

**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 of Basic Local) Telecommunications Service in Sprint) Exchanges and to Continue to Classify the) Company and its Services as Competitive.)	Case No. TA-2005-0415
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STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation states:

1. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Missouri Public Service Commission grant Big River Telephone Company, LLC (Applicant), a certificate of service authority to provide basic local telecommunications service in the service area of Sprint Missouri, Inc. d/b/a Sprint, conditioned upon certain access rate provisions. This grant of authority expands the existing authority previously granted to the Applicant. The Commission shall grant an application for a certificate of telecommunications service authority upon a finding that the grant of authority is in the public interest. (See §§ 392.430 and 392.440 RSMo. (2000).)

2. Staff also recommends that the Commission maintain its classification of the Applicant and its services as competitive. The Commission may classify a telecommunications provider or its services as competitive if the Commission determines it is subject to sufficient competition to justify a lesser degree of regulation. (See §392.361.2.) All the services a competitive company provides must be classified as competitive. (See §392.361.3.)

3. Staff further recommends that the Commission waive the statutes and regulations listed in the Commission's *Notice of Applications* for competitive basic local exchange carriers. The Commission may waive the application of its rules and certain statutes if the Commission determines that waiver is consistent with the purposes of Chapter 392. §§ 392.185, 392.361.5 and 392.420.

4. The Commission's rule at 4 CSR 240-3.510(1)(C) states that the applicant cannot lawfully provide service until tariffs are effective. Although the Applicant requests a temporary waiver of 4 CSR 240-3.510(1)(C) because the Applicant did not file a proposed tariff with its application (see Application at para. 10), Staff sees no need for an actual waiver to be granted on this basis. The rule states that "filing the tariff and any applicable interconnection agreements simultaneously with the certificate application is optional." As the rule already explicitly states that filing a proposed tariff with the certificate is optional, the Commission need not waive the rule merely because the Applicant has not yet filed a proposed tariff. Moreover, if the Commission were to waive this rule, it is possible that a waiver could be construed as a waiver of another clause in the rule that states "before service can be provided, a tariff and any applicable interconnection agreements must be filed with the commission and approved." Accordingly, Staff recommends the Commission *not* grant a waiver of this rule and simply acknowledge that the Applicant has exercised its option not to file a proposed tariff with the *Application*.

5. Finally, Staff notes the Applicant cannot provide basic local telecommunications service in the service area of Sprint Missouri, Inc. d/b/a Sprint until it has an approved interconnection agreement, and until after the Applicant has revised tariff sheets in effect in Big River Telephone Company, LLC's P.S.C. Mo. Tariff No. 2.

WHEREFORE, Staff recommends that the Commission grant a certificate of service authority to provide basic local exchange telecommunications services in exchanges served by Sprint Missouri, Inc. d/b/a Sprint, and further conditioned upon the access rate provisions described in the Staff memorandum; renew its grant of competitive classification to the Applicant and its services; and waive the statutes and regulations listed in the Commission's *Notice of Applications*.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of June 2005.

/s/ David A. Meyer