

**OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION**

ORIGINAL

**BEFORE THE STATE COMMERCE COMMISSION
OF THE STATE OF ILLINOIS**

In the Matter of the

Illinois Bell Telephone Company)
Petition for Arbitration of Interconnection)
Agreement with Big River Telephone) Docket No. 11-0083
Company, L.L.C.)

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ILLINOIS
COMMERCE COMMISSION

**BIG RIVER TELEPHONE COMPANY, LLC'S
RESPONSE TO ILLINOIS BELL TELEPHONE COMPANY'S
PETITION FOR ARBITRATION**

Big River Telephone Company, LLC ("Big River"), pursuant to section 252(b)(3) of the Telecommunications Act of 1996 ("the Act") and 83 Ill.Adm.Code 761.110, respectfully submits its response to the Petition for Arbitrations filed by Illinois Bell Telephone Company ("AT&T Illinois").

Issues Submitted For Arbitration

The key unresolved issues are (1) should the ICA provide for a bill and keep arrangement for traffic that is otherwise subject to reciprocal compensation but is roughly balanced; (2) should AT&T Illinois be required to provide transit traffic under the ICA; and (3) if so, what are the appropriate rates that AT&T Illinois should charge for such service.

Bill-and-Keep

Big River and AT&T Illinois are currently operating under an ICA that has expired while they negotiate a replacement agreement. Section 6.4 of the existing ICA provides, "Neither Party shall pay compensation to the other Party (defined as "Bill and Keep") for rate elements as set forth in the Pricing Schedule associated with the Call Transport and Termination of Local

already been addressed by the FCC. AT&T Illinois has provided no further of actual instances of arbitrage, but Witness McPhee allows for the possibility that Big River may engage in arbitrage even though the two companies have been operating under bill and keep for two years. In addition, Big River has agreed to include a provision that reciprocal compensation will apply if the traffic becomes out of balance.

AT&T Illinois and Big River have been successfully operating under a bill and keep arrangement since Big River opted into the current ICA. Big River respectfully urges the Commission to find that the parties should continue to do so.

Transit Traffic

AT&T Illinois argues that the provision of transit services should not be covered under the ICA but should rather be subject to a separate commercial agreement. It argues that transit service is not required by Section 251(c)(2) of the Act and that the Commission, therefore, cannot lawfully impose terms for such traffic.

AT&T Illinois has previously taken this position before this Commission.¹ There, AT&T Illinois “stated that it would no longer carry Level 3's transit traffic under the terms of an interconnection agreement subject to the Act” because Section 251(c)(2) of the Act does not require it.² The Administrative Law Judge, however, found that AT&T Illinois is required to provide transit traffic pursuant to its obligation for indirect interconnection under Section 251(a)(1).³ The ALJ concluded that, “to promote competition and efficiency, the terms and conditions governing transiting should be addressed in the parties’ ICA with the other terms

¹ Level 3 Communications, L.L.C. Petition for Arbitration Pursuant to Section for Rates, Terms, and Conditions of Interconnection with Illinois Bell Telephone Company, Docket No. 04-0428.

² *Id.* at p. 72.

³ *Id.*

governing interconnection, unless the parties agree otherwise.”⁴ The ALJ specifically rejected AT&T Illinois’ position that transit services could be part of a separate agreement because “if transiting were shielded from the compulsory powers inherent in arbitration, [AT&T Illinois] would bear no obligation to enter into a transiting contract.”⁵ The same logic supports Big River’s position on this issue.

Transit Rates

AT&T proposes that the transit rates should be set according to the rates set in AT&T Illinois’ Tariff, Ill. C.C. No.22, Part 23, Section 2, First Revised Sheet 4. AT&T argues that such rates are not required to be cost-based. Those rates, however, are completely arbitrary.

It is Big River’s position that transit traffic is no different than any other tandem traffic. The process required to transport either type of traffic is identical. Big River, therefore, asserts that transit rates should be the same or similar to tandem rates. Big River has proposed a rate of .00096. That is the arbitrated transit rate in between the parties in Missouri, and it is the one that most closely approximates AT&T Illinois’ tandem rate under the current ICA.

CONCLUSION

Big River will fully support its positions in its testimony and briefs with the relevant facts, policy considerations, and legal arguments and respectfully urges the Commission to rule in its favor on the disputed issues in this arbitration and to approve Big River’s proposed language.

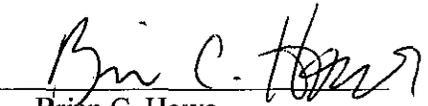
⁴ Id. at 74.

⁵ Id. at 75.

Dated: February 22, 2011

Respectfully submitted,

Big River Telephone Company, LLC

By: 

Brian C. Howe

General Counsel

Big River Telephone Company, LLC

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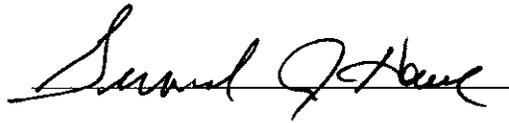
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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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

VERIFICATION

Gerard J. Howe, on oath, deposes that he is Chief Executive Officer of Big River Telephone Company, LLC; that he is authorized to make this verification; that he has read the foregoing Response to Petition for Arbitration and is familiar with the contents thereof; and that the facts set forth therein are true and correct to the best of his knowledge and belief.



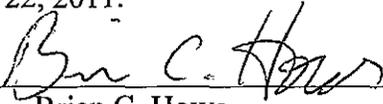
SUBSCRIBED and SWORN to before me
this 22nd day of February, 2011.

Andrew Thomas Schwantner
NOTARY PUBLIC

ANDREW THOMAS SCHWANTNER
Notary Public - Notary Seal
STATE OF MISSOURI
Jefferson County
Commission Number 10893376
My commission expires May 31, 2014

CERTIFICATE OF SERVICE

I, Brian C. Howe, an attorney, certify that, on behalf of Big River Telephone Company, LLC, copies of the **RESPONSE TO PETITION FOR ARBITRATION** and the **DIRECT TESTIMONY OF GERAD J. HOWE** were served on the following parties by Overnight Delivery and electronic transmission on February 22, 2011.



Brian C. Howe

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