

BREFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE)
APPLICATION OF CHUGWATER)
TELEPHONE COMPANY FOR)
DESIGNATION AS A)
COMPETITIVE SERVICE)
PROVIDER)

DOCKET NO. 70005-TA-03-19
Record No. 8674

PREFILED DIRECT TESTIMONY OF

Denise Kay Parrish

On Behalf of

The Office of Consumer Advocate

Filed January 26, 2004
Hearing February 4, 2004

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Denise Kay Parrish and my business address is 2515 Warren Avenue,
3 Suite 304, Cheyenne, WY 82002.

4
5 **Q. WHAT IS YOUR OCCUPATION?**

6 A. I am currently the Deputy Administrator of the Wyoming Office of Consumer
7 Advocate (OCA). In this position, I review and provide input into the
8 recommendations made by the OCA. I review utility applications filed with the
9 Wyoming Public Service Commission (Commission) and provide advice to the
10 OCA Administrator regarding the involvement the OCA should have, if any, in
11 various cases. I review applications, perform analyses and provide
12 recommendations to the Commission relative to various utility matters, including
13 revenue requirements, tariff language, competitive issues, rules and regulations,
14 and other items. I write and issue press releases, perform special studies, as well
15 as provide information and research to customers, the legislature, the OCA
16 Administrator, and others. I do other assignments and tasks, as needed and as
17 assigned by the OCA Administrator.

18
19 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL**
20 **BACKGROUND?**

21 A. In 1976, I graduated from Michigan State University with a Bachelor's degree in
22 Accounting. I have spent more than twenty-six years as a regulator of public
23 utilities, having been on the staff of four state utility regulatory commissions and
24 two consumer advocate entities. Twelve of these years have been spent at the
25 Wyoming Public Service Commission. I have taken classes related to various
26 aspects of public utility regulation, including income taxes, regulatory accounting,
27 capital recovery, cost-of-service, rate design, revenue requirements, separations
28 and allocations, and other specialized topics. I have taught classes on issues of
29 accounting standards, general ratemaking principles, affiliated transactions,
30 regulatory accounting, financial reporting, and other specialized topics to
31 regulatory professionals. For the past two years, I have been a member of the

1 faculty of the Michigan State University Institute of Public Utilities (CAMP
2 NARUC). I am the past chair and a current member of the National Association
3 of Regulatory Utility Commissioners' Staff Subcommittee on Accounting and
4 Finance. I am a member of the International WHO'S WHO of Professional
5 Management.
6

7 **Q. DO YOU HAVE EXPERIENCE AS AN EXPERT WITNESS?**

8 A. Yes. I have testified more than one hundred twenty-five times as an expert
9 witness. I have testified before the Michigan Public Service Commission, the
10 Colorado Public Utilities Commission, the Colorado District Court, the Arizona
11 Corporations Commission, the Wyoming Public Service Commission, and the
12 Wyoming Legislature Joint Corporations Committee. I have testified in
13 telecommunications, water, wastewater, electric, and natural gas cases. The
14 subjects upon which I have testified include revenue requirements, rate design,
15 cost-of-capital, nuclear decommissioning, accounting deferrals, adjustment
16 mechanisms, income taxes, capital recovery, universal service funding, and other
17 specialized topics.
18

19 **Q. WHO DO YOU REPRESENT IN THIS PROCEEDING?**

20 A. As a member of the Office of Consumer Advocate, I represent the interests of
21 Wyoming citizens and all classes of utility customers in this public utility matter,
22 as required by W.S. § 37-2-401. It is neither my intent nor my charge to represent
23 the position of any individual group, municipality, or corporation.
24

25 **Q. WHAT COURSE OF ACTION IS AVAILABLE TO INDIVIDUAL
26 CONSUMERS OR OTHER INTERESTED PARTIES IF THEY WISH TO
27 PURSUE ISSUES NOT ADDRESSED BY THE OFFICE OF CONSUMER
28 ADVOCATE, OR TAKE A DIFFERENT POSITION FROM THE OFFICE
29 OF CONSUMER ADVOCATE?**

30 A. Customers and other parties may intervene in the proceedings and raise additional
31 issues not addressed by the Office of Consumer Advocate, and may take different

1 positions than those presented by the OCA. Consumers may also present written
2 or oral comments at the hearing, which then become part of the record in the case
3 and are available to the Commission as it makes its decision on any particular
4 proposal or suggested change. The OCA encourages the participation of the
5 public and all interested parties in cases before the Commission.
6

7 **Q. ARE YOU SPONSORING ANY EXHIBITS OR SCHEDULES IN THIS**
8 **PROCEEDING?**

9 A. Yes, I am sponsoring Attachments DKP-1 through Attachment DKP-16. Each of
10 these is explained throughout the body of my testimony.
11

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

13 A. The purpose of my testimony is to present the recommendations of the Office of
14 Consumer Advocate (OCA) regarding Chugwater Telephone Company's
15 (Chugwater) request to be designated as a Competitive Service Provider pursuant
16 to W.S. § 37-15-202(a). The OCA raises a number of concerns focused on
17 whether Chugwater has met the three-pronged test provided in the statute.
18

19 **Q. IN MORE SPECIFIC TERMS, FOR WHAT IS CHUGWATER ASKING?**

20 A. Chugwater is asking that the Commission find that its local exchange service and
21 access service are subject to competition, and more specifically, facilities based
22 competition.
23

24 **Q. WHAT WOULD BE THE IMPLICATION OF GRANTING**
25 **CHUGWATER'S REQUEST?**

26 A. As stated in W.S. § 37-15-202(a) "Any service found to be effectively
27 competitive shall not be subject to regulation of prices by the Commission." This
28 means that Chugwater could set its prices at any level that it wished. Chugwater
29 may also no longer have an obligation to provide service to the entire exchange.
30

1 **Q. IS THERE A PREDETERMINED TEST THAT THE COMMISSION**
2 **MUST USE TO DECIDE WHETHER A SERVICE IS SUBJECT TO**
3 **EFFECTIVE COMPETITION?**

4 A. Yes. This test is specified in W.S. § 37-15-202(a):

5 Upon petition by any telecommunications company, the
6 commission may, after notice and opportunity for hearing, find and
7 conclude that a telecommunications service is subject to
8 competition. Any service found to be effectively competitive shall
9 not be subject to regulation of prices by the commission. The
10 commission shall consider only the following factors in
11 determining whether a telecommunications service is subject to
12 effective competition:

- 13 (i) The extent to which the same or equivalent
14 telecommunications services are available from alternative
15 providers in the relevant market;
- 16 (ii) the extent to which telecommunications services of
17 alternative providers are functionally equivalent or may be
18 substituted at comparable prices, terms and conditions;
- 19 (iii) Existing economic, regulatory or technological barriers to
20 entry.

21
22 **Q. DO YOU BELIEVE THAT THE COMMISSION SHOULD GRANT**
23 **CHUGWATER'S REQUEST TO HAVE ITS LOCAL EXCHANGE AND**
24 **SWITCHED ACCESS SERVICE FOUND TO BE SUBJECT TO**
25 **COMPETITION?**

26 A. No. Below, I will describe the specific reasons why I believe that there is not
27 competition for local exchange service or switched access service within the
28 Chugwater area, based on the three-prong test set out by Wyoming statute.

29
30 **Q. WHAT IS THE FIRST ISSUE YOU WISH TO ADDRESS?**

31 A. Chugwater has attached to its application a series of information sheets about
32 other telecommunications providers. While Chugwater has not yet submitted its
33 testimony to explain the purpose or reason for submitting this information on
34 other telecommunications providers, I presume that Chugwater may allege that
35 this information proves the existence of competition. I would like to dispel that
36 notion by taking a closer look at each of the providers for whom information has
37 been provided.

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Q. IS THE FIRST OF THE PROVIDERS THAT YOU WISH TO EXAMINE T-MOBILE?

A. Yes. I have provided some information from T-Mobile’s website in Attachment DKP-1. This attachment shows that T-Mobile does not serve the Chugwater area. As shown on the T-Mobile map, a portion of the Cheyenne area is included in the Denver Regional Calling Area, but this area does not extend anywhere close to the Chugwater area. And, as indicated on the first page of Attachment DKP-1, “In order to use a T-Mobile product, you must be within a T-Mobile coverage area.” Thus, T-Mobile’s existence as a carrier in the Denver and partial Cheyenne region should have no bearing on the decision of whether or not Chugwater’s local exchange service or switched access service are currently subject to effective competition.

Q. IN LOOKING AT ANOTHER OF THE PROVIDERS LISTED BY CHUGWATER IN ITS APPLICATION, DOES QWEST WIRELESS PROVIDE SERVICE IN THE CHUGWATER AREA?

A. No, not according to the information contained on the Qwest Wireless website. The Qwest Wireless coverage area is shown on Attachment DKP-2. This shows that a portion of the Cheyenne area is contained within the Qwest coverage area, but that the entire region around Chugwater is contained only in the defined “Roaming Area.” As contained in the Qwest description of its service, “You may not receive calls while roaming and your Service plan features and billing advantages may not apply.” Since Qwest does not actually have coverage in the Chugwater area, the wireless service of Qwest should not enter into the decision of this Commission to grant, or not grant, Chugwater competitive status.

Q. DOES VERIZON WIRELESS HAVE SERVICE IN THE CHUGWATER AREA?

A. Yes, the Verizon coverage map appears to show digital service in the Chugwater area. A series of coverage maps, taken from the Verizon Wireless website, are

1 shown in Attachment DKP-3. Since cellular coverage appears to exist, Verizon's
2 Wireless service warrants a closer look to see if it is offered at comparable prices,
3 terms and conditions.

4

5 **Q. IS THE VERIZON WIRELESS SERVICE OFFERED AT COMPARABLE**
6 **PRICES, TERMS AND CONDITIONS?**

7 A. No. In examining Verizon's prices, I started with the Local Digital Choice plans,
8 and particularly the plan that had a basic monthly access price closest to the
9 monthly price for Chugwater's service. This Verizon plan, shown on Attachment
10 DKP-4, has a basic monthly access rate of \$39.99 and includes 500 minutes – an
11 average of 16 minutes a day. Minutes over and above the allowed 500 minutes
12 in a month are billed at \$0.45 per minute, except that long distance is billed at
13 \$0.20 per minute. Based on a Business Week article, dated June 27, 2003, which
14 indicates that the average wireless user uses 490 minutes per month¹, I chose to
15 assume that an average caller would be within the 500 minutes allotted, keeping
16 the rate comparable, so far, for the average user. (Although heavier daytime users
17 would not find Verizon price competitive.) Chugwater's service is provided with
18 unlimited local calling at a monthly price of \$38.20. So, what is causing the lack
19 of comparability in pricing?

20

21 The pricing concern comes when looking at the special fees and conditions that
22 apply to the wireless purchase. For example, the fine print on page 2 of
23 Attachment DKP-4 states, "For Local DigitalChoice calling plans, long distance
24 or toll charges may still apply inside your home airtime rate and coverage area."

25

26 Verizon's Customer Service Agreement, available on its website indicates that
27 there may be additional charges:

28

¹ Time to Hang Up on SBC, by Todd Rosenbluth, Business Week OnLine, June 27, 2003. "According to researcher Yankee Group, the average U.S. wireless subscriber logged 490 minutes per month in the fourth quarter of 2002. This usage surpassed the 480 minutes per person each month for landline voice usage, the research firm estimates, based on the average monthly household total of 1,250 minutes and 2.6 people per household."

1 **Different Kinds of Charges and Surcharges We Set**

2 You agree to pay all access, usage, and other charges and
3 surcharges we bill you, even if you weren't the user of your
4 wireless phone and didn't authorize its use. You may have to pay
5 a fee to begin service or reconnect suspended service. Usage
6 charges may vary depending on where, when, and how you call. . .
7 When you make a call inside your local calling area that uses a
8 local phone company's lines (for example, a call to a typical home
9 phone number, there may be a handling fee called a landline or
10 connection fee). . .

11
12 Thus, there may be additional charges even for local calling. Additionally,
13 incoming calls are charged against the allotted minutes of use and the length of
14 calls are measured in full minutes, with partial minutes rounded up to the next full
15 minute.

16
17 Even within one's calling area, there can be additional charges. As the Verizon
18 User Guide indicates,

19 Due to the nature of radio transmissions, network capacity and
20 coverage limitations, occasionally, calls made or received from
21 within any given home airtime rate and coverage area may be
22 carried by one of our cell sites outside the area or by another
23 wireless carrier's network within the area. In such cases, you will
24 be charged airtime and applicable toll, long distance and roaming
25 charges as if you had placed the call outside your home airtime rate
26 and coverage area.

27
28 Further, there is a \$175 early termination fee with Verizon Wireless, whereas
29 there is no such fee with Chugwater. This termination fee relates to the fact that in
30 order to get the package prices listed, a multi-month or multi-year contract will be
31 required. No such long-term contract is required for local landline service from
32 Chugwater.

33
34 My conclusion is that there are a number of fees and charges that may apply in
35 addition to the local service package price for local service. Additionally, the fact
36 that the packages require long term contracts, with early termination fees are

1 terms that make wireless and landline services non-comparable in terms of
2 pricing.

3

4 **Q. DOES THE VERIZON WIRELESS SERVICE APPEAR TO BE SIMILAR**
5 **IN QUALITY TO THAT OF THE LANDLINE?**

6 A. I have not reached an ultimate conclusion on this issue, but because the Verizon
7 service is digital, rather than analog, the quality appears to be more similar to that
8 of the landline companies than that of analog cellular companies.

9

10 However, there are still issues related to the pinpointing of location for 911 callers
11 from cellular telephones. Specifically, large cellular providers, such as Verizon,
12 are only currently required to provide Public Safety Answering Points with the
13 telephone number of the originator of a 911 call and the location of the cell site or
14 base stations receiving a 911 call. It is not until the end of 2005 that more precise
15 Automatic Location Identification requirements are to be in effect. This is
16 summarized in an October 5, 2001 press release of the Federal Communications
17 Commission, offered as Attachment DKP-5.

18

19 Additionally, cellular telephones require battery recharging on a regular basis, and
20 during an extended power outage, a user may not be able to do the necessary
21 recharging. Lastly, the Verizon User Guide states under the section *Wireless*
22 *Basics*:

23

24

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26

27

. . .Unlike calls you make on a home or business phone, wireless
communications travel over the air and can react to the
environment. Rain, snow, fog, falling leaves, water, mountains,
canyons, and even buildings may affect service. . .

28

29

30

31

Q. THE CHUGWATER APPLICATION APPEARS TO BE QUITE
FOCUSED ON THE SERVICE PROVIDED BY WESTERN WIRELESS
(CELLULAR ONE). PLEASE DESCRIBE WHAT YOU FOUND OUT
ABOUT THIS SERVICE IN THE CHUGWATER AREA.

1 A. I will first discuss what I found out about the Cellular One mobile wireless service
2 in the Chugwater area, and will later discuss Western Wireless' *Wireless*
3 *Residential Service*, a fixed cellular service.

4
5 The coverage map provided as Attachment DKP-6 shows that there is mobile
6 coverage service in the Chugwater area, but that it is analog (rather than digital)
7 service. This raises additional quality issues regarding the service. In speaking to
8 the Cellular One service representative about the type of wireless service
9 available in Chugwater, he indicated that when there is a problem with service,
10 the analog nature of the service may cause the user to hear static on the line. He
11 also added that Cellular One could not guarantee the quality all the time, and that
12 there will be times of bad quality.

13
14 There is no real security over an analog network. According to
15 WirelessGuide.org, analog systems have "no real security; anybody with the
16 proper radio receiver can overhear your phone conversation." Analog systems
17 also make fraud protection more difficult since cloning² is easier to do than with a
18 digital system.

19
20 **Q. DID YOU ALSO LOOK AT THE PRICING COMPARABILITY OF**
21 **CELLULAR ONE SERVICE AND CHUGWATER'S SERVICE?**

22 A. Yes. If one is willing to enter into a two-year agreement for a Cellular One
23 Regional Plan, one can sign-up for 1,000 minutes per month of anytime minutes
24 for \$40 per month. (This translates to about 33 minutes per day in a typical
25 month.) In addition, the current pricing plan showed unlimited night and
26 weekend minutes and an additional 1,000 minutes of Mobile to Mobile. This
27 long-term agreement includes a \$200 fee for early cancellation and a mandatory
28 arbitration provision for each phone. Furthermore, the restrictions, shown on
29 page 2 of Attachment DKP-7, indicate that a digital handset is required even

² Cloning is the act of scanning cellular frequencies in order to steal account information whereby people can illegally bill time to a user's account.

1 though in the analog areas (such a Chugwater) certain digital features may not
2 function.

3

4 There are yet other restrictions, such as the inability to use a teletypewriter (TTY)
5 with this service. This may limit the ability of disabled customers to have
6 equivalent or comparable services.

7

8 **Q. DID YOU ALSO EXAMINE SOME OF THE LOCAL PLANS FOR**
9 **CELLULAR ONE, SUCH AS THE ONES SHOWN ON ATTACHMENT**
10 **DKP-8?**

11 A. Yes. Since Chugwater appears to be worried that it is (or has) priced its local
12 service to an uncompetitive level, I looked at the local service plan available in
13 Chugwater that was less expensive than the price customers would pay for local
14 service from Chugwater Telephone. This wireless plan has a basic cost of \$30 for
15 400 anytime minutes (an average of 18 minutes per weekday), with 3,500 night
16 and weekend minutes. The night and weekend minutes are to be divided evenly
17 between nights and weekends. Any additional minutes that did not fit into either
18 of these two categories would be charged airtime at a rate of \$0.39 per minute.

19

20 To translate this, this arrangement might be very good for a customer who does
21 not need to contact businesses during the day. However, if I happen to want to
22 discuss business during a weekday, I am restricted to 18 minutes each day before
23 additional charges are incurred. Those additional charges would be at the rate of
24 \$0.39 per minute. And, if the customer happens to be a business where incoming
25 calls are counted against my minutes, (e.g., the bank or the drugstore) I would be
26 concerned if I only had an average allotment of 18 minutes each day before
27 additional charges are incurred.

28

29 **Q. DO YOU HAVE SOME INFORMATION ON THE AVERAGE USE OF**
30 **MINUTES BY CUSTOMERS AND WHETHER IT TENDS TO BE**
31 **MOSTLY USED DURING THE DAY OR IN THE EVENING?**

1 A. While I do not have minutes of use and their distribution specifically for
2 Chugwater, I do have national average information from *Trends in Telephone*
3 *Service* released by the FCC. Excerpts of this document are provided in
4 Attachment DKP-9. This information shows several things that are important to
5 consider when looking at the price comparisons of Chugwater versus some of the
6 cellular providers. For instance, the page marked 11-8 indicates that the majority
7 of wireless calls still occur during the daytime hours (7 a.m. to 7 p.m.) and that
8 the fewest percentage of call minutes occur during the weekend days. This is
9 important to note, since most of the free minutes that come with the toll plans are
10 evening and weekend minutes.

11

12 **Q. IF CHUGWATER'S REQUEST WERE GRANTED, AND IT REDUCED**
13 **ITS LOCAL RATE, WOULD CUSTOMERS WHO HAD GONE WITH**
14 **WIRELESS ONLY BE READILY ABLE TO RETURN TO CHUGWATER**
15 **AS A CUSTOMER?**

16 A. No, not if they wanted to now replace their wireless service with landline service.
17 This switch could not occur easily because of the multi year nature of most of the
18 wireless packages and the \$200 early termination fee. So, if I ended my two year
19 package after only six months, the termination cost would be the equivalent of
20 adding another \$11 per month to whatever on-going rate I would have. ($\$200 / 18$
21 $\text{months remaining} = \$11.11.$)

22

23 **Q. DOES WESTERN WIRELESS (OR CELLULAR ONE) ALSO OFFER A**
24 **RESIDENTIAL RATE PLAN THAT IS BASED MORE ON A FIXED**
25 **WIRELESS SERVICE?**

26 A. Not in Wyoming. On Wednesday, January 21, 2004, I called Cellular One to find
27 out if such an offering was currently being made in Wyoming. The answer came
28 back (from a very helpful gentleman named Todd from the specific department
29 that deals with the fixed wireless services) that the Wireless Residential Service I
30 was asking about is not currently available in Wyoming. Furthermore, he knew
31 of no plans to offer it in Wyoming.

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Q. WHAT IS THE WIRELESS RESIDENTIAL SERVICE TO WHICH YOU REFER ABOVE?

A. The Wireless Residential Service is a universal service offering discussed in Western Wireless’ September 1999 application to the Federal Communications Commission (FCC) for designation as an Eligible Telecommunications Carrier (ETC) in Wyoming. (This document is attached to Chugwater’s application as part of Exhibit 2.) As indicated on page 7 of the Western Wireless Petition:

Once designated as an ETC, Western Wireless intends (and commits) to make available a “universal service” offering that includes all of the supported services, for consumers in the designated areas in Wyoming.

Yet, according to Western Wireless representatives, no such offering is currently being made.

Without this specific universal service fund offering, it is not clear that it does meet the requirements of being an ETC. For example, in its ETC Petition, Western Wireless states at page 10:

Once designated an ETC, Western Wireless will participate in Lifeline as required, and will offer toll blocking in satisfaction of the FCC’s requirement. Today, the Company provides toll blocking for services for international calls and customer selected toll calls. Western Wireless will utilize the same toll blocking technology to provide toll limitation for qualifying low-income customers, at no charge, as part of its universal service offerings.

Toll blocking and lifeline were offered as part of the universal service offerings. The universal service offering is not currently available. No information is shown on the Cellular One website indicating that toll blocking is otherwise available as a feature with the mobile, regular wireless plans. So, this aspect of the service is different than that offered by Chugwater who, for example, offers some toll blocking. (See Sheet 49 of Chugwater’s tariff that offers, at least, 900 Service Access Restriction.)

1 Additionally, Chugwater offers Lifeline service to its qualifying customers. (See
2 Sheet 22 of Chugwater’s tariff on file with the Commission.) Western Wireless
3 only indicates that it will offer Lifeline services as part of its universal service
4 offering – the offering not currently available in Wyoming. Thus, I again have to
5 question both whether Cellular One should be receiving federal universal service
6 funds as an ETC, and whether its service is comparable to that being offered by
7 Chugwater. It is also critical to note that if Cellular One were truly a provider of
8 local exchange services, it would be required to participate in Wyoming’s lifeline
9 program (the telephone assistance program) pursuant to W.S. § 37-2-306 (a).

10

11 Furthermore, Western Wireless indicated that it intended that its universal service
12 offering include unlimited local usage. No such plan is currently offered by
13 Cellular One, Western Wireless’ operating entity in Wyoming. Chugwater’s
14 service does offer unlimited local usage.

15

16 **Q. WHY IS THE FACT THAT THIS SERVICE IS NOT BEING OFFERED IN**
17 **WYOMING IMPORTANT?**

18 A. It contradicts the statement contained in Chugwater’s application that the
19 designation of Western Wireless as an ETC in Wyoming “recognizes the
20 existence of another competitor in the market as well as the provision of
21 equivalent services.”

22

23 **Q. DOES THE FCC’S ORDER GRANTING ETC STATUS TO WESTERN**
24 **WIRELESS IN WYOMING PROVIDE ANY GUIDANCE ON THE**
25 **MATTER AT HAND?**

26 A. The FCC’s order, provided as an attachment to Chugwater’s application, is
27 consistent with Western Wireless’ application in which it is stated throughout that
28 Western Wireless *will offer* certain items. While the order anticipates the filing
29 of a universal service offering that meets all of the ETC criteria, and thus, would
30 likely be comparable to the service offered by other ETCs in a service area, it
31 does not mandate that this universal service offering be based on a fixed wireless

1 offering – it may be a mobile wireless offering. Yet, either way, there is a
2 requirement for certain items to be contained in the offering – requirements that
3 are not being met. Thus, I question whether the current service of Cellular One is
4 equivalent or the same as those being offered by Chugwater.

5
6 **Q. DOES CHUGWATER ALSO RAISE THE ISSUE OF ITS FINANCIAL**
7 **VIABILITY?**

8 A. One of the concerns raised by Chugwater in its application is the loss of revenues
9 that Chugwater has experienced as it has lost customers. (See Chugwater’s
10 application, page 9.) Thus, it appears that one of the reasons that Chugwater is
11 requesting competitive status is to address its loss of revenues. And, it expresses
12 concern about its investment in high cost areas.

13
14 As stated above, it is not clear that customers who have recently moved from
15 Chugwater’s landline service to a wireless service will have the economic
16 incentive to return to Chugwater’s service, even if Chugwater is given free reign
17 to change its pricing on local service. So, this is not likely to help the Chugwater
18 revenue stream. But, if additional federal and/or state universal service funds
19 were directed to Chugwater and its customers that could provide additional help
20 to its revenue stream and/or the level of its customer’s prices. Additional funding
21 that could assist in keeping Chugwater’s rates affordable might assist in keeping
22 additional customers from leaving the system.

23
24 **Q. HOW MIGHT CHUGWATER RECEIVE ADDITIONAL FEDERAL**
25 **UNIVERSAL SERVICE REVENUES OR PROTECT THE REVENUES IT**
26 **CURRENTLY RECEIVES?**

27 A. One item immediately comes to mind in this regard. The FCC’s December 26,
28 2000 order granting Western Wireless ETC status indicates that a “carrier’s ETC
29 designation may be revoked if the carrier fails to comply with the statutory ETC
30 and common carrier obligations.” (Paragraph 13) Chugwater could seek a
31 revocation of Western Wireless’ ETC status prior to the time that Western

1 Wireless begins to seek support in Chugwater's area. (Attachment DKP-10, page
2 24, shows that no Western Wireless lines are being reported for the Chugwater
3 area for the first quarter of 2004.) Alternatively, Chugwater could challenge the
4 Commission's certification of federal funds before the Commission submits its
5 2004 certification to the FCC.

6

7 **Q. ARE THERE ALSO SOME ISSUES RELATED TO THE WYOMING**
8 **UNIVERSAL SERVICE FUND THAT HAVE IMPACTED**
9 **CHUGWATER'S OVERALL PRICING THAT MAY BE RESOLVED**
10 **WITHOUT THE PREMATURE GRANTING OF COMPETITIVE**
11 **STATUS?**

12 A. Recently, the Commission ordered changes to the way that the statewide average
13 rate was computed for purposes of determining distribution levels for the
14 Wyoming Universal Service Fund. The expected result of this revised
15 computation will be to reduce the level at which high cost carriers and their
16 customers receive support. The sooner that this reduced support level is
17 implemented, the more affordable Chugwater's prices will be while still meeting
18 the total service long-run incremental cost requirements of Wyoming statute.

19

20 Thus, there are alternative ways for Chugwater to reduce its rates, within statutory
21 limits, and without having to pretend that effective competition exists where it
22 does not.

23

24 **Q. IN ITS APPLICATION, DOES CHUGWATER ALSO SUGGEST THAT**
25 **SOME OF THE VOICE OVER THE INTERNET PROVIDERS MAY BE**
26 **PROVIDING EQUIVALENT SERVICES?**

27 A. Yes. In the attachments to its application, Chugwater provides information on
28 three internet calling situations. The first of these that I am responding to
29 involves a company called *iConnectHere*. The information I could find on the
30 internet calling service is shown on Attachment DKP-11 and involves a service
31 called PC-to-Phone. My understanding of this service is that it is a discounted

1 long distance service and still involves the need for a local internet connection.
2 While it was difficult to find much information on this service, there is nothing
3 that leads me to believe this is a service equivalent to local exchange landline
4 service. For example, the need for internet connection to make the calls means
5 that service would be interrupted if power were interrupted. It also means that
6 there is still a need for a line or connection from the home to the entity being
7 called, and someone must provide that service. Clearly, if Chugwater is implying
8 that this is a competitor to toll service in its area, I may very well agree.
9 However, the issue of whether toll should be deemed to be competitive for the
10 Chugwater exchange is not an issue in this proceeding, since Chugwater does not
11 provide toll service. The toll service by the other provider(s) in the area is already
12 deemed to be competitive.

13
14 **Q. HAVE YOU ALSO EXAMINED THE SERVICE OFFERED BY**
15 **NET2PHONE?**

16 A. Yes, and a more complete explanation of this service is found on Attachment
17 DKP-12. This is a service by which you may make telephone-like calls through a
18 computer. One type of call that can be made is to call directly to the PC of
19 another CommCenter user. According to page 4 of the attached information, one
20 would speak as one would normally during a regular phone conversation.
21 However, the process is such that it requires that after you have selected the user
22 that you wish to call, CommCenter notifies the user that you wish to speak with
23 him or her. If the user accepts the message, the call will be connected. However,
24 it appears that both parties must be participants in this internet phone service for
25 the call to be connected. While this service may be appealing to some, or even to
26 a broad range of users for contacting individuals, it is not a replacement for the
27 broad based, ubiquitous network that is currently in place where any current
28 telecommunications customer may be connected without prior arrangements
29 being necessary.

30

1 **Q. DOES THE NET2PHONE SERVICE HAVE SOME ADDITIONAL**
2 **SERVICE LIMITATIONS THAT IT ITSELF NOTES IN ITS CUSTOMER**
3 **INFORMATION?**

4 A. Yes. The last page of the information contained in Attachment DKP-12 states:

5 If Net2Phone CommCenter still doesn't connect, either you are
6 behind a firewall or the internet connection to our servers is
7 temporarily not working. If you are connected to the Internet and
8 our services are not temporarily unreachable, then it is likely that
9 you are connected to the Internet through a firewall. While we
10 cannot guarantee that Net2Phone will work on systems that are
11 behind a firewall, many systems do with a small adjustment to the
12 registry entry for UDP and/or getting your systems manager to
13 open specific ports. For a discussion about these changes please
14 see the FAQ entitled, "Connecting from behind a firewall."
15

16 **Q. WHAT WOULD BE THE COST TO USE THE NET2PHONE SERVICE?**

17 A. The cost for this service is indicated to be \$0.02 per minute. However, there
18 would also be a cost for internet service since it requires the use of a computer
19 and the internet. So, if the average user, as assumed above, uses 490 minutes per
20 month, this would be a cost of approximately \$10 per month. However, the
21 service would not work unless the customer also had a computer and a connection
22 to the Internet. This cost would be in addition to the per minute charge.
23

24 **Q. DOES VONAGE APPEAR TO BE AN EQUIVALENT SERVICE TO THE**
25 **LANDLINE SERVICE OFFERED BY CHUGWATER?**

26 A. No, it does not. The primary reason it does not is because according to
27 information on the Vonage website (as provided in Attachment 13) none of
28 Wyoming is listed in the Vonage coverage area (service area).
29

30 Furthermore, the product review taken from Vonage's own website (provided as
31 Attachment 14) provides some of the very concerns that I have about whether this
32 product is equivalent to landline telephony. This service uses a broadband
33 internet connection, bypassing everything with your local telephone company.
34 While I don't know how many Chugwater customers have broadband internet, or

1 even have the ability to get broadband internet, this service does not come without
2 its own cost. The product review goes on to state, “Some of my callers say the
3 line quality isn’t always perfect and they can hear echoes on the calls.” The
4 review ended with the following:

5 The biggest problem is that my phone service is now only as
6 reliable as my cable service: when the cable modem goes out, or
7 the cable company network is experiencing problems, or if I lose
8 electrical power, then I can’t use my phone. . .
9

10 Clearly, this is a different quality and reliability of service than that currently
11 offered by Chugwater.

12

13 **Q. WHEN YOU WERE DISCUSSING YOUR PRICE COMPARISONS, DID**
14 **YOU INTENTIONALLY FOCUS ON TRYING TO COMPARE THE**
15 **COST OF LOCAL CALLING FOR THE VARIOUS OPTIONS, RATHER**
16 **THAN EXPANDING THE COMPARISON TO INCLUDE TOLL COSTS?**

17 A. Yes. The application in this case is asking to find Chugwater’s local and access
18 services competitive, knowing that toll services are already competitive. Thus, I
19 am focusing on what options a local service customer would have if Chugwater
20 were to be found competitive and no longer had the obligation to provide service.
21 The issue of comparing local services to local services should not be muddied
22 with the issue of packages that may include some reduced priced toll calling.

23

24 **Q. CHUGWATER ALSO RAISED THE CONCEPT IN ITS APPLICATION**
25 **THAT THE FACT THAT CONTACT COMMUNICATIONS HAS BEEN**
26 **GRANTED A STATEWIDE CERTIFICATE OF PUBLIC CONVENIENCE**
27 **AND NECESSITY MEANS THAT COMPETITION NOW EXISTS**
28 **BETWEEN CHUGWATER AND CONTACT COMMUNICATIONS. DO**
29 **YOU AGREE?**

30 A. No. As shown on the information contained in Attachment DKP-15, Contact
31 Communications is currently providing completely different services than those
32 offered by Chugwater. The first page of Attachment DKP-15 is from Contact

1 Communication’s 2002 Annual Report filed with the Commission, and states that
2 Contact Communications is currently providing wholesale internet call diversion
3 services to internet service providers. The next page of the attachment, taken
4 from Contact Communication’s website, confirms that the services being offered
5 are primarily internet in nature. The final page shows where service is currently
6 being offered by Contact Communications, and Chugwater is not specifically
7 listed.

8
9 I conclude from this material that Contact Communications is not providing
10 services that are equivalent or comparable to Chugwater’s current services.

11
12 **Q. DO YOU BELIEVE THAT A LOSS OF LOCAL EXCHANGE**
13 **CUSTOMERS ALONE PROVES THE EXISTENCE OF COMPETITION**
14 **IN THE CHUGWATER AREA?**

15 A. No. As described above, some customers may be using alternative services in
16 lieu of staying with a wireline service from Chugwater, but that does not
17 necessarily make the Chugwater service competitive pursuant to Wyoming
18 statute. According to the statute, a service is only deemed to be effectively
19 competitive once there are alternative providers offering services that are equal or
20 comparable to that being offered by Chugwater. Whether this is the appropriate
21 standard that would be established today, if the law were to be rewritten, I don’t
22 know. But, it is the current state of the law.

23
24 It is also possible that some people have simply chosen not to have a telephone
25 due to affordability issues. Therefore, it is important that the Commission work
26 with the FCC and in interpretation of its own rules to make the federal and state
27 universal service funds as available to customers and high-cost providers as
28 possible.

29
30 Finally, while not stated in the application, it is my understanding that ten of the
31 forty lines lost by Chugwater were due to the implementation of extended area

1 service. As explained to me informally by Mr. Clark, these ten lines were being
2 used by an internet service provider and that those lines were no longer necessary
3 now that customers are able to contact the internet service provider at its
4 Wheatland location on a toll-free basis.

5
6 **Q. SO FAR, YOUR TESTIMONY HAS PRIMARILY FOCUSED ON**
7 **WHETHER ANY OF THE ALTERNATIVE PROVIDERS IN THE**
8 **CHUGWATER AREA HAVE LOCAL EXCHANGE SERVICES**
9 **EQUIVALENT TO CHUGWATER'S SERVICES. WHAT ARE YOUR**
10 **THOUGHTS ABOUT THE COMPETITIVENESS OF SWITCHED**
11 **ACCESS?**

12 A. Frankly, Chugwater has nothing in its application that would support its
13 contention that switched access service is competitive. It provides no examples of
14 alternative providers of switched access service.

15
16 **Q. DOESN'T THE LOSS OF ACCESS MINUTES, AS DESCRIBED IN**
17 **CHUGWATER'S APPLICATION, PRESUME THAT AN ALTERNATIVE**
18 **PROVIDER HAS NOW TAKEN THOSE MINUTES?**

19 A. Not necessarily. I believe that in many cases, those minutes have simply been lost
20 due to the nature of the telecommunications business.

21
22 **Q. PLEASE EXPLAIN.**

23 A. Switched access is a specific service that is purchased by another telephone
24 company rather than by the end user. As described in Chugwater's Access Tariff
25 at Original Sheet 67:

26 Switched Access Service, which is available to customers for their
27 use in furnishing their services to end users, provides a
28 communications path between a customer's premises and an end
29 user's premises. It provides for the use of common terminating,
30 switching and trunking facilities and common subscriber plant of
31 the Telephone Company. Switched Access Service provides for
32 the ability to originate calls from an end user's premise to a
33 customer's premises, and to terminate calls from a customer's
34 premises to an end user's premises in the LATA where it is

1 provided. Specific references to material describing the elements
2 of Switched Access Service are provided in 6.2. [Emphasis
3 added.]
4

5 As is clearly shown in this passage, the Switched Access service is not a service
6 purchased by the end user of a telecommunications service. Rather it is purchased
7 by another telecommunications provider to allow it to provide its services to end
8 users.
9

10 So, the fact that a customer located in the Chugwater area can use a cellular
11 telephone to dial long distance without additional charges is not the same as that
12 cellular provider offering Switched Access Service. If I were a provider of long
13 distance telecommunications services, and I had my own switching equipment,
14 there is no other provider that I could go to in the Chugwater area (except
15 Chugwater Telephone) from whom I could order a service that would let me
16 originate or terminate the long distance calls that my customers wished to make to
17 or from the Chugwater area.
18

19 As a result, Switched Access Service remains as a non-competitive service for
20 Chugwater Telephone, since it is currently defined as such by W.S. § 37-15-
21 202(c). Nothing in this case should move that service from the non-competitive
22 to the competitive category.
23

24 **Q. HOW THEN, DO YOU EXPLAIN THE LOSS OF ACCESS MINUTES**
25 **BEING PAID TO CHUGWATER?**

26 A. The loss of access minutes is likely due to the increased use of cellular
27 telephones. Calls originated on cellular networks do not use the local network to
28 originate the call, and thus, do not need to use, or pay for, the use of the local
29 wireline network. Furthermore as the use of the internet increases as a substitute
30 for using the local telephone network, fewer access charges will be incurred by
31 alternative providers.
32

1 **Q. ALTHOUGH THERE WOULD BE A THEORETICAL BASIS FOR THE**
2 **LOSS OF ACCESS MINUTES BY CHUGWATER, IS THERE A**
3 **QUESTION OF WHETHER THE ACCESS MINUTES HAVE ACTUALLY**
4 **BEEN DROPPING IN RECENT YEARS?**

5 A. Yes. On page 3 of the application, Chugwater states: "Similar reductions,
6 although not as pronounced appear in the Company's interstate calling patterns."
7 Yet, information from the Federal and State Staff Universal Service Monitoring
8 Report shows that interstate access minutes are increasing for Chugwater. This
9 data is provided on Attachment DKP-16, and is summarized as follows:

10	1998	1,216,000
11	1999	1,468,000
12	2000	1,499,000
13	2001	1,732,000

14 This data shows that interstate access minutes continue to increase, rather than
15 decrease.

16

17 **Q. WHAT DO THE WYOMING STATUTES HAVE TO SAY ABOUT**
18 **SWITCHED ACCESS SERVICE?**

19 A. According to W.S. § 37-15-103(iv)(E), Switched Access is an essential
20 telecommunications service. As such, it should be an important consideration
21 when determining the comparability of services provided by other carriers.

22

23 **Q. FINALLY, DO YOU BELIEVE THAT THE STATEMENTS OF**
24 **CUSTOMERS FROM A PRIOR CHUGWATER CASE SHOULD FORM**
25 **THE BASIS FOR THE COMMISSION'S DECISION IN THIS**
26 **PROCEEDING?**

27 A. The opinions of customers are important to both the OCA and the Commission
28 when determining recommendations and decisions in cases. However, these
29 opinions alone should not form the basis for either the OCA's recommendations
30 or the Commission's decisions, since they may easily be taken out of context or

1 may be based on a less than complete set of facts. Thus, the Commission should
2 only consider them as one input in the decision making process.

3
4 **Q. GIVEN THAT YOU AGREE THAT THE COMMISSION SHOULD AT**
5 **LEAST CONSIDER CUSTOMER COMMENTS AS ONE INPUT INTO**
6 **ITS DECISION MAKING, DID YOU REVIEW THE COMMENTS FROM**
7 **THE MOST RECENT CHUGWATER TELEPHONE RATE CASE, IN**
8 **DOCKET NO. 70005-TA-02-16?**

9 A. Yes. I have not only reviewed the Commission's order where these comments are
10 summarized, but went back to the transcript to review the original comments.

11
12 **Q. WHAT DID MS. MARY COLEMERE HAVE TO SAY WHEN ASKED**
13 **ABOUT THE STATE OF COMPETITION IN CHUGWATER?**

14 A. The following exchange took place between Ms. Colemere and Commissioner
15 Furtney, starting at page 96 of the transcript from Docket No. 70005-TA-02-16:

16 Q. Ma'am, do you believe that there is effective competition in
17 the Chugwater local service territory?

18 A. No, I don't think there's competition.

19 Q. Do you find that your wireline service provided by
20 Chugwater Telephone to be forward-looking
21 telecommunications service? Do you think it meets your
22 telecommunications needs?

23 A. Other than the little quirks that it has of ringing the phone
24 and nobody being there. I don't have a cell phone. I was
25 happy with the service as it is, but I won't pay any more for
26 it.

27 Q. That was my next question. You say you do not have
28 wireless service?

29 A. No.

30 Q. Okay. Do you consider – right now do you consider
31 wireless service to be a substitute for wireline service?

32 A. No, I don't. I think it's more of a convenience if you're out
33 and about, but if you're at home – I know several people
34 that have both and it's – it's just more of a convenience for
35 the wireless if you're away from home.
36

1 **Q. WHAT WERE MR. DON WEDEMEYER'S COMMENTS RELATIVE TO**
2 **COMPETITION IN CHUGWATER?**

3 A. His statement begins at page 99 of the transcript in Docket No. 70005-TA-02-16:

4 I was going to talk about competition. Yes, I do believe there's
5 competition. I have a cell phone. I have two cell phones. One is
6 set up as a base unit. I make all my long distance calls on the cell
7 phone, because it's cheaper. I have free long distance minutes.
8 The other cell phone we take with us because it's convenient. I can
9 make calls whether I'm in Cheyenne or Wheatland, anywhere in
10 this corner of the state. Laramie, they're all free if I make long
11 distance calls or if I call from town to town.
12

13 So, while Mr. Wedemeyer believes that there is competition, he focuses on
14 competition in the toll market – not the local or access markets that are the subject
15 of this current proceeding.
16

17 **Q. WHAT DID MR. DAN KIRKBRIDE HAVE TO SAY ABOUT**
18 **COMPETITION WHEN ASKED IN THE MOST RECENT RATE CASE?**

19 A. A conversation took place between Mr. Biedermann (of the Commission's staff)
20 and Mr. Kirkbride at page 105 of the earlier referenced transcript:

21 Q. Okay. Do you have wireless?

22 A. We do have wireless. I'd also have something that hasn't
23 been mentioned yet, one of your biggest competitors here is
24 Sam's phone card. It isn't the wireless. You may have
25 those, and obviously a lot of people do, and use those, but
26 lot of people use phone cards. That certainly, I think is a
27 factor if revenues decline.
28

29 So, this conversation again focused on toll competition – not local or switched
30 access competition.
31

32 When further asked by Commissioner Furtney about the state of effective
33 competition, Mr. Kirkbride responded, in part, at page 106:

34 ...but I'm not sure – in answer to your question, I'm not sure I
35 understand all the technical aspects of the – of the regulations
36 you're debating tonight to give you a very good answer on that.
37

1 **Q. WHAT WERE MS. LINDA ANDERSON'S COMMENTS ON THE**
2 **SUBJECT OF COMPETITION IN CHUGWATER?**

3 A. Ms. Anderson's comments begin at page 108 of the transcript, and are excerpted
4 below:

5 I do think there's plenty of competition through the cell phones.
6 My husband and I have a cell phone. He keeps it and – because
7 he's – he works in Cheyenne, he's on the road a lot and he uses it
8 because he can call me without going long distance, but he calls
9 me on our – our Chugwater Telephone. So he's on wireless and
10 I'm on the phone at the house, so it's – it's kind of a combination,
11 but it really, you know, every – most people do have wireless or –
12 and people will go with wireless. I – at \$38 a month or \$32 a
13 month, I certainly would be tempted to switch over to wireless, and
14 so I do consider that competition.

15
16 I also consider the satellite Internet service competition. I do have
17 satellite Internet service, and I – you know, that's very – that's
18 very much a competitor of telephone Internet service. . .
19

20 **Q. DID MR. JOHN BAKER ALSO COMMENT ON THE STATE OF**
21 **COMPETITION IN CHUGWATER?**

22 A. Yes. On page 116 of the transcript referenced above, he states:

23 Cell phones are great. I don't think they're ever going to take the
24 place of our land line. I just hate to see that happen. And I don't
25 mean to step on any toes, but I guess that's my personal feeling,
26 from what I've seen tonight.
27

28 As a follow-up to his statement, the following exchange took place between Mr.
29 Biedermann and Mr. Baker:

30 Q. I just want to find out what you currently have. Do you
31 currently have a cell phone?

32 A. Yes, we have a cell phone. We don't use it very much. It's
33 mainly an emergency tool.

34 Q. Okay.

35 A. Your next question's going to be what we do for a long
36 distance. We use phone card mainly.
37

38

39

1 **Q. WHAT WERE MR. PHILLIP ELLIS' COMMENTS REGARDING**
2 **COMPETITION?**

3 A. His conversation with Commissioner Furtney is found on page 126 of the same
4 transcript I have been referencing:

5 Q. Good evening, Mr. Ellis. Some of the same questions. Are
6 you satisfied with the level of competition in the
7 Chugwater service territory and would you be comfortable
8 with the Commission reg – relinquishes regulatory
9 oversight over prices?

10 A. Yes, the wireless would be an alternative if the prices were
11 out of line.
12

13 **Q. DO YOU BELIEVE THE CUSTOMER COMMENTS SHOW A**
14 **CONSENSUS OF OPINION WHEN IT COMES TO COMPETITION IN**
15 **CHUGWATER?**

16 A. No. It is also important to note that several times, customers were discussing toll
17 competition rather than local competition. And, in one case, the discussion
18 focused on internet competition, rather than local or switched access competition.
19

20 **Q. WHY IS IT IMPORTANT THAT THE COMMISSION NOT**
21 **PREMATURELY GRANT CHUGWATER COMPETITIVE STATUS?**

22 A. It is important not to impose regulation upon a competitive market. It is equally
23 important not to abandon the regulation of a market that is not yet competitive.
24 To do so would create a risk that the prices being charged are, or would become,
25 inappropriate – whether too low or too high. Prices too low could keep
26 competition from ever being able to enter a market. Charging prices too high
27 would allow a company to earn unreasonable levels of profit at the expense of
28 customers (whether those customers are local customers or switched access
29 customers). Allowing a monopoly company to be unregulated would also allow
30 for the reintroduction of cross-subsidies among services, something that the
31 Commission and legislature have been working for many years to eliminate. It
32 would generally be a situation that is unhealthy for the market environment and
33 for the overall body of customers.

1 **Q. WOULD CHUGWATER BE FREE TO PRICES ITS LOCAL SERVICES**
2 **AT ANY LEVEL IT WISHED, IF IT WERE FOUND TO BE**
3 **COMPETITIVE BUT ITS SWITCHED ACCESS SERVICE REMAINED A**
4 **NONCOMPETITIVE SERVICE?**

5 A. No. Pursuant to W.S. § 37-15-402(a), as long as a company has services that are
6 noncompetitive, each of the company's services still must recover the total service
7 long-run incremental cost of providing that service. Thus, if the local service
8 were deemed to be competitive, but access was not, Chugwater could not price
9 the local service below its total service long-run incremental cost. According to
10 the facts of the last case, it would not then be able to reduce the price of its local
11 service much, if at all.

12 **Q. DOES THIS COMPLETE YOUR DIRECT, PREFILED TESTIMONY?**

13 A. Yes, it does.