



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

February 2, 2001

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. ^{TT-}TC-2001-117

FILED³
FEB 02 2001
Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **MOTION TO CONSOLIDATE**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Keith R. Krueger
Deputy General Counsel
(573) 751-4140
(573) 751-9285 (Fax)

KRK/lb
Enclosure
cc: Counsel of Record

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

FILED³
FEB 02 2001
Missouri Public
Service Commission

In the Matter of the Access Tariff Filing of)
Ozark Telephone Company)

TT
Case No. ~~PC~~-2001-117
Tariff File No. 200100693

MOTION TO CONSOLIDATE

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and, for its Motion to Consolidate, states to the Missouri Public Service Commission ("Commission") as follows:

1. On June 10, 1999, the Commission issued Reports and Orders in Case No. TO-99-254 and in Case No. TO-99-519, by which it authorized Ozark Telephone Company ("Ozark") to implement an immediate rate increase for the purpose of providing Ozark with "revenue neutrality" following the termination of the Primary Toll Carrier Plan. The said orders authorized this revenue neutrality filing on the condition that the tariffs implementing this rate increase were to be interim and subject to a refund, with the issue of the obligation to make a refund and the amount of any such refund to be determined in a general rate case, to be filed between eight and ten months after October 20, 1999.

2. On August 23, 2000, Ozark submitted to the Commission a tariff filing designed to make permanent the interim increase in the intrastate access carrier common line (CCL) rates that it had implemented pursuant to the said Reports and Orders issued in Case Nos. TO-99-519 and TO-99-254. The August 23, 2000 tariff filing was docketed as Case No. TT-2001-117.

3. In this Case No. TT-2001-117, the Staff opined that a Commission decision concerning Ozark's interim tariff should be based on a determination of whether implementation

of the interim CCL rates had allowed Ozark to earn a rate of return that exceeded a just and reasonable level, and that this determination is appropriately made in the context of a general rate proceeding in which all relevant factors affecting revenue requirement are considered by the parties and the Commission. Because it was the Staff's opinion that Ozark had not filed a general rate proceeding, as required by the Reports and Orders in Case No. TO-99-254 and in Case No. TO-99-519, the Staff proposed to complete an audit of Ozark and to report its findings to the Commission by January 31, 2001. (Pre-filed Rebuttal Testimony of Mark L. Oligschlaeger).

4. On December 22, 2000, Ozark withdrew the tariff that it had filed on August 23, 2000, in this Case No. TT-2001-117. It re-filed this tariff in this Case No. TT-2001-117 on December 26, 2000.

5. In an Order that it issued on January 9, 2001, the Commission suspended the effective date of the tariff that was filed on December 26, 2000 until June 24, 2001, and directed the Staff to file supplemental rebuttal testimony in this Case No. TT-2001-117, file a stipulation and agreement in this Case No. TT-2001-117, or file direct testimony in an earnings complaint case by no later than January 31, 2001.

6. On January 16, 2001, the Missouri Court of Appeals, Western District, handed down an opinion in *State ex rel. Alma Telephone Company, et al., v. Public Service Commission of the State of Missouri*. The opinion held that the doctrine of the law of the case precluded the Commission, in Case No. TO-99-254, from conditioning the interim increase in Ozark's CCL rates upon an obligation to file a general rate case. The Court's opinion is not yet final.

7. On January 31, 2001, the Staff filed a Complaint against Ozark in Case No. TC-2001-402. The Complaint presents the results of the Staff's audit of Ozark. The Complaint

requests that the Commission find that Ozark's rates and charges are unreasonable and that it order Ozark to modify its rates and charges so as to reduce its annual revenues by up to \$650,000.

8. Commission Rule 4 C.S.R. 240-2.110(3) provides:

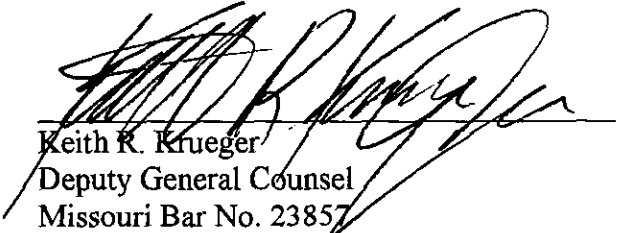
When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.

9. Case No. TC-2001-402 and this Case No. TT-2001-117 involve a common question of law, namely, whether Ozark's obligation to refund all or a portion of the revenues generated by the interim CCL rates should be determined in a rate case that considers "all relevant factors," or whether it should be determined in a case that only examines whether the revenues generated by the interim CCL rates equaled or exceeded the amount of revenue that Ozark lost as a result of the termination of the PTC Plan. These cases also involve common questions of fact, including how much revenue Ozark received as a result of the interim surcharge on CCL rates, how much revenue Ozark lost as a result of the termination of the PTC Plan, whether Ozark collected more revenue through the interim surcharge on CCL rates than it lost as a result of the termination of the PTC Plan, and whether Ozark's interim CCL rates were and are reasonable.

WHEREFORE, the Staff requests the Commission to consolidate Case No. TC-2001-402 and this Case No. TT-2001-117.

Respectfully submitted,

DANA K. JOYCE
General Counsel



Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)
e-mail: kkrueg01@mail.state.mo.us

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 2nd day of February, 2001.



**Service List for
Case No. TC-2001-402 and TT-2001-117
Revised: February 2, 2001 (lb)**

**Office of the Public Counsel
PO Box 7800
Jefferson City, MO 65102**

**Kevin Zarling
AT&T Communications
919 Congress, Suite 900
Austin, TX 78701**

**Brian T. McCartney/W.R. England, III
Brydon, Swearingen & England
312 E. Capitol Avenue
Jefferson City, MO 65102-0456**

**Paul S. DeFord
Lathrop & Gage
2345 Grand Boulevard
Kansas City, MO 64108-2684**

**Leo J. Bub
Southwestern Bell Telephone Company
One Bell Center, Room 3518
St. Louis, MO 63101**