



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.nj.gov/bpu**

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF BIG RIVER )  
TELEPHONE COMPANY, LLC FOR APPROVAL TO )  
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES THROUGHOUT )  
THE STATE OF NEW JERSEY )

ORDER

DOCKET NO. TE08050303

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated May 7, 2008, Big River Telephone Company, LLC ("Petitioner" or "BRTC") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide all forms of facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal along with a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

BRTC is a privately held limited liability company organized under the laws of the State of Delaware. Gerard Howe is the Chief Executive Officer and Chairman and Kevin Cantwell is the President. Both are principal owners and each has a 13% and 9% ownership interest in the company, respectively. The remaining 78% is owned by 19 members each having less than a 9.47% ownership interest and Thomas Mack Bartow's Living Trust which has less than a 10.04% ownership interest in the company. Petitioner's principal offices are located at 24 S. Minnesota Avenue, Cape Girardeau MO 63702.

Petitioner has submitted copies of its Certificate of Formation filed with the State of Delaware and its New Jersey Certificate of Authority to Operate as a Foreign Limited Liability Company. Petitioner is authorized to provide local exchange and interexchange telecommunications services in Arkansas, Illinois, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Tennessee and Washington and is also authorized to provide interexchange telecommunications services in Alabama and Indiana. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings. Petitioner has not contacted any of the incumbent local exchange carriers to enter into an interconnection agreement. However,

Petitioner is currently reviewing existing Verizon New Jersey, Inc. agreements for the possibility of opting into an existing agreement.

According to the Petition, BRTC was formed and seeks authority to provide a full range of facilities-based local exchange and interexchange telecommunications services to both residential and business customers in the State of New Jersey. Nationwide, the Petitioner offers a full suite of integrated services to business and residential customers, including local, long distance, high speed internet and other network services. Petitioner operates its own switching infrastructure and establishes relationships with local cable TV operators to utilize their networks for last mile connectivity to end customers. This has significantly enhanced Petitioner's communications options for residential and business consumers in its service areas. Petitioner provides a full array of local and long distance telephone service that includes all major features such as caller ID, 3-way calling, call waiting and forwarding, voicemail as well as 911 and E911 with connections to a 911 selective routers and public safety answering positions as necessary. Petitioner provides all of the aforementioned services including 60 minutes of domestic United States long distance calling for \$24.95/month in its standard full service package and, unlimited domestic United States long distance calling for \$34.95/month in its advanced package. Petitioner maintains a toll-free number for customer service inquiries. Petitioner will file a proposed tariff with the Board.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate office located in Cape Girardeau, MO. Petitioner states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, BRTC states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who according to BRTC are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

## DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. §253(a).

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. §253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed BRTC's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and Interexchange telecommunications services throughout New Jersey.

The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52 the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board.

The Board HEREBY ORDERS that:

- 1) Petitioner shall file its tariff with the Board.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 3) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

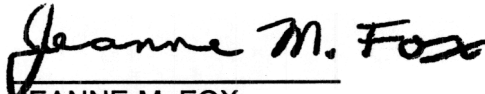
On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New

any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 7/31/08

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

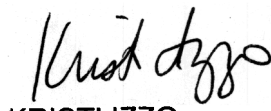
  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

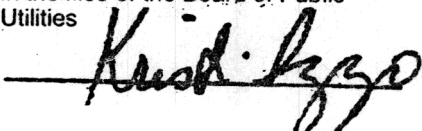
  
NICHOLAS ASSELTA  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF THE PETITION OF BIG RIVER TELEPHONE COMPANY, LLC  
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES THROUGHOUT  
THE STATE OF NEW JERSEY

DOCKET NO. TE08050303

**SERVICE LIST**

**1. Petitioner's Contact Person:**

Andrew Schwantner, Manager and  
Regulatory Contract Compliance  
Big River Telephone Company, LLC  
24 S. Minnesota Avenue  
Cape Girardeau, MO 63702

**4. Public Advocate:**

Stefanie A. Brand, Esquire  
Director, Division of Rate Counsel  
Department of Public Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P. O. Box 46005  
Newark, New Jersey 07101

**2. Petitioner's Attorney:**

Dennis C. Linken, Esq.  
Stryker, Tams & Dill, LLP  
Attorneys at Law  
Two Penn Plaza East  
Newark, New Jersey 07105

**5. Deputy Attorney General:**

Jessica Campbell, DAG  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P. O. Box 45029  
Newark, New Jersey 07102

**3. Board's Staff:**

Dennis J. Moran  
Director, Division of Audits  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

**6. Board's Staff:**

Anthony Centrella  
Director, Division of Telecommunications  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102