

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

December 15, 2006

STATE OF _____)
)
COUNTY OF _____) SS.

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

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-2007-0093
of Basic Local Exchange)
Telecommunications Services in the)
Exchanges of BPS Telephone Company)
and to Continue to Classify the)
Company and its Services as)
Competitive.)

AFFIDAVIT OF GERARD J. HOWE

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

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

Gerard J. Howe

SUBSCRIBED AND SWORN to before me, a Notary Public, this _____ day of _____, 20____.

Notary Public

My Commission Expires:
(SEAL)

**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:

	<u>Statutes</u>	<u>Missouri Public Service Commission Rules</u>
1		
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.