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May 28, 2004

Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

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Re: BPS Telephone Company - Price Cap Election

Dear Mr. Roberts:

On March 13, 2002, BPS Telephone Company notified the Commission through a letter from its counsel that it was making an election to be regulated under "price cap" regulation. In its letter, BPS cited Section 392.245, RSMo 2000, which allows a small incumbent local exchange telecommunications company to elect regulation under that statute when "an alternative local exchange telecommunications company has been certified to provide basic local telecommunications service and is providing such service in any part of the incumbent company's service area." BPS stated in its March 13 letter that it was a small incumbent local exchange company serving approximately 3900 access lines, that an alternative local exchange telecommunications company (i.e. Missouri State Discount Telephone or MSDT) had been certified to provide basic local telecommunications service in its service area, and that MSDT was providing service in its service area. BPS stated that it had thus met all the necessary requirements to allow its election to be regulated under § 392.245.1.

On July 17, 2002, BPS filed a second election letter after MSDT revised its tariff to include the three BPS exchanges in order to remove any uncertainty regarding MSDT's provision of service in those exchanges. The Staff of the Commission and the Office of Public Counsel opposed BPS' election of price cap status, and an evidentiary hearing was held before the Commission on February 7, 2003. On November 13, 2003, the Commission issued its Report and Order in Case No. IO-2003-0012 in which it concluded that BPS was ineligible for price cap status because MSDT and BPS had entered into a contract (the Resale Agreement) in which MSDT agreed not to compete with BPS, thus, concluding that BPS was not subject to any competition from MSDT. BPS filed an Application for Rehearing which was denied by the Commission on December 30, 2003. BPS has filed a Petition for Writ of Review in the Cole County Circuit, and the Writ issued on January 30, 2004, in Case No. 04CV323251.

On January 20, 2004, BPS filed an Application for Approval of Amendment to Resale Agreement Between BPS Telephone and Missouri State Discount Telephone Company. This amendment to the Resale Agreement removed the language found in Paragraph 6.1.1 that

restricted MSDT from "targeting" current customers of BPS which the Commission found to be noncompetitive. On January 28, 2004, BPS was notified that the amendment was made effective, File No. VT-2004-0034.

Since BPS and MSDT have removed the language in the Resale Agreement that the Commission found prevented MSDT from providing basic local telecommunications service in a "manner that would allow BPS to elect price cap status," BPS now re-elects to be regulated as a price cap company. Accordingly, to remove any uncertainty regarding the price cap status of BPS, please be advised that BPS Telephone Company hereby elects to be regulated under price cap regulation as provided in Section 392.245, RSMo 2000. BPS states that it qualifies for such election inasmuch as 1) it is a small incumbent local exchange company (serving approximately 3900 access lines); 2) an alternative local exchange telecommunications company (i.e. Missouri State Discount Telephone Company) has been certified to provide basic local telecommunications service (MoPSC Case No. TA-2001-334, Order Granting Certificate to Provide Basic Local Exchange and Interexchange Telecommunications Service, issued March 16, 2001); and 3) such alternative local exchange telecommunications company is providing service in BPS's service area.

Would you please see that this election is brought to the attention of the appropriate Commission personnel. If there are any questions regarding this matter, would you please direct them to me at the above number. Thank you in advance for your attention to and cooperation in this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

W. R. England, III

SBM/sm

cc: Office of Public Counsel

Mr. Cliff Snodgrass

Mr. W. F. Provance

Case Papers, Case No. TC-2002-1076