1 Q. Please state your name and address.
2 A. My name is Wayne Hart. My business address is
3 472 West Washington, Boise, Idaho, 83702.
4 Q. By whom are you employed, and in what capacity?
5 A. I am employed by the Idaho Public Utilities
6 Commission (IPUC; Commission) as a Telecommunications
7 Analyst in the Telecommunications Section.
8 Q. What is your educational background?
9 A. I received a Master's Degree in Bacteriology
10 from the University of Wisconsin in Madison, Wisconsin,
11 and a Bachelor's Degree in Biological Sciences from
12 Indiana University in Bloomington, Indiana.
13 Q. Please outline your experience that is relevant
14 to your testimony.
15 A. I have conducted Staff's analysis for telephone
16 cases involving Qwest's 271 application, rate cases,
17 payphones, extended area service, tariffs and price
18 lists, and Certificates of Public Convenience and
19 Necessity since joining the Telecommunications Section in
20 March of 1997. I served as Staff's representative to
21 some of the recent multi-state proceedings regarding
22 Qwest's 271 application, including the third party test
23 of the Company's OSS systems. I served as a Utilities
24 Compliance Investigator for three years prior to that,
25 and handled nearly 2500 complaints, comments and

inquiries, with over 1500 of those involving telecommunications issues. I served on Staff's team that performed a service quality audit of U S WEST in 1995 and 1996 for Case No. USW-S-95-4.

Q. Have you previously testified before this Commission?

A. Yes. I presented testimony in U S WEST's rate case, Case No. USW-T-96-5, as well as in Idaho Power's general rate case, Case No. IPC-E-94-5. I also presented testimony in Extended Area Service cases.

Q. Please provide a brief description of this case.

A. Qwest Corporation filed an application for deregulation of its rates for basic local exchange service in its Boise, Nampa, Caldwell, Meridian, Twin Falls, Idaho Falls, and Pocatello exchanges, in accordance with Title 62-622(3)(b). Qwest's application asserts that effective competition exists in the seven identified exchanges from wireless (cellular) telephone providers. Qwest asserts the wireless service is a functionally equivalent and competitively priced local exchange service reasonably available to both residential and small business customers.

About two-thirds of Qwest's total residential and business lines would be impacted if Qwest's petition were

granted.

Q. What is the purpose of your testimony in this proceeding?

A. I will present an overview of why Staff cannot support the Company's application, plus present the details of our analysis in some critical areas.

Q. What is Staff's general conclusion based on its analysis?

A. Staff believes the Company has failed to meet the statutory standards required for deregulation, specifically:

- The Company has failed to demonstrate that wireless service is competitively priced. If a comparable volume of calling minutes is used, most wireless plans are prohibitively expensive.
- The Company has failed to demonstrate that wireless service is functionally equivalent to Qwest's wireline service.
- As a result of the statutory requirements not being met, the Company has failed to demonstrate that wireless competition is sufficient to effectively replace regulation in protecting the public from Qwest's monopoly position in the provision of local

services.

Therefore the approval of the application is not in the public interest, and the application should be denied.

Limitation to Voice Communication is Inappropriate

Q. What are the provisions of the statute under which Qwest filed its application?

A. Idaho Code § 62-622(3)(b) requires the Commission to "cease regulating basic local exchange rates in a local exchange calling area upon a showing by an incumbent telephone corporation that effective competition exists for basic local exchange service throughout the local exchange area." Paragraph (b) of the section provides the standard Qwest must meet to demonstrate that "effective competition" exists throughout the local exchange calling area. Essentially, the statute provides that effective competition exists if there are "local services" that are "functionally equivalent", and are also "competitively priced."

Q. Is it appropriate under this statute for the Commission to limit its review to a comparison of two-way, switched voice communication services, and not consider what other features or functions may be a part of the "local services" claimed to be providing "effective competition?"

A. I don't believe it is. First, the very idea of subparagraph (b) is to make a comparison of two services that are not identical. The legislature apparently contemplated that services that are not technically the same as those provided by a facilities based competitor nonetheless could be enough like it that it might serve as a reasonable substitute. The term used in the statute is "functionally equivalent." In comparing the different functions of two different services, although it is important to review their similarities to determine if one is a substitute for the other, it is also necessary to compare their differences. It seems to me a comparison to determine whether two different services are "functionally equivalent" would be incomplete and seriously flawed if all that was compared was their identical functions and uses.

Second, the structure of the statute supports a review of different functions when the Commission is comparing services to determine if they are "functionally equivalent." The legislature used the term "basic local exchange services" nine times in Section 62-622, and once in paragraph (3) of the section. Yet in subparagraph (b), the legislature used the term "local services" when defining the services that must be functionally equivalent and competitively priced. I believe the

legislature's selection of terms was deliberate and directs a review of the full functions of the two services to determine whether one is "functionally equivalent" to the other. If the legislature wanted to limit the Commission's comparison to whether they both provide two-way, switched voice communication services, it could have said that in subparagraph (b).

Q. Is there anything else in the statutes applicable to this case that supports your conclusion that the Commission should consider all functions and features of the two services in determining whether they are "functionally equivalent?"

A. Yes, I believe there is. Idaho Code § 62-602(3) requires the Commission, "in its deliberation of deregulation of the incumbent telephone corporations, [to] examine the impact such deregulation will have on the public interest in accordance with the general grant of authority given to the commission by the legislature." It seems to me public interest concerns require the Commission to review the status of the competitive telecommunications market, at least in the exchanges included in the application for deregulation. In this case, that would include an analysis of whether competition from wireless providers really can be an effective control on Qwest's ability to raise its rates

for basic local services. Without considering the different features of wireless and wireline services - such as mobility, 911 information, number portability, access to the Internet and data, availability of extension handsets, access to PBXs and TTYs, business features such as rollover - it would not be possible to understand purchasing decisions being made by customers.

Wireless Service Is Not Competitively Priced

Q. Are wireless services competitively priced compared to Qwest's basic local exchange services?

A. No. The market has clearly spoken on this issue. According to Qwest's own evidence, it is estimated only 3-5% of wireline customers have chosen to replace their wireline service with wireless service. It is not competitively priced for the overwhelming majority of customers for use as a substitute for wireline service. Wireless service remains a supplement to, rather than a replacement for, wireline service for most wireless customers.

Q. Have you compared the prices of the various carriers with the prices of Qwest's basic local exchange service and determined that it is not competitively priced?

A. Yes, I have prepared an analysis comparing wireless prices with Qwest's rates. However, I must

point out that such a comparison is very difficult as the products are so different and there are so many different options for each product. With that as a caveat, my analysis reveals that for the majority of both residential and business customers, wireless service would be significantly more expensive than the price of Qwest's basic local service.

Q. Qwest witness Lincoln claimed wireless plans were competitively priced with Qwest's service. Do you agree?

A. No. Dr. Lincoln's analysis did not accurately reflect the actual amount of usage of the majority of Qwest's customers. For most wireless plans, when a typical wireline user amount of minutes is included, the cost becomes significantly more than Qwest's. Additionally, in the only comparison that Dr. Lincoln made between Qwest's flat rated service and a flat rated wireless plan, his "premium" group, Dr. Lincoln made the comparison between two feature laden products that also do not represent the majority of Qwest's customers, and probably not of the wireless company as well.

Q. If you were to use the examples in Dr. Lincoln's testimony with the appropriate amount of usage and without features, how would that change the results?

A. Based upon confidential information provided by

Qwest, I calculated an amount of peak usage minutes that would correspond to a low, median and high usage customer for both residential and business classes of service, and for both measured and flat rated service. I then chose the least cost wireless plan offered by each wireless carrier that would provide enough minutes to satisfy the amount of peak or anytime minutes for each customer profile. I then compared the same carriers used in Dr. Lincoln's testimony, but with more appropriate amounts of usage. I consider the median amount of usage on a Qwest measured service line to be the appropriate usage for a comparison using Dr. Lincoln's "economy" plan. T-Mobile's least expensive plan with enough minutes to satisfy the peak usage of a median measured residential user is its Talk and Text plan, at $29.95 per month. That is more than $13 a month more expensive than Qwest's measured residential rate of $16.51, which includes the base rate of $10.51 and the federal subscriber line charge of $6.00. I don't believe that to be competitively priced.

Q. What about Dr. Lincoln's "Standard Plan?"

A. In this case, the wireless carrier is AT&T, and I believe the appropriate comparison is with a median usage flat rated residential customer. AT&T's least expensive plan that provides enough peak or anytime

minutes to satisfy the demands of a median usage flat rated residential customer during the peak period is it's Local 1400 plan, with extra minutes. The monthly cost of this plan would be $114.99, or a whopping $91.49 more than Qwest's flat rated service at $23.50, which includes the base rate of $17.50 plus $6.00 for the subscriber line charge. This is clearly not cost competitive.

Q. And what about the "Premium Plan?"

A. For this comparison, the profile of a high usage customer is appropriate, and both plans in Qwest's comparison are flat rated and come with unlimited minutes. Cricket's lowest price plan is $32.99 per month, or nearly $10 a month more than Qwest's flat rated residential service at $23.50. Again, I do not consider that to be price competitive.

Q. Are these the only plans you have analyzed?

A. No. My analysis of the myriad of packages of the various wireless carriers shows that for vast majority of users, there remains a considerable difference between Qwest's rates and those of all of the available wireless carriers.

Q. What are the specific results of your analysis?

A. Confidential Exhibit No. 101 shows the rates for lowest price plans from each of the nine carriers serving these seven exchanges for six patterns of local

usage for both residential and business customers. The methods that I used for determining the usage patterns and other aspects of the analysis are also included in Confidential Exhibit No. 101. In more than three quarters of the cases for residential users, the cost of the lowest cost comparable wireless plan is more than $20 greater than Qwest's rates. In seven cases, the difference is more than one hundred dollars. There is only one case where the wireless rates are not significantly higher than the corresponding Qwest rates, the case with no local usage. The results for all the carriers in that column, however, and the similar column for businesses must be qualified. The information upon which my analysis was based only included originating local minutes, customers with terminating or long distance minutes would have been categorized as having no local usage. If the customer actually does not have any local terminating or long distance usage, an unusual occurrence, the results in the two columns are accurate. However, if they did have terminating or long distance usage, they would have incurred minutes that would have increased wireless costs, increasing the difference between wireless and Qwest's costs even more.

Q. What about business customers?

A. Even with Qwest's higher business rates,

wireless rates are higher than the Qwest rates for more than 80% of the usage categories. Wireless carriers' rates are less only when the usage is low, or in the case of the lowest priced flat rated wireless plans.

Q. What are the results for the cases that represent the majority of residential customers?

A. The calling patterns that represent the majority of residential customers are the last two columns of Confidential Exhibit No. 101. These are typically the columns with the greatest disparities. The smallest differences, at just under $10 per month, are those of the wireless plans with unlimited local minutes that are available only in the Treasure and Magic Valleys. The smallest difference for customers in Pocatello or Idaho Falls is $16.45. The plans of the major nationwide carriers are clearly much more expensive, with differences that often exceed one hundred dollars a month.

Q. Are there other concerns about the service of the carrier's offering unlimited local calling?

A. Yes. As Dr. Johnson points out, the financial viability of these plans carriers is questionable. In addition, as I will outline later, we have concerns about the quality of service provided by these carriers.

Q. Many wireless plans include bundles of long

1 distance minutes. Wouldn't the availability of such
2 bundles of minutes make a difference to the analysis?
3 A. For some consumers, it might, but for the
4 average user, wireless is still more expensive.
5 Q. How can that be the case?
6 A. The plans chosen for the local usage comparison
7 were the cheapest plans available from the wireless
8 carriers, and those often don't include long distance.
9 Wireless plans with long distance are more expensive, so
10 the difference between Qwest's rates and wireless rates
11 gets even greater. With wireline long distance rates as
12 low as they are, the average customer does not spend
13 enough on long distance to make up the difference.
14 Exhibit No. 102 shows the comparison in prices using both
15 Qwest's long distance and local rates with the wireless
16 plans that offer free nationwide long distance. As shown
17 in Exhibit No. 102, wireless rates for every carrier
18 exceed Qwest's residential rates, while only the flat
19 rated wireless plans offer a savings for the average
20 business customer.
21 Q. What happens when a wireless customer exceeds
22 the included free long distance minutes?
23 A. Wireless carriers charge a relatively high per
24 minute rate for long distance, typically twenty cents or
25 more per minute, for all long distance calls in excess of

any included minutes. In addition, if a customer exceeds their bundled wireless minutes, long distance minutes are assessed both long distance and excess minute charges, which are as much as 45 cents per minute, making the total cost of such minutes as much as 65 cents a minute.

Q. Are there other considerations that diminish the value of the included long distance minutes?

A. Yes. Wireline customers are able to choose the carrier they wish to use for long distance service, and have many carriers from which to choose. Wireless carriers do not offer such a choice.

Q. What about the value of Caller ID and other features that typically come with wireless service?

A. Such features clearly have some value to some consumers, but exactly how much is impossible to say. For its comparison, Qwest's analysis assumed a value that was equal to its retail price for such services. Qwest's assumption discounts the price of basic wireless to make it look more competitive with Qwest's rates. I don't believe the majority of wireless or wireline customers would place such a high value on those features. It is important to note that such features can be provided by Qwest at essentially no incremental cost, and that there is no regulatory restriction preventing the Company from doing so.

Q. On what basis do you claim they can be provided at essentially no incremental cost?

A. The FCC basically said as much in its ruling on the wholesale prices LECs could charge for these services when provided to a competitor as an unbundled network element in Order No. FCC 96-325.

Q. Are there times when unexpected charges are incurred by wireless customers?

A. Yes. Sometimes a wireless customer's call is carried by another company, even though they are located in their home area or even in their home. This can happen when the customer's carrier's network is busy, or when its signal is blocked by something and another carrier's signal is stronger. In these cases, the customer often incurs roaming and/or long distance charges that they normally would not have expected.

Q. In its testimony, the Company claimed that the availability of directory listings could not be used as a reason for not considering wireless service to be functionally equivalent, as a wireless customer can purchase a directory listing. Does this impact the competitively priced analysis?

A. Yes, Qwest's price for a directory listing for wireless customers is $1.50 per month for residential customers and $6.00 a month for business customers. As

you can see from Confidential Exhibit No. 101, when you include the cost of this directory listing, the disparity between wireless and Qwest is even greater.

Q. Wireless prices have come down in recent years. Isn't it just a matter of time until these differences are gone?

A. Not necessarily. There are indications that the current wireless prices are not sustainable, and that carriers are starting to increase rates. The article from The Wall Street Journal Online from February 18, 2003 (Exhibit No. 103) shows that AT&T and T-Mobile have recently reduced the amount of minutes in their most popular plans, effectively raising their rates.

Q. What can you conclude from these results?

A. There is a great enough difference between current Qwest prices and the current wireless prices that wireless service is not competitively priced for the vast majority of customers and would not be an effective regulator of Qwest's rates.

Wireless Service Is Not Functionally Equivalent

Q. Why is wireless service not functionally equivalent to the wireline service provided by Qwest?

A. Dr. Johnson addresses this question in detail and identifies ten key attributes of wireline service that distinguishes it from wireless service. I will

expand on a few of those, starting with service quality.

Q. What are the service quality concerns?

A. Qwest's wireline network, as do all of the wireline networks in Idaho, provides remarkable quality. Pick up a phone and before it reaches your ear, the dial tone is present and is ready for use. Dial a call and it essentially always goes through. Once connected, a call stays connected. The wireline network is maintained such that 99.99% of calls are completed reliably. The wireless network cannot even approach that standard. A February 2002 Feature Report of ConsumerReports.org (Exhibit No. 104) cited a study that indicated a 2% chance of failure in completing a two minute call. That is more than two orders of magnitude in difference with wireline service. On page 12 of the February 2003, issue of Consumer Reports (Exhibit No. 107), a wireless industry spokesman, Travis Larson, is quoted as saying, "Consumers know when they pick up a wireless phone they're making a trade-off between mobility and service quality". Dropped calls, dead spots, busy signals and fading coverage inside buildings are some of the problems the FCC warned about in a brochure it put out to help educate consumers (Exhibit No. 105, page 3 and page 5). Articles warning potential customers about the problems with wireless service quality are easy to find (Exhibit

No. 106). The February 2003 issue of Consumer Reports included the results of a survey of nearly 22,000 wireless subscribers, and the article indicated customer satisfaction with wireless carriers was lower than with any other business or services it rates. (Exhibit No. 107, page 15)

Q. You mentioned a concern about the service quality of the wireless carriers offering unlimited local calling. What is that concern?

A. Conversations with students and young adults, including my stepson, that subscribe to Cricket service, the flat rated service available in the Treasure Valley, revealed complaints about poor service quality, including delayed dialing, inability to successfully place calls, dropped calls, and poor voice quality. Such problems occurred most frequently during periods one might associate with high volumes of use, such as Friday afternoon.

Q. Has Staff done anything to verify the accuracy of these claims?

A. Yes, on the afternoon of Monday, March 17th, between three and six in the afternoon, Staff placed a total of fifty separate calls using a Cricket phone. Forty of the calls were completed only far enough to verify the ringing of the called wireline phone. Ten of

1 the calls were answered and followed by a short
2 conversation. The most serious problem was with one of
3 the ten conversation calls. That call was cut off
4 prematurely in the middle of the conversation and the
5 connection had to be re-established. There were no
6 problems with the other nine conversation calls.
7 The time between pressing the send button on
8 the wireless handset and the ringing of the wireline
9 phone was measured for the other forty calls, and the
10 typical elapsed time was between seven and twelve
11 seconds. However, for three of the forty calls, the time
12 between send and ring was over twenty seconds.
13 Q. What do you conclude from these results?
14 A. While this sampling is small, I believe it is
15 sufficient to be generally considered statistically
16 significant. These are exactly the types of problems
17 that you would expect from a congested network. This is
18 clearly not the quality you expect and receive from the
19 wireline network. As described in Dr. Johnson's
20 testimony, one of the fundamental differences between
21 these two technologies is the cost of usage. While
22 wireline networks do not incur significant extra costs on
23 a per minute of use basis, the exact opposite is the case
24 for wireless carriers. It is very probable that no
25 wireless carrier can afford to offer the same level of

1 quality as a wireline carrier, but it is almost a
2 certainty that a carrier that offers unlimited usage
3 cannot afford to provide that level of quality.
4 Customers of flat rated wireless service must either make
5 a trade-off between the convenience and features offered
6 by wireless carriers for the difference in quality
7 provided by a wireline carrier, or use both.
8 Q. What is the limitation regarding 911? Don't
9 911 calls from wireless customers get routed to the right
10 place?
11 A. Basic 911, which simply involves the routing of
12 the call to the public safety answering point (PSAP) is
13 provided by wireless carriers. The February 2003 issue
14 of Consumer Reports (Exhibit No. 107, pages 12-14)
15 included a study that identified some problems in the
16 ability of wireless carriers to correctly complete a call
17 to a 911 PSAP. In an online survey, more than 10% of
18 respondents claimed some problems in reaching a PSAP with
19 a wireless phone. Consumer's Union, the publisher of
20 Consumer Reports, tested the 911 system in two trials and
21 confirmed some of the problems reported by users. While
22 the problems identified by the Consumer's Union trials
23 are primarily associated with mobility and placing 911
24 calls away from a home, something that is not possible
25 with a wireline phone, the same problems can occur due to

network congestion or signal blockage due to weather conditions, which can impact use of a wireless phone from inside a home.

Q. What about E-911?

A. All of the seven exchanges identified in this application are primarily located in areas that have implemented Enhanced or E-911 for wireline customers, which also includes the provision of the name and location information to the PSAP. Wireless carriers are not providing this enhanced information to the Idaho PSAPs in these exchanges.

Q. What is the status of wireless E-911 in Idaho?

A. For the most part, the PSAPs in Idaho have not yet implemented either Phase I, which includes the name of the subscriber and the location of the tower that received the signal or Phase II, which includes the actual location of the caller, of wireless E-911. According to a representative of the Ada County Sheriff's Department, Ada County started implementing Phase I with T-Mobile and AT&T Wireless, but due to funding concerns, those efforts have been placed on hold. None of the other carriers serving Ada County had started implementing Phase I. None of the other counties in the exchanges in Qwest's petition have implemented Phase I, although the Southern Idaho Regional Communications

Center, which serves four counties, including Twin Falls, is prepared to do so once funding issues are resolved. None of the PSAPs in these seven exchanges has even made a request of a carrier for Phase II implementation.

Q. What is number portability and why is it important?

A. Number portability is the ability to keep the same telephone number when a customer changes from one provider to another. Forcing a customer to change telephone numbers when they switch from one provider to another is considered anti-competitive, and the FCC imposed local number portability on both wireline and wireless carriers following enactment of the federal Telecommunications Act in 1996. All wireline carriers must implement number portability upon the request of a competitor, and Qwest has completed its implementation of local number portability for wireline service in these seven exchanges. However, wireless carriers have sought and received numerous delays to the FCC imposed deadlines for implementing number portability, and have petitioned the FCC for a delay in the current deadline of November 2003.

Q. How does the lack of number portability constrain competition?

A. Changing a telephone number is not something

customers do lightly. At best, it is extremely inconvenient, and at worst, it can involve significant expense. All the people that have been provided with the old number must be informed of the new number. Any stationary, labels, brochures, advertising, etc. with the old number must be replaced. Comments received from Idahoans in the recent area code case (GNR-T-00-36) indicated these expenses could exceed a thousand dollars. If a potential customer has to change numbers in order to switch carriers, this inconvenience and expense will be a barrier to making that switch.

Q. What about access to the Internet? Don't wireless phones provide access to the Internet?

A. Yes, with the proper equipment, you can access the Internet with any wireless carrier. However, that access will be at significantly lower speeds, involve lower quality connections, and involve significantly higher prices. A voice grade line usually allows users to connect at speeds between 28,000 and 53,000 baud, with typical connection speeds in the low 40's. General wireless Internet connections are much slower, typically between 9600 and 14,400. Such connections are also prone to quality problems, such as inability to complete the sign-on protocols and frequent disconnections. In addition, unless a customer has a special data plan,

every minute they are connected to the Internet counts against their monthly minutes of wireless use, which could make such connections not only slow, but extremely expensive.

Q. What about the wireless plans that offer unlimited minutes, like those of Cricket and ClearTalk? Would they provide reasonable access to the Internet at an affordable price?

A. While it is technically possible to connect to the Internet with these carriers' service, their plans are promoted as voice plans, and usage for data applications could lead to a cancellation of the service.

Q. What about special data plans offered by some wireless carriers?

A. Some carriers offer special plans for connection to the Internet or data. However, except for some very expensive plans, all these plans limit what is available, either by limiting what a user can access, or by charging a fee based upon the amount of data that is accessed.

Q. What about the new high speed wireless data service? Is it being deployed now, and will that make a difference?

A. Carriers are now implementing higher speed service that provides connections that are similar to

wireline dial up speeds. However, implementation in Idaho is limited, and what is available is definitely more expensive.

Q. What do you mean by expensive?

A. As an example, AT&T Wireless provides digital data service in the Boise area. It's Mobile Internet plans start at $19.99 for 8 megabytes, and range up to $99.99 for 100 megabytes.

Q. As a frame of reference, can you explain how much one can download with 8 megabytes?

A. That depends entirely upon what is being downloaded. However, with the graphic content of today's web, it could be very insufficient. For example, I personally downloaded just over 9 megabytes in less than two hours of searching for a printer on eBay©. I was connected using a dial-up account at 38,666 baud.

Q. Are other carriers' data plans similar in price?

A. Exhibit No. 108 shows a comparison of the data plans available from the carriers offering such plans in Idaho. As you can see, the AT&T plan is pretty typical.

Q. How does inexpensive access to data services impact the ability of wireless service to be effective competition?

A. Those customers who use Qwest's voice lines to

access the Internet will not be able to rely upon wireless service as a reasonable substitute. The availability of wireless service will provide little or no competitive pressure on Qwest's voice service for these customers because it will not be an option for them. Qwest will continue to have monopoly power regarding these customers.

Q. Is the segment of the Qwest customers that relies upon dial-up access over a voice line large enough that it could influence overall prices for basic local exchange services?

A. Yes, I believe it is. The National Telecommunications and Information Administration (NTIA) estimated that approximately 52.7% of Idaho's 496,000 households accessed the Internet in 2001, which calculates to be more than 260,000 households accessing the Internet (Exhibit No. 109). The FCC's latest report on broadband penetration (Table 8, Exhibit No. 110) indicates that 37,631 high-speed lines were provided to small business and residential customers as of June 30, 2002, which leads to a calculation that more than 85% of Internet users still access the Internet via dial-up over a voice grade line. This indicates that nearly half of Qwest's basic local exchange service customers also use that service for Internet access. As wireless service

1 does not provide the full range of services that these
2 customers obtain from basic local exchange service,
3 wireless is not a realistic option for these customers.
4 If wireless is not a realistic option for almost half of
5 Qwest's customers, then wireless cannot provide effective
6 competition.
7 Q. Is wireless service reasonably available to
8 customers in these seven exchanges?
9 A. For the most part, yes. However, there are
10 pockets within most of these exchanges where wireless
11 service is not available. The Robie Creek area of the
12 Boise Exchange is a good example of such an area. In
13 addition, situating towers such that every location
14 within a general area has an adequate signal is
15 challenging and expensive. There are undoubtedly other
16 areas within these seven exchanges, including those in
17 relatively urban areas, where wireless signal strength is
18 far from optimal. Wireless signals also do not travel
19 well through brick or concrete, so a customer located in
20 the interior of a brick building, or in a basement, or
21 the shadow of a brick building, may not be able to get a
22 strong enough signal to communicate effectively. While
23 this might significantly impact only a minority of the
24 customers in these seven exchanges, for these customers,
25 wireless is not an option.

Qwest's Claims of Competitive Impacts Are Overblown

Q. Qwest claims to have lost a number of customers to wireless competition. Are these claims supported by the evidence?

A. Qwest certainly has not shown that wireless competition is the primary reason for the reductions that have occurred. The Company's data does indicate a reduction of approximately 14,000 Title 61 lines has occurred from the number that Qwest had at its peak in 2000. Staff does not dispute this reduction.

Q. Could other factors also be contributing to the reduction in the number of lines?

A. Yes. During an open meeting of the Commission on January 30th of this year, a Qwest manager indicated that Qwest had approximately 13,000 DSL lines in service. That number agrees closely with other information provided by Qwest to Staff in this case. It is common for a customer to replace an additional line that had been installed for dial-up Internet access with a high speed DSL line. It is very likely that a significant portion of the 14,000 lines that Qwest no longer serves have been replaced by some of those 13,000 DSL lines. It is important to note that Qwest's revenues from a DSL line are considerably higher than from a voice grade

line.

In addition, the Idaho economy is far from robust. Sales of many products are declining as consumers pare back their spending to the bare essentials. With so much of the Company's recent growth being second lines, it would not be surprising that some of these are eliminated when budgets get tight.

Q. Is it Staff's position that Qwest has not lost any lines to wireless competition?

A. No. I'm sure it has lost some lines to wireless competition. We do not dispute that for a narrow niche market, wireless may substitute for wireline service. The 3 to 5% penetration identified by the FCC in FCC 02-179, Section II.A.1 (e)(i) may be reasonably accurate.

Q. Have any of Qwest's policies contributed to this substitution?

A. I believe so. Qwest has tightened its credit policies and improved its ability to identify outstanding bills, especially from out of state. This is resulting in higher upfront costs for establishing service for those with less than perfect credit, and driving some of those to find alternatives.

Q. Weren't line reductions by incumbent carriers expected under the Telecommunications Act?

A. Certainly. And it is also important to remember that Qwest was granted access to the interstate long distance market as one of the trade-offs included in the Act.

Consumer Input

Q. Has the Commission received comments from parties interested in this case?

A. Yes. As of March 17, 2003, the Commission had received comments from 38 customers and two organizations. In determining the number of comments, multiple comments filed by a customer were combined and counted as a single comment. Thirty-one customers were opposed to Qwest's request for deregulation. Three customers expressed support for Qwest's proposal. The Twin Falls Area Chamber of Commerce, and the Boise Metro Chamber of Commerce also expressed support. Four customers provided information or made comments but did not clearly articulate a position with respect to Qwest's request.

Q. What points were made by those who supported Qwest's proposal?

A. The few supporters generally expressed the view that it was necessary for Qwest to have pricing flexibility in order to compete with wireless service providers. One customer stated that he "would support

1 deregulation on service line quantities 2 and above… . I
2 am sure you will discover that their (sic) is a major
3 amount of land line and wireless competition on 2 line
4 and above, but not on the basic first line." In its
5 letter, the Twin Falls Area Chamber of Commerce opined
6 that "Government policy that levels the playing field and
7 fosters competition will benefit the state because
8 competitors will work harder to win us over as customers
9 with lower prices and better customer service." However,
10 the letter also recognizes that "deregulation may or may
11 not bring the local service charges by Qwest down."
12 Q. What concerns were raised by those who opposed
13 the proposal?
14 A. Of the customers expressing opposition, two-
15 thirds believed that rates would increase as a result of
16 deregulation. Several customers emphasized the need to
17 provide basic telephone service at affordable rates,
18 especially for the benefit of senior citizens on fixed
19 incomes and low-income customers. One customer's
20 comments summarize those concerns: "I expect that the
21 deregulation of local phone svc., will enhance Qwest's
22 bottom line, but that it will adversely affect my phone
23 bills. Qwest claims that 'packages, that include basic
24 svc. and e-mail would be competitive with prices cell
25 phone companies charge'. I am not at all interested in

'packages' of any kind… . I just want to keep my local phone bill as low as possible - especially in view of the fact that my wife and I are retired, and living on fixed incomes. I am afraid that deregulating local svcs. will result in higher rates for that service."

Customers also commented on the comparability of landline and wireless telephone services. One customer stated that "comparing local land lines with cell phones is like comparing city water service with rain." Several expressed concern that, without a landline competitor, Qwest would be an unregulated monopoly. Customers noted that wireless service usually includes local exchange service bundled with a variety of other services, such as voice mail and free long distance service. Those commenting observed that wireless service is more expensive than basic landline service, does not provide internet access, TTY services for the hearing-impaired, telephone directory listings, or reliable, ubiquitous service. Customers were particularly concerned with maintaining affordable landline service for dial-up internet access. One customer with both a landline and wireless service indicated she uses her Qwest line for dial-up internet access and the wireless phone in her car for emergency purposes.

Q. What conclusions would you draw from the public

comments filed in this case?

A. Even supporters of Qwest's proposal do not appear confident that Qwest will lower prices for basic local exchange service as a result of deregulation. Many of those opposed to deregulation envisioned rates for basic service increasing and thought that Qwest would focus on offering packaged services to its customers to the detriment of customers who just want plain old vanilla telephone service. Interestingly, it appears that those commenting see dial-up internet access as part of "basic" landline service. Customers clearly see a distinction between landline and wireless service, with landline service regarded as a necessity for the most part. Wireless service is seen a complimentary service rather than an equivalent substitute for landline service.

Qwest Has Alternatives For Responding To Competition

Q. Does Qwest already have options for responding to wireless competition?

A. Yes, the majority of Qwest's services are already price deregulated and have been since 1989, when Qwest elected for these services to be regulated under Title 62 instead of Title 61, Idaho Code. Since then it has had essentially unlimited ability to respond to market pressure by raising and lowering the prices for

these services as it saw fit.

Q. What about packaging or bundling of services? Can Qwest package regulated and price deregulated products together without further deregulation?

A. Yes. Qwest can and has packaged regulated and unregulated services and priced them to respond to market forces. The Custom Choice, Value Choice and Popular Choice packages are examples of just such packaging. Qwest is currently promoting a package that includes the wireline Preferred Choice package plus a Qwest Wireless package with 1500 anytime minutes for $74.98 per month. (Exhibit No. 111).

Q. Are there restrictions on such packaging?

A. Only on accounting for the regulated revenues. The Company must impute the revenue that would have been collected from the sales of regulated products in its regulatory accounts as if it had been collected in accordance with the tariff.

Q. Can the Company offer promotions for regulated products?

A. Yes, it can and does. A common promotion is to waive the one-time installation charges for a product.

Q. What are the regulatory requirements of such promotions?

A. The Commission is to be notified of the

promotion in advance, as well as on accounting for the regulated revenues. The Company must impute the revenue that would have been collected from the sales of regulated products in its regulatory accounts as if it had been collected in accordance with the tariff.

Public Interest Considerations

Q. Are there other concerns that Staff has about this application?

A. Yes, Staff is very concerned about the potential impacts of price deregulation in these seven exchanges upon the rates of customers in the remaining exchanges.

Q. What is the possible impact to the other exchanges?

A. The remaining exchanges are more expensive to serve, on a per customer basis, than the seven exchanges in this case. Depending upon decisions made regarding rate base and other factors, it is entirely possible that approval of this application could lead to a significant rate increase for customers in the remaining exchanges.

Although an accurate calculation of the potential rate impacts in the remaining exchanges requires the in-depth analysis that is only available through a rate case, information from the case investigating a non-rural high cost fund, Case No.

GNR-T-00-2, may provide some idea of the magnitude of the different costs of service between the exchanges in this case and the remaining exchanges. In the high cost fund case, the Commission accepted the provisions of a stipulation that identified 27 wire centers in Qwest's service area in Southern Idaho as high cost areas. Not one of those 27 wire centers are part of the seven exchanges in this case. The modeling studies used to identify those wire centers, conducted by Dr. Johnson, also identified a potential amount of support for each of those high cost areas. The total amount of support required under the amounts identified in the Stipulation for these 27 wire centers was almost $4 million dollars per year. Although the Commission deferred a decision on support levels and the modeling in that case looked at costs in a manner differently than would be done in a rate case, this study does indicate the potential magnitude of the differences in costs between the exchanges for which Qwest is requesting price deregulation and the remaining exchanges. There is no question that the potential rate increases for the remaining exchanges might be very significant and that the public interest requires a consideration of this impact.

Q. Does Qwest have other alternatives for seeking

more flexibility in its pricing?

A. Yes. It could have filed an application under Section 62-622(1) instead of 62-622(3)(b). This could have set the current rates as the maximum, and allow the Company to reduce rates without Commission approval.

Q. Does Qwest gain any flexibility, besides the ability to raise rates, if this petition is approved, that it does not already have?

A. Not really. There are some bookkeeping requirements that go along with regulated rates that may no longer apply, but this case is really all about Qwest's ability to raise rates.

Q. What do you think is the most likely result if Qwest's application is approved?

A. The only logical conclusion is that Qwest would take advantage of the lack of effective competition and increase its rates for basic local exchange service. It may do this by requiring the purchase of additional, high margin features, such as Caller ID or other CLASS features. Such bundling or packaging of its services, while denying customers access to basic service without the package, would enhance revenues at virtually no cost to Qwest. In the alternative, it may simply raise its rates.

Q. Has Qwest given any indication that it is

facing pressure to lower its rates for basic local exchange service?

A. No. Not once in the testimony did any of the Company's witnesses claim that the Company needs the ability to respond to competitive pressure on prices. The Company cannot make such a claim because it is not so. As Dr. Johnson so effectively demonstrates, wireline and wireless products are complementary, and do not directly compete with each other. The Company is applying for price deregulation because it believes that, by defining effective competition in a narrow, self-serving manner, it can rid itself of all regulatory controls over pricing. Price deregulation may be in the interest of the Company's shareholders, but it is clearly not in the interest of the Company's customers.

Q. Has Qwest given any indication that it would lower rates to respond to competition?

A. Not really. Although Qwest witness Souba indicated there is an equal likelihood that prices will be decreased as that there will be price increases, none of the specific actions identified by the Company as likely responses should this application be approved include price decreases.

Q. Has the Company ever approached Staff about the possibility of lowering local exchange rates in response

1 to competitive pressure?
2 A. Not to my knowledge.
3 Q. What has the Company indicated it would do to
4 respond to competitive pressure?
5 A. The Company has provided very few specifics as
6 to how it would respond to competitive pressures, other
7 than to be innovative in developing new products and the
8 packaging of existing products and to improve customer
9 service. Of course, these are all things the Company
10 currently has the regulatory flexibility to do.
11 Q. How has Qwest responded to the pricing freedom
12 provided to it in 1989 for products other than basic
13 local exchange services?
14 A. With the exception of long distance rates,
15 which have seen the most significant market pressure, and
16 access rates, which have been lowered in response to
17 political pressure, rates have tended to increase.
18 Q. Are price increases the only outcome that can
19 be expected from approval of the Company's petition?
20 A. In my opinion, yes. The Company's testimony
21 and public pronouncements are full of sound bites and
22 catch phrases extolling the virtues of competition and
23 the flexibility provided by deregulation, but provide
24 little in the way of specific guidance as to how the
25 Company intends to really respond to deregulation or why

it cannot take those same steps today. I find it very instructive that about the only customer benefit from approval of this application that the Company identifies is that the Company will be able to attract the financing necessary to provide new and better services. I doubt that Qwest intends to attract that financing by reducing rates. It seems clear that the Company fully intends to raise its rates to take advantage of its captive customer base before it faces truly effective competition, and its customers actually have a choice.

Q. Would this be in the public interest?

A. Absolutely not, nor do I think it was what the Legislature had in mind when it provided for a transition to deregulation.

Q. Would you please summarize your testimony?

A. Staff opposes the Company's application because Staff does not believe the conditions of Section 622(3)(b) have been satisfied. Wireless service is not price competitive with Qwest's wireline service for the majority of residential customers. In addition, wireless service does not provide a number of important features that are included with wireline service, such as E-911 information, number portability, comparable access to the Internet, and the use of PBXs, TTYs, and other business features. Staff does not believe approval of Qwest's

application to be in the public interest as the most logical result is an increase in Qwest's rates for basic local exchange service in these seven exchanges, as well as the exchanges not included in this case.

Q. Does this conclude your direct testimony in this proceeding?

A. Yes, it does.