

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY

August 29, 2000

CASE NO: TF-2000-428

Office of the Public Counsel

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General Counsel

Missouri Public Service Commission
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Brydon, Swearngen & England P. C.
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Jefferson City, MO 65102

Enclosed find certified copy of an 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 the Application of Le-Ru)
Telephone Company for Authority to Borrow an)
Amount Not to Exceed \$9,164,700 from the Rural)
Utilities Service, the Rural Telephone Bank and)
the Federal Financing Bank and in Connection)
therewith to Execute an Amending Telephone Loan)
Contract Amendment, Promissory Notes, and a)
Restated Mortgage, Security Agreement and)
Financing Statement.)

Case No. TF-2000-428

ORDER DIRECTING FILING

On August 22, 2000, Le-Ru Telephone Company (Le-Ru or Company) filed its Motion for Clarification and/or Modification requesting that the Commission make an additional finding pursuant to Section 392.310.2, RSMo 1994, "that in the opinion of the commission the money, property or labor procured or to be procured or paid for by such issue or its proceeds has been or is reasonably required for the purpose specified in the order." Le-Ru also requested that the Commission modify ordered paragraph 11 that states "[t]his order shall be effective until such time as the financing authorized is exhausted or is canceled by the Commission." Le-Ru asks that the Commission "make clear that the approval granted by the Commission cannot be canceled until such time as the authorized financing has been utilized by the Applicant."

Recent financing cases before the Commission have presented instances where the final terms, conditions and purposes of the transaction or transactions proposed have been uncertain and the applicant has sought a certain degree of flexibility. In other instances, transactions have not occurred at all and the order has been canceled or a portion of the indebtedness authorized had been canceled. In this case, the issuance of a

portion of the authorized indebtedness and the corresponding use of that portion of the debt proceeds is limited by a requirement that Le-Ru make a later application or request.

The Commission notes that the validity of the indebtedness "issued" is dependent on "an order of the commission authorizing the same then in effect..." Section 392.300, RSMo 1994. This phrasing suggests that the key concern should be the circumstances and status of the Commission's order at the time the indebtedness is actually issued. If circumstances change, then an order could well be modified, canceled or withdrawn without affecting one or more transactions that previously occurred under the order, or the order could be canceled before any transaction has occurred. If the Commission does not have the flexibility to respond to changing circumstances that might affect the terms of an order, then it is possible that the Commission should be less inclined to provide for flexible terms or approve subsequent modifications that may be requested by an applicant.

Prior to consideration of Le-Ru's request the Commission desires to hear from its Staff and also provide the Office of the Public Counsel an opportunity to respond. In addition, any party may separately or jointly submit a proposed Modification Order for the Commission's consideration.

IT IS THEREFORE ORDERED:

1. That the Commission's Staff shall file a response to the Motion for Clarification and/or Modification not later than September 12, 2000. The Office of the Public Counsel may also respond in that time.

2. That the parties may submit a separate or a joint proposed Modification Order to the Commission not later than September 12, 2000.

3. That this order shall become effective on September 8, 2000.

BY THE COMMISSION

Dale Hardy Roberts
Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Keith Thornburg, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 29th day of August, 2000.

**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 29th day of August 2000.**



Dale Hardy Roberts

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