

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

In the Matter of the Application of the)	
Oregon Farmers Mutual Telephone)	
Company for Authority to Execute a)	
Secured Guaranty in Favor of the Rural)	Case No. TF-2005-0503
Telephone Finance Cooperative in)	
Connection with a Loan to Northwest)	
Missouri Holdings, Inc.)	

STAFF'S LEGAL MEMORANDUM

On August 26 2004, in Case Number IM-2004-0461, the Commission approved The Oregon Farmers Mutual Telephone Company ("Oregon Farmers") and Northwest Missouri Holdings, Inc.'s ("Northwest") joint application for authorization from the Commission for Northwest to acquire all of the capital stock of Oregon Farmers.¹ In a supplement to the application, Oregon Farmers and Northwest requested that in addition to the authority for the stock purchase, that the Commission authorize Oregon Farmers to execute a Deed of Trust, Security Agreement and Financing Statement. Oregon Farmers stated that Northwest proposed to borrow certain sums, not to exceed \$7,388,889 from Rural Telephone Finance Cooperative ("RTFC") to "facilitate the purchase," and that RTFC required Oregon Farmers to execute the deed of trust, security agreement and financing statement as security for the loan. The Commission's *Order Approving Sale of Stock*, specifically authorized Oregon Farmers to execute and deliver a deed of trust, security agreement and financing statement.

¹ *In the Matter of the Joint Application of Northwest Missouri Holdings, Inc. and Oregon Farmers Mutual Telephone Company for an Order Authorizing Northwest Missouri Holdings, Inc. to Purchase or Acquire, Take or Hold all of the Issued and Outstanding Capital Stock of Oregon Farmers Mutual Telephone Company, Case No. IM-2004-0461, Order Approving Sale of Stock, August 26, 2004.*

On June 24, 2005, Oregon Farmers applied for Commission authority to execute a Secured Guaranty in favor of RTFC. The Applicant states that to continue receiving a more favorable interest rate for the debt owed to its lender, RTFC, RTFC has requested that Oregon Farmers execute a Secured Guaranty as additional security for the loan. The Commission held an on-the-record presentation on September 20, 2005 to allow the Commissioners an opportunity to ask questions of the parties regarding the application. During the on-the-record presentation, the parties were directed to file responses clarifying the differences between the existing lien on Oregon Farmer's assets and the security requested in the application. The Staff offers the following analysis.

A primary difference between the original application and the present application is a difference in applicable statutes. The application in Case No. IM-2004-0461 was filed pursuant to Section 392.300.1 RSMo 2000, which states that no telecommunications company shall "sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, facilities or system...without having first secured from the Commission an order authorizing it to do so." Under this statute, the Commission approved the application and authorized Oregon Farmers to mortgage its assets by executing a deed of trust, security agreement and financing statement. Accordingly, Oregon Farmer granted RTFC a security interest in Oregon Farmers' assets. If Northwest were to default on the loan, RTFC could take possession of Oregon Farmers' assets.

Although RTFC retains a security interest in Oregon Farmers assets, Oregon Farmers is not otherwise indebted to RTFC for the loan amount should Northwest default on the loan. The present application is an attempt by Oregon Farmers to guaranty payment on the loan to RTFC through the Secured Guaranty, in the event Northwest defaults on the loan. The present

application was filed under Section 392.310.1 RSMo 2000, which states that only upon authorization from the Commission may a telecommunications company “issue stock, bonds, notes or other evidence of indebtedness.” The Secured Guaranty is evidence of indebtedness under this statute since Oregon Farmers would agree to be indebted to RTFC for the amount of the loan.

In the Deed of Trust and Security Agreement authorized by the Commission, Oregon Farmers agreed to enter into a Secured Guaranty to guaranty payment of the indebtedness of Northwest.² The specifics of this Secured Guaranty appear in Schedule 1 of the Deed of Trust and Security Agreement, under paragraph 12(c). The language of this highly confidential schedule is consistent with Oregon Farmer’s statement in its Application in the present case (Case No. TF-2005-0503) that “in order for Northwest to continue to receive a more favorable interest rate for the debt owed to its lender RTFC, RTFC has requested that Oregon Farmers execute a Secured Guaranty.” The language of the Deed of Trust and Security Agreement, and an additional explanation to the Staff from Mr. Robert A. Parrett, counsel for RTFC, which is attached and labeled “Appendix A,” also suggest that the Secured Guaranty would obligate Oregon Farmers to make payments to RTFC should Northwest default.

Accordingly, the Staff believes the difference between the security interest authorized in the first application and the request in the present application is that the first case authorized Oregon Farmers to mortgage its assets under Section 392.300.1, whereas the present application seeks Commission authority for Oregon Farmers to agree to be indebted to RTFC for the amount of the loan under Section 392.310.1 RSMo 2000.

² Counsel for Oregon Farmers advised counsel for Staff that a copy of this document would be attached to Oregon Farmers’ response.

Respectfully submitted,

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General Counsel

/s/ Marc Poston

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 4th day of October 2005.

/s/ Marc Poston

To: Mr. Matthew Barnes
Missouri Public Service Commission

From: Robert A. Parrett, Corporate Counsel
Rural Telephone Finance Cooperative

Date: September 6, 2005

Re: PSC Case No. IM-2004-0461
RTFC designation NC 815 – 9001

The Missouri Public Service Commission (the “Commission”) issued an Order Approving Sale of Stock on August 26, 2004 (the “Order”) in conjunction with the sale of the outstanding common shares of Oregon Farmers Mutual Telephone Company (“Oregon Farmers”) to Northwest Missouri Holdings, Inc. (“Northwest”).

Rural Telephone Finance Cooperative (“RTFC”) financed the stock purchase pursuant to a loan agreement, secured promissory note, and mortgage and security agreement, each dated as of September 17, 2004 between RTFC and Northwest.

As a condition of RTFC’s commitment to finance the stock purchase, Oregon Farmers was required to provide a guaranty of repayment. The guaranty is Oregon Farmers’ commitment to pay RTFC amounts owed by Northwest should Northwest be unable to make such payments. The guaranty is to be secured by a lien on substantially all of Oregon Farmers’ assets. Obtaining collateral for the guaranty provides an extra measure of security for RTFC. If Oregon Farmers were unable to honor its commitment under the guaranty, RTFC would be able to recover the loan amount by selling the assets of the guarantor.

Pursuant to the Order, the Commission approved Northwest’s acquisition of the Oregon Farmers’ stock, and in item 4 of the Order, authorized Oregon Farmers to “execute and deliver a Deed of Trust, Security Agreement and Financing Statement, as well as to perform such other lawful actions as may be necessary to complete the transaction herein approved.”

We note that the Order does not specifically state that Oregon Farmers may execute and deliver a guaranty of payment for the benefit of RTFC. However, the Commission did approve a deed of trust that provides RTFC with a lien on substantially all of the assets of Oregon Farmers. We believe that the Commission’s intent was to approve the guaranty, since it approved a lien on the assets of the guarantor, and the fact that the Order does not mention the guaranty was an inadvertent omission.

RTFC has requested that Oregon Farmers obtain confirmation from the Commission that its Order also applies to the guaranty of payment. The application and materials recently submitted by Oregon Farmers are for that purpose.

We hope this information is helpful to the Commission as it considers Oregon Farmers' current application. Should you need further information in this regard, please contact me at (703) 709-2079.

Thank you for your assistance.