

SUPREME COURT OF MISSOURI

State ex rel. Alma Telephone Co. v. Public Service Commission

183 S.W.3d 575 (Mo. 2006) · Decided January 10, 2006

SUMMARY

The Missouri Supreme Court held that rural telephone companies could not impose proposed access tariffs on wireless service providers for intra-Major Trading Area calls. Applying the Federal Telecommunications Act of 1996 and controlling FCC regulations and orders, the court concluded that such traffic is subject to transport and termination compensation arrangements rather than interstate or intrastate access charges. The court reversed the circuit court and affirmed the Missouri Public Service Commission's decision disallowing the tariffs.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Missouri                                                                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Stephen N. Limbaugh, Jr.; Limbaugh; Price; Romines; Russell; Stith; White; Wolff                                                                                                                                                                                                                                         |
| JURISDICTION          | Missouri                                                                                                                                                                                                                                                                                                                 |
| DECIDED               | January 10, 2006                                                                                                                                                                                                                                                                                                         |
| DISPOSITION           | reversed                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | The Missouri Public Service Commission rejected proposed amended access tariffs filed by rural telephone companies. The circuit court reversed the PSC on a writ of review; after an opinion by the Missouri Court of Appeals, Western District, the Supreme Court of Missouri granted transfer and reviewed the matter. |
| STANDARD OF REVIEW    | The parties agreed that the facts were undisputed and that only a question of law remained. The court reviewed the legal issue and the PSC's decision under the governing federal telecommunications statute, FCC regulations, and FCC decisions.                                                                        |
| PRECEDENTIAL VALUE    | Published Missouri Supreme Court opinion; precedential                                                                                                                                                                                                                                                                   |
| PARTIES               | Missouri Public Service Commission, AT&T Wireless Services, Inc., GTE Midwest Incorporated, Southwestern Bell Telephone Company, Southwestern Bell Wireless, Inc., Sprint Spectrum L.P. d/b/a Sprint PCS v. Alma Telephone Company, MoKan Dial Inc., Mid-Missouri Telephone Company, Choctaw Telephone Company, Chariton |

Telephone Company, Peace Valley Telephone Company, Mid-Missouri Telephone Group, Small Telephone Exchange Group, BPS Telephone Company, Citizens Telephone Company of Higginsville, Mo., Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, Kingdom Telephone Company, KLM Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, McDonald County Telephone Company, Mark Twain Rural Telephone Company, Miller Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., Stoutland Telephone Company

## TOPICS

administrative law

judicial review of agency action

federalism

appellate procedure

standard of review

## PRACTICE AREAS

telecommunications law

administrative law

federal telecommunications regulation

utility regulation

appellate procedure

## QUESTIONS PRESENTED

1. Whether wireless-originated calls that originate and terminate within the same Major Trading Area are local traffic subject to transport-and-termination rates rather than interstate or intrastate access tariffs.
2. Whether, in the absence of reciprocal compensation arrangements, the Federal Telecommunications Act of 1996 or its safe-harbor provision permits state access tariffs to be imposed on intra-Major Trading Area wireless traffic.
3. Whether the PSC properly disallowed the rural carriers' proposed amended access tariffs.

## HOLDINGS

1. Wireless traffic that originates and terminates within the same Major Trading Area is local traffic subject to transport-and-termination rates under section 251(b)(5), not interstate or intrastate access charges.
2. The absence of a reciprocal compensation arrangement does not permit the rural carriers to impose the proposed state access tariffs on intra-MTA wireless traffic.
3. The proposed amended access tariffs were unlawful, and the PSC properly disallowed them.

## KEY QUOTATIONS

*“Because in this case all parties agree that the traffic in question originates and terminates within the same MTA, only tariffs pertaining to transport and termination rates may be imposed, and conversely, tariffs pertaining to interstate and intrastate access charges may not be imposed.”* (183 S.W.3d at 578)

*“Thus, the proposed tariffs, which the LECs concede are interstate and intrastate access charges, are unlawful, and the PSC was correct in disallowing them.”* (183 S.W.3d at 578)

## FACTUAL BACKGROUND

Rural local exchange carriers completed wireless calls that originated and terminated within the same Missouri Major Trading Area during February 1998 through January 2001. After the PSC directed wireless providers to negotiate reciprocal compensation arrangements or cease delivering the traffic, few arrangements were made and the providers continued sending the traffic to the rural carriers. The rural carriers billed the wireless providers under existing access tariffs and later proposed amendments expressly covering all traffic, but the wireless providers refused to pay and the PSC rejected the amendments.

## PROCEDURAL HISTORY

The rural local exchange carriers proposed amendments to their access tariffs to cover wireless-originated traffic. The PSC rejected the amendments, and the circuit court reversed. Following an earlier appeal and remand for inadequate factual findings, the PSC again rejected the tariffs; the circuit court again reversed, leading the PSC and wireless providers to appeal. The Supreme Court of Missouri reversed the circuit court and affirmed the PSC's decision.

## DISPOSITION

reversed

## CASES CITED

- AT&T Corp. v. Iowa Utilities Board, 525 U.S. 366, 377-79, 119 S. Ct. 721, 142 L. Ed. 2d 835 (1999)
- State ex rel. Sprint Spectrum, L.P. v. Missouri Public Service Commission, 112 S.W.3d 20 (Mo. App. 2003)