

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Big River Telephone Company, LLC, and LDD, Inc., for Approval of the Transfer of Assets and Subscribers of LDD, Inc., and for waiver of Commission Rule 4 CSR 240-33.150.)
) **Case No. TM-2001-700**

**ORDER APPROVING TRANSFER OF ASSETS,
GRANTING MOTION FOR EXPEDITED TREATMENT,
AND GRANTING A WAIVER OF 4 CSR 240-33.150**

This order approves the transfer of assets and subscribers of LDD, Inc., to Big River Telephone Company, LLC, and grants a waiver of Commission rule 4 CSR 240-33.150.

On June 20, 2001, Big River and LDD filed a joint application for approval of the transfer of assets and subscribers of LDD to Big River and for a waiver of Commission rule 4 CSR 240-33.150. LDD was granted a certificate by the Commission in Case No. TA-98-338. The Commission takes notice that Big River has filed a separate application with the Commission on June 20, 2001, in Case No. TA-2001-699, requesting a certificate of service authority to provide basic local, local exchange, and interexchange telecommunications services in Missouri under Sections 392.410-.430, RSMo 2000. The Commission granted the application for certificate of service authority on August 13, 2001.

Applicants further request a waiver of 4 CSR 240-33.150, which requires customer authorization and verification of changes in telecommunications providers. Applicants state that in order to create a seamless transaction for LDD's customers, Big River will offer the same rates, terms, and conditions as LDD, and will adopt LDD's

current tariffs. Simultaneously with the issuance of this order, the Commission is granting LDD's certificate in Case No. TA-2001-699.

The contract for the proposed sale of assets and transfer of customers from LDD to Big River is subject to termination if not closed by August 31, 2001. The applicants filed a Motion for Expedited Treatment, requesting that the Commission make a determination on or before August 15, 2001 to help facilitate its transaction. The Commission determines that the motion should be granted.

The applicants stated that the sale of assets will have no tax impact on any political subdivision in Missouri and that the companies have no pending or final judgments against them from any state or federal agency that involve customer service or rates. Applicants stated that they were current on Missouri assessments and fees and in filing annual reports.

The Commission's Staff filed its recommendation regarding the sale of assets on August 6, 2001. Staff recommended approval of the proposed transactions and recommended that the Commission grant a waiver of the applicable subscribed authorization and verification requirement, 4 CSR 240-33.150, and that the Commission order notice to customers. Staff notes that Big River must obtain interexchange certification prior to the transfer of services due to this transaction. Staff further notes that Big River must have an effective tariff to permit certification to be effective. Big River has applied for basic local, local exchange, exchange access and interexchange telecommunications service authorized in Case No. TA-2001-699. Big River has not made an application for adoption of the IXC or other tariffs of LDD. Staff states that following certification of Big River as an IXC and CLEC with approved tariffs, customer service transfer may proceed. The Staff recommended that Big River be required to adopt LDD's tariff within ten days after the effective date of an order approving the sale of assets. Staff also recommended that the Commission grant the required waiver of 4 CSR 240-33.150. The rule requires, among other things, that no subscriber's selection

of a provider of telecommunications service will be changed without that subscriber's authorization and without the carrier's confirmation of that authorization. Staff stated that it believes that the rule is not intended to be applied in the instant situation, but rather in situations where one company seeks to improperly acquire the subscriber of another for a particular telecommunications service without the approval of the subscriber. Staff notes that this is clearly not the intent in the instant case.

The Staff stated that it has reviewed the application and believes that it meets the requirements of 4 CSR 240-2.060. Staff has no objections to the proposed transaction and recommends that the Commission issue an order approving the proposed sale of assets.

The standard for approval of a sale of assets is that the sale will not be detrimental to the public interest. The Commission has reviewed the application and Staff's recommendations and finds that the proposed sale of assets will have no adverse impact on the Missouri customers of LDD and Big River. The Commission finds that the transaction is not detrimental to the public interest and should be approved. In addition, the Commission finds that the conditions recommended by Staff are appropriate. The Commission also determines that waiver of 4 CSR 240-33.150 is consistent with the purposes of Chapter 392, RSMo, and reasonable so long as the customers of the applicants receive the notice provided in the application. Therefore, the Commission will grant a waiver of 4 CSR 240-33.150.

IT IS THEREFORE ORDERED:

1. That the joint application of Big River Telephone Company, LLC, and LDD, Inc., for approval of a sale of assets is granted.
2. That Big River Telephone Company, LLC, and LDD, Inc., are authorized to take any and all lawful actions necessary to carry out the proposed sale of assets presented to the Commission.
3. That Big River Telephone Company, LLC, shall file an adoption notice,

adopting the tariff of LDD, Inc., in this case no later than August 20, 2001.

4. That the Motion for Expedited Treatment is granted.

5. That waiver of Commission rule 4 CSR 240-33.150, Verification of Orders for Changing Telecommunications Service Provider, is granted.

6. That Big River Telephone Company, shall notify its customers that it has assumed the provision of the telecommunications services in the next regular billing cycle of its customers.

7. That this order shall become effective on August 15, 2001.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law

Judge

(S E A L)

Nancy Dippell, Senior Regulatory Law
 Judge, by delegation of authority pursuant
 to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
 on this 13th day of August, 2001.