

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Revised Tariff Filing	)	File No. TR-2012-0298
of Choctaw Telephone Company.	)	Tariff No. JI-2012-0441

**THE OFFICE OF THE PUBLIC COUNSEL'S AMENDED  
OBJECTION AND MOTION TO SUSPEND**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Amended Objection and Motion to Suspend states as follows:

1. On March 14, 2012, Choctaw Telephone Company (Company) filed revised tariff sheets (attached as Appendix A) with the Missouri Public Service Commission (Commission) for the purpose of changing its approved charges for telephone services rendered. Among other changes, Company's proposed tariff would increase the residential basic local rate by more than 40% over the current rate and reduce charges for Optional Metropolitan Calling Area service. Company offers no evidence that the charges reflected in the proposed revised tariffs are just and reasonable.
2. Section 392.200.1 of the Missouri Revised Statutes (RSMo) Cum. Supp. 2010, requires that rates be just and reasonable, and not more than allowed by law or by order or decision of the Commission:

Every telecommunications company shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. All charges made and demanded by any telecommunications company for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order or decision of the commission is prohibited and declared to be unlawful.

3. Company is a non-competitive incumbent local exchange telecommunications company (ILEC) as defined by Section 386.020.22 RSMo Cum. Supp. 2010. Unlike a competitive telecommunication company where Section 392.500 RSMo Cum. Supp. 2010 states that a review of rates under the “just and reasonable” provision of Section 392.200.1 is not required,<sup>1</sup> the Commission must review Company’s rates for justness and reasonableness.

4. There is no provision which allows Company to automatically waive the requirement for just and reasonable rates under Section 392.200.1. Section 392.420, RSMo Cum. Supp. 2010 states:

The commission is authorized, in connection with the issuance or modification of a certificate of interexchange or local exchange service authority or the modification of a certificate of public convenience and necessity for interexchange or local exchange telecommunications service, to entertain a petition to suspend or modify the application of its rules or the application of any statutory provision contained in sections 392.200 to 392.340 if such waiver or modification is otherwise consistent with the other provisions of sections 392.361 to 392.520 and the purposes of this chapter. In the case of an application for certificate of service authority to provide basic local telecommunications service filed by an alternative local exchange telecommunications company, and for all existing alternative local exchange telecommunications companies, the commission shall waive, at a minimum, the application and enforcement of its quality of service and billing standards rules, as well as the provisions of subsection 2 of section 392.210, subsection 1 of section 392.240, and sections 392.270, 392.280, 392.290, 392.300, 392.310, 392.320, 392.330, and 392.340. ...

Company’s revised tariff filing is not “in connection with the issuance or modification of a certificate,” therefore the Commission is not authorized to entertain a petition to suspend or modify the application of Section 392.200.1. Additionally, Section 392.200.1 is not specifically named in the list of statutes the Commission must waive if requested to do so. Therefore, Section 392.200.1 and the requirement for just and reasonable rates remains firmly in effect.

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<sup>1</sup> *State of Missouri, ex rel. Public Counsel v. Public Service Commission of the State of Missouri, et al.*, 259 S.W.3d 23, Mo. App. WD (2008)

5. Public Counsel has been in discussions with Company, and Company has provided some very cursory information about its current earnings and some very limited projections about what its earnings might be if the Commission approved its requested rate increase. But Public Counsel has been unable to verify the source or accuracy of some of the data, and Company has been unwilling to respond to requests for additional information. Company is a rate-of-return regulated telecommunications company. As such, a review of the proposed tariff revisions must include an earnings review in order to determine if the proposed rates are just and reasonable per Section 392.200.1.

6. The Commission should suspend the pending tariffs in order to investigate whether the changes they propose would result in just and reasonable rates. Section 392.230.5 RSMo Cum. Supp. 2010 provides that the Commission may suspend the tariffs at issue for a period of 150 days beyond their stated effective date. In order to allow for adequate time for the Commission to determine whether the proposed charges are just and reasonable, the Commission should suspend the proposed revised tariffs for the maximum period to complete as thorough an earnings review as is possible within the time allowed.

WHEREFORE, Public Counsel respectfully submits its Objection and Motion to Suspend.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By:           /s/ Christina L. Baker            
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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 19<sup>th</sup> day of March 2012:

**Missouri Public Service Commission**

Cully Dale  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
cully.dale@psc.mo.gov

**Missouri Public Service Commission**

Office General Counsel  
200 Madison Street, Suite 800  
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**Choctaw Telephone Company**

Legal Department  
204 West Main  
P.O. Box 82  
Halltown, MO 65664

**/s/ Christina L. Baker**

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**LOCAL EXCHANGE SERVICE**

**General:** Unless otherwise specified, the charges quoted in this tariff are for the period of one month and entitle the subscriber to telephone service and messages to all stations in the Halltown, Missouri, exchange.

	Rotary Dial <u>Service</u>	Touch Tone Dial <u>Service</u>	
Business One-Party <sup>1</sup>	\$11.25 <sup>1</sup>	\$12.40 <sup>1</sup>	*Text
Residence One-Party <sup>1</sup>	8.75 <sup>1</sup>	9.90 <sup>1</sup>	*Text
<sup>1</sup> Rates Effective January 1, 1988 – April 30, 2012			*Text

**Phase 1 Rates Effective: May 1, 2012 – December 30, 2012**

	Rotary Dial <u>Service</u>	Touch Tone Dial <u>Service</u>	*Rate/Text
Business One-Party	n/a	\$12.40	
Residence One-Party	n/a	11.93	

**Phase 2 Rates Effective: December 31, 2012**

	Touch Tone Dial <u>Service</u>	*Rate/Text
Business One-Party	\$14.00	
Residence One-Party	14.00	
*Indicates new rate or text		
+Indicates change		

Issued: March 14, 2012

Deborah Nobles  
Vice President of Regulatory Affairs  
505 Plaza Circle, Suite 200  
Orange Park, FL 32073

Effective: May 1, 2012

**GENERAL EXCHANGE TARIFF**

OPTIONAL METROPOLITAN CALLING AREA (MCA) SERVICE – Continued

D. Regulations-Continued

c. Optional MCA Rates and charges apply in addition to all other rates and charges paid by the customer for other services of the Telephone Company.

9. Nonrecurring Service and Equipment Charges, as specified on Sheet No. 4 following, are applicable on a per-line basis when a customer adds or deletes Optional MCA Service. These Charges will be waived in an exchange for the first 60 days from the date that the MCA Service becomes available in that exchange.

E. Rates and Charges

1. Monthly Rates, Per Line  
Springfield MCA-2

	<u>Residence</u>	<u>Business</u>	*Text
Flat Rate Option <sup>1</sup>	\$11.45 <sup>1</sup>	\$21.75 <sup>1</sup>	*Text
<sup>1</sup> Rates Effective May 9, 1994 – April 30, 2012			

**Phase 1 Rates Effective: May 1, 2012 – December 30, 2012**

	<u>Residence</u>	<u>Business</u>	*Rate/Text
Flat Rate Option	\$8.89	\$21.75	

**Phase 2 Rates Effective: December 31, 2012**

	<u>Residence</u>	<u>Business</u>	*Rate/Text
Flat Rate Option	\$6.27	\$19.49	

\*Indicates new rate or text

+Indicates change

\*Rate/Text

Issued: March 14, 2012

Deborah Nobles  
Vice President of Regulatory Affairs  
505 Plaza Circle, Suite 200  
Orange Park, FL 32073

Effective: May 1, 2012

### **Choctaw Telephone Company Bill Message**

Run on March 1, 2012 bills

Choctaw Telephone Company ("Company" or "Choctaw") will soon submit a notice with The Missouri Public Service Commission to reflect an increase in the basic local access line rates for certain residential customers in the Choctaw exchange. These rate changes are being proposed in response to a recent decision by the Federal Communications Commission ("FCC") that determined that the Company's universal service support would be reduced if its local rates (plus state regulated fees) are not raised to meet the floor that the FCC has established. Accordingly, Choctaw is proposing the enclosed rate changes to attempt to mitigate the impact of the FCC's rule change.

The FCC Order intends to direct the focus of the federal universal service fund from supporting local rates to supporting broadband deployment. As part of this change the FCC has directed that Choctaw's local rate, which due to past universal service support has remained at \$9.90 since January 1, 1988, be increased.

Because Choctaw Telephone Company values and appreciates, you, our customer we are proceeding in a manner that decreases the impact of these changes. The increase in Basic Local Service rates will be mitigated by reductions to the Optional MCA Rates. As a secondary measure, the Basic Local Service increase and subsequent MCA decrease will be broken into two phases.

Phase 1, effective April 1, 2012, residential Basic Local Service Rates will increase from \$9.90 to \$11.93 and the residential MCA will decrease from \$11.45 to \$8.89.

Phase 2, effective December 31, 2012, residential Basic Local Service Rates will increase from \$11.93 to \$14.00 and the residential MCA will decrease from \$8.89 to \$6.27. Concurrently business Basic Local Service Rates will increase from \$12.40 to \$14.00 and the business MCA will decrease from \$21.75 to \$19.49.

#### Choctaw April 1<sup>st</sup> Bill Message

There has been a delay in the basic rate increase and MCA rate decrease described in the bill message on your March 1, 2012, telephone bills. As a result, the rate changes will become effective on your May 1, 2012 telephone bill, versus the proposed April 1, 2012 effective date.