

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

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

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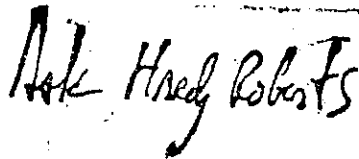
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**Kevin Zarling**

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

**Sincerely,**

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted 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 December, 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 DENYING JOINT MOTION TO SUSPEND PROCEDURAL  
SCHEDULE**

On October 26, 2000, the Commission issued an order establishing procedural schedule, which, *inter alia*, set a deadline of December 15, 2000, for the filing of a list of issues, order of witnesses, and order of cross-examination. On December 15, 2000, the parties jointly filed a motion to suspend the procedural schedule. The parties request that all filings be suspended indefinitely, and that Staff continue its investigation, and report the results of that investigation on January 31, 2001. The motion states that Ozark Telephone Company (the Company) agrees to a 90-day waiver or extension of the 150-day maximum suspension period set forth in Section 392.230.5, RSMo 1994. The parties cite no authority for the proposition that they, and the Commission, can waive the applicability of a statute.

The agreement of the Company is not legally sufficient to overcome the operation of law date established by statute. Having suspended the Company's tariff for the maximum period allowed by law, the Commission must act to approve or reject that tariff within the suspension period, or the tariff will become effective on the operation of law date, the Company's purported waiver notwithstanding.

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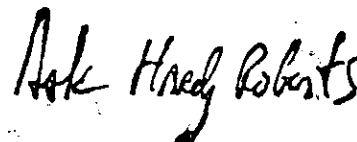
Since the operation of law date is February 28, 2001, the parties' proposal for Staff to report on its earnings investigation on January 31, 2000, is unworkable. If the Commission, the Company, or another party disagrees with the results of the investigation, there would be insufficient time to establish a record and allow the Commission to deliberate and issue a Report and Order before the operation of law date. Accordingly, the motion to suspend the procedural schedule will be denied.

The Commission will note that, although the Company cannot waive Section 392.230.5, RSMo 1994, it can withdraw the tariff and refile it. By doing so, the operation of law date will effectively be moved back by somewhat more than 90 days. If the Company chooses to withdraw and immediately refile the tariff, the Commission will not consider the withdrawal and refiling as a violation of the requirement in the Report and Order in Case No. TO-99-507 that the Company file a general rate case no sooner than eight months and no later than ten months after July 22, 1999.

**IT IS THEREFORE ORDERED:**

1. That the motion to suspend the procedural schedule filed on December 15, 2000, by all the parties is denied.
2. That this order shall become effective on December 31, 2000.

**BY THE COMMISSION**



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

(S E A L)

Lumpe, Ch., Murray, Schemenauer, and Simmons, CC., concur  
Drainer, C., absent

Mills, Deputy Chief Regulatory Law Judge



Mills / Boyce

12-18

77-2061-117

## Lumpé, Chair

Chair

**Drainer, Vice Chair**

Robert  
 Director, Vice Chair

**Murray, Commissioner**

*[Signature]*  
 TRAY, Commissioner

**Schemenauer, Commissioner**

TS

**Simmons, Commissioner**

12-21  
Agenda Date

**Action taken:**

4-0A5

**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 December 2000.**

Hale Hedy Roberts

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

