

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Big River)
Telephone Company to Expand its Certificate of)
Basic Local Service Authority to Include Provision)
of Basic Local Exchange Telecommunications) **File No. TA-2011-0273**
Service throughout the State of Missouri and to)
Continue to Classify the Company and its)
Services as Competitive)

ORDER APPROVING EXPANSION OF CERTIFICATE OF SERVICE AUTHORITY

Issue Date: April 5, 2011

Effective Date: April 15, 2011

Background

Big River Telephone Company applied to the Missouri Public Service Commission on February 25, 2011, seeking authority to expand its basic local service area to include all exchanges in the State of Missouri. The company also requests that its services continue to be classified as competitive and that it be granted certain waivers. Although the company did not file a revised tariff sheets with its application, it affirms that revised tariff sheets will be provided before it provides service.

On February 28, the Commission issued an order giving notice of the application with March 20 as the deadline for requests to intervene. There were no such requests. The Staff of the Commission filed its recommendation on March 30. Big River requests, and Staff recommends, that the following statutes and Commission rules be waived:

Statutes

392.210.2	- Uniform System of Accounts
392.240.1	- Just and Reasonable Rates
392.270	- Valuation of Property
392.280	- Depreciation Accounts
392.290	- Issuance of Evidence of Indebtedness

392.300	- Transfer of Assets/Acquisition of Stocks
392.310	- Issuance of Stock and Debt
392.320	- Stock Dividend Payment
392.330	- Accounting Requirements
392.340	- Company Reorganization

Commission Rules

4 CSR 240-3.550(4) and (5)(A)	- Quality of Service Reports
4 CSR 240-10.020	- Depreciation Records
4 CSR 240-30.040	- Uniform System of Accounts
4 CSR 240-32.050(4)(B)	- White Pages Distribution, partial exemption
4 CSR 240-32.060	- Engineering and Maintenance
4 CSR 240-32.070	- Quality of Service
4 CSR 240-32.080	- Service Objectives and Surveillance Levels
4 CSR 240-33.040(1-3) and (5-10)	- Billing and Payment Standards
4 CSR 240-33.045	- Clarity of Bills
4 CSR 240-33.080(1)	- Company Identification on Bills
4 CSR 240-33.130(1),(4) and (5)	- Operator Service Requirements

Findings of Fact

1. Big River is a corporation organized under the laws of the state of Delaware.¹
2. The Commission granted Big River a certificate to provide basic local telecommunications service in the territories of Southwestern Bell Telephone Company, CenturyTel of Missouri, LLC, Spectra Communications Group, LLC, Embark Missouri, Inc, BPS Telephone Co., and the Huntsville exchange of Chariton Valley Telephone as well as non-switched local and interexchange services throughout the state of Missouri.²
3. In the case granting Big River its certificates, the Commission found that Big River's services were classified as competitive.³

¹ Page 3, Application and File No. TA-2001-699.

² Application, page 1.

³ File No. TA-2011-669.

4. On February 25, 2011, Big River filed an application with the Commission seeking to expand its service territory to include all exchanges in Missouri.⁴
5. The Commission provided notice of this application and provided an opportunity for interested entities to seek intervention.⁵
6. Big River is authorized to do business in the State of Missouri as evidenced by its Certificate of Authority from the Missouri Secretary of State.⁶
7. Big River provided names and addresses for contact purposes.⁷
8. Big River has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court involving customer service or rates.⁸
9. Big River has not filed revised tariff sheets reflecting its request to enlarge its service area to all exchanges in Missouri.⁹
10. Big River will compete with all incumbent local exchange carriers in their respective service territories.¹⁰ The Commission finds that Big River is subject to a sufficient degree of competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes the public interest
11. The Commission's grant of authority sought by Big River will benefit the public interest by increasing equitable access for Missourians, creating and enhancing competition and expanding customer service options.¹¹

⁴ Application, page 2.

⁵ Case File, Item 2. Order Directing Notice of Application.

⁶ Application, paragraph 5 and Exhibit 1, Attached to Application.

⁷ Application, paragraph 2.

⁸ Application, paragraph 13.

⁹ Application, paragraph 9.

¹⁰ Application, paragraph 16.

¹¹ Application, paragraph 16.

12. The Staff of the Commission recommends that the Commission grant Big River's request.¹²
13. Staff recommends that the Commission grant Big River's request subject to the following conditions:
 - A. Big River's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom Big River is competing pursuant to Section 392.361.6 and 392.370.
 - B. 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. Big River agrees with the conditions suggested by Staff set out in paragraph 13, above.¹³
15. Big River has no overdue annual reports or assessments.¹⁴

Conclusions of Law

1. The requirement for a hearing is met when the opportunity for a hearing was provided and no party requested the opportunity to present evidence.¹⁵ Notice was issued in this case and no hearing has been requested.
2. Big River is an "alternative local exchange telecommunications company" as that term is defined in Section 386.020, RSMo.

¹² Staff Recommendation, paragraph 2.

¹³ Application, paragraph 12.

¹⁴ Application, paragraph 15.

¹⁵ *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n*, 776 S.W.2d 494, 495-496 (Mo. App. 1989).

3. The Commission is authorized to create a process to certify those providing local exchange telecommunications services in Missouri as common carriers when such certification will serve the public interest.¹⁶
4. Big River has satisfied the requirements of the Commission's regulations and of Section 392.455, and consequently, the Commission concludes that Big River has complied with the certification process of the Commission in satisfaction of Section 392.450.1.
5. The Commission shall modify the existing certificate of service authority to provide basic local telecommunications service to any alternative local exchange telecommunications company which was certificated to provide basic local telecommunications service as of August 28, 2008, as long as the alternative local exchange company is in good standing, in all respects, with all applicable Commission rules and requirements.¹⁷ The Commission concludes that Big River is in compliance as such.
6. Big River 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 and that such lesser regulation is consistent with the protection of ratepayers and promotes the public interest.¹⁸
7. The Commission may classify a telecommunications carrier as competitive if the Commission finds that a majority of the carrier's service are so classified.¹⁹

¹⁶ Sections 392.430, 392.450 and 392.455, RSMo.

¹⁷ Section 392.450.3, RSMo (amended by H.B. 1779, effective Aug. 28, 2008).

¹⁸ Section 392.361.2 and 4, RSMo (amended by H.B. 1779, effective Aug. 28, 2008).

¹⁹ Section 392.361.3, RSMo (amended by H.B. 1779, effective Aug. 28, 2008).

8. The Commission has found that Big River is a competitive company. Further, all the services Big River will provide in Missouri will be competitive. The Commission also found that expansion of Big River's certificate will benefit the public and will be in direct competition with the incumbent basic local providers. Considering these findings, the Commission concludes that Big River will be subject to a sufficient level of competition to justify a lesser degree of regulation. Its services and the company shall continue to be classified as competitive.
9. The Commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of Subsection 2 of Section 392.210, Subsection 1 of Section 392.240, and Sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340, RSMo.²⁰ In accordance with Section 392.420, RSMo, the Commission shall grant the requested waivers.
10. An applicant for a basic local certificate must meet the minimum service standards that the Commission requires of the competing incumbent local exchange carriers.²¹ Big River has agreed to provide services that will meet the minimum basic local service standards required by the Commission. The Commission concludes that Big River has met the requirements of Section 392.450.2(2).
11. 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."²² Staff recommends that Big River's application be granted subject to those conditions set out in paragraph 13, above.

²⁰ Section 392.420 (amended by H.B. 1779, effective Aug. 28, 2008).

²¹ Section 392.450.2(2), RSMo.

²² Section 392.361.6, RSMo.

Big River has agreed to those conditions. The Commission concludes that those conditions are necessary to protect the public interest and shall be adopted.

Decision

Having concluded that the grant of authority sought by Big River is in the public interest, the Commission will approve the company's application. The Commission, however, reminds Big River that failure to comply with the Commission's regulatory obligations may result in penalties. 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 subject the company to a penalty of \$100 per day for each day that the violation continues. 4 CSR 240-3.540 requires telecommunications utilities 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 will be subject to penalties for noncompliance ranging from \$100 to \$2,000 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.

E) Big River may not offer service in the new areas until it has filed, and the Commission has approved, a tariff identifying those exchanges.

THE COMMISSION ORDERS THAT:

1. Big River Telephone Company, LLC is granted an expansion of its certificate of service authority to provide basic local telecommunications services to include all exchanges in the State of Missouri subject to the conditions set out below and to all applicable statutes and Commission rules except as waived in this order.

2. Big River Telephone Company, LLC and its telecommunications services are classified as competitive.

3. Big River Telephone Company, LLC's originating and terminating access rates shall not exceed the access rates of the incumbent local exchange company against whom Big River is competing pursuant to Section 392.361.6 and 392.370, RSMo.

4. If the directly competing ILEC, in whose service area Big River Telephone Company, LLC is operating, decreases its originating and/or terminating access service rates, Big River Telephone Company, LLC 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.

5. The following statutes and Commission rules are waived:

Statutes

392.210.2	- Uniform System of Accounts
392.240.1	- Just and Reasonable Rates
392.270	- Valuation of Property
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Commission Rules

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| 4 CSR 240-33.130(1),(4) and (5) | - Operator Service Requirements |

6. Big River Telephone Company, LLC shall not provide service in the expanded service areas until it has an effective tariff on file with the Commission identifying the expanded areas.

7. This order shall become effective on April 15, 2011.

8. This case shall be closed on April 16, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Kennard L. Jones, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo.

Dated at Jefferson City, Missouri,
on this 5th day of April, 2011.