

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

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

5 Q. Have you previously testified before this  
6 Commission?

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

11 Q. Please provide a brief description of this  
12 case.

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

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

1 granted.

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

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

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

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

- 12 ● The Company has failed to demonstrate that  
13 wireless service is competitively priced.  
14 If a comparable volume of calling minutes is  
15 used, most wireless plans are prohibitively  
16 expensive.
- 17 ● The Company has failed to demonstrate that  
18 wireless service is functionally equivalent  
19 to Qwest's wireline service.
- 20 ● As a result of the statutory requirements  
21 not being met, the Company has failed to  
22 demonstrate that wireless competition is  
23 sufficient to effectively replace regulation  
24 in protecting the public from Qwest's  
25 monopoly position in the provision of local

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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?"

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

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

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

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

13 A. Yes, I believe there is. Idaho Code § 62-  
14 602(3) requires the Commission, "in its deliberation of  
15 deregulation of the incumbent telephone corporations,  
16 [to] examine the impact such deregulation will have on  
17 the public interest in accordance with the general grant  
18 of authority given to the commission by the legislature."  
19 It seems to me public interest concerns require the  
20 Commission to review the status of the competitive  
21 telecommunications market, at least in the exchanges  
22 included in the application for deregulation. In this  
23 case, that would include an analysis of whether  
24 competition from wireless providers really can be an  
25 effective control on Qwest's ability to raise its rates

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

8 **Wireless Service Is Not Competitively Priced**

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

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

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

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

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

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

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

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

25 A. Based upon confidential information provided by

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

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

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

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

8 Q. And what about the "Premium Plan?"

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

16 Q. Are these the only plans you have analyzed?

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

22 Q. What are the specific results of your analysis?

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

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

24 Q. What about business customers?

25 A. Even with Qwest's higher business rates,

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

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

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

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

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

25 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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 A. Not necessarily. There are indications that  
8 the current wireless prices are not sustainable, and that  
9 carriers are starting to increase rates. The article  
10 from The Wall Street Journal Online from February 18,  
11 2003 (Exhibit No. 103) shows that AT&T and T-Mobile have  
12 recently reduced the amount of minutes in their most  
13 popular plans, effectively raising their rates.

14 Q. What can you conclude from these results?

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

20 **Wireless Service Is Not Functionally Equivalent**

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

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

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

2 Q. What are the service quality concerns?

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

1 No. 106). The February 2003 issue of Consumer Reports  
2 included the results of a survey of nearly 22,000  
3 wireless subscribers, and the article indicated customer  
4 satisfaction with wireless carriers was lower than with  
5 any other business or services it rates. (Exhibit No.  
6 107, page 15)

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

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

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

21 A. Yes, on the afternoon of Monday, March 17<sup>th</sup>,  
22 between three and six in the afternoon, Staff placed a  
23 total of fifty separate calls using a Cricket phone.  
24 Forty of the calls were completed only far enough to  
25 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

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

4 Q. What about E-911?

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

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

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

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

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

7 A. Number portability is the ability to keep the  
8 same telephone number when a customer changes from one  
9 provider to another. Forcing a customer to change  
10 telephone numbers when they switch from one provider to  
11 another is considered anti-competitive, and the FCC  
12 imposed local number portability on both wireline and  
13 wireless carriers following enactment of the federal  
14 Telecommunications Act in 1996. All wireline carriers  
15 must implement number portability upon the request of a  
16 competitor, and Qwest has completed its implementation of  
17 local number portability for wireline service in these  
18 seven exchanges. However, wireless carriers have sought  
19 and received numerous delays to the FCC imposed deadlines  
20 for implementing number portability, and have petitioned  
21 the FCC for a delay in the current deadline of November  
22 2003.

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

25 A. Changing a telephone number is not something

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

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

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

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

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

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

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

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

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

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

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

4 Q. What do you mean by expensive?

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

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

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

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

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

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

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

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

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

12 A. Yes, I believe it is. The National  
13 Telecommunications and Information Administration (NTIA)  
14 estimated that approximately 52.7% of Idaho's 496,000  
15 households accessed the Internet in 2001, which  
16 calculates to be more than 260,000 households accessing  
17 the Internet (Exhibit No. 109). The FCC's latest report  
18 on broadband penetration (Table 8, Exhibit No. 110)  
19 indicates that 37,631 high-speed lines were provided to  
20 small business and residential customers as of June 30,  
21 2002, which leads to a calculation that more than 85% of  
22 Internet users still access the Internet via dial-up over  
23 a voice grade line. This indicates that nearly half of  
24 Qwest's basic local exchange service customers also use  
25 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, siting 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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**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 30<sup>th</sup> 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

1 line.

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

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

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

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

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

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

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

5           **Consumer Input**

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

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

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

22          A.     The few supporters generally expressed the view  
23 that it was necessary for Qwest to have pricing  
24 flexibility in order to compete with wireless service  
25 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

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

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

25 Q. What conclusions would you draw from the public

