

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Bona Fide Request)	
Of Big River Telephone Company, LLC)	
For Interconnection, Services and Network)	Case No.
Elements from BPS Telephone Company)	
pursuant to 47 USC 251(f)(1).)	

BIG RIVER TELEPHONE COMPANY, LLC'S
NOTICE OF BONA FIDE REQUEST PURSUANT TO 47 USC 251(f)(1)

COMES NOW Big River Telephone Company, LLC ("Big River"), by its undersigned counsel, and pursuant to the Federal Telecommunications Act of 1996 ("Act"), including specifically 47 USC 251(f)(1), RSMo. Sections 386.250, 386.320, 386.330, 392.451.3, and other applicable state statutes, and 4 CSR 240-2.060 and 4 CSR 240-2.080, hereby provides its Notice of Bona Fide Request for Interconnection, Services and Network Elements from BPS Telephone Company ("BPS"), as follows:

1. Big River Telephone Company, LLC is a foreign limited liability company organized and existing under Delaware law. Big River is qualified to do business in the state of Missouri. A Certificate of Authority from the Missouri Secretary of State is attached hereto as *Exhibit 1* and incorporated herein by reference. Big River already has obtained authority from the Commission to provide facilities-based and resold basic local telecommunications service in the service territories of BPS, Southwestern Bell Telephone Company ("SWBT") n/k/a AT&T Missouri, CenturyTel of Missouri, LLC ("CenturyTel"), Spectra Communications Group, LLC ("Spectra") and Sprint Missouri, Inc. ("Sprint") as well as interexchange telecommunications services and non-switched local exchange telecommunications services (limited to providing

dedicated, non-switched local exchange private line services) throughout the state of Missouri.¹ Big River and its services have been classified as competitive.² Big River does not have any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or customer rates, which action, judgment, or decision has occurred within three years of the date of this Notice. Big River does not have any overdue annual reports or assessment fees. Big River maintains its principal place of business at:

24 S. Minnesota
Cape Girardeau, Missouri 63073
Telephone Number: (573) 651-3373
Fax Number: (573) 651-3605
E-Mail: jhowe@bigrivertelephone.com

2. All inquiries, correspondence, communications, pleadings, notices, orders and decisions relating to this Notice should be directed to:

Carl J. Lumley
Leland B. Curtis
Curtis, Heinz, Garrett & O'Keefe, PC
130 S. Bemiston, Suite 200
Clayton, Missouri 63105
Telephone: (314) 725-8788
Facsimile: (314) 725-8789
Email: clumley@lawfirmemail.com
lcurtis@lawfirmemail.com

¹ See *In the Matter of the Application of Big River Telephone Company, LLC to Expand its Certificate of Basic Local Service Authority to Include Provision of Basic Local Exchange Telecommunications Service in the Exchanges of BPS Telephone Company and to Continue to Classify the Company and its Services as Competitive*, Case No. TA-2007-0093 (Report and Order effective May 4, 2007); *Application of Big River Telephone Company, LLC for Certificates of Service Authority to Provide Basic Local, Local Exchange, Exchange Access, and Interexchange Telecommunications Services in the State of Missouri and to Classify Said Services and the Company as Competitive*, Case No. TA-2001-699 (Order Granting Certificates effective August 13, 2001); *Application of Big River Telephone Company, LLC to Expand its Certificate to include provision of Basic Local Exchange Telecommunications Service in CenturyTel and Spectra Exchanges and to Continue to Classify the Company and its Services as Competitive*, Case No. LA-2003-0551 (Order Approving Expansion of Certificate of Service Authority effective September 28, 2003); *In the Matter of the Application of Big River Telephone Company, LLC to Expand its Certificate of Basic Local Service Authority to include provision of Basic Local Exchange Telecommunications Service in Sprint Exchanges and to Continue to Classify the Company an its Services as Competitive*, Case No. TA-2005-0415 (Order Approving Expansion of Certificate of Service Authority effective July 25, 2005).

²Id.

3. Questions concerning the ongoing operations of Big River should be addressed to:

Gerard J. Howe, CEO
Big River Telephone Company, LLC
24 S. Minnesota
Cape Girardeau, Missouri 63073
Telephone: (573) 651-5298
Fax: 636-530-7850
E-Mail: jhowe@bigrivertelephone.com

4. BPS is a corporation organized and existing under the laws of the State of Missouri. It is a public utility subject to the jurisdiction of the Commission and provides telecommunications services in its service areas within the State of Missouri under authority granted and tariffs approved by the Commission. It is an incumbent local exchange carrier as defined in Section 251(h) of the Telecommunications Act of 1996 and a noncompetitive local exchange carrier as defined in Sections 386.020, 392.361, and 392.245 R.S.Mo. BPS's principal place of business is located at 120 Stewart Street, Bernie, Missouri 63822.

5. On or about 2007, Big River submitted a bona fide request for interconnection, services and network elements to BPS pursuant to 47 USC 251 and 252. A copy of the request, which includes a proposed interconnection agreement, is attached hereto as *Exhibit 2* and incorporated herein by reference.

6. On or about 2007, Big River received a response from legal counsel for BPS advising that BPS was asserting that it is a rural telephone company as defined by 47 USC 153(47) and that it would not provide any of the requested interconnection, services or network elements absent a determination from the Commission requiring it to do so. A copy of the response is attached hereto as *Exhibit 3* and incorporated herein by reference.

7. Pursuant to Section 251(f)(1), the Commission must conduct an inquiry for the purpose of determining whether BPS is a rural telephone company that is eligible for an

exemption under Section 251(f)(1)(including whether it provides video programming) and whether to terminate any exemption under Section 251(f)(1)(A) applicable to BPS. According to Section 251(f)(1)(B), the Commission must terminate any such exemption within 120 days of submission of this Notice if Big River's request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(a)(D) thereof).

8. Big River submits that its request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(a)(D) thereof). Big River's request involves basic aspects of interconnection and cooperation between telecommunications carriers. Big River patterned its request to BPS on requests made to carriers similar to BPS in other states and has established interconnection and is operating under agreements with those carriers based thereon. Big River also submits that certain aspects of its request to BPS fall under the obligations of BPS established by Section 251 subparts (a) and (b), which are not in any event subject to any exemption under Section 251(f)(1), but BPS has refused to comply. The Commission should direct BPS to comply with Section 251 subparts (a) and (b) immediately.

9. Upon termination of any such applicable exemption, pursuant to Section 251(f)(1)(B) the Commission must establish an implementation schedule for compliance with the request consistent with Commission regulations, including a requirement that BPS engage in negotiations as required by section 251(c)(1) so that Big River and BPS can establish an agreement to fulfill the duties of BPS described in Section 251.

10. The Commission should issue an order directing BPS to show cause as to whether it is eligible as a rural telephone company (including whether its provision of video programming impacts any such eligibility) and as to why any applicable exemption under Section 251(f)(1)

should not be terminated at least regarding Big River's request. The Commission should direct its Staff to conduct an investigation into BPS, including:

- i) BPS' status as a rural telephone company,
- ii) BPS' network and operations,
- iii) BPS' provision of video programming by IPTV or otherwise,
- iv) BPS' earnings levels, so as to assess the economic impact of Big River's request,
- v) the technical feasibility of Big River's request, and
- vi) the consistency of Big River's request with the applicable portions of Section 254.

11. The Commission should immediately schedule a prehearing conference to allow the parties to develop a procedural schedule that will enable the Commission to meet its obligation to make a determination in this matter within 120 days.

12. In Case No. TA-2007-0093, the Commission recently concluded that authorizing Big River to compete against BPS was in the public interest. (Report and Order, p. 24). BPS's refusal to interconnect with Big River is unfounded and serves only to harm the public interest by impeding the development of competition.

WHEREFORE, Big River Telephone Company, LLC respectfully requests that the Commission:

(1) issue its order directing BPS Telephone Company to show cause as to whether it is eligible as a rural telephone company (including whether it provides video programming) and as to why any applicable exemption under Section 251(f)(1) should not be terminated at least regarding Big River's request;

(2) direct its Staff to conduct an investigation into BPS, including its status as a rural telephone company, its network and operations, its provision of video programming by IPTV or otherwise, and its earnings levels, and to assess the economic impact of Big River's request, the technical feasibility of Big River's request, and the consistency of Big River's request with the applicable portions of Section 254;

(3) immediately schedule a prehearing conference to allow the parties to develop a procedural schedule that will enable the Commission to meet its obligation to make a determination in this matter within 120 days;

(4) upon conclusion of these proceedings, terminate any applicable exemption under Section 251(f)(1) as to BPS at least regarding Big River's request;

(5) upon termination of such exemption, establish an implementation schedule for compliance with Big River's request consistent with Commission regulations;

(6) grant such other and further relief as the Commission deems meet and proper in the premises.

Respectfully submitted,

/s/ Carl J. Lumley

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Leland B. Curtis, #20550
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130 S. Bemiston, Suite 200
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ATTORNEYS FOR BIG RIVER TELEPHONE
COMPANY, LLC

VERIFICATION

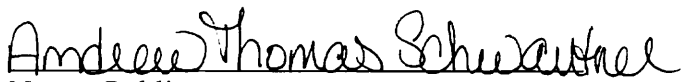
STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS) SS.

I, GERARD J. HOWE, being first duly sworn, depose and state that I am over the age of 21 years sound of mind, and the CEO of Big River Telephone Company, LLC, the Applicant in the subject proceeding, and that I am authorized to make this Verification on behalf of Big River Telephone Company, LLC; that I have read the foregoing pleading and know the contents thereof; and that the same are true and correct to the best of my knowledge, information, and belief. Further, I verify that the Applicant will comply with all other applicable rules and regulations. I also verify that Carl J. Lumley, Leland B. Curtis, and Curtis, Heinz, Garrett & O'Keefe, P.C., 130 S. Bemiston, Suite 200, St. Louis, Missouri 63105, are authorized to sign all pleadings and documents necessary to receive the approval of the Missouri Public Service Commission of the foregoing pleading, and to represent Big River Telephone Company, LLC in this proceeding.



Gerard J. Howe, CEO
Big River Telephone Company, LLC

Subscribed and sworn to before this 29 day of June, 2007.


Notary Public

My Commission Expires:

5/31/2010

ANDREW THOMAS SCHWANTNER
Notary Public - Notary Seal
STATE OF MISSOURI
Jefferson County
Commission #06893876
My Commission Expires 5 / 31 / 2010

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served upon the parties listed below on this 2nd day of July, 2007 by either e-mail or U.S. Mail, postage prepaid.

/s/ Carl J. Lumley

Carl J. Lumley

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