

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

**CASE NO: TT-2001-117**

**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/Brian T. McCartney**  
Brydon, Swearingen & 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,**

A handwritten signature in dark ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

**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 Access Tariff Filing	)	<u>Case No. TT-2001-117</u>
of Ozark Telephone Company	)	Tariff File No. 200100203

**ORDER GRANTING RECONSIDERATION, SUSPENDING TARIFF,  
DIRECTING NOTICE, DIRECTING FILING, SCHEDULING  
PREHEARING CONFERENCE, AND ESTABLISHING PROTECTIVE  
ORDER**

On August 23, 2000, Ozark Telephone Company (the Company) submitted to the Commission a tariff sheet designed to make permanent the interim revenue surcharge that it implemented pursuant to Reports and Orders issued in Case Nos. TO-99-519 and TO-99-254. The tariff bears an effective date of October 1, 2000. On August 31, 2000, the Commission rejected the tariff filing because it did not comply with the requirement in Case Nos. TO-99-519 and TO-99-254 that the Company file a general rate case.

On September 11, 2000, the Company filed a Motion for Reconsideration, or in the Alternative, Application for Rehearing. The Company represented that, contrary to the Commission's interpretation, its August 23, 2000, filing was intended to meet all the requirements of a general rate case filing. The Company also represented that it followed the general rate case procedure set forth in the Commission's rules. Based upon the representations in the motion for reconsideration, the Commission will reconsider and vacate its August 31, 2000, order. Inasmuch as the Company represents that it has made the necessary filings for a general rate case in accordance with the Commission's rules, the Commission will

consider the filing in compliance with the Reports and Orders in Case Nos. TO-99-519 and TO-99-254.

To allow sufficient time to study the effect of the proposed tariff and to determine if it is just, reasonable and in the public interest, the Commission will suspend the proposed tariff for a period of 150 days beyond the requested effective date, unless otherwise ordered by the Commission.

The Records Department of the Commission shall serve a copy of this order upon the county commission of each county in the Company's service area. In addition, the Information Office shall send notice of this order to the publisher of each newspaper located in the counties in which the Company provides service, as listed in the newspaper directory of the current *Official Manual of the State of Missouri*, and to the members of the General Assembly representing the Missouri area served by the Company.

Any proper entity desiring to intervene in this proceeding shall file its application to intervene as ordered herein.

The Company states in its motion for reconsideration that it was prepared to offer earnings information that considers all relevant factors. The Commission will direct the Company to file that information. Staff's and other parties' test year proposals should include a specific 12-month period as a test year and should include any additional period for which Staff or another party has updated significant items from the test year. The test year with the additional period will be called a test year as updated, or updated test year. A party may also request isolated changes, such as those imposed by governmental bodies, as part of its case and the Commission will consider whether those isolated changes are known and measurable, and whether they should be included in the Company's revenue requirement. An issue to be considered in this determination is whether

the proposed adjustment affects the matching of rate base, expenses and revenues.

A resolution of the test-year issue must be made early in the proceeding so that parties' testimony can be reconciled to the same period. The test year is the 12-month period which is used to audit a company's books to determine the proper amounts of rate base, expenses and revenues to be used in calculating a revenue requirement for a company. The test year involves an audit of all books and records of a company so that a total revenue requirement can be calculated. Staff, the Office of the Public Counsel and all intervenors shall each state their position regarding the Company's test year proposal in a separate pleading which shall be filed on the same date as their direct testimony.

The Company will be directed to submit a pleading regarding a true-up. Any request for a true-up should include a proposed date to which the Company's financial data is to be brought forward as well as a proposed time for a true up hearing. The Company's proposal should also specify a complete list of accounts or items of expense, revenues and rate base designed to prevent any improper mismatch in those areas. The Commission will not consider a true-up of isolated adjustments, but will examine only a "package" of adjustments designed to maintain the proper revenue-expense-rate base match at a proper point in time. In re Kansas City Power & Light Co., 26 Mo. P.S.C. (N.S.) 104, 110 (1983). Staff, the Office of the Public Counsel and all intervenors shall each state their position regarding the Company's true-up proposal in a separate pleading filed on the same date as their direct testimony.

The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice

of prefiling testimony gives parties notice at the earliest reasonable opportunity of the claims, contentions and evidence in issue and avoids unnecessary objections and delays caused by allegations of unfair surprise at the hearing. All prefiled testimony shall be filed by 3:00 p.m. on the date it is scheduled to be filed.

The Commission will schedule a prehearing conference to afford the parties the opportunity to discuss, define, and possibly resolve the issues presented in this case. The Commission will also set a date for the filing of a proposed procedural schedule to ensure that this case progresses.

In its August 23, 2000, filing, the Company also requested that the Commission issue its standard protective order. The Company stated that some of the information it intended to file in support of its tariff filing is proprietary and some may be highly confidential. Because the Commission rejected the tariff filing, it denied the request for a protective order. Since the Commission is herein vacating its rejection of the tariff, it will now grant the request for a protective order.

**IT IS THEREFORE ORDERED:**

1. That the motion for reconsideration filed by Ozark Telephone Company on September 11, 2000, is granted and the Commission's Order Rejecting Tariffs and Denying Motion for Protective Order is vacated.

2. That the proposed tariff sheet submitted on August 23, 2000, by Ozark Telephone Company is hereby suspended for a period of 150 days from the effective date of October 1, 2000, until February 28, 2001.

3. That Ozark Telephone Company shall file earnings information which considers all relevant factors no later than September 27, 2000.

4. That Ozark Telephone Company shall file a pleading setting out its recommendation concerning a true-up audit and hearing no later than October 27, 2000.

5. That the Commission Staff, the Office of the Public Counsel and the intervenors shall either concur in Ozark Telephone Company's test-year or recommend alternatives in a separate pleading that shall be filed on the same date their direct testimony is filed.

6. That the Commission Staff, the Office of the Public Counsel and the intervenors shall file a pleading indicating either concurrence in Ozark Telephone Company's true-up recommendation or suggesting alternatives to Ozark Telephone Company's true-up recommendation in a separate pleading that shall be filed on the same date their direct testimony is filed.

7. That a prehearing conference will be held on October 17, 2000, beginning at 10:00 a.m. The prehearing conference will be held in suite 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. This hearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this public hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

8. That the parties shall file a proposed procedural schedule no later than October 24, 2000.

9. That anyone wishing to intervene shall file an application to intervene no later than October 5, 2000, with:

Secretary of the Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102

Copies of the application to intervene should be sent to:

W. R. England, III  
Brydon, Swearengen & England  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, Missouri 65102-0456

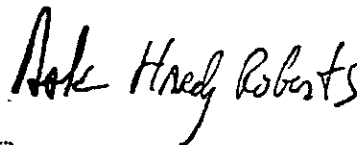
and

Office of Public Counsel  
P.O. Box 7800  
Jefferson City, Missouri 65102

10. That the motion for protective order filed on August 23, 2000, by Ozark Telephone Company is granted and the protective order attached to this order as Attachment A is adopted.

11. 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, Murray, and Schemenauer, CC., concur  
Simmons, C., absent

Mills, Deputy Chief Regulatory Law Judge

## PROTECTIVE ORDER

- A. The following definitions shall apply to information which a party claims should not be made public.

HIGHLY CONFIDENTIAL: Information concerning (1) material or documents that contain information relating directly to specific customers; (2) employee-sensitive information; (3) marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration in contract negotiations.

PROPRIETARY: Information concerning trade secrets, as well as confidential or private technical, financial and business information.

- B. During the course of discovery a party may designate information as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, "designated information") and shall make such designated information available to the party seeking discovery, if such information is not objectionable on any other ground, under the restrictions set out in paragraphs C and D. The party designating the information as HIGHLY CONFIDENTIAL or PROPRIETARY shall provide to counsel for the requesting party, at the time the designation is made, the ground or grounds for the designation. The requesting party may then file a motion challenging the designation. The party designating the information confidential shall have five days



after the filing of the challenge to file a response. No other filings are authorized.

- C. Materials or information designated as HIGHLY CONFIDENTIAL may, at the option of the furnishing party, be made available only on the furnishing party's premises and may be reviewed only by attorneys or outside experts who have been retained for the purpose of this case, unless good cause can be shown for disclosure of the information off-premises and the designated information is delivered to the custody of the requesting party's attorney. Outside expert witnesses shall not be employees, officers or directors of any of the parties in this proceeding. No copies of such material or information shall be made and only limited notes may be taken, and such notes shall be treated as the HIGHLY CONFIDENTIAL information from which notes were taken.
- D. Disclosure of PROPRIETARY information shall be made only to attorneys, and to such employees who are working as consultants to such attorney or intend to file testimony in these proceedings, or to persons designated by a party as outside experts. Employees to whom such disclosure is to be made must be identified to the other party by name, title and job classification prior to disclosure. Information designated as PROPRIETARY shall be served on the attorney(s) for the requesting party. On-premises inspection shall not be required for PROPRIETARY information, except in the case of voluminous documents (see paragraph K). Any employees of the party who wish to review such PROPRIETARY materials shall first read this order and certify in writing that (s)he has reviewed same and consented to its terms. The acknowledgment so

executed shall contain the signatory's full name, permanent address, title or position, date signed, and an affirmation that the signer is acting on behalf of his/her employer. Such acknowledgment shall be delivered to counsel for the party furnishing the information or documents before disclosure is made.

- E. Attorneys, in-house experts or outside experts who have been provided access to material or information designated HIGHLY CONFIDENTIAL or PROPRIETARY shall be subject to the nondisclosure requirements set forth in paragraphs C or D, whichever is applicable, and S.
- F. If material or information to be disclosed in response to a data request contains material or information concerning another party which the other party has indicated is confidential, the furnishing party shall notify the other party of the intent to disclose the information. The other party may then choose to designate the material or information as HIGHLY CONFIDENTIAL or PROPRIETARY under the provisions of this Protective Order.
- G. Any party may use material or information designated as HIGHLY CONFIDENTIAL or PROPRIETARY in prefiled or oral testimony at hearing provided that the same level of confidentiality assigned by the furnishing party is maintained, unless otherwise classified by the Commission. In filing testimony all parties shall designate as HIGHLY CONFIDENTIAL or PROPRIETARY only those portions of their testimony which contain information so designated by the furnishing party. If any party plans to use information and testimony which has been obtained outside this proceeding, it must ascertain from the furnishing party if any of

such information is claimed to be HIGHLY CONFIDENTIAL or PROPRIETARY prior to filing.

- H. A party may designate prefiled or live testimony, or portions thereof, submitted in this case as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, "designated testimony"). Prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY shall be filed under seal and served upon all attorneys of record. Only those portions of the prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY should be filed under seal, and should be marked in a manner which clearly indicates which materials are considered HIGHLY CONFIDENTIAL and which are considered PROPRIETARY.
- I. Within five days of the filing of designated testimony, the party asserting the claim shall file with the Commission the specific ground or grounds for each claim. Such filing shall show the nature of the information sought to be protected and specifically state the alleged harm of disclosure. Such filing shall be filed under seal only if it contains either PROPRIETARY or HIGHLY CONFIDENTIAL information and shall be served upon all attorneys of record.
- J. Attorneys upon whom prefiled testimony designated HIGHLY CONFIDENTIAL or PROPRIETARY has been served shall make such testimony available only to those persons authorized to review such testimony under the restrictions in Paragraphs C or D, whichever is applicable.
- K. If a response to a discovery request requires the duplication of voluminous material or material not easily copied because of its

binding or size, the furnishing party may require the voluminous material be reviewed on its own premises. Voluminous material shall mean a single document, book or paper which consists of more than 150 pages.

- L. Attorneys of record in this case shall require that the in-house or outside expert read this Protective Order and certify in a written nondisclosure agreement that the person has reviewed the Protective Order and consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, permanent address, employer and the name of the party with whom the signatory is associated. Such agreement shall be filed with the Commission. Attached hereto as Appendix "A" and incorporated by reference herein is a form for use in complying with the terms of this paragraph.
- M. In the event a witness discloses the contents of designated prefiled testimony in his or her own prefiled testimony, such testimony shall also be designated in the same manner as the designated prefiled testimony and handled in accordance with this order.
- N. Unless good cause is shown, challenges to the confidential nature of prefiled designated testimony shall be filed with the Commission no later than ten days after the grounds supporting the designations are filed or at the hearing, whichever occurs first. The party making the designation shall have five days to respond to the challenge or may respond at the hearing, whichever occurs first.

- O. The Commission or Regulatory Law Judge may rule on the challenge to the designations prior to the hearing, or at the hearings.
- P. In the event no party challenges prefiled designated testimony, or in the event the Commission or its Regulatory Law Judge rules that testimony was properly designated, then such testimony shall be received into evidence, subject to any other objections being made and ruled upon, and kept under seal.
- Q. In addition, all live testimony, including cross-examination and oral argument which reveals the content of prefiled designated testimony or which is otherwise held to be confidential, including any argument as to whether certain testimony is properly designated, shall be made only after the hearing room is cleared of all persons besides the Commission, its Regulatory Law Judges, court reporters, attorneys of record and witnesses to whom the designated information is available pursuant to the terms of this Protective Order. The transcript of such live testimony or oral argument shall be kept under seal and copies shall only be provided to the Commission, its Regulatory Law Judges, and attorneys of record. Such attorneys shall not disclose the contents of such transcripts to anyone other than those who may have access to the designated information under the terms of this Protective Order. Persons who have access to the designated information under the terms of this Protective Order shall treat the contents of such transcript as any other designated information under the terms of this Protective Order.
- R. References to designated testimony, whether prefiled or live and transcribed, in any pleadings before the Commission, shall be by

citation only and not by quotation. Subject to the jurisdiction of any reviewing court, references to designated testimony in pleadings or oral arguments made to such reviewing court shall also be by citation only.

- S. All persons who are afforded access to information under the terms of this Protective Order shall neither use nor disclose such information for purposes of business or competition or any other purpose other than the purpose of preparation for and conduct of this proceeding and then solely as contemplated herein, and shall keep the information secure and in accordance with the purposes and intent of this order.
- T. Subject to the jurisdiction of any reviewing court, designated testimony constituting part of the record before the Commission shall be delivered to any reviewing court under seal upon service of the appropriate writ of review.
- U. The Commission may modify this order on motion of a party or on its own motion upon reasonable notice to the parties and opportunity for hearing.
- V. Within 90 days after the completion of this proceeding, including judicial review thereof, all designated information, testimony, exhibits, transcripts or briefs in the possession of any party other than Staff or the Public Counsel shall be returned to the party claiming a confidential interest in such information and any notes pertaining to such information shall be destroyed.
- W. The provisions of paragraph C, D, J and L of this Protective Order do not apply to Staff or Public Counsel. Staff and Public Counsel are subject to the nondisclosure provisions of Section 386.480,

RSMo 1994. Staff and Public Counsel shall provide a list of the names of their employees who will have access to the designated information.

- X. Outside experts of Staff or Public Counsel who have been contracted to be witnesses in this proceeding shall have access to designated information and testimony on the same basis as Staff and Public Counsel except the outside expert shall read this order and sign the nondisclosure agreement attached as Appendix "A" hereto.
- Y. Outside experts of Staff and Public Counsel who have not been contracted to be witnesses in this proceeding are subject to the provisions of this Protective Order.
- Z. Prefiled testimony and exhibits, whether filed or offered at the hearing, shall be prepared in the manner described in Appendix "B".

APPENDIX "A"

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

NONDISCLOSURE AGREEMENT

I, \_\_\_\_\_,  
have been presented a copy of this Protective Order issued in Case  
No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

I have requested review of the confidential information  
produced in Case No. \_\_\_\_\_ on behalf of  
\_\_\_\_\_  
\_\_\_\_\_.

I hereby certify that I have read the above-mentioned  
Protective Order and agree to abide by its terms and conditions.

Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
2\_\_\_\_\_.

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Employer

\_\_\_\_\_  
Party

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone



1. If prefiled testimony contains parts which are classified as Proprietary or Highly Confidential, it shall be filed with the Commission's Secretary/Chief Regulatory Law Judge's Office as follows:

- A. One public version of prefiled testimony with the Proprietary or Highly Confidential portions obliterated or removed shall be filed. The Proprietary pages shall be stamped "P" and the Proprietary information indicated by two asterisks before and after the information, **\*\*[Proprietary information removed]\*\***. The Highly Confidential pages shall be stamped "HC" with the Highly Confidential information indicated by two asterisks and underlining before and after the Highly Confidential information, **\*\*Highly Confidential information removed\*\***. The designated information shall be removed with blank spaces remaining so that the lineation and pagination of the public version remains the same as the Highly Confidential and Proprietary versions.
- B. Eight copies of the complete prefiled testimony shall be filed under seal. The Proprietary pages shall be stamped "P" and the Proprietary information indicated by two asterisks before and after the information, **\*\*Proprietary\*\***. The Highly Confidential pages shall be stamped "HC" with the Highly Confidential information indicated by two asterisks and underlining before and after the Highly Confidential information, **\*\*Highly Confidential\*\***.

Any deviations from this format must be approved by the Regulatory Law Judge.

2. Three copies of exhibits, whether testimony or other, shall be filed at the hearing with the information separated as described in 1.A and 1.B above with each copy of the Proprietary and Highly Confidential portions placed into separate envelopes to be marked as Exhibit \_\_, Exhibit \_\_P and Exhibit \_\_HC.

ALJ/Sec'y: Mills, Boyce  
 Date Circulated 9-19 CASE NO. TT-2001-112  
JS  
 Lampe, Chair  
MS  
 Drainer, Vice Chair  
MS  
 Murray, Commissioner  
MS  
 Schemenauer, Commissioner  
MS  
 Simmons, Commissioner  
MS  
 Agenda Date 9-21  
 Action taken: MS 4-OAS  
 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 21<sup>st</sup> day of Sept. 2000.



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