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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Prehearing Conference
August 8, 2012
Jefferson City, Missouri
Volume 1

BIG RIVER TELEPHONE COMPANY, LLC)
)
Complainant,) File No.
) TC-2012-0284
vs.)
)
SOUTHWESTERN BELL TELEPHONE, L.P.)
d/b/a AT&T MISSOURI)
)
Respondent.)

MICHAEL BUSHMANN, presiding,
REGULATORY LAW JUDGE

1 APPEARANCES:

2 FOR BIG RIVER TELEPHONE COMPANY, LLC:

Brian C. Howe, General Counsel

3 12444 Powerscourt Drive, Suite 270

St. Louis, Missouri 63131

4 (314) 225-2215

5

6 FOR SOUTHWESTERN BELL TELEPHONE, L.P. d/b/a AT&T

7 MISSOURI (VIA TELEPHONICALLY):

8 Robert J. Gryzmala

9 909 Chestnut Street, Room 3516

10 St. Louis, Missouri 63101

11 (314) 235-6060

12

13 FOR STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION:

14 John Borgmeyer, Legal Counsel

15 P. O. Box 360

16 Jefferson City, Missouri 65102

17 (573) 526-7779

18

19 REPORTED BY:

20 Patricia A. Stewart

21 RMR, RPR, CCR 401

22 Midwest Litigation Services

23 3432 West Truman Boulevard, Suite 207

24 Jefferson City, Missouri 65101

25 (573) 636-7551

1 P R O C E E D I N G S

2 (WHEREUPON, the Prehearing Conference began
3 at 1:30 p.m.)

4 JUDGE BUSHMANN: Let's go on the record.

5 Today is August 8, 2012 at 1:30 p.m. The
6 Commission has set this time for a prehearing conference
7 in the case captioned as Big River Telephone Company,
8 LLC versus Southwestern Bell Telephone, L.P. d/b/a AT&T
9 Missouri, Case No. TC-2012-0284.

10 My name is Michael Bushmann. I'm the
11 regulatory law judge that's been assigned to this
12 matter.

13 Let's begin with counsel making their entries
14 of appearance.

15 For Big River Telephone Company.

16 MR. HOWE: Brian Howe.

17 JUDGE BUSHMANN: And for AT&T Missouri.

18 MR. GRYZMALA: Yes, Your Honor. This is Bob
19 Gryzmala, G-r-y-z-m-a-l-a. That would be 909 Chestnut
20 Street, Room 3516, St. Louis, Missouri 63101.

21 And, Your Honor, the record might reflect
22 that we represent -- I represent Southwestern Bell
23 Telephone Company. It's a Missouri corporation. We
24 formerly some years ago were a Texas partnership, which
25 is denominated in the Complaint.

1 JUDGE BUSHMANN: Okay.

2 And for Commission Staff.

3 MR. BORGMEYER: On behalf of the Staff of the
4 Missouri Public Service Commission, my name is John
5 Borgmeyer, P. O. Box 360, Jefferson City, Missouri
6 65102.

7 JUDGE BUSHMANN: Okay. As far as preliminary
8 matters, let's talk about scheduling a little bit.

9 I show that we have a Staff report coming up
10 due on August 29th, and there is an answer from Big
11 River due to the cross complaint on August 30th.

12 What I'd like to get in about a week would be
13 a joint proposed procedural schedule and that Staff
14 should file that on behalf of the parties no later than
15 August 16th, and I'll issue a notice later on that date
16 for the record.

17 What I'd like to see in the procedural
18 schedule, in addition to the other normal events, would
19 be a joint stipulation of nondisputed facts at some
20 point in the proceedings.

21 Also I'll probably go ahead, and when the
22 procedural schedule is issued, I'll be putting in some
23 standard discovery requirements. So if there is
24 anything in particular that the parties would like to
25 see in that as far as discovery, go ahead and put that

1 in your joint proposed schedule. I can include that
2 along with the other events.

3 Are there any other preliminary matters that
4 need to be discussed today while we're on the record?

5 MR. HOWE: Judge, while we're on the
6 schedule, just in terms of that, we are wondering if the
7 Staff report due on August 29th and our answer due on
8 August 30th, if the Staff would need more time to file a
9 report or if that needs to be pushed back some.

10 MR. BORGMEYER: Yeah, I guess Staff -- Staff
11 would prefer not to file a report until the parties have
12 filed their direct testimony.

13 And I don't know, Judge, if you have a
14 preference whether Staff files a written report or
15 direct testimony of its own, but I think the main thing
16 is Staff wants to make sure that they have a deadline to
17 file their either report or direct after the parties
18 have filed their direct, so that we have the most
19 information that we can to work with.

20 JUDGE BUSHMANN: Does anybody have any
21 objection to changing the date of the Staff report,
22 pushing it back?

23 Do you know how much time you would like to
24 have?

25 MR. BORGMEYER: Well, you know, in previous

1 complaints procedural schedules have put Staff filing
2 direct testimony a couple weeks or so after the last
3 party has filed its direct.

4 JUDGE BUSHMANN: So you're proposing to
5 substitute a report for the direct testimony?

6 MR. BORGMEYER: Well, I'm not --

7 MS. DALE: I didn't have anything to add, but
8 sometimes the direct testimony is in the form of a
9 report instead of a Q&A.

10 MR. GRYZMALA: Is that Colleen? This is Bob
11 Gryzmala.

12 MS. DALE: Yes, it is.

13 MR. BORGMEYER: I can speak to that when
14 you're finished.

15 MS. DALE: I am.

16 MR. GRYZMALA: Very good.

17 Your Honor, we would have no objection to
18 substituting -- that is, we, AT&T, would have no
19 objection to a substitution of Staff testimony for and
20 in lieu of a status report.

21 I think Cully's point -- and it is quite
22 customary -- that Staff would weigh in after the parties
23 have filed their prefiled direct.

24 And I'm wondering if it would be, you know,
25 something we could discuss as to whether we as parties

1 could file a proposed procedural schedule after Big
2 River files its answer to the counterclaim.

3 So that August 30 would be the counterclaim.
4 Say within a few days thereafter a joint proposed
5 procedural schedule, which would include discovery.

6 And for the record we have discovery
7 outstanding already to Big River. We may have more
8 depending upon the nature of the response to our counter
9 claim. So then you have discovery, Big River direct,
10 AT&T direct, Staff, you know, direct, that sort of
11 thing.

12 JUDGE BUSHMANN: What's the reason why you
13 want to delay the procedural schedule?

14 MR. GRYZMALA: I don't want to really, Your
15 Honor, because we have no interest in delaying it. It's
16 obviously our money that is in play here because it's
17 not been paid.

18 But I just think that we don't know the
19 nature of the response that Big River is going to make
20 to our counterclaim. I just want to make sure we offer
21 up enough time to get discovery -- you know, an
22 opportunity for discovery in.

23 We have already taken advantage of time to
24 get out a first round, so we've moved on that very
25 quickly. It's just that I can foresee a potential for

1 some discovery maybe more than less depending upon the
2 nature of the response to the counterclaim.

3 JUDGE BUSHMANN: Anybody else have any
4 thoughts on it?

5 MR. GRYZMALA: It's just a thought. We can
6 go with the proposed procedural next week. That's okay
7 too.

8 MR. HOWE: I don't see any reason for
9 delaying the proposed schedule for our answer. We can
10 work in discovery time limits when we file our proposed
11 schedule next week.

12 MR. GRYZMALA: Okay. We would acquiesce to
13 that, Your Honor.

14 JUDGE BUSHMANN: And I have no problem
15 with -- during your conversations here once I leave, I
16 have no problem with having the Staff file testimony in
17 lieu of a report, and you can include that in your list
18 of events, the date when that would occur.

19 I would like to go ahead and have the
20 proposed procedural schedule on the 16th, and then if it
21 turns out later that that needs to be modified, we can
22 do it at that point, but I would rather go ahead and get
23 started at least on that and then change it later rather
24 than late.

25 MR. GRYZMALA: Okay.

1 JUDGE BUSHMANN: Anything else?

2 MR. BORGMEYER: No. I just wanted to be
3 clear. So the plan is still to file the proposed
4 procedural schedule on the 16th?

5 JUDGE BUSHMANN: Correct.

6 And then you can discuss when you want to
7 file your -- have your testimony filed, and it's fine
8 with me if you want to substitute Staff testimony for a
9 Staff report.

10 MR. BORGMEYER: Okay. So the form of the
11 testimony or report doesn't --

12 JUDGE BUSHMANN: It doesn't matter to me. If
13 the parties are all agreeable, then that's fine to do
14 that.

15 MR. BORGMEYER: Okay.

16 And then as far as discovery goes, Judge, I
17 can't -- I honestly can't remember if this case is on an
18 expedited track.

19 I think there are rules for data requests and
20 things like that. I don't know if we want to deviate
21 from those rules and set up a specific discovery
22 schedule in the procedural schedule or if the rules can
23 dictate --

24 JUDGE BUSHMANN: If the parties agree that
25 they want to have certain time limits and deadlines,

1 then I'd be happy to look at that.

2 MR. BORGMEYER: Okay. We'll address that.

3 JUDGE BUSHMANN: I know, Mr. Howe, in your
4 Complaint there was a discussion about not really
5 requesting expedited treatment but asking it to move
6 forward quickly and expeditiously.

7 MR. HOWE: That's correct, Your Honor.

8 JUDGE BUSHMANN: So if you want to adjust the
9 discovery timelines to meet those, that's fine. You
10 just need to have that in the proposed schedule.

11 MR. BORGMEYER: Okay. We'll hash that out
12 then.

13 I don't think I have anything else.

14 JUDGE BUSHMANN: All right. If there is
15 nothing else from the parties, you have the room for a
16 couple of hours and the phone bridge is open for a
17 couple of hours. I'll be upstairs if you need me.

18 We're off the record.

19 THE COURT REPORTER: Does anyone want a copy
20 of the prehearing conference?

21 MR. GRYZMALA: I would, yes.

22 THE COURT REPORTER: And what do you like,
23 the e-tran, full-size, condensed?

24 MR. GRYZMALA: The condensed is fine.

25 (WHEREIN, Prehearing Conference concluded at 1:40 p.m.)

CERTIFICATE OF REPORTER

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I, Patricia A. Stewart, RMR, RPR, CCR, a
Certified Court Reporter in the State of Missouri, do
hereby certify that the testimony that appears in the
foregoing transcript was taken by me to the best of my
ability and thereafter reduced to typewriting by me;
that I am neither counsel for, related to, nor employed
by any of the parties to the action in which this
hearing was taken, and further that I am not a relative
or employee of any attorney or counsel employed by the
parties thereto, nor financially or otherwise interested
in the outcome of the action.

Patricia A. Stewart

CCR No. 401

PREHEARING CONFERENCE 8/8/2012

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