

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
September 21, 2000

CASE NO: TF-2000-428

Office of the Public Counsel

P.O. Box 7800
Jefferson City, MO 65102

General Counsel

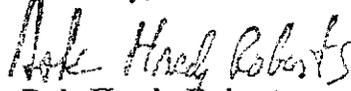
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

W. R. England, III/Sondra B. Morgan

Brydon, Swearngen & England P. C.
312 East Capitol Avenue
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

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 21st
day of September, 2000.

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) **Case No. TF-2000-428**
therewith to Execute an Amending Telephone Loan)
Contract Amendment, Promissory Notes, and a)
Restated Mortgage, Security Agreement and)
Financing Statement.)

ORDER WITHDRAWING AND MODIFYING
ORDER APPROVING FINANCING
PURSUANT TO MOTION FOR CLARIFICATION
AND/OR MODIFICATION

On January 18, 2000, Le-Ru Telephone Company (Le-Ru or Company) filed an application with the Commission requesting authority under Section 392.310, RSMo 1994, and 4 CSR 240-2.060 to borrow certain sums, not to exceed \$9,164,700, from the Rural Utilities Service, the Rural Telephone Bank, and the Federal Financing Bank in order to fund capital improvements and to finance its operating needs.

On May 16, 2000, the Commission's Staff filed its recommendation and memorandum in this case, recommending that the Commission issue an order approving Le-Ru's application but with a reduction in the amount Le-Ru would be authorized to borrow to \$7,800,606 and with certain conditions. The Staff stated that the Company's application meets the requirements of Section 392.310, RSMo 1994, and recommended approval subject to modification of the amount and the conditions specified.

On July 7, 2000, the Commission held a hearing on the Company's application. The Commission issued its Order Approving Financing on August 15, 2000. A Notice Correcting Order Nunc Pro Tunc was issued on August 16, 2000, to correct the vote recorded on the August 15, 2000, order.

On August 22, 2000, Le-Ru 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."

On August 29, 2000, the Commission issued its Order Directing Filing directing the Commission's Staff to respond to Le-Ru's motion, and providing an opportunity for additional input from Le-Ru and the Office of the Public Counsel, and providing an opportunity for the parties to submit proposed modifications separately or jointly no later than September 12, 2000.

On September 12, 2000, Staff filed Staff's Response to Motion for Clarification and/or Modification and Recommendations for Modification Order. Staff stated that both Le-Ru and the Office of the Public Counsel reviewed the changes recommended by Staff in response to Le-Ru's motion and that Le-Ru and the Office of the Public Counsel support the recommended modifications. No other party filed a response to the Order Directing Filing.

With respect to Le-Ru's request for an additional finding pursuant to Section 392.310, RSMo 1994, the Staff suggested that the Commission find "that the money, property and labor to be procured by said transaction is reasonably required for the purposes specified above, and that no part of the proceeds shall be reasonably chargeable to operating expenses or to income." The proposed language simply mirrors that found in Section 392.310.2. Le-Ru did not originally request this finding in its suggested language filed on July 24, 2000. However, the record in this case, and in particular, the testimony presented at the hearing for this matter, demonstrates that the improvements that will be procured with the proceeds of the financing are reasonably required for the purposes described in the Commission's Order Approving Financing. Therefore, the Commission will modify its Order Approving Financing to include this finding.

With respect to Le-Ru's request that the Commission clarify or modify ordered paragraph 11, Le-Ru expressed concern that its lenders might misconstrue the order as an insufficient authorization to enter into a loan agreement. Ordered paragraph 11 states: "That this order shall be effective until such time as the financing authorized is exhausted or is canceled by the Commission." In its response, Staff suggests removing ordered paragraph 11 from the August 15, 2000, order, "in the interest of conveying a sense of certainty," presumably to Le-Ru's lenders.

It was not the Commission's intent to curtail the very financing transaction that the Commission authorized in its order. The fact that Le-Ru is requesting a clarification or modification, and Staff's support for the clarification and modification, indicate that the parties do not question the Commission's authority to modify an order. In this case the Commission will modify its order as requested by removing this language from the ordered paragraphs.

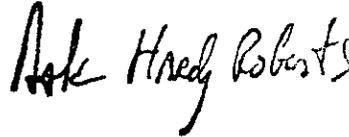
The Commission's Order Approving Financing issued on August 15, 2000, is withdrawn concurrently with the issuance of this order and the issuance of a Modified Order Approving Financing.

IT IS THEREFORE ORDERED:

1. That the Commission's Order Approving Financing issued on August 15, 2000, is withdrawn concurrently with the issuance of this order and the issuance of a Modified Order Approving Financing.

2. That this order shall become effective on October 1, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer, and
Schemenauer, CC., concur.
Murray, C., not participating.
Simmons, C., absent.

Thornburg, Regulatory Law Judge

Att/Sec'y:

Thornburg / Pope

Date Circulated

CASE NO.

9-18

TF-300-428

[Signature]
Lumpke, Chair

[Signature]
Drainer, Vice Chair

[Signature]
Murray, Commissioner

[Signature]
Schemenauer, Commissioner

[Signature]
Simmons, Commissioner

9-21
Agenda Date

Action taken:

3
4-0A3

Must Vote Not Later Than

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 21st day of Sept. 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

