to Sections 392.220 and 392.230, RSMo 2000.

5. That Big River Telephone Company's certification and competitive status are expressly conditioned upon the continued applicability of Section 392.200, RSMo 2000, and on the requirement that any increases in switched access service rates above the maximum switched access service rates set forth herein shall be made under Sections 392.220 and 392.230, RSMo, and not under Sections 392.500 and 392.510, RSMo.

6. That if the directly competing ILEC, in whose service area Big River Telephone Company, is operating decreases its originating and/or terminating access service rates, Big River shall file an appropriate tariff amendment to reduce its originating

and/or terminating access rates in the directly competing ILEC's service area within 30 days of the directly competing ILEC's reduction of its originating and/or terminating access rates in order to maintain the cap.

7. That application of the following statutes and Commission regulations is waived:

Statutes

- 392.210.2 - uniform system of accounts
- 392.240(1) - just and reasonable rates
- 392.270 - valuation of property (ratemaking)
- 392.280 - depreciation accounts
- 392.290 - issuance of securities
- 392.300.2 - acquisition of stock
- 392.310 - stock and debt issuance
- 392.320 - stock dividend payment
- 392.330 - issuance of securities, debts and notes
- 392.340 - reorganization(s)

Commission Rules

- 4 CSR 240-10.020 - depreciation fund income
- 4 CSR 240-30.040 - uniform system of accounts
- 4 CSR 240-3.550(5)(C) - exchange boundary maps

8. That Big River Telephone Company shall not conduct business in the additional exchanges until the Commission approves its interconnection agreement.

9. That the request for a waiver of 4 CSR 240-3.510(1)(C), regarding the filing of a tariff with the application is unnecessary and is denied.

10. That prior to delivering services under its expanded certificate of service authority, Big River Telephone Company, shall file, in a separate case, tariff sheets with an effective date which is not fewer than 45 days from the issue date and which reflect the

rates, rules, regulations, and the services it will offer. The tariff shall also include a listing of the statutes and Commission rules waived above.

11. That this order shall become effective on July 25, 2005.

12. That this case may be closed on July 26, 2005.

BY THE COMMISSION

Colleen M. Dale
Secretary

(S E A L)

Nancy Dippell, Senior Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 15th day of July, 2005.

TITLE PAGE

INTRASTATE INTEREXCHANGE TELECOMMUNICATIONS SERVICES

This tariff applies to the resold and facilities-based intrastate interexchange telecommunications services furnished by Big River Telephone Company, LLC ("Big River " or "Company") between one or more points in the State of Missouri. This tariff applies to residential and business customers. This tariff is on file with the Public Services Commission of Missouri, and copies may be inspected, during normal business hours, at the Company's principal place of business, 24 S. Minnesota Ave., Cape Girardeau, Missouri, 63703. This tariff complies with Missouri Public Service Commission rules and Missouri statutes applicable to the Company.

BIG RIVER TELEPHONE COMPANY, LLC IS A
COMPETITIVE TELECOMMUNICATIONS COMPANY
UNDER THE REVISED STATUTES OF MISSOURI

Exhibit H

Issued: July 17, 2003

Effective: August 16, 2003

Issued By:
Kevin B. Cantwell, President
Big River Telephone Company, LLC

LIST OF WAIVERS

Big River Telephone Company, LLC is classified as a competitive telecommunications company in Missouri for which the following statutory and regulatory requirements are waived:

Statutes

Section 392.210.2	Uniform system of accounts used for annual reports
Section 392.240 (1)	Ratemaking
Section 392.270	Property valuation (ratemaking)
Section 392.280	Depreciation accounts
Section 392.290	Issuance of securities
Section 392.300.2	Acquisition of stock
Section 392.310	Stock and debt issuance
Section 392.320	Stock dividend payments
Section 392.330	Issuance of securities, debt and notes
Section 392.340	Reorganization(s)

Commission Rules

4 CSR 240-10.020	Income on Depreciation Fund Investments
4 CSR 240-30.010(2)(C) ¹	Posting of exchange rates at central operating offices
4 CSR 240-30.040	Uniform System of Accounts
4 CSR 240-33.030	Informing Customers of Lowest Priced Services
4 CSR 240-35 ²	Reporting of Bypass and Customer-Specific Arrangements

¹ Now rule number 4 CSR 240-3.545(2)(C)

² Rule repealed.

Issued: July 17, 2003

Effective: August 16, 2003

Issued By:
Kevin B. Cantwell, President
Big River Telephone Company, LLC

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Issued: November 12, 2003

Effective: December 12, 2003

Issued By:
Kevin B. Cantwell, President
Big River Telephone Company, LLC

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Big River Telephone Company, LLC

TARIFF FORMAT SHEET

1. **Page Numbering**. Page numbers appear in the upper-right corner of the page. Pages are numbered sequentially. New pages may occasionally be added to the tariff. When a new page is added, the page appears as a decimal. For example, a new page added between pages 34 and 35 would be 34.1.
2. **Page Revisions Numbers**. Page Revision Numbers also appear in the upper-right corner of the page. These numbers are used to determine the most current page revision on file with the Public Utility Commission of Missouri. For example, the fourth revised Page 34 cancels the third revised Page 34. Because of deferrals, notice periods, *etc.*, the most current page number on file with the Commission is not always the tariff page in effect. Business Customers should consult with check sheet for the page currently in effect.
3. **Paragraph Numbering Sequence**. There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level of coding.
 - 1.
 - 1.1.
 - 1.1.1.
 - 1.1.1.A.
 - 1.1.1.A.1.
 - 1.1.1.A.1.(a)
 - 1.1.1.A.1.(a)(I)
 - 1.1.1.A.1.(a)(I)(i)
 - 1.1.1.A.1.(a)(I)(i)(1)
4. **Check List of Effective Pages**. When a tariff filing is made with the Commission, an updated Check List of Effective Pages ("Check List") accompanies the tariff filing. The Check List lists the pages contained in the tariff, with a cross-reference to the current revision number. When new pages are added, the Check List is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on the Check List if these are the only changes made to it (i.e., the format, *etc.*). Customers should refer to the latest Check List to find out if a particular page is the most current page on file with the Commission.
5. **Symbols Used in This Tariff**.

(AT)	To signify addition to text.
(C)	To signify a correction.
(CP)	To signify a change in practice.
(CR)	To signify a change in rate.
(CT)	To signify a change in Text.
(DR)	To signify a discontinued rate.
(FC)	To signify a change in format lettering or numbering.
(MT)	To signify moved text.

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Big River Telephone Company, LLC

SECTION 1 - DEFINITIONS

Account - Either a Customer's physical location or individual Service represented by a unique account number within the Billing Hierarchy. Multiple Services each with a unique account number may be part of one physical location.

Alternative Local Exchange Carrier ("ALEC") or Competitive Local Exchange Carrier ("CLEC") - means any entity or person providing local exchange services in competition with an ILEC or LEC.

Application for Service - The Big River order process that includes technical, billing and other descriptive information provided by the Customer that allows Big River to provide requested communications Services for the Customer and Customer's Authorized Users. Upon acceptance by Big River, the Application for Service becomes a binding contract between the Customer and Big River for the provision and acceptance of Services.

Authorization Code - A multi-digit code that enables a Customer to access Big River's network and enables Big River to identify the Customer's use for proper billing. Also called a Personal Identification Code or PIN.

Authorized User - A person, firm, or corporation, who is authorized by the Customer to be connected to the Service of the Customer.

Billing Hierarchy - Allows Customers to combine multiple accounts and Services into a single billing structure. Business Customers can choose whether to have all Services invoiced together, invoiced separately, or in any combination thereof. In addition, the Business Customer may specify where the invoices are to be sent and who is to receive them.

BTN: Billed Telephone Number, may consist of one or more WTNs.

Business Hours - The phrase "business hours" means the time after 8:15 A.M. and before 5:00 P.M., Monday through Friday excluding holidays.

Business Office - The phrase "business office" means the primary location where the business operations of Big River are performed and where a copy of Big River's tariff is made available for public inspection. The address of the business office is 24 S. Minnesota Ave., Cape Girardeau, Missouri, 63703.

Business Customer: A Customer whose use of the Services is primarily or substantially for a business, professional, institutional, or occupational purpose.

Called Station - The terminating point of a call (*i.e.*, the called number).

Calling Station - The originating point of a call (*i.e.*, the calling number).

Calling Area - A specific geographic area so designated for the purpose of applying a specified rate structure.

Carrier - The term "Carrier" means Big River Telephone Company, LLC.

Central Office - A Local Exchange Carrier's office where a Customer's lines are terminated for the purpose of offering local telephone service and to connect with interexchange carriers.

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SECTION 1 – DEFINITIONS (cont'd)

Competitive Local Exchange Carrier ("CLEC") or Alternative Local Exchange Carrier ("ALEC") - means any entity or person providing local exchange services in competition with an ILEC or LEC.

Commission – Missouri Public Services Commission ("MPSC").

Company - The term "Company" means Big River Telephone Company, LLC.

Customer - The person, firm, company, corporation, or other entity, having a communications requirement of its own that is responsible for the payment of charges and for compliance with this Tariff. See "End User".

Customer-Provided Equipment - Telecommunications equipment provided by a Customer used to originate calls using Big River's service located at the originating location.

Day - The term "day" means 8:00 A.M. to, but not including, 5:00 P.M. local time at the originating city, Monday through Friday, excluding Company specific holidays.

Delinquent or Delinquency - An account for which payment has not been made in full on or before the last day for timely payment.

Digital Transmission - Information transmitted in the form of digitally encoded signals.

End User - The ultimate user of the telecommunications services and who orders service and is responsible for payment of charges due in compliance with the Company's price list regulations. See "Customer".

Exchange Area - A geographically defined area wherein the telephone industry through the use of maps or legal descriptions sets down specified area where individual telephone exchange companies hold themselves out to provide communications services.

Facility (or Facilities) - Any item or items of communications plant or equipment used to provide or connect to Big River Services.

FCC - Federal Communications Commission.

Holiday - The term "holiday" means 8:00 A.M. to, but not including, 11:00 P.M. local time at the originating city on all Company-specific holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. When holidays fall on Saturdays or Sundays, the holiday rate applies unless a larger discount would normally apply.

Incumbent Local Exchange Carrier ("ILEC") or Local Exchange Carrier ("LEC") - is any local exchange carrier that was as of February 8, 1996 deemed to be a member of the Exchange Carrier Association as set forth in 47 C.F.R. 69.601(b) of the FCC's regulations.

Incomplete Call - Any call where voice transmission between the calling party and the called station is not established (*i.e.*, busy, no answer, etc.).

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Big River Telephone Company, LLC

SECTION 1 – DEFINITIONS (cont'd)

Interexchange Carrier (IXC) - A common carrier that provides long distance domestic and international communication services to the public.

Local Access Transport Area ("LATA") - The phrase "Local Access Transport Area" means a geographical area established by the U.S. District Court for the District of Columbia in *United States v. Western Electric Co., Inc.*, 552 F. Supp. 131 (D.D.C. 1982), within which a local exchange company provides communication services.

Local Exchange Company (LEC) - A company that furnishes local exchange telephone services.

Local Exchange Service - is an arrangement which connects the End User's location to the LEC's network switching center, thereby allowing End User to transmit and receive local calls within the End User's local calling area, or mandatory expanded area service (EAS) area, as defined by State commissions or, if not defined by State commission, then defined in the LEC's State Tariffs.

Location - A physical premise to or from which Big River provides Service.

NXX - The designation for the first three digits of a local telephone number where N represents 2-9 and X represents 0-9.

Night/Weekend - The words "night/weekend" mean 11:00 P.M. to, but not including, 8:00 A.M. local time in the originating city, all day on Saturday, and all day Sunday, except from 5:00 P.M. to, but not including, 11:00 P.M.

Non-Business Hours - The phrase "non-business hours" means the time period after 5:00 P.M. and before 8:15 A.M., Monday through Friday, all day Saturday, Sunday, and on holidays.

NPA - An area code, otherwise called numbering plan area.

Other Common Carrier - The term "other common carrier" denotes a specialized or other type of common carrier authorized by the Federal Communications Commission to provide domestic or international communications services.

Premises - A building or buildings on contiguous property (except railroad rights-of-way, etc.).

Primary Interexchange Carrier (PIC) - The interexchange carrier to which a switched access line is presubscribed.

Regular Billing - A standard bill sent in the normal monthly Big River billing cycle. This billing consists of one bill for each account assigned to the Customer with explanatory detail showing the derivation of the charges.

Residential Service - The phrase "residential service" means telecommunication services used primarily as nonbusiness service.

Residential Customer - A Customer whose use of the Service is primarily or substantially of a social or domestic nature; and business use, if any, is incidental.

Services - Big River's regulated common carrier communications services provided under this Tariff.

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SECTION 1 – DEFINITIONS (cont'd)

Subscriber - The term "Customer" is synonymous with the term "subscriber".

Switch - The term "switch" denotes an electronic device that is used to provide circuit sharing, routing, and control.

Timely Payment - A payment on a Customer's account made on or before the due date.

Underlying Carrier - A provider of interstate and/or intrastate interexchange telecommunications services from whom Big River acquires services that it resells to Customers.

WTN – Working Telephone Number.

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SECTION 2 - RULES AND REGULATIONS

2.1 Undertaking of Big River

- 2.1.1 Big River undertakes to provide intrastate interexchange telecommunications services within the State of Missouri on the terms and conditions and at the rates and charges specified herein.
- 2.1.2 Big River installs, operates and maintains the communication Services provided hereunder in accordance with the terms and conditions set forth under this Tariff. It may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the Customer to allow connection of a Customer's location to the Big River network. The Customer shall be responsible for all charges due for such service arrangements.
- 2.1.3 Big River's Services and facilities are available twenty-four (24) hours per day, seven (7) days per week.

2.2 Use of Service

- 2.2.1 Services provided under this Tariff may be used only for the transmission of communications in a manner consistent with the terms of this Tariff and regulations of the Commission.
- 2.2.2 Services provided under this Tariff shall not be used for unlawful purposes. Service will not be furnished if any law enforcement agency, acting within its jurisdiction, advises that such services are being used in violation of the law.

2.3 Limitations

- 2.3.1 Service is offered subject to the availability of the necessary facilities or equipment, or both facilities and equipment, and subject to the provisions of this Tariff. The obligation of Big River to provide Service is dependent upon its ability to procure, construct, and maintain facilities that are required to meet the Customer's order for Service. Big River will make all reasonable efforts to secure the necessary facilities.
- 2.3.2 Big River reserve the right to limit or to allocate the use of existing facilities, or to additional facilities offered by Big River, when necessary because of lack of facilities, relevant resources, or due to causes beyond Big River's control. In addition, Big River reserves the right to discontinue Service when the Customer is using the Service in violation of law or the provisions of this Tariff.
- 2.3.3 Big River does not undertake to transmit messages, but offers the use of its facilities when available, and will not be liable for errors in transmission nor for failure to establish connections.
- 2.3.4 Big River reserves the right to refuse service to Customers due to insufficient or invalid charging information.
- 2.3.5 Big River may block calls that are made to certain numbers, cities or central office exchanges, or use certain Authorization Codes as Big River, in its sole discretion, deems reasonably necessary to prevent unlawful or fraudulent use of Service

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SECTION 2 - RULES AND REGULATIONS

2.3. Limitations (cont'd)

- 2.3.6 Big River will use reasonable efforts to maintain the facilities and equipment that it furnishes to the Customer. Big River may substitute, change, or rearrange any equipment or facility at any time and from time to time. Big River shall have the right to make necessary repairs or changes in its facilities at any time and will have the right to suspend or interrupt service temporarily for the purpose of making the necessary repairs or changes in its system. When such suspension or interruption of service for any appreciable period is necessary, Big River will give the Customers who may be affected reasonable notice thereof as circumstances will permit, and will prosecute the work with reasonable diligence, and if practicable at time that will cause the least inconvenience. When Big River is repairing or changing its facilities, it shall take appropriate precautions to avoid unnecessary interruptions of Customer's service.

2.4 Liabilities of Big River

- 2.4.1 Big River's liability for damages arising out of mistakes, omissions, interruptions, delays, errors, or defects in the installation, provision, termination, maintenance, repair, or restoration occurring in the course of furnishing service, channels, or other facilities, and not caused by the negligence of the Subscriber, commences upon activation of service. In no event does Big River's liability exceed an amount equivalent to the proportionate charge to the Customer for the period of service during which such mistakes, omissions, interruptions, delays, errors or defects occur. For the purposes of computing such amount, a month is considered to have thirty (30) days. Credit will be calculated pursuant to Section 2.9 of this Tariff. Big River's liability for gross negligence or intentional misconduct is not limited by this tariff.
- 2.4.2 When the facilities of other carriers are used in establishing connections to points not reached by Big River's facilities, Big River is not liable for any act or omission of the other carrier(s). The Customer will indemnify and save harmless Big River from any third-party claims for such damages referred to in Section 2.4.1.
- 2.4.3 In no event will Big River be responsible for consequential damages or lost profits suffered by a Customer as a result of interrupted or unsatisfactory service. Big River will not be liable for claims or damages resulting from or caused by: (i) Customer's fault, negligence or failure to perform Customer's responsibilities; (ii) claims against Customer by another party; (iii) any act or omission of any other party; or (iv) equipment or service furnished by a third party.
- 2.4.4 Big River does not guarantee or make any warranty with respect to any equipment provided by it or leased on the Customer's behalf where such equipment is used in locations containing an atmosphere which is explosive, prone to fire, dangerous or otherwise unsuitable for such equipment. The Customer shall indemnify and hold Big River harmless from any and all loss, claims, demands, suits or other actions, or any

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SECTION 2 - RULES AND REGULATIONS

2.4. Liabilities of Big River (cont'd)

liabilities whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party or persons, for any personal injury or death of any person or persons, and for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of such equipment so used.

- 2.4.5 Big River is not liable for any defacement of, or damage to, the premises of a Customer resulting from the furnishing of services or the attachment of equipment, instruments, apparatus, and associated wiring furnished by Big River on such Customer's premises or by the installation or removal thereof, when such defacement or damage is not the result of Big River negligence. No agents or employees of other participating carriers shall be deemed to be agents or employees of Big River without written authorization. The Customer will indemnify and save harmless Big River from any claims of the owner of the Customer's premises or other third party claims for such damages.
- 2.4.6 Big River and Customer shall be excused from performance under this Tariff and under the application for service for any period, and to the extent that the party is prevented from performing any service pursuant hereto, in whole or in part, as a result of delays caused by the other party or an Act of God, governmental agency, war, civil disturbance, court order, lockouts or work stoppages or other labor difficulties, third party nonperformance (including the failure of performance for reasons beyond the control of common carriers, interexchange carriers, local exchange carriers, suppliers and subcontractors), or other cause beyond its reasonable control, including failures or fluctuations in electrical equipment, and such nonperformance shall not be deemed a violation of this Tariff or of the application for service or grounds for termination of service. Both parties retain all rights of recourse against any third parties for any failures which may create a force majeure condition for the other party.
- 2.4.7 Big River is not liable for any damages, including toll usage charges, the Customer may incur as a result of the unauthorized use of its telephone facilities. This unauthorized use of the Customer's facilities includes, but is not limited to, the placement of calls from the Customer's premises, and the placement of calls through Customer-provided equipment that are transmitted or carried on the Big River network.
- 2.4.8 Where there is a connection via Customer-provided terminal equipment or Customer-provide communications systems, the point of demarcation shall be defined as the Big River facility that provides interconnection. Big River shall not be held liable for Customer-provided access media or equipment. Any maintenance service or equipment arrangements shall be addressed on an individual case basis.

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SECTION 2 - RULES AND REGULATIONS

2.4. Liabilities of Big River (cont'd)

- 2.4.9 Big River will not be responsible if any changes in its service cause hardware or software not provided by Big River to become obsolete require modification or alternation, or otherwise affect the performance of such hardware or software.
- 2.4.10 The Company shall use reasonable efforts to make services available by the estimated service date. The Company shall not be liable for any damages whatsoever resulting from delays in meeting the estimated service date due to delays resulting from normal installation procedures. Such delays shall include, but not be limited to delays in obtaining necessary regulatory approvals for construction, delays in obtaining right-of-way approvals, delays in actual construction work being done by our vendor(s), and any delays due to any LEC where the Company is relying upon such LEC to meet such estimated due date which is beyond the Company's control.
- 2.4.11 With respect to the services, materials and equipment provided hereunder, Big River makes no promises, agreements, understandings, representations or warranties, expressed or implied, and hereby expressly disclaims all warranties, expressed or implied, not stated in this Tariff, and in particular disclaims all warranties of merchantability and fitness for a particular purpose.

2.5 Responsibilities of the Customer

- 2.5.1 The Customer must initiate a service order pursuant to Section 2.6 of this Tariff.
- 2.5.2 The Customer may not, nor may the Customer permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise interfere with any of the facilities or equipment installed by Big River, except upon the written consent of Big River. The equipment Big River provides or installs at the Customer premises for use in connection with the service Big River offers shall not be used for any purpose other than for which it was provided.
- 2.5.3 The Customer shall ensure that the equipment and/or system is properly interfaced with Big River's facilities or service. If the Federal Communications Commission or some other appropriate certifying body certifies terminal equipment as being technically acceptable for direct electrical connection with interstate communications service, Big River will permit such equipment to be connected with its channels without the use of protective interface devices.
- 2.5.4 The Customer shall be responsible for securing its telephone equipment against being used to place fraudulent calls using Big River's service. The Customer shall be responsible for payment of all applicable charges for services provided by Big River and charged to the Customer's accounts, even where those calls are originated by fraudulent means either from Customer's premises or from remote locations.

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SECTION 2 - RULES AND REGULATIONS

2.5. Responsibilities of the Customer (cont'd)

- 2.5.5 Big River shall be indemnified and held harmless by the Customer against claims of libel, slander, or the infringement of copyright, or for the unauthorized use of any trademark, trade name, or service mark, arising from the material transmitted over Big River's service, against claims for infringement of patents arising from, combining with, or using in connection with, service, Big River's apparatus and systems of the Customer; against all other claims arising out of any act or omission of the member in connection with Big River's service. The Customer shall be liable for:
- 2.5.5.A Loss due to theft, fire, flood, or other destruction of Big River's equipment or facilities on Customer's premises.
 - 2.5.5.B Reimbursing Big River for damages to facilities or equipment caused by the negligence or willful acts of the Customer's officers, employees, agents or contractors.
 - 2.5.5.C Charges incurred with interconnect or local operating companies for service or service calls made to the Customer's premises or on the Customer's leased or owned telephonic equipment unless Big River specifically authorizes said visit or repairs in advance of the occurrence and Big River agrees in advance to accept the liability for said repairs or visit.
 - 2.5.5.D Payment for all Big River service charges incurred through usage or direct action on the part of the Customer.
- 2.5.6 The Customer may be required to verify in writing that it is duly authorized to order service at all locations designated by the Customer for service, and assumes financial responsibility for all locations designated by the Customer to receive Big River's services. If the verification (i.e., a letter of authorization) cannot be produced within five (5) calendar days of the request, the presubscription of the Customer's locations are considered unauthorized.
- 2.5.7 The Customer shall not use the Big River name, logo or trademark in any promotional materials, contracts, Tariffs, service bills, etc., without expressed written authorization from Big River. The Customer shall not use the Big River name, logo or trademark in any pre-sale activities. The Customer is prohibited from using Big River's name or trademark on any of the Customer's products or services.
- 2.5.8 Customer may not assign or transfer any of its rights or services ordered without the prior written consent of Big River. Big River may assign any service orders to its parent company or any affiliate or successor. Big River will notify Customers of any such assignment.

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SECTION 2 - RULES AND REGULATIONS

2.6 Application for Service

- 2.6.1 Applicants wishing to obtain service must initiate a service order which may include the Customer's authorization for Big River to instruct other carriers and vendors and the appropriate LEC to provide certain services on the Customer's behalf. Big River will obtain the proper authorization from the Customer where necessary, pursuant to Commission regulations.
- 2.6.2 An Application for Service may be changed by Customer upon written notice to Big River, subject to acceptance and confirmation by Big River, provided that a charge shall apply to any change when the request is received by Big River after notification by Big River of the acceptance and confirmation. Such charge shall be the sum of the charges and costs for access facilities and other services and features and the lesser of (i) the monthly recurring rate for each service component that has been canceled as a result of the change times the appropriate minimum service period, plus the applicable installation or non-recurring charges, and (ii) the costs incurred by Big River in accommodating each change, less net salvage. The costs incurred by Big River will include the direct and indirect cost of facilities specifically provided or used, the costs of installation, including design preparation, engineering, supply expense, labor and supervision, general and administrative, and any other costs resulting from the preparation, installation and removal effort.
- 2.6.3 Where the Customer or applicant cancels an Application for Service prior to the start of installation of service, lease of network elements, or prior to the start of special construction, no charge applies. Where installation of service has been started prior to the cancellation, a cancellation charge equal to the costs incurred by Big River shall apply, but in no case shall such charge exceed the charge for the minimum period of the service ordered, including applicable installation charges, if any. The costs incurred by Big River will include the direct and indirect costs of facilities specifically leased, provided or used; the cost of installation, including design preparation, engineering, supply expense, labor and supervision, general and administrative, and any other costs resulting from the preparation, installation and removal effort.

2.7 Establishing Credit, Deposits and Advance Payments

2.7.1 Credit Requirement

- 2.7.1.A Big River may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the end-user from complying with Big River's policy regarding the prompt payment of bills.
- 2.7.1.B For the purposes of this rule, "applicant" is to be defined as a person who applies for service for the first time or reapplies at a new or existing location after a previous discontinuance of service; "customer" is defined as someone who is currently receiving service.

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SECTION 2 - RULES AND REGULATIONS

2.7 Establishing Credit, Deposits and Advance Payments (cont'd)

2.7.2 Reestablishment of Credit

Any applicant who previously has been an end-user of Big River and whose service has been discontinued for nonpayment of bills shall be required, before service is rendered, to pay all amounts due Big River or execute a deferred payment agreement.

2.7.3 Deposits

Big River does not require deposits at this time.

2.8 Payment of Charges

2.8.1 The Customer is responsible for the payment of all charges for facilities and services furnished by Big River to the Customer, regardless of whether those services are used by the Customer itself or are resold to or shared with other persons.

2.8.2 For billing of monthly charges, service is considered to be established upon the day in which Big River notifies the Customer of installation and testing of the Customer's services.

2.8.3 Usage charges will be billed monthly in arrears. Customer will be billed for all usage accrued beginning immediately upon access to the service. Customers will be billed for usage occurring during their specific 30-day billing cycle, which for purposes of computing charges shall be considered a month. The rates charged to a Customer for a billing cycle will be the rates in effect on the first day of the Customer's billing cycle.

2.8.4 Monthly charges for all access service components, provided hereunder, are billed in advance of service and reflect the rates in effect as of the date of the invoice. A Customer's first invoice may contain charges from previous periods for service provided from the date of installation through the current invoice period.

2.8.5 Bills are due and payable as specified on the bill. Bills may be paid by mail or in person at the business office of Big River or an agency authorized to receive such payment. All charges for service are payable only in United States currency. Payment may be made by cash, check, money order, cashier's check, or certain major credit cards. Customer payments are considered prompt when received by Big River or its agent by the due date on the bill. Amounts not paid within twenty-one (21) days after the mail date of invoice will be considered past due. In the event that a postmark on a customer's payment received after the due date is not discernible, a three day mailing period will be presumed. If the last calendar day for remittance falls on a Sunday, legal holiday, or other day when the offices of Big River are not open to the general public, the final payment date shall be extended through the next business day. If Big River becomes concerned at

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SECTION 2 - RULES AND REGULATIONS

2.8 Payment of Charges (cont'd)

any time about the ability of a Customer to pay its bills, Big River may require that the Customer pay its bills and make such payments in cash or the equivalent of cash, as opposed to the use of checks or credit card.

- 2.8.6 If any portion of the payment is not received by Big River, or if any portion of the payment is received by Big River in funds that are not immediately available, within thirty (30) days after the date of rendition, then a late payment penalty may be assessed. The penalty for late payments shall be a 1.5% charge on the amount of the bill past due.
- 2.8.7 Any disputed charge may be brought to Big River's attention by verbal or written notification. In the case of a billing dispute between the Customer and Big River that cannot be settled to their mutual satisfaction, the undisputed portion and subsequent bills must be paid on a timely basis, or the service may be subject to disconnection. The Customer may request an in-depth investigation into the disputed amount and a review by a Big River manager. During the period that the disputed amount is under investigation, Big River shall not pursue any collection procedures or assess late fees with regard to the disputed amount. The Customer shall be required to pay the undisputed part of the bill, and if not paid, Big River may discontinue service. In the event the dispute is not resolved, Big River shall inform the customer that the customer has the option to pursue the matter with the Public Service Commission.
- 2.8.8 The Customer is responsible to pay Big River for all toll calls or other third party charges resulting from the origination of calls to points outside the local exchange and for charges or calls billed to the Customer's number.
- 2.8.9 Big River may assess up to a twenty-five dollar (\$25) charge for each returned check or credit card chargeback.
- 2.8.10 If service is suspended/disconnected by Big River in accordance with the provisions of the Tariff and later restored, restoration of service will be subject to all applicable installation charges.
- 2.8.11 When circumstances prevent customers from paying their invoices in full, Big River may make special accommodations to assist customers by setting up a regular payment plan. Payment plans are only set up at the request of the customer. Payment plans are intended to function as a short-term solution and will be reviewed and approved on an individual case basis.

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SECTION 2 - RULES AND REGULATIONS

2.9 Interruption of Service

- 2.9.1 Credit allowance for the interruption of service that is not due to Big River's testing or adjusting, negligence of the Customer or to the failure of channels or equipment provided by the Customer, are subject to the general liability provisions set forth herein. It shall be the obligation of the Customer to notify Big River immediately of any interruption in service for which a credit allowance is desired. Before giving such notice, the Customer or end-user shall ascertain that the trouble is not being caused by any action or omission by the Customer within his or her control, or is not in wiring or equipment, if any, furnished by the Customer and connected to Big River's facilities.

An adjustment or refund shall be made:

1. Automatically, if the service interruption lasts for more than forty-eight (48) hours after being reported to the company and the adjustment or refund exceeds \$1.00 in amount; and
2. Upon subscriber oral or written request, if the service interruption lasts twenty-four (24) to forty-eight (48) hours after being reported to the company and the adjustment or refund exceeds \$1.00 in amount.

- 2.9.2 For purposes of credit computation, every month shall be considered to have 720 hours.

- 2.9.3 The Customer shall be credited for an interruption at the rate of 1/720th of the monthly charge for the facilities affected for each hour or major fraction thereof that the interruption continues.

Credit Formula:

$$\text{Credit} = A/720 \times B$$

where "A" - outage time in hours

"B" - total monthly charge for affected facility

- 2.9.4 If written notice of a dispute as to charges is not received by the Company within 180 days of the date a bill is issued, such charges shall be deemed to be correct and binding on the Customer.

2.10 Restoration of Service

The use and restoration of service shall be in accordance with the rules of the Commission.

SECTION 2 - RULES AND REGULATIONS

2.11 Disconnection of Service by Customer

- 2.11.1 By giving notice, Customer may disconnect service at any time following its minimum service requirement(s). The recurring monthly service charge, plus associated taxes, shall be pro-rated for the actual number of days in which service has been provided, with the non-used portion being refunded to the Customer.

2.12 Cancellation for Cause

- 2.12.1 The Company may discontinue service or cancel an application for service, pursuant to applicable Commission rules, without incurring any liability for any of the following reasons:
- A. Nonpayment of a delinquent bill for non-disputed regulated telecommunications services within the period;
 - B. Failure to make a required security deposit;
 - C. Violation of or noncompliance with any provision of law, or of the tariffs or terms and conditions of service of the Company filed with and approved by the Commission;
 - C. Refusal to permit the Company reasonable access to its telecommunications facilities for recovery, maintenance, and inspection thereof.
 - D. Interconnection of a device, line, or channel to Company facilities or equipment contrary to the Company's terms and conditions of service on file with and approved by the Commission.
 - E. Use of telephone service in such manner as to interfere with reasonable service to other end users.
- 2.12.2 Service may be discontinued during normal business hours on or after the date specified in the notice of discontinuance. Service shall not be discontinued on a day when the offices of the Company are not available to facilitate reconnection of service or on a day immediately preceding such a day.
- 2.12.3 At least 24 hours preceding a discontinuance, the Company shall make reasonable efforts to contact the Customer to advise it of the proposed discontinuance and what steps must be taken to avoid it.
- 2.12.4 Service shall not be disconnected unless written notice by first class mail is sent or delivered to the Customer at least ten (10) days prior to the date of the proposed discontinuance.

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Big River Telephone Company, LLC

SECTION 2 - RULES AND REGULATIONS

2.13 Notice and Communication

2.13.1 The Customer shall designate on the Application for Service an address to which Big River shall mail or deliver all notices and other communications, except that Big River may also designate a separate address to which Big River's bills for service shall be mailed.

2.13.2 Big River shall designate on the Application for Service an address to which the Customer shall mail or deliver all notices and other communications, except that Big River may designate a separate address on each bill for service to which the Customer shall mail payment on that bill.

2.14 Taxes, Surcharges and Utility Fees

Customer is responsible for the payment of all federal, state and local taxes, surcharges, utility fees, or other similar fees (*i.e.*, gross receipts tax, sales tax, municipal utilities tax, 911 surcharges or fees, universal service contributions) that may be levied by a governing body or bodies in conjunction with or as a result of the service furnished under this Tariff. These charges will appear as separate line items on the Customer's bill and are not included in the rates contained in this Tariff. There shall be added to the Customer's bill for service, an additional charge equal to the pro rata share of any occupation, franchise, business, license, excise privilege or other similar charge or tax, now or hereafter imposed upon the gross receipts or revenue of Big River by any municipal taxing body or municipal authority whether by statute, ordinance, law or otherwise, and whether presently due or to hereafter become due. The charge applicable to each Customer will appear as a separate line item on the Customer's regular monthly bill and shall be determined on a basis equal to the tax levied by each municipal taxing body or municipal authority.

2.15 Customer Billing Inquiries

Any customer who has a question regarding his/her telephone bill may contact Big River toll free at (800) 455-1608, or at 24 S. Minnesota Ave, Cape Girardeau, MO 63703.

Filing a complaint with the Missouri Public Service Commission:

- ? If Big River cannot resolve your complaint, you may call the Missouri Public Service Commission, located at 200 Madison Street, Suite 100, Jefferson City, Missouri 65101, toll free at 1-800-392-4211 to file an informal complaint
- ? If your complaint cannot be resolved informally, you may file a formal complaint in writing with the Missouri Public Service Commission at its mailing address: P.O. Box 360, Jefferson City, Missouri 65102.

SECTION 2 - RULES AND REGULATIONS

2.15 Customer Billing Inquiries (cont'd)

- ? Also the Missouri Office of the Public Counsel, representing the public before the Public Service Commission, has an office at 200 Madison Street, Jefferson City, Missouri 65102. The Public Counsel's telephone number is 1-573-751-4857.

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SECTION 3 – DESCRIPTION OF SERVICES

3.1 General

The Company provides intrastate interexchange services, including direct-dialed message telecommunications services and 800/888/877/866 service to residential and business customers. Each service is offered independently of the other and is offered via Big River's facilities, conventional network elements purchased from other local or inter-exchange carriers, or via resale of facilities of other local or inter-exchange carriers for the transmission of one-way or two-way communications, unless otherwise noted. Calls are rated based on the duration of the call. Services are available twenty-four (24) hours a day, seven (7) days a week.

3.2 Charges Based on Duration of Use

Where charges for a service are specified based on the duration of use, such as the duration of a telephone call, the following rules apply:

- 3.2.1 Calls are measured in duration increments identified for each service. All calls which are fractions of a measurement increment are rounded up to the next whole unit.
- 3.2.2 Timing on completed calls begins when the call is answered by the called party. Answering is determined by hardware answer supervision in all cases where this signaling is provided by the terminating local carrier and any intermediate carrier(s).
- 3.2.3 Timing terminates on all calls when the calling party hangs up or the Company's network receives an on-hook signal from the terminating carrier.
- 3.2.4 Calls originating in one time period and terminating in another will be billed in proportion to the rates in effect during different segments of the call.
- 3.2.5 All times refer to local times at the Customer's Location.
- 3.2.6 Rates are not distance sensitive. As such, unless otherwise indicated, mileage bands are not applicable to the services offered.
- 3.2.7 Unless otherwise indicated, rates do not vary depending upon day or the time of day (Day, Evening, and Night/Weekend).
- 3.2.8 Each call is rated and billed in whole cents. Any rated call with a fraction of a cent less than \$0.004 will be rounded down to the nearest whole cent. Any rated call with a fraction of a cent \$0.005 or greater will be rounded up to the nearest whole cent.

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SECTION 3 – DESCRIPTION OF SERVICES

3.3 Product Descriptions

3.3.1 Switched Outbound (1+) Service

Switched Outbound Service provides Big River customers with the ability to originate calls from a Big River-provided access line to all other stations on the public switched telephone network bearing the designation of any central office exchanges outside the customer's local calling area. This service is available on a switched basis only.

This service is available to Local Exchange Telecommunications Services customers of Big River, as well as other Local Exchange Providers, who presubscribe to the Company for long distance Service.

3.3.2 Toll Free Service (8XX)

Toll Free Service is an inbound-only service that allows callers located anywhere in the State of Missouri to place Toll Free Calls to Customers by dialing an assigned telephone number with an 8XX area code. The Company provides Switched Toll Free Service only. Calls may be terminated either to the Customer's local exchange telephone service or dedicated access line.

3.3.3 Post-Paid Calling Card (Travel Card) Services

Post-Paid Calling Card Service enables Customers to make Calls through the use of a long distance calling card to points throughout the State of Missouri. Charges incurred are billed to the Customer's account. Access to the network is available through a 1-800 number or through a local telephone number. The caller will then be prompted to dial the telephone number associated with the called station and an authorization code in order to complete the call.

3.3.4 Directory Assistance

Directory Assistance ("DA") is a Service that provides Customers with access to telephone number information. Access is obtained by direct dialing 1 + (Area Code) 555-1212 or 1-411.

3.3.5 Operator Services

Operator Services involve assisting Customers with the placement of telephone calls, including collect calls, calling cards, credit card calls, person-to-person calls, third party calls, and other related operator services as well as the obtaining of related information. The Company provides this service for local and intraLATA calls. All other operator assisted calls will be routed to the Company's underlying carrier.

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SECTION 3 – DESCRIPTION OF SERVICES

3.3 Product Descriptions (cont'd)

3.3.6 Timeless Talk Plan

3.3.6.A Timeless Talk Plan services are outbound only services provided to residential customers with a single BTN located within the SBC service area in the State of Missouri. Multiple BTN aggregation is not available with these services. Customers or end users can access the Company's long distance service by dialing 1 + the area code + the called telephone number from their presubscribed telephone line. Timeless Talk Plan Service is available to new and existing residential customers that:

- 3.3.6.A.1 use Switched Access to reach the long distance network;
- 3.3.6.A.2 subscribe to and maintain the required services, products, and/or features described in Section 3.3.6.D of this Tariff for the rate option selected by the Customer,
- 3.3.6.A.3 subscribe to and maintain Timeless Talk Plan service for the provision of intrastate IntraLATA Service, intrastate InterLATA Service and interstate service (this Service is not available for intrastate Service on a stand-alone basis),
- 3.3.6.A.4 demonstrate to the satisfaction of the Company at the time of subscribing to the Service and associated rate plan that the Residential Customer also subscribe to the required products, services, and/or features described in Section 3.3.6.D of this Tariff.
- 3.3.6.A.5 provide the Company the same billing name and address for all services required to subscribe to the Timeless Talk Plan; and
- 3.3.6.A.6 limit the use of Service to that which is of a standard, domestic, residential nature (see Section 3.3.6.C of this Tariff); and
- 3.3.6.A.7 request to be provisioned under this Service.

3.3.6.B Customers who cancel or discontinue the Company's Service or any of the required products, services or features as described in Section 3.3.6.A.3 of this Tariff or whose Service is refused, cancelled or discontinued by the Company shall forfeit eligibility for rates under this Service. Customers continuing to presubscribe to the Company will be moved to Switched Outbound and the rates described in Section 4.1.1 will apply unless the Customer elects an alternative Service.

SECTION 3 – DESCRIPTION OF SERVICES

3.3 Product Descriptions (cont'd)

3.3.6.C If the Customer uses this Service for non-standard residential or non residential purposes, including but not limited to commercial or broadcast facsimile, resale, telemarketing, internet or other data connections and autodialing, the Company may immediately suspend, restrict or cancel the Customer's Service. As a result of non-standard or nonresidential use of Service, the Company may move the Customer to Switched Outbound and the rates described in Section 4.1.1 of this Tariff will apply to such use.

3.3.6.D Rate Options

The Customer may choose from the following rate options:

3.3.6.D.1 Timeless Talk

For a monthly recurring charge, the Customer receives unlimited intrastate and interstate one plus (1+) Direct-Dialed minutes of use. Intrastate Timeless Talk is provided in conjunction with interstate Timeless Talk and is available only to Customers who subscribe to the interstate service provided in the Company's Interstate Price Guide which can be found at www.bigrivertelephone.com.

Intrastate Timeless Talk is not available on a standalone basis.

3.3.6.D.2 Reserved for future use

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SECTION 3 – DESCRIPTION OF SERVICES**3.3 Product Descriptions (contd)****3.3.6.D.3 Timeless Talk Plus**

For a monthly recurring charge, the Customer receives unlimited intrastate and interstate one plus (1+) Direct Dialed minutes of use. Intrastate Timeless Talk is provided in conjunction with Interstate Timeless Talk and is available only to Customers who subscribe to the interstate service provided in the Company's Interstate Price Guide which can be found at www.bigrivertelephone.com.

Intrastate Timeless Talk Plus is not available on a standalone basis.

3.3.6.E Timeless Talk Plan for Business

3.3.6.E.1 Timeless Talk Plan for Business services are outbound only services provided to business customers with a single BTN. Multiple BTN aggregation is not available with these services. Customers or end users can access the Company's long distance service by dialing 1 + the area code + the called telephone number from their presubscribed telephone line. Timeless Talk Plan for Business Service is available to new and existing business customers that:

- 3.3.6.E.1.1 use Switched Access to reach the long distance network;
- 3.3.6.E.1.2 subscribe to and maintain the required services, products, and/or features described in Section 3.3.6.E.4 of this Tariff for the rate option selected by the Customer,
- 3.3.6.E.1.3 subscribe to and maintain Timeless Talk for Business Plan service for the provision of intrastate IntraLATA Service, intrastate InterLATA Service and interstate service (this Service is not available for intrastate Service on a stand-alone basis),
- 3.3.6.E.1.4 demonstrate to the satisfaction of the Company at the time of subscribing to the Service and associated rate plan that the Customer also subscribe to the required products, services, and/or features described in Section 3.3.6.E.4 of this Tariff.
- 3.3.6.E.1.5 provide the Company the same billing name and address for all services required to subscribe to the Timeless Talk for Business Plan; and

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Big River Telephone Company, LLC

3.3.6.E.1.6 limit the use of Service to that which is described in Section 3.3.6.E.3 of this Tariff; and

3.3.6.E.1.7 request to be provisioned under this Service.

3.3.6.E.2 Customers who cancel or discontinue the Company's Service or any of the required products, services or features as described in Section 3.3.6.E.1.3 of this Tariff or whose Service is refused, cancelled or discontinued by the Company shall forfeit eligibility for rates under this Service. Customers continuing to presubscribe to the Company will be moved to Switched Outbound and the rates described in Section 4.1.1 will apply unless the Customer elects an alternative Service.

3.3.6.E.3 Certain restrictions apply. Timeless Talk for Business may not be used in conjunction with the following: auto dialers, long distance Internet access, call center applications including but not limited to autodialers, PBX trunks, ground start line or trunks, ISDN services, foreign exchange services, public telephone services, public access smart-pay phones, analog to digital conversion digital PBX services, WATS services, PBX/PABX/EABX services, non-square electronic key telephone systems, hybrid key telephone systems, predictive calling/dialing systems, automatic outbound dialing systems, any type of automatic call distribution system, or the functional equivalent of any such system listed above. If the Company determines that the Customer is in violation of above listed restrictions, the Customer shall forfeit eligibility for rates under this plan and will be moved to a regular Outbound rate plan unless an alternative plan is selected by the Customer.

3.3.6.E.4 Rate Options

The Customer may choose from the following rate options:

3.3.6.E.4.1 Timeless Talk for Business

For a monthly recurring charge, the Customer receives unlimited intrastate and interstate one plus (1+) Direct-Dialed minutes of use. Intrastate Timeless Talk for Business is provided in conjunction with interstate Timeless Talk for Business and is available only to Customers who subscribe to the interstate service provided in the Company's Interstate Price Guide which can be found at www.bigrivertelephone.com.

Intrastate Timeless Talk for Business is not available on a standalone basis.

SECTION 3 – DESCRIPTION OF SERVICES

3.3 Product Descriptions (cont'd)

3.3.6.E.4.2 Reserved for future use

3.3.6.E.4.3 Timeless Talk Plus for Business

For a monthly recurring charge, the Customer receives unlimited intrastate and interstate one plus (1+) Direct Dialed minutes of use. Intrastate Timeless Talk Plus for Business is provided in conjunction with interstate Timeless Talk Plus for Business and is available only to Customers who subscribe to the interstate service provided in the Company's Interstate Price Guide which can be found at www.bigrivertelephone.com.

Intrastate Timeless Talk Plus for Business is not available on a stand-alone basis.

3.3.7 Big River Plus

3.3.7.A Big River Plus services are outbound only services provided to residential and business customers located within SBC service areas in the State of Missouri. Multiple BTN aggregation is available with these services only if the customer takes the service with all telephone lines on their account. Customers or end users can access the Company's long distance service by dialing 1 + the area code + the called telephone number from their presubscribed telephone line. Big River Plus is available to new and existing customers that:

3.3.7.A.1 use Switched Access to reach the long distance network;

3.3.7.A.2 subscribe to and maintain the local telephone service with Big River Telephone for the line that Big River Plus is subscribed,

3.3.7.A.3 provide the Company the same billing name and address for all services required to subscribe to Big River Plus; and

3.3.7.A.4 request to be provisioned under this Service.

3.3.7.B Customers who cancel or discontinue the Company's Service or any of the required products, services or features as described in Section 3.3.7.A.2 of this Tariff or whose Service is refused, cancelled or discontinued by the Company shall forfeit eligibility for rates under this Service. Customers continuing to presubscribe to the Company will be moved to Switched Outbound and the rates described in Section 4.1.1 will apply unless the Customer elects an alternative eligible Service.

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SECTION 3 – DESCRIPTION OF SERVICES

3.3 Product Descriptions (cont'd)

3.3.7.C Big River Plus allows the Customer to receive a monthly allowance of minutes of IntraLATA one plus (1+) Direct Dialed usage, as outlined in Section 4.7. Usage beyond the monthly allowance is billed on a per minute basis. The number of minutes allowed and the standard overage rate per minute are outlined in Section 4.7.

3.3.8 Single Number Direct

3.3.8.A Single Number Direct is an outbound only service provided to residential and business customers located within SBC service areas in the State of Missouri. Customers or end users can access the Company's long distance service by dialing 1 + the area code + the called telephone number from their presubscribed telephone line. Single Number Direct is available to new and existing customers that:

3.3.8.A.1 use Switched Access to reach the long distance network;

3.3.8.A.2 subscribe to and maintain the local telephone service with Big River Telephone for the line that Single Number Direct is subscribed,

3.3.8.A.3 provide the Company the same billing name and address for all services required to subscribe to Single Number Direct; and

3.3.8.A.4 request to be provisioned under this Service.

3.3.8.B Customers who cancel or discontinue the Company's Service or any of the required products, services or features as described in Section 3.3.8.A.2 of this Tariff or whose Service is refused, cancelled or discontinued by the Company shall forfeit eligibility for rates under this Service. Customers continuing to presubscribe to the Company will be moved to Switched Outbound and the rates described in Section 4.1.1 will apply unless the Customer elects an alternative eligible Service.

3.3.8.C Single Number Direct allows the Customer to receive a monthly allowance of minutes of one plus (1+) Direct Dialed IntraLATA usage, as outlined in Section 4.8, destined for a single telephone number. Usage to the specified telephone number beyond the monthly allowance is billed on a per minute basis. The number of minutes allowed and the standard overage rate per minute are outlined in Section 4.8.

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SECTION 3 – DESCRIPTION OF SERVICES**3.3 Product Descriptions (cont'd)****3.1.1 Long Distance Time Packs**

Long Distance Time Packs are optional outbound only services provided to residential customers. Customers or end users can access the Company's long distance service by dialing 1 + the area code + the called telephone number from their presubscribed telephone line for outbound access. All calls are billed in increments of six (6) seconds subject to a minimum connect time (initial period) of thirty (30) seconds. This optional pricing plan is established at the BTN level.

Long Distance Time Packs service is available to new and existing residential customers that:

- ✍ use Switched Access to reach the long distance network;
- ✍ subscribe to and maintain a Residential Savings Package line as outlined in Section 5.18 of Big River Telephone Company's Missouri Tariff No. 2,
- ✍ subscribe to and maintain this plan for the provision of intrastate IntraLATA Service, intrastate InterLATA Service and interstate service (this Service is not available for intrastate Service on a stand-alone basis),
- ✍ demonstrate to the satisfaction of the Company at the time of subscribing to the Service and associated rate plan that the Customer also subscribes to the required products, services, and/or features described herein.
- ✍ provide the Company the same billing name and address for all services required to subscribe Long Distance Time Packs; and
- ✍ request to be provisioned under this Service.

For a specified monthly recurring charge, the Customer receives a specific amount (block) of time for placing (1) one plus (1+) Direct-Dialed outbound calls that originate from a line presubscribed to the Company. All usage in excess of the selected block of time will be billed at a fixed rate per minute. See Section 4.9 of this Tariff for the number of minutes allowed and the standard overage rate per minute after the block of time has been used. Any minutes not used in a billing cycle will not be carried over to the next billing cycle. No credits will be given for any unused minutes.

SECTION 4 – RATES AND CHARGES**4.1 Switched Outbound (1+)**

- 4.1.1 For all customers who choose Big River as their presubscribed intraLATA toll and interLATA long distance provider. Based on minimum monthly usage and contractual term commitments, the following rates apply:

		Residential Customers Rates Per Minute			
		Contractual Commitment			
		Monthly	1 Yr	2 Yr	3 Yr
Monthly Minutes of Use	0-300	0.080	0.070	0.067	0.062
	300-500	0.075	0.067	0.064	0.061
	Over 500	0.070	0.065	0.062	0.059

		Business Customers Rates Per Minute			
		Contractual Commitment			
		Monthly	1 Yr	2 Yr	3 Yr
Monthly Minutes of Use	0-500	0.078	0.068	0.067	0.062
	500-1000	0.073	0.066	0.063	0.060
	Over 1000	0.070	0.063	0.061	0.059

- 4.1.2 For customers who do not choose Big River as both their intraLATA toll and interLATA presubscribed long distance provider.

Rate per Minute

IntraLATA Toll Calls

\$0.15 per minute where Big River is the carrier

InterLATA Long Distance Calls

\$0.10 per minute where Big River is the carrier

- 4.1.3 The duration of each call is rounded up to the nearest six second increment, after a minimum of 30 seconds per call.

4.2 Toll Free Service (8XX)

- 4.2.1 Based on minimum monthly usage and contractual term commitments, the following rates apply:

		Residential Customers Rates Per Minute			
		Contractual Commitment			
		Monthly	1 Yr	2 Yr	3 Yr
Monthly Minutes of Use	All	0.100	0.080	0.070	0.065

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SECTION 4 – RATES AND CHARGES**4.2 Toll Free Service (8XX) (cont'd)**

		Business Customers Rates Per Minute			
		Contractual Commitment			
		Monthly	1 Yr	2 Yr	3 Yr
Monthly Minutes of Use	0-500	0.090	0.075	0.067	0.062
	500-1000	0.073	0.066	0.063	0.060
	Over 1000	0.070	0.063	0.061	0.059

4.2.2 A \$0.40 per call surcharge will apply to all calls placed from a payphone.

4.2.3 The duration of each call is rounded up to the nearest six second increment, after a minimum of 30 seconds per call.

4.3 Post-Paid Calling Card Services

4.3.1 The rate per minute is \$0.15. For those customers that subscribe to the Company's Switched Outbound service, Post-Paid Calling Card Services calls will be rated at their Switched Outbound rate, except for calls back to the customer's home exchange, which will be rated at \$0.15 per minute.

4.3.2 A \$0.40 per call surcharge will apply to all calls placed from a payphone.

4.3.3 A \$0.40 per call surcharge will apply to calls made to the Company's 800 access number. No such surcharge applies made to the local access number.

4.3.4 The duration of each call is rounded up to the nearest six second increment, after a minimum of 30 seconds per call.

4.4 Directory Assistance

4.4.1 InterLATA Directory Assistance calls, other than calls placed to 8XX toll free DA:

Per call rate: \$ 1.00

SECTION 4 – RATES AND CHARGES**4.4 Directory Assistance (cont'd)****4.4.2 IntraLATA Directory Assistance**

Direct Dialed	\$ 0.75 per call
Via Operator	\$ 0.75 per call

Fully-Automated	
Sent-Paid	\$ 0.00 per call
Collect, Bill to 3rd Number	\$ 2.50 per call

Semi-Automated	
Sent-Paid	\$ 2.00 per call
Collect, Bill to 3rd Numbers	\$ 2.50 per call
Person-to-Person	\$ 4.00 per call

4.4.3 Calls placed to 800/888 toll free DA

Calls placed to 800/888 toll free DA are provided at no charge to the Customer.

4.5 Operator Services

4.5.1 All usage associated with operator assisted calls will be charged the per minute rates as stated in Section 4.1.

4.5.2 In addition to applicable usage charges, the following operator-assisted charges will apply:

Person-to-Person	
IntraLATA	\$ 4.00 per call

Station-to-Station	
IntraLATA	\$ 2.00 per call

The term "Local" is meant to mean a call placed to a point within the customer's local calling area.

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SECTION 4 – RATES AND CHARGES

4.6 Timeless Talk Plan

4.6.1 Timeless Talk

The monthly recurring charge is \$16.00 for unlimited interstate and intrastate MOU as defined in Section 3.3.6.D.1 of this Tariff.

4.6.2 Reserved for future use.

4.6.3 Timeless Talk Plus

The monthly recurring charge is \$16.00 for unlimited interstate and intrastate MOU as defined in Section 3.3.6.D.3 of this Tariff.

4.6.4 Timeless Talk for Business

4.6.4.1 The monthly recurring charge for Basic Timeless Talk for Business as defined in Section 3.3.6.E.4.1 of this tariff is \$15.99.

4.6.4.2 Reserved for future use.

4.6.4.3 The monthly recurring charge for Timeless Talk Plus for Business as defined in Section 3.3.6.E.4.3 of this tariff is \$15.99.

4.7 Big River Plus

4.7.1 Residential Customers

The monthly recurring charge is \$29.66 per month and the customer receives a monthly allowance of 1,000 IntraLATA minutes of use. Minutes beyond the monthly allowance will be billed at \$0.08 per minute.

4.7.2 Business Customers

The monthly recurring charge is \$49.50 per month and the customer receives a monthly allowance of 2,500 IntraLATA minutes of use. Minutes beyond the monthly allowance will be billed at \$0.08 per minute.

SECTION 4 – RATES AND CHARGES**4.8 Single Number Direct****4.8.1 Residential Customers**

The monthly recurring charge for Single Number Direct is \$15.00 per month and the customer receives a monthly allowance of 500 Intrastate minutes of use that are destined for the telephone number that the Customer identifies. Minutes to the pre-determined telephone number, beyond the monthly allowance will be billed at \$0.08 per minute.

4.8.2 Business Customers

The monthly recurring charge for Single Number Direct is \$15.00 per month and the customer receives a monthly allowance of 300 Intrastate minutes of use that are destined for the telephone number that the Customer identifies. Minutes to the pre-determined telephone number, beyond the monthly allowance will be billed at \$0.08 per minute.

4.9 Long Distance Time Packs

Rates for the various Long Distance Time Pack Plans are listed below.

	Allotted Minutes	Monthly Fee	Per Minute Rate On Overage
60 Pack	60	\$3.00	0.07
180 Pack	180	\$6.00	0.07
480 Pack	480	\$10.00	0.07
960 Pack	960	\$15.00	0.07

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SECTION 5 – PROMOTIONS

- 5.1 General** – From time to time, Big River may elect to offer special promotions to its customers. These promotions will generally consist of a reduced price, a waiver of installation charges, or a free service with a purchase of another service.

Any promotional waiver or discounted rate will apply only one time per customer for each service in any given wire center prefix during the course of the promotional period, subject to prior notification and approval by the Missouri Public Service Commission.

Big River will provide written notice to the Commission no less than seven (7) days prior to the beginning of each promotion period identifying the promotion and the exchanges within which the promotion will be offered.

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Schedule of Rate, Rules and Regulations
Governing Local Telecommunications Service
Provided in the State of Missouri

OFFERED BY

Big River Telephone Co., LLC
24 S. Minnesota Ave.
Cape Girardeau, Mo. 63703
(573) 651-3373
(800) 455-1608

Applying generally to provision of service in exchanges within the Company's certificated area in
the State of Missouri

BIG RIVER TELEPHONE CO., LLC,
AS A COMPANY AND ITS SERVICES HAVE BEEN CLASSIFIED AS
COMPETITIVE UNDER THE REVISED STATUTES OF MISSOURI

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Effective: August 16, 2003

Issued By:
Kevin B. Cantwell, President
Big River Telephone Company, LLC

Missouri Public

REC'D SEP 04 2001

ADOPTION NOTICE

Service Commission

Pursuant to Case Nos. TA-2001-699 and TM-2001-700, and 4 CSR 240-30.010(22), Big River Telephone Company, LLC, hereby adopts, ratifies, incorporates herein and makes its own in every respect as if the same had been originally filed by Big River Telephone Company, LLC, all current tariffs, schedules, rules, notices, concurrences, schedule agreements, divisions, authorities and/or other instruments whatsoever, filed with the Public Service Commission of the State of Missouri, by LDD, Inc., as of the effective date of this tariff, known as LDD, Inc. P.S.C. Mo. No. 2.

By this notice, Big River Telephone Company, Inc. also adopts and ratifies all current supplements or amendments to any of the above schedules, etc., which LDD, Inc., has heretofore filed with the Commission.

This notice is effective as of October 3, 2001.

Issued: August 31, 2001

Effective ~~October 3, 2001~~ 2001

By: Gerard J. Howe, CEO and President
Big River Telephone Company, LLC
24 S. Minnesota
Cape Girardeau, Missouri 63072

OCT 31 2001

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FILED OCT 31 2001

01-700
Service Commission

LIST OF WAIVED STATUTES AND REGULATIONS

The Missouri Public Service Commission in its order in Case No. TA-2001-699, waived the following statutes and regulations regarding Big River Telephone Co., LLC and its local services:

Statutes

392.210.2	-	uniform system of accounts
392.240.1	-	rates-rentals-services & physical connections
392.270	-	valuation of property (ratemaking)
392.280	-	depreciation accounts
392.290	-	issuance of securities
392.300.2	-	acquisition of stock
392.310	-	stock and debt issuance
392.320	-	stock dividend payment
392.330	-	issuance of securities, debts and notes
392.340	-	reorganization(s)

Commission Rules

4 CSR 240-10.020	-	depreciation fund income
4 CSR 240-30.010(2)(C) ¹	-	posting of tariffs
4 CSR 240-30.040	-	uniform system of accounts
4 CSR 240-32.030(4)(C) ²	-	exchange boundary maps
4 CSR 240-33.030	-	minimum charges
4 CSR 240-35 ³	-	reporting of bypass and customer-specific arrangements

¹ New rule number 4 CSR 240-3.545(2)(C)

² New rule number 4 CSR 240-3.550(5)(C)

³ Rule repealed

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Big River Telephone Company, LLC

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By Gerard J. Howe, CEO
24 So. Minnesota Ave.
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Effective: December 14, 2002

LDD, Inc.
24 South Minnesota
Cape Girardeau, Missouri 63702

Missouri Tariff No. 2
Original Page 4

NOV 2 1998

APPLICATION OF TARIFF

MISSOURI PUBLIC SERVICE COMM

This tariff sets forth the service offerings, rates, terms and conditions applicable to the local exchange, exchange access, and intrastate toll communications services within the state of Missouri.

Missouri Public
Service Commission

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By:

Edward Eagleton, President

SECTION 1.0-DEFINITIONS

For the purpose of this tariff, the following definitions will apply:

Access Service Request: The written request for access service executed by the Customer and the Company in the format devised by the Company. The signing of an Access Service Request by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this Tariff, but the duration of the service is calculated from the Service Commencement Date. Any use of the Company's access service at any time without an executed Access Service Request is subject to the obligations, rates and charges as set forth in this Tariff (the Company may request such a Customer to submit an Access Service Request). N

Advance Payment: Part or all of a payment required before the start of service.

Automatic Number Identification ("ANI"): Allows the automatic transmission of a caller's billing account telephone number to a local exchange company, interexchange carrier or a third party Customer. The primary purpose of ANI is to allow for billing of toll calls.

Collocation: An arrangement whereby the Company's switching equipment is located in a local exchange Company's central office.

Company or Carrier: Refers to Big River Telephone Company, LLC, issuer of this tariff. C

Customer or Customer: The person, firm or corporation which orders service and is responsible for the payment of charges and compliance with the Company's regulations.

Deposit: Refers to a cash or equivalent of cash security held as a guarantee for payment of the charges.

DID Trunk: A form of local switched access that provides the ability for an outside party to call an internal extension directly without the intervention of the Company operator.

Direct Inward Dial (or "DID"): A service attribute that routes incoming calls directly to stations, by-passing a central answering point.

Direct Outward Dial (or "DOD"): A service attribute that allows individual station users to access and dial outside numbers directly.

End Office: With respect to each NPA-NXX code prefix assigned to the Company, the location of the Company's "end office" for purposes of this tariff shall be the point of interconnection associated with that NPA-NXX code in the Local Exchange Routing Guide ("LERG"), issued by Bellcore.

Exchange Telephone Company or Telephone Company: Denotes any individual, partnership, association, joint-stock company, trust, or corporation authorized by the appropriate regulatory bodies to engage in providing public switched communication service throughout an exchange area, and between exchange areas within the LATA.

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SECTION 1.0 - DEFINITIONS. (CONT'D.)

Hearing Impaired: Those persons with communication impairments, including those hearing impaired, deaf, deaf/blind, and speech impaired persons who have an impairment that prevents them from communicating over the telephone without the aid of a telecommunications device for the deaf. **SERVICE COMM**

Hunting: Routes a call to an idle station line in a prearranged group when the called station line is busy.
IXC or Interexchange Carrier: A long distance telecommunications services provider.

LATA: A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4.

LDD: LDD, Inc., the issuer of this tariff.

Monthly Recurring Charges: The monthly charges to the Customer for services, facilities and equipment, which continue for the agreed upon duration of the service.

Multiline: An individual flat rate exchange service furnished by means of two or more exchange lines terminating in apparatus which facilities pick-up by associated stations. Multiline rates do not apply where the PBX trunk rate applies or to Centrex Service.

Nonrecurring Charge ("NRC"): The initial charge, usually assessed on a one-time basis, to initiate and establish service.

NPA: Numbering plan area or area code.

PBX: Private Branch Exchange

Point of Presence ("POP"): Point of Presence

Recurring Charges: The monthly charges to the Customer for services, facilities and equipment which continue for the agreed upon duration of the service.

SWBT: Refers to Southwestern Bell Telephone Company.

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Edward Eagleton, President

SECTION 1.0-DEFINITIONS. (CONT'D)

Service Commencement Date: The first date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order, or this Tariff, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and the Customer may mutually agree on a substitute Service Commencement Date. If the Company does not have an executed Service Order from the Customer, the Service Commencement Date will be the first date on which the service or facility is used by the Customer or its End User Customers. C

Service Order: The written request for Network Services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff, but the duration of the service is calculated from the Service Commencement Date.

Shared: A facility or equipment system or subsystem that can be used simultaneously by several Customers.

Toll Free: A term used to describe the service formerly known as 800 Service. Toll Free Service provides incoming service utilizing 800, 888 and other 8XX numbers.

Two Way: A service attribute that includes outward dial capabilities for outbound calls and can also be used to carry inbound calls to a central point for further processing.

Usage Based Charges: Charges for minutes or messages traversing over local exchange facilities.

User or End User: A Customer, Joint User, or any other person authorized by a Customer to use service provided under this tariff.

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SECTION 2.0 - RULES AND REGULATIONS

NOV 2 1998

2.1 Undertaking of the Company

MO. PUBLIC SERVICE COMM

2.1.1 Scope

The Company undertakes to furnish communications service pursuant to the terms of this tariff in connection with one-way and/or two-way information transmission originating from points within the State of Missouri, and terminating within a local calling area as defined herein.

The Company is responsible under this tariff only for the services and facilities provided hereunder, and it assumes no responsibility for any service provided by any other entity that purchases access to the Company network in order to originate or terminate its own services, or to communicate with its own Customers.

2.1.2 Shortage of Equipment or Facilities

- .1 The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of lack of facilities, or due to some other cause beyond the Company's control.
- .2 The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

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LDD, Inc.
24 South Minnesota
Cape Girardeau, Missouri 63702

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SECTION 2.0 - RULES AND REGULATIONS, (CONT'D.)

NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.)

MO. PUBLIC SERVICE COMM

2.1.3 Terms and Conditions

- .1 Service is provided on the basis of a minimum period of at least thirty days, 24-hours per day. For the purpose of computing charges in this tariff, a month is considered to have thirty (30) days.
- .2 Customers may be required to enter into written or verbal service orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in this tariff. Customers will also be required to execute any other documents as may be reasonably requested by the Company.
- .3 Except as otherwise stated in the tariff, at the expiration of the initial term specified in each Service Order, or in any extension thereof, service shall continue on a month to month basis at the then current rates unless terminated by either party upon thirty (30) days notice. Any termination shall not relieve the Customer of its obligation to pay any charges incurred under the service order and this tariff prior to termination. The rights and obligations which by their nature extend beyond the termination of the term of the service order shall survive such termination.
- .4 This tariff shall be interpreted and governed by the laws of the State of Missouri without regard for its choice of laws provision.

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SECTION 2.0 - RULES AND REGULATIONS. (CONT'D.)

NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.)

MO. PUBLIC SERVICE COMM

2.1.3 Terms and Conditions, (Cont'd.)

- .5 Other carriers may not interfere with the right of any person or entity to obtain service directly from the Company. No person or entity shall be required to make any payment, incur any penalty, monetary or otherwise, or purchase any services in order to have the right to obtain service directly from the Company.
- .6 To the extent that either the Company or any other carrier exercises control over available cable pairs, conduit, duct space, raceways, or other facilities needed by the other to reach a person or entity, the party exercising such control shall make them available to the other on terms equivalent to those under which the Company makes similar facilities under its control available to its Customers. At the reasonable request of either party, the Company and the other carrier shall jointly attempt to obtain from the owner of the property access for the other party to serve a person or entity.
- .7 The Company hereby reserves its rights to establish service packages specific to a particular Customer. These contracts may or may not be associated with volume and/or term discounts.

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SECTION 2.0 - RULES AND REGULATIONS. (CONT'D.) NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.).

MO. PUBLIC SERVICE COMM

2.1.4 Limitations on Liability

- .1 Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representations, or use of these services or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in Section 2.7 and direct damages of up to the equivalent of one month's service.
- .2 Except for the extension of allowances to the Customer for interruptions in service as set forth in Section 2.7, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service.
- .3 The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed.

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SECTION 2.0 - RULES AND REGULATIONS. (CONT'D.)

NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.)

MISSOURI PUBLIC SERVICE COMMISSION

2.1.4 Limitations on Liability, (Cont'd.)

- .4 The Company shall be indemnified and saved harmless by the Customer from and against all loss, liability, damage and expense, including reasonable counsel fees, due to:
- A. Any act or omission of: (a) the Customer, (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen, except as contracted by the Company;
 - B. Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any governing authority or agency thereof;
 - C. Any unlawful or unauthorized use of the Company's facilities and services;
 - D. Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the material transmitted by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services;
 - E. Breach in the privacy or security of communications transmitted over the Company's facilities;

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SECTION 2.0 - RULES AND REGULATIONS, (CONT'D.)

NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.)

MO. PUBLIC SERVICE COMM

2.1.4 Limitations on Liability, (Cont'd.)

.4 (Cont'd.)

- F. Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in paragraph (A) of this Subsection 2.1.4.
- G. Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;
- H. Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
- I. Any noncompletion of calls due to network busy conditions;
- J. Any calls not actually attempted to be completed during any period that service is unavailable;
- K. And any other claim resulting from any act or omission of the Customer or patron(s) of the Customer relating to the use of the Company's services or facilities.

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SECTION 2.0 - RULES AND REGULATIONS. (CONT'D.)

NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.)

MISSOURI PUBLIC SERVICE COMM

2.1.4 Limitations on Liability, (Cont'd.)

.5 The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere.

.6 The Company makes no warranties or representations, EXPRESS OR IMPLIED, either in fact or by operation of law, statutory or otherwise, including warranties of merchantability or fitness for a particular use, except those expressly set forth herein.

.7 Failure by the Company to assert its rights pursuant to one provision of this tariff does not preclude the Company from asserting its rights under other provisions.

.8 Directory Errors

In the absence of gross negligence or willful misconduct, no liability for damages arising from errors or mistakes or omissions of directory listings, or errors or mistakes in omissions of listings obtainable from the directory assistance operator, including errors in the reporting thereof, shall attach to the Company. The terms "error", "mistake" or "omission" shall refer to a discrepancy in the directory listing or directory assistance records which the Company has failed to correct and where the error affects the ability to locate a particular Customer's correct telephone number. The terms shall refer to addresses only to the extent that an error, mistake or omission of an address places the Customer on an incorrect street or in an incorrect community. An allowance for errors, mistakes or omissions of published directory listings or for listings obtainable from the directory assistance operator shall be given as follows:

A. Free Listings: No credit applicable.

B. Charge Listings: For additional or charge published directory listings, credit shall be given at the monthly tariff rate for each such listing for the life of the directory or the charge period during which the error, mistake or omission occurs.

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SECTION 2.0 - RULES AND REGULATIONS, (CONT'D.)

NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.)

2.1.5 Notification of Service-Affecting Activities

MISSOURI PUBLIC SERVICE COMM

The Company will provide the Customer reasonable notification of service-affecting activities that may occur in normal operation of its business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements and routine preventative maintenance. Generally, such activities are not specific to an individual Customer but affect many Customers' services. No specific advance notification period is applicable to all service activities. The Company will work cooperatively with the Customer to determine the reasonable notification requirements. With some emergency or unplanned service-affecting conditions, such as an outage resulting from cable damage, notification to the Customer may not be possible.

2.1.6 Provision of Equipment and Facilities

- .1 The Company shall use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer. The Customer may not nor may the Customer permit others to rearrange, disconnect, remove, attempt to repair, or otherwise interfere with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- .2 The Company may substitute, change or rearrange any equipment or facility at any time and from time to time, but shall not thereby alter the technical parameters of the service provided the Customer.
- .3 Equipment the Company provides or installs at the Customer Premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the equipment is provided.
- .4 Except as otherwise indicated, Customer provided station equipment at the Customer's premises for use in connection with this service shall be so constructed, maintained and operated as to work satisfactorily with the facilities of the Company.

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SECTION 2.0 - RULES AND REGULATIONS, (CONT'D.)

NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.)

MISSOURI PUBLIC SERVICE COMM

2.1.6 Provision of Equipment and Facilities, (Cont'd.)

5. The Company shall not be responsible for the installation, operation, or maintenance of any Customer provided communications equipment. Where such equipment is connected to the facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities. Subject to this responsibility, the Company shall not be responsible for:

- A. the through transmission of signals by Customer provided equipment or for the quality of, or defects in, such transmission; or
- B. the reception of signals by Customer-provided equipment; or
- C. network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

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SECTION 2.0 - RULES AND REGULATIONS. (CONT'D.)

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2.1 Undertaking of the Company, (Cont'd.)

2.1.7 Nonroutine Installation

MISSOURI PUBLIC SERVICE COMMISSION

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

2.1.8 Special Construction

Subject to the agreement of the Company and to all of the regulations contained in this tariff, special construction of facilities may be undertaken on a reasonable efforts basis at the request of the Customer. Special construction is construction undertaken:

- .1 where facilities are not presently available, and there is no other requirement for the facilities so constructed;
- .2 of a type other than that which the Company would normally utilize in the furnishing of its services;
- .3 over a route other than that which the Company would normally utilize in the furnishing of its services;
- .4 in a quantity greater than that which the Company would normally construct;
- .5 on an expedited basis;
- .6 on a temporary basis until permanent facilities are available;

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SECTION 2.0 - RULES AND REGULATIONS, (CONT'D.)

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NOV 2 1998

2.1 Undertaking of the Company, (Cont'd.)

MO. PUBLIC SERVICE COMM

2.1.8 Special Construction, (Cont'd.)

- .7 involving abnormal costs; or
- .8 in advance of its normal construction.

2.1.9 Ownership of Facilities

Title to all facilities provided in accordance with this tariff remains in the Company, its partners, agents, contractors or suppliers.

2.2 Prohibited Uses

- 2.2.1 The services the Company offers shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits.
- 2.2.2 The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and the Missouri Public Service Commission's regulations, policies, orders, and decisions.
- 2.2.3 The Company may block any signals being transmitted over its Network by Customers which cause interference to the Company or other users. Customer shall be relieved of all obligations to make payments for charges relating to any blocked Service and shall indemnify the Company for any claim, judgment or liability resulting from such blockage.
- 2.2.4 A Customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated communications services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and nonrecurring installation charges as stated in this tariff will apply.

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