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**FILED<sup>3</sup>**  
**JUL 17 2002**

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

**Missouri Public  
Service Commission**

**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 May 15, 2002, the Staff of the Commission filed a Motion for Commission Authority to File an Excessive Earnings Complaint. In this Motion, the Staff challenged BPS's price cap election on several grounds, one of which was the allegation that MSDT was not "lawfully providing" service in BPS's service area because its tariff did not list the BPS exchanges. BPS does not agree with Staff's interpretation of the statute and does not believe that BPS is required to show that the alternative local exchange telecommunications company is lawfully providing service in order to make the price cap election. However, MSDT has now revised its tariff to include the three BPS exchanges, and the tariff revision became effective June 21, 2002. Therefore, in order to remove any uncertainty that MSDT was not lawfully providing service or that BPS's election was invalid on that basis, BPS renews its election as of this date.

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

cc: Office of Public Counsel

Mr. Cliff Snodgrass

Mr. W. F. Provance

Case Papers, Case No. TC-2002-1076