

BEFORE THE WYOMING PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE PETITION OF WWC)
HOLDING CO., INC., D/B/A CELLULARONE®)
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN)
AREAS SERVED BY QWEST CORPORATION)

Docket No. 70042-AT-04-4
Record No. 8961

IN THE MATTER OF THE APPLICATION)
OF WWC HOLDING CO., INC., D/B/A)
CELLULARONE® PETITION FOR)
DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER IN)
CLARK; BASIN; FRANNIE; GREYBULL;)
LOVELL; MEETEETSE; BURLINGTON;)
HYATTVILLE; AND TENSLEEP)

Docket No. 70042-AT-04-5
Record No. 9256

SUPPLEMENTAL DIRECT TESTIMONY

OF

DENISE KAY PARRISH

ON BEHALF OF

THE OFFICE OF CONSUMER ADVOCATE

Filed: March 28, 2005
Hearing: March 29, 2005

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

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

4
5 **Q. ARE YOU THE SAME DENISE PARRISH WHO SUBMITTED**
6 **TESTIMONY IN THIS PROCEEDING ON FEBRUARY 28, 2005?**

7 A. Yes. I am. At that time, on page 38 of my testimony, I noted that there was a
8 flurry of federal activity underway relative to federal universal service fund rules
9 and standards. Thus, the OCA sought to “reserve the right to supplement our
10 evidence presented to the Commission.” Since the filing of my direct testimony,
11 the Federal Communications Commission (FCC) has issued its *Report and Order*¹
12 addressing the minimum requirements for a telecommunications carrier to be
13 designated as an eligible telecommunications carrier (ETC).

14
15 While I understand that the Commission has ruled that this order does not
16 establish strict rules that must be adhered to in this proceeding, there are certain
17 clarifications and examples described and discussed in the order that are relevant
18 to the issues and concerns raised by the Office of Consumer Advocate (OCA).
19 Furthermore, the Commission should consider using some of the suggestions in
20 the *Report and Order* as decisions are made to interpret the existing federal
21 statutes and rules. The Commission has some discretion in determining whether or
22 not certain requirements have been met, and the latest discussion by the FCC
23 provides more examples for the Commission to consider as it looks at Western
24 Wireless’ bare bones interpretation of those requirements. Below, I point to some
25 specific concerns raised by the OCA, and provide some of the FCC’s (as well as
26 the Joint Board’s) suggestions for analyzing and addressing these concerns.

27

¹ *Report and Order*, released March 17, 2005, CC Docket No. 96-45. The Report and Order adopts mandatory requirements for ETC designation proceedings in which the FCC acts as the entity with jurisdiction to grant or deny the ETC designation. The Report and Order also encourages states that exercise jurisdiction over ETC designations to adopt these requirements when “deciding whether a common carrier should be designated as an ETC.”

1 **Q. WHAT WOULD YOU LIKE TO ADD TO YOUR EARLIER DISCUSSION**
2 **REGARDING THE ESTABLISHMENT OF LOCAL SERVICE USAGE AS**
3 **PART OF THE REQUIRED ETC SERVICES?**

4 A. In my earlier prefiled testimony, at page 7, I stated, “The Commission may wish
5 to consider defining the local usage standard to be included in the supported
6 services if it decides to grant Western Wireless ETC status in this case.” In its
7 March 17, 2005 *Report and Order*, the FCC reiterates that a local usage
8 requirement is a condition of receiving ETC designation.² It also reaffirmed its
9 earlier decisions holding that a specific local usage threshold should not be
10 adopted. It continues by clarifying that states should look at this case-by-case,
11 examining the comparability of the ETC’s local usage plan to that offered by the
12 incumbent provider in the area in which ETC designation is being sought. In each
13 of the areas in Wyoming for which Western Wireless seeks to be (or is already
14 designated as) an ETC, the incumbent offers unlimited local calling for a flat fee
15 to its customers (with Qwest customers having the option of a local measured
16 service plan). Offering free unlimited calling is also consistent with Wyoming
17 laws and the Commission’s rules which require wireless providers who wish to be
18 designated as ETCs for purposes of drawing from the Wyoming state fund to
19 provide unlimited local calling.³

20
21 The FCC does not stop at suggesting that only carriers who offer the local calling
22 directly comparable to that provided by the incumbent should qualify for ETC
23 status. Instead, the FCC suggests case-by-case analysis to review the calling
24 scopes of the providers, the specified number of free minutes of service within the
25 local service area, the ability to contact governmental and social agencies, and the
26 bundling of local and long distance minutes.

27

² Report and Order, starting at paragraph 32.

³ Section 500(q) of the Commission’s Procedural Rules and Special Regulations, “For purposes of this rule, the Commission establishes that the amount of minutes of use of exchange service provided free of charge to end users, as part of the supported wireless service, shall be unlimited.”

1 Very limited detailed information is available in this docket by which the
2 Commission could, and should, make such an analysis. For instance, for the
3 second quarter of 2005, Western Wireless has reported its actual ETC-eligible line
4 counts in Wyoming (for its existing eligible areas) to be 9,491 for rural areas and
5 nearly 47,000 for Qwest's area.⁴ Yet, not a single one of these customers has the
6 Basic Universal Service offering – an offering that does have a defined area for
7 unlimited local calling. There is no information as to the amount of local usage
8 offered with each of these reported lines. There is no information as to whether
9 the lines Western Wireless wishes to serve in the expanded areas (or lines that are
10 already being served but not yet supported with federal funds) will have any local
11 usage included, or how much.

12

13 If the Commission does obtain this type of data during the course of this
14 proceeding, it should seek input from the parties as to their view of the
15 comparability of the various plans and offerings to the plans of the incumbents.

16

17 **Q. DO YOU ALSO WISH TO BRIEFLY SUPPLEMENT YOUR EARLIER**
18 **DISCUSSION ABOUT ADVERTISING?**

19 A. Yes. On page 8 of my earlier prefiled testimony, I stated, "Once again, the FCC
20 has left much discretion with the states on the advertising issue." In its March 17,
21 2005 Report and Order, at paragraph 17, the FCC reiterates the current
22 requirements regarding advertising, "The ETC must also advertise the supported
23 services and the associated charges throughout the service area for which
24 designation is received, using media of general distribution." There has been no
25 change from earlier decisions that leave the establishment of advertising
26 guidelines to the states.

27

28

29

⁴ Based on information from the 2Q2005 Appendices submitted by the Universal Service Administrative Company to the FCC.

1 However, in recounting the current status of advertising requirements –
2 requirements that were not modified with the newly issued Report and Order – the
3 FCC describes its specific requirement regarding advertising of Lifeline and Link
4 Up: “In addition, an ETC must advertise the availability of Lifeline and Link Up
5 services in a manner reasonably designated to reach those likely to qualify for
6 those services.” There are several advertising examples cited in my earlier
7 testimony, from the *Virginia Cellular* and *Highland Cellular* cases, that continue
8 to be valid considerations for the Commission to incorporate in its analysis of
9 whether Western Wireless has met the advertising requirements in this case.
10 There is virtually no indication in its application or written testimony as to how
11 Western Wireless specifically intends to advertise its Lifeline and Link Up service
12 offerings in the areas where Western Wireless seeks ETC status in this
13 proceeding.
14

15 **Q. DO YOU HAVE NEW INFORMATION TO PROVIDE TO THE**
16 **COMMISSION RELATIVE TO AN ETC’S REQUIREMENT TO OFFER**
17 **THE SUPPORTED SERVICES?**

18 A. Yes. For the ETC cases over which the FCC takes jurisdiction, the case-by-case
19 agreements that were key provisions in the *Virginia Cellular* and *Highland*
20 *Cellular* cases have now become a requirement, as described at paragraph 22 of
21 the *Report and Order*:

22 ...Therefore, consistent with these orders, we require that an ETC
23 applicant make specific commitments to provide service to
24 requesting customers in the service areas for which it is designated
25 as an ETC. If the ETC’s network already passes or covers the
26 potential customer’s premises, the ETC should provide service
27 immediately. In those instances where a request comes from a
28 potential customer within the applicant’s licensed service area but
29 outside its existing network coverage, the ETC applicant should
30 provide service within a reasonable period of time if service can be
31 provided at reasonable cost by: (1) modifying or replacing the
32 requesting customer’s equipment; (2) deploying a roof-mounted
33 antenna or other equipment; (3) adjusting the nearest cell tower;
34 (4) adjusting network or customer facilities; (5) reselling services
35 from another carrier’s facilities to provide service; or (6)
36 employing leasing, or constructing an additional cell site, cell

1 extender, repeater, or other similar equipment. We believe that
2 these requirements will ensure that an ETC applicant is committed
3 to serving customers within the entire area for which it is
4 designated. If an ETC application determines that it cannot serve
5 the customer using one or more of these methods, then the ETC
6 must report the unfulfilled request to the Commission within 30
7 days after making such determination. [Footnotes omitted.]
8

9 This section of the FCC's Report and Order continues, at paragraph 23:

10
11 Second, we require an applicant seeking ETC designation from the
12 Commission to submit a formal plan detailing how it will use
13 universal service support to improve service within the service area
14 for which it seeks designation. Specifically, we require that an
15 ETC applicant submit a five-year plan describing with specificity
16 its proposed improvements or upgrades to the applicant's network
17 on a wire center-by-wire center basis throughout its designated
18 service area. The five-year plan must demonstrate in detail how
19 high-cost support will be used for service improvements that
20 would not occur absent receipt of such support...Furthermore, as
21 discussed *infra*, in connection with its annual reporting obligations,
22 an ETC applicant must submit coverage maps detailing the amount
23 of high-cost support received for the past year, how these monies
24 were used to improve its network, and specifically where signal
25 strength, coverage, or capacity has been improved in each wire
26 center in each service area for which funding was received. In
27 addition, an ETC applicant must submit on an annual basis a
28 detailed explanation regarding why any targets established in its
29 five-year improvement plan have not been met. [Footnotes
30 omitted.]
31

32 These are not newly minted mandatory requirements for ETCs subject to
33 Wyoming jurisdiction. As always, the states may – and are encouraged to –
34 consider adoption of these or similar requirements to determine the seriousness of
35 the commitment of a carrier to the universal service process. The OCA
36 encourages the Commission to adopt these or similar reporting requirements for
37 Western Wireless.
38

39 **Q. WOULD THE COMMISSION BE OVERSTEPPING ITS AUTHORITY TO**
40 **ESTABLISH THE TYPE OF REPORTING REQUIREMENTS AND**
41 **MANDATORY IMPROVEMENT PLANS DESCRIBED ABOVE?**

1 A. No. These requirements are simply a way of specifically implementing the
2 authority currently given the Commission. This authority is to assure that the
3 supported services will be offered throughout the designated service area, and that
4 funds are used only for their intended purposes. These suggestions relate to
5 implementing the long-existing standards, not creating new laws, rules, or
6 regulations.

7

8 **Q. ALONG THIS SAME LINE OF IMPLEMENTING OVERARCHING,**
9 **NON-SPECIFIC STANDARDS, HAS THE FCC MANDATED THAT AN**
10 **ETC DEMONSTRATE ITS ABILITY TO REMAIN FUNCTIONAL IN**
11 **EMERGENCY SITUATIONS?**

12 A. Yes, for ETCs that are subject to the FCC’s jurisdiction rather than state
13 jurisdiction. But, as with some of the FCC’s other requirements discussed above,
14 there is no prohibition that would prevent Wyoming incorporating similar
15 requirements for ETCs in order to assure that there is a true commitment to
16 provide quality service to customers.

17

18 As to the requirement to remain functional in emergency situations, the FCC is
19 requiring ETC applicants to “demonstrate it has a reasonable amount of back-up
20 power to ensure functionality without an external power source, is able to reroute
21 traffic around damaged facilities, and is capable of managing traffic spikes
22 resulting from emergency situations.”⁵

23

24 The OCA encourages the Commission to exercise its existing discretion to
25 examine and analyze this issue of functionality during emergency situations prior
26 to granting Western Wireless expanded ETC status. We also encourage that the
27 analysis be performed on a region-by-region, exchange-by-exchange, or other
28 geographically deaveraged basis to assure that customers in all areas have similar
29 quality assurances.

30

⁵ Report and Order, paragraph 25.

1 **Q. DO YOU DESIRE TO SUPPLEMENT YOUR DISCUSSION OF THE**
2 **PUBLIC INTEREST AND ITS ROLE IN THIS PROCEEDING?**

3 A. Yes. In my earlier-filed direct testimony, I noted that there was some dispute as
4 to the applicability of a public interest test for ETCs wishing to serve non-rural
5 areas. I also suggested that the Commission could sidestep this issue by simply
6 assuming that the public interest was met if each of the other requirements
7 mandatory for the non-rural areas were met. While this is clearly still a
8 reasonable option for the Commission, it is not the only reasonable position it
9 could take on the public interest issue.

10
11 In its March 17, 2005 Report and Order, the FCC states, at paragraph 40,

12 Under section 214 of the Act, the Commission and state
13 commissions must determine that an ETC designation is consistent
14 with the public interest, convenience and necessity. The
15 Commission must also consider whether an ETC designation
16 serves the public interest consistent with Section 254 of the
17 Act...Beyond the principles detailed in the Act, the Commission
18 and state commissions have used additional factors to analyze
19 whether the designation of an additional ETC is in the public
20 interest. [Footnotes omitted.]

21
22 There are then given a number of examples of ways to analyze the public interest.
23 These include:

- 24 ○ Consideration of: the availability of new choices for customers,
25 affordability, quality of service, service to unserved customers,
26 comparison of benefits to public cost, and considerations of material harm
27 (examples associated with reviews by the Alaska Commission),
- 28 ○ Consideration of the benefits of increased consumer choice,⁶
- 29 ○ The benefits of mobility that wireless carriers provide in geographically
30 isolated areas, the possibility that an ETC designation will allow
31 customers to be subject to fewer toll charges, and the potential for
32 customers to obtain services comparable to those provided in urban areas
33 (such as premium services like voice mail, etc.).

⁶The Report and Order specifically notes, however, at paragraph 44 that “the value of increased competition, by itself, is unlikely to satisfy the public interest test.”

- 1 ○ The disadvantages of dropped call rates and poor coverage, and
- 2 ○ Potential harm from cream skimming that might be appear from an
- 3 analysis of those service areas that the ETC seeks to service, and those
- 4 areas for which no ETC designation is sought.

5

6 Whichever sets of tests the Commission chooses to use for determining that the

7 granting of the expanded ETC is in the public interest, the criteria must be much

8 more than simply a statement from the carrier that it plans to do whatever is

9 required. There must be a positive showing of good faith by the applicant carrier,

10 and there must be consequences for not carrying through with their initial

11 commitments. The ultimate consequence of failure to meet these commitments

12 should be revocation of the ETC designation.

13

14 **Q. IS THERE ONE ADDITIONAL AREA OF YOUR INITIAL TESTIMONY**

15 **THAT YOU WISH TO SUPPLEMENT?**

16 A. Yes. On pages 36 and 37 of my initial direct testimony, I discuss the annual

17 process whereby the Commission certifies that the federal universal service funds

18 are being used only for “the provision, maintenance, and upgrading of facilities

19 and services for which the support is intended.” In its Report and Order, the FCC

20 maintains this requirement, but augments it. ETCs over which the FCC has

21 jurisdiction will now be required to annually submit information about its network

22 and its use of universal service funds. Again, the states are encouraged, but not

23 required, to follow a similar course regarding the filing of information by ETCs.

24

25 The FCC’s new annual reporting requirements will include:

- 26 ○ Progress reports on the ETC’s five-year service quality
- 27 improvement plan, including: maps; how federal support was used
- 28 to improve signal quality, coverage or capacity; and an explanation
- 29 of network targets that have not been met – all to be submitted at
- 30 the wire center level.

- 1 ○ Detailed information on any outage lasting at least 30 minutes, for
2 any service area in which the ETC is designated for any facilities it
3 owns, operates, leases, or otherwise utilizes that potentially affect
4 at least ten percent of the end users service in a designated area, or
5 that potentially affect a 911 special facility.
- 6 ○ The number of requests for service that were unfilled and how the
7 ETC will attempt to provide service to the requesting customer(s).
- 8 ○ The number of complains per 1,000 handsets or lines.
- 9 ○ Certification that the ETC is complying with the CTIA Consumer
10 Code for Wireless Service;
- 11 ○ Certification that the ETC is able to function in emergency
12 situations.
- 13 ○ Certification that the ETC is offering a local usage plan
14 comparable to that offered by the incumbent LEC in the relevant
15 service areas.
- 16 ○ Certification that the carrier acknowledges that the Commission
17 may require it to provide equal access to long distance carriers in
18 the event that no other eligible telecommunications carrier is
19 providing equal access within the service area.

20

21 The Wyoming Commission should consider whether any or all of these items
22 would allow it to provide a more confident annual certification regarding the use
23 of the federal funds, and should consider whether reports on any or all of these
24 items would allow for more assurance that the public interest is being meet.

25

26 Finally, the Commission should remember, when deciding whether these
27 reporting requirements might be too burdensome and onerous, that Western
28 Wireless will be required to file these reports with the FCC for its ETC areas that

1 are already designated in Wyoming⁷. Since there will already be a process
2 established for Western Wireless to collect and report this data for certain of its
3 areas, it is difficult to imagine how difficult it would be to also maintain the data
4 for the expanded area.

5

6 **Q. DOES THIS COMPLETE YOUR SUPPLEMENTAL WRITTEN DIRECT**
7 **TESTIMONY?**

8 A. Yes.

9

⁷ As noted in paragraph 68 of the Report and Order, "...we require each ETC over which we have jurisdiction, including an ETC designated by the Commission prior to this Report and Order, to submit annually certain information regarding its network and its use of universal service funds."

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2005, I served the foregoing Supplemental Direct Testimony of Denise K. Parrish on each individual or entity below by electronic mail or hand-delivery.

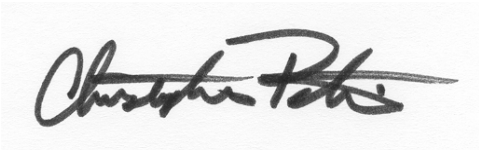
Liz Zerga
Jubin & Zerga LLC
2614 Pioneer Avenue
Cheyenne, WY 82001

Michael Rosenthal
Hathaway & Kunz, P.C.
2515 Warren Avenue, Suite 500
Cheyenne, WY 82001

Bruce Asay
Associated Legal Group, LLC
1807 Capitol Avenue, Suite 203
Cheyenne, WY 82001

Paul Hickey
Hickey and Mackey
1800 Carey Avenue, Suite 700
Cheyenne, WY 82001

Roger Fransen
Hickey and Mackey
1800 Carey Avenue, Suite 700
Cheyenne, WY 82001



Christopher Petrie, OCA Counsel
Office of Consumer Advocate,
2515 Warren Avenue, Suite 304
Cheyenne, WY 82002
(307) 777-5763

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