

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

On-the-Record Presentation

September 20, 2005
Jefferson City, Missouri
Volume 1

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

MORRIS L. WOODRUFF, presiding,
Senior Regulatory Law Judge,
JEFF DAVIS, Chairman,
CONNIE MURRAY,
STEVE GAW,
ROBERT M. CLAYTON, III,
LINWARD "LIN" APPLING,
Commissioners.

REPORTED BY:
Jennifer L. Leibach, RPR, CCR(T)
MIDWEST LITIGATION SERVICES

A P P E A R A N C E S

W.R. ENGLAND, Attorney at Law
SONDRA MORGAN, Attorney at Law
BRYDON, SWEARENGEN & ENGLAND
312 East Capitol
Jefferson City, Missouri 65102
(573) 635-7166

FOR: Oregon Farmers Mutual Telephone Company

MICHAEL DANDINO, General Counsel
P.O. Box 2230
Jefferson City, Missouri 65102
(573) 751-5559

FOR: Office of the Public Counsel and
the Public

MARC WILLIAMS, General Counsel
P.O. Box 360
Jefferson City, Missouri 65102
(573) 751-8701

FOR: Staff of the Public Service
Commission

1 PROCEEDINGS

2 JUDGE WOODRUFF: Okay. Let's go ahead and get
3 on the record, if we're not already. All right. Good
4 afternoon, everyone. We're here today for an on-the-record
5 presentation in Case No. TF-2005-0503, which concerns an
6 application filed by the Oregon Farmers Mutual Telephone
7 Company. And we'll begin today by taking entries of
8 appearance, beginning with Staff.

9 MR. POSTON: Hello. Marc Poston, appearing
10 for the Staff of the Commission, PO Box 360, Jefferson City,
11 Missouri, 65101.

12 JUDGE WOODRUFF: And for the Oregon Farmers?

13 MR. ENGLAND: Thank you, your Honor. Let the
14 record reflect the appearance of W.R. England, III, and
15 Sondra Morgan on behalf of Oregon Farmers Mutual Telephone
16 Company. Our mailing address is Post Office Box 456,
17 Jefferson City, Missouri, 65102.

18 JUDGE WOODRUFF: And for Public Counsel?

19 MR. DANDINO: Michael Dandino, Office of the
20 Public Counsel, Post Office Box 2230, Jefferson City,
21 Missouri, 65102, representing the Office of Public Counsel
22 and the public.

23 JUDGE WOODRUFF: Thank you. Well, the purpose
24 of today's proceeding is to give the Commissioners a chance
25 to ask questions of the parties about this application. So

1 we'll begin with Commissioner Murray. Do you have any
2 questions?

3 COMMISSIONER MURRAY. Yes, I do. Thank you.
4 And I'm not sure who to direct these questions to, and I
5 guess I can just start out and then allow everybody who wants
6 to respond to each question to respond.

7 The application here, I'd like to -- for
8 somebody to explain the difference between what we originally
9 authorized, which as I understand it was for Oregon Farmers
10 to execute and deliver a deed of trust security agreement and
11 financing statement, placing a lien on its assets in order to
12 secure the loan. And now we're being asked to allow Oregon
13 Farmers to execute a secure guarantee.

14 And can somebody explain what -- how the
15 assets are encumbered differently by that secured guarantee?

16 MR. ENGLAND: Commissioner Murray, I'll take a
17 stab at it. And to the extent Mr. Eudy, who's on the
18 conference call, can add to that, that would be great. But
19 as I understand it, the mortgage agreement allows the
20 company -- or excuse me, requires the company to mortgage its
21 property -- to encumber its properties as security for the
22 loan.

23 The guarantee is separate, and we view that as
24 an evidence of indebtedness, if you will, and that is a --
25 more in the nature of a promise to pay, and it's not

1 security, if you will, although this guarantee is tied into
2 the mortgage agreement that was previously approved and which
3 the company has executed about a year ago. Pat, is there
4 anything else you want to add?

5 JUDGE WOODRUFF: Excuse me, Mr. Eudy, this is
6 the judge. Before you testify, I need to swear you in as a
7 witness. So if you'll please raise your right hand.

8 (MR. EUDY WAS SWORN.)

9 COMMISSIONER MURRAY: Judge, what was the full
10 name?

11 JUDGE WOODRUFF: Your full name, sir?

12 MR. EUDY: Pat Eudy.

13 JUDGE WOODRUFF: E-U-D-Y, I believe.

14 MR. EUDY: Yes, sir.

15 JUDGE WOODRUFF: All right.

16 COMMISSIONER MURRAY: Thank you.

17 JUDGE WOODRUFF: And what is your position
18 with the company, sir?

19 MR. EUDY: I'm the president.

20 JUDGE WOODRUFF: Okay. And which company?

21 MR. EUDY: Of Northwest Missouri Holdings and
22 of Oregon Farmers Mutual Telephone.

23 JUDGE WOODRUFF: Thank you. Go ahead and say
24 what you wanted to say.

25 MR. EUDY: Well, the only thing I would add --

1 I've got a little bit of feedback here.

2 The only thing I would add is that I really
3 don't view this as substantively any different. You know,
4 the RTFC loan is secured by all the assets of the telephone
5 company. To my way of thinking, this is really just a -- a
6 procedural or an administrative item that RTFC requests in
7 all of its loans that are structured this way, and I don't
8 believe we're giving them any additional security or other
9 interest with respect to the telephone company or our holding
10 company.

11 COMMISSIONER MURRAY: Well, it appears that
12 the lender believes that you are, otherwise they wouldn't be
13 interested in it. Is it not?

14 MR. EUDY: My view on that is that it's really
15 just a procedural item for them. There was a memo that RTFC
16 prepared when we asked them to explain why they actually
17 wanted this -- this additional guarantee. And, you know, my
18 read of that is that they don't really view it any
19 differently. They view it as one in the same, really. But
20 that because of the requirements their lenders -- or their --
21 the rating agency, I guess, primarily plays on them, they
22 like to have their loans structured a certain way and look a
23 certain way, and it's -- to characterize it in my simple
24 terms, it's a dotting the I's and crossing the T's type of
25 request on their part.

1 And they've put in this large penalty increase
2 in the interest rate if we don't get the secured guarantee,
3 not because they view their position as being much different
4 in terms of the security for their loan, but more as an
5 incentive for us to actually get it done, rather than just
6 let it lie.

7 COMMISSIONER MURRAY: Okay. Thank you. I'd
8 like to ask Staff if you have anything to add as to what is
9 the difference in terms of what is being encumbered here or
10 pledged.

11 MR. EUDY: Was that question to me?

12 COMMISSIONER MURRAY: No, I'm sorry, that is
13 to the Staff counsel or Staff witness.

14 MR. POSTON: John Kiebel and Matt Barnes are
15 here. They were the analysts in both cases, the previous
16 case and this case, and perhaps if they have an answer ...

17 JUDGE WOODRUFF: Why don't I go ahead and
18 swear you both in. That was Matt Barnes and John Kiebel.
19 Please raise your right hand.

20 (MATT BARNES AND JOHN KIEBEL WERE SWORN.)

21 JUDGE WOODRUFF: All right. They're both
22 sworn.

23 MR. KIEBLE: I'm John Kiebel, K-I-E-B-E-L, and
24 I'm with the Staff of the Public Service Commission.

25 Originally, this was set up for the company to

1 borrow about 7.4 million on assets that are secured of about
2 4 million, with the benefit being that the cellular company
3 and the television companies are going to be a value-added
4 piece of the property. And that's why there's about a \$3
5 million debt overhang that we have here. So that's the basis
6 from the -- genesis from the IM-2004-0461 case, which was the
7 case that brought this originally up about a year ago or so.

8 COMMISSIONER MURRAY: And how much of that
9 secured was Oregon Farmers?

10 MR. KIEBEL: Okay. Well, the telephone
11 company was about 4 million.

12 COMMISSIONER MURRAY: Okay. And this is --

13 MR. KIEBEL: The regular piece of it.

14 COMMISSIONER MURRAY: This is a debt to
15 Northwest --

16 MR. KIEBEL: That's correct.

17 COMMISSIONER MURRAY: -- is that correct? And
18 are there other Northwest subsidiaries whose property is
19 providing security?

20 MR. KIEBEL: Not to my knowledge.

21 COMMISSIONER MURRAY: Okay. Did you have
22 anything to add?

23 MR. BARNES: I think he covered it.

24 COMMISSIONER MURRAY: And then, in your
25 opinion, Mr. Kiebel, is -- is it already the case that all of

1 the regulated assets -- or 4 million of the regulated assets
2 of Oregon Farmers are pledged as security for this particular
3 loan?

4 MR. KIEBEL: Yes, ma'am.

5 COMMISSIONER MURRAY: And that we approved
6 that in the last application?

7 MR. KIEBEL: Approximately about a year ago.

8 COMMISSIONER MURRAY: Okay. Mr. Dandino, did
9 you or any -- you don't have a witness here; is that correct?

10 MR. DANDINO: I don't have a witness. We
11 really didn't do an analysis of this.

12 COMMISSIONER MURRAY: Okay. Thank you. Is
13 there any prohibition in this financing agreement against
14 Northwest using the proceeds for its other subsidiaries?

15 MR. KIEBEL: Not that I'm aware of.

16 COMMISSIONER MURRAY: And it can use those
17 proceeds for its nonregulated subsidiaries; is that right?

18 MR. KIEBEL: Perhaps Mr. Eudy could speak to
19 that.

20 JUDGE WOODRUFF: Mr. Eudy?

21 MR. EUDY: Yes, I'm sorry, I have a little
22 trouble hearing everything being said in the room.

23 COMMISSIONER MURRAY: All right. Is there any
24 prohibition against Northwest using the proceeds of this loan
25 for the operations of its other subsidiaries, other than

1 Oregon Farmers?

2 MR. EUDY: All the proceeds of the loan were
3 used to complete the purchase transaction, and there's only
4 one subsidiary of Northwest Missouri Holdings other than the
5 telephone company. It's a very small cable operation. It's
6 representative of less than one percent of the total purchase
7 price.

8 COMMISSIONER MURRAY: And were any of the loan
9 proceeds used for that small cable operation?

10 MR. EUDY: No, they were not.

11 COMMISSIONER MURRAY: Why wasn't this request
12 to authorize the guarantee presented to us in the first
13 application?

14 MR. EUDY: Say again, please. I'm sorry.

15 COMMISSIONER MURRAY: Why wasn't the request
16 to us to authorize the guarantee presented in the first
17 application?

18 MR. EUDY: It was really an oversight in
19 communications between myself and the RTFC. When we went
20 through their loan documents and prepared our application
21 that we ran it by them, there was just, I guess, a
22 miscommunication in that they didn't understand that in
23 Missouri, we needed to ask for separate approval to -- to put
24 a lien on the assets, and also to get the guarantee.

25 I think in most states where they do business,

1 their experience was, again, they're one in the same, that
2 it's the same assets that are -- that are encumbered. So it
3 was a miscommunication, essentially.

4 COMMISSIONER MURRAY: But there already are --
5 there already is a lien on the assets is what you've told me;
6 is that correct?

7 MR. EUDY: They do now. At the time we were
8 filing the application, they were -- they had not had any
9 relationship with -- with our company.

10 COMMISSIONER MURRAY: They who?

11 MR. EUDY: RTFC.

12 COMMISSIONER MURRAY: Which company?

13 MR. EUDY: Northwest Missouri Holdings, or
14 Oregon Farmers for that matter.

15 COMMISSIONER MURRAY: Mr. England, do you have
16 any -- or Ms. Morgan, do you have any response as to why the
17 request was not presented in the first application?

18 MR. ENGLAND: I think Mr. Eudy was correct.
19 When -- my recollection was we made two filings. The first
20 was to acquire Oregon Farmers, the acquisition. And the --
21 as I understand, the financing had not been finalized.
22 Subsequent to the first filing of the application, the
23 financing was finalized.

24 There was a term sheet that RTFC typically
25 issues. There was no reference to a guarantee in the term

1 sheet. There was a reference, however, to a mortgage -- an
2 encumbrance on the telephone company's property to secure the
3 borrowing. We prepared the application with that in mind,
4 that we needed authority to place a lien on the property of
5 the telephone company, in addition, of course, to the
6 application for acquisition.

7 It wasn't until -- our records reflected it
8 wasn't until after we received your-all's approval of the
9 acquisition and placing of the lien on the telephone company
10 properties that we were made aware of the guarantee. And it
11 was our opinion that the guarantee is an evidence of
12 indebtedness, which requires, as Pat indicated, a separate
13 Commission approval under separate statutory provision.

14 So while they're part and parcel of the same
15 transactions, security doesn't change, if you will.
16 Nevertheless, technically, if we'd known that at the start,
17 we would have asked for authority for the guarantee and the
18 lien, but we didn't.

19 COMMISSIONER MURRAY: And you say you were
20 made aware of the requirement after the financing was
21 finalized. I assume you mean you were made aware of that by
22 the lender.

23 MR. ENGLAND: We were made aware of it after
24 you-all issued your approval, but prior to closing. We were
25 made aware of it by the lender, correct.

1 COMMISSIONER MURRAY: Prior to closing, but
2 now you've been through closing?

3 MR. ENGLAND: Yes, ma'am.

4 COMMISSIONER MURRAY: Does the lender have a
5 legal basis under which to require a guarantee now?

6 MR. ENGLAND: I don't know how to answer that.
7 I'm not -- that's not my area of expertise. I think the quid
8 pro quo here, as I understand it, is whether they get the
9 guarantee, that's one thing. If they don't, then the terms
10 of the interest rate -- or the terms of the loan, in other
11 words, the interest rate, is increased.

12 COMMISSIONER MURRAY: And is that a part of
13 the documents that -- the written documents, that the lender
14 has that authority to raise the interest rate?

15 MR. ENGLAND: I don't know the answer to that
16 question.

17 MR. EUDY: Yes, it is.

18 COMMISSIONER MURRAY: It is. All right.

19 MR. EUDY: Yes, ma'am.

20 COMMISSIONER MURRAY: And do you have that
21 wording in front of you?

22 MR. EUDY: I do not have it in front of me,
23 no. I can try to pull it up here while we're talking, if
24 that would be helpful.

25 COMMISSIONER MURRAY: If you could do that,

1 just let us know, please. If the lender did raise the
2 interest rate based on not receiving the guarantee that's
3 being requested here, the rates to Oregon Farmers' customers
4 could not increase without prior approval of this Commission;
5 is that correct?

6 MR. ENGLAND: That would be my understanding.

7 COMMISSIONER MURRAY: And if we were to grant
8 that request, are Oregon Farmers' customers more at risk from
9 a default by Northwest than they are without it?

10 MR. ENGLAND: Again, it's sort of beyond my
11 expertise, but what I know of the -- the transaction, I don't
12 believe so, because all of the assets are already pledged as
13 part of the mortgage agreement.

14 MR. EUDY: My opinion is that our financial
15 situation is -- will be much worse, much weaker without the
16 guarantee, because we'll be essentially increasing our
17 interest costs by about 30 percent.

18 COMMISSIONER MURRAY: That is, Northwest will
19 be; is that correct?

20 MR. EUDY: Correct.

21 COMMISSIONER MURRAY: But that is not the
22 regulated utility?

23 MR. EUDY: Correct.

24 COMMISSIONER MURRAY: And are there any other
25 assets -- are there any other -- let's see. How do I want to

1 word this?

2 You indicated earlier, I believe, Mr. Eudy,
3 that the only other subsidiary was a small cable operation;
4 is that right?

5 MR. EUDY: Yes, ma'am.

6 COMMISSIONER MURRAY: That's Northwest's only
7 other subsidiary other than Oregon Farmers?

8 MR. EUDY: Correct.

9 COMMISSIONER MURRAY: And -- okay. I'm going
10 to pass to the next commissioner. Thank you.

11 JUDGE WOODRUFF: Thank you. Chairman Davis,
12 do you have any questions?

13 CHAIRMAN DAVIS: Not at this time, Judge.

14 JUDGE WOODRUFF: Commissioner Gaw.

15 COMMISSIONER GAW: Let me -- first, I
16 appreciate Commissioner Murray's questions, because they shed
17 some light on some of this for me, and I need to rehash a
18 little bit of it so I'm sure I'm following this. From Staff,
19 currently, there is a lien against the assets of Oregon
20 Farmers; is that correct?

21 MR. POSTON: That's correct.

22 COMMISSIONER GAW: And that is as a result of
23 the transaction that occurred after the Commission's last
24 action regarding the approval of this loan and related
25 matters?

1 MR. POSTON: Yes.

2 COMMISSIONER GAW: And Oregon Farmers is owned
3 by Northwest -- what's the rest of the name?

4 MR. POSTON: Northwest Missouri Holdings, Inc.

5 COMMISSIONER GAW: And that's a corporation
6 that's -- was incorporated in what state? Whoever knows.

7 MR. ENGLAND: I believe it's Delaware,
8 paragraph two of our application.

9 COMMISSIONER GAW: Okay. And the loan that
10 was made was made in order to purchase Oregon -- for
11 Northwest to purchase Oregon Farmers?

12 MR. ENGLAND: If I may, yes, primarily. And
13 as Mr. Eudy explained, a small cable TV system that's owned
14 by another company that's now a subsidiary of Northwest
15 Missouri Holdings, and there is a cellular -- or an interest,
16 excuse me, in a cellular partnership that is held in the name
17 of Oregon Farmers Mutual Telephone Company.

18 COMMISSIONER GAW: Okay. And so that loan
19 was -- the proceeds from that loan were used for all of those
20 purchases?

21 MR. ENGLAND: Correct. And I believe there
22 was some debt on the books of Oregon Farmers Mutual Telephone
23 Company that was extinguished at the same time. So part of
24 the proceeds would have paid off that outstanding loan.

25 COMMISSIONER GAW: Are all those numbers HC?

1 MR. KRIEBEL: Some of them are. The Northwest
2 new debt and pro forma capital structure is debt and equity,
3 so those are HC.

4 COMMISSIONER GAW: What about the old debt of
5 Organ Farmers?

6 MR. KRIEBEL: No, it is not.

7 COMMISSIONER GAW: What was that amount?

8 MR. KRIEBEL: That was originally 20.5 percent
9 long-term debt, and 79.5 percent common equity.

10 COMMISSIONER GAW: Okay. The total amount
11 was? Dollars? Is that HC?

12 MR. ENGLAND: I doubt it. Probably would have
13 been in its annual report, but I don't have that information
14 available.

15 COMMISSIONER GAW: Okay. Who does have that?

16 MR. KRIEBEL: I don't have it with me.

17 COMMISSIONER GAW: Okay. And after the --
18 after the purchase by Northwest, the debt of Oregon Farmers
19 was extinguished. So was their debt to equity ratio
20 subsequent to that transaction 100 percent equity, 0 debt?

21 MR. ENGLAND: That's my understanding, but I'd
22 like -- if Pat can hear me, I'd like for Pat to confirm that,
23 but I think that's true.

24 COMMISSIONER GAW: Pat, can you hear that?

25 MR. EUDY: Yes, that's correct. At the time

1 of closing, and subsequent to that, it's 100 percent equity
2 at Oregon Farmers.

3 COMMISSIONER GAW: Okay. And then there is --
4 then there is a lien placed against those assets that are
5 owned by Oregon Farmers as a result of that transaction; is
6 that correct?

7 MR. EUDY: Yes, sir.

8 COMMISSIONER GAW: Okay. And now there is a
9 request for a guarantee of the Northwest note by Oregon
10 Farmers; is that correct?

11 MR. ENGLAND: That's correct.

12 COMMISSIONER GAW: Okay. Okay. And the
13 proceeds from that loan were used for other things, including
14 the purchase of a cell business and cable TV business? Am I
15 following this?

16 MR. ENGLAND: Well, I think when they acquired
17 the stock of Oregon Farmers Mutual Telephone Company, they
18 acquired, along with that, the interest that Oregon Farmers
19 Mutual Telephone Company held in the cellular partnership.

20 COMMISSIONER GAW: Oh, okay. That's
21 different, so -- than what I was understanding. So Oregon
22 Farmers owned the interest in the cell company?

23 MR. ENGLAND: Correct.

24 COMMISSIONER GAW: What about the cable TV?

25 MR. ENGLAND: That was a separate company, or

1 put into a separate company, and that's a separate subsidiary
2 now of Northwest Missouri Holdings.

3 COMMISSIONER GAW: Was that transaction -- was
4 that transaction to purchase that cable TV business? Was
5 that with some similar parties or was it totally unrelated?

6 MR. ENGLAND: I'm going to give you what I
7 think, and I'm not -- the way this typically -- because a
8 number of small companies will have an interest in a cellular
9 partnership. That was acquired years ago when the
10 partnership was established, so this was an ongoing cellular
11 partnership that Oregon Farmers owned a percentage of.

12 COMMISSIONER GAW: I'm really on the cable TV
13 thing.

14 MR. ENGLAND: Oh, I'm sorry.

15 COMMISSIONER GAW: I may have said something
16 different, but on the cable TV side, did that involve the
17 transaction with some of the same parties when it was
18 acquired by Northwest?

19 MR. ENGLAND: My understanding is yes.

20 COMMISSIONER GAW: But it wasn't owned by
21 Oregon Farmers?

22 MR. ENGLAND: I do not believe so. I believe
23 it was owned by an affiliated company. And again, Pat can
24 help me here, but I believe the assets -- the cable TV assets
25 themselves were spun out of that affiliated company, put into

1 a new company that Northwest Missouri Holdings acquired.

2 COMMISSIONER GAW: Okay. And now exists as a
3 subsidiary of Northwest?

4 MR. ENGLAND: Correct.

5 COMMISSIONER GAW: Okay. So in regard to the
6 amount of money that was borrowed, maybe you can give me a
7 percentage of what amount was used to acquire the cable TV
8 business.

9 MR. ENGLAND: I can't, but maybe Mr. Eudy can.

10 COMMISSIONER GAW: Mr. Eudy, did you hear that
11 question?

12 MR. EUDY: The -- the way I structured it,
13 there was really no money directly that went from the RTFC
14 loan proceeds to the purchase of the cable operation. That
15 really came from our equity and from some other subordinated
16 debt that's unsecured. All the cable proceeds -- I'm sorry,
17 all the RTFC proceeds went to the purchase of the telephone
18 company.

19 COMMISSIONER GAW: Okay. Okay. And who
20 owns -- is Northwest owned by a corporation?

21 MR. EUDY: Northwest is owned by -- an
22 investment partnership is a majority owner, and the balance
23 is owned by American Broadbank Communications, which is a
24 company that I own, along with a partner.

25 COMMISSIONER GAW: I'm sorry, I didn't hear

1 that last part. It's a company that -- and I didn't
2 understand it.

3 MR. EUDY: It's a company that I own along
4 with a partner.

5 COMMISSIONER GAW: Okay.

6 MR. EUDY: We own a minority interest in
7 Northwest Missouri Holdings.

8 COMMISSIONER GAW: Okay. What's that split,
9 minority/majority percentage?

10 MR. EUDY: It's 51 percent with the investor
11 group, the investor partnership, and 49 percent for American
12 Broadband.

13 COMMISSIONER GAW: And is that relationship a
14 partnership or corporation or something else?

15 MR. EUDY: The investment firm is a
16 partnership.

17 COMMISSIONER GAW: The relationship with --
18 the company that -- that you have that actually owns the
19 shares of Northwest, is it a corporation or partnership?

20 MR. EUDY: It's a corporation.

21 COMMISSIONER GAW: Okay. And so the shares
22 are split up the way you just described them, 51/49?

23 MR. EUDY: Yes, sir.

24 COMMISSIONER GAW: Okay. So can somebody give
25 me an idea about how much of a change there was in the -- let

1 me ask you this:

2 Was this -- was the note -- previous note
3 that -- or notes that Oregon Farmers owed prior to the
4 transaction or the sale transaction was it -- are they -- how
5 do they rank in amount compared to the amount of debt that
6 currently -- currently assessed on the assets as -- as
7 collateral of Oregon Farmers? I can say that better.

8 What's the amount owed today? What was the
9 amount owed before the transaction? What's the amount owed
10 by Northwest, and compare that to what the amount was that
11 was owed by Oregon Farmers prior to the transaction. And
12 that may be HC, so if it is, just --

13 MR. ENGLAND: I don't think it is. I think we
14 know what the loan is to Northwest. That was part of the
15 transaction.

16 COMMISSIONER GAW: Okay.

17 MR. ENGLAND: Disclosed, I believe, in the
18 application last year. The amount that Oregon Farmers had on
19 its books would have been public record in its annual report.

20 COMMISSIONER GAW: So we just need to track
21 that down. I keep asking you that, and I apologize.

22 MR. ENGLAND: Pat may have some information or
23 be able to give you a ballpark answer, but I can't.

24 MR. EUDY: Yes, approximately the \$700,000
25 debt was outstanding at Oregon Farmers prior to the

1 transaction.

2 COMMISSIONER GAW: Okay.

3 MR. EUDY: As part of this acquisition, we
4 borrowed approximately \$7.4 million.

5 COMMISSIONER GAW: Okay.

6 MR. EUDY: And paid off the \$700,000
7 (inaudible.)

8 COURT REPORTER: I can't understand him.

9 JUDGE WOODRUFF: You're breaking up. Can you
10 repeat what you just said?

11 MR. EUDY: Yes, we borrowed 7.4 million as
12 part of the acquisition, and paid off the \$700,000 in debt
13 that Oregon Farmers had prior to closing.

14 COMMISSIONER GAW: And the Oregon Farmers'
15 debt, was it secured or unsecured?

16 MR. EUDY: I'm sure it was secured. I don't
17 know the specifics of it.

18 COMMISSIONER GAW: Mr. England, do you know?

19 MR. ENGLAND: I'd hate to have to guess right
20 or die, but we believe it was secured.

21 COMMISSIONER GAW: So there would have been
22 permission from the Commission at some point in time to do
23 that?

24 MR. ENGLAND: Correct.

25 COMMISSIONER GAW: Well, maybe you can clarify

1 for us whether it was or wasn't. Okay. So the question that
2 you have before us today, then, is the -- is the guarantee
3 issue. And I think any other questions I have would really
4 relate back to that prior transaction, so -- and that's -- I
5 don't think it's necessary for me to delve back into that.
6 I'll pass. Thank you.

7 JUDGE WOODRUFF: Commissioner Clayton?

8 COMMISSIONER CLAYTON: No questions.

9 JUDGE WOODRUFF: Chairman Davis?

10 CHAIRMAN DAVIS: Mr. England, why should we
11 approve this transaction?

12 MR. ENGLAND: I believe -- well, as I
13 mentioned, I don't know if you were in here a little bit
14 earlier.

15 CHAIRMAN DAVIS: I'm sorry, I apologize. I
16 got here a little late.

17 MR. ENGLAND: That's okay, but I apologize if
18 I'm repeating myself. The -- essentially, if we had known at
19 the time we filed the application that a guarantee was
20 involved, we would have sought approval for it at the time,
21 but we didn't. And as I mentioned, Missouri law requires us
22 to not only get approval of placing a lien or mortgage on our
23 property, but also separate statutes requires approval for
24 long-term indebtedness, or evidence of indebtedness. And we
25 view the guarantee as an evidence of indebtedness.

1 So we got approval for the mortgage, but we
2 didn't get approval for the guarantee. We're back before you
3 now to try to rectify that, to try to get the guarantee. If
4 we don't, as I understand it, the annual interest rate goes
5 up 200 basis points, or two percentage points. And so we
6 believe that the guarantee is -- is not going to encumber, if
7 you will, or disadvantage the telephone company any more than
8 the mortgage already does, if that's a proper way to describe
9 it. And the benefit of avoiding the two percent interest
10 increase, we think is a substantial benefit.

11 CHAIRMAN DAVIS: But if we don't approve this,
12 then you'd still have to come back and ask for a rate
13 increase, I would assume?

14 MR. ENGLAND: That's correct. We can't change
15 rates without your approval.

16 CHAIRMAN DAVIS: Mr. England, do you think we
17 have the authority to go back and to rescind our approval of
18 the initial transaction?

19 MR. ENGLAND: Off the top of my head, no.

20 CHAIRMAN DAVIS: So essentially, this
21 Commission is -- is put in a box, that the ratepayers are
22 either going to have to assume the liability associated with
23 the guarantee of this loan, or potentially face higher rates
24 as a result of the two percent increase, or 200 basis points
25 increase for not guaranteeing the loan; is that correct?

1 MR. ENGLAND: I wish it were that easy. As
2 you indicated, we can't raise those rates without your
3 approval. And depending on how you determine the cost of
4 capital to the telephone company, which right now is 100
5 percent equity financed, it's hard for me to say that that
6 two percent would be passed on to the -- to the ratepayers,
7 or whether you'd be willing to do that or not. But in a -- I
8 mean, ideally, I think you're getting to the heart of the
9 issue.

10 CHAIRMAN DAVIS: No further questions, thank
11 you.

12 JUDGE WOODRUFF: Okay. Any other questions
13 any of the Commissioners want to ask? Commissioner Murray?

14 COMMISSIONER MURRAY: Thank you. I have a
15 couple more questions. Mr. Eudy, were you able to find the
16 language that I asked about earlier?

17 MR. EUDY: Yes, ma'am, I did.

18 COMMISSIONER MURRAY: Is it a paragraph?

19 MR. EUDY: It's about a page that talks about
20 it in general, because it modifies the number of terms of the
21 other parts of the document, but basically, there's a couple
22 of pieces that I could read to you that are short that speak
23 directly to what we're talking about.

24 It says, borrower so calls Oregon Farmers to
25 request that the Missouri Public Service Commission authorize

1 a guarantee for Oregon Farmers. And then there's a section
2 that talks about, I'll read it to you again, whether the PSC
3 authorizes the guarantee referred to in Paragraph 1, which I
4 just read to you, borrower so calls Oregon Farmers to
5 promptly execute, deliver to lender a secured guarantee in
6 form or contents satisfactory to lender.

7 The third paragraph is if the Missouri PSC
8 does not authorize the guarantee, then the interest rate at
9 or shown below will apply, and it shows that 200 basis point
10 increase in rates, in interest rates. And then there's
11 further language that administratively deals with this, but
12 that's the gist of it.

13 COMMISSIONER MURRAY: All right. Thank you.

14 MR. EUDY: Sure.

15 COMMISSIONER MURRAY: And I'd like to ask the
16 counsel, and I understand that you may not have the answer --
17 any of the counsel here today may not have this answer, but I
18 need to understand what is the difference between collateral
19 and a guarantee; the collateral that has already been pledged
20 and the guarantee that they're now requesting. Because if
21 there is no difference, why would the bank say they're going
22 to raise interest rates two percent? And I think we need
23 some analysis of that.

24 It appears to me that we're approving
25 something that is different in terms of what is being

1 pledged. I don't understand the financing issues enough
2 myself to understand what that is, but it seems intuitive
3 that the lender would not have a requirement that the rates
4 would increase by two basis points without the guarantee, if
5 the guarantee did nothing more than they already have. So
6 can counsel do some research on that and give us a statement
7 about what that actually means?

8 MR. ENGLAND: May I clarify the question? You
9 want to know the difference between collateral and a
10 guarantee?

11 COMMISSIONER MURRAY: Yes, specifically as it
12 relates to the collateral that has been used. The assets of
13 Oregon Farmers that have been used as collateral for this
14 loan today, and the secured guarantee that is being requested
15 here in this application. And I'm assuming that there is an
16 answer that is subject to legal clarification here. If you
17 think it's not, if you think it's more of an evidentiary
18 issue, let me know that, please. But it's not clear to me
19 what's being requested here.

20 MR. ENGLAND: I don't mean to be putting words
21 in your mouth, Commissioner, but is it -- what you're asking
22 for, is it essentially sort of a -- a description, if you
23 will, of the mortgage, and I wish I had the document in front
24 of me, but the document that we executed approximately a year
25 ago, which I'll refer to as the mortgage agreement, and the

1 guarantee agreement that we have before you today? The legal
2 significance between the two?

3 COMMISSIONER MURRAY: Yes.

4 MR. ENGLAND: Okay.

5 JUDGE WOODRUFF: Does anyone know if the
6 mortgage agreement was entered as an exhibit in the prior
7 case?

8 MR. ENGLAND: Well --

9 MS. MORGAN: It was a deed of trust, security
10 agreement and financing statement, and it was a part of the
11 original application.

12 JUDGE WOODRUFF: Mr. Eudy, is that what you
13 are reading from?

14 MR. EUDY: Yes, sir.

15 JUDGE WOODRUFF: Okay. So that should be in
16 our Commission files yet then?

17 MR. ENGLAND: Well, not an executed copy.
18 What we probably filed with you would have been a form, which
19 would be materially the same as what was signed at the
20 closing. And the reason -- excuse me, let me finish. The
21 reason I draw the distinction between that is what Mr. Eudy
22 may have been referring to is something that may have been
23 added at the time of closing when the bank realized they
24 weren't getting a guarantee.

25 JUDGE WOODRUFF: Okay. That was going to be

1 my question. Can you file a copy of that in this case?

2 MR. ENGLAND: The executed?

3 JUDGE WOODRUFF: The executed copy.

4 MR. ENGLAND: I don't see any reason why not.

5 JUDGE WOODRUFF: Would that be helpful for
6 you, Commissioner Murray?

7 COMMISSIONER MURRAY: That would be helpful to
8 the record, yes. Thank you.

9 JUDGE WOODRUFF: Okay. And Commissioner
10 Murray, you had other information you wanted to have answered
11 also?

12 COMMISSIONER MURRAY: What I just stated, yes.

13 JUDGE WOODRUFF: Okay. If you could file that
14 within -- within one week from today. Is that doable?

15 MR. ENGLAND: If not, we'll let you know and
16 ask for a little additional time.

17 JUDGE WOODRUFF: Okay. And same for the
18 executed agreement then.

19 MR. ENGLAND: Fair enough.

20 JUDGE WOODRUFF: Commissioner Davis, do you
21 have any other questions?

22 CHAIRMAN DAVIS: Just one. Mr. Dandino.

23 MR. DANDINO: Yes, sir.

24 CHAIRMAN DAVIS: Okay. Refresh my
25 recollection, the OPC has no position in this case?

1 MR. DANDINO: We haven't analyzed it. We
2 don't take a position.

3 CHAIRMAN DAVIS: Do you have any thoughts?

4 MR. DANDINO: My thoughts is --

5 CHAIRMAN DAVIS: Impressions?

6 MR. DANDINO: My only thoughts was I would
7 urge the Commission to do whatever to protect the ratepayers,
8 make sure they don't get a rate increase.

9 CHAIRMAN DAVIS: And what do you think is the
10 best decision in that case to make sure -- make sure they
11 don't get hit with a rate increase, or aren't subject to --

12 MR. DANDINO: I think I'd defer to wait and
13 see what the research shows. I'd feel more comfortable with
14 that.

15 CHAIRMAN DAVIS: Okay. Thank you,
16 Mr. Dandino. One more question. Mr. England, did you -- did
17 we discuss this case in an agenda meeting, and do you recall
18 making any representations to this Commission at the time
19 that we approved this case, or that we approved the
20 financing?

21 MR. ENGLAND: I'm not going to tell you I
22 didn't, but I can't recall what they would have been.
23 You're -- I'm sorry, you're talking about the original case?

24 CHAIRMAN DAVIS: The original case, the
25 underlying case.

1 MR. ENGLAND: As you will recall, in the
2 underlying case, there was some question about the owners of
3 this company or the prospective owners, given the Cass County
4 New Florence issues that were percolating at that time. And
5 Mr. Eudy provided additional information regarding the
6 purchasers, provided additional information to Staff
7 regarding the ability to finance this transaction, and so
8 there were probably more discussions that went on with
9 respect to this transaction than with this type of
10 transaction in the past.

11 And I could very well have addressed the
12 Commission in the agenda meeting, but I can't remember what I
13 would have said, but I'm sure it was the truth.

14 CHAIRMAN DAVIS: Someone from your law firm
15 takes notes at those Commission meetings, don't they?

16 MR. ENGLAND: Yes, they do.

17 CHAIRMAN DAVIS: Would you go back and see if
18 you can't use those notes, and if any of them refreshes your
19 recollection to the point that you recall making any other
20 statements, I think this body would appreciate knowing.

21 MR. ENGLAND: I'll be happy to check that.

22 CHAIRMAN DAVIS: Thank you.

23 JUDGE WOODRUFF: Let me add, there may have
24 been an on-the-record presentation in that case as well, just
25 going off of my memory. It was not my case at the time.

1 All right. Are there any other questions from
2 any of the Commissioners? Do either of the -- any of the
3 parties wish to make a final statement? I see a lot of
4 nodding heads out there. So with that then, this on the
5 record presentation is adjourned. Thank you.

6 WHEREUPON, the recorded portion of the
7 on-the-record proceeding was concluded.

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