

Decision 11-06-006 June 9, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of BRT Company, LLC d/b/a Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to provide Limited Facilities-based and Resold Competitive Local Exchange and Non-Dominant Interexchange Services.

Application 10-06-016
(Filed June 24, 2010)

DECISION MODIFYING DECISION 10-11-022

Summary

On February 9, 2011, BRT Company, LLC d/b/a Big River Telephone Company, LLC filed a petition for modification of Decision 10-11-022 issued in Application 10-06-016. This decision modifies Decision 10-11-022 as set forth in Attachment A to this decision. This proceeding is closed.

Background

Pub. Util. Code § 1001 requires, in part, that a telephone corporation be granted a Certificate of Public Convenience and Necessity (CPCN) before it may provide service in California. Pursuant to the Public Utilities Code, as well as applicable Commission decisions,¹ BRT Company, LLC d/b/a Big River Telephone Company, LLC (BRT) filed Application (A.) 10-06-016, in which it

¹ For example, Decisions (D.) 95-07-054, D.95-12-056, D.95-12-057. For a list of all applicable decisions, see <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/clcapps.htm>.

requested a CPCN to provide Limited Facilities-based and Resold Competitive Local Exchange and Non-Dominant Interexchange Services in California. In D.10-11-022, the Commission granted BRT its requested CPCN. On February 9, 2011, BRT timely filed its *Petition of BRT Company, LLC d/b/a Big River Telephone Company (U-7204-C) For Expedited Modification of D.10-11-022 to Amend Carrier Name* (Petition). BRT requests that the Commission change its name in D.10-11-022 from BRT Company, LLC d/b/a Big River Telephone Company, LLC to Big River Telephone Company, LLC. This Petition is uncontested.

In its Petition, BRT states that the company's legal name is Big River Telephone Company, LLC, and that this entity holds all assets and employs all personnel needed to operate as a telecommunications carrier.² Prior to filing A.10-06-016, BRT attempted to register with the California Secretary of State under its legal name. Due to the existence of a similarly named company doing business in California, however, the Secretary of State required BRT to register to do business as BRT Company, LLC d/b/a Big River Telephone Company, LLC. Therefore, when it applied for a CPCN with the Commission, it applied under this name, instead of its legal name, Big River Telephone Company, LLC.

Subsequent to being granted the CPCN in D.10-11-022, BRT contacted the National Exchange Carrier's Association (NECA)³ to add its California

² Big River Telephone Company, LLC currently operates in Arkansas, Illinois, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, New Jersey, Tennessee, and Texas, and has pending requests to operate in Colorado, New Mexico, Oklahoma, and Pennsylvania. <https://www.bigrivertelephone.com>.

³ NECA is a membership association of United States local telephone companies, which help more than 1,000 telephone company members across rural America

Footnote continued on next page

operation to its existing Operating Company Number (OCN), which is registered under its legal name.⁴ NECA rejected the request, because the CPCN in California was issued in a name different from its legal name. BRT has since been unsuccessful in persuading NECA to allow the addition of its California operations to its existing OCN. Therefore, BRT concluded that it must request modification of the name in which its California CPCN is issued – from BRT Company, LLC d/b/a/ Big River Telephone Company, LLC to Big River Telephone Company, LLC.

Subsequent to encountering the above described difficulty with NECA, BRT contacted the California Secretary of State again, and has since been granted an *Amended Certificate of Registration* in its legal name, Big River Telephone Company, LLC.

In order to facilitate BRT's ability to utilize its existing OCN in its interaction with NECA, BRT now requests that the Commission change the name in which it was granted a CPCN in D.10-11-022, from BRT Company, LLC d/b/a/ Big River Telephone Company, LLC to Big River Telephone

deliver high-speed multi-use broadband services. NECA also administers regulatory and financial programs, including rate and tariff development, industry database management, trend analysis, regulatory policy analysis, and provides various services to its members regarding compliance with Federal Communications Commission rules. <https://www.neca.org>.

⁴ OCN's are used to identify telecommunications service providers pursuant to Alliance for Telecommunications Industry Solutions Standard 0300251 - Codes for Identification of Service Providers for Information Exchange. The OCN is used to facilitate information exchange for applications such as ordering, provisioning, routing, and billing.

Company, LLC, so that the CPCN it holds in California will have the same name as its legal name used at NECA and in the other states it operates in.

Other than this requested name change, BRT states that there has been no change in the information that it submitted demonstrating its eligibility to receive a CPCN in A.10-06-016.

Procedural Requirements Under Rule 16.4

Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules) governs the process for the filing and consideration of petitions for modification. Rule 16.4(b) requires that a petition for modification concisely state the justification for the proposed relief and to propose specific wording for all requested modifications. BRT's Petition contained a concise but thorough statement of justification for the proposed modifications. Hence, this requirement has been fulfilled.

Rule 16.4(d) requires that a petition for modification must be filed and served within one year of the effective date of the decision for which modification is being proposed. BRT filed its petition for modification of D.10-11-022 within one year of its issuance, so is therefore in compliance with this requirement.

Hence, we conclude that BRT's Petition complies with the procedural requirements of Rule 16.4.

Should BRT's Petition to Change its Name be Granted?

BRT has tried and been unsuccessful in convincing NECA that it be allowed to add its California operations to its existing OCR. The only alternatives would be for it to request a completely new and different OCR from NECA just for its California operations, or to request a name change with this Commission. If BRT's California operations had a different OCR than it

operations in other states, this could cause confusion and increased costs to the company. However, a change in the name of its California operations would bring its name in line with its legal name, the name it uses with NECA, as well as its operations in other states.

Importantly, BRT has provided documentation from the Secretary of State that it is now registered and able to operate in California under its legal name, Big River Telephone Company, LLC.

Therefore, the least confusing and most straightforward solution is for BRT to change the name by which it received its CPCN in D.10-11-022. BRT would then be able to request addition to its existing OCR at NECA, and operate in California using the same name it uses in its operations in other states.

We therefore grant BRT's Petition to change the name under which its CPCN is granted in D.10-11-022 from BRT Company, LLC d/b/a/ Big River Telephone Company, LLC to Big River Telephone Company, LLC. The specific changes to the decision itself are shown in Attachment A to this decision.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Pub. Util. Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Seaneen M. Wilson is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. BRT's Petition was filed within one year of the issuance of D.10-11-022.
2. NECA will not allow BRT to add its California operations to its existing OCR because the name BRT received its CPCN under in D.10-11-022 and its legal name on the OCR are different.
3. The California Secretary of State recently allowed BRT, which had been registered with it as BRT Company, LLC d/b/a/ Big River Telephone Company, LLC, to amend its Certificate of Registration so that its name in California is now Big River Telephone Company, LLC.
4. The proposed modifications to D.10-11-022 are supported by the record.

Conclusions of Law

1. BRT's Petition satisfies the procedural requirements of Rule 16.4.
2. BRT's Petition to change the name under which it was granted a CPCN in D.10-11-022, from BRT Company, LLC d/b/a/ Big River Telephone Company, LLC to Big River Telephone Company, LLC, should be granted. This includes a change to the caption in A.10-06-016 and D.10-11-022.
3. The proposed modifications to D.10-11-022, as set forth in Attachment A to this decision, should be adopted.
4. This order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. BRT Company, LLC d/b/a/ Big River Telephone Company, LLC's February 9, 2011 *Petition of BRT Company, LLC d/b/a Big River Telephone Company (U-7204-C) For Expedited Modification of D.10-11-022 to Amend Carrier Name*, is granted. The name under which the Certificate of Public Convenience and

Necessity is granted in Decision 10-11-022 is changed from BRT Company, LLC d/b/a/ Big River Telephone Company, LLC to Big River Telephone Company, LLC.

2. Decision 10-11-022 is modified as shown in Attachment A to this decision. All other language in Decision 10-11-022 must be read and understood to conform to those modifications.

3. The caption in Application 10-06-016 and Decision 10-11-022 is modified as set forth in Attachment A to this decision.

4. Application 10-06-016 is closed.

This order is effective today.

Dated June 9, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

[D1106006 Attachment A](#)