

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
February 5, 2002**

**CASE NO: TT-99-428, TT-99-429, TT-99-430, TT-99-431, TT-99-432, & TT-99-433  
(consolidated)**

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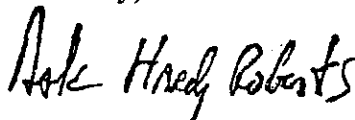
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**Enclosed find certified copy of a ORDER in the above-numbered case(s).**

Sincerely,



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

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

In the Matter of Alma Telephone Company's Filing to Revise its Access Service Tariff, P.S.C. Mo. No. 2.	)	<b><u>Case No. TT-99-428</u></b> Tariff No. 9900658
In the Matter of MoKan Dial, Inc.'s Filing to Revise its Access Service Tariff, P.S.C. Mo. No. 2.	)	<b><u>Case No. TT-99-429</u></b> Tariff No. 9900656
In the Matter of Mid-Missouri Telephone Company's Filing to Revise its Access Service Tariff, P.S.C. Mo. No. 2.	)	<b><u>Case No. TT-99-430</u></b> Tariff No. 9900712
In the Matter of Choctaw Telephone Company's Filing to Revise its Access Service Tariff, P.S.C. Mo. No. 1	)	<b><u>Case No. TT-99-431</u></b> Tariff No. 9900667
In the Matter of Chariton Valley Telephone Company's Filing to Revise its Access Service Tariff, P.S.C. Mo. No. 2.	)	<b><u>Case No. TT-99-432</u></b> Tariff No. 9900657
In the Matter of Peace Valley Telephone Company's Filing to Revise its Access Service Tariff, P.S.C. Mo. No. 2.	)	<b><u>Case No. TT-99-433</u></b> Tariff No. 9900655

(Consolidated)

**ORDER DIRECTING FILING**

*STIPULATION OF FACTS*

On October 30, 2001, the Missouri Court of Appeals remanded this case to the Missouri Public Service Commission so that the Commission could make findings of fact, i.e., a factual basis for deciding this case. (The Supreme Court of Missouri denied transfer of this case on January 22, 2002, and the Court of Appeal's mandate to the Commission

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became effective on January 24, 2002.) The court ordered that "the case is remanded [to the] Public Service Commission with instructions that it enter findings of fact and conclusions of law in compliance with [sections] 386.240 and 536.090." Section 386.240, RSMo, sets forth the technicalities of the hearing itself that the Commission must follow, and 536.090, requires a decision by the Commission to be in writing and to include a separate findings of fact and conclusions of law.

The pertinent part of the latter statute states:

Every decision and order in a contested case shall be in writing, and...the decision...shall include or be accompanied by findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order.

The Commission notes that none of the parties have ever disputed any of the facts in this case. For example, at the prehearing conference on April 29, 1999, AT&T Wireless made the following statement which was not disputed by any other party:

The only thing I would add is that we view this as purely a question of law. I think we could quite easily and in this particular case, stipulate to the relevant facts and submit it to the Commission on brief and argument. I think it's rather unique and I don't think there's any disagreement [about] the exchange in traffic and how we're doing it. I think the only question is how the FCC's regulations [and] orders should be interpreted and applied in this case.

Thus, the Commission will require the parties to file a stipulation of facts.

#### *DISQUALIFICATION OF JUDGE*

On February 4, 2002, the Missouri Independent Telephone Company Group and the Small Telephone Company Group filed a joint motion for the Commission to order (a) a new law judge assigned to this case; and (b) the establishment of a procedural schedule for a supplemental hearing, additional briefing, or proposed findings of fact and conclusions of law.

Insofar as the disqualification of the law judge, the joint motion did not comply with Commission Rule 4 CSR 240-2.120(2). This rule requires that if a party wishes to disqualify any presiding officer in a case, then that party must file a motion to disqualify the presiding officer and attach to it affidavits that set forth the party's grounds for disqualification.

The rule states:

Whenever any party shall deem the presiding officer for any reason to be disqualified to preside, or to continue to preside, in a particular case, the party may file with the secretary of the commission a motion to disqualify with affidavits setting forth the grounds alleged for disqualification. A copy of the motion shall be served by the commission on the presiding officer whose removal is sought and the presiding officer shall have seven (7) days from the date of service within which to reply.

The MITG and the STCG may file a pleading complying with this rule if they desire to disqualify the judge in this case.

#### *RESPONSE TO JOINT MOTION*

Any other party may, but is not required to, file a response to the MITG and the STCG's joint motion.

#### **IT IS THEREFORE ORDERED:**

1. That the parties must file a joint stipulation of facts by February 15, 2002.
2. That if the Missouri Independent Telephone Company Group and the Small Telephone Company Group wish to file a motion to disqualify the judge in this case, the motion must comply with Commission Rule 4 CSR 240-2.120(2) and must be filed by February 15, 2002.
3. That all pleadings must be filed in paper form. After the paper copies of the pleadings are properly filed, however, all parties are also encouraged to file copies of their pleadings electronically. Electronically-submitted documents may be provided on

computer disk or submitted by e-mail to the law judge at [bhopkins@mail.state.mo.us](mailto:bhopkins@mail.state.mo.us) in a file saved in Word, WordPerfect, or ASCII format with an extension of \*.doc, \*.wpd, or \*.txt. (Copies of exhibits, attachments, schedules, etc., need not be sent electronically; only pleadings should be sent electronically.)

4. That if any party wishes to file a response to the joint motion of Missouri Independent Telephone Company Group and the Small Telephone Company Group, the response must be filed by February 15, 2002.

5. That this order will become effective on February 15, 2002.

**BY THE COMMISSION**



**Dale Hardy Roberts  
Secretary/Chief Law Judge**

(SEAL)

Bill Hopkins, Senior Law Judge,  
by delegation of authority under  
Section 386.240, RSMo 2000.

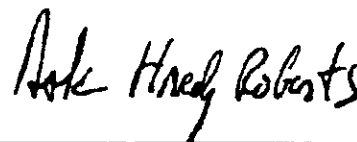
Dated at Jefferson City, Missouri,  
on this 5th day of February, 2002.

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

I have compared the preceding copy with the original on file in this office and  
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 5<sup>th</sup> day of Feb. 2002 .



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**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

