

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

In the Matter of Alma Communications Company,)
doing business as Alma Telephone Company, for)
Authority and Approval to Issue a Note, Loan)
Agreement, Mortgage, Security Agreement, and) Case No. TU-2005-0358
Financing Statement to Borrow Funds from the)
Rural Utility Services of the United States of America,)
for Interim Financing, and for Section 392.289.2,)
RSMo (HB 360) Accounting Authority Orders.)

DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY

In its June 14, 2005 order, the Commission approved Alma Communications Company's, d/b/a Alma Telephone Company (Alma), Application seeking authority to borrow certain funds and to pledge part of its system assets as security for the loan. Specifically, Alma sought authority to borrow up to \$5,579,000 from the Rural Utility Services Administration to replace an old switch, construct a new building to house it, and to build fiber subscriber lines to replace the copper lines now in use. The Rural Utility Services Administration has pre-approved this loan, in part because Alma stands to receive more than \$600,000 annually from the Universal Service Fund (USF) that can be used to pay the debt service for the loan over the next 26 years. I must dissent from the Commission's Order because I am concerned that the use of the USF subsidy contemplated in this case contributes to the magnitude of the problems currently plaguing the USF and because I believe that the financing of this project is detrimental to the public interest.

The debt authorized by the Commission's Order means that Alma's Total Debt to Total Capital Ratio will be more than 80% for at least four years. With only 350 customers in its exchange, Alma will effectively be borrowing almost \$16,000 per

customer,¹ the majority of which will be spent on placing fiber lines, the “gold standard” for wireline telecommunication companies, to each customer’s premises. These fiber-to-the-premises lines will also allow Alma to develop broadband and video services that are outside of its primary business purpose of providing telecommunications services. Alma estimates that the average annual debt service payments will range from \$250,000 to \$300,000 for 26 years. And to make this loan payment, Alma, rather than relying even in part on increased rates for customers, is solely relying on disbursements from the USF to repay the loan. The USF disbursements will increase more than \$600,000 annually simply because of the new investment in plant – without any examination as to whether Alma or its subscribers have an economic need for this amount. The disbursements from the USF will be more than adequate to cover the annual debt service payments, leaving Alma with a tidy profit of \$300,000 to \$350,000 annually, over and above other profits the company already realizes.

A recent article explains the function of the USF and the crisis that it is currently facing:

“Under the existing universal service program, subsidies are directed to rural areas, where it is often more costly to provide traditional wireline telephone service. . . . These subsidies are funded through a surcharge on long-distance calls that, under the Telecommunications Act, are classified as ‘telecommunications.’

“The surcharge – really a tax – appears on telephone bills as a ‘universal service fee.’ Largely because more and more subsidies are being directed to rural telephone companies, the universal service fee has nearly doubled in the past several years, and it now **exceeds 10 percent.**”²

¹ This amount is being financed over 26 years.

² *IT&T NEWS* (Info Tech & Telecom News), “Crisis Looms in Universal Service”, pp. 1-2, June 2005. The article goes on to discuss that, because people are using new technology for communications services (*i.e.*, VoIP, cable telephony, etc.), the funding base is shrinking while support obligations continue to grow. *Id.*, p.2. Therefore, the remaining long-distance consumers will continue to see larger and larger surcharges. It should also be noted that the high cost subsidy is available to rural carriers without regard to the income level, *i.e.*, economic need, of the customers served thereby.

One of the purposes of the Universal Service Fund is to bring "reasonably comparable" telecommunications services to those areas in this country where the customer base is so low that it is costly and non-economical to provide service.³ Funding for the USF to subsidize these reasonably comparable services is provided by every long-distance telephone subscriber in this country.⁴ "Reasonably comparable" telecommunications services should mean service that is comparable to what the average telephone subscribers receive in more populated areas where costs for provisioning such services are much lower. "Reasonably comparable" telecommunications services should not mean services that far exceed what the average urban telephone subscribers are receiving. Moreover, the "reasonably comparable" standard applies to rates charged by urban and rural carriers.

Alma is only charging its customers \$6.50 for basic local telecommunications services, and will not be raising this rate despite the improvements. This basic local rate is far less than the average urban consumer pays – putting Alma's subscribers in a far better position than those subscribers living in urban areas. Thus, Alma's

³ See 47 U.S.C. § 254(b)(3), which reads as follows:

"Consumers in all regions of the Nation . . . , should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, *that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charges for similar services in urban areas.*"

(emphasis added). Note that the test is not just that rural, high cost areas should get advanced telecommunications services, but that it should be reasonably comparable to that available in urban areas at a reasonably comparable rate. Most urban areas do not have fiber to the premises of every subscriber, and those urbanites that do have broadband and high speed video services have had to pay a premium to obtain such access.

⁴ "The High Cost support mechanism provided approximately \$3.4 billion in support in fiscal year 2004." See the Federal Communications Commission's combined docket no. FCC 05-124: *In the Matter of Comprehensive Review of Universal Service Fund Management, Administration and Oversight*, WC Docket No. 05-195; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6; *Rural Health Care Support Mechanism*, WC Docket No. 02-60; *Lifeline and Link-Up*, WC Docket No. 03-109; *Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, CC Docket No. 97-21, ¶ 44.

subscribers are receiving the best level of services available in telecommunications at rates that are well below what the average subscriber pays, all because they have the benefit of receiving a large government subsidy. The USF should not be leveraged to provide rural, high-cost carriers with broadband and video capabilities that exceed the "reasonably comparable" standard, and that are unnecessary for provisioning basic telecommunications services.⁵

Even more troublesome is that Alma, like many rural telephone companies, will be receiving universal service subsidies that far exceed its operating costs and debt service coverage.⁶ I estimate that Alma stands to profit through universal service subsidies by as much as \$350,000 annually – that is a profit of \$1000 per customer on an annual basis (not counting other sources of revenue) that is not available to non-rural, low-cost carriers. It is unacceptable to me to continue sanctioning this abuse of the USF. It was argued by the Commission that we should not prevent Missouri companies from taking the same advantage of the USF as other companies in other states are doing, thereby allowing revenue that could benefit Missouri companies to go to other states. While I understand this argument, I do not believe that adding to the abuse of the USF because "everyone else is doing it" is the right thing to do.

Finally, I believe that the approval of this amount of debt, coupled with the reliance on USF for repayment is detrimental to the public interest. There is much discussion in the industry and in Congress about reforms to the universal service

⁵ Alma admitted that broadband and video were potential future services that could be provided to its 350 customers that would be operated either through Alma itself, or through a subsidiary company that could "rent" the fiber lines for provisioning these services. Either way, this means added profits to Alma's owners subsidized by the USF.

⁶ I do not mean to infer that Alma is doing something illegal. In fact, Alma legitimately is taking advantage of a federal subsidy program like many other rural carriers in this state and country. The fact that this proposal is legal does not make it right.

program. The Federal Communications Commission very recently issued a Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking in a combined docket that seeks to conduct a broad review of the management, administration and oversight of the Universal Service Fund.⁷ Discussion of this reform ranges from ensuring that benefits to rural, high-cost areas continue to flow⁸ to completely dismantling the current system, and instead raising funds for universal service from general tax revenues and distributing funds directly to consumers through vouchers for purchasing the necessary telecommunications services.⁹ Additionally, the FCC is reviewing the Intercarrier Compensation regime in an attempt to craft a more uniform system. This review could result in lower payments to the telecommunications carrier that terminates a call on its network.¹⁰ Should there be radical changes in the distribution of Universal Service funds or in the Intercarrier Compensation regime, or both, the income that Alma is expecting to receive for the next 26 years in order to cover its debt service payments may suddenly evaporate – or in the very least decrease substantially. This could leave Alma buried in debt and scrambling for the means to repay it.

⁷ See *In the matter of Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, et al.*, *supra* FCC Docket No. 05-124 (Released June 14, 2005).

⁸ See Congressional Rural Caucus Press Release, February 2, 2005, "CRC Holds Forum to Discuss the Future of Rural Telecom".

⁹ *SENDING THE RIGHT SIGNALS: Promoting Competition through Telecommunications Reform*, Summary of Findings, Published by the U.S. Chamber of Commerce, Publication #0331.

¹⁰ See Further Notice of Proposed Rulemaking, *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; FCC 05-33 (March 3, 2005). "Intercarrier Compensation" involves a complex pricing system that essentially requires the payment of a fee by the sending carrier to the receiving carrier for the privilege of allowing its subscribers to connect to subscribers on another network.

Respectfully submitted,


Connie Murray, Commissioner

Dated at Jefferson City, Missouri
on this 26th day of June, 2005.