

1 **Q. What is your name and business address?**

2 A. Robert B. Shirley, 1300 South Evergreen Park Drive SW, P.O. Box 47250, Olympia,
3 Washington, 98504-7250.

4
5 **Q: In what capacity are you employed?**

6 A: I have been employed by the Washington Utilities and Transportation Commission since
7 July, 1997, as a telecommunications policy analyst and in that time I have focused my
8 work on issues related to rural telecommunications. I was the principal author of two
9 reports to the legislature concerning universal service. I participated in Docket Nos.
10 UT-970333-54 and UT-970356, the eligible telecommunications carrier dockets in which
11 the Commission designated eligible telecommunications carriers for most of the rural
12 areas of the state. I also participated in Docket No. UT-980311, the Commission's
13 universal service proceeding, and in Docket No. UT-980983, a complaint against Asotin
14 Telephone Company concerning its obligation to serve an area outside its tariffed
15 exchange boundary.

16 My education includes Bachelor of Arts and Masters degrees in Public
17 Administration from The Evergreen State College and a Juris Doctorate from Seattle
18 University.

19
20 **Q: What is the purpose of your testimony?**

21 A: This case is about designating a carrier to serve a community, or portion thereof, pursuant

1 to 47 U.S.C. § 214(e)(3). The purpose of my testimony is to recommend to the
2 Commission whether it should designate an eligible telecommunications carrier (ETC)
3 for the area around Wilderness Lake, Pend Oreille County, and to make policy
4 recommendations concerning the requirement that rural and high-cost areas have access
5 to telecommunications services that are reasonably comparable to service provided in
6 urban areas and available at reasonably comparable rates. I also propose elements to
7 consider in determining which carrier is best able to serve the area.

8
9 **Q: Please summarize your testimony.**

10 A. If the Commission determines that the area around Wilderness Lake is “a community or
11 portion thereof” as set forth in 47 U.S.C. § 214(c)(3), then the Commission should order a
12 wireline common carrier to serve that area.

13 The wireless service available in the area of Wilderness Lake is not reasonably
14 comparable to the telephone service provided in urban areas, when measured in terms of
15 quality or price.

16 In deciding which carrier is best able to provide telecommunications service to
17 Wilderness Lake, the Commission should consider the costs the potential carrier would
18 incur to construct the necessary facilities.

19 **Q: Why should the Commission designate a common carrier as the ETC for the**
20 **Wilderness Lake area?**

21 A. It is the policy of Washington State to maintain and advance the availability of

1 telecommunications service. RCW 80.36.300. One way the Commission can advance
2 this policy is to make it possible for the residents of Wilderness Lake and nearby areas to
3 have basic telephone service at affordable prices.

4 Likewise, it is national policy that rural and high-cost areas “should have access to
5 telecommunications and information services, including interexchange services and
6 advanced telecommunications and information services, that are reasonably comparable
7 to those services provided in urban areas and which are available at rates that are
8 reasonably comparable to rates charged for similar services in urban areas.” 47 U.S.C.
9 § 254(b)(3). If the area around Wilderness Lake is a community, or portion thereof, then
10 Congress has provided a mechanism for the Commission to designate a carrier or carriers
11 to provide service to the area. 47 U.S.C. § 214(e)(3).

12

13 **Q: Is the area around Wilderness Lake rural or high-cost?**

14 **A:** Yes. In fact, it is both rural and high-cost.

15 Pend Oreille County does not have any zoning or designation that applies to
16 Wilderness Lake and the surrounding area. Gary Fergus, Director of Planning for the
17 county, characterized Wilderness Lake and the surrounding area as a large-lot subdivision
18 in a rural area. In addition, I have visited Wilderness Lake and observed the rural
19 character of the area. It is located more than 30 miles north of Spokane and several miles
20 west of Highway 2. Residences in the area are widely dispersed and farming appears to
21 be the primary type of business. In the area immediately surrounding Wilderness Lake

1 there are about two and one-half miles of road and six homes, with one additional home
2 under construction.

3 The area is high-cost because wireline service would be provided from either the
4 Elk exchange or the Newport exchange, both of which receive substantial universal
5 service support. The Elk exchange is supported by over \$1,000,000 in explicit state
6 universal service support earned by U S WEST through terminating access charges, and
7 the Newport exchange is supported by approximately \$1,450,000 in explicit state
8 universal service support earned by GTE through terminating access charges.¹ Sprint
9 PCS also serves the area but does not receive explicit state or federal universal service
10 support.

11
12 **Q: Section 214(e)(3) does not mention rural and high cost locations. Why is it**
13 **important to know if the area around wilderness lake is rural or high-cost?**

14 A: If the service to be provided is in a rural or high-cost location, then it must meet the
15 policy requirements of 47 U.S.C. § 254. By its plain language, Section 214(e) cannot be
16 read apart from Section 254. Reading Section 214(e) in conjunction with Section 254,
17 the rural or high-cost considerations are clear.

18
19
¹*In the Matter of Determining Costs for Universal Service*, Docket No. UT-980311,
“Legislative Report on Universal Service - November 1998.”

1 **Q: What other factor should the Commission consider in determining what carrier or**
2 **carriers should be ordered to serve a rural and high cost community?**

3 A: The Commission must ensure that the service is reasonably comparable to the services
4 provided in urban areas. *See* 47 U.S.C. § 254(b).

5

6 **Q: What services should the Commission consider when determining whether services**
7 **at Wilderness Lake are “reasonably comparable” to services available in urban**
8 **areas?**

9 A: Reliable basic telephone service as defined by RCW 80.36.600(6)(b).

10

11 **Q: Is wireless service available in the area around Wilderness Lake?**

12 A. Yes.

13

14 **Q: Is the wireless service available in the area around Wilderness Lake reliable?**

15 A: No. On a sunny day with little wind, I attempted to make several calls on a wireless
16 telephone from different locations at Wilderness Lake and was unsuccessful. I tried from
17 some locations where others have had success. Wilderness Lake residents Andy and Jane
18 Biron told me that they could not use a wireless telephone from inside their house, but
19 sometimes had success in the front yard. I attempted to call from both inside the house
20 and in the front yard and was unsuccessful. I attempted my calls on a Motorola
21 MicroTAC 650 telephone, which has 0.6 watts and a powerful 1100 milliamp battery.

1 The reliability of wireless service should be compared with the reliability of
2 wireline telecommunications. Wireline service is generally considered to provide a dial-
3 tone more than 99 percent of the time. One basis for determining whether the reliability
4 of wireless is reasonably comparable to that of wireline service would be to consider the
5 consequence if a call for emergency assistance could not be made. Another comparison
6 would be the level of reliability needed to conduct personal business, such as contact a
7 physician, a bank, or an insurance agent.

8
9 **Q. Are the rates for the wireless service available in the area of Wilderness Lake**
10 **reasonably comparable to rates charged for similar services in urban areas?**

11 A: No. To compare the rates, the first step is to determine what the rate is for reliable basic
12 telephone service in urban areas. Once that rate is established, it can be compared to the
13 rate available from the wireless providers serving the area around Wilderness Lake.

14
15 **Q: How can the wireless rates currently available in Wilderness Lake be compared to**
16 **the telephone services and rates available in urban areas?**

17 A: Although both wireless and wireline services are widely available in urban areas, the rate
18 comparison should be made to wireline service because most urban customers choose
19 wireline for their basic telephone service.

20 According to the Federal Communications Commission (FCC), the telephone
21 penetration rate in Washington State hovers around 95 percent. That is, 95 percent of all

1 households subscribe to telephone service. Nationally, approximately 2 percent to 4
2 percent of households have wireless service only, according to research done for the
3 Cellular Telecommunications Industry. Assuming Washington mirrors the national
4 average, at least 91 percent of Washington households rely on wireline service for basic
5 telephone service.

6 According to data collected in Docket No. UT-980311, slightly less than
7 25 percent of “access lines” in Washington are wireless. If none of those 25 percent are
8 business lines, and no residential user subscribes to more than one wireless
9 “access line,”
10 then the percent of households with wireline service only is 70 percent.² Even with
11 extremely conservative assumptions, it is reasonable to conclude that more than two-
12 thirds of households do not subscribe to wireless service.

13 Therefore, taking the highest number of wireless only users, 4 percent, and
14 assuming all wireless service in Washington is residential, the ratio of wireline-only users
15 to wireless-only users is 70 to 4. That means that wireline service is chosen by customers
16 for basic service at a ratio of at least 17 to 1. That ratio supports the conclusion that basic
17 telephone service in urban areas is provided primarily through wireline subscription. It is
18 reasonable to conclude that if only 2 percent to 4 percent of the urban dwellers who could
19 choose wireless service as their only basic telecommunications service actually do

² [Telephone penetration rate (95percent) *minus* wireless-only rate (4percent)] *minus*
[wireline access line rate (25percent) *minus* wireless only rate (4percent)] = 91percent *minus*
21percent or 70percent.

1 so, and

2

1 if at least 70 percent of households do not subscribe to wireless, then wireless is not
2 providing basic telephone service in Washington at this time.

3

4 **Q. What does this tell you about “reasonable comparability” as defined by consumer**
5 **choice?**

6 If the urban wireline services and urban wireless services were “reasonably comparable”
7 in the eyes of the consumer, and if the rates were reasonably comparable, I would expect
8 greater substitution, that is, more people relying on wireless service alone. The 17:1 ratio
9 of households that use wireline only to those that use wireless only indicates that even in
10 urban Washington, where cell coverage is very good and several companies compete on
11 price and service, the services or rates or both are not reasonably comparable.

12

13 **Q: What are the rates for wireless service in Spokane?**

14 A. There are at least five providers and many plans in Spokane. To make a comparison, I
15 chose Sprint PCS. As of June 11, 2000, Sprint PCS offered 20 minutes for \$19.99 per
16 month and 39 cents per-minute thereafter. It also offered 1,000 minutes per month for
17 \$75.00, plus 25 cents per-minute thereafter. Any call out of Washington and northern
18 Idaho is long distance and the charge for all plans, if provided by Sprint PCS, is 15 cents
19 per minute.

20

1 A customer who used 1,000 minutes per month would pay \$75.00 per month, or
2 almost five times the minimum monthly charge of \$16.00.³ If the customer had a 20
3 minute plan and then used 100 minutes, the price would be \$51.19 per month, or over
4 three times the minimum monthly charge.

5

6 **Q. What conclusion do you draw concerning the comparability of rates and the**
7 **substitution of wireless for wireline service?**

8 A. People in Spokane, where wireless competition promotes good customer service and high
9 technical quality, seem unwilling to substitute wireless for wireline service when the price
10 for wireless is approximately three to five times as high as wireline service.

11

12 **Q. What are the rates for urban wireline service and the wireless service available in**
13 **the area of Wilderness Lake?**

14 A. The minimum monthly charge for most telephone service in urban Washington is \$16.00.
15 See n.3 above. Long distance service is additional with widely advertised rates between
16 \$.05 and \$.10 per minute. U S WEST long distance, for example, offers a \$.09 per-
17 minute intraLATA rate.

18 In comparieson, as set forth above, the lowest standard package price for wireless
19 telephone service as of June 11, 2000, from Sprint PCS, was \$19.99 for 20 minutes and

³In Spokane, wireline service is provided by U S WEST for \$16.50 per month, which is the basic rate of \$12.50 per month plus the \$3.50 subscriber line charge (SLC).

1 39 cents per minute thereafter. Long distance charges were additional. The lowest per-
2 minute rate was 10 cents when purchasing 500, 700, or 1,500 minutes or more and 30 cents,
3 25 cents, and 15 cents per minute thereafter, respectively. As described above, there is a
4 1,000 minute plan for \$75 per month.

5 Assuming a customer used 500 minutes per month, the rate for local telephone
6 service alone would be over three times the minimum monthly charge paid by an urban
7 customer using wireline service. If the customer used an additional 100 minutes per
8 month on the 500-minute plan, the rate would be \$79.99, or five times the minimum
9 monthly charge for the urban customer.

10 It is also worth noting that the basic rates for wireline service in many rural
11 exchanges are significantly lower than wireless rates. For example, in GTE's Newport
12 exchange, basic access to the network (no minutes of calling) is \$5.75 per month and the
13 weekday rates are 3.5 cents for the first minute of each call and 1.5 cents for each
14 additional minute per call. If one compares the Sprint PCS plan of 20 minutes for \$19.99,
15 the per minute charge is about \$1.00, or 28 times the cost of the initial minute charge of
16 3.5 cents.

17 Another comparison is St. John Telephone, which charges \$9.50 for residential
18 service. If the \$3.50 SLC is added, the comparison would be \$13.00 to \$75.00, with the
19 wireless cost almost six times the rural rate.

20

21

1 **Q. What are the rates for satellite service in the area around Wilderness Lake?**

2 A. An example is service from MSAT-1 Satellite Telephone. The lowest base price is
3 \$39.00 per month for 0 (zero) minutes and 98 cents per minute. The highest base rate is
4 \$900.00 per month for 1000 minutes, and 89 cents per minute thereafter.

5

6 **Q: It is clear that these rates are different. Why are they not reasonably comparable?**

7 A: That the rates are not reasonably comparable can be demonstrated in two ways. One is
8 that the ratios for wireless and wireline rates in Wilderness Lake are equal or greater than
9 the ratios in Spokane, where there is very little substitution of wireless for wireline for
10 basic telephone service. Because the rate differential between wireless and wireline is the
11 same or greater in rural areas, the services are no more comparable (in terms of providing
12 a substitute that is widely embraced by consumers) than in Spokane.

13 The second way we know these rates are not reasonably comparable is because the
14 Legislature stated universal service should support basic telecommunications services for
15 customers of telecommunications companies in high-cost locations. RCW 80.36.600(1).
16 The Commission, in turn, adopted and implemented an access charge rule to provide,
17 among other things, a mechanism to keep rates below cost for customers in high-cost
18 locations. WAC 480-120-540.

19 The universal service policy, as implemented, has resulted in comparable phone
20 service rates for urban and rural areas. The highest rural minimum monthly charge is
21 \$29.50 for Lewis River and the lowest urban minimum monthly charge is \$16.00 for

1 U S WEST. The ratio is 1.8 to 1. Several of the rural rates are lower than the lowest
2 urban rate. The comparison for Ellensburg Telephone to U S WEST is \$11.97 to \$16.00,
3 or 0.7 to 1.

4 The combined action of the Legislature and Commission resulting in the highest
5 rural rate being only 1.8 times the lowest urban rate is sufficient to demonstrate that
6 wireless rates that are three to six times as high as the rate for basic service in urban areas
7 are not reasonably comparable.

8
9 **Q. Why is reasonable comparability of rates important?**

10 A. Reasonable comparability of rates is a brake to be applied to a purely market or cost
11 approach to pricing. It follows the principle set forth in 47 U.S.C. § 254 (b)(1) that
12 services should be available at just, reasonable, and affordable rates. Based upon market
13 and cost approaches alone, it would perhaps be reasonable to have rates reflect the
14 considerably greater cost of constructing relatively few long loops in rural areas.
15 Commission practice has been that after determining the estimated cost of providing
16 service in high-cost areas, the Commission permits carriers to receive explicit universal
17 service support in lieu of raising basic service rates to cost in high-cost areas.

18 Put another way, requiring reasonably comparable rates for urban and rural
19 services is the same as requiring universal service.

20

21

1 **Q. Should the commission designate Sprint PCS, or any other wireless carrier, as the**
2 **sole common carrier with an obligation to serve the area around Wilderness Lake?**

3 A: No. The commission should not designate a wireless carrier as the sole common carrier
4 to serve the area because the service is not comparable to urban basic service and because
5 wireless rates are not reasonably comparable to urban rates.

6 Designation of the available wireless service alone also fails to fulfill the state
7 policy of promoting diversity in the availability of telecommunications services.
8 RCW 80.36.300(5).

9
10 **Q. Does this answer conflict with the Commission's decision to grant ETC status to a**
11 **cellular company in more than 60 exchanges served by rural and non-rural**
12 **telephone companies?**

13 A: No. That action was taken in the context of promoting competition where service already
14 exists. In that decision, the Commission stated that if United States Cellular is to
15 compete fairly with wireline carriers, it needs access to universal service support. The
16 Commission said that access to universal service support could make cellular technology
17 available at competitive prices. The Commission's action was prospective in nature.
18 Because cellular companies do not yet have access to state or federal universal service

1 support, designation of a wireless carrier as the sole ETC for Wilderness Lake would
2 leave customers with rates that are not reasonably comparable to urban rates.⁴

3 The Commission also addressed reliability and stated that when customers have a
4 choice between wireline and wireless service, a customer may choose mobility over
5 reliability. When there is a choice, customers are not denied reasonably comparable
6 service. Designation of Sprint PCS or another wireless carrier as the sole ETC would
7 mean that reasonably comparable service, as demonstrated by reliability, would not be
8 available to the customers in the area of Wilderness Lake.⁵

9
10 **Q: Shouldn't the policy be that if there is wireless service available in a rural area and**
11 **wireless is also available in urban areas, then "reasonably comparable" services at**
12 **"reasonably comparable" rates are available?**

13 A: No. If one looks from the customer's point of view, it is the usefulness (including
14 reliability) of the services and the price that matter, not the mode of transmission. The
15 Commission should view "reasonably comparable" services not as indicating one mode
16 of transmission or another, but rather as the useful tools that are made available. Primary
17 among these useful tools is reliable basic telephone service.

⁴See *In the Matter of the Petition of United States Cellular Corp., et al., For Designation as Eligible Telecommunications Carriers*, Third Supp. Order, Docket No. UT-970345, ¶ 43 (Jan. 27, 2000).

⁵See *id.*, ¶ 47.

1 **Q: Is your answer the same for satellite telephone service, which is also available in**
2 **both urban and rural Washington?**

3 A. Yes.

5 **Q: If customers can afford \$300.00 per month, isn't that rate acceptable?**

6 A: No. What customers can afford is not the correct basis for determining what is a
7 reasonable rate for telephone service. That would take the Commission in the direction
8 of means-tested service.

9 In a high-cost location like the area around Wilderness Lake, and all other high-
10 cost locations, the approach should be that one or more companies have access to
11 universal service support. This will maintain rates that are reasonably comparable
12 between urban and rural areas, and will be an inducement both for service and
13 competition in areas that would otherwise not be served at all.

15 **Q. What do you recommend to the Commission?**

16 A. I recommend that the Commission designate a wireline common carrier as an eligible
17 telecommunications carrier (ETC) for the area around Wilderness Lake and permit it to
18 recover the cost of providing service through universal service mechanisms. The rates for
19 service should be the same as rates in effect in the Elk exchange or the Newport
20 exchange. The Commission should also apply the customer contribution and carrier cost
21 recovery elements of the rule under consideration in Docket No. UT-991737, service

1 extensions. Because this is territory outside any existing exchange, reinforcement cost
2 should also be recoverable from terminating access. These actions would establish a
3 mechanism that can be sustained while circumstances in the law and in the market remain
4 as they are. This mechanism could be applied in similar circumstances throughout the
5 state and could be adjusted relatively easily should the law or other important
6 circumstances change.

7

8 **Q. Between GTE and U S WEST, how should the commission determine which is best**
9 **able to serve?**

10 A. The Commission should look to willingness to serve according to the policy suggested
11 above, the relative cost and, the above being equal, the desires of the community or
12 portion thereof.

13

14 **Q. Do you have an opinion about which carrier is best able to serve?**

15 A. Not at this time. I plan to review the testimony of GTE and U S WEST and may have an
16 opinion at that time.

17 **Q. Does this conclude your testimony until you have had an opportunity to review the**
18 **testimony of GTE and U S WEST?**

19 A. Yes.