

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. TO-2008-0003
Elements from BPS Telephone Company)	
pursuant to 47 USC 251(f)(1).)	

UNANIMOUS STIPULATION

COME NOW the undersigned parties, Big River Telephone Company, LLC (“Big River”), BPS Telephone Company (“BPS”), the Staff of the Commission (“Staff”), and the Office of Public Counsel (“Public Counsel”), pursuant to 4 CSR 240-2.115, and present their Unanimous Stipulation in connection with the above-styled proceeding.

1. On July 2, 2007 Big River filed with the Commission its Notice of Bona Fide Request Pursuant to 47 USC 251(f)(1).

2. The Commission set this matter for hearing on September 19, 2007 and currently, in accordance with 47 USC 251(f)(1), must resolve this matter by October 30, 2007.

3. The parties have negotiated a resolution of this matter such that a hearing will not be necessary. The parties have reached agreement that the procedural schedule in this case should be suspended immediately and further have agreed:

a. The Commission should promptly issue its order resolving this case by approving this Unanimous Stipulation. The Commission’s order should have an effective date of September 1, 2007.

b. If the Commission approves this Unanimous Stipulation, BPS agrees not to assert or rely on any and all exemptions under 47 USC 251(f) with respect to Big River’s request for an interconnection agreement; provided, however, that nothing in this Unanimous Stipulation, or in the Commission’s order approving it, shall prohibit BPS from asserting its rural

telephone company exemption under 47 USC 251(f)(1)(A) with respect to any request for interconnection that BPS receives from any telecommunications services provider other than Big River.

c. If the Commission approves this Unanimous Stipulation, Big River agrees to withdraw the request for interconnection that it submitted to BPS on or about June 22, 2007. On or after September 1, 2007, Big River may submit to BPS a letter requesting the commencement of negotiations pursuant to 47 USC 252 for purposes of establishing a starting date for proceedings under 47 USC 252(b). Upon submittal of such letter, Big River and BPS agree to negotiate in good faith regarding the terms and conditions of an interconnection agreement between them. Assuming Big River submits its letter on September 1, 2007, and in the event Big River and BPS are not able to resolve all issues concerning an interconnection agreement by negotiation, either of them would be able to file a petition for arbitration with the Commission under 47 USC 252(b) from January 14, 2008 to February 8, 2008. For purposes of meeting its obligation under 47 USC 251(f) to establish an implementation schedule, by approving this Unanimous Stipulation the Commission shall be deemed to have directed the parties to meet as needed during the 135 days following submittal of a letter requesting the commencement of negotiations by Big River and to negotiate in good faith during such period (and after, as needed) in compliance with applicable law.

d. All parties agree that all pending and unanswered (partially or wholly) discovery requests shall be deemed withdrawn to the extent unanswered as of the date of submission of this Unanimous Stipulation. For purposes of efficiency, the parties agree that discovery responses submitted in this matter may be used during the negotiations between Big River and BPS and during any subsequent arbitration, subject to continuing protection of

proprietary and highly confidential information in accordance with the Commission's rules and orders. Certificates of compliance submitted herein pursuant to 4 CSR 240-2.135 shall be sufficient for the time being, but in the event an arbitration is commenced such certificates shall be re-filed in the new proceeding.

e. As indicated, the procedural schedule in this matter should be immediately suspended. In the event the Commission rejects this Unanimous Stipulation in whole or in part, including by issuing an order that does not fully comport with the terms and conditions hereof, the parties agree that the Commission should immediately set a prehearing conference to develop a new case schedule. The parties shall be free to fully litigate the issues in this matter pursuant to such new schedule without prejudice related to this Unanimous Stipulation and the parties shall retain all procedural and due process rights as fully as though this Unanimous Stipulation had not been presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this Unanimous Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any purpose whatsoever. All discovery requests deemed withdrawn pursuant to the terms hereof shall be deemed newly submitted (i.e. responses due 20 days thereafter) as of the date of the Commission's rejection order. Further, the parties agree that under such circumstances the deadline for action under 47 USC 251(f)(1) shall be deemed extended from October 30, 2007 to the date that is 90 days after the issuance of such rejection order. In the event the Commission does not issue its order either approving and implementing, or rejecting, this Unanimous Stipulation by September 1, 2007, it shall be deemed on that date to have issued an order rejecting the Unanimous Stipulation and any party may file a motion seeking a prehearing

conference date to develop a new case schedule in accordance with the foregoing terms and conditions.

f. Solely for purposes of issuing an order that comports herewith, the parties agree that Big River's Notice of Bona Fide Request and this Unanimous Stipulation shall be deemed received into evidence.

4. This Unanimous Stipulation has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. The parties agree to cooperate with each other in presenting this Unanimous Stipulation to the Commission for approval, and will take no action, direct or indirect, in opposition to approval of this Unanimous Stipulation.

5. In the event the Commission accepts the specific terms of this Unanimous Stipulation the parties waive herein: their respective rights pursuant to Section 536.080.1 RSMo. to present testimony, to cross-examine witnesses, and to present oral argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.070 RSMo.; and their respective rights to seek rehearing and/or judicial review of the Commission's Report and order in this case pursuant to Section 386.500 *et seq.* and Article V, Section 18 of the Missouri Constitution. This waiver applies only to a Commission order approving this Unanimous Stipulation without condition or modification issued in this proceeding and only to the issues that are resolved hereby. It does not apply to any matters raised in any prior or subsequent Commission proceeding nor any matters not explicitly addressed by Unanimous Stipulation.

6. The Staff shall have the right to provide, at any agenda meeting at which this Unanimous Stipulation is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that Staff shall, to the extent reasonably

practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order or rule.

7. If the Commission so requests, the Staff shall file suggestions or a memorandum in support of this Unanimous Stipulation. Each of the other parties shall be served with a copy of any such suggestions or memorandum and shall be entitled to submit to the Commission, within two (2) business days of receipt of Staff's suggestions or memorandum, responsive suggestions or a responsive memorandum which shall also be served on all parties. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other parties to this Unanimous Stipulation, whether or not the Commission approves and adopts this Unanimous Stipulation.

8. To assist the Commission in its review of this Unanimous Stipulation, the parties also request that the Commission advise them of any additional information that the Commission may desire from the parties relating to the matters addressed in this Unanimous Stipulation, including any procedures for furnishing such information to the Commission.

WHEREFORE, the undersigned parties request that the Commission issue its order as described herein and grant such other and further relief to the parties as the Commission deems meet and proper in the premises.

CURTIS, HEINZ,
GARRETT & O'KEEFE, P.C.

/s/ Carl J. Lumley

Carl J. Lumley, #32869
Leland B. Curtis, #20550
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
(314) 725-8788
(314) 725-8789 (Fax)
clumley@lawfirmemail.com
lcurtis@lawfirmemail.com

Attorneys for Big River Telephone
Company, LLC

BRYDON, SWEARENGEN &
ENGLAND, P.C.

/s/ W.R. England, by Carl J. Lumley

W.R. England, III, #23975
L. Russell Mitten, #27881
Brian McCartney, #47788
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, Missouri 65102
(573) 635-7166
(573) 634-7431 (Fax)
trip@brydonlaw.com
rmitten@brydonlaw.com

Attorneys for BPS Telephone Company

/s/ Jennifer Heintz, by Carl J. Lumley

Jennifer Heintz, #57128
Assistant General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
(573) 751-8701
(573) 751-9285 (Fax)
Jennifer.heintz@psc.mo.gov

Attorney for the Staff of the Missouri
Public Service Commission

Michael F. Dandino, by Carl J. Lumley

Michael F. Dandino, #24590
Deputy Public Counsel
Office of Public Counsel
P.O. Box 2230
Jefferson City, Missouri 65102
(573) 751-5558
(573) 751-5562 (Fax)
mike.dandino@ded.mo.gov

Attorney for the Office of Public
Counsel