

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 18th day
of June, 2002.

In the Matter of the Tariff Filing of Missouri State)	
Discount Telephone to Add Exchanges for BPS)	
Telephone Company, Chariton Valley Telephone)	<u>Case No. TT-2002-1097</u>
Corporation, and Mid-Missouri Telephone Company)	Tariff No. 200200981
to Reflect Newly Authorized Exchanges as per)	
Recently Approved Interconnection Agreements.)	

ORDER CONCERNING MOTION TO SUSPEND TARIFF

On May 30, 2002, the Office of the Public Counsel filed its Motion to Suspend Tariff and Request for Evidentiary Hearing directed at a tariff filed by Missouri State Discount Telephone in order to add additional exchanges to area of operation. Public Counsel asserts that Discount Telephone's tariff amendment of its authorized service area is "in effect an application for a modification and amendment to its certificate of service authority under Section 392.410.5, RSMo, to include additional geographic areas and exchanges of a different incumbent local exchange company."

Public Counsel's motion in this case relates to another case now before this Commission: In March, 2002, BPS Telephone Company filed a notice of its election of price-cap regulation status under Section 392.245.2, RSMo; BPS may elect this status under the law if at least one alternative local service provider is certificated to operate within its service area and is actually providing such service. Public Counsel devotes most of its motion in this case to its discussion of the relationship between the tariff under

consideration here and the notice referred to above. BPS cites the certification and operation of Discount Telephone within its service area as justification for its election of price-cap regulation status.

Public Counsel states:

It now appears from the proposed tariff that Missouri State Discount was not certified to provide service in BPS exchanges. If such service was actually being provided, Missouri State Discount Telephone was unlawfully operating in exchanges for which it had no Commission authority to operate and was not certified to provide service. Since the certification and operation of Missouri State Discount Telephone in BPS exchanges served as the triggering event for BPS's election for price cap regulation, the Commission should suspend the tariff and investigate the facts and Missouri State Discount Telephone's non-compliance with law.

On June 4, Missouri State Discount Telephone filed its Suggestions in Opposition to Public Counsel's Motion to Suspend Tariff. Therein, Discount Telephone states that its purpose in filing the proposed amended tariff sheets is simply to note the exchanges of three companies with whom Discount Telephone has recently obtained Commission-approved interconnection agreements. By adding them to its tariff, Discount Telephone will be legally authorized to operate in those service areas. Discount Telephone points out that Public Counsel's interest in the price-cap regulation status of BPS Telephone Company has nothing to do with the tariffs under consideration in this case. Discount Telephone further points out that the concerns stated by Public Counsel are now the subject of a separate contested case proceeding. In the past, Discount Telephone has amended its tariffs to reflect interconnection agreements reached with various carriers and it avers that it is simply doing the same thing now. Discount Telephone further points out that Public Counsel makes no complaint regarding the format, purpose, or content of the tariff at issue in this case. Because there is no defect on the face of the tariff at issue in this case,

Discount Telephone asserts it has a right to receive approval by this Commission of the tariff.

On June 7, 2002, the Staff of the Missouri Public Service Commission filed its Recommendation and Memorandum in this matter. Staff states that the Commission granted a certificate to Discount Telephone on March 16, 2001, in Case No. TA-2001-334. That certificate authorized Discount Telephone to provide basic local telecommunications services throughout the state of Missouri. The certificate became effective, Staff states, on July 2, 2001, when Discount Telephone's tariff became effective. That initial tariff authorized Discount Telephone to provide services in listed exchanges of Southwestern Bell Telephone Company, ALLTEL Missouri, Inc., and GTE Midwest Incorporated. Staff states further that it disagrees with Public Counsel's characterization of the tariff herein at issue as a request for new certification. Staff advises the Commission to approve the tariff and to deny Public Counsel's Motion to Suspend.

In its Memorandum, also filed on June 7, 2002, Staff states that the proposed tariff sheets meet the requirements of all applicable statutes and Commission rules; consequently, Staff states, they should be approved. Staff further states that the matters raised by Public Counsel should be addressed in a separate proceeding.

On June 12, Public Counsel filed its reply. Public Counsel states that, "[b]y suspending the tariff, the Commission can freeze the status quo and allow [sic] it to address the issues." The issues Public Counsel refers to consist primarily of "a significant allegation of overearnings against BPS Telephone Company." By electing price-cap status, BPS will escape Commission scrutiny of its earnings and its allegedly inflated rates would

be beyond review. Public Counsel states, “[t]he PSC may foreclose its ability to investigate the alleged overearnings of BPS by allowing this tariff to become effective.”

The Commission has considered the motion filed by the Office of the Public Counsel, the response filed by Discount Telephone, Staff’s Memorandum and Recommendation, and Public Counsel’s reply. The Commission has determined that Public Counsel has not raised concerns which require that this tariff be suspended and an evidentiary proceeding conducted. Public Counsel makes no complaint about the form, content or purpose of the tariff. Rather, Public Counsel’s concerns clearly relate only to matters which are already the subject of one or more other pending proceedings. For these reasons, the Commission determines that Public Counsel’s Motion should be denied and the tariff sheets approved.

IT IS THEREFORE ORDERED:

1. That the Motion to Suspend Tariff and Request for Evidentiary Hearing filed by the Office of the Public Counsel on May 30, 2002, is denied.
2. That the proposed amended tariff sheets filed by Missouri State Discount Telephone, Tariff File No. 200200981, are approved for service rendered on and after June 21, 2002. The specific tariff sheets approved are:

P.S.C. Mo. No. 1

2nd Revised Sheet No. 11, Canceling 1st Revised Sheet No. 11

2nd Revised Sheet No. 12, Canceling 1st Revised Sheet No. 12

3. That this order shall become effective on June 21, 2002.

4. That this case may be closed on June 22, 2002.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Murray, Lumpe, Gaw, and Forbis,
CC., concur.
Simmons, Ch., not participating.

Thompson, Deputy Chief Regulatory Law Judge