

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 1999-294-C - ORDER NO. 2000-032

JANUARY 10, 2000

IN RE: Application of Ozark Telecom, Inc. for a) ORDER ^{VDW}
Certificate of Public Convenience and) GRANTING
Necessity to Operate as a Reseller of) CERTIFICATE
Interexchange Telecommunications Services)
within the State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Ozark Telecom, Inc. (“Ozark” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the general regulatory authority of the Commission.

The Commission’s Executive Director instructed Ozark to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Ozark and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Ozark complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was convened on December 9, 1999, at 11:30 a.m. in the Commission's Hearing Room, Columbia, South Carolina. The Honorable Philip T. Bradley, Chairman, presided. Ozark was not represented by counsel. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Linda Walters, President of Ozark, appeared and testified in support of the Application. The record reveals that Ozark is an Arkansas corporation which is registered to transact business in South Carolina as a foreign corporation. According to the record of the proceeding, Ozark proposes to provide intraLATA and interLATA telecommunications services through prepaid calling cards services, also known as debit card services. Ms. Walters explained Ozark's request for authority, and the record reveals Ozark's services, operations, and marketing procedures.

Ms. Walters discussed Ozark's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Ms. Walters testified that the management of Ozark is well qualified, representing a broad spectrum of business and technical disciplines, possessing many years of individual and aggregate telecommunications experience. Further, Ms. Walters testified that Ozark has the financial ability to provide the services for which it seeks authority to offer. According to Ms. Walters, Ozark is a subsidiary of National Bankcard Services, Inc, which is a South Carolina corporation, and Ozark has access to additional capital should operations of Ozark require additional funding. Ms. Walters also testified that Ozark has received approval to operate and provide services in 34 states thus far and has applications pending in the remaining contiguous states and Hawaii. Ms. Walters also stated that

Ozark has not been denied authority to operate in any state, nor has Ozark had authority revoked in any state, nor has Ozark been the subject of any investigation regarding the provision of telecommunications services by any regulatory body. Finally, Ms. Walters testified that Ozark will operate in South Carolina in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Ms. Walters also offered that approval of Ozark's application would serve the public interest in South Carolina by creating (a) more competition, additional services, and a better product at competitive prices; (b) increased consumer choice as well as innovative telecommunications services; (c) efficient use of the existing communications resources as well as increased diversification and reliability of supply of communications services; (d) development of an expanded telecommunication supply industry in South Carolina; (e) an expanded tax base and revenue source for the state; and (f) additional sources of revenue for local exchange companies through access charges.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Ozark is organized as a corporation under the laws of the State of Arkansas and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Ozark operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.

3. Ozark has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Ozark to provide resold intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Ozark for its services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Ozark shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Ozark shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not

constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

4. If it has not already done so by the date of issuance of this Order, Ozark shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order, shall be consistent with the Commission's Rules and Regulations, and shall be consistent with all agreed upon changes between the Company and the Commission Staff, including the inclusion of the appropriate language regarding refunds on unused amounts on debit cards.

5. Ozark is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Ozark shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Ozark changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Ozark shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. Ozark shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A. Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Ozark shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. Ozark is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.


13. As a condition of offering prepaid long distance services, the Commission requires Ozark to post with the Commission a bond in the form of (1) a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or (2) a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition of a bond may be reviewed in one year.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

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ATTACHMENT A

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S**

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION
103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name (Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A. _____
General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B. _____
Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C. _____
Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D. _____
Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E. _____
Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F. _____
Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G. _____
Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)
or Utilities Department at (803-896-5105).**