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October 31, 2000

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, Missouri 65102

FILED²

OCT 31 2000

Missouri Public
Service Commission

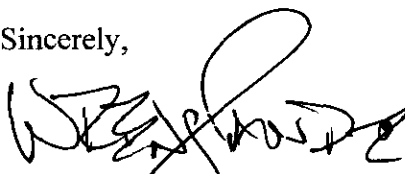
Re: **Ozark Telephone Company**
- **Case No. TT-2001-117**

Dear Mr. Roberts:

Enclosed for filing on behalf of Ozark Telephone Company, please find eight (8) copies of the Response to Staff's Motion to Compel and Request for Reconsideration of Order Regarding Motion to Compel.

Please see that this filing is brought to the attention of the appropriate Commission personnel. Copies of this filing are being provided to parties. I thank you in advance for your cooperation in this matter.

Sincerely,



W.R. England, III

WRE/da
Enclosure
cc: Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
OCT 31 2000

In the Matter of the Access Tariff Filing of)
Ozark Telephone Company)

Case No. TT-2001-117

Missouri Public
Service Commission

**RESPONSE TO STAFF'S MOTION TO COMPEL AND
REQUEST FOR RECONSIDERATION OF ORDER REGARDING
MOTION TO COMPEL**

Comes now Ozark Telephone Company (Company) and for its Response to Staff's Motion to Compel and Request for Reconsideration of Order Regarding Motion to Compel, states to the Missouri Public Service Commission (Commission) as follows:

RESPONSE TO STAFF'S MOTION TO COMPEL

1. On October 23, 2000, the Staff filed a Motion to Compel requesting that the Commission compel the Company to answer certain data requests to which the Company had objected and to answer all data requests "promptly."¹ In support of its motion to compel prompt answers to all data requests, Staff notes that this case is on a 150-day schedule and that allowing the Company to take up to forty days to answer all data requests will significantly inhibit the Staff's ability to analyze the responses, to send out follow-up data requests and to prepare its case while meeting procedural deadlines. The Company will first address Staff's demand for prompt answers to its data requests and will then address the Company's objections to specific data requests.

2. The tariff filing of August 23, 2000, which initiated this case, came as no surprise

¹By letter dated October 6, 2000 counsel for the Company indicated the Company's inability to answer all data requests within the required 20 day period as well as made objections to certain data requests. A copy of that letter is attached as Exhibit 1 hereto.

to Staff. It was directed by this Commission in its Order approving the Company's intraLATA dialing parity plan on June 10, 1999. (If the Company "files tariffs to provide revenue neutrality, it shall file a general rate case no sooner than eight months and no later than ten months after October 20, 1999.") (Order, p. 6) In addition, counsel for Company met with representatives of Staff in July and early August of this year to discuss the anticipated "rate case" filing.

3. At the time of its filing, the Company provided Staff counsel with a copy of the proprietary schedules attached to the Company's direct testimony which contained a revenue and earnings analysis of the Company. Thus, Staff had a complete copy of the Company's filing as early as August 23, 2000.

4. Staff has acknowledged in discussions with the Company that Staff's initial set of fifty-two (52) data requests are very similar, if not identical, to data requests that it typically issues to any utility (not just telecommunications utilities) that files for a rate increase.²

5. Thus, given the fact 1) that Staff knew this case was going to be filed no later than mid to late August, 2000; 2) that Staff had a full and complete copy of the filing, including proprietary financial schedules, at the time of filing (i.e., August 23, 2000); and 3) that Staff simply issued "boiler plate" data requests, the Commission should first ask why did Staff wait almost thirty-five days (until September 28, 2000) to begin the discovery process? Not surprisingly, Staff does not address its failure to timely begin its investigation, but rather it seeks to portray the Company as the "obstacle" to Staff's investigation in this case.

6. Also, the Company did not say it could not answer any of the 52 data requests in

²It is also important to note that the Company has not sought a general rate increase, as defined by the Commission's own rules, although this distinction has apparently been lost on Staff.

less than 40 days, only that it could not answer all of the data requests in less than 40 days. The Company is a relatively small telephone company serving approximately 2,348 access lines. The Company was served with fifty-two (52) data requests which are typically issued in rate cases involving "large" utilities. The Company simply does not have the resources to respond to all of these data requests within 20 days. The Company does not have a "rate department" or a staff of employees who are familiar with the rate making process and are experienced in responding to these data requests. The Company has assigned primarily one individual to be responsible for answering these data requests. This individual must also continue to perform his/her required duties. Because this individual lacks experience and expertise in rate matters, he/she must rely more heavily on the advice and assistance of an outside consultant and counsel. All of this takes time and it is not unreasonable for it to take more than 20 days to respond to all of these data requests. Nevertheless, the Company has diligently tried to provide answers to Staff as soon as they became available. As of the date of this response, the Company has answered 48 of the 52 data requests.

7. The Company also objected to certain data requests (as correctly identified in Staff's Motion to Compel), insofar as they sought information for as many as four (4) years prior to 1999, primarily because the requests were overbroad and burdensome. In addition, since the Company's business (particularly its revenue stream) has materially changed since elimination of the Primary Toll Carrier Plan in 1999, the Company questioned the relevancy of these blanket requests for information for years prior to 1999. The Company also indicated that if, after its review of 1999 and 2000 information, the Staff determined that it needed to see specific information or data for years prior to 1999 in order to test the accuracy or reasonableness of the

1999 or 2000 data, the Company was willing to provide such specific information. While the Company concedes that, in the abstract, examination of historical data may be helpful, the burden on the Company of retrieving four and five years worth of data (most of which is not readily available) should nevertheless be weighed against the potential value of this historical data. Again, if there are anomalies in the Company's 1999 and 2000 data for which the Staff seeks further historical support, the Company will provide such specific information. But simply asking for 4 and 5 years worth of information without first reviewing the current year's information is clearly overbroad and burdensome.

**REQUEST FOR RECONSIDERATION OF ORDER
REGARDING MOTION TO COMPEL**

8. On October 27, 2000, the Commission issued its Order Regarding Motion to Compel in which it found "a forty day period to answer DRs is simply too long in light of the 150-day period in which this case must be decided" and that the "Company's objection to these data requests on the grounds that they seek information from periods earlier than 1999 is not well founded." As a result, the Commission granted Staff's motion to compel; directed the Company to answer all 52 data requests as soon as possible, but in no event later than November 3, 2000; and further directed the Company to comply with the twenty (20) day period for all future data requests.

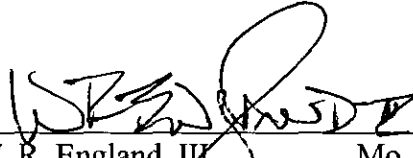
9. First, the Commission's Order Regarding Motion to Compel was issued on an ex parte basis without any opportunity for the Company to respond to Staff's motion to compel. Commission Rule 4 CSR 240-2.080(16) provides that "parties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by

the Commission." (Emphasis added) Significantly, Staff did not ask the Commission to direct the Company to respond to Staff's Motion to Compel on less than ten (10) days, nor did the Commission so direct. Instead, the Commission, without any opportunity for a response, issued its order overruling legitimate objections which the Company raised with respect to certain data requests and directing the Company to answer all data requests as soon as possible but in no event later than November 3, 2000. The Commission then took the extra step of directing the Company to answer all future data requests (without regard to the number or scope of such requests) even though the Staff did not ask for such relief.

10. More troubling than the Commission's disregard for its own rules is its unwillingness to even entertain a response by the Company before summarily granting the relief (and then some) sought in Staff's motion. Therefore, the Company requests that the Commission reconsider its order in light of the Company's foregoing response to Staff's Motion to Compel. In particular, the Company requests the Commission to consider that 1) Staff's alleged inability to perform its investigation and meet the procedural deadlines in this case is more a product of its own failure to timely issue its boilerplate data requests than it is any delay on the Company's part; 2) the Commission's finding that forty (40) days to answer these DRs is "simply too long" fails to consider the burden that receiving and processing 52 data requests (typically issued to a large utility) has on the resources of a small company; and 3) the Company has raised legitimate objections to certain data requests as overbroad and burdensome.

WHEREFORE, in light of the foregoing the Company requests that the Commission accept its response to Staff's motion to compel, reconsider its own order regarding motion to compel in light of said response and issue its order denying Staff's Motion to Compel.

Respectfully submitted,



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Attorneys for Ozark Telephone Company

Certificate of Service

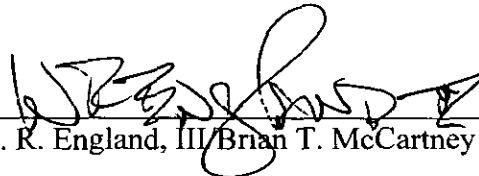
I hereby certify that a true and correct copy of the above and foregoing document was mailed or hand-delivered, this 31st day of October, 2000 to:

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Jefferson City, MO 65102

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OF COUNSEL
RICHARD T. CIOTTONI

October 6, 2000

VIA FACSIMILE

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

**Re: Case No. TT-2001-117
Ozark Telephone Company**

Dear Keith:

On September 28, 2000, I received on behalf of Ozark Telephone Company (Company) 52 data requests from Staff in the above-captioned matter (Nos. 1-50 and 3801-3802). It is my understanding that many, if not all, of these data requests are "standard" data requests issued when a utility seeks a rate increase. Many of these requests are extensive and appear to be geared more towards a large utility company. As a small telephone company, the Company's resources are limited and it does not appear that it will be able to answer all of the data requests within the twenty (20) day period of time. The Company will provide Staff with copies of responses as they are available and expects to have all of the data requests answered within forty (40) days or by November 7, 2000.

I have also tried to contact Dave Winter to obtain some clarification for several of the data requests but I understand that he is out of the office until Monday. Therefore, in order to avoid missing any deadlines, I am making the following objections to certain data requests (but it is my hope that given further discussion with Staff we can resolve our concerns regarding these data requests):

1) Data Request No. 26 asks for the identify of the officers and Board of Directors for the Company, its parent and each affiliated company for the last two years. However, it also asks for the names of any companies that any member of the Board of Directors or significant individual shareholder (more than 3% of the outstanding common stock) is associated with as an employee, significant shareholder or director. The Company objects to the second part of this request insofar as it requires information regarding a Board member's or a shareholder's relationship with other, unaffiliated companies as it is overbroad and burdensome and not relevant to the instant proceeding (nor is it likely to lead to the discovery of relevant information).

Exhibit 1

October 6, 2000

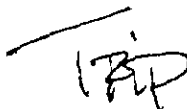
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2) Data Requests No. 22, 34, 35, 36, 39, 42 and 48 seek a variety of information for a number of years prior to 1999 (as well as for 1999 and the current year). Again, the Company objects to these requests, insofar as they seek information prior to 1999, as they are overbroad and burdensome and not relevant to the instant proceeding (nor are they likely to lead to the discovery of relevant information). The Company will provide information for 1999 and the current year.

Finally, as you know, the Company does not believe that the tariff filing that initiated this case constitutes a "rate increase" request inasmuch as the Company did not file for "an overall increase in revenues through a company-wide increase in rates" 4 CSR 240-10.070(2). Accordingly, by responding to these data requests, I want to make it clear that the Company has not implicitly agreed or admitted that it is seeking a rate increase in this proceeding.

If, after review of this letter, you have any questions or want to discuss it more thoroughly, please call at your convenience.

Sincerely,

A handwritten signature in dark ink, appearing to read "W.R. England, III". The signature is written in a cursive, somewhat stylized manner with a horizontal line above the first few letters.

W.R. England, III

WRE/da

Enclosure

cc: Mr. Dave Winter