

Chugwater Telephone Company, Range Telephone Cooperative, Inc.,  
RT Communications, Inc.  
Petition for Reconsideration and/or Clarification  
January 24, 2001

## EXHIBIT 3

# TESTIMONY OF GEORGE DEJORDY

ON BEHALF OF WESTERN WIRELESS

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF WYOMING**

In the Matter of WWC Holding Co., Inc.  
Petition for Designation as an Eligible  
Telecommunications Carrier.

DOCKET NO. 70042-TA-98-1

**DIRECT TESTIMONY OF GENE DEJORDY**

**Q. PLEASE STATE YOUR NAME, PLACE OF EMPLOYMENT, AND BUSINESS ADDRESS.**

A. My name is Gene DeJordy. I am employed by Western Wireless Corporation and my business address is as follows:

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**Q. WHAT ARE YOUR RESPONSIBILITIES WITHIN WESTERN WIRELESS?**

A. As the Executive Director of Regulatory Affairs, I am responsible for all federal and state regulatory and legislative matters for Western Wireless Corporation and its subsidiaries. WWC Holding Co., Inc. ("Western Wireless") is a wholly-owned subsidiary doing business in Wyoming. One of my responsibilities is working with federal and state legislators and regulators on universal service reform, including managing the Company's efforts to obtain eligible telecommunications carrier ("ETC") status.

**Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

A. Since December 1995, I have worked for Western Wireless as the Executive Director of Regulatory Affairs. Besides managing Western Wireless' universal service interests, I am responsible for negotiating and implementing new interconnection agreements with the local exchange carriers in the service areas of Western Wireless and its affiliates, which include more than 23 western states. I am also responsible for coordinating the entry into the competitive local exchange and long distance markets, including negotiating interconnection agreements, and addressing legal/regulatory local competition issues. Most importantly, however, I am responsible for ensuring that the Company is in compliance with any applicable local, state, and federal regulatory requirements.

Prior to working for Western Wireless, I was an attorney with the Washington, D.C. law firm of Swidler and Berlin, Chartered. My practice focused on federal and state regulatory issues affecting competitive local service providers, including wireless carriers. Before working at Swidler and Berlin, I was an attorney with the Federal Communications Commission ("FCC") in the Common Carrier Bureau. Prior to embarking on a career as an attorney, I worked as a system engineer involved with designing and implementing communications systems.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

A. I hold a Juris Doctorate degree from Catholic University of America, a Master of Science degree in Telecommunications Policy from George Washington University, and a Bachelor of Science degree from the University of Maryland. I am currently serving as Western Wireless' representative on the Rural Task Force established by the Federal-State Universal Service Joint Board to address universal service issues in territories served by rural telephone companies.

**Q. DOES WESTERN WIRELESS CURRENTLY PROVIDE TELECOMMUNICATIONS SERVICES IN WYOMING?**

A. Yes. Western Wireless is a "telecommunications carrier" as defined in 47 U.S.C. § 153(49). Western Wireless is authorized by the FCC and provides commercial mobile radio services under the brand name "Cellular One" in the following counties in Wyoming: Albany, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Johnson, Laramie, Lincoln, Natrona, Niobrara, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta and Weston. The CMRS services provided by the Company in Wyoming include mobile telephony, data/facsimile, 911, voice mail, and several other features and services. Western Wireless has been instrumental in serving the communication needs of Wyoming consumers in these areas.

**Q. TURNING TO THE MATTER OF UNIVERSAL SERVICE, DO WESTERN WIRELESS OR ITS SUBSIDIARIES CURRENTLY CONTRIBUTE TO THE FUNDING FOR UNIVERSAL SERVICE?**

A. Yes. At the present time, federal regulations require a carrier like Western Wireless to contribute approximately 3.5 percent of its revenues to the funding of federal universal service, and many states also require Western Wireless to contribute to the funding of state universal service. In Wyoming, Public Service Commission ("Commission") regulations

require all telecommunications carriers, including a CMRS carrier like Western Wireless, to contribute a percentage of its intrastate revenues to the State Universal service fund.

**Q. IS THE COMPANY PRESENTLY ABLE TO DRAW FROM ESTABLISHED FEDERAL UNIVERSAL SERVICE FUNDS FOR THE PROVISION OF THE SUPPORTED SERVICES?**

A. No. Until Western Wireless is designated as an Eligible Telecommunications Carrier ("ETC"), it is not able to draw from federal universal service funds to make available a universal service offering to consumers. Upon designation as an ETC, Western Wireless will be eligible to receive federal universal service funds, which will allow the Company to make available to consumers a universal service offering that meets their telecommunications needs. Without access to universal service funding, a competitive carrier, like Western Wireless, will be severely limited in its ability to provide a competitive telecommunications service to consumers in high-cost areas. Unlike urban areas where carriers are able to compete based upon the cost of providing service, rural high-cost areas will not experience the full benefits of competition unless competitive carriers are designated as ETCs for purposes of universal service support. Similarly, Western Wireless' ability to draw from the Wyoming universal fund is dependent upon the outcome of the Commission's investigation into a wireless carrier's eligibility to draw from the State universal service fund in General Order 85.

**Q. WHAT ARE THE PURPOSES OF YOUR TESTIMONY?**

A. The purposes of my testimony are two-fold: first, I will describe how Western Wireless provides the supported services in Wyoming, and identify Western Wireless' plans for providing universal services offerings within the state of Wyoming in compliance with the federal ETC criteria; and second, I will explain the public interest benefits that will be

realized by designating Western Wireless as an additional ETC in areas served by rural telephone companies.

**Q. DID WESTERN WIRELESS FILE AN APPLICATION FOR DESIGNATION AS AN ETC IN THE STATE OF WYOMING?**

A. Yes. The original Petition was filed with the Commission on September 1, 1998. Western Wireless filed an Amended Petition with the Commission on January 5, 1999 to clarify the nature of the requested ETC designation.

**Q. WHY IS WESTERN WIRELESS SEEKING DESIGNATION AS AN ETC?**

A. Section 214(e) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("Act"), provides that a carrier must obtain designation as an ETC from a state commission in order to be eligible to receive universal service support.

**Q. IS IT WESTERN WIRELESS' INTENT TO OBTAIN UNIVERSAL SERVICE SUPPORT FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES TO THE PUBLIC?**

A. Yes.

**Q. IS WESTERN WIRELESS SEEKING FEDERAL AND STATE UNIVERSAL SERVICE SUPPORT?**

A. No, Western Wireless is only seeking federal universal service support, at this time.

**Q. IS A WIRELESS PROVIDER, LIKE WESTERN WIRELESS, ELIGIBLE FOR FEDERAL UNIVERSAL SERVICE SUPPORT?**

A. Yes. Both the Act and the FCC's decision In the Matter of Federal-State Joint Board on Universal Services, CC Docket 96-45, Report and Order, FCC 97-157 (May 8, 1997) ("*Universal Service Order*") establish the directives for the Commission to follow in making an ETC designation. Section 214(e) specifically provides for the designation of all telecommunications carriers, which includes a wireless provider such as Western Wireless,

as an ETC for federal and state universal service support. The FCC has further concluded that:

We agree with the Joint Board's analysis and recommendation that any telecommunications carrier using any technology, including wireless technology, is eligible to receive universal service support if it meets the criteria under Section 214(e)(1). See *Universal Service Order*, ¶ 145

Section 214(e)(1) of the Act provides:

A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received ---

(A) offer the services that are supported by Federal universal service support mechanisms under Section 254(e), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

See, 47 U.S.C. § 214(e)(1) (emphasis added).

**Q. IS THE FCC CURRENTLY CONSIDERING WHETHER ETC DESIGNATION FOR A WIRELESS CARRIER IS APPROPRIATE?**

A. No. The FCC has already definitively concluded that ETC designation for a wireless carrier is appropriate. The FCC's *Universal Service Order* discusses at length the different types of carriers eligible to receive universal service support. *Universal Service Order*, ¶¶ 127-181. Specifically, the FCC determined that a wireless carrier, such as Western Wireless, may be designated as an ETC under Section 214(e). The FCC stated, "... any telecommunications carrier using any technology, including wireless technology, is eligible to receive universal service support if it meets the criteria under section 214(e)(1). We agree with the Joint Board that any wholesale exclusion of a class of carriers by the [FCC] would be inconsistent with the language of the statute and the pro-competitive goals of the 1996

Act. The treatment granted to certain wireless carriers under section 332(c)(3)(A) does not allow states to deny wireless carriers eligible status." *Universal Service Order*, ¶ 145. Moreover, FCC Rule 54.201(h) requires a state commission to designate a common carrier that meets the eligibility requirements as an ETC "irrespective of the technology used by such carrier." 47 C.F.R. § 54.201(h). Even a cursory review of the FCC's supported services under Rule 54.101(a) evidences numerous references to the provisioning of the supported services by a wireless telecommunications carrier. Clearly the FCC has already determined that a wireless carrier who meets the criteria of Section 214(e)(1) is to be designated an ETC.

**Q. IN WHAT AREAS IS WESTERN WIRELESS SEEKING DESIGNATION AS AN ETC?**

A. In its Amended Petition, Western Wireless identified the Wyoming counties in which the Company is authorized to serve and stated that it is seeking ETC designation in local exchanges within these counties. Since the filing of its Amended Petition, Western Wireless reviewed certain publicly available information concerning the telephone company exchanges falling within its licensed service area and the study areas served by the rural telephone companies in the state to more precisely identify the local exchanges and study areas to be included within the designated service area. The local exchanges of the non-rural telephone companies and the study areas of the rural telephone companies that fall entirely within Western Wireless' coverage in Wyoming are identified in Exhibit A attached hereto.

**Q. UNDER THE TELECOMMUNICATIONS ACT OF 1996, WHAT ARE THE PREREQUISITES FOR DESIGNATION AS AN ETC?**

A. Section 214(e)(2) provides that a "state commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the state commission."

[emphasis added] The requirements of paragraph (i) of Section 214(e) are that an applicant must: (1) be a common carrier; (2) offer the supported services; (3) advertise the availability of the supported services; and (4) make the supported services available throughout the designated service area.

**Q. IS IT YOUR UNDERSTANDING THAT IF WESTERN WIRELESS IS A COMMON CARRIER, OFFERS THE SUPPORTED SERVICES, ADVERTISES THE AVAILABILITY OF SUCH SERVICES, AND MAKES SUCH SERVICES AVAILABLE THROUGHOUT THE DESIGNATED SERVICE AREA, THAT A STATE COMMISSION IS REQUIRED TO DESIGNATE WESTERN WIRELESS AS AN ETC?**

A. Yes. For territories served by a non-rural telephone company, the Commission is required under the statute to designate Western Wireless as an ETC if it meets the eligibility criteria.

**Q. THE FIRST CRITERION FOR ETC DESIGNATION UNDER SECTION 214(e)(1) IS THAT OF A COMMON CARRIER. IS WESTERN WIRELESS A COMMON CARRIER?**

A. Yes. A "common carrier" is generally defined in 47 U.S.C. § 153(10) as a person engaged as a common carrier on a for-hire basis in interstate communications utilizing either wire or radio technology. Section 332(a)(1) of the Communications Act of 1934, as amended, specifically states that a CMRS provider is treated as a common carrier except as otherwise determined by the FCC. Section 20.9(a)(7) of the FCC's rules specifically provides that cellular service, such as that provided by Western Wireless, is considered a common carrier service. 47 C.F.R. § 20.9(a)(7).

**Q. AS FOR THE SECOND REQUIREMENT THAT WESTERN WIRELESS OFFER THE SUPPORTED SERVICES, WHAT ARE THE SUPPORTED SERVICES THAT MUST BE OFFERED?**

A. The FCC has identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms:

1. voice-grade access to the public switched telephone network;
2. local usage;
3. dual tone multi-frequency signaling or its functional equivalent;
4. single-party service or its functional equivalent;
5. access to emergency services;
6. access to operator services;
7. access to interexchange service;
8. access to directory assistance; and
9. toll limitation for qualifying low-income consumers.

47 C.F.R. § 54.101(a).

**Q. COULD YOU EXPLAIN EACH OF THE SUPPORTED SERVICES AND HOW WESTERN WIRELESS PROVIDES THESE SERVICES?**

A. Yes.

Voice-grade access to the public switched telephone network. The FCC concluded that voice-grade access means the ability to make and receive phone calls, within a bandwidth of approximately 2700 Hertz within the 300 to 3000 Hertz frequency range. *See Universal Service Fourth Order on Reconsideration*, FCC 97-420 (Dec. 30, 1997). There is no requirement to support high speed data transmissions. *See Universal Service Order*, ¶ 63-64. Western Wireless meets this requirement by providing voice grade access to the public switched telephone network. Through its interconnection arrangements with local telephone companies, including U S WEST, all customers of Western Wireless are able to make and receive calls on the public switched telephone network within the specified bandwidth.

Local usage. Beyond providing access to the public switched network, an ETC must include local usage as part of a universal service offering. To date, the FCC has not quantified any minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue. *See Universal Service Further Notice of Proposed Rulemaking*, FCC 98-278 (October 26, 1998) ("NPRM"). As it relates

to local usage, the NPRM sought comments on the definition of the basic service packages that must be offered by all ETCs. Specifically, the FCC sought comments on how much, if any, local usage should be required to be provided to customers as part of a universal service offering. *NPRM*, ¶¶ 46-52. In the *Universal Service Order*, the FCC deferred any determination on the amount of local usage that a carrier would be required to provide. *Universal Service Order*, ¶ 67. Any minimum local usage requirement established by the FCC as a result of the *NPRM* will be applicable to all designated ETCs, not simply wireless service providers. Western Wireless will comply with any minimum local usage requirements adopted by the FCC. In the meantime, Western Wireless will meet the local usage requirement by including local usage as part of its universal service offerings. For example, as explained below, Western Wireless intends to offer unlimited local usage as part of one of its universal service offerings.

Dual tone multi-frequency ("DTMF") signaling or its functional equivalent. DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement. 47 C.F.R. § 54.101(a)(3). Western Wireless currently uses out-of-band digital signaling and in-band multi-frequency ("MF") signaling that is functionally equivalent to DTMF signaling. Western Wireless therefore meets the requirement to provide DTMF signaling or its functional equivalent.

Single-party service or its functional equivalent. "Single-party service" means that only one party will be served by a subscriber loop or access line in contrast to a multi-party line. *Universal Service Order*, ¶ 62. The FCC concluded that a wireless provider offers the

equivalent of single-party service when it offers a dedicated message path for the length of a user's particular transmission. *Universal Service Order*, ¶ 62. Western Wireless meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.

Access to emergency services. The ability to reach a public emergency service provider through dialing 911 is a required universal service offering. Enhanced 911 or E911, which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), is only required if a public emergency service provider makes arrangements with the local provider for the delivery of such information. See *Universal Service Order*, ¶¶ 72-73. Moreover, a wireless carrier such as Western Wireless is not required to provide E911 services until a local emergency service provider has made arrangements for the delivery of ALI and ANI from carriers and has established a cost recovery mechanism. *Universal Service Order*, ¶ 73. Western Wireless currently provides all of its customers with access to emergency services by dialing 911 in satisfaction of this requirement. To date, no public emergency service provider in Wyoming has made arrangements for the delivery of ANI or ALI from Western Wireless.

Access to operator services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call. *Universal Service Order*, ¶ 75. Western Wireless meets this requirement by providing all of its customers with access to operator services provided by either the Company or other entities (e.g., LECs, IXCs, etc.).

Access to interexchange service. A universal service provider must offer consumers access to interexchange service to make and receive toll or interexchange calls. Equal access,

however, is not required. “[W]e do not include equal access to interexchange service among the services supported by universal service mechanisms.” *Universal Service Order*, ¶ 78.

Western Wireless presently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements the Company has with several IXCs. Additionally, customers are able to reach their IXC of choice by dialing the appropriate access code.

Access to directory assistance. The ability to place a call to directory assistance is a required service offering. White pages directories and listings are not required service offerings. *Universal Service Order*, ¶¶ 80-81. Western Wireless meets this requirement by providing all of its customers with access to directory assistance by dialing “411” or “555-1212.”

Toll limitation for qualifying low-income consumers. An ETC must offer either “toll control” or “toll blocking” services to qualifying Lifeline customers at no charge. The FCC no longer requires an ETC to provide both as part of the toll limitation services required under 47 C.F.R. § 54.101(a)(9). *See Universal Service Fourth Order on Reconsideration*, FCC 97-420 (Dec. 30, 1997). In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls. *Universal Service Order*, ¶ 82. Western Wireless currently has no Lifeline customers because only carriers designated as an ETC can participate in Lifeline. *See* 47 C.F.R. § 54.400-415. Once designated an ETC, Western Wireless will participate in Lifeline as required, and will provide toll blocking capability in satisfaction of the FCC’s requirement. Today, the Company provides toll blocking services for international calls and customer selected toll calls. Western Wireless can and will utilize the same toll blocking technology to provide the service to its Lifeline customers, at no charge, as part of its universal service offerings.

**Q. HOW WILL WESTERN WIRELESS PROVIDE THE SUPPORTED SERVICES?**

A. Western Wireless will provide the supported services using its existing network infrastructure and CMRS spectrum. This includes the same antennae, cell sites, towers, trunking, mobile switching center and interconnection facilities as used by the Company's conventional mobile cellular service customers. Attached as Exhibit B is a map depicting the scope of Western Wireless' signal coverage today based on its existing network within its authorized service areas in Wyoming. Western Wireless also regularly deploys additional cell sites and channels, as necessary, to maximize signal coverage and service availability. Initially, Western Wireless plans to deploy a wireless local loop access unit to provide universal services to customers. The wireless access unit serves as the interface to Western Wireless' network, transmitting the voice signal over the CMRS spectrum in the same manner as a handheld cellular phone unit. The technology functions as a replacement for the "last mile" of copper wire of the incumbent LEC. However, the signal coverage of a wireless access unit is optimized over the customer using a handheld or portable phone as the radio transmitter and receiver. Western Wireless will use the wireless access unit because universal service customers may prefer a product that delivers "dial tone" and allows for the connection of existing telephone and peripheral devices. Western Wireless can and will meet this customer preference by providing customers with a wireless access unit, which will simulate dial tone, increase signal strength, and give customers the ability to connect their existing telephone equipment and other peripheral devices to the unit and Western Wireless' network.

The provisioning of a universal service offering using a wireless access unit does not require any changes to Western Wireless' network. Using a wireless access unit simply involves a

different piece of customer premises equipment consisting of a high-gain antenna and a radio transmitter at a customer's location to transmit the signal to the nearest cell site. Using this same technology, Western Wireless currently provides a type of "universal service" to residents of Reese River and Antelope Valley, Nevada and Regent, North Dakota. Western Wireless also intends to provision its universal service offerings to introduce a mobility component that will allow consumers to use their phone outside of the home.

**Q. IS THERE A REQUIREMENT THAT WESTERN WIRELESS MUST FIRST BE PROVIDING UNIVERSAL SERVICE PRIOR TO SEEKING ETC DESIGNATION?**

A. There is no requirement under Section 214(e), the FCC's regulations or the Commission's rules for a carrier to be actually providing a universal service offering prior to being designated as an ETC. It also makes absolutely no sense to read the criteria in Section 214(e)(1) or the FCC's rules to require an applicant to actually be providing a universal service offering to customers and advertising such an offering before being designated as an ETC and thereby eligible to receive the resultant subsidies. As a practical matter, no carrier could be expected to effectively compete or provision a universal service offering to a customer without the ability to receive the intended subsidy. Moreover, the final rate for such an offering would be extremely difficult to determine unless the carrier knew it would receive the subsidy. And, the subsidy is not available to a carrier unless it has already been designated as an ETC.

To suggest that an applicant must already be performing the obligations of an ETC, including a requirement of actually offering the supported services and advertising the availability of such services, as a precondition to ETC designation is a nonsensical reading of the statutory requirements. A proper application of Section 214(e)(1) and (2) requires the Commission

to determine whether a common carrier is capable of providing the supported services and a review of its advertising plans. The actual obligation to "offer" and "advertise" the services under Section 214(e)(1) is not a precondition to ETC designation, but rather an obligation of a carrier upon receiving its ETC designation. Western Wireless complies with this obligation by currently providing each of the supported services. Once designated as an ETC, Western Wireless will make a universal service offering available throughout its service area, and will advertise the rates and services as required.

**Q. CAN YOU EXPLAIN WESTERN WIRELESS' UNIVERSAL SERVICE OFFERING?**

A. Yes. Western Wireless will make available to consumers within its designated service areas the supported services tailored to meet the consumers' communications needs. One such offering may look similar to services provided today by the LECs with certain enhancements. For a fixed monthly charge, Western Wireless intends to offer consumers the core supported services with unlimited local usage, an expanded local calling area larger than offered by the incumbent LEC, a per minute charge for long distance calls, and optional features and services, such as voice mail, caller-ID, call waiting, call forwarding, and conference calling. Another offering is expected to be a usage-sensitive plan under which a universal service customer would receive the core supported services with 750 minutes of usage for state-wide local calling, a per minute charge for interstate calls, and optional features and services. Western Wireless will finalize its universal service offerings and its approach to customer-specific issues when it obtains ETC designation and knows subsidies are available.

**Q. HOW WILL WESTERN WIRELESS' UNIVERSAL SERVICE OFFERINGS COMPARE TO THE CONVENTIONAL CELLULAR SERVICE AS IT PROVIDES TODAY?**

A. Western Wireless will provide services and features as part of its "universal service" offering that are tailored to a consumer's telecommunication needs. Consumer preferences will shape and determine the complimentary services and features included in a "universal service" offering. Western Wireless believes that, if given the choice they do not have today, consumers will likely want certain services and features associated with traditional local exchange service and certain services and features associated with a wireless service offering. For example, consumers may want flat-rated service that is typically associated with local exchange service, but a larger local calling area and mobility options that are typically associated with wireless service. Thus, Western Wireless' universal service offering will not look like conventional local exchange service or conventional cellular service, but will have attributes of both types of service.

**Q. A THIRD PREREQUISITE FOR DESIGNATION AS AN ETC IS TO ADVERTISE THE AVAILABILITY OF THE SUPPORTED SERVICES. HOW DOES WESTERN WIRELESS INTEND TO ADVERTISE THE AVAILABILITY OF THE SUPPORTED SERVICES?**

A. Based upon the recommendations of the Joint Board, the FCC has not adopted any particular standards regarding advertising using media of general distribution under Section 214(e)(1). *Universal Service Order*, ¶ 148. Similarly, the Commission has not promulgated any requirements for advertising by an ETC. As a result, Western Wireless will advertise the availability of the supported services and the corresponding charges in a manner that fully informs the general public within the designated service area of the services and charges. Western Wireless currently advertises its wireless services through several different media.

including newspaper, television, radio, and billboard advertising. Western Wireless also maintains various retail store locations throughout its authorized service areas which provide an additional source of advertising. Western Wireless' current advertising is not limited to advertising in business publications alone, but rather includes publications targeted to the general residential market. Western Wireless will use the same media of general distribution that it currently employs throughout the areas served to advertise its universal service offerings. Western Wireless will also comply with form and content requirements, if any, adopted by the Commission in the future and required of all designated ETCs.

**Q. YOU STATE THAT WESTERN WIRELESS WILL MAKE AVAILABLE A UNIVERSAL SERVICE OFFERING TO ALL CONSUMERS WITHIN THE DESIGNATED SERVICE AREA. HOW SHOULD THE COMMISSION ESTABLISH THE DESIGNATED SERVICE AREA?**

**A.** The Commission clearly has the authority to establish universal service areas.

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission.

47 U.S.C. § 214(e)(2) (emphasis added). The service area established by the Commission must be consistent with the universal service goals of competitive and technological neutrality. As set forth in Exhibit A to this testimony, Western Wireless seeks designation as an ETC in all non-rural telephone company exchanges and the study area of rural telephone companies that fall entirely within its coverage in Wyoming. Western Wireless will make the supported services available to all consumers within its designated service areas using its own facilities or a combination of its own facilities and resale of the services of other facilities-based carriers.

**Q. HOW IS THE SERVICE AREA DETERMINED UNDER SECTION 214(e) FOR PURPOSES OF ETC DESIGNATION?**

A. Section 214(e)(5) of the Act defines the term "service area" as a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms. For an area served by a rural telephone company, Section 214(e)(5) and FCC Rule 54.207(b) provide that the term "service area" means the rural telephone company's "study area," unless and until the FCC and the states establish a different definition for such a company under the FCC's procedures prescribed in Rule 54.207(c) and (d). A "study area" is generally considered to be the rural incumbent LEC's existing certificated exchange service areas in a given state. *Universal Service Order*, ¶ 172, fn. 434. The FCC did recommend that states define rural service areas to consist only of "the contiguous portions of a rural study area, rather than the entire rural study area" to best serve the universal service policy objectives of the Act. *Universal Service Order*, ¶ 190. The FCC recognized that the failure to do so would likely impose unnecessary barriers to entry, especially for wireless providers, that would do a disservice to rural customers. *Id.* Yet, the FCC has acted to designate the service area for a rural telephone company on a study area basis.

**Q. IS WESTERN WIRELESS SEEKING ETC DESIGNATION IN EACH LOCAL EXCHANGE CONTAINED WITHIN ITS AUTHORIZED CELLULAR LICENSED AREA?**

A. Based on its review of publically available information, Western Wireless has done its best to identify each local exchange for the non-rural telephone companies and each study area for the rural telephone companies located within Western Wireless' authorized cellular licensed area. Western Wireless should be designated an ETC for each local exchange for the non-rural telephone companies and each study area for the rural telephone companies.

located within Western Wireless' authorized cellular licensed area. Western Wireless seeks ETC designation in each local exchange of US WEST and United Telephone Company, both non-rural carriers, within the geographic area covered by the counties in Western Wireless' licensed area. Similarly, Western Wireless seeks ETC designation within the respective study areas of each rural telephone company operating within the geographic area covered by the counties in Western Wireless' licensed area. These areas are identified in Exhibit A. The signal coverage map set forth in Exhibit B demonstrates Western Wireless is currently serving these areas.

**Q. WOULD WESTERN WIRELESS' DESIGNATED SERVICE AREA BE DIFFERENT IF THE COMMISSION WERE NOT REQUIRED UNDER FCC REGULATIONS TO USE THE STUDY AREA OF A RURAL TELEPHONE COMPANY FOR FEDERAL ETC DESIGNATION?**

A. Yes, the designated service area would be somewhat larger if the Commission and FCC determined in a separate proceeding to disaggregate the study areas in Wyoming to include only the local exchanges of rural telephone company which were within Western Wireless' licensed coverage area. By way of general information for the Commission, the attached Exhibit A-1 is a listing of all local exchanges of both rural and non-rural telephone companies within the scope of Western Wireless's existing licensed area and signal coverage. Exhibit A-1 shows that certain additional exchanges of RT Communications and Union Telephone Company would also be included within Western Wireless' designated service area. However, the current limitations under FCC Rule 54.207(b) require the use of the Wyoming study areas for RT Communications and Union Telephone Company, unless the FCC and the Commission establish a different definition for each such company. Because RT Communications and Union Telephone Company each have a limited number

of certificated local exchanges outside of Western Wireless' authorized cellular licenses and signal coverage area, as shown on Exhibit B, the study area requirement under FCC Rule 54.207(b) essentially precludes any of their respective exchanges from being included within Western Wireless' designated service area at this time.

**Q. PLEASE STATE THE PROCESS REQUIRED TO DISAGGREGATE A RURAL TELEPHONE COMPANY'S STUDY AREA INTO A SMALL AREA.**

A. The process to redefine a rural telephone company's service area to be other than the company's study area begins with the submission of a petition to the FCC. Under FCC Rule 54.207(c), the Commission could file a petition with the FCC containing the proposed definition of the service area and the reasons for proposing such a service area. Generally, the FCC would issue a Public Notice within fourteen (14) days of its receipt of the petition. If the FCC initiates a proceeding to consider the petition, the proposed definition would not take effect until the Commission and FCC reach an agreement on the redefinition of the rural service area. If the FCC does not act on the petition within ninety (90) days of the date of the release of the Public Notice, the new definition of the service area is deemed approved. The specific process is set forth in FCC Rule 54.207(c).

**Q. WHAT DOES WESTERN WIRELESS RECOMMEND TO THE COMMISSION REGARDING THE PROPOSED SERVICE AREA?**

A. If the Commission determines to grant the federal ETC designation with respect to the local exchanges and study areas set forth in Exhibit A, Western Wireless further recommends that the Commission consider initiating a separate proceeding in accordance with FCC Rule 54.207(c) to disaggregate the respective study areas for RT Communications and Union Telephone Company to include those exchanges within Western Wireless' authorized cellular license and signal coverage area identified on Exhibit A-1. However, for purposes

of this proceeding. Western Wireless' designated service area should include the local exchanges and study areas set forth on Exhibit A.

**Q. WHY DOES WESTERN WIRELESS RECOMMEND THAT THE COMMISSION CONSIDER INITIATING A SEPARATE PROCEEDING TO ADDRESS THE RURAL TELEPHONE COMPANY STUDY AREAS FOR THESE CARRIERS?**

A. First, the FCC utilized the study area of rural telephone companies so that a competitive carrier would not be able to target customers that are the least expensive to serve and thus undercut the incumbent telephone company's ability to continue to serve the entire area. However, the FCC expressly stated that a designated service area should not be unreasonably large because it would significantly increase the scale of operations required of a new entrant and thus constitute a barrier to entry. *Universal Service Order*, ¶ 129. The FCC also recognized that such barriers were unnecessary to preserve and advance universal service. Based on the recommendations of the Joint Board, the FCC determined to "encourage states to consider disaggregating a rural telephone company's study area into services areas composed of the contiguous portions of that study area." *Universal Service Order*, ¶ 129. In the present case, Western Wireless has excluded several telephone exchanges for RT Communications and Union Telephone Company because the entire study area for these carriers was not within the scope of Western Wireless' coverage area. Universal service is not advanced when a portion of the licensed area that is presently being served by Western Wireless is not eligible for universal service support simply because Western Wireless' license and signal coverage does not extend to other parts of the study area. Moreover, Western Wireless is unlikely to selectively serve low cost customers for its universal service offerings since it is a common carrier and is required to make available the same service options at the same prices to all that wish to receive service. Likewise, the obligation to

advertise the availability of supported services, and to provision the supported services, throughout the service area will also limit Western Wireless from any attempt to attract the most profitable customers from an incumbent rural telephone company. Finally, limiting the service area constitutes a significant barrier to entry which is not necessary for the advancement of universal service.

**Q. BEFORE DESIGNATING WESTERN WIRELESS AS AN ETC, IS THE COMMISSION REQUIRED TO FIND THAT THE DESIGNATION IS IN THE PUBLIC INTEREST?**

A. In territories served by non-rural telephone companies, such as US WEST, a public interest finding is not required and is not a prerequisite for designation as an ETC. In territories served by rural telephone companies, a public interest finding is required for designation of more than one common carrier as an ETC.

**Q. IS THE COMMISSION ALLOWED TO CONSIDER ANY OTHER FACTORS OR CRITERIA IN DESIGNATING AN ETC?**

A. No. The FCC clearly stated that neither the FCC nor a state commission is permitted to adopt additional factors or criteria in designating an ETC. The FCC construed Section 214(e)(2) as requiring "that a state commission must designate a common carrier as an eligible carrier if it determines that the carrier has met the requirements of Section 214(e)(1)." *Universal Service Order*, ¶ 135. Other than a "public interest" determination required for areas served by a rural telephone company, the statute does not permit the Commission to supplement the Section 214(e)(1) criteria that govern a carrier's eligibility to receive universal service support.

**Q. HAVE OTHER STATE COMMISSIONS PREVIOUSLY RECOGNIZED THE EXCLUSIVITY OF THE FACTORS SET FORTH SECTION 214(e) FOR PURPOSES OF FEDERAL ETC DESIGNATION?**

A. Yes. In Docket No. 096.2.18, the Montana Public Service Commission designated specific incumbent telecommunication carriers as ETCs for purposes of federal universal service support and defined the service areas in which the carriers would receive support. The Montana Commission stated, "The FCC concluded in ¶ 136 of its Universal Service Order that 47 U.S.C. § 214(e) prohibits states from imposing additional prerequisites for ETC designation." *MPSC Order No. 6005(u)*, ¶ 6. Similarly, this Commission should determine that no criteria other than that set forth by the FCC and Section 214(e) of the Act is required.

**Q. SECTION 214(e)(2) STATES THAT THE COMMISSION IS REQUIRED TO FIND THAT DESIGNATING WESTERN WIRELESS AS AN ETC IN TERRITORIES SERVED BY RURAL TELEPHONE COMPANIES IS IN THE PUBLIC INTEREST. IS DESIGNATING WESTERN WIRELESS AS AN ADDITIONAL ETC IN THE PUBLIC INTEREST?**

A. Yes. Consumers in rural areas will be significantly benefitted by the competition brought about by designating Western Wireless as an additional ETC. Competition is in the public interest. One of the underlying purposes of the Telecommunications Act of 1996 was to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." 100 Stat. 56 (1996). The public interest standard under Section 214(e)(2) for designating ETCs in territories served by rural telephone companies emphasizes competition and consumer benefit, not incumbent protection. As explained by U.S. Senator Dorgan, who offered the amendment to the Senate bill inserting the public interest requirement in Section 214(e)(2), "competition benefits consumers rather than hurts them" and "the best interests of rural consumers are paramount." 141 Cong. Rec. S7951-52 (June 8, 1995).

The failure to designate Western Wireless as an ETC would deprive consumers of the benefits of competition, including increased choices, higher quality service, and lower rates. In a competitive market, the rural consumer would be able to choose services from a carrier that best meets the consumer's communications needs. Absent a choice of service providers, the consumer is unable to make a selection based upon service quality, service availability, and rates. The incumbent provider has little or no incentive to introduce new, innovative, or advanced service offerings. Competition promises to bring new and exciting services to the rural consumer.

Western Wireless will offer universal services to rural consumers, as well as services not currently provided by the landline LEC. For example, Western Wireless will provide an expanded local calling area, which will benefit rural consumers who currently pay toll charges to reach government officers, health care providers, businesses or family located outside of a restricted landline local calling area. A universal service offering which includes mobility will also have great appeal and benefits to rural consumers.

In addition to increased choices, Wyoming's rural consumers may also experience lower rates. At this time, Western Wireless has not finalized its pricing for the universal service offerings, but the rates will be comparable to, if not less than, the local service rates charged by the incumbent LEC. Otherwise, Western Wireless will not likely attract any customers. Likewise, Western Wireless' service quality will need to meet or exceed the quality of services provided by the incumbent LEC for Western Wireless to obtain customers. Designating Western Wireless as an ETC will also further the deployment of new wireless technology available to benefit Wyoming's rural consumers, namely, a wireless local loop.

Through the establishment of a competitive universal service system, the rural consumer will be able to keep pace with, and quite possibly outpace, the consumer's urban counterpart in terms of the availability of telecommunication services. Western Wireless stands ready, willing and able to bring the benefits of competition to consumers in Wyoming – benefits of competitive pricing, better service quality, immediate service availability, and better customer service. The increased choices for rural consumers will advance universal service. There can be no dispute that making available to consumers a choice in services and service providers is in the public interest.

**Q. WILL WESTERN WIRELESS BECOME SUBJECT TO THE JURISDICTION OF THE COMMISSION IF IT IS GRANTED ETC STATUS?**

A. No. The FCC was keenly aware that not all telecommunications carriers are subject to the jurisdiction of a state commission. Nevertheless, the FCC stated, "Nothing in section 214(e)(1), however, requires that a carrier be subject to the jurisdiction of a state commission in order to be designated an eligible telecommunications carrier. Thus, tribal telephone companies, CMRS providers, and other carriers not subject to the full panoply of state regulation may still be designated as eligible telecommunications carriers." *Universal Service Order*, ¶ 147 (emphasis added). The FCC also specifically recognized state preemption of wireless carriers under 47 U.S.C. § 332(c)(3)(A) as prohibiting states from denying wireless carriers eligible status. *Universal Service Order*, ¶ 145. Since Western Wireless will utilize the CMRS spectrum to provide the services, including a wireless local loop, Western Wireless' universal service offerings will be regulated as a CMRS service rather than a local exchange service under state law. Consequently, granting ETC designation to the Company will not subject it to regulation by the Commission.

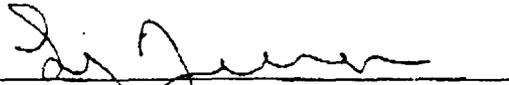
Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

DATED this 13<sup>th</sup> day of May, 1999.

WWC Holding Co., Inc.,

BY:



Elizabeth Zerga

Herschler, Freudenthal,

Salzburg, Bonds & Zerga, P.C.

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Gene DeJordy, Esq.

Executive Director of Regulatory Affairs

Western Wireless Corporation

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(425) 586-8055

**CERTIFICATE OF SERVICE**

I, Elizabeth Zerga, do hereby certify that a true and correct copy of the foregoing was served by telecopy and by depositing same in the United States mail, postage prepaid, this \_\_ day of May, 1999, addressed as follows:

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and a true and correct copy was Hand Delivered to:

Mr. Dave Lucero  
Counsel for  
Wyoming Public Service Commission  
2515 Warren Avenue, Suite 300  
Cheyenne, WY 82002

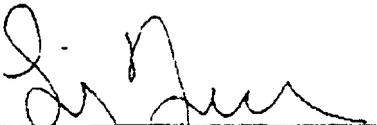
  
Elizabeth Zerga

EXHIBIT A:

Non-Rural Telephone Company Exchanges and  
Rural Telephone Company Study Areas Served By Western Wireless

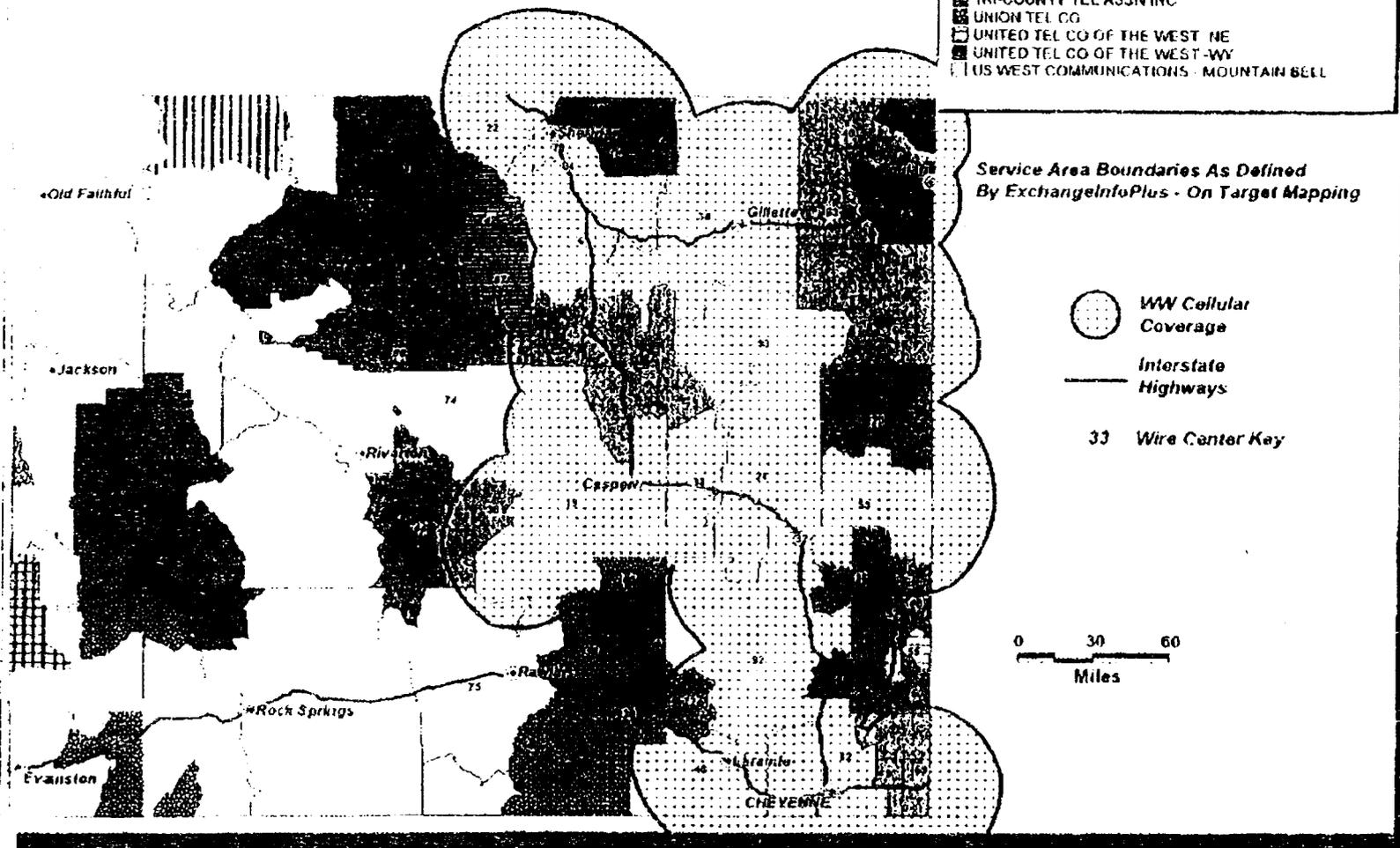
LOCALITY	LOCAL TELEPHONE COMPANY	COVERAGE BY WESTERN WIRELESS	LOCAL TELEPHONE COMPANY STUDY AREA SERVED BY WESTERN WIRELESS
CHUGWATER	CHUGWATER TEL CO	YES	YES
EDGEMONT	GOLDEN WEST TEL COOP INC	YES	YES
ALZADA, MT	RANGE TEL COOP INC -WY	YES	YES
ARVADA	RANGE TEL COOP INC -WY	YES	YES
CLEARMONT	RANGE TEL COOP INC -WY	YES	YES
SOUTHEAST	RANGE TEL COOP INC -WY	YES	YES
SUNDANCE	RANGE TEL COOP INC -WY	YES	YES
GUERNSEY	UNITED TEL CO OF THE WEST -WY	YES	N/A
LINGLE	UNITED TEL CO OF THE WEST -WY	YES	N/A
BUFFALO	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
CHEYENNE	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
CASPER	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
DOUGLAS	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
SHERIDAN	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
GLENDO	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
GLENROCK	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
GILLETTE	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
LARAMIE	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
LUSK	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
SHERIDAN	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
SHERIDAN	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
WHEATLAND	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
WRIGHT	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A

EXHIBIT A1:  
TELEPHONE COMPANY EXCHANGES SERVED BY WESTERN WIRELESS

LOCALITY	COMPANY NAME	COVERAGE BY WESTERN WIRELESS	LOCAL TELEPHONE COMPANY STUDY AREA SERVED BY WESTERN WIRELESS
CHUGWATER	CHUGWATER TEL CO	YES	YES
EDGEMONT	GOLDEN WEST TEL COOP INC	YES	YES
ALZADA, MT	RANGE TEL COOP INC -WY	YES	YES
ARVADA	RANGE TEL COOP INC -WY	YES	YES
CLEARMONT	RANGE TEL COOP INC -WY	YES	YES
SOUTHEAST	RANGE TEL COOP INC -WY	YES	YES
SUNDANCE	RANGE TEL COOP INC -WY	YES	YES
ALBIN	RT COMMUNICATIONS	YES	NO
BURNS	RT COMMUNICATIONS	YES	NO
CARPENTER	RT COMMUNICATIONS	YES	NO
GAS HILLS	RT COMMUNICATIONS	YES	NO
HULETT	RT COMMUNICATIONS	YES	NO
KAYCEE	RT COMMUNICATIONS	YES	NO
MIDWEST	RT COMMUNICATIONS	YES	NO
MCCRORFT	RT COMMUNICATIONS	YES	NO
NEWCASTLE	RT COMMUNICATIONS	YES	NO
OSAGE	RT COMMUNICATIONS	YES	NO
PINE BLUFF	RT COMMUNICATIONS	YES	NO
SHOSHONI	RT COMMUNICATIONS	YES	NO
UPTON	RT COMMUNICATIONS	YES	NO
ROCK RIVER	UNION TEL CO	YES	NO
SHIRLEY BA	UNION TEL CO	YES	NO
GUERNSEY	UNITED TEL CO OF THE WEST -WY	YES	N/A
LINGLE	UNITED TEL CO OF THE WEST -WY	YES	N/A
BUFFALO	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
CASPER	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
CHEYENNE	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
DOUGLAS	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
GILLETTE	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
GLENDO	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
GLENROCK	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
LARAMIE	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
LUSK	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
SHERIDAN	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
WHEATLAND	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A
WRIGHT	US WEST COMMUNICATIONS - MOUNTAIN BELL	YES	N/A

# Wyoming Incumbent Local Exchange Carrier Service Areas & Western Wireless Cellular Coverage

- Wyoming L.E.C. Service Areas
- ALL WEST COMMUNICATIONS -WY
  - CHUGWATER TEL CO
  - DUBOIS TEL EXCH INC
  - GOLDEN WEST TEL COOP INC
  - PROJECT TEL CO INC
  - RANGE TEL COOP INC -WY
  - RT COMMUNICATIONS
  - SILVER STAR TEL CO INC -WY
  - TCT WEST
  - TELEPHONE UTILITIES OF WYOMING INC
  - TRI-COUNTY TEL ASSN INC
  - UNION TEL CO
  - UNITED TEL CO OF THE WEST NE
  - UNITED TEL CO OF THE WEST -WY
  - US WEST COMMUNICATIONS - MOUNTAIN BELL



\*\* TOTAL PAGE.031 \*\*

EXHIBIT B

Chugwater Telephone Company, Range Telephone Cooperative, Inc.,  
RT Communications, Inc.  
Petition for Reconsideration and/or Clarification  
January 24, 2001

## EXHIBIT 4

### AFFIDAVIT OF DAVID D. CLARK

ON BEHALF OF CHUGWATER TELEPHONE COMPANY,  
RANGE TELEPHONE COOPERATIVE, INC., AND RT COMMUNICATIONS

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Federal-State Joint Board on )  
Universal Service ) CC Docket No. 96-45  
 )  
Western Wireless Corporation )  
Petition for Designation as an )  
Eligible Telecommunications )  
Carrier in the State of Wyoming )

AFFIDAVIT OF DAVID D. CLARK

I, David D. Clark, being first duly sworn, do depose and state as follows:

I am an adult employed by GVNW, a consulting firm providing services to the Petitioners in the foregoing Petition for Reconsideration and would aver that I have personal knowledge of the facts, computations and representations contained in the Petition. I would further affirm that the allegations and representations contained herein are personally known to me and are true and correct to the best of my knowledge and belief.

In addition, the documents attached as exhibits thereto are true and accurate copies of documents taken from the business records of the companies or commissions referenced herein.

FURTHER THE AFFIANT SAYETH NAUGHT.

David D. Clark  
David D. Clark

STATE OF COLORADO )  
 ) ss  
COUNTY OF EL PASO )

Subscribed and sworn to before me by David D. Clark, this 23rd day of January, 2001.

Witness my hand and official seal.

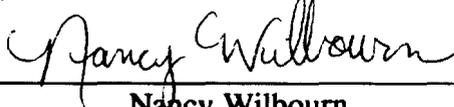
Debbie M. Dindorff  
Notary Public



My Commission expires: 8/29/2001

## **CERTIFICATE OF SERVICE**

I, Nancy Wilbourn, hereby certify that a copy of the foregoing "Petition for Reconsideration" was served on this 25<sup>th</sup> day of January, 2001 by first class, U.S. mail, postage prepaid or by hand delivery to the following parties:

  
\_\_\_\_\_  
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Washington, DC 20554

Susan Ness, Commissioner \*  
Federal Communications Commission  
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**\* Via Hand Delivery**