

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE FUNDING)
REQUIREMENT AND PROPOSED)
ASSESSMENT FACTOR FOR THE)
7/03-6/04 FISCAL YEAR OF THE)
WYOMING UNIVERSAL SERVICE)
FUND)

DOCKET NO. 90072-XO-03-22
(Record No. 8269)

IN THE MATTER OF THE)
COMMISSION'S INVESTIGATION, ON)
ITS OWN MOTION, INTO THE)
CALCULATION OF THE STATEWIDE)
AVERAGE LOCAL EXCHANGE)
SERVICE RATE AND ASSOCIATED)
SUPPORT BENCHMARK FOR THE)
2003-2004 FISCAL YEAR OF THE)
WYOMING UNIVERSAL SERVICE)
FUND)

DOCKET NO. 90072-XI-03-23
(Record No. 8419)

PREFILED DIRECT TESTIMONY

OF

DENISE KAY PARRISH

ON BEHALF OF

THE WYOMING OFFICE OF CONSUMER ADVOCATE

DATE FILED: OCTOBER 7, 2003

HEARING DATE: OCTOBER 13, 2003

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, Suite
3 304, Cheyenne, Wyoming 82002.

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

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

17
18 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND?**

19 A. In 1976, I graduated from Michigan State University with a degree in Accounting. I have
20 spent more than twenty-six years as a regulator of public utilities, having worked for four
21 state regulatory agencies and two consumer advocate groups. Nearly twelve of these
22 years have been spent at the Wyoming Public Service Commission. I have taken classes
23 related to various aspects of public utility regulation, including income taxes, regulatory
24 accounting, capital recovery, cost-of-service, rate design, revenue requirements,
25 separations and allocations, and other specialized topics. I have taught training classes on
26 issues of accounting standards, general ratemaking principles, affiliate transactions,
27 regulatory accounting, financial reporting, and other specialized topics, and for the past
28 two years have been a member of the faculty of the Michigan State University Institute of
29 Public Utilities (Camp NARUC). I am the past chair and current member of the National
30 Association of Regulatory Utility Commissioners' Staff Subcommittee on Accounting

1 and Finance. I am a member of the International WHO'S WHO of Professional
2 Management.

3
4 **Q. DO YOU HAVE EXPERIENCE AS AN EXPERT WITNESS?**

5 A. Yes. I have testified more than one hundred twenty-five (125) times as an expert witness.
6 I have testified before the Michigan Public Service Commission, the Colorado Public
7 Utilities Commission, the Colorado District Court, the Arizona Corporations
8 Commission, the Wyoming Public Service Commission, and the Wyoming Legislature
9 Joint Corporations Committee. I have testified in telecommunications, water,
10 wastewater, electric, and natural gas cases. The subjects upon which I testified include
11 revenue requirements, rate design, cost-of-capital, nuclear decommissioning, accounting
12 deferrals, income taxes, capital recovery, universal service funding, and other specialized
13 topics.

14
15 **Q. WHO DO YOU REPRESENT IN THIS PROCEEDING?**

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

20
21 **Q. WHAT COURSE OF ACTION IS AVAILABLE TO INDIVIDUAL CONSUMERS
22 OR OTHER INTERESTED PARTIES IF THEY WISH TO PURSUE ISSUES
23 NOT ADDRESSED BY THE OFFICE OF CONSUMER ADVOCATE, OR TAKE
24 A DIFFERENT POSITION FROM THE OFFICE OF CONSUMER ADVOCATE?**

25 A. Consumers and other parties may intervene in the proceeding and raise additional issues
26 not addressed by the Office of Consumer Advocate, and may take different positions than
27 those presented by the OCA. Consumers may also present written or oral comments at
28 the hearing, which then become part of the record in the case and are available to the
29 Commission as it makes its decision on any particular proposal or suggested change. The
30 OCA encourages the participation of the public and all interested parties in cases before
31 the Commission.

1 Q. ARE YOU ATTACHING ANY SEPARATE SCHEDULES OR EXHIBITS TO
2 YOUR PRE-FILED TESTIMONY IN THIS PROCEEDING?

3 A. No.

4
5 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

6 A. The purpose of my testimony is to present some thoughts, concerns, and
7 recommendations to the Wyoming Public Service Commission (“Commission”) about
8 the computation of the statewide average rate and associated support for the 2003-2004
9 fiscal year of the Wyoming universal service fund (“WUSF”).

10

11 Q. PLEASE PROVIDE SOME BACKGROUND FOR THE ISSUES BEING
12 PRESENTED IN THIS PROCEEDING.

13 A. To fully understand the concerns in this case, one should start by looking at the
14 legislation that underlies the rules that contain the formula for computing the weighted
15 statewide average rate. W.S. § 37-15-501 contains the provisions that are important to
16 understand as the Commission determines the appropriateness of the weighted statewide
17 average rate computation. Specifically, W.S. § 37-15-501 (c) and (d) state:

18 (c) The commission shall administer the monies in the universal service
19 fund to assist only those customers of telecommunications companies
20 located in areas of this state with relatively high rates for essential
21 services. The commission, after notice and opportunity for hearing, shall
22 determine a reasonable amount and a fair method of distributing monies.
23 The commission may authorize a credit to customer bills, in the amount
24 specified by the commission, to reflect distributions received by the local
25 exchange company from the universal service fund. The commission
26 shall ensure that the method shall promote the emergence of
27 competition in providing local exchange services. [Emphasis added.]

28

29 (d) In accordance with the method of distribution determined by the
30 commission, a telecommunications company shall receive funds under this
31 section to the extent that its local exchange rates, after consideration
32 of any contributions from the federal universal service fund, exceed
33 one hundred thirty percent (130%) of the weighted statewide average local
34 exchange rates. [Emphasis added.]

35

36 Several key items come from W.S. § 37-15-501. These are:

1 ? The collection and distribution of funds (pursuant to W.S. 37-15-501(b))
2 are to be accomplished in a way consistent with the goals of:

3 ? ensuring that essential telecommunications services are universally
4 available to the citizens of Wyoming;

5 ? encouraging the development of new infrastructure, facilities,
6 products and services;

7 ? transitioning from monopolistic, rate-of-return regulation to
8 competitive markets; and

9 ? maintaining affordable essential telecommunications services
10 through the transition from monopolistic to competitive markets.

11 ? The goal of the universal service fund is to assist **only** those *customers* of
12 telecommunications companies located in areas of Wyoming with
13 relatively high rates for essential services.

14 ? The method of distributing Wyoming universal service funds shall be done
15 in a manner that promotes the emergence of competition in providing local
16 exchange service.

17 ? The receipt of federal universal service funds are to be an integral part of
18 the computation of the local exchange rate when determining when and if
19 that local exchange customer is eligible to receive Wyoming universal
20 service funds.

21
22 **Q. PLEASE EXPAND ON THE IMPORTANCE OF YOUR KEY POINTS.**

23 A. It is important for the Commission to keep these key points in mind as it reads and
24 interprets its rules in this proceeding. If there is more than one way of looking at the
25 language contained in the rules, the Commission should always return to the
26 interpretation most consistent with the statutory points summarized above.

27
28 For example, one of the issues before the Commission is the matter of whether and how
29 federal universal service fund (“FUSF”) receipts enter into the determination of rates that
30 are used in computing the statewide average rate. The OCA takes the position that
31 pursuant to the statute, the receipt of federal funds must be part of the computation when

1 determining the proper statewide average rate. This is the most reasonable position to
2 take given that the statute explicitly states that, “. . . to the extent that its local exchange
3 rates, after consideration of any contributions from the federal universal service fund,
4 exceed . . .”

5
6 Again, we urge the Commission, anytime interpretation of its rules is necessary or in
7 doubt, to return to the clear language of the statute.
8

9 **Q. WHICH OF THE COMMISSION’S RULES WOULD YOU LIKE TO**
10 **SPECIFICALLY EMPHASIZE AS IMPORTANT TO THE RESOLUTION OF**
11 **THE PROPER COMPUTATIONS IN THIS PROCEEDING?**

12 A. The primary questions regarding the computational issues in this case seem to relate to
13 the treatment of the incremental federal universal service fund receipts and the overall
14 computation of the statewide average local service rate. Thus, I direct the Commission’s
15 attention to the following portions of its Procedural Rules and Special Regulations:
16

17 Section 500(g). The statewide weighted average local service rate shall be
18 computed by multiplying the number of residential and business access
19 lines, as contained in the definition of essential services found in W.S. §
20 37-15-103(a)(iv), plus the number of subscribers taking service that meets
21 the criteria of W.S. § 37-15-502 (supported wireless service), by the rate
22 applicable to each line or subscriber, with the product of this computation
23 divided by the total number of access lines, as contained in the definition
24 of essential services found in W.S. § 37-15-103(a)(iv), plus the total
25 number of subscribers taking supported wireless service. ***The rate to be***
26 ***used in the computation shall include all standard charges associated***
27 ***with each telecommunication company’s local service*** or each wireless
28 company’s supported wireless service . . . [Emphasis added.]
29

30
31 Section 500(h). Each telecommunications company shall report its rates
32 separately for each distinct geographic area, zone or mileage grouping, or
33 other distinct customer grouping that is applicable because of differences
34 in customer rates. ***Wyoming Universal Service Fund support payments***
35 ***shall be distributed on the difference between the rate, as calculated in***
36 ***paragraph (g) of this rule, and the 130% benchmark as indicated in***
37 ***paragraph (p) following***, except that the support for a supported wireless
38 service will not exceed the amount of per line support that would have

1 been offered to a wireline telecommunications customer in the geographic
2 service area in which the wireless service is offered. [Emphasis added.]
3
4

5 Section 500(j). Each company's incremental amount of Federal Universal
6 Service Fund receipts resulting *from changes in the company's high cost*
7 *loop fund support shall also be credited, monthly, to the bills of*
8 *customers on a per line basis. The amount of the credit for each of the*
9 *customers shall be computed, and authorized by the Commission,* in a
10 manner consistent with federal receipt of such funds. The total amount of
11 this credit shall equal the difference between the amount of Federal
12 Universal Service Funds received in the most recent calendar year *and the*
13 *amount of Federal Universal Service funds most recently used in the*
14 *computation of rates.* [Emphasis added.]
15
16

17 Section 500(p). Distributions from the fund shall be made monthly,
18 beginning October 1, 1998. Pursuant to W.S. § 37-15-501(d) and W.S. §
19 37-15-502, and **consistent with the Commission's administration of the**
20 **fund as specified in these rules, telecommunications companies shall**
21 **receive funds to the extent that their local exchange rates or supported**
22 **wireless services price(s), after consideration of any contributions from**
23 **the Federal Universal Service Fund, exceed on hundred thirty percent**
24 **(130%) of the weighted statewide average local service rates.**
25 [Emphasis added.]
26

27 As I will explain in more detail below, it is clear that a plain reading of all of these rules
28 together leads to the conclusion that federal universal service fund receipts must be
29 included as part of the local exchange company's rate when computing the statewide
30 average rate.
31

32 **Q. EARLIER IN YOUR TESTIMONY, YOU INDICATED THAT THE PRIMARY**
33 **COMPUTATIONAL QUESTIONS FACING THE COMMISSION AT THIS TIME**
34 **RELATE TO THE TREATMENT OF THE INCREMENTAL FEDERAL**
35 **UNIVERSAL SERVICE FUND RECEIPTS AND THE OVERALL**
36 **COMPUTATION OF THE STATEWIDE AVERAGE LOCAL SERVICE RATE.**
37 **PLEASE EXPLAIN WHY YOU BELIEVE THESE ARE PRIMARY**
38 **COMPUTATIONAL ISSUES IN THIS PROCEEDING.**

1 A. There are two primary pieces of information necessary to compute the statewide average
2 rate, which then drives the support threshold and the distribution of the Wyoming
3 universal service funds: rates and line (or subscriber, for wireless) counts. Line counts
4 are reported by the companies, are a fixed amount as of a specified date, and to the best
5 of my knowledge, are non-controversial in this proceeding. The rates, on the other hand,
6 are not so clear cut, given recent changes to the Commission's rules, and the various
7 charges and credits that may or may not be considered to be included as part of a
8 company's rate.

9
10 The statewide average rate is derived by summing the product of the rates multiplied by
11 the lines, and dividing by the total number of lines. This is represented with the
12 following formula:

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$$\frac{((\text{rate A} \times \text{number of rate A lines}) + (\text{rate B} \times \text{number of rate B lines}) + \dots)}{\text{total number of lines}} =$$

15
$$\text{statewide weighted average rate}$$

16
17 This statewide weighted average rate is then multiplied by 130 percent, to derive the
18 threshold level for support from the Wyoming universal service fund. Rates above this
19 level receive support; rates equal to or below this level do not. Thus, the rate levels are
20 key to the computation and distribution of Wyoming universal service funds.

21
22 Additionally, local exchange providers are questioning the appropriateness of the
23 statewide average. As summarized in the Commission's September 3, 2003 Procedural
24 Notice and Setting Hearing, "In their objection, Chugwater and Union stated, *inter alia*,
25 that the increase in the statewide average was unjustified, unaffordable, and contrary to
26 the USF principles established in section 254(b) of the 1996 Telecommunications Act."

27
28 **Q. PLEASE PROVIDE SOME NUMERIC EXAMPLES THAT SHOW WHY IT IS**
29 **REASONABLE, AND VERY IMPORTANT, THAT THE STATEWIDE**
30 **AVERAGE TAKE INTO ACCOUNT THE INCREMENTAL FEDERAL**
31 **UNIVERSAL SERVICE FUNDS.**

1 A. While the OCA advocates that there is only one reasonable and statutorily consistent
 2 interpretation of the Commission's rules, we admit that it is possible to interpret the
 3 Commission's rules in multiple ways. Below, I provide four simplified examples of the
 4 statewide weighted average rate computation that could result from these different
 5 interpretations. Each of these examples uses the same basic service rate (exclusive of
 6 incremental federal universal service amounts) and the same line counts. The differences
 7 are the use of the incremental federal universal service fund amounts.

8
 9 **EXAMPLE ONE** (No incremental FUSF in computation; No incremental FUSF
 10 returned to customers)
 11

	Gross Rate	Incremental FUSF Used In Computation	Net Rate	Number Of Lines	130% of Wted. State Average	Support Per Line
Company A	\$15	\$0	\$15	2,000	\$42.25	\$0
Company B	\$25	\$0	\$25	5,000	\$42.25	\$0
Company C	\$45	\$0	\$45	2,000	\$42.25	\$2.75
Company D	\$80	\$0	\$80	1,000	\$42.25	\$37.75

12
 13 In this example, the total support paid by the fund would be \$43,250 per month, or
 14 \$519,000 annually. Customers pay an average of \$28.18 per line per month and the fund
 15 would pay an average of \$4.33 per line per month. In this case, it is assumed that either
 16 there is no mandate to credit incremental amounts of federal universal service fund
 17 amounts to customers, or that local exchange companies have not complied with that
 18 mandate. Customers would pay the following:

	Gross Rate	Credited FUSF	WUSF Support	Customer Pays
Company A	\$15	\$0	\$0	\$15
Company B	\$25	\$0	\$0	\$25
Company C	\$45	\$0	\$2.75	\$42.25
Company D	\$80	\$0	\$37.75	\$42.25

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 21
 22

EXAMPLE TWO

(No incremental FUSF used in computing statewide average; Net rate used for fund distribution; incremental FUSF not returned to customers)

	Gross Rate	Incremental FUSF Used In Computation	Net Rate	Number Of Lines	130% of Wted. State Average*	Support Per Line**
Company A	\$15	\$0	\$15	2,000	\$42.25	\$0
Company B	\$25	\$7	\$18	5,000	\$42.25	\$0
Company C	\$45	\$15	\$30	2,000	\$42.25	\$0
Company D	\$80	\$25	\$55	1,000	\$42.25	\$12.75

* Based on gross rate per line, rather than the net rate per line.

** Net rate minus 130% of weighted statewide average.

In this example, the statewide average rate is based on the gross rate per line, rather than the net rate per line. The total support paid by the fund would be \$12,750 per month, or \$153,000 annually. Customers pay an average of \$31.23 per line per month and the fund would pay an average of \$1.28 per line per month. In this case, it is also assumed that either there is no mandate to credit incremental amounts of federal universal service fund amounts to customers, or that local exchange companies have not complied with that mandate.

	Gross Rate	Credited FUSF	WUSF Support	Customer Pays
Company A	\$15	\$0	\$0	\$15
Company B	\$25	\$0	\$0	\$25
Company C	\$45	\$0	\$0	\$45
Company D	\$80	\$0	\$12.75	\$67.25

EXAMPLE THREE (Incremental FUSF used in computing statewide average; Net rate used for fund distribution; Incremental FUSF not returned to customers)

	Gross Rate	Incremental FUSF Used In Computation	Net Rate	Number Of Lines	130% of Wted. State Average*	Support Per Line**
Company A	\$15	\$0	\$15	2,000	\$30.55	\$0
Company B	\$25	\$7	\$18	5,000	\$30.55	\$0
Company C	\$45	\$15	\$30	2,000	\$30.55	\$0
Company D	\$80	\$25	\$55	1,000	\$30.55	\$24.45

* Based on net rate per line, rather than the gross rate per line.

** Net rate minus 130% of weighted statewide average.

In this example, the statewide average rate is based on the net rate per line, rather than the gross rate per line. The total support paid by the fund would be \$24,450 per month, or \$293,400 annually. Customers pay an average of \$30.06 per line per month and the fund would pay an average of \$2.45 per line per month. In this case, it is also assumed that either there is no mandate to credit incremental amounts of federal universal service fund amounts to customers, or that local exchange companies have not complied with that mandate.

	Gross Rate	Credited FUSF	WUSF Support	Customer Pays
Company A	\$15	\$0	\$0	\$15
Company B	\$25	\$0	\$0	\$25
Company C	\$45	\$0	\$0	\$45
Company D	\$80	\$0	\$24.45	\$55.55

EXAMPLE FOUR

(Incremental FUSF used in computing statewide average; Net rate used for fund distribution; FUSF returned to customers via bill credit)

	Gross Rate	Incremental FUSF Used In Computation	Net Rate	Number Of Lines	130% of Wted. State Average*	Support Per Line**
Company A	\$15	\$0	\$15	2,000	\$30.55	\$0
Company B	\$25	\$7	\$18	5,000	\$30.55	\$0
Company C	\$45	\$15	\$30	2,000	\$30.55	\$0
Company D	\$80	\$25	\$55	1,000	\$30.55	\$24.45

* Based on net rate per line, rather than the gross rate per line.

** Net rate minus 130% of weighted statewide average.

In this example, the statewide average rate is based on the net rate per line, rather than the gross rate per line. The total support paid by the fund would again be \$24,450 per month, or \$293,400 annually. However, customers only pay an average of \$21.06 per line per month while the fund would still pay an average of \$2.45 per line per month. In this case, it is assumed that companies are required to return any incremental FUSF funds to customers in the form of a bill credit, and those incremental amounts are used in computing the statewide average and WUSF distributions.

	Gross Rate	Credited FUSF	WUSF Support	Customer Pays
Company A	\$15	\$0	\$0	\$15
Company B	\$25	\$7	\$0	\$18
Company C	\$45	\$15	\$0	\$30
Company D	\$80	\$25	\$24.45	\$30.55

Q. WHAT DO YOU CONCLUDE FROM THE ABOVE SIMPLIFIED EXAMPLES?

A. The only situation in which customers pay 130% of the statewide weighted average rate or less is in Example Four. This is the only example where the incremental federal universal service funds are: used for computing the statewide weighted average, used in making WUSF distributions, and are returned directly to customers. This is the method of computation that the Commission should be using.

1 **Q. IS THE METHOD IN EXAMPLE FOUR CONSISTENT WITH WYOMING**
2 **STATUTES AND COMMISSION RULES?**

3 A. Yes. This method assists only customers in areas of Wyoming with relatively high rates
4 for essential services. This method is competitively neutral. This method only considers
5 the level of local exchange rates after consideration of contributions from the federal
6 universal service fund. This method assists in maintaining affordable rates for all
7 customers of essential services. This method also credits federal universal service fund
8 support payments, as mandated by the Commission's rules.

9
10 **Q. IS THE METHOD YOU ADVOCATE CONSISTENT WITH THE LANGUAGE**
11 **OF SECTION 500(g) OF THE COMMISSION'S RULES, WHEREIN RATES TO**
12 **BE USED IN THE COMPUTATION "SHALL INCLUDE ALL STANDARD**
13 **CHARGES ASSOCIATED WITH EACH TELECOMMUNICATION**
14 **COMPANY'S LOCAL SERVICE"?**

15 A. Yes. It is very common practice to use federal universal service funds to reduce a local
16 exchange carrier's revenue requirement, which ultimately reduces the Commission
17 approved local rates. The use of a credit to pass back the federal funds is simply an
18 easier, more direct process but accomplishes the same goal of reducing local rates. Thus,
19 it is essentially a credit portion of the "standard charge" associated with local exchange
20 rates.

21
22 **Q. WAS THE WEIGHTED STATEWIDE AVERAGE RATE COMPUTED**
23 **CONSISTENT WITH THE METHOD THAT YOU ARE RECOMMENDING IN**
24 **THIS PROCEEDING?**

25 A. No. Confidential Appendix I of Mr. Dinneen's April 7, 2003 submission to the
26 Commission shows that the weighted statewide average was computed without regard to
27 any incremental amounts. The reasons that Mr. Dinneen chose this interpretation of the
28 Commission's rules are explained in his prefiled testimony in this proceeding.

1 **Q. WHAT IS YOUR UNDERSTANDING OF THE METHOD THAT WAS USED**
2 **FOR COMPUTING THE CURRENT SUPPORT THRESHOLD AND**
3 **DISTRIBUTION AMOUNTS?**

4 A. From what I can gather from Mr. Dinneen's April 7, 2003 submission, it appears that the
5 gross rate was used for computing the weighted statewide average while the net rate was
6 used for measuring the level of support distribution. This is similar to the computation
7 contained in my Example Two above. However, I do not have enough information to
8 know whether all of the companies are providing customers with an incremental federal
9 universal service fund credit. To my knowledge, only Qwest has a federal universal
10 service credit that has been filed with and authorized by the Commission.

11
12 As shown in the above examples, if no federal universal service fund credit is provided,
13 this method results in the highest payment by, and the least support for, customers.

14
15 **Q. IS THE USE OF THIS METHOD ONE OF THE REASONS THAT THE**
16 **WEIGHTED STATEWIDE AVERAGE RATE INCREASED?**

17 A. Yes, but it is not the only reason.

18
19 **Q. WHAT IS ANOTHER CAUSE OF THE INCREASE?**

20 A. In its October 15, 2002 order, in Docket No. 90072-XI-02-21, the Commission
21 determined that its rule requiring federal universal service fund bill credits only applied
22 to companies that are currently receiving Wyoming universal service fund support. This
23 means that a number of Wyoming customers will be paying higher rates at the same time
24 that the local exchange companies are receiving more universal service funds than in past
25 years.

26
27 **Q. PLEASE PROVIDE A NUMERIC EXAMPLE OF THIS PHENOMENON.**

28 A. Certainly. I will build upon my earlier examples, and will specifically build upon
29 Example Four. Summarizing from above, Example Four showed the following
30 computation under the OCA proposed interpretation of the Commission's rules:

31

	Gross Rate	Incremental FUSF Used In Computation	Net Rate	Number Of Lines	130% of Wted. State Average*	Support Per Line**	Customer Pays
Company A	\$15	\$0	\$15	2,000	\$30.55	\$0	\$15
Company B	\$25	\$7	\$18	5,000	\$30.55	\$0	\$18
Company C	\$45	\$15	\$30	2,000	\$30.55	\$0	\$30
Company D	\$80	\$25	\$55	1,000	\$30.55	\$24.45	\$30.55

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Based on the simplest interpretation of the Commission’s ruling, the computation would simply change by the amount of the FUSF bill credits being received by the customers of Companies B and C. Thus, all of the computations would remain except the amount that the customer pays, as shown below:

	Gross Rate	Incremental FUSF Used In Computation	Net Rate	Number Of Lines	130% of Wted. State Average*	Support Per Line**	Customer Pays
Company A	\$15	\$0	\$15	2,000	\$30.55	\$0	\$15
Company B	\$25	\$7	\$18	5,000	\$30.55	\$0	\$25
Company C	\$45	\$15	\$30	2,000	\$30.55	\$0	\$45
Company D	\$80	\$25	\$55	1,000	\$30.55	\$24.45	\$30.55

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Thus, Company B customers would pay \$7 per line per month more, and Company C customers would pay \$15 per line per month more. On average, customers would pay \$6.50 more per line, per month. It is also important to note that Company C customers would be paying more than 130% of the statewide weighted average rate. This assumes that the incremental amount of federal support is included in the computation and simply not required to be passed on as a bill credit.

Suppose however, based on the Commission’s directed interpretation of its rules, that the federal universal service funds for Companies B and C were not included in the computation and were not required to be passed on to customers as bill credits. Thus, the impact on customers would be even greater, as summarized below:

	Gross Rate	Incremental FUSF Used In Computation	Net Rate	Number Of Lines	130% of Wted. State Average*	Support Per Line**	Customer Pays
Company A	\$15	\$0	\$15	2,000	\$39	\$0	\$15
Company B	\$25	\$0	\$25	5,000	\$39	\$0	\$25
Company C	\$45	\$0	\$45	2,000	\$39	\$0	\$45
Company D	\$80	\$25	\$55	1,000	\$39	\$16	\$39

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Under this situation, customers would pay an average of \$28.40, or an average of \$7.34 more than the customers in the above Example Four. This is driven not only by the lack of FUSF bill credits, but also by the higher statewide weighted average rate.

And again, it is noted that Company C customers would be paying more than 130% of the statewide weighted average rate. This raises a bit of the chicken and the egg question: If a company's FUSF credit would bring it below the Wyoming universal service fund support threshold, does it have to comply with the Commission's rules, even though not complying causes its customers to pay more than 130% of the statewide weighted average rate? Furthermore, it is my understanding that this is more than just a philosophical question, since there is at least one set of local exchange rates that match this scenario.

Q. WHAT IS YOUR RECOMMENDATION RELATIVE TO THE COMMISSION'S INTERPRETATION OF ITS RULES, ESPECIALLY RELATIVE TO THE APPLICATION OF THE FUSF BILL CREDIT?

A. The OCA recommends that the Commission open a proceeding to re-examine its interpretation of the bill credit rule. While the OCA acknowledges that the rule was properly promulgated, and that there was a hearing on its interpretation, we believe that the additional experience that could be brought to a re-examination, in light of the computational issues raised in this case, would be informative and useful to the Commission as it re-examines the issue. Furthermore, the OCA questions whether the Commission's interpretation of its Rule 500(j) is consistent with Section 37-15-501(d) of the statute if, as shown in the example above, some companies are not receiving funds even though they have rates that exceed 130% of the statewide weighted average rate.

1 **Q. SINCE THE COMMISSION HEARD ARGUMENTS ON THE**
2 **INTERPRETATION OF ITS RULE ONCE IN A PREVIOUS HEARING, WHAT**
3 **COULD THE OCA ADD THAT WAS NOT EARLIER DISCUSSED, THAT**
4 **MIGHT CAUSE THE COMMISSION TO RE-EXAMINE ITS EARLIER**
5 **INTERPRETATION?**

6 A. It is my understanding that the Commission was convinced by the parties that it could
7 only mandate the crediting of federal universal service funds for companies receiving
8 Wyoming universal service funds, since the Commission's authority was tied directly to
9 the oversight of the Wyoming funds and not the federal funds. However, I believe that
10 this is incorrect, and the record may not have fully discussed the oversight that the
11 Commission has over the use of federal support. A proceeding re-examining the
12 Commission's interpretation would allow the OCA an opportunity to discuss with the
13 Commission's its oversight of the use of federal funds, especially the oversight flowing
14 from Section 254(e) of the federal Telecommunications Act of 1996 and the Federal
15 Communications Commission's order released May 23, 2001, in CC Docket No. 96-45
16 and CC Docket No. 00-256, prior to the Commission's ruling.

17
18 **Q. WHY DID THE OCA FAIL TO ADDRESS THESE ISSUES IN THE ORIGINAL**
19 **PROCEEDING OR TO REQUEST REHEARING ON THE MATTER?**

20 A. The Office of Consumer Advocate was not authorized or formed until the Spring of 2003,
21 many months after the issuance of the Commission's order on this matter. There was no
22 *party* to the proceeding representing the general public interest of the customers of
23 Wyoming.

24
25 **Q. RETURNING TO THE COMPUTATIONAL ASPECTS AND CONCERNS OF**
26 **THIS PROCEEDING, DO YOU HAVE ANOTHER CONCERN TO RAISE?**

27 A. Yes, I have a concern about whether the data used in the computations was consistent
28 among companies.

29
30
31

1 **Q. PLEASE EXPLAIN.**

2 A. There seems to be a variety of dates used for determining the rates used in the netting
3 process that was used to determine distributions of the Wyoming universal service fund.
4

5 Section 500(g) of the Commission's Procedural Rules and Special Regulations states, in
6 part, "...The manager shall annually compute both the statewide weighted average
7 service rate and each telecommunications provider's local service rate in a consistent
8 manner based on end of calendar year line counts and prices..."
9

10 Yet, some of the rate components used are from the calendar year end (that is, December
11 31, 2002) while other rate components are from mid-year 2003.
12

13 **Q. PLEASE PROVIDE A MORE SPECIFIC EXAMPLE.**

14 A. Referring again to Mr. Dinneen's April 7th filing with the Commission, confidential
15 Appendix II shows that Chugwater's rates are based on those that were in effect on
16 December 31, 2002. This would be correct and consistent with the Commission's rules,
17 even though it does not, and did not, reflect the level of rates in place at the time that Mr.
18 Dinneen's report was filed. It would also be consistent with the way that each of the
19 other companies' gross rates were included in the computation for fund distribution.
20 Furthermore, it would be consistent with the practice of matching rates to line counts,
21 since there have been statements made by the companies in past proceedings that changes
22 in rates may impact line counts and service penetration rates.
23

24 However, this practice of basing the gross rates on the year end authorized levels appears
25 to be inconsistent with the timing of some of the estimates made by the manager
26 regarding the net rates and the level of the FUSF credit. Specifically, the April 7th
27 confidential Appendix II shows that Qwest's gross rate (used for the computation of the
28 statewide average rate) contains both the approved TSLRIC-based rate as of December
29 2002, as well as the FUSF credit as of the end of 2002. This timing is consistent with
30 that of the line counts and the rates for the other companies. However, the inconsistency
31 seems to appear when there is then included in the net rate an *additional* FUSF credit for

1 Qwest, reflecting the FUSF credit totals that did not take effect until mid-2003. (This
2 information is also shown, in a slightly different format, in Mr. Dinneen's June 23, 2003
3 submission to the Commission.) This update was made, yet the update to Chugwater's
4 approved local exchange rates was not made.

5
6 In other words, for Qwest, there is too much FUSF credit included in the net rate, which
7 then forms the basis for its Wyoming universal service fund receipts. This appears to
8 have the effect of reducing Qwest customers' WUSF receipts for this year (2003- 2004).
9 This inconsistency also appears to have reduced Chugwater's WUSF receipts for this
10 year.

11
12 **Q. IF THE 2003 AMOUNT FOR QWEST IS KNOWN AND MEASURABLE, WHY**
13 **NOT INCLUDE IT IN THE COMPUTATION AT THIS TIME?**

14 A. The WUSF computation only works if the data is consistent within each year among
15 companies, and is consistent from year-to-year for individual companies. By using only
16 the credits in the Qwest tariff as of December 31st each and every year, the Commission
17 can assure customers that each year's incremental FUSF amount has been incorporated in
18 rates and will be passed on to customers – whether it is an increase or a decrease. To skip
19 a year simply does not allow customers the assurance that Qwest's FUSF amounts are
20 being passed along on essentially a dollar-for-dollar basis.

21
22 The calculation reflected in the manager's filings has the effect of using the credits in
23 place of the end of 2001 in last year's filing, and using the credits in place as of the end
24 of 2003 in this year's filing, with no reflection of the 2002 credits.

25
26 **Q. IS THERE ONE ADDITIONAL COMPUTATIONAL ITEM THAT YOU WISH**
27 **TO DISCUSS WITH THE COMMISSION AT THIS TIME?**

28 A. Yes. The computation of the statewide weighted average uses a rate for Qwest that is
29 reflective of all of the FUSF being returned to customers as of the end of December in
30 any particular year. Because Qwest chose a rate design that reflects all of its FUSF
31 formally in rates, the rate is reflective of all FUSF received by Qwest with the exception

1 of a one year lag. However, the other companies have chosen different rate designs,
2 wherein only a portion of its federal universal service fund receipts are formally included
3 in its approved filed rates, and the remainder is either passed on to the customers through
4 a bill credit, or kept by the company between rate proceedings. In some instances, the
5 FUSF receipts actually received by a local exchange company may have grown
6 substantially since the rates were set. Thus, different companies will have different
7 proportions of their FUSF included in their gross rates – that is, the rate used by Mr.
8 Dinneen for computing the statewide weighted average will have quite different
9 proportions of FUSF receipts reflected for each company.

10
11 This is a situation bigger than this proceeding. However, the disproportionate amounts
12 can be leveled through the OCA proposal wherein the *net* rate is used for computing the
13 statewide weighted average, rather than the “gross” rate (as I have used it and explained it
14 above). By using the net rate, each company includes its full amount of FUSF receipts
15 and bill credits in the computation. Thus, the use of the net rate is more competitively
16 neutral, than is the use of the gross rate.

17
18 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

19 A. My recommendations are summarized as follows:

- 20 ? The Commission should direct that the net rate be used in the computation
21 of the statewide weighted average rate.
- 22 ? The Commission should direct that the net rate be the point of comparison
23 for determining whether a rate has exceeded the WUSF threshold of 130%
24 of the statewide weighted average rate.
- 25 ? The Commission should open a proceeding inviting a re-examination of its
26 rule 500(j), specifically to re-examine its position that companies not
27 receiving WUSF are not required to pass on incremental levels of FUSF as
28 bill credits.
- 29 ? The Commission should direct that the 2003-2004 support levels be
30 recomputed using only the Qwest FUSF bill credits in place as of
31 December 31, 2002.

- 1 **Q. DOES THAT COMPLETE YOUR PREFILED DIRECT TESTIMONY?**
- 2 A. Yes, it does.