

TESTIMONY OF
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Committee on Indian Affairs

United States Senate

**“Wireless Universal Telecommunications Service on
Pine Ridge Indian Reservation”**

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INTRODUCTION

Mr. Chairman and members of the Committee, I commend you and your colleagues for conducting this hearing to examine the critically important issue of how best to improve telecommunications service to individuals residing on tribal lands in America. I especially appreciate this opportunity given to Western Wireless to address a subject that is not only of great interest to this committee, but also a subject that is at the core of the business mission of my company, Western Wireless. Wireless telecommunications is essential to growing numbers of Americans, many of who are increasingly using wireless as a substitute for wireline service. This is especially true on the Pine Ridge Indian reservation, where many tribal residents exclusively use wireless service for their telecommunications needs.

As we sit here today, more than four thousand members of the Oglala Lakota Tribe on the Pine Ridge Indian reservation in South Dakota have telephone service, including access to emergency 911 services, in their homes for the very first time because of a unique cooperative arrangement between Western Wireless and the Oglala Lakota Tribe, which can be replicated in other areas of the country only if action is taken to eliminate barriers to universal availability of telecommunications services. In this testimony, I identify: (i) the successes and challenges associated with the current system that attempts to provide universal service to all Americans,

including Native Americans; (ii) the steps that need to be taken to allow all individuals residing in rural America to enjoy the benefits of access to basic and advanced wireless telecommunications services; and (iii) Western Wireless' experiences obtaining eligibility and authority to provide telecommunications service on the Pine Ridge Indian reservation.

BACKGROUND

Western Wireless has built a successful business providing wireless telecommunications services in rural America. The company holds cellular licenses to provide service in 19 western states, which include more than 85 Indian reservations and American Indian communities. The Company is the second largest wireless carrier in the country based upon geography served with its cellular licenses covering about 25 percent of the land in the continental U.S. With a service area that has an average population density of approximately eleven people per square mile, Western Wireless serves many areas that do not have access to basic telephone service, much less advanced telecommunications services.

Western Wireless has a long history of providing service to unserved and underserved consumers. In 1994, through a unique arrangement with the Nevada Public Utilities Commission and the incumbent local exchange carrier, Western

Wireless began providing wireless local loop service to small businesses and residential consumers in a remote area of Nevada that did not have access to wireline local telephone service. In 1999, Western Wireless began offering wireless local loop service in Senator Dorgan's hometown of Regent, a community of less than 300 people, which represented one of the first competitive local telephone service offerings in rural America and made available new and innovative services to consumers. More recently, Western Wireless has entered the universal service market by obtaining Eligible Telecommunications Carrier ("ETC") status for purposes of universal service support in 14 states, plus the Pine Ridge Indian reservation. Western Wireless has emerged as the preeminent competitive universal service provider in the United States and now provides competitive universal service in numerous rural communities within its service area. Western Wireless' entry into the universal service market has directly resulted in numerous benefits to consumers and rural economic development. The Pine Ridge Indian reservation story illustrates the importance of competition in the universal service market.

The Pine Ridge Story

Recognizing that many American Indians living on reservations and in tribal communities lack access to basic telecommunications services, Western Wireless has undertaken several initiatives to bridge the telecommunications divide and

“make available . . . to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service” as required by the Communications Act of 1934, as amended. Specifically, in August 2000, Western Wireless entered into a historic agreement called *Tate Woglaka* (Talking Wind) with the Oglala Lakota Tribe on the Pine Ridge reservation. The purpose of Tate Woglaka agreement is to build a state-of-the-art telecommunication infrastructure necessary for economic and social development.

Western Wireless is very proud of our efforts to provide telecommunications service on tribal lands, and, most particularly, on Pine Ridge. The Pine Ridge Indian reservation is a very rural, economically depressed area lacking many of the basic necessities of life, including affordable telecommunications services. In fact, the Census Bureau identifies Shannon County consistently as the one of the poorest counties in America.

The success of the Pine Ridge service offering can be attributed, in part, to the relationship developed between Western Wireless and the Oglala Lakota Tribe. In 1999, Western Wireless responded to a devastating tornado that hit the town of Oglala on the reservation by providing emergency cellular service to rescue workers and tribal officials. When it became apparent that there was a need for

basic telephone service on the reservation, we negotiated the Tate Woglaka service agreement. The Indian Affairs Committee was so gracious to host the ceremonial signing of that document here in December 2000.

The highlights of the agreement include:

- A sharing of rights and obligations related to operations, sales, and maintenance;
- Cooperation between the tribe and Western Wireless on customer service offerings;
- \$1 monthly rate plan for *Lifeline* eligible residents;
- An expanded local calling area that eliminates all toll charges previously associated with making certain calls on the reservation and to Rapid City;
- Access to a local Emergency Service Provider on the Reservation;
- Long distance service, prepaid services, and enhanced services;
- Access to advanced telecommunications services capabilities; and
- 24-hour customer service.

The Pine Ridge offering statistics speak for themselves:

- More than four thousand tribal residents are being served by Western Wireless on the reservation;
- 99% of the tribal residents qualify for the basic and enhanced Lifeline discounts, resulting in a basic rate of \$1.00 per month.
- Approximately 68% of tribal residents did not previously have landline telephone service.

- The average monthly minutes of use is 946 for wireless users on the reservation.

Clearly, by any measure, the wireless service offering on the Pine Ridge Indian reservation has achieved its objective of bridging the telephone divide and has provided tribal residents with a valuable telecommunications service that furthers consumer welfare and economic development. Regulatory challenges, however, remain if we are to duplicate the success of Pine Ridge on other reservations.

The Regulatory Challenges

Beyond the business issues related to providing service on reservations, the biggest challenges to bridging the telephone and digital divide on reservations are the regulatory issues, both in terms of market entry and a level playing field.

Level Playing Field. It has been a national policy since 1934 to make available to all Americans, regardless of the location of their residence, affordable telecommunications services. In too many cases, rural areas have been effectively excluded from the benefits of a competitive telecommunications market because incumbent local telephone companies have historically monopolized access to universal service support necessary to provide affordable telecommunications services in these rural, high-cost areas. For example, the cost of providing telephone service in many rural areas exceeds \$100.00 per line per month, and yet

consumers pay as little as \$10.00 or less per month, with universal service funding making up the difference. Clearly, a competitive carrier that does not have access to universal service funds would not choose to enter the local market and compete with incumbent carriers who do have access to universal service support.

LifeLine Discounts. Not only is universal service support necessary for competitive carriers to compete in the marketplace, but eligibility for universal service support allows competitive carriers to offer qualified low-income consumers with discounts on the monthly cost of service (*Lifeline* discounts) and installation costs (*LinkUp* discounts). Although Lifeline and LinkUp are available to all qualifying low-income consumers, the FCC's enhanced Lifeline and LinkUp programs provide special additional discounts to qualifying subscribers living on tribal lands. The enhanced Lifeline program for qualified subscribers on American Indian trust lands and in Alaska Native village communities provides federal discounts of up to \$30.25 off monthly telephone bills. Additional discounts are sometimes available under state Lifeline programs. As a result, depending on current rates, many eligible subscribers on reservations are eligible to receive basic local phone service for \$1 per month. All of Western Wireless' Lifeline customers on the Pine Ridge reservation receive service at \$1.00 per month, which, together with an attractive service offering, has greatly increased telephone penetration rates from approximately 32% to 68% on the reservation. The enhanced LinkUp program for

qualified subscribers on Native American Indian and Alaska Native village communities also offsets up to \$100 for installation costs, which has greatly reduced a barrier to obtaining telephone wireless telephone service.

A Competitive Universal Service Market. The residents of Pine Ridge would not have access to the services offered under the Tate Woglaka Service Agreement, if it was not for the progressive thinking of Congress in passing the Telecommunications Act of 1996 (“1996 Act”) and the pro-competitive universal service policies adopted by the FCC that, together, have enabled consumers in rural and high-cost areas to realize the benefits of local competition. These benefits include more competitive pricing structures for telecommunications services, more responsive service providers spurred by competition, and more rapid deployment of new technologies and service packages. Aided by federal universal service policies that are consistent with competitive entry into local telephone markets, competitive carriers are developing new ways of providing basic telephone service and are making progress in serving historically underserved and hard-to-reach markets.

Obtaining ETC Status for Market Entry. Four years ago, Western Wireless embarked upon an effort to bring the benefits of competition to the local telephone market in rural and tribal America. The centerpiece of this effort has been the Company’s petitions, pursuant to Section 214(e), for designation as an ETC for

purposes of universal service support, which is necessary to provide affordable telecommunications services in many rural, high-cost areas. To date, Western Wireless has been designated as an ETC in 14 states and on the Pine Ridge Indian reservation and is working with the FCC and state commissions on furthering the goals of universal service. Section 214(e)(2) of the Communications Act provides that state commissions shall review applications by common carriers for designation as an ETC for purposes of universal service support, and Section 214(e)(6) of the Act provides that the FCC shall review applications by common carriers not subject to the jurisdiction of a state commission for designation as an ETC for purposes of universal service support. Recognizing the sovereignty of the Oglala Lakota Tribe, Western Wireless filed an ETC application with the FCC under Section 214(e)(6) on January 19, 2001. Under Section 214(e)(6), FCC assumes jurisdiction when “a common carrier . . . is not subject to the jurisdiction of a State commission.” Because the Oglala Lakota Tribe asserted its sovereignty and its jurisdiction over Western Wireless’ service offering on the reservation, the state commission did not have jurisdiction over Western Wireless’ ETC application. In comments filed on Western Wireless’ ETC application, the Oglala Lakota Tribe unconditionally supported the application. Several parties opposed the application, however, claiming that the state commission, not the FCC and the tribe, has jurisdiction over Western Wireless’ ETC application and service offering on the reservation. The FCC ultimately assumed jurisdiction and designated Western

Wireless an ETC on the Pine Ridge reservation on October 5, 2001. It should be noted that the FCC did a commendable job in resolving the jurisdictional issue and ruling on Western Wireless' ETC application within 9 months.

Bridging the Telephone and Digital Divide on Reservations

Although the issues with respect to Western Wireless' ETC application for the Pine Ridge Indian reservation were resolved by the FCC in an expeditious manner, the experience reveals a problem that needs to be resolved: jurisdictional uncertainty, procedural wrangling, and legal maneuvering, which together pose a significant barrier to any carrier's interest in providing service on reservations and effectively denies service to rural consumers.

To create a process that simply recognizes the domestic sovereign authority of tribes and allows the tribes to benefit from telecommunication service offerings that meet their needs, the following steps need to be considered by Congress:

- (1) Establish Section 214(e)(6) as a clear vehicle for common carriers to file applications at the FCC for ETC status on reservations; and*
- (2) Support the FCC's self-imposed 6-month deadline for action on ETC applications.*

CONCLUSION

The Pine Ridge story illustrates how one carrier and one tribe have worked together to bring the benefits of access to telecommunications to tribal members. The story can, and should, be duplicated on other reservations with an interest in bringing the benefits of competition to tribal members. However, Congressional action is necessary to resolve jurisdictional uncertainties over ETC applications and pave the way for more tribes and carriers to work cooperatively on establishing a telecommunications infrastructure on reservations that meets the tribes' interests.

**Universal Service Profile of
Pine Ridge Indian Reservation, South Dakota**

May 2003

Name of Community: Pine Ridge Indian Reservation, South Dakota.

Population of Community: approximately 20,000 on the reservation.

Description of Wireline Service Offering: Local telephone service is available to certain individuals on the reservation who reside in areas where landline facilities are available. The telephone company typically charges a \$60.00 deposit for local telephone service that must be paid prior to hook-up and will be applied to the first bill. Thereafter, the monthly rate is approximately \$20.00 per month, with the \$1.00 Enhanced Lifeline rate available for eligible residents. Since Western Wireless' entry into the market, the local telephone company has responded to competition by offering residents new and better services.

Description of Competitive Wireless Service Offering: Western Wireless' universal service offering is priced at \$14.99 per month for unlimited local usage with a local calling area that includes all the communities in and around the reservation plus Rapid City. Tribal members who reside on the reservation may also qualify for the Enhanced Lifeline \$1.00 rate plan. Other attributes of Western Wireless' service offering includes mobility, data services, and prompt and efficient customer service that is available 24 hours a day, seven days a week.

Benefits of Competitive Universal Service: Many residents on the Pine Ridge reservation did not previously have telephone service from the incumbent local exchange carrier either because the service was not available, the installation costs were prohibitive, or the service did not meet their needs. Western Wireless' entry into the market greatly expanded telephone penetration on the reservation, which now stands at approximately 75%. Western Wireless' service offering was specifically designed based upon input from the tribe and consumer needs. Having the ability to call Rapid City as a local call has been extremely beneficial for Pine Ridge residents because Rapid City is the second largest city in South Dakota and a place where many of the residents go for shopping and medial purposes. Other benefits include mobility, data services, and prompt and efficient customer service that is available 24 hours a day, seven days a week.

Voices from the Community:

“I am writing this letter in regards to the residential phone service offered by CellularOne here on the reservation. I am very glad that this phone service is available; I had to use it more than once in an emergency situation. I’m sure that one day it could be a lifesaver for someone. Please keep up the good work.

Thank you! Lyn J. Pine”

“I, Winerra Hagen, have used CellularOne and it has great benefits to me. When my father was ill in the hospital in Rapid City, I could call him and have no long distance charges to my phone. I knew that this phone will help when I need it in extreme emergencies and the rest of the people on the reservation also agree.

Thank you. Winerra Hagen Long Soldier”

“To whom it may concern, my name is Jonathan P. Horse, in my opinion these phones are very convenient and helpful to the people. And speaking for myself, I really like the phones and very much appreciative of them.”

“To whom it may concern: I am writing this short not to thank CellularOne for the excellent service. The cell phones are very handy & convenient for emergencies as well as everyday use.

Thank you. Mary Horse”



About Western Wireless

- Western Wireless is a regional CMRS carrier that focuses on providing high-quality cellular service to consumers in rural areas.
 - Western Wireless provides service to over 1.1 million consumers, primarily under the Cellular One® brand name, in all or parts of 19 western states – Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.
 - Western Wireless’ licenses consist of 88 Rural Service Areas (“RSAs”) and 18 Metropolitan Statistical Areas (“MSAs”), covering approximately 25% of the landmass of the continental U.S., but just over 3% of the population. The areas served by Western Wireless have a combined population of over 10 million people and an average population density of 11 people per square mile.
 - Western Wireless has recently undertaken a major network upgrade to offer digital cellular service to approximately 75% of the population in its service area, and expects to complete the deployment of digital technology, and to more broadly deploy next generation digital technology, *e.g.*, 1XRTT, in the near future.
 - Western Wireless has been designated as an Eligible Telecommunications Carrier in 14 states – California, Colorado, Iowa, Kansas, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming – and on the Pine Ridge Reservation in South Dakota.
- Western Wireless’ offers competitive universal service in rural areas using Wireless Local Loop customer equipment, as well as cellular handsets. Wireless/wireline competition is increasingly important in the rural area Western Wireless serves.
 - A recent poll by an independent market research firm found that, of the consumers in rural areas served by Western Wireless who had wireless service, one-half stated that their cellular phone has become more important to them and their landline phone has become less important.
- The same survey found that 51% of consumers said that wireless service has replaced some or a large percentage of their home landline telephone service; 48% reported that wireless service has replaced 90% or more of their landline long distance; and 23% of respondents reported that they consider their wireless phone to be their primary phone.