

Scott Carey

From: Granville Fortescue <granville.fortescue@pressmail.ch>
Sent: Tuesday, November 1, 2022 9:12 PM
To: Scott Carey
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Attachments: BookofBrokenPromises.pdf

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Nevada Tahoe Regional Planning Agency Governing Board,

A so-called "public-private partnership" between our local Tahoe area governments and telecommunications companies would be nothing more than **a scam**. This proposed relationship will be little more than **abusive codependency**. **End corporate socialism**. It doesn't work. Nor do trillion-dollar corporations with billion-dollar revenues need welfare!

Please read [this book](http://irregulators.org/wp-content/uploads/2017/05/BookofBrokenPromises.pdf) and enter it into the NTRPA public record (<http://irregulators.org/wp-content/uploads/2017/05/BookofBrokenPromises.pdf>).

The Book of
BROKE
PROMIS

\$400 Billion Broadband Scandal &

Promised

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Stop ratfucking Tahoe residents for your quixotic **corporate welfare** pet projects and fix our damn incessantly crumbling roads. **Dump the Tahoe Prosperity Center!**

Thanks,

Granville R. Fortescue

The Book of
BROKEN
PROMISES

\$400 Billion Broadband Scandal & Free the Net

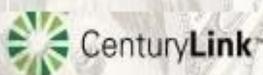
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at&t
Your world. Delivered.



Bruce Kushnick

**THE BOOK OF BROKEN PROMISES:
\$400 BILLION BROADBAND SCANDAL
& FREE THE NET**

FOR ERIC LEE, AUNT ETHEL, ARNKUSH, AND THE TEAM

Author:

Bruce Kushnick,
Executive Director
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February, 2015

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Ferrari Wall Paper¹, Broken Skateboard by Pr0totyp²

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What others have said about Bruce Kushnick's research and previous books:

David Cay Johnston, Recipient of the Pulitzer Prize, Author of *The Fine Print*, 2012³

“Kushnick’s estimate comes from his meticulous analysis of disclosure document filed with the Securities and Exchange Commission and other regulatory agencies... Kushnick’s estimate might significantly understate how much extra money people paid for an electronic highway they did not get. It seems very likely that Kushnick’s numbers are uncomfortably close to the truth.”

Dr. Robert ("Bob") Metcalfe, co-inventor of Ethernet, and creator of “Metcalfe’s Law”. Foreword for *The Unauthorized Bio of the Baby Bells*, 1999.

“The part of Kushnick’s expose that angers me most is how the Bells have used the Information Superhighway to win concessions on how much money they can extract from their monopolies. Kushnick recounts extravagant Iway promises, shows them to be just a Bell ploy, and documents how they've not been kept. He tracks billions intended for I-way deployment to Bell executives, to their shareholders, and, of course, to almost all of your elected representatives in government.”

Bill Moyers’ Emmy Nominated, *The Net at Risk*, 2006⁴

“In *The Net at Risk*, telecom industry watchers Bruce Kushnick and Tom Allibone of Teletruth a consumer advocacy group which has published an e-book, *\$200 Billion Broadband Scandal*, fault the telephone companies for not fulfilling the promises they made in the 1990s to provide fiber-optic connections to households. Had their grand plans been implemented, 86 million customers in the

United States would have received much faster service than is currently available.”

Cover Story, *Washington Technology*, September 15th, 1994⁵

“A telecom analyst’s report should raise some eyebrows among those who want to build the forthcoming National Information Infrastructure (NII) and do business on solid, honest ground...If telecommunications analyst Bruce Kushnick is talking the truth (and we think he is), systems integrators, content providers, Internet service providers and just about anyone involved with building the forthcoming National Information Infrastructure had better read his report word by word.”

Verizon spokesman Lee Gierczynski, *The Bergen Record*, March 25, 2014⁶

“For nearly two decades, he has made the same, tired baseless allegations over and over again about Verizon and its predecessor companies — not only in New Jersey but in other states as well... His specious arguments are devoid of fact, relying on misinformation and myths to prop up his claims.”

I, Cringley, *PBS*⁷

“The \$200 Billion Rip-Off: Our broadband future was stolen.”

Ed McFadden, Verizon Communications, July 2014

“I run media affairs for Verizon public policy, and was wondering which editor has some oversight of Bruce Kushnick. Who reviews his material before it is posted? In his latest, he makes several

inaccurate statements, the facts for which were publicly available and where he appears to be making an effort to misdirect your readers.”

Front Page, *The New York Times*, November 1988⁸

“There will be a turf war over what services should be billed for and what services should be free,” predicted Bruce Kushnick, an analyst...”

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Introduction

Imagine if you could say anything or do anything, with the odds of getting caught being almost nil. Even if you are apprehended, there would be little, if any, repercussions.

Welcome to The Book of Broken Promises.

- There is a wire that goes into your home, school or office as everyone in America is entitled to phone service. This wire was put in as part of the state-based utility and most of them are controlled by what are now AT&T, Verizon and Centurylink.
- Starting in 1993, (though it varies by state) this copper wire was supposed to be replaced with a fiber optic wire — and the companies were able to change state laws to charge you to do this upgrade. (Fiber optics can handle much higher download and uploads speeds.) Instead, the companies pulled a bait-and-switch and used the old copper wires for a slow broadband service called ADSL.
- In 2004, Verizon started rolling out FiOS, which is a fiber optic service, but announced in 2010 it was not going to expand, leaving about 50% or more of their territories' upgrade incomplete.
- AT&T rolled out U-Verse in 2005, but AT&T never replaced the wire; U-Verse is a 'copper-to-the home' service, that uses the legacy copper wire.
- In 2012, Verizon and AT&T announced plans to start 'shutting off the wires' in about 25%-50% of the US and force customers onto their wireless service — because it makes them more money. Wireless can't compete with wireline services, such as cable TV; it is expensive to use due to 'data caps' (extra fees and restrictions) and is a fraction of the speed of fiber optics.

By the end of 2014, America will have been charged about \$400 billion dollars by the local phone incumbents, Verizon, AT&T and CenturyLink, for a fiber optic future that never showed up. And though it varies by state, counting the taxes, fees and surcharges

that you pay every month (many of these fees are actually revenues to the company or taxes on the company that you paid), it comes to about \$4000-\$5000.00 per household, and that's the low number.

You were also charged about nine times to wire the schools and libraries via state and federal plans designed to help the phone and cable companies.

And if that doesn't bother you, by the year-end of 2010 and based on the commitments made by the phone companies in their press statements, filings on the state and federal level, and the state-based 'alternative regulation' plans that were put in place to charge you for broadband upgrades of your home, business, and the schools and libraries — America, should have been the world's first fully fibered, leading edge country.

In fact, in 1992, the speed of broadband, as detailed in state laws, was 45 Mbps in both directions — by 2014, we should have all had gigabit speeds (1000 Mbps).

Instead, America is not Number 1 or 2 or 5 or even 10th in the world in broadband. Net Index by Ookla⁹ pegged America at 27th in the world in download speeds and 47th in upload speeds, as of August 9th, 2014.

And while this book focuses on Bell companies, (now AT&T, Verizon and Centurylink), there is a second wire into most homes from the cable companies. And wouldn't you know it — we found that Time Warner and Comcast had actual agreements with the FCC called the "Social Contract", which allowed the companies to raise rates up to \$5.00 a month to upgrade their networks for Internet and broadband, and to wire the schools in their areas — for free, with high speed cable modem service. These agreements ended in 2000, but we can't find any proof that they lowered the cable rates or that the schools were wired. We estimate that from 1996 through 2014, cable customers paid approximately \$61 billion because of these agreements. Without audits, it is impossible to tell the exact amount. On average, customers paid about \$60 a year or about \$840 extra from 2001 through 2014.

And for those who exclaim — *'But I use wireless, why should I care?'* Your wireless service is really a wired service with an invisible extension cord, as every 'hot spot' or cell site is attached to a 'secret' wired network, known as 'special access'. It is a monopoly service and is controlled by the wired phone companies, AT&T, Verizon

and Centurylink and it has obscene profits, so all wireless service, including those offered by competitors like T-Mobile or Sprint, have to pay through the nose — which is passed on to you. And instead of Verizon and AT&T's wireless companies actually competing with their wireline companies, they have a sweetheart deal with these secret wires which lets them collude in multiple ways that cost you money; but I'll get to all of this in due time.

Fast Lane, Slow Lane, No Lane, End Game in Telecommunications

Not being Number 1 in the world in broadband or being charged extra by the phone and cable companies is only a small part of just how far America has fallen. We are at the end game in telecommunications. Verizon announced in 2010 that it was no longer going to upgrade areas with 'FIOS', their fiber optic product, leaving about 50% of their territories un-upgraded, while AT&T announced the same thing, but is now claiming it will continue to upgrade, (and even to do fiber-optic based cities), if it is allowed to merge with Direct TV.

And it will get worse — Forget about Net Neutrality's "fast lane" or "slow lane"; we should now be more concerned about the "no lane". Instead of properly upgrading America, AT&T and Verizon plan to just 'shut off the copper' to about 50% of the US, and force-migrate everyone to their wireless services.

Instead of competing, Verizon has deals with the cable companies to bundle their wireless service with the cable company's 'triple play' of cable TV, phone and high-speed Internet in areas that are not upgraded by the telco — a defacto "do not compete" arrangement.

There are a host of issues that people have noticed:

- **"Since deregulation, landline costs skyrocket.** The monthly cost of measured AT&T phone service (in California) has soared more than 260% since 2008." *Los Angeles Times*, Dec 6th, 2013¹⁰
- **"Internet Service Providers Are Now the Most Hated Companies in U.S..."** "ISPs received the lowest customer

satisfaction ranking of any industry in America. And that's saying something, considering ACSI (American Customer Satisfaction Index) typically surveys nearly 50 industries per year." *Huffington Post*, May 22, 2013¹¹

- **"Killing Copper? Customers Say They Felt Pressured into FiOS."** "Consumers are filing complaints with us alleging that Verizon is engaged in deceptive marketing practices,' said Eric Friedman, Director of Maryland's Montgomery County Office of Consumer Protection." *NBC Washington*, December 10th, 2013¹²

I've been a telecom analyst now for over 33 years, but I knew we were at the end game during a meeting of the East 9th Street Block Association where a distraught group of Verizon customers were explaining how their service had been knocked out by the Super Storm Sandy in October 2012 and Verizon hadn't restored phone service (or DSL) by April 2013, six months later. And East 9th Street is in the middle of one of the centers of the known universe — Manhattan, New York City.

It wasn't supposed to be like this.

The Communications Act of 1934 required the phone companies make sure that everyone in America could get phone service at 'fair and reasonable' prices. Rural, urban and suburban, rich or poor areas alike — everyone was entitled to phone service.

And this was delivered over copper wires that were part of state-based, telecommunication utilities, where the costs of service were averaged throughout the state so that the rural customers paid about what the city folks would pay and the expenses were also averaged out. And it was always quite profitable; if the companies were 'losing money' they could go back and ask for more. Few American companies enjoy guaranteed, stable financial profitability like these telecommunication utilities.

By the 1960's, most of America was wired, but the phone networks, especially in the cities, started way back, before the 'Roaring 20's'.

In 1991, as part of the Clinton-Gore ticket, Al Gore called for an “Information Superhighway”, a nationwide plan to replace the old, legacy copper wires with new fancy, shiny, glass, fiber optic wires. This is because fiber optics can offer a lot more bandwidth and higher speeds for video services and new online applications. And the plan was to have America rewired, 100% completed, around the year 2010,

And like fresh blood in shark infested waters, what is now AT&T, Verizon and Centurylink claimed that if they were given more money, they would use it, state-by-state, to wire whole states, not to mention the schools and libraries, or both. (NOTE: At the time, there were seven ‘Baby Bells’, which were created in 1984, when Ma Bell, the original AT&T, was broken up. These included Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific Telesis, Southwestern Bell and US West. There were also some independent companies, like GTE and SNET (Connecticut). But, by 2007, the companies had all merged to what we have today.)

See the map of the “Baby Bells” territories in the front of the book.

By the 1990’s, the ‘Era of Say Anything’ was in full swing with grandiose plans. In 1993, Pacific Bell, California, said it would spend \$16 billion by 2000 and have 5.5 million homes wired with fiber optics. Bell Atlantic claimed it would spend \$11 billion on 8.75 million homes by 2000, while Ameritech stated it would have 6 million customers by 2000 as well. Some states, like New Jersey, would have 100% of Verizon New Jersey’s territory completed by 2010 with 45 Mbps services in both directions, while SNET, (Connecticut) said it would spend \$4.5 billion and have 100% completed by 2007. Ohio Bell, (now AT&T Ohio) claimed that 100% of schools and libraries would be upgraded to fiber by 2000.

And all of this was fiber optics and it would deliver 45 Mbps in both directions, starting around 1993.

In 1996, Telecommunications Act was passed and these old legacy wires (as well as any upgrades) were all opened to direct competition for all services — Internet, broadband, phone and even cable TV. It became apparent before the Telecom Act that these companies controlled ‘the last mile’ or ‘first 100 feet’, and that created a

bottleneck to offer the customers new services, such as broadband for Internet, as well as cable TV and local and long distance service.

The Bell incumbent phone companies that controlled the wires weren't opening the networks as a 'favor'; The Telecom Act allowed them to enter all of these other markets, especially long distance service, which was offered, prior to the Telecom Act, by AT&T, MCI and Sprint, among others.

Around the same time, some new thing called the "Internet" and "World Wide Web" had exploded onto the scene. And it was the small, independent Internet Service Providers, "ISPs" that brought America online. All of this was in its infancy and it required hand-holding customers to get their 'dial-up' Internet services to work. It was not the Bell companies, the incumbent phone companies that drove this new industry; it was the tech entrepreneurs who made this work.

By 2001, there were 9,500 small, independent ISPs that handled over 50% of all Internet customers.

At the same time, AT&T and MCI became the two largest competitors to the local phone companies, with over 15 million local and long distance customers.

And finally, starting in 1996, the Bell companies started to marry their siblings, which we would argue was an act against nature and customers, as larger proved to be worse, not better.

The Rise and Fall of Competition in America.

Briefly, with the advent of Michael Powell becoming the FCC Chairman in 2001, (who is currently the CEO of the NCTA, (the National Cable Telecommunications Association)), Powell began working with the phone and cable providers to have the FCC erase the Telecom Act laws and obligations on the incumbents that allowed the competitors to use the customer-funded wires to deliver competing services. In a series of decisions, by 2005, AT&T and MCI were put up for sale and bought by what are now-at&t (small letters) and Verizon. And these actions killed off 7000 small ISPs in just a few years.

Ironically, today when we hear the term "ISP", most people think of the incumbent phone and cable companies — and 'the most hated companies in America',

according to the ACSI surveys. And more interesting is the fact that many of the ‘net heads’ are too young to remember a time when there was freedom of Internet choice.

So, what we now call Net Neutrality was caused, then, by this blatant act of the government (FCC) to protect the monopoly providers who controlled the wires and returned us to the last mile bottleneck.

Competition guarantees that if a customer’s service is blocked or degraded, the customer can simply go to another provider.

The Net Neutrality rules showed up after the companies were able to ‘vertically integrate’, i.e. have their services as the only choice for broadband for Internet, cable TV and phone services (as part of the bundle).

Of course, the impacts aren’t simply choice of services; competition is supposed to lower prices, and everyone reading this knows that something is broken and must be fixed.

How did this happen?

“Kushnick’s Law”

“A regulated company will always renege on promises to provide public benefits tomorrow in exchange for regulatory and financial benefits today.”

The Book of Broken Promises supplies all of the gory details of the promises, and the broken promises, from 1992 through 2014, from the bait-and-switch — promise them fiber optics but give them DSL over copper, to the ‘say anything’ merger condition commitments, without any regard to what has to be delivered or deployed, or the creation of made up statistics and manipulated data used to make public policies.

Here’s the road-map for our ride on the Info highway, and our discussion of what should happen next.

And get ready for the surprise ending.

The Book of Broken Promises Is Divided into 10 Parts.

Part I Broadband Scandal, 1991-2004 — Here is a blow by blow of what was promised by most of the phone companies and what actually was deployed — which was virtually nothing. We also delve into the changes in regulations that were able to charge you for network upgrades that mostly didn't happen.

Part II Acts Against Nature: The Bells Married Their Siblings — The new “at&t” was formed by the mergers of the Southwestern Bell, (SBC), Pacific Telesis, SNET, Ameritech, AT&T and BellSouth, while the creation of Verizon was the mergers of Bell Atlantic, NYNEX, GTE and MCI. As you will read, the mergers that made the current AT&T and Verizon essentially gamed the regulatory system, failed to fulfill basic commitments, and killed off all fiber-based broadband projects that had started in every state they controlled — AT&T alone, now controls 22 states.

Part III The Awakenings: 1996-2005 — In 1996, Congress passed the Telecommunications Act which allowed thousands of ISPs and Competitive Local Exchange Companies, “CLEC”, the use of the wires to your home and office. But, with the help the FCC and former chairman Michael Powell, the now-AT&T and Verizon got the government (the FCC) to kill off the competitors.

Part IV Alternative Paths Leading to the Same Conclusion — After the 1984 break up of the original Ma Bell, the new AT&T (1984-2005) took over the original long distance and equipment markets, and by the end of the 1990's was the largest local-long distance competitor. This abruptly ended by 2005, when SBC was able to get the FCC to close down competition, which put AT&T out of the local service market, and then SBC bought AT&T and renamed itself — “at&t” (small letters). We also track the rise of municipalities that wanted to offer broadband connectivity and services because the incumbents failed to show up. We also cover the passage of ‘Barriers to Entry’ legislation in state legislatures, where AT&T and Verizon, along with the cable companies, did their best to block or even outlaw muni-builds. And finally, we look at what made Centurylink, the third big telco provider,

and its past as Qwest (US West), including the questionable business practices and its ties to Enron.

Part V Deception is the Phone Companies' Strongest Trait — From fake consumer groups, biased research from coin-operated think tanks, lots of lobbyists, campaign financed and paid-off politicians, and co-opted non profits, especially minority, disabled and senior groups, we take you behind the broadband curtain; we expose the skunkworks and groups like the American Legislative Exchange Council (ALEC) where model legislation is designed by AT&T, Verizon and the cable companies to remove regulation and obligations or use the government to harm you. And here is an inside, front row seat to the regulatory capture of the FCC, including the FCC's Consumer Advisory Committee. We also focus on the statewide cable franchise attack, where AT&T and Verizon wanted to get state-wide franchises to offer cable service, but without obligations to actually do any of the work.

Part VI Mob Bell: The Takeover: 2010-2014 — Merger after merger, that were based on one broken promise after the other, after 2010, Verizon and AT&T announced they had completed their build out of America and was now going to shut off the copper in areas that they didn't want to serve. At the same time, the FCC created a National Broadband Plan, but with the capture of the FCC, by the end of the process, the new plan was simply a new way to raise rates and taxes, with the recipients being the phone companies. And part of this was the ability to present corrupted or miss-directed sound bytes on every important data point, from misrepresenting the number of lines in service, or 'wireless only' customers. But it is the new campaigns to erase all laws and obligations on the state and federal level that will give them more power to control the wires.

Part VII Overcharging America in the Name of Broadband — How did the companies rack up over \$400 billion charged to America's communications users and how did the companies get us to pay over and over for schools and libraries? And what harms were caused by the lack high speed broadband to our economic growth

and the jobs that growth would have provided, as well as the education of our children?

We also expose the Time Warner and Comcast “Social Contract”, a real agreement with the FCC to wire the schools and charge customers for the privilege — over \$61 billion may have been charged, with \$53 billion being extra costs to customers.

NEW DATA: But, the real kicker is the newly uncovered financial hanky-panky on the state level, where customers not only got charged again for broadband, but it appears that the wireless companies and all of the companies’ affiliates, have been able to create a shell game to help these other lines of business at the expense of the utility networks and customers.

We also cover the special access networks, the ‘secret’ networks and the FCC’s erasure of basic financial data since 2007.

Part VIII Case Study of One State: New Jersey — A Broadband Failure

—Verizon New Jersey is a complete model of how the companies gamed the regulatory system over and over. By 2010, 100% of Verizon NJ was supposed to be able to offer 45 Mbps services (in both directions) starting in 1996, and it was going to be first ‘full-fibered’ high-speed state. And this would include the schools. By 2004, nothing had happened and then Verizon announced FiOS, but this time as part of a “system-wide” cable franchise, which only requires the company to complete the build-out to 70 out of the 526 municipalities. In 2012 the law was ‘resurrected’ as it was still law, and two small towns forced and were wired in 2013. However, in 2014, there is still a legal challenge as Verizon and the State have attempted to finally erase the commitments. By 2013, Verizon had collected about \$15 billion in excess phone charge and tax perks, customers had rate increases of over 400%, few schools were wired under this plan — and it exposes the state regulators total failure to monitor the company for decades.

Part IX Net Neutrality Is Not The Issue — With over four million electronic comments filed at the FCC¹³ in the Open Internet proceeding as of this writing, it is now clear that Net Neutrality (NN) has captured the attention of the tech

savvy, activists, and the FCC. But, what is not clear to most is that Net Neutrality is simply a feign — it covers over the underlying problems of communications in America. NN doesn't have anything to do with getting America upgraded or more importantly, stopping the “No Lane”— the end game if AT&T, Verizon, Comcast and Time Warner continue on their path.

Part X Aunt Ethel's Revenge: Break Up AT&T and Verizon... Again.

— And we end with a surprise. During the writing of this book, we uncovered ‘Title Shopping’, were the company makes different claims for the same service to game the state and federal regulatory system — and all at your expense.

LEGAL AUTHORITY TO CONSTRUCT FIBER TO THE PREMISES

Verizon New York Inc. (“Verizon”), as a common carrier under Title II of the Communications Act of 1934 (the “Act”), constructed its *Fiber To The Premises* (FTTP) network as an upgrade to its existing telecommunications network.

Example? While Verizon sued the FCC to stop the Net Neutrality Order, claiming it would harm investment, truth be told, Verizon's entire FiOS Fiber-to-the-Premises networks are already Title II in state cable franchise agreements, directly contradicting the companies' years of filings, comments at the FCC and even with the courts.

And don't worry; all of this jargon will be explained.

With new data and uncovering Title Shopping, we outline a series of next steps America should take, as all of the current scenarios of the next three-five years points to a decline in broadband speed, higher prices, no competition, and more erosion of our rights, while the companies erase their obligations and oversight.

First, the FCC needs to acknowledge and deal with the fact that FiOS's fiber networks are already “Title II” and thus there is no need to reclassify.

Second it is time to return competition to all levels which would lower prices, bring in choices for all services, and solve Net Neutrality; if one provider harms your service, you can choose some other company.

Third, based on the financial ties of the companies' affiliates, such as the online, broadband, cable or wireless companies services with the incumbent phone company, it is time to finally start the process of separating the affiliates from the wires and let them pay what other competitor pay and compete for your business.

Fourth, customers have been the major funder of broadband in America, and it is time to move the current networks to an open access, fiber optic, broadband utility network where the customer has choices for their broadband provider and their choice of phone, cable TV, and ISP services — and where everyone gets served.

We're also calling for audits and investigations as America needs to know exactly happened, state by state, to all of the money collected and what was actually built, and how did the companies engage in a massive shell game of the financials to charge customers for the companies' other 'affiliate' businesses.

Fifth, the cable companies need to be investigated about the "Social Contract", returned to the regulation of cable TV prices to customers, as well as have the content separated from the wires and open the customer-funded networks to direct competition.

Bottom Line — Returning to real competition and removing the 'bottleneck'—i.e., the companies ability to control all services over the wires they control, fixes most of the Net Neutrality issues, lower prices and gives the customer choice of who supplies their broadband, Internet, cable TV, phone and wireless services that are delivered over these wires.

Coda:

I hope you enjoy the book. I've attempted to make it readable, but more importantly, it's factual. I let the phone companies' own words, filings, state and federal actions tell the story.

Also, this book started as the sequel to the popular "\$200 Billion Broadband Scandal", published in 2005, and is the third in the trilogy, which started with "The Unauthorized Bio of the Baby Bells & Info-Scandal", published in 1999. It has morphed over the last two years because of new data and findings, but also because we could hear the roar of the Net Neutralites at the FCC's gates.

How did I end up writing this book?

In 1992, I was a senior telecom analyst working for all of the major phone companies for over a decade. And in that year I had few epiphanies that changed me.

First, my colleagues and I were working on cutting edge interactive information services and there were a number of us working on projects related to the roll out of the information superhighway. And we knew that the numbers being presented for the costs to build these networks were essentially made up — underestimating the costs by thousands of dollars per line so that the new laws to make the companies more money would go through without a hitch. But most didn't want to 'bite the hand that fed them'. Can't blame them.

Second, I had done a report on the incumbent phone companies' lines of business and realized that they would always control the networks because they controlled the price and access to the networks, including what would become the 'special access' networks.

And third, I went to my Aunt Ethel's apartment. She was a legally blind, 87 year old lady who used a walker and was living on a small pension and Social Security. And after she gave me a shoe box of phone bills, I realized that my clients had overcharged her thousands of dollars. She paid over \$1000 for the rotary phone rental (she had two), and another charge cost her \$360.00 for something she didn't order. I ended up ripping the phones off the wall and replacing them myself.

A former 'flapper' who could make a truck driver blush when she was annoyed, after I told her what had happened, shaking her cane in the air she said, "*Go get those bastards*".

That was 23 years ago. I then started New Networks Institute in 1992 and called for the break up of AT&T... and the other phone and cable companies, otherwise known as 'Divestiture II', as I realized that there was no scenario that these companies would allow competition or lower prices or actually build out the networks as they claimed.

Before we start our journey, I'd have to thank the gang that helped get this book written and out, as well as the independent editors, experts, pundits, auditors and lawyers I work with. First, David Rosen and I have been writing about this stuff for years and he's helped push me through and supported the efforts, with or without

margaritas and chips. Dr. Henry Karlin, my long time friend and lyricist extraordinaire, helped me gain my poetic license and added nuance to my prose. Chuck Sherwood, the King of Scoop It, forced me to add more chapters in areas I didn't know well and threw people at me that I needed to know, while Arn Kush, the yin to my yang, made sure I ate my vegetables and had a roof over my head, and was joined by Ms. Lorraine, editor par excellence. And it was Jerry Michalski, my consultant for life, who made sure my psyche was intact, regardless of the location or the plane of existence. I also must never forget my debt to my 10th grade English teacher, Jean Brincko, forcing me to raise my prose above simple clichés. Tom Allibone didn't have anything to do with the book, except we are tied at the hip on all things telecom. And, of course, I need to thank our counsel and friend, Carl Mayer, who has attempted to reign us in when we start talking a foreign language, tele-comm-eeze. Also, the gang — Dana Spiegel, Fred Goldstein, Joly MacFie, Art Brodsky, Earl Comstock, Scott McCollough, Dr. Ron Suarez, Joe Plotkin, John Randall, Ken Levy and Alex Goldman all helped in ripping my ideas apart, then gluing them back together with their own expertise, making this a better work than I could have created alone. I add to this my long time 'twisted-pair' former partner and friend, Mark Plakias; we shaped an industry through our ping pong discussions. And more recently, a special thanks to David Bergmann for helping to shape the path with Gerry Norlander of PULP, and both demanded "no adjectives".

Sadly, I must thank and remember my good friend, Eric Lee, who passed away during the closing of the book. He was my tour guide for the last decade through the mysteries of DC, the Bell jar, and who dragged into every conceivable nook and cranny of the corridors of power at FCC and Congress.

Finally, I must acknowledge my sub-conscious, who I don't know very well, but was like that voice you see in the movies of the Devil and the Angel on both shoulders, screaming — *What would Aunt Ethel say?* I believe she'd approve and the fragments of the psyche, pulling me to stop or start, are now at peace.

Part I**Broadband Scandal, 1991-2005****Chapter 1 Promises, Promises: The Future Is Always.****Timeline: 1991-2005¹⁴****The Early 1990's: The Fiber Optic Go-Go Years.**

It's the spring of 1993 and the fiber optic Info Bahn is just a few months away. The April 12th, 1993 cover of *Time Magazine* proclaims: "The Info Highway: Bringing a Revolution in Entertainment, News and Communication: Coming Soon to your TV Screen...."¹⁵ The story continues:

"It's not here yet, but it's arriving sooner than you think. Suddenly the brave new world of videophone and smart TVs that futurists have been predicting for decades is not years away but a few months.... We won't have to wait long. *By this time next year, vast new video services will be available at a price to millions of Americans.*"

Welcome to the Information Age: Again and again ... and again.

The Information Age has always been "just around the corner" with words, such as "soon", "next year", and "tomorrow" describing when this miraculous use of technologies and networks will change the world for the better. As best as we can tell, the term "**Information Age**" was coined in the 1960's by AT&T's public relations department, and it is a polyglot phrase that can mean almost anything you can think of. The author is reminded of meetings in the 1980's that used the term "**Information Products**" to describe everything from 900 number sex lines to home shopping.

"**Information Theory**"¹⁶, the basis for terms using Information-Anything, was developed at Bell Labs in 1948 (50+ years ago). One of Information Theory's

principles is that digitizing something turns it into all ones and zeros — and to a computer, well, that's all just information.

The “**Information Superhighway**”, sometimes called everything from the "Info Bahn" to the "I-Way", like the Information Age, was another polyglot term. Attributed to Vice President Al Gore in the 1970's, it came to describe the future communications network and applications, from the fiber optic conduit to the Information Age products and services carried over the wires and through the air.

But there were even earlier versions of this brave, new connected world. In May of 1970 an issue of the *Nation Magazine* had a featured titled “The Wired Nation”,¹⁷ written by the legendary Ralph Lee Smith, who laid out a vision of an ‘electronic highway’ that was not fiber optics, and not based on the phone companies deployment, but on the cable companies’ technology.

“As cable systems are installed in major US cities and metropolitan areas, the stage is being set for a new communications revolution — a revolution that some experts call “The Wired Nation”. In addition to the telephone and to the radio and television programs now available, there can come into homes and into business places audio, video and facsimile transmission that will provide newspapers, mail service, banking and shopping facilities, data from libraries, school curricula and other forms of information to numerous to specify” ,

And so, by the 1990’s, while cable networks never lived up to their potential, this time it was driven by the phone companies. And unlike its earlier iterations, this was now ‘information’, not ‘electronic’.

The “Information Superhighway” has morphed into many names over the last two decades. Some called it, “broadband” or “cable service with modem”, and more recently “broadband-Internet”. And it even may include TV or video and be called by its consumer name “the Triple Play”.

And these were network services — the wire and related equipment to bring services to customers, like the Internet or World Wide Web of the 1990's or the 'social media' of the last decade.

Ironically, by 2013 and for the foreseeable future the term "Information Service" will be one of the most hotly debated words in the world of communications as it has come to mean remove 'telecommunications' regulations, oversight and obligations of the phone companies to offer competitors the use of these wires, or even the requirement to offer customers phone service, something that will come up in this broadband tell-all.

But first, let's use the way-back machine and start when there was infinite promise and hype in the air, when America was going to be the world leader in something called the Information Superhighway.

The Clinton-Gore National Infrastructure Initiative

As Vice President Gore put it: (*National Journal*, March 1993)¹⁸

"When I first introduced the concept back in the 1970's, the only company that showed any interest at all was Corning Glass, which, for some mysterious reason saw the potential in a nationwide fiber optic network."

While it can be argued whether Gore "invented" the Internet, he certainly had a strong role in this point of broadband history. According to Richard Wiggin's "Al Gore and the Creation of the Internet", Gore was making pitches back in the 1980's for high-speed networking, specifically a 3-gigabit per second national network. In a 1989 floor debate Gore clearly discussed a "fiber optic" highway.¹⁹

"I genuinely believe that the creation of this nationwide network and the broader installation of lower capacity fiber optic cables to all parts of this country, will create an environment where work

stations are common in homes and even small businesses with access to supercomputing capability being very, very widespread. It's sort of like, once the interstate highway system existed, then a college student in California who lived in North Carolina would be more likely to buy a car, drive back and forth instead of taking the bus. Once that network for supercomputing is in place, you're going to have a lot more people gaining access to the capability, developing an interest in it. That will lead to more people getting training and more purchases of machines.”

By the early 1990's a confluence of events brought what can only be described as a techno-crescendo of I-Way dreams. It was fueled, in part, by an aggressive administrative policy led by Vice President Gore to get business to build the I-Way. Vice President Gore's vision was actually "inventing" the future of networks.

In the Gore vision, as well as most visions of the future, there are basic streams of technologies and industries merging:²⁰

- **The Networks** include telephone networks, cable networks, wireless (satellite, microwave, radio, PCS), and "other carriers" electric companies.
- **The Equipment** includes computers and modems, televisions, TV boxes, telephones, fax, and videophones.
- **Other Technologies** can include cameras, security and monitoring equipment.

All, or some of these, in various combinations, would play a role in the evolution and deployment of the I-Way. For example, a movie would appear on your computer or television, depending on the room you were in.

According to Gore, the driving regulatory forces would need to include:

- **Investment** — Create incentives for investments in the private sector.
- **Competition** — Create an environment of competition on all levels of communications.

- **Access** — Allow equal access to all competing companies to the network, and all network services have "interoperability" — the ability of all competitors to use the same standards and protocols.
- **Universal Access** — Preserve the basic tenets of Universal Service for all subscribers. Also, the Gore vision gives the rural subscriber the same service offerings as the urban subscriber.

It should be stressed that the Info Bahn's federal life was tied, in a large part, to the telecommunications bills that Congress tried to enact since the early 1990's, which culminated in the Telecommunications Act of 1996.

But it is also important to note that at least the Clinton Administration had a plan for driving broadband growth through competition, as well as using both industry and government to kick-start the process.

The Bush Administration's FCC under Michael Powell, and then continuing with Chairman Martin, was all but clueless. One writer for the *Epoch Times*, when comparing the US to the rest of the world in 2005, wrote:

"The United States is the only industrialized nation without an explicit national policy for promoting broadband. Both developed and developing nations have stimulated capital expenditures for infrastructure in ways US public and private sector stakeholders have yet to embrace."²¹

As we will discuss, the entire path of the FCC starting in 2000 was the "death to competition".

In the 1990's "competition" was to appear on all levels of communications; all competitors were welcome to use the public switched network for new services. By the new millennium, this term would come to mean the opposite. It meant, as we will explain, kill off competition and call it "deregulation".

Replace the Old Copper Wiring with the New Fabulous Fiber Optic Info-Bahn.

These plans were all based on a premise — that there was old copper wire everywhere that would be replaced by fiber optic wire everywhere. For about 80 years, with the passage of The Telecommunications Act of 1934, every citizen, every business or school or library, medical center, vacation home or even hot dog stand was guaranteed and entitled to phone service. Rural areas, urban areas, rich or poor neighborhoods, it didn't matter; all would be served equally. And this service would be delivered by a 'utility', which was an entity that covered an area, such as a state, or a region of a state and these phone networks that supplied these services became known as the "PSTN" or Public Switched Telephone Network. Services would be carried to everyone via a wire that was originally made of copper, but the plan was to start swapping out this copper wire with a fiber optic one. In short, the old "landline", sometimes called POTS, (Plain Old Telephone Service) was now going to be a fiber optic landline, and renamed the "Information Superhighway".

And these wires were now controlled by the seven 'Baby Bells' who were the progeny of the original AT&T. In 1984, Ma Bell had been broken up because of her monopoly controls over telecommunications, owning not only the wires, but also the local and long distance services, and even the phone in the house. As we will discuss in detail, these new holding companies, commonly known as the "RBOCs", Regional Bell Operating Companies, were created so that each would have their own fiefdom and control a group of states' utility companies. The Baby Bells were Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific Telesis, Southwestern Bell and US West. (By 2007, they would marry their siblings so that there would only be three companies — Verizon, AT&T and Centurylink.) See the maps in the front of the book.

And after Vice President Gore lit the fire to build this fabulous new digital expressway, the Bell companies would fuel the flames on the state and federal level, but, as you will read, they had their own agenda.

Superhighway Feeding Frenzy Fuel: The I-Way Go-Go Years

The 1990's were the beginning of the boom years and the smell of money was everywhere. The telecom and cable giants saw this as something that would make them barrels of new loot, but also give them leverage to remove regulation on the federal, as well as the state level.

At that time, 1993, the phone companies were wisely not allowed into long distance or cable services. They were a monopoly after all. Competition for local service wouldn't start until the late 1990's.

The hype and the promise for upgrading the networks and delivering broadband were that the Info Highway would fix everything — Tele-Medicine, Tele-Learning, even new jobs. For example, Deloitte & Touche's "New Jersey Telecommunications Infrastructure Study, 1991", dubbed "Opportunity New Jersey" (a Bell Atlantic state) proclaimed that the Info Highway was:²²

- "essential for New Jersey to achieve the level of employment and job creation in that state,
- "advance the public agenda for excellence in education,
- "improve quality of care and cost reduction in the healthcare industry."

Meanwhile, in 1993, Ray Smith, CEO of Bell Atlantic, exclaimed at the "Electronic Summit" conference:²³

"Imagine a button on your TV that you push to get your pizza, without the fuss and problems.

"Bell Atlantic will have the first virtual VCR, and 100,000 people by the end of the year (1993) buying things over transactional services. We will never get into the car and jump down to the store once we get used to the idea of any kind of network offering."

Ray Smith, in bravura mode, was interviewed in *Wired Magazine*, February 1995, and said that Bell Atlantic would have 50% of the cable business by 2000.²⁴

"I would say that by the year 2000, we'll have 50% of the cable business. No doubt about it. Which is why the cable companies are in a panic. Meanwhile, the cable companies won't have even 5% of the telephone revenues in their best markets."

There were a few people with a bit more reality in their assessments of the Info Highway. Sumner Redstone, Chairman of Viacom (a conglomerate which now owns Paramount, Blockbuster, cable channels and Viacom Productions), spoke at the National Press Club in October 1993.²⁵ He said:

"It seems to me not to be a 500 channel information Superhighway but rather a road to Fantasy Land. The assumption that individuals will suddenly transform themselves into renaissance men and women with the potential of information and entertainment is an understatement.

"While we may anxiously await that fully-interactive, individually tailored, all encompassing home entertainment and information appliance with the greatest anticipation, the truth of the matter is that plain old television is going to be around for a long time.

"It's gonna cost a lot more, It's gonna take a lot longer, if we ever get there, and there is no guarantee that the customer is willing to pick up the price tag."

But Redstone's concerns were all drowned out by the roar of the politicians and pundits' noise.

Chapter 2 Why Do It? Benefits of the Superhighway — Justifying the Hype.

A massive techno-feeding frenzy was at hand. The reason — the phone companies would make billions from the removal of regulation, the manufacturers would make billions in, at least, increased stock prices, not to mention selling new technologies, and every politician backing this would be secure in the fact that he or she was backed by deep, deep, pockets.

But darn, there still needed to be a justification.

Besides the "chicken in every pot" similarities, what the Highway was and who would use it, much less pay for it, had hundreds of groups issuing thousands of studies all trying to prove their specific point. Almost every state, federal government agency, and of course lobbyists, associations, consumer groups, and the phone companies, spent hundreds of millions of dollars on research, and almost all of it self-serving.

To start, one of the most quoted reports was by the Economic Strategy Institute. Called "The Impact of Broadband Communications on the U.S. Economy and on Competitiveness" (1993), this study stated that \$321 billion in new growth could be expected over the next 16 years from the I-Way.²⁶

"Economic growth in the United States would be greatly accelerated by increased private sectors' investment into broadband communications. Creating a more favorable environment for such investment could enable U.S. industries to create as much as \$321 billion new GNP growth and 0.4 percent to annual U.S. productivity growth over the next 16 years — about the time currently needed for two cycles of investment in new telecommunication infrastructure. The gains would come on top of the gain of \$191 billion in U.S. output that is already expected if present trends in broadband investment continue."

Bear Stearns, the brokerage house, was also quite bullish on the future of the Information Highway. In a report, "New Age Media" released in 1993:²⁷

"In our opinion, we are on the threshold of a technological revolution that will sweep through all modern societies across the globe, dramatically changing the way we communicate, educate our children, access our entertainment and train our workers.... The creation of a fully interactive nationwide communications network could open up the largest opportunity in history."

Hope springs eternal. The hype machine was continually working. For example, in 2001, when the Bell companies wanted to prove to America that increasing broadband deployment (their way of course), could add \$500 billion to the US economy, Verizon hired the Brookings Institute to prove the case.²⁸

"While the great broadband debate rages on at Capitol Hill, a new study released yesterday said widespread use of high-speed Internet service in the near future could pump as much as \$500 billion annually into the U.S. economy.

"The study, conducted by the Brookings Institute in Washington, D.C. and titled 'The \$500 Billion Opportunity: The Potential Economic Benefit of Widespread Diffusion of Broadband Internet Access,' said consumers would benefit from a greater deployment of the technology by using services such as online home shopping, entertainment and traditional telephone services, as well as possibly reducing commuting time. Demand for these services would also provide a boost to computer and software manufacturers as well as entertainment product companies."

We need to note that yet another report came out in 2002 by Gartner Dataquest.²⁹ It also found \$500 billion in growth to the economy could be had with broadband but

with a serious caveat — it would require "True" broadband of over 10 Mbps before the economy would grow.

"'True' broadband infrastructure would help advanced countries such as the United States add as much as \$500 billion to their Gross Domestic Product over several years, according to Gartner Dataquest.

"Gartner Dataquest (NYSE: IT) reckons the impact of ubiquitous broadband in the U.S. could total as much as \$500 billion worth of goods and services produced over a span of ten years. But it also said the estimate is based on what it calls "true" broadband, defined as 10 megabytes per-second data transmission speeds.

"Within that framework, Gartner said the development of broadband at 10 Mbps or faster could create huge growth in goods and services related to building broadband delivery and including what goes through the broadband pipes."

This distinction of speed is critical and something that we will address in later sections.

Three Visions of the Information Superhighway

In fact, each group in America probably had visions that the Information Superhighway would eventually fulfill some new, unexplored potential for their specific citizenry. However, almost all visions could be summed up by three specific models:

- **Government & State Justification Superhighway**
- **The Home "Wonderland" Model**
- **Internet Expansion Model**

The next section gives a brief explanation of each model. We are not arguing whether these plans are good or bad for the public interest, or that some parts of these models have morphed into other broadband projects. We are trying to paint a picture of a time in telecommunications history. However, expect to feel *déjà vu* as the hype of the every broadband pitch was already done decades before...and we bought it every time.

Government & State Justification Superhighway

The first model is called the "Government & State Justification Model". This approach stated that the primary reason to build the highway was to directly benefit Public Interest and special needs. The wiring was supposed to connect America's hospitals, schools, libraries, jails, and other government and nonprofit organizations to the American public.

Sold as a boon to education, healthcare and the creation of thousands of new jobs, this approach was carried out at both the state and federal levels — on the state level it was pitched as "bringing the state into the 21st Century", while on the federal level, it was used by the Bells and their supporters, as a major reason for the passage of what would become the Telecommunications Act of 1996. In fact, Senator Pressler, then chairman of the Senate Telecommunications Committee, stated repeatedly that, "This is a jobs bill."³⁰

To highlight how the State Justification approach was sold on the state level, we present a small portion of testimony from Lawton C. "Mitch" Mitchell, a partner at Deloitte & Touche. He discusses their "Opportunity Indiana" study, another million-dollar study, which was done for Indiana Bell-Ameritech. He focuses on, "The benefits that arise from an advanced telecommunications infrastructure ... and the implications of technological innovation on the telecommunications infrastructure of Indiana and various initiatives under way to respond to the demand for an advanced telecommunications network."³¹

The exhibit below highlights Mitchell's testimony topics and is followed by a description of some of the important areas where this Information Highway model would be the most useful — everything from education and healthcare to economic development.

EXHIBIT 1**Deloitte & Touche Benefits of Information Highway
for Indiana Bell, 1993**

- The Emerging Role of Telecommunications in Economic Development
- Health Care: The Impact of Telecom on Quality and Cost Effectiveness
- Opportunities to Leverage Telecom to Benefit Other Public Interests
 - Education
 - Public Safety
 - Telecommuting
 - The Criminal Justice System
 - Special-Needs Groups
 - Libraries and Info Services

Here's Deloitte's analysis of telephone's role in building the economy:³²

The Emerging Role of Telecom in Economic Development

"As the overall economy in the United States continues its transition from a traditional foundation in manufacturing toward the service-based sectors of the economy, access to information has become a major factor in the determination of competitive advantage and commercial success. More than half of the jobs in the U.S. economy are now in the service-producing sectors rather than the goods-producing sectors."

In fact, according to Mitchell, Indiana had "almost one-half of its current employment base in industries that can be defined as telecommunications intensive", — i.e., these companies used more telecommunications services. These "telecom intensive" markets included communications, finance and insurance, education services, and printing and publishing.

But it was the fixing of problems that was supposed to be the major reason to implement the I-Way. Have a problem in your school? No problem. Roll out technology. Mitchell states:³³

"Major problems facing the U.S. educational system today include unsatisfactory educational performance, potential teacher shortages, and budgetary pressures.

"Especially within the K–12 community, educational institutions often lack the financial resources or purchase dedicated facilities to accomplish highly effective two-way interactive distance learning and other advanced educational applications that require broadband facilities.

"**Distance learning** is the provision of live, interactive video instruction from a remote source. Often employing interactive video, fax machines, electronic blackboards, and other forms of media, distance learning enables teachers and students in one classroom to discuss lessons with students and teachers in distant as well as multiple locations.

"Distance learning applications, which leverage advanced telecommunication services and capabilities, can help improve educational quality by eliminating the geographic constraints which have traditionally prevented teachers in specific fields from reaching a student audience outside their classrooms. Advanced telecommunications can be used to expand the breadth of instruction in schools, not only increasing the value and diversity of education, but also increasing student interest and participation in school."

And let's not forget healthcare. According to Deloitte, everything from reduction of costs, to delivering healthcare, to "less mobile citizens", will be facilitated with the Info Bahn.³⁴

EXHIBIT 2**Opportunity Indiana's Impact on Health Care**

The Information Highway will:

- "Reduce the cost of health care through technology applications that improve hospital, clinical, administrative, and related insurance operations.
- Expand limited availability of medical knowledge and expertise.
- Improve health care quality.
- Increase health care access for rural and less mobile citizens.
 - Improve and increase home health care opportunities.
 - Improve the quality and availability of health care education for practitioners.
 - Send X-rays to experts real-time via broadband technology.
 - Give improved health care for limited resources with telemedicine projects."

In short, tele-everything would be fixed if you we just let the phone companies build these new networks.

The Home "Wonderland" Information Superhighway Model

Forget the Public Interest perspective. The Information Age is everything from home shopping to movies-on-demand (the ability to watch a movie or any program at the customers' convenience). These, mainly consumer services, make every household into a "wonderland" of technological advances, making our lives easier. This sales pitch of the Info Highway can be summed up by a series of quotes by Bell Atlantic, Pacific Telesis, and Time Warner from the Electronic Summit, sponsored by the Academy of Arts and Sciences, 1993.

Bernard Shaw, then newscaster from CNN, was the moderator. He wondered how the Superhighway was going to be paid for. "What I'm struck by is there seems to be an unspoken assumption that peoples' discretionary income is going to be there to buy your products."³⁵

Ray Smith, then CEO of Bell Atlantic, stated:³⁶

"It already is there. If you look at the early (Info Highway) applications, those markets already exist. Already making those purchases. Home video is \$17 or \$18 billion, catalogs is gigantic, that is really home shopping. Games and gaming is also huge. You're talking about taking market share from other businesses, not inventing new services. They won't have to spend a single dollar more than they had to before. It's a rather sweet deal."

In another place, Smith stated:³⁷

"Bell Atlantic will have the first virtual VCR, and 100,000 people by the end of the year (1993) will be buying things over transactional services. We will never get into the car and jump down to the store once we get used to the idea of any kind of network offering."

Pacific Bell's President Philip Quigley agreed that the money was already being spent in other areas wastefully, especially in education:³⁸

"In the field of education, there is potentially significant waste and inefficiency today, and there are millions and billions of dollars that can be spent on educating our children to the modern technologies. And we can shift a lot of the hard dollars that can be redirected."

Also, the applications were quite similar for either cable or telephone companies. For example, the list of Time Warner's proposed services, from games to shopping, was straightforward, with some creativity added.

Gerald Levin, then Chairman of Time Warner, stated:³⁹

"There are great opportunities for video information. Going into an auto showroom can be an intimidating experience for some. You can call up some four-wheel-drive videos, interact a little bit, then set a time to take a test drive. So there's an auto concept. There are four major areas:

- video-on-demand movies
- games
- shopping
- news, sports, on demand, Videotex with a printer."

In fact, Levin continued:

"The conviction that started with our test in Queens, (named) Quantum, consumers really want choice. Starting in 1994, we will need to take one step further, which is true video-on-demand. In our case we think it's going to take about five years and one billion a year — five billion dollars.

"In the short term it makes a lot of sense, so we put in an impulse-purchase box in peoples' homes."

Other sources, such as BellSouth's Annual Report, 1993, begins with the phrase "The Excitement is Now."⁴⁰

"Interactively — What you want, when you want it. Many of these new services will be interactive. This means you'll have the option of controlling a network to make transactions. Select camera angles and replays. Ask a teacher a question. And compete with other viewers in tests of skill and knowledge....

"Need to buy a present? Call up the choices on your TV, select your gift, pay for it electronically, and it arrives the next day. Want to see a movie? Order one of thousands of titles and it will be piped directly to your set. Watch it when you want. Start it, stop it, rewind, and fast forward at your command."

In another paragraph entitled "Linking the Value Chain," BellSouth makes it clear that besides transmission, the company is also going to supply the content.

"Content, Packaging, Delivery: These are the links in the value chain of convergence for customers and investors.

- **"Content** includes TV shows, movies, games, and a limitless array of services — shopping, education, communications, advertising, financial transactions, and information.
- **"Packaging** means being in contact with you so it is convenient to access, simple to use, and affordable.
- **"Delivery:** Telecommunication networks, cable TV systems, and computers are the infrastructure of delivery."

So, with the "Wonderland" model, as stated by Time Warner, Pac Bell, Bell Atlantic, and BellSouth, we are looking at gaming, home shopping, movies-on-demand, and sports and news, mainly paid for by redirecting monies already being spent.

The Internet Expansion Info Highway Model

There were two expectations of this model. First, there were the cloistered services, such as AOL, Prodigy and Compuserve, which were also called "Videotex", "Online Service" or "Gateways". These services offered the customers their own content and were not attached to the web in the early 1990's. There were also tens of thousands of "BBS", online bulletin boards. All of these were accessible over the regular phone

lines using slow, dialup modems. There were millions of people and companies using these services, and they were the catalyst/baseline for the web's growth.

We will address this model in more detail in upcoming chapters

There were also numerous people and companies who believed that the Information Highway was the Internet or World Wide Web. This international, data communications network started as a government project in the late 1960s, and for decades remained mostly a network for colleges and government agencies. In 1992 it was "discovered" by the business community at large, and literally overnight thousands of companies and organizations sprung up to offer everything from cooking recipes to the latest in advanced mathematics.

And while the statistics at that time of the Info-frenzy were wildly varied, it is estimated that by 1996 there were somewhere between 10-25 million US online subscribers.

However, right at the time when the Bell companies were planning to deliver fiber-to-the-home, the web would explode, primarily with the convergence of consumers with home computers that were sophisticated enough to handle graphics and new software, and with costs dropping for everything from cheap modems, to add-on sound cards and gaming equipment.

In the early 1990's, the Internet and Web were NOT the Info highway to the majority of those pitching it. It did not require a new upgraded fiber optic plant in the original pre-video world and could run on the existing copper wiring. With just a regular dial up service, using the old copper phone line, email and web browsing could be done by everyone and didn't require billions in infrastructure upgrades. This was to change as more and more video applications were leaving the traditional confines of the cable programming world, where video was delivered in the common TV channels.

Chapter 3 Hollywood Calling — TELE-TV and Americast

The plans were grand.

“Americast will reach 68 million homes in 32 states.”⁴¹

“Americast ... last week announced the purchase of \$1 billion worth of high-tech boxes, referred to as digital set-top boxes.”⁴²

In the movie "My Fellow Americans", Jack Lemmon and James Garner portray two former US presidents. Lemmon asks Garner, "Who did you like meeting the most as president?" James Garner answers "Gorbachev". Lemmon says, "I mean really like?" and Garner answers, "Ella Fitzgerald".

In truth, while the Bells sold the fiber optic Information Highway as a justification for schools and government needs, in the 1990's the Bell's became "star struck", trying desperately to change their personas from a stodgy old utility to flashy entertainment and information companies, even offering cable services.

Bell Atlantic in 1994 believed that their mission was clear-cut and it included everything from video entertainment to cable television.⁴³

"Our business opportunity and beyond is straightforward — enhance the value of our core businesses by expanding our customer and service base, and develop high-growth businesses in the video entertainment, cable transport, cable television, and information services markets."

NYNEX described itself as a “global communications and media corporation” in 1996.⁴⁴

“NYNEX is a global communications and media corporation that provides a full range of services in the northeastern United States and high-growth markets around the world, including the United

Kingdom, Thailand, Gibraltar, Greece, Indonesia, the Philippines, Poland, Slovakia and the Czech Republic. NYNEX has expertise in telecommunications, wireless communications, directory publishing, and video entertainment and information services.”

This change in how the companies defined themselves, was indicative of a trend with all of the Bells. For example, this first quote below is from Ameritech in 1985, when the Bells were fresh out of the box and still cared about the states they served.

1985 Ameritech Annual Report⁴⁵

“The Ameritech companies are the leading supplier of advanced communications products and services in Illinois, Indiana, Michigan, Ohio and Wisconsin.”

By 1996, the company was now a world leader in 50 states and “more than 40 countries”.

1996 Ameritech Annual Report⁴⁶

“A worldwide leader in making communications easy, Ameritech serves millions of customers in 50 states and more than 40 countries. Ameritech provides a full range of communications services, including local and long distance telephone, cellular, paging, security monitoring, cable TV, electronic commerce, on-line services and more.”

And so, with the promise of laying fiber optics, all of the companies pursued becoming major provider of interactive content on their new networks, competing with the likes of Time Warner, at least in their public persona. In reality, the Bells had dismal failures in almost all of their interactive investments.

Simba Research, in its 1996 report "Telco's in Interactive Services", put it this way:⁴⁷

"The telcos have had virtually no success with the interactive information, transaction and entertainment services that have developed and been brought to market. Through their failures they have shown that they are not in tune with the information and entertainment needs of their customers.

"Part of the reason the telcos have so many problems with interactive TV services is that they are reaching beyond their technological expertise and local advertiser relationships. They are trying to develop services that use extremely costly technology and court national advertisers and merchants. The telcos, in particular the RBOCs, simply lack the experience in these areas. As a result, they've had difficulty creating effective broadband transaction services."

Depending on how you count, the Interactive/media investments had been numerous. In fact, in the 1980's, the Bell companies invested in "Videotex" and "Audiotext" gateways, and lost over half a billion dollars. We'll come back to this in our discussion of the Internet in Volume II.

The 1990's investments, not counting the wiring, fell into two major areas: Entertainment programming companies and purchasing cable services.

Entertainment and Content — TELE-TV and Americast

In order to create new content and have a noise machine for their fiber optic plans, the Bell companies split into two primary new companies, TELE-TV and Americast.

These two companies' partners included six of the seven Bell companies, as well as SNET and GTE (Qwest was missing). TELE-TV was announced in October '94 and consisted of three partners: Bell Atlantic, NYNEX and Pacific Telesis.

Americast, created to rival TELE-TV, was created in April '95, and consisted of Ameritech, BellSouth and SBC Communications, as well as Disney and GTE.

EXHIBIT 3

The RBOC's TELE-TV and Americast Partners

TELE-TV

- Bell Atlantic
- NYNEX
- Pacific Telesis

Americast

- Ameritech
- BellSouth
- Walt Disney
- GTE
- SBC Communications
- SNET

Americast, in 1996, described their organization as developing the “next generation of in home entertainment”.⁴⁸

“Developing the Next Generation in Home Entertainment.

“Americast is the consortium of Ameritech Corporation, BellSouth Corporation, GTE Corporation, Southern New England Telecommunications and The Walt Disney Company created to develop and market the next generation in home entertainment. The Americast service is currently being introduced in selected markets across the United States. In addition to providing traditional entertainment services, Americast will offer innovative programming and develop such features as a proprietary program navigator, video-on-demand, and a variety of interactive services.”

Note: There seems to be some differences when SNET and SBC joined in Americast. The quote above does not include SBC and yet it was named in the original group and not SNET.

Star Struck

These new ventures started just like a stereo-typical Hollywood movie deal. According to "Ovitz", the biography of super-agent Michael Ovitz,⁴⁹ it was a meeting in early 1993 between Ivan Seidenberg, CEO of NYNEX, and Ovitz that got the ball rolling. At the time, Ovitz was president of CAA, one of the world's premier talent agencies. Soon he was flashing movie stars and personalities at the Bell-head, from Michael Crichton and Ivan Reitman, to Aaron Spelling and Warren Beatty. According to "Ovitz", the book:⁵⁰

"Planning came to a peak in October 1994 when Ovitz and the Baby Bells announced that CAA and the phone companies would be entering into a joint venture with the NYNEX Corporation, Bell Atlantic and Pacific Telesis to buy or invest in programs that the existing Hollywood studio would turn out.

"'We'll bring technology to the home, but you'll have a twenty five inch pipe instead of a two-inch pipe,' stated Mike Ovitz."

Only months after the deal went through, Ovitz left CAA for a brief stint as the president of Walt Disney, which was the beginning of the end for TELE-TV. Ovitz, however, walked away with a reported \$50 million.⁵¹

As Bell Atlantic put it in their 1996 Annual Report:⁵²

"In October, 1994, Bell Atlantic, NYNEX and Pacific Telesis Group formed two partnerships to provide multimedia services. TELE-TV Media, L.P. was formed to license, acquire and

develop entertainment and information services. TELE-TV Systems, L.P. was formed to provide the systems necessary to deliver these services over the partners' networks. At that time, each of the three partners committed to contribute \$100 million to fund the activities of these partnerships.”

TELE-TV employed a number of people from the broadcast industry with impressive credentials including Howard Stringer, a former president of CBS Broadcasting and Sandy Grushow, former president of Fox Broadcasting. At its peak in 1996, TELE-TV had 200 employees.

Americast was headed by a non-Bell employee Steve Weisswasser. He was a former president of one of the multimedia divisions of Capital Cities/ABC. And Americast had Disney Televentures, a unit within Walt Disney Television and Telecommunications, as one of the partners.

Cable and Entertainment Investments

During the same timeframe (1993-1996) there were various Bell investments in the entertainment business, with over \$16 billion in the last five years. Below is just a sample of the larger investments.⁵³

EXHIBIT 4

Bell Cable and Entertainment Investments, 1993-1996

NYNEX	Viacom International	\$ 1.2 billion	1993
US West Cable	Continental	\$10.8 billion	1996
	Time Warner	\$ 2.5 billion	1993
	Wometo Cable/ Georgia	\$ 1.2 billion	1994
SBC	Hauser Cable Properties	\$ 0.6billion	1994

Chapter 4 Hollywood Calling, Part 2

“The Walt Disney Company (“TWDC”) has a long history of efforts to lead the way in Broadband deployment. For example, in 1995, TWDC established a partnership with SBC, GTE, Ameritech, BellSouth and SNET called Americast. The vision of this partnership was to speed the deployment of Broadband “Full Service” Networks by our telephone company partners. *Despite the best efforts of all partners, that vision proved to be ahead of its time and Disney exited the partnership in 2000 due to lack of Broadband deployment by our partners.*”⁵⁴

According to a *New York Times* article, by 1997 Americast was already severely scaling back from its heyday in 1996, when the company had about 100 employees.

"Americast has shut down two divisions, laid off more than a dozen of its 100 employees, and throttled back its ambitions to develop futuristic television service for its five telephone company backers."

According to an article in *Electronic Media*, in 1997,⁵⁵ the company closed its programming business because interactive programming was unobtainable at that time.

"The move is seen as a realization of the fact that true interactive programming is still but a gleam in the eye of modern pioneers."

Some believe that these investments were actually just a strategy to keep the cable industry in its place.⁵⁶ *The New York Times* stated:

"'Americast and TELE-TV were deterrents to keep the cable industry out of the phone business', said Michael J Wolf, a partner in the media practice at Booz, Allen & Hamilton. 'When the cable

companies decided not to get into that business, the phone companies didn't care anymore."

Others believe that it was a shifting of priorities that was the downfall of these companies — the shift was to long distance.⁵⁷

"Problems crept into the venture from the start. One of Americast's phone company backers, SBC, announced it was no longer interested in the television business. And some of the other phone companies delayed their plans to offer video services so they could concentrate on other businesses, like long distance."

Whatever the reason, it is now clear that the Bells no longer had intentions of delivering the full-motion interactive video that they had promised. As we will show, after the various mergers of SBC and Verizon, the companies simply closed down every fiber optic plan in every state, even though they had lobbied for to upgrade the networks in the early 1990's. In fact, instead of spending the money on new construction, the money went to fund their long distance businesses, overseas investments (and losses), as well as excessive senior management compensation.

TELE-TV and Americast had spent almost \$1 billion on mostly vaporware and their failures to produce anything useful was a clear sign of the Bells' inability to deliver on interactive services.⁵⁸

TELE-TV's Demise

At the end of 1996, the ink was less than a year-old on the Telecom Act, which gave the phone companies the rights to enter long distance once their networks were open. At this point, the phone companies simply trashed anything that would get in their way, including providing video services. The closing was not cheap. The major players, besides Ovitz, got millions in severance packages. Variety said it the best:⁵⁹

“Howard Stringer, former president of the CBS/Broadcast Group, and Sandy Grushow, former president of the Fox Entertainment GroupFox Entertainment Group, is now officially out of work.

“In May 1995, they both signed on at a brand-new program distribution company called TELE-TV, Stringer becoming chairman and CEO and Grushow becoming president. The setup looked good at the time, because three telephone companies — Bell Atlantic, Nynex and Pacific Telesis — had agreed to fund it to the tune of \$100 million apiece.

“High price of failure: Now TELE-TV is going out of business, and one insider says the company will pay through both nostrils. Stringer, this insider says, was making \$3.2 million a year and still has 2-1/2 years to go on his four-year contract, so he'll pocket a cool \$8 million. Grushow's salary was \$2.5 million a year - his settlement will come to \$6.25 million, according to the insider.”

It is estimated that the three TELE-TV Bells spent \$500 million in just over two years and all went for projects that they ultimately decided to close down, ending the fiber optic deployments.

Wired Magazine writes: ⁶⁰

“The apparent collapse of a US \$500 million bet on the future of TV has once again thrown into question whether we'll experience anything resembling facilities-based video competition before the next millennium. Reports last week that Bell Atlantic Corp., NYNEX Corp., and Pacific Telesis Group are finally bagging their resilient yet somewhat scatter-brained TELE-TV venture didn't shock anyone as much as it confirmed a prevalent theory: The Bells have put video on the back burner.”

Long distance service would be the next focus. Forget video.

Wired Magazine writes: ⁶¹

“Long distance, of course, is more familiar territory, and most of all, it's simple. Video, on the other hand, is not. Entrenched cable TV operators lurk under every rock. Direct broadcast satellite is adding millions to its rolls. And when you start talking about interactive services, you're drifting way over the heads of most Bell company execs.”

While this event might not prove to be significant to some, the Bells abandoning their fiber optic plans left many vendors swinging in the wind.

“The ripple effect of TELE-TV's demise could be significant for some. Thomson Consumer Electronics, for example, just signed a \$1 billion equipment deal with TELE-TV that could now dry up. Silicon Graphics may have to write-off a deal for digital media servers that were expected to be worth at least \$5 million. And a bunch of smaller companies like DiviCom and Avnet also must give up some juicy contracts they've signed with TELE-TV over the past few months.”

Even more significantly, some blamed the mergers of SBC-Pacific Telesis and NYNEX-Bell Atlantic as one of the catalysts for this closing.

“A Bell Atlantic spokesman said that the raft of "mega-mergers" affecting the TELE-TV players (Pacific Telesis is trying to pair with SBC Communications Inc.) obviously have affected the venture's business plan. 'But it's not a question of whether we're going to be in video; it's mechanics,' he said.”⁶²

In short, what happened was that after the companies made all of their fiber optic deals, which had come with major financial incentives, and the Telecom Act of 1996 passed, (which included a roadmap to enter long distance), they simply pulled the plug on almost all of their fiber optic to the home investments.

As we demonstrate in the sections on the mergers of SBC and Verizon, there is more than ample evidence that the fiber optic plans were nothing more than a regulatory smokescreen. The evidence of the tax deductions that the companies took for closing whatever had been started the abandoned, shows that they never spent anything near what they had stated they had committed to for their fiber deployments.

Americast

Editors Note: The domain “Americast.com” was for sale, and was a portal for bath products and other services, as of September 2005.

The name “Americast” had two uses. First, it was the name of the group of companies, which included SBC, BellSouth, SNET, Ameritech, GTE and Disney. Second, the name Americast was used by some of the companies who were offering cable programming on various cable franchises in different parts of the country.

Americast, the Group

As covered in our chapter on the SBC merger, when the ink dried or when SBC acquired the other Bell companies through mergers, SBC took a hatchet and closed down any fiber-based deployments. There never were any serious fiber optic products or services delivered, and in fact, the entire mess can be characterized as a bait-and-switch to enter long distance.

By the time of the SBC-Pacific Telesis merger, the company was pulling out of cable TV and Americast, its joint venture with Ameritech, BellSouth, and Disney.⁶³

“SBC effectively ended its attempt to enter the wireline cable TV market last week, selling its 94.6% stake in two Washington-area

systems for \$606 million to an investment group that includes Prime Cable.

“The company has also withdrawn from the Americast partnership and sold an option to purchase 75% of Prime Cable of Chicago to the same investment group.”

Even though the hatchet fell on SBC’s own state territories and Pacific Telesis’s fiber optic future because of the merger, the other companies — SNET and Ameritech — continued to roll out Americast packages as a cable service until the ax fell on them when it was their time to be bought by SBC. We note, however, that what was rolled out didn’t at all match what was stated in their video dialtone applications.

SNET Americast in 1998⁶⁴

“NEW HAVEN - At a launch party staged at the Farmington Public Library on March 11, 1998, SNET became the first company to compete in the state's cable TV market by signing up customers for its new cable service, SNET Americast. Offering 80 channels, interactive on-screen programming, and parental control features, SNET Americast is being marketed in the Hartford area for \$24.95 a month (for expanded basic service) and will be available to more than a third of all households in the state by the end of next year. Operated by a consortium that includes BellSouth, GTE and Disney TeleVentures, SNET Americast was formed after the state's Department of Public Utility Control granted SNET the first statewide cable franchise in the U.S. in 1996.”

Ameritech Was Also Offering Americast Services

The Apr 13, 1999, Ameritech press release says it all:

“Ameritech Signs 100th Cable Television Franchise Reaches Competitive Milestone in Less than Four Years.”⁶⁵

The release continues:

"Since we installed our first Americast® customer in May 1996, we've won more than 200,000 cable TV subscribers, who have made Ameritech the largest competitive cable company in the nation. We've improved the quality of life for midwestern cable viewers and we look forward to extending those benefits to the people of Chicago Heights.

“Ameritech has built systems in and now competes for cable television viewers in 84 cities and towns in the Detroit, Chicago, Cleveland and Columbus, Ohio, areas.”

As soon as Ameritech was bought by SBC, all bets were off and these new fiber optic-based cable companies were essentially sold off. See our chapter on the mergers for more details.

BellSouth Used ‘Americast’ as a Brand

BellSouth Entertainment was selling an "Americast"⁶⁶ cable service in 2005, offering 60 channels plus 18 premium channels to customers in Jacksonville, Atlanta, Vestavia Hills, AL, and South Florida.

"BellSouth Americast® Premiercast® Cable TV Service features over 60 local and cable channels, including Family, Music & Variety, Home & Leisure, Movies, Sports, News, Specialty Interest and Government Programming. In addition, with an EZ-Smart terminal* you'll get access to 18 optional premium and pay-per-view movie channels, along with the on-screen

interactive program guide, which includes parental control features."

And talk about irony — there was a more advanced package called “Digital Cable Service”, which had 170 video and music channels and 45 optional premium and pay-per-view channels. The Americast package was inferior:

"BellSouth Digital Cable Service features over 170 video and music channels, including over 45 optional premium and pay-per-view channels. There's even an on-screen interactive program guide with parental control features. What's more, with your Digital Cable service you'll also receive Americast® Premiercast® Standard Cable Service on all of your other cable-ready TV outlets at no additional monthly cost."

BellSouth’s video dialtone deployments were supposed to be capable of 310 channels.

BellSouth’s FCC Video Dialtone Petition:⁶⁷

“BellSouth Telecommunications, Inc. (BST) proposed to construct a broadband fiber optic-coaxial cable network for video and telephony, initially offering each subscriber 70 analog channels and approximately 240 digital video channels. According to BST, this network will be capable of providing a variety of programming services, including traditional television programming, enhanced pay-per-view, video-on-demand, and interactive educational, home shopping, and health care services.”

Upon reflection, it is now clear that Americast and TELE-TV were simply a marketing and PR strategy to help the Bell companies gain entry into long distance, more than as the next generation of television. None of the networks could be delivered as promised and all of the phone companies knew this and but weren’t going to make that public

when the goal was — use broadband promises to get what you want, then never build anything.

This ‘promise them anything then deliver little if anything will play out over and over and over again.

In this case, what the companies really wanted was a rewrite of the Telecom Act of 1996, which gave them the right to enter long distance, even if they had to suffer through opening the networks to competitors as a condition.

Sadly, the Bell companies never told the vendors or the employees — from the hardware vendors to the production companies that were making video programming for these networks, that this was all a ruse.

And with these two groups — Americast and Tele-TV, that included almost all of the phone companies, we see that they were all in on the joke.

Chapter 5 And the Promises? The Annual Reports Tell No Lies.

With the blare of TELE-TV and Americast in the background, and millions of dollars being spent on the state and federal level, the Bells had to convince regulators, investors, and the public that their plans were the best for America.

It turned into a surreal world of phone company bravura on steroids.

Let's go through, in detail, the promises the companies were making to America based on their own statements, as told by the phone companies' Annual Reports, FCC filings, state filings, etc.

Fiber Optic Deployment Plans: The Annual Reports Tell No Lies:

- By 2000, about 50 million households should have been rewired.
- By 2005, we estimate that 86 million households should have been rewired.
- By 2010, almost all of America was supposed to have been upgraded

Here is a closer look at the original bravura of the RBOCs Info Highway rollouts, as declared in their annual reports according to Baby Bell annual reports and Fact Books.

Ameritech Investor Fact Book, March 1994⁶⁸

“We're building a video network that will extend to six million customers within six years.”

NYNEX, 1993 Annual Report⁶⁹

“We're prepared to install between 1.5 and 2 million fiber optic lines through 1996 to begin building our portion of the Information Superhighway.”

US West, 1993 Annual Report⁷⁰

"In 1993 the company announced its intentions to build a 'broadband', interactive telecommunications network.... *US West anticipates converting 100,000 access lines to this technology by the end of 1994, and 500,000 access lines annually beginning in 1995.*"

And the spending on these networks would be staggering. Bell Atlantic's 1993 Annual Report announced they were the "leaders" of the Info Bahn, and that they would be spending \$11 billion.⁷¹

Bell Atlantic 1993 Annual Report⁷²

"First, we announced our intention to lead the country in the deployment of the information highway.... *We will spend \$11 billion over the next five years* to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region."

And the money would be spent to serve 8.75 million homes by the end of the year 2000.⁷³

"We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets.... These investments will help establish Bell Atlantic as a world leader...."

Pacific Telesis President Philip Quigley was even more bullish than Bell Atlantic's Ray Smith. He boldly announced that they were going to spend a whopping \$16 billion by 2000 with 5.5 million homes served.

Pacific Telesis 1994 Annual Report⁷⁴

"In November 1993, Pacific Bell announced a *capital investment plan totaling \$16 billion over the next seven years* to upgrade core network infrastructure and to begin building California's "Communications superhighway". This will be an integrated telecommunications, information and entertainment network providing advanced voice, data and video services. *Using a combination of fiber optics and coaxial cable, Pacific Bell expects to provide broadband services to more than 1.5 million homes by the end of 1996, 5 million homes by the end of the decade."*

And if a 1994 article on Ameritech's expenditures were to be believed, the company would be adding \$4.4 billion for video services, for a whopping total of \$29 billion over the next 15 years.

"The Ameritech Corporation said yesterday that it planned to spend an additional \$4.4 billion to take video conferencing and other video services to the home, for a total expenditure of **\$29 billion in the next 15 years.**"⁷⁵

Even the other local phone companies like SNET and GTE would join in the chest-beating. Southern New England Telephone, which handled most of Connecticut, (and is now owned by SBC (now AT&T), made a \$4.5 billion commitment.

SNET 1993 Annual Report⁷⁶

"On January 13, 1994, the Telephone Company announced its intention to invest \$4.5 billion over the next 15 years to build a statewide information superhighway ("I-SNET"). I-SNET will be an interactive multimedia network capable of delivering voice,

video and a full range of information and interactive services. The Telephone Company expects I-SNET will reach approximately 500,000 residences and businesses through 1997.”

The independent GTE (now owned by Verizon) promised 7 million homes by 2004 in 66 key markets.⁷⁷

“In 1991, GTE Telephone Operations became the first telephone company in the United States to offer interactive video services.... Expanding on this success, the company in 1994 announced plans to build video networks in 66 key markets in the next 10 years. When completed, the new network will pass 7 million homes and will provide broadcast, cable and interactive television programming.

”GTE’s pending applications seek authority to build hybrid fiber optic and coaxial-cable video networks in Ventura County, Calif.; St. Petersburg and Clearwater, Fla.; Honolulu, Hawaii; and northern Virginia.”

SBC was very tight-lipped about their deployments, but in one announcement they claimed they would have 47,000 homes.⁷⁸

“SBC is building a traditional cable network in Richardson, Texas that will be in service in the fourth quarter of this year (1996). It also is constructing a broadband network that will allow the company to offer cable and interactive services to up to 47,000 Dallas area households in 1996. SBC may provide video-on-demand — as well as a host of other interactive services such as home shopping, education programs, and interactive games — to those 47,000 households. SBC, which recently won court

approval to provide video programming in its telephone subsidiary's five-state territory, is working with Microsoft, Lockheed and others to develop the delivery system.”

More announcements and plans flooded the landscape. Anyone hearing this clatter would be sure to think that we were in the midst of a fiber optic revolution. For example, Americast, the group formed by SBC, BellSouth, GTE, Ameritech and Disney, was promising 68 million fiber optic homes in 28 states:

“Americast would reach 68 million homes in 32 states.”⁷⁹

And the group even made announcements to purchase \$1 billion worth of equipment:

“Americast ... last week announced the purchase of \$1 billion worth of high-tech boxes, referred to as digital set-top boxes.”⁸⁰

Other announcements were even more promising. NYNEX claimed it would have its entire region wired with fiber by 2010 — New York, Massachusetts, Rhode Island, Maine, Vermont and even New Hampshire.⁸¹

“NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education, and health care services. NYNEX *plans to deploy this type of network to the majority of its customers by the year 2010.*”

By 2005, if the original seven Bell companies had actually delivered on their broadband promises, approximately 79 million households would have had fiber optic-based services. These state commitments also would have rewired schools and libraries, hospitals and government offices, and in most states, the plan called for ALL customers to be rewired equally, whether they were in rural or urban areas, rich or

poor. Universal Broadband was to be accomplished state-by-state because customers were in essence funding these network upgrades as part of the telephone bills.

EXHIBIT 5
Announced RBOC Upgraded Residential Subscribers, 1994-2000⁸²

	1994	1995	1996	1997	Total-2000
Ameritech	800,000	1,000,000	1,000,000	1,000,000	6,000,000
Bell Atlantic	100,000	1,750,000	1,750,000	1,750,000	8,750,000
BellSouth			1,106,000	1,106,000	4,324,000
NYNEX			2,000,000	1,500,000	6,500,000
Pacific Telesis	780,000	780,000	780,000	780,000	5,500,000
SouthWestern			1,106,000	1,106,000	4,324,000
US West	100,000	500,000	500,000	500,000	2,600,000
PER YEAR	1,780,000	4,030,000	8,042,000	7,742,000	
RUNNING TOTAL	1,780,000	5,810,000	11,840,000	19,582,000	45,740,000

Sources: Bell Annual Reports⁸³

GTE and SNET would have approximately 3.8 million households by 2000.

EXHIBIT 6
GTE and SNET Projected Fiber-Deployments, 1994-2000⁸²

	1994	1995	1996	1997	Total by 2000
GTE	700,000	700,000	700,000	700,000	2,800,000
SNET				500,000	1,000,000
Total				1,200,000	3,800,000

To sum up:

The Annual Reports and other Bell statements suggested that about half of the US, (around 50 million households), should have been rewired by the year 2000. If we extend out the supposed wiring plan, we find that about 8 million lines should have been added annually, and by 2005, 86 million households should have had a fiber optic wire into their homes. This includes GTE and SNET.

EXHIBIT 7**Total Bell Household Deployments 2000, 2005 (with GTE, SNET)**

Total by 2000	2001	2002	2003	2004	2005
49,540,000	54,000,000	62,000,000	70,000,000	78,000,000	86,000,000

And simply projecting out the deployments based on the companies' statements (though it varied by telco), virtually all of America should have been rewired with a fiber optic service by 2010.

EXHIBIT 8**Total Bell Household Deployments 2005-2010 (with GTE, SNET)**

Total by 2000	2006	2007	2008	2009	2010
86,000,000	94,000,000	100,000,000	104,000,000	108,000,000	112,000,000

As we will highlight in future sections, many of the Bell Atlantic states, such as New Jersey or Pennsylvania have definitive plans for entire state-rewiring projects through 2010 and 2015 respectively.

But let's go deeper. What exactly were customers expecting to get? What were the commitments made to the state and federal governments?

Chapter 6 And the Promises? Video Dialtone Commitments.

NOTE: **In all, 9,787,400 households should have been upgraded to fiber optic/coax, in 43 different cities/states within a few years, 1995-1997.**

Another source of data about the commitments to rewire America comes from the Bells' FCC petitions to offer "Video Dialtone" services.

Briefly, video dialtone was a series of proceedings at the FCC and eventually in the courts, to allow the Bell companies to be able to upgrade telephone networks for video services.⁸³

According to the FCC, by September 1994, 24 applications were filed by six of the seven Bell companies and GTE. These applications covered both full state deployments as well as various specific cities/territories.

"Twenty-four applications for permanent commercial video dialtone services have been filed with the Commission, including applications by six of the seven RBOCs, as well as GTE."⁸⁴

Previously we presented information out of the Annual Reports and Investor Fact Books on the number of households that were promised overall by the phone companies.

The next two exhibits outline the video dialtone filings. The first is a listing of how each state was handling its deployments, as stated by the FCC's "First Video Report".⁸⁵ Notice that Pac Bell had at least four different regions of the state being wired; US West and Ameritech picked specific cities for its filings.

The second gives the dates when the Bells' 24 different applications were filed. The first application was filed October 1992 by Verizon (then Bell Atlantic); the last one listed was SNET, in April 1995. As we will show, the dates on these filings are significant because as soon as the ink was dry or the companies merged, every one of the fiber optic plans was either sold off or closed down — all 24 of them as far as we can tell.

One other curious note: SBC was absent in either announcing its plans broadly or filing at the FCC on video dialtone, even though SBC was out front when it was pitching the poster-child of advanced services — ISDN — which came to be known as “It Still Does Nothing”, in the 1990’s. SBC’s (now AT&T) lack of interest in broadband will come back to haunt the future of broadband,

EXHIBIT 9

Permanent Video Dialtone Applications by Company and Location, September 1994

Pacific Bell has requested permanent authorizations to serve

- 210,000 homes in Orange County
- 490,000 homes in San Francisco
- 360,000 homes in Los Angeles
- 250,000 homes in San Diego, CA

U.S. West has requested permanent authorizations to serve

- 330,000 homes in Denver, CO
- 132,000 homes in Portland, OR
- 292,000 homes in Minneapolis- St. Paul, MN
- 90,000 homes in Boise, ID
- 160,000 homes in Salt Lake City, UT

Ameritech has requested permanent authorizations to serve

- 232,000 homes in Detroit, MI
- 262,000 homes in Columbus and Cleveland, OH
- 115,000 homes in Indianapolis, IN
- 501,000 homes in Chicago, IL, and
- 146,000 homes in Milwaukee, WI

GTE has requested permanent authorizations to serve

- 90,000 homes in Virginia
- 476,000 homes in Florida
- 122,000 homes in California

- 296,000 homes in Hawaii

Bell Atlantic has requested permanent authorizations to serve

- 1,200,000 homes in the Washington DC metropolitan area
- 2,000,000 homes in the Baltimore-NJ-Philadelphia-Pittsburgh area

NYNEX has requested permanent authorizations to serve

- 63,000 homes in portions of Rhode Island
- 334,000 homes in portions of Massachusetts

SNET, Connecticut has requested permanent authorizations to serve

- 150,000 homes in the Hartford, CN area
- 1,000,000 homes in portions of Connecticut

EXHIBIT 10

Fiber Optic, Video Dialtone Deployments by Phone Company, 1992-1995

(Filed: FCC, Filed States)

Date	Phone Company	Location	Homes	Deployment	Company
10/21/92	Bell Atlantic-VA	Arlington, VA	2,000	Market Test	Verizon
10/30/92	NYNEX	New York, NY	2,500	Technical	Verizon
11/16/92	New Jersey Bell	Florham Park, NJ	11,700	Permanent	Verizon
12/15/92	New Jersey Bell	Dover Township, NJ	38,000	Permanent	Verizon
12/16/93	Bell Atlantic	MD & VA	300,000	Permanent	Verizon
12/20/93	Pacific Bell	Orange Co., CA	210,000	Permanent	AT&T
12/20/93	Pacific Bell	So. San Francisco Bay, CA	490,000	Permanent	AT&T
12/20/93	Pacific Bell	Los Angeles, CA	360,000	Permanent	AT&T
12/20/93	Pacific Bell	San Diego, CA	250,000	Permanent	AT&T
01/10/94	US West	Denver, CO	330,000	Permanent	CenturyLink
01/24/94	US West	Portland, OR	132,000	Permanent	CenturyLink
01/24/94	US West	Minneapolis/ St. Paul, MN	292,000	Permanent	CenturyLink
01/31/94	Ameritech	Detroit, MI	232,000	Permanent	AT&T
01/31/94	Ameritech	Columbus, Cleveland, OH	262,000	Permanent	AT&T
01/31/94	Ameritech	Indianapolis, IN	115,000	Permanent	AT&T
01/31/94	Ameritech	Chicago, IL	501,000	Permanent	AT&T
01/31/94	Ameritech	Milwaukee, WI	146,000	Permanent	AT&T
03/16/94	US West	Boise, ID	90,000	Permanent	CenturyLink
03/16/94	US West	Salt Lake City, UT	160,000	Permanent	CenturyLink
04/13/94	Puerto Rico Tel	Puerto Rico	250	Technical	Puerto Rico
05/23/94	GTE Contel Va.	Manassas, VA	109,000	Permanent	Verizon
05/23/94	GTE Florida	Pinella, Pasco, FL	476,000	Permanent	Verizon
05/23/94	GTE California	Ventura Co., CA	122,000	Permanent	Verizon
05/23/94	GTE Hawaiian	Honolulu, HA	334,000	Permanent	Verizon
06/16/94	Bell Atlantic	Wash. DC LATA	1,200,000	Permanent	Verizon
06/16/94	Bell Atlantic	Baltimore, MD; Northern NJ; DE; Philadelphia, PA; Pittsburgh, PA; S.E. VA	2,000,000	Permanent	Verizon
06/27/94	BellSouth	Chamblee, DeKalb, GA	12,000	Market Test	AT&T
07/08/94	NYNEX	Rhode Island	63,000	Permanent	Verizon
07/08/94	NYNEX	Massachusetts	334,000	Permanent	Verizon
09/09/94	Carolina Tel.	Wake Forest, NC	1,000	Market Test	CenturyLink
04/28/95	SNET	Connecticut	1,000,000	Permanent	AT&T

Source: New Networks Institute, 1992-2014

Chapter 7 **The Promises? Fiber Optic Upgrades, (and Sometimes Coaxial Cable) To-The-Home Were Promised.**

Virtually every Bell phone company petitioned the FCC to offer video dialtone services as part of their fiber optic deployments, and, as we will show, these plans called for fiber optic upgrades of the copper plant, sometimes with coaxial cables from the street to the customer's home or office (coaxial cable can handle more bandwidth than copper and are used for cable TV); but don't take our word for it. The material is directly from the Bell companies' FCC video dialtone petitions.

This title of Ameritech's FCC Petition for five states outlines the plan and territories.⁸⁶

“Ameritech Operating Companies For Authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct, operate, own, and maintain *advanced fiber optic facilities* and equipment to provide video dialtone service within geographically defined areas *in Illinois, Indiana, Michigan, Ohio, and Wisconsin.*”

BellSouth's video dialtone was for fiber and coax.⁸⁷

“BellSouth Telecommunications, Inc. (BST proposed to construct a *broadband fiber optic-coaxial cable network* for video and telephony.”

NYNEX's video dialtone application was for Massachusetts and Rhode Island and was offering video entertainment and healthcare services.⁸⁸

“NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education, and health care services. NYNEX plans to deploy this type of network to the majority of its customers by the year 2010.”

Pacific Telesis, 1994 Investor Fact Book⁸⁹

“Pacific Bell’s Communications superhighway will use fiber optics and coaxial cable instead of the twisted copper wire traditionally used to provide telephone service.”

US West 1993 Annual Report⁹⁰

“U.S. West will construct an advanced fiber-to-the-curb/coaxial cable network capable of providing 77 channels of analog video and between 800 and 1000 channels of digital capacity.”

This is NOT Fiber in the Network — Duh.

A highway has on and off ramps, and yet Verizon, for example, and the other phone companies explained that Verizon was fulfilling their promises to rewire the state with fiber optics because they have added fiber optic cable to the phone network alone. For example, in Pennsylvania, Verizon claimed that:⁹¹

“The truth is that Verizon Pennsylvania has consistently delivered on its promises to deploy a broadband network for its customers under Pennsylvania’s alternative regulation law, Chapter 30.”

“Verizon Pennsylvania has invested more than \$8 billion and deployed nearly 1.2 million miles of fiber optics in its network over the past nine years while under alternative regulation.”

This was nothing more than a lie since the requirements for Pennsylvania were to rewire the homes and offices with fiber optics; not any fiber upgrades that may be in the network. Without the connections directly to the home or office, the fiber couldn’t be used if the rest of the 100 feet to the home was still the old copper wiring. It is like selling a highway system, but the on-and-off ramps did not exist.

Regardless of the current hype, Verizon's 1996 press release pertaining to Pennsylvania stated that the fiber optic coax mix was for fiber-to-the-curb applications.

By 2005, it was never rolled out.

"Later this year, Bell Atlantic will begin installing fiber optic facilities and electronics to replace the predominantly copper cables between its telephone switching offices and customers. Fiber optics provide higher quality and more reliable telephone services at lower operating and maintenance costs. *The company plans to add digital video broadcast capabilities to this 'fiber-to-the-curb' switched broadband network by the third quarter of 1997, and broadband Internet access, data communications and interactive multimedia capabilities in late 1997 or early 1998.*"

"The fiber-to-the-curb architecture that Bell Atlantic will build is the next step in the company's ongoing, aggressive network modernization program.... Bell Atlantic plans to begin its network upgrade in Philadelphia and southeaster Pennsylvania later this year. The company plans to expand this Full Service Network deployment to other key markets over the next three years. Ultimately, Bell Atlantic expects to serve most of the *12 million homes and small businesses* across the mid-Atlantic region with switched broadband networks." (By 2000)⁹²

According to the Pennsylvania Public Utility Commission, 50% of the state should have had fiber-to-the-curb services at 45 Mbps by 2004, available in rural, urban and suburban areas equally.⁹³

"Verizon PA has committed to making 20% of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by end of year 1998; 50% by 2004; and 100% by 2015."

And in 2003, the Commission pointed out that the service was bi-directional with the upstream and downstream paths being 45 Mbps.

"In view of Bell's commitment to providing *45 Mbps for digital video transmission both upstream and downstream*, we look forward to Bell's providing this two-way digital video transmission at 45 Mbps."

The network upgrades did NOT fulfill the companies' obligations under state law. But, in Pennsylvania, the company was able to get rid of these onerous discussions about fiber optics (and any 45 Mbps service commitments) via challenges as the original state law, regardless of what Verizon said or filed in PA, was only for 1.5 Mbps, which could even do the basic cable or video services that the company had pitched to get the law changed in the first place.

And we note that Fiber-to-the-curb was a plan to have the fiber to the customers' 'pedestal', outside of the house either on the pole or in the ground, that would then be finished with coaxial cable into and through the house — No copper wiring involved.

Pacific Telesis Fact Book, 1994

"Pacific Bell's (California) communications superhighway will use fiber optics and coaxial cable instead of the twisted copper wire traditionally used to provide phone service. Pacific Bell will sue a star-bus hybrid fiber/coaxial network using a single physical pathway to the home."

Ameritech's Video Dialtone application was also for fiber-coaxial services.⁹⁴

"Ameritech's proposed systems would be capable of providing video services on a common carrier basis over a hybrid fiber-coaxial cable infrastructure."

We bring this up because as you will read, fiber-to-the curb (FTTC) has been redefined so that it can be a fiber optic wire or box 500 to 5000 feet from the customers' home and the rest can be copper. This was never the definition of FTTC in the video dialtone applications or even in state laws at the time.

The difference is simply, reliance on the old copper wiring to complete a service will never be as fast as a fiber wire into the home or even completed with coaxial cable as used by most cable companies. As you are about to read, speed mattered.

Chapter 8 And the Promises? Speed Matters: the Faster the Service — the More Stuff You Get, Faster.

We discuss the need for speed and next generation services in other chapters. Let's focus on what should annoy us all greatly — the speed of service as defined by the phone companies themselves and the regulators in 1992. In that year the term 'broadband' meant a speed of 45 Mbps in both directions.

Speed Matters

Now for those not familiar with the technical terminology, broadband is ALL about speed. How fast can you download something off of the web is the best way of thinking about it.

First, just to reiterate, there are two directions for speed — "upstream" and "downstream" and the speed can be "symmetrical" or "asymmetrical", such as with "ADSL", which stands for "Asymmetric Digital Subscriber Line".

- **Upstream** (Upload) — is the speed of a service from the customer's computer to the network and services.
- **Downstream** (Download) — is downloading something from the network to the customer.
- **"Symmetrical" Vs "Asymmetrical"** — "Asymmetrical" DSL is when the speed downstream is faster than the speed upstream.
- **"Bi-directional"** — is when the speed is the same in both directions.

One thing you need to always remember:

- **1000 Kbps = 1 Mbps.**
- **1000 Mbps = 1 Gbps (commonly called 1 Gigabit speeds)**

Then we have the basic services:

- **Dial Up** — is a service that uses the old copper wiring and has a modem speed in 2005 of 56 kilobytes per second, “kbps”. However, most actual speeds are slower. Some rural areas were getting 14.4 kbps.
- **DSL line is a service using the old copper wiring** — The speeds have continued to increase speed over the last few years, but the major is a caveat; the speed that the phone company advertises is usually the TOP speed, and not the speed to someone’s home. Also, the copper wiring can have quality of service issues and there are distance problems. I.e., the farther away from the originating point in the network the customer is, the more problems arise to get the top speed or even be able to get the service.

According to Free Press in 2005:⁹⁵

“In the United States, the average Asymmetric Digital Subscriber Line (ADSL) connection offers download speeds between 256 kbps and 1.5 Mbps, and upload speeds between 128 kbps and 384 kbps. The average cable modem connection provides download speeds between 2 to 3 Mbps, with upload speeds varying between 256 kbps and 384 kbps. These connections cost consumers \$35 to \$50 per month on average.”

Below was a comparison of speed provided by Freepress.net.⁹⁶ Notice that nothing is even close to what was promised in 1993, over a decade ago.

EXHIBIT 11
Speed of Service Comparisons, 2005

56 kbps	Low Qual. Streaming Audio 	Dial Up - 56 kbps/\$10 - \$24 mo.
90 kbps	VoIP (Vonage) 	
200 kbps	FCC Definition of High-Speed	U.S. DSL Lite - 256 kbps/\$35 mo.
1 Mbps	Streaming Video 	U.S. Satellite - 1 Mbps/\$90 mo.
4 Mbps	SDTV - 1 Channel 	U.S. DSL - 1.5 Mbps/\$50 mo.
6 Mbps	Videoconferencing 	U.S. Cable - 3 Mbps/\$43 mo.
20 Mbps	HDTV - 1 Channel 	Canada DSL - 4 Mbps/\$38 mo.
100 Mbps		France - 15 Mbps/\$38 mo.
		Japan - 26 Mbps/\$22 mo.

According to this chart, HDTV, which was higher quality than a cable picture, and was the next US standard, required at least 20 Mbps for one channel. Also note that while the United States' DSL was inferior to Canadian DSL, in France, 15 Mbps averaged \$38 a month, while Japan was selling 26 Mbps at only \$22 a month.

In our added section on broadband services and capabilities offered in the US and around the rest of the world, while the speeds have increased over the last decade, America is still more expensive and slower based on numerous sources. And with the current trend, the phone companies are 'abandoning' their copper wires so wired service - -even on copper wire, may go away.

But one has to laugh when considering that in 1992 it was about speed and let us be emphatic that the definition of the Bell companies' broadband was 45 Mbps in both directions, something AT&T still doesn't offer in 2013.

And It's ALL about Speed: The Standard for Broadband Was 45 Mbps in 1992!

In 1992, testimony given by Verizon (then New Jersey Bell), in order to receive financial incentives to rewire the state, claimed that broadband was 45 Mbps services (or higher) and was capable of "high definition video" in both directions. And in 1993 it was included in state law that is current today. (See our chapter on New Jersey.)

"Broadband Digital Service — Switching Capabilities matched with transportation capabilities supporting data rates up to **45,000,000 bits per second** (45 Mbps) and higher, which enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals."

This was the standard speed for broadband. There would be no reason to give the companies more money to develop DSL speed over the old copper wiring, as they could have simply offered it any time, though it was considered inferior in 1992.

And the 45 Mbps Speed was the US Standard in the 1990's.

Broadband was defined as being able to deliver high-definition, bi-directional video. Take Texas and Southwestern Bell (SBC). In September 1995, the state passed a law that required SBC to be able to deliver 45 Mbps or faster, in 2 directions. By the year 2000, all schools, libraries, and hospitals throughout the state should have been offered these services.

"On customer request, the electing company shall provide broadband digital service that is capable of providing transmission speeds of up to **45 megabits per second or better** for customer applications."

Even in one of the industry's bibles, *Newton's Telecom Dictionary*, "Broadband" was defined as a service with a speed of 45 Mbps as late as 2001.⁹⁷

"Broadband — a transmission facility providing bandwidth greater than 45 Mbps (T3). Broadband systems generally are fiber optic in nature."⁹⁸

(NOTE: This definition in the *Newton's Telecom Dictionary* has since changed to fit the new idea that slower is more politically correct.)

The FCC's Definition of Broadband Was Set at 200 kbps. — It Can Not Handle Video.

We believe that the growth of the economy has been directly harmed because of the redefinition of the word "broadband" in terms of speed. Starting in 1999, the FCC, in order to keep face about America leading in broadband, and to make it look like America was on the right path, published numerous biased reports. The FCC redefined "advanced" broadband as 200 kbps in both directions, and "high speed" as 200 kbps in one direction. New Networks has been a critic of this definition since 1998.⁹⁹

More importantly, the Telecom Act of 1996 required broadband to handle "high-quality" video services. The definition of "Advanced capability" includes "broadband" with a capability of high-quality voice, data, graphics and video telecommunications.

Section 706(c)(1) defines "advanced telecommunications capability" as follows:

"The term 'advanced telecommunications capability' is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics and video telecommunications using any technology."

200 kbps can not deliver high-quality video. Using 200 kbps as a standard was wrong. Also, the Act's definition uses the words "advanced" or "high speed", which was never intended to mean anything but a service that could deliver high-quality video.

The Rest of the World Was and Still Is Laughing at the United States

The rest of the world knew that 200 kbps in the year 2005 was a joke. The Canadian government, as of 2002, set broadband as two-way (symmetrical) services capable of at least 1.5 Mbps, with the understanding that a new standard of at least 4-6 Mbps was coming.

“Definition of Broadband: Based on today’s technology and applications, high-speed broadband is defined as a high-capacity, two-way link between end user and access network suppliers capable of supporting full-motion interactive video applications delivered to all Canadians on terms comparable to those available in urban markets by 2004. A minimum symmetrical speed of 1.5 megabits per second per individual user is currently required to support these applications. Leading up to 2004 and beyond, new applications such as peer-to-peer file interactions and video conferencing will increase individual user demand for symmetric bandwidth in the 4-to-6 Mbps range. Public and commercial facilities will require much higher bandwidth, ranging from this minimum to several hundred times more, depending on their size and user needs.”¹⁰⁰

According to *Fortune Magazine* on South Korea's broadband "wonderland"¹⁰¹, September 7, 2004, while the FCC dummed down the definition of broadband to 200 kbps, countries like South Korea only started counting broadband at megabit speeds, because they were rolling out true broadband and not some poor substitute. (A megabit is 1000 kbps)

"At a time when the Federal Communications Commission defines broadband as an Internet connection capable of transmitting 200,000 bits of information a second (200 kbps), the Korean speedometer doesn't even start until transmission speeds pass the one million bits (one megabit) mark. Wired connections of eight

megabits are routine — about five times faster than my American high-speed cable modem on a good day — and many Korean subscribers have already bumped up to 20-megabit connections."

How many 45 Mbps connections are there in the US? Or more importantly how many are over 100 Mbps or at 1 Gbps, which is now the new world standard? How does America cost-compare to these other countries? We will revisit this issue.

We will come back to this topic in our scorecard for 2013, but a caveat — in the last FCC Broadband report¹⁰², which supplied data for June 2012 (published in May 2013), there were only 156,000 customers in the US with speeds over 100 Mbps.

Chapter 9 And the Promises? NOT DSL — SPEED and Coverage Are the Issues.

If 45 Mbps was considered 'broadband' as promised to the states in 1992-1995, then what was being promised was NOT DSL, which runs over the old copper wiring. Pennsylvania was one of the states where the Commission noticed that they were promised fiber and that what the phone companies was pawning off was DSL over copper as part of their state commitments.

The Pennsylvania Commission realized that there was a bait-and-switch going in on in 2002 and that what was promised was a Ferrari on the Info Bahn and what the state was getting was a skateboard on a dirt road. The Commission's reasoning was that DSL is too slow and doesn't even qualify for the definition of broadband, nor does it replace Verizon's obligations.¹⁰³

"In Verizon PA's 2000 Update, the Company also states that DSL is a broadband service consistent with its NMP (Network Modernization Plan). There are several reasons why we believe that Verizon PA's current DSL offering is not a broadband service consistent with its NMP.

"First, DSL, as Verizon PA currently provides it, is too slow to be considered a true broadband service as defined by Verizon PA in its original NMP. The industry generally considers 45 Mbps to be the minimum speed for broadband and in its NMP, Verizon PA committed to this higher bandwidth level as well.

"Second, DSL, as Verizon PA currently provides it, can only reach a speed of 1.5 Mbps, the slowest definition of broadband where the customer is located no further than 12,000 feet from the serving wire center. Only a limited number of Verizon PA's residential customers meet this criteria. Third, currently Verizon PA's ADSL can achieve 1.5 Mbps in only one direction, the downstream

direction. In the upstream direction, it is limited to a maximum of 768 kbps (0.768 Mbps).

“To achieve speeds as fast, or faster, than DSL can currently provide, the wire lines from the serving wire centers to the customers must be replaced with either fiber optic conductors or coaxial cables, or a ‘hybrid’ combination of the two.”

And even the Bell companies thought that ADSL was an inferior product. They were replacing the copper wiring so that the state would not lag behind others. They called ADSL an interim solution and defined it as **“the most bandwidth-limited section of the network.”** Here's an excerpt from the Commission on the topic.¹⁰⁴

"It should be noted that the evidence the Company introduced in support of its NMP in 1994 established clearly that modernizing the network meant, among other things, replacing the existing copper distribution system with fiber. The Company's direct testimony asserted that its NMP was consistent with the "moderate infrastructure acceleration scenario" described in the Commission's *Pennsylvania Telecommunications Infrastructure Study* released by Deloitte and Touche and DRI/McGraw Hill in 1993. Verizon PA placed the study into evidence in its rebuttal testimony. The study makes clear that one of the assumptions underlying all of the acceleration scenarios was deployment of a fiber distribution system. In fact, the study indicated that of all the technology changes needed for a broadband capable network, deployment of fiber in the feeder and distribution systems was the change that would lag behind the others if the Commonwealth did not adopt a strategy to accelerate deployment. The study described the copper distribution system as *'the most bandwidth-limited section of the network.'* Finally, it described ADSL technology as

a 'potential interim solution' to allow higher bandwidth services pending construction of a fiber distribution system."

And that's not taking into account the slowness to most customers who use the old copper networks. The actual speed of the service was very, very, slow.

As the State Commission correctly identified, there was now going to be two broadbands. The first was dependent on the copper wiring (which would never be able to get to truly high speeds), and the second is through fiber optic wiring that can be continuously upgraded to faster speed services as they are developed.

Copper vs Fiber, 2013

Over the last decade there have been advances in the speed/capacity of copper wires with both new technologies as well as moving fiber optic-based 'nodes' or in the industry called 'remote terminals' where a box is put into a neighborhood and that box has a fiber optic wire that goes back to the home-base. The copper wires in the neighborhood are then attached to the box. AT&T's U-Verse uses this approach.

But, because it is not a fiber to the home service, where the fiber optic wire actually replaces the copper wiring in the street and connections to the home, copper at this point can't match the speed of fiber.

Think of it as a spicket of water coming out of a hose — the larger the hose, the more water you can push through the hose.

Fiber optics, actually is a form of 'glass' that is like a massively large hose, while the copper wire has a much smaller 'nozzle'. The other problem with all of this is that copper is 'distance' sensitive. And this is critical: The farther away copper is from the fiber optic wire, the more problems it has, just as if you had a very long hose and the water source had to travel a long distance to get out the nozzle

The bottom line: Fiber optic services are being deployed today by Google and others in some cities and can handle very high speeds. Google's service is 1 Gbps in both directions (1000 Mbps). AT&T, using the old copper wiring and boxes in the neighborhood, even with various technology kludges, (too technical to go into here)

doesn't appear to be able to do 100 Mbps — and that's only in 1 direction, downloading. In fact, over the last decade, U-Verse was lucky to deliver 24 Mbps in 1 direction.

Chapter 10 And the Promises? Channels Galore, Interactive Programming

Virtually every Bell phone company petitioned the FCC to offer video dialtone services as part of their fiber optic deployments. What was promised was video channels galore as well as “interactive services”, a kitchen-sink definition of anything including, “interactive educational, home shopping, and health care services”.

EXHIBIT 12

Number of Channels on Bell Video Dialtone Services,

Filed at the FCC, 1993-1995

Ameritech	390 Channels
Bell Atlantic	384 Channels
BellSouth	310 Channels
NYNEX	421-821 Channels (Avg –621)
US West	877-1077 Channels (Avg –977)
Average	536 Channels

Ameritech, in its 5 states, would roll out 390 channels in “economically diverse sections of its service area”.

“Ameritech maintains that approval of the applications would permit its video dialtone network to reach 1.3 million homes, businesses and institutions in geographically and *economically diverse sections of its service area*. The proposed hybrid network would provide 310 multicast (240 digital and 70 analog) channels and 80 switched digital channels.”¹⁰⁵

Bell Atlantic’s Dover system had 384, 6-Mps channels that were offered and opened to competitors, known as “VPPs”, “Video Program Providers”.

“The system’s total channel capacity is 384, 6-Mbps, MPEG-2, digital broadcast channels. One third of the total capacity (128 channels) will be set aside for the operator’s affiliate, Bell Atlantic Video Services Co. (BVS). In addition, Bell Atlantic will use one channel for a menu channel, and approximately ten channels will be designated for public, educational, and governmental access, and to carry those television broadcast stations entitled to demand carriage pursuant to 47 C.F.R. ’76.56 and ’76.1506. Therefore, approximately 245 channels will be available for interested VPPs. No VPP will be assigned more than the capacity set aside for BVS (128 channels).”¹⁰⁶

BellSouth’s Atlanta FCC Video Dialtone Petition had 310 channels.¹⁰⁷

“BellSouth Telecommunications, Inc. (BST) proposed to construct a broadband fiber optic-coaxial cable network for video and telephony, initially offering each subscriber 70 analog channels and approximately 240 digital video channels. According to BST, this network will be capable of providing a variety of programming services, including traditional television programming, enhanced pay-per-view, video-on-demand, and interactive educational, home shopping, and health care services.”

NYNEX’s Massachusetts and Rhode Island were up to 800 channels.¹⁰⁸

“NYNEX’s proposed video dialtone systems make available three types of service arrangements: analog broadcast, digital broadcast, and digital interactive service. Video programmers may deliver an ‘analog, digital, or other agreed upon signal’ that NYNEX plans to modulate and/or encode as necessary. The allocation plan provides for the offering of 21 analog channels, all but one of which will be

for over-the-air broadcast programming services, and, depending on compression rates, *between 400 and 800 digital channels.*”

US West was planning somewhere between 800 and 1000 channels of services.¹⁰⁹

“U.S. West will construct an advanced fiber-to-the-curb/coaxial cable network capable of providing 77 channels of analog video *and between 800 and 1000 channels of digital capacity.*”

Bi-Directional Services — Upstream as Fast as Downstream

One point that needs to be reiterated here — this promise was to make sure that the services were as fast down to the customer as the customer sending services.

According to the Pennsylvania Public Utility Commission in 2003:

“In view of Bell's commitment to providing 45 Mbps for digital video transmission *both upstream and downstream, we look forward to Bell's providing this two-way digital video transmission at 45 Mbps.*”

Why is Bi-Directional Important?

A high-quality video-conferencing service needs to have both directions equally available. Imagine sitting in a room where they can see you but you can't see the person you're talking to — the picture is blurry, the words not in sync, as two images can't be handled simultaneously. There are some lower bandwidth video services; however, they also deteriorate as the bandwidth decreases.

The trend of file-sharing, which can be downloading megabits from someone else's service while someone is downloading back (upstream), is becoming common practice. Legal issues aside, there are thousands of reasons, some of which have not yet

been invented, that require upstream and downstream applications. In 1994, the general consensus was that areas like two-way video, including 'tele-medicine', required a fast upstream path.

Chapter 11 And the Promises? Open to All Competition.

The fiber optic future was based on the principle that all new networks, in all capacities, would be open to competition. As discussed, the vision of the Clinton Administration was competition on all levels of telecommunications.

The FCC also had a similar vision. The FCC's "video dialtone" decision clearly laid out that these networks had "common carrier" provisions for use by competitive services.¹¹⁰

"In the Video Dialtone Order, released in August 1992, the Commission established the video dialtone regulatory framework. The Commission defined video dialtone as the provision of a basic common carrier platform to multiple video programmers on a non-discriminatory basis. A "basic platform" is a common carriage transmission service that enables customers to gain access to video programming carried on that platform. If a local telephone company provides such a basic platform, it may also provide enhanced and unregulated services related to the provision of video programming."

"Common Carriage" is the long held belief that when networks that are funded by customers, especially when they are essential facilities that cannot be easily duplicated, the public interest is best served when these networks remain open for competitors to use. The FCC attempted to insure that these networks would not fund other Bell businesses through phone rates or discriminate against competitors by the companies controlling the wires.¹¹¹

"The Commission granted the application subject to conditions that will help protect against improper cross-subsidization and discrimination by New Jersey Bell, and help ensure that sufficient video dialtone capacity is available for video programmer-customers."

The issue of keeping the networks open to competition was repeated page after page in the state commission decisions as well. “Unbundling” means to make competitive services available by leasing the necessary components of the network for the use by a competitor. In New Jersey, having open networks was addressed even before federal laws were finalized in 1996. In 1993, the New Jersey Board of Public Utilities wrote this:¹¹²

“Staff submits that the unbundling provision must apply to all competitive services and not just for new filings to make a service competitive....

“The Board ‘FINDS’ that it is essential that this Board encourage optimal use of the public switched networks, and that therefore NJ Bell shall be required to unbundle all noncompetitive service into service arrangements... so that competitors may market such services.”

Other state deregulation plans included great detail about the issue of openness to competition, unbundling of service and “cross-subsidization”. The Delaware Telecommunications Act states:¹¹³

“The Delaware Telecommunications Act also provides protections to ensure that competitors will not be unfairly disadvantaged, including a prohibition on cross-subsidization, imputation rules, service unbundling and resale service availability requirements, and a review by the PSC during the fifth year of the plan. In March 1998, the PSC voted to approve the Company's request to extend its term under the Delaware Telecommunications Act until March 2002.”

And in 1996, the Telecommunications Act of 1996, which replaced the previous Act controlling telecommunications, (the Telecom Act of 1934), was supposed to be based

on the premise that the public switched networks would remain open to competition.¹¹⁴ Here is the opening:

“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.”

Every Bell Merger Promised Open Networks.

Every Bell company merger was also mandated to bring in competition on every level. It was the basis for permitting the mergers. The mergers would guarantee direct competition with the other Bell companies in the form of competition for local and long distance phone service, as well as to opening the networks for competitors to use for DSL and broadband.

On the hype level, the Bell Atlantic-NYNEX merger would open local, long distance and video competition, promote customer choice, innovation and economic growth.¹¹⁵

“Bell Atlantic Chairman and CEO Ray Smith said, ‘We’re extremely pleased with the Department of Justice’s decision, which came after a thorough and comprehensive review. *Our merger will continue to open communications markets — local, long-distance and video* — and help realize the promise of the 1996 Telecom Act’.”

“NYNEX Chairman and CEO Ivan Seidenberg said, ‘The merger of Bell Atlantic and NYNEX will promote customer choice, innovation and economic growth in the communities we serve’.”

The FCC agreed to the SBC-Ameritech merger because it would pit Bell against Bell, so that they’d be competing directly with each other. SBC committed to competing

outside its regions in 30 of the largest US cities, offering both business and residential customers wireline local phone service. The claim was that this would stimulate nationwide competition as well.

"This will ensure that residential consumers and business customers outside of SBC/Ameritech's territory benefit from facilities-based competitive service by a major incumbent LEC. This condition effectively requires SBC and Ameritech to redeem their promise that their merger will form the basis for a new, powerful, truly nationwide multi-purpose competitive telecommunications carrier. We also anticipate that this condition will stimulate competitive entry into the SBC/Ameritech region by the affected incumbent LECs."

Interlude: The Paths to the Fiber Optic Scandals.

So far we have focused on the Info Highway commitments and feeding frenzy, that was being driven by industry players, while the government helped to promulgate this fiber optic future. It was even the platform for the Clinton-Gore ticket.

To sum up for the jury, the hype would suggest:

- 86 million households should have been rewired with fiber optic/coax to the home by 2005, over 112 by 2010.
- 9,787,400 households should have been upgraded to fiber optic/coax, in 43 different cities/states within a few years, between 1995 to 1997.
- These networks would deliver 534 channels on average,
- They would be capable of speeds of 45 Mbps in both directions or faster.
- This would NOT be DSL over the old copper wiring.
- The networks would be open to full competition on all levels.

This message was also hyped by discussing various applications, such as Telemedicine, Telelearning, and other services to be used by schools, libraries, hospitals, government agencies, and even in customers' homes.

These messages represent the national-fiber-optic-speak, data presented to the public in Annual Reports, statements made in Congress, and in FCC filings.

Let's look next at what was promised on the state level and the interplay with the national-fiber-speak.

Chapter 12 **Change State Regulations: Pitch Fiber Optics**

In order to understand how this fiber optic future would unfold we need to give the reader the lay of the land.

The original seven Bell companies, such as NYNEX or Bell Atlantic, were holding companies that controlled multiple states. Each company would create a cookie-cut plan for their region then go into each state and do a campaign promoting and specifying the wonderful services that would be unleashed in that particular state.

Let's consider NYNEX as an example. NYNEX was the holding company that controlled telecommunications in six primary states (and a portion of Connecticut). NYNEX controlled two of the original Bell local phone companies, which controlled specific states:

- **New England Telephone** — The phone companies for Massachusetts, New Hampshire, Vermont, Rhode Island, and Maine.
- **New York Telephone** — controlled New York.

On the national level, as we have noted, NYNEX claimed to investors that it would install 1.5 to 2 million fiber optic lines by 1996.

NYNEX, 1993 Annual Report¹¹⁶

"We're prepared to install between 1.5 and 2 million fiber optic lines through 1996 to begin building our portion of the Information Superhighway."

On the state level, NYNEX had a team of employees within the company that laid out a multi-state plan, then went state-to-state to do state-specific attacks with local lobbyists, PR companies, etc. And though each state was somewhat different, the company cookie-cut the pitch to fit what they thought they could get away with vs what they would settle on.

This was on top of each state's business as usual lobbying. Remember, the Bell companies have been around for over 100 years and had plenty of time to make sure that any state politician, regulator, press person, community group, or Chamber of Commerce — virtually anyone influential in the state, was a friend of the Bell.

In documents filed with the state commissions of Massachusetts and Rhode Island in 1995, NYNEX made separate deals for roll out of the fiber optic services — a total of 390,000 homes.

- 334,000 lines would be deployed starting in 1995 in Massachusetts.
- 63,000 lines would be deployed starting in 1995 in Rhode Island.

As NYNEX promised to deploy 1.5 to 2 million homes by 1996, then the balance (of over 1.1 million lines) would somehow be provided to the other NYNEX states — New York, New Hampshire, Vermont, and Maine, and since there was no offers in the other New England Telephone companies, this meant, by elimination, that a million lines would be mostly deployed in New York state.

Federal Petition — NYNEX Data. Alongside these state presentations, NYNEX (and the other Bells) petitioned the FCC to offer video dialtone services. As you can see, the number of households that were to be rolled out in Massachusetts, 334,000 fiber optic homes, matching the numbers in the Federal filing.

“On July 8, 1994, NYNEX filed two Section 214 applications for authority to provide video dialtone service in certain areas of Massachusetts and Rhode Island. NYNEX supplemented each of these applications on July 29, 1994. The application to provide video dialtone service in Massachusetts proposes a system that will pass approximately 334,000 homes and businesses. The application to provide service in Rhode Island proposes a system that will pass about 63,000 homes and businesses.”

In the federal pitch, these networks were to be hybrid fiber optic and coaxial networks. It is interesting to note that the majority of installations would be completed by 2010.

“NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education, and health care services. NYNEX plans to deploy this type of network to *the majority of its customers by the year 2010.*”

And the applications? As previously quoted, NYNEX services had a capacity for 21 analog and between 400 to 800 digital channels, supplying “interactive services” — interactive services included “video entertainment, multimedia education, and health care services” — i.e., the web and video.

In short, the play by the phone companies was to have a specific fit for each state, and a specific filing for their "federal", FCC video dialtone services.

And the implication is that there was a federal and state attack that overlapped as they had total coverage telling the same story — and none of it was real.

The State Pitches and Services

The states were in charge of broadband in 1990's, and since getting it built was being done through local rates, the action broadband was at the state level. There are fifty-one jurisdictions (counting Puerto Rico) and we will highlight parts of the state deployment campaigns, in the last chapter, we will go through the gory details of one state, New Jersey, from 1992 through 2013.

But for now, let's be more general and discuss the overall state play.

Remember, alongside these state plays, the telco groups, TELE-TV and Americast would be blaring their messages of the "wonderland" fiber optic future, having a money-burn rate of almost a billion dollars in just of a few years. And these two groups, which encompassed all of the original Bell companies and the independents GTE and SNET, even through in Disney, impacted virtually all of America (except for US West territories, which had its own noise machine going).

The Pitch: The Bell Promised Fiber Optic Services to Get Deregulation.

Every state had some tweaking applied to its sales presentation and deliverables, but all had similar components. First you have the “Pitch” which was delivered with promise and sizzle. Then comes the “Deal”, which, of course, is sold as a “win-win” proposition. And finally came the “Outcome”, which ended up being the payment to the phone companies.

- **The Pitch and the Promise**
- **The Deal**
- **The Outcome: The Payment to the Phone Companies**

The Pitch and the Promise

We discussed the noise made by the phone companies nationally, but it was the bombardment of the phone companies’ message on the state level that was the deal clincher.

Every Bell made thousands of public statements, from press releases and statements made to the press, to even documents presented to the Public Utility Commissions that they would rewire their states with a fiber optic service to replace the old copper wiring.

In some states, like New Jersey and Pennsylvania, the companies also had to get a new law passed from the state legislators as well, so it took extra noise, campaign contributions and more ‘sizzle’.

Here’s a small portion of the stories that surrounded the Bell Atlantic fiber plans for New Jersey and Pennsylvania, followed by quotes for Ameritech and Pac Bell, California:

- **PA Senate OKs Fiber Optics Bill**, *Philadelphia Daily News*, June 24, 1993
- **PA Legislature Compromises on Fiber Optics Bill. The Measure Calls for the State to Be Wired by 2015.** *Philadelphia Inquirer*, June 25, 1993

- **N.J. Bell Rewiring Approved by State. About 56 Million Miles of Wire Will Be Replaced with Fiber Optic Cable**, *Philadelphia Inquirer*, December 23, 1992.
- **Fiber Optic TV Coming to N.J.** *Philadelphia Daily News*, November 17, 1992
- **A Fiber Field of Dreams. The Switch in the Way Phone Signals Are Sent Promises Not Only Faster Transmission, but also Bright New Ideas for Using the Technology.** *Philadelphia Inquirer*, June 2, 1993
- **Ameritech Expanding Fiber Optics to Residential Users**, *Chicago Tribune*, September 1, 1992.¹¹⁷ "Ameritech will spend almost \$1 billion with two electronic equipment suppliers for hardware to supply fiber optic service to 5 million of its 16 million customers by 1995, the company said Monday."
- **Ameritech's Fiber Plan**, *Chicago Tribune*, January 27, 1994.¹¹⁸ "Ameritech will announce a plan to spend close to \$5 billion installing optical fiber to bring the information superhighway to Midwest homes, schools and businesses. The construction will center on six metropolitan areas in the five states in which Ameritech provides local telephone service, including Illinois."
- **"Interactive TV Will Come to Valley in '94"**, *Los Angeles Times*, November 16, 1993.¹¹⁹ "Areas of Canoga Park, Reseda, Sherman Oaks, Northridge, Van Nuys, Calabasas and Hidden Hills have been targeted for Pacific Bell's Los Angeles roll-out of a high-speed fiber optic network that will bring customers everything from phone and cable television services to movies-on-demand, video catalog shopping and video research libraries."
- **"The Copper Age Is Over in California."** *PC Week*, October 3, 1994.¹²⁰ "Hundreds of Pacific Bell technicians have begun yanking thousands of miles of twisted-pair copper telephone wire and replacing it with broadband fiber and coax. Lasers and light — that's the future for this Baby Bell's 10 million telephone customers, who will be among the first in the nation to ride on the information highway."

Anyone doing a search for this timeframe, 1992-1995, will find the exact same thing happened in the states where the company wanted the law changed in their favor.

Separate State Pitches

However, there were differences in the various states. In many states, such as New Jersey and Pennsylvania, the phone companies made statements dealing with the "wonderland" model as the primary driver — competition to cable, new services, etc.. As you will see, they even committed to timeframes and specific deployments — though almost no one was ever held accountable.

Other states, such as Ohio and Texas, made different claims, though they also incorporated the "wonderland" as part of the pitch. For example, Ohio Bell, an Ameritech company, was supposed to have 262,000 video dialtone customers in Columbus and Cleveland, and had also made other commitments to rewire the schools and libraries, among other items.

Ohio alternative regulation plan, September 20, 1994.¹²¹

"21. INFRASTRUCTURE COMMITMENTS The Company's infrastructure commitment in this Plan shall consist of the commitment to deploy, within five years of the effective date of the Plan and within the Company's existing service territory, *broadband two-way fully interactive high quality distance learning capabilities to all state chartered high schools including vocational, technical schools, colleges and universities; deploy broadband facilities to all hospitals, libraries, county jails and state, county and federal court buildings....*"

Southwestern Bell's plan was to digitize Texas with fiber optics as well as wire all schools, hospitals, etc., with a fully interactive, two way, 45 megabit service. As the Act states:¹²²

"INFRASTRUCTURE COMMITMENT TO CERTAIN ENTITIES. It is the intent of this section to establish a telecommunications infrastructure that interconnects public entities

described in this section. The interconnection of these entities requires ubiquitous, broadband, digital services for voice, video, and data within the local serving area.

“On customer request, the electing company shall provide broadband digital service that is capable of providing transmission speeds of up **to 45 megabits per second or better** for customer applications and other customized or packaged network services (private network services) to an entity described in this section for their private and sole use except as provided in:

- Educational institutions,
- Libraries,
- Nonprofit telemedicine centers of academic health centers, public or not-for-profit hospitals, or licensed health care practitioners;
- Projects funded by the Telecommunications Infrastructure Fund described in this Act;”

The Promise, Timeframes

In reading the state materials, it is clear that there were deadlines to be met by the phone companies for various services. We’ve discussed how the national commitments were for a given number of households to be wired by 2000, and what speed was to be delivered. However, some states had specific timeframes for both deployment as well as technology.

For example, the next exhibit was taken directly from the New Jersey Bell Order that outlined the speed of deployment and the year it was supposed to be available. This chart shows that the “Opportunity New Jersey” (ONJ) plan went from 1992 through 2010.

EXHIBIT 13

New Jersey Bell Advanced Network and Broadband Deployment Schedule, 1993

	BAU		ONJ	
Advanced Intelligent Network (AIN)	1992	2001	1992	1998
Digital switching and signaling systems deployed to provide call routing and database access, which enables "follow me" type services. This would allow, for example, customers to program the public switched network to forward their calls automatically to different locations depending on the time of day.				
Narrowband Digital Service	1992	2001	1992	1998
Switching technologies attached to support data rates up to 144,000 bits per second which will enable customers who use any combination of work stations, personal computers, fax machines and telephones.				
Wideband Digital Service	1994	2030	1994	2000
Switching capabilities matched with transmission capabilities supporting data rates up to 1,500,000 bits per second . (1.5 Mbps) This would allow students, for example, to remotely access multimedia information, including video, from home or school				
Broadband Digital Service	1996	2030	1996	2010
Switching capabilities matched with transmission capabilities supporting data rates up to 45,000,000 bits per second (45 Mbps) and higher. This enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals."				

The “Digital Broadband Service” was to be available starting in 1996 and 100% completed by 2010. The other column (“BAU”, for “Business As Usual”), was to show when these services would be available if the company didn’t get more money from the customers — the year 2030.

Similarly, the Pennsylvania law explained that 20% would be rewired by 1998 in rural, urban and suburban rate centers, and 50% would be completed by 2004.¹²³

"Verizon PA has committed to making 20% of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by end of year 1998; 50% by 2004; and 100% by 2015."

However, there were even more granular commitments and expectations in New Jersey. According to the Bell Atlantic 1997 Infrastructure Report Summary, which gave the specifics about their fulfillment of the Opportunity New Jersey requirements, Bell Atlantic stated that there was a specific number of houses to be ‘passed’ i.e.; that the service would be available, done as a percentage of the total households in the state.

The exhibit below shows that with the acceleration of ONJ, by 1996, 19% of the state should have had access to their 45 Mbps Service, 52% in 2000, etc. And Verizon claimed that in 2000 they had fulfilled their commitments to deliver.¹²⁴

EXHIBIT 14
ONJ’s Broadband Digital Deployment vs without ONJ

	1996	1997	1998	1999	2000	2010
w/o acceleration (est)	1%	1%	3%	9%	n/a none	
with acceleration (act)	19%	34%	35%	42%	52%	100%

(For more details see our chapter on Opportunity New Jersey.)

The Deal: The Horse Trade

The crux of our argument is that all of the company statements that make commitments for a given number of households, etc., lead up to one thing — someone had to pay for these new networks and it wasn't going to be the phone companies.

We will come back to the issue of state and federal laws as well as the money that was paid for the development and deployment of these networks in the next few chapters.

But first — **Splat**. Every promise you have just read about never came to fruition; it was vaporware on the disinformation highway. Customers were really road-kill on the info bahn, unavailable at any high speed, and rapidly going nowhere.

As of 2005, one could ask, "Hey dude, Where's my broadband?"

And 2014? I'll get to that.

Chapter 13 **Splat — The Retreat: What Happened with the Info Bahn?**

What the Hell Happened?

Unfortunately, practically nothing was ever built and promises were never kept.

At the end of 2005, there were virtually no fiber optic 500 channel, 45 Mbps, HDTV-compatible Bell company-supplied homes. Period.

Or more to the point, the Bell companies certainly aren't the ones who have shown up — By 2005, there were an estimated 650 communities around America providing some fiber optic services. However, it was a miniscule 323,000 homes in 2005.¹²⁵

“More than 650 communities are now wired with direct optical fiber connections — or in industry terms, fiber-to-the-home (FTTH). The new data emerged in conjunction with the latest 'U.S. Optical Fiber Communities 2005' research report, sponsored by the FTTH Council, the Telecommunications Industry Association (TIA) and Fiber Optic Communities of the United States (FOCUS). In total, the research listed 652 FTTH communities in 46 states and 322,700 connected homes. By comparison, the September 2004 report listed 217 FTTH communities and 146,500 connected homes.”

Some of these deployments were Bell related, but none of the deployments were 45 Mbps, bi-directional, or could handle 500+ channels.

In 1995, US West told *The New York Times* (September 26, 1995) it couldn't be built, regardless of all of the announcements.¹²⁶

"US West said it had ended its experiment into interactive television shopping because it cost too much and the technology was out of reach.... John O'Farrell, president of US West Interactive Services Group said the technology to create two-way television and sophisticated programming production was years away and more expensive than originally thought."

Here are some other RBOC quotes from the time.

"Bell Atlantic Delays Home Video Service," the *Washington Post*, April 26, 1995¹²⁷

"Bell Atlantic Corporation yesterday delayed indefinitely the home video service it had promised to introduce here and elsewhere in its mid-Atlantic service region this year."

"Bell Atlantic Halts Plan for Video Services," *The New York Times*, April 26, 1995¹²⁸

"Bell Atlantic Corporation called an abrupt halt to its scramble into television yesterday. Saying it wanted to rethink its strategy for upgrading its telephone network, the company asked the Federal Communications Commission to suspend its application to offer video services to as many as three million telephone customers..."

"Pac Tel Cuts \$1 Billion Interactive Plan", *New York Post*, September 28, 1995¹²⁹

"Pacific Telesis Group said it will cut \$1 billion over 5 years from proposed spending on its Information Superhighway amid concerns about costs, competition and regulations.... The company's revamped strategy calls for it to substitute old fashion roof top antennae for cable in some areas."

According to an article in *New Media Strategist* titled "Interactive switched networks dumped in favor of plain digital", the current Info Highway rollout had turned into just another analog cable supplier. November 16, 1995.¹³⁰

"Over the last few months the long awaited results from a host of interactive-digital trials have started trickling in. What these trials have in common is that their *video services are neither digital nor interactive....* The move is away from complex interactive service toward simpler, cable-like networks."

Interactive Week, another publication that had tracked the Info Highway progress ran a summary in August, 1996.¹³¹ The exhibit below shows that there was only one line with 45 Mbps service, and while there was a host of cable rollouts, a total of only 31,900 fiber/coax lines, at best, had been created. Notice that Pacific Telesis's clients were non-paying, while BellSouth's service number is only "passed homes", i.e., a wire passes the home and the person could subscribe if they cared to.

EXHIBIT 15

Rollout of Telephone Companies and Interactive TV, August 1996

	45 Mbps	Fiber/ Coax	
Ameritech	0	0	20 cable franchises, 8-90 basic channels with PPV, Int. Programming guide
Bell Atlantic	0	1,000	Virginia: Video-on-Demand trial
		7,000	NJ Basic cable and Text- based.
BellSouth	0	8,000	Passed with cable Near-video-on-Demand, and online access
NYNEX	0	0	No announced activities
Pacific Telesis	1	1,300	Non-paying customers with basic cable digital line
SBC	0	1,800	Test with paying customers for cable
US West	0	12,800	Basic cable and Pay-Per View — dropped digital trials.
TOTAL	1	31,900	

Source: *Interactive Week*, NNI 1996

We need to remind the reader that over 9,787,400 households in 43 cities were supposed to have video dialtone between 1995-1997.

Meanwhile, *The New York Time's* article December 1995, summed up the 1995 reality of the Info Highway in an article titled "Dwindling Expectations; Two Providers Reduced Expectations on Interactive TV" which discussed Bell Atlantic and Time Warner's recent announcements about their Interactive TV services.¹³²

"Within a year Bell Atlantic plans to offer 385 channels to 38,000 residents of Dover Township — compared to its full-motion announcements in 1993, which predicted 3.6 million households by 1996."

Video Dialtone Pullouts

One of the most disturbing facts that we will address later was the pullout of the entire video dialtone commitments, as outlined in the next exhibit. How did all of the very large phone companies in America make announcements for years about rewiring the entire country and then simply state a few years later that it couldn't be built as committed? Virtually every one of these commitments was based on changes in state regulations that gave the phone companies more money in the form of higher phone rates and tax perks. In some cases, the phone companies, such as Ameritech, rolled out cable services instead of video dialtone, but for the most part nothing was created.

EXHIBIT 16**Local Exchange Carrier Video Dialtone Pullouts, 1994-1995¹³³**

Date	Company	Locations	Household	Status	Closed
1/31/94	Ameritech	Detroit, MI	232,000	abandoned	6/27/95
1/31/94	Ameritech	Columbus/Cleveland	262,000	abandoned	6/27/95
1/31/94	Ameritech	Indianapolis, IN	115,000	abandoned	6/27/95
1/31/94	Ameritech	Chicago, IL	501,000	abandoned	6/27/95
1/31/94	Ameritech	Milwaukee, WI	146,000	abandoned	6/27/95
6/16/94	Bell Atlantic	Wash., D.C. LATA	1,000,000	withdrawn	5/24/95
6/16/94	Bell Atlantic	Mid-Atlantic	2,000,000	withdrawn	5/24/95
1/10/94	U S West	Denver, CO	357,000	suspended	5/31/95
1/19/94	U S West	Portland, OR	162,000	suspended	5/31/95
1/19/94	U S West	Minneapolis/St. Paul	357,000	suspended	5/31/95
3/16/94	U S West	Boise, ID	90,000	suspended	5/31/95
3/16/94	U S West	Salt Lake City, UT	160,000	suspended	5/31/95
11/16/94	U S West	Cedar Rapids, IA	63,000	dismissed	
11/16/94	U S West	Colorado Springs, CO	161,000	dismissed	
11/16/94	U S West	Des Moines, IA	120,000	dismissed	
11/16/94	U S West	Albuquerque, NM	214,000	dismissed	

This next exhibit was a list of still active video dialtone deployments as of December 1995. As we will write in future sections, when SBC and Verizon merged, the hatchet fell on America's fiber optic future in virtually every state listed, regardless of the state commitments.

EXHIBIT 17**The Ongoing Bell Rollouts as of December, 1995¹³⁴**

Date	Company	Locations	Household	Closed
12/20/93	Pacific Bell	Orange Co., CA	210,000	7/19/95
12/20/93	Pacific Bell	San Francisco Bay	490,000	7/19/95
12/20/93	Pacific Bell	Los Angeles, CA	360,000	7/19/95
12/20/93	Pacific Bell	San Diego, CA	250,000	7/19/95
5/23/94	GTE -Contel	Manassas, VA	109,000	5/2/95
5/23/94	GTE FL Inc.	Pinella, Pasco, FL	476,000	5/2/95
5/23/94	GTE CA Inc	Ventura Co., CA	122,000	5/2/95
5/23/94	GTE HI.	Honolulu, HI	334,000	5/2/95
7/8/94	NYNEX	RI	63,000	3/6/95
7/8/94	NYNEX	MA	334,000	3/6/95

Chapter 14 **Technology Didn't Work and It Was Too Expensive: Original Cost Models.**

During the 1990's, numerous sources provided information about the costs of outfitting the network and the consumer with the proper Info Bahn technologies. While the phone companies insisted that the average cost per household was \$750-\$1,000, our finding was that it would cost over \$2,500 per customer. And that was just for the required new TV/cable set-top box in the house.

In fact, both numbers were way low. The technology never worked as advertised. As previously mentioned, US West stated that the technology to create interactive television was "years away and more expensive than originally thought".

Meanwhile, an article in *The New York Times* in December 1995, quoted Bell Atlantic, which stated that the price to deliver the "Wonderland" applications was about \$17,000 per household.¹³⁵ (The Times later printed a retraction, where Bell Atlantic stated it was only \$1,700 per household, but based on other reports, the set top box, like the box that is attached to your cable TV, was \$4000-\$5000.00 alone.)

But there was a darker secret, which was revealed in 2004. Verizon claimed it was just beginning to roll out a new fiber optic technology, even though, as we have shown, Verizon claimed for over a decade that it was rewiring whole states with fiber-to-the-curb or fiber-to-the-home (also called fiber-to-the-premises) starting in 1995.

Compare the following quotes, two from Verizon in 2004, and two from Bell Atlantic, (renamed Verizon) in 1993 and 1996. Can you tell the difference?

Verizon, May 19, 2004¹³⁶

- “Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber-Optic Technology with Keller, Texas, Deployment. Verizon has begun installing in Keller a new technology known as fiber to the premises (FTTP), which uses fiber optic cable and optical electronics to directly link homes and businesses to Verizon's network. The fiber optic connections will replace traditional copper-wire links.... Although the use of fiber optic technology is common throughout the telecom industry, Verizon

is the first company to begin using it to directly connect homes and businesses to the network on a widespread scale."

- "FTTP is moving from field trials and the lab to the real world, and it's happening in Keller first,' Verizon Network Services Group President Paul Lacouture said at a news conference with city officials here today... In short, we are building a new network that will make us the broadband leader in the 21st century... Overall, Verizon plans to pass about 1 million homes in parts of nine states with this new technology by the end of the year."

Bell Atlantic, 1993-1996

- Bell Atlantic 1993 Annual Report¹³⁷ "First, we announced our intention to lead the country in the deployment of the information highway.... We will spend \$11 billion over the next five years to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region... We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets.... These investments will help establish Bell Atlantic as a world leader...."
- Bell Atlantic Press Release, July 1996 "The company plans to add digital video broadcast capabilities to this 'fiber-to-the-curb', switched broadband network by the third quarter of 1997... Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year.... Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks."

In short, it couldn't be built in 1993 or 1996. It was 'fiber-to-the-press release'. And in 2004, it was clear that the company had never built any fiber optic networks prior to

2005, even though customers had been paying for the deployment since 1993, and there wasn't going to be any 'investigations' into the failure to do the upgrades.

SBC's Light Speed, later renamed, U-Verse, was no better. Not to be outdone by Verizon, SBC also put out its next generation fiber optic service, Lightspeed, or more likely snail speed.

SBC, November 11, 2004¹³⁸

"SBC Communications Inc. (NYSE:SBC) today will provide operational and financial details on its plans to deploy fiber optics closer to customers and build an advanced, IP-based (Internet Protocol) network capable of delivering a rich array of integrated next-generation television, data and voice services substantially beyond what is available from today's telephone, cable or satellite TV providers.

"In a conference call today, the company will say network lab and field trials are under way, network construction is scheduled to begin in the first quarter of 2005 and SBC's new IP-based network is expected to be available to 18 million households by the end of 2007. The launch of IP-based TV services over the new network is planned for the fourth quarter of 2005."

And the hype a year later showed that the company was still planning to begin construction and for a late 2005- early 2006 product launch.

SBC, April 20, 2005¹³⁹

"SBC detailed plans for Project Lightspeed, a \$4 billion capital initiative to deploy fiber-to-the-neighborhood and fiber-to-the-premises technologies to 18 million households across 13 states within three years. Through Project Lightspeed, SBC companies

plan to deliver IP-based video, voice, and high-speed Internet access services, providing a communications and entertainment experience not previously realized in the mass market. The company plans to offer the first set of products under the U-Versesm brand in late 2005 or early 2006.

“SBC plans to begin construction of its advanced, IP-based network in the coming months. Lab tests of the technology have progressed, and a field trial is now underway.”

However, even though the phone companies never delivered on previous fiber plans a decade earlier and besides not being available and working in 2005, the phone companies were still hyping Congress to pursue a “light touch” regulatory approach. This 2005 press release headline said it all.

“IP-Based TV Will Revolutionize Entertainment Company Calls for ‘Light-Touch’ Regulatory Approach to Ensure Consumers Receive New Technology Quickly,”¹⁴⁰

And the release continued:

““The FCC and Congress have so far employed a light-touch approach to regulating the Internet and IP-based services. We need to extend this minimal regulation approach that has been applied to VoIP — only now the ‘V’ stands for video,’ said Champion. ‘Only then will consumers benefit from the innovation and choice that is just around the corner’.”

We’ll come back to these discussions as they are still going on in 2013 and will continue in 2014, but what should be clear to the reader — these companies were the consummate con-men. They had done nothing about fiber optic broadband as of 2005

and they had gamed the regulatory system in every state and at the federal government. And our regulators and politicians were either asleep or worse...paid off.

But, let's return to what was never delivered the first time fiber optics was promised — in the 1990's for more of a glimpse of the con.

The Fiber Optic Technology Made Simple

First, let's examine what is involved with an upgrade to fiber. There is no need for excessive details as there's plenty of places to find this information both for 1993 as well as for 2005 or 2013.

Simply put, there are a series of costs associated with delivering fiber optic services to the home. These include:¹⁴¹

- **Rewiring the Street** — The entire street wiring, either on the poles or below the ground, as well as all of the "drop-lines", lines that connect a house to the street's main wiring, must be redone.
- **All New Network Components, Including "Switches"** — Over the last decade, many parts of the guts of the networks have been upgraded and modified to handle fiber optics, as well as distribute the massive amounts of video and audio over the network, since the standards are the Internet Protocols. However, the networks have to add capacity to handle the massive amounts of new services that use up a great deal of "bandwidth". As we discussed elsewhere, the phone companies are now trying to limit bandwidth use because the more users at one time, the slower the networks become.
- **A New TV Set-Top Box** — Like the cable set-top box that usually sits on top of the TV or VCR, the Info Highway design required a new, very powerful computer. And in 1995, these computers didn't exist.
- **Rewiring the Entire House** — A house has to be entirely re-wired with fiber optic cable, replacing the copper wire.

Besides all of these charges there are hundreds of other detailed charges that are not important for this discussion.

More importantly, what computer could you buy in 1993, what were its capabilities and how much did it cost? While, today we think hard-drives should handle hundreds of gigabytes or even terabytes of data (1000 megabytes), in 1995, everything was in megabyte sizes, 100-1000 times less powerful. The previous equipment simply couldn't handle the requirements that were being sold to customers.

The rest of this section looks at the costs as presented during I-Way years.

Other Info Bahn Technology Models: Bear Stearns

In order to show just how strange all this gets, Bear Stearns released a report in 1994 titled "New Age Media", which estimated technology charges would range from \$650 to \$1,100. It was using information supplied by Bell Atlantic and other companies. There are two models: the telephone Broadband system (BBT FLX) should cost \$650-\$900 per household, while a hybrid cable version (TVHFC) would cost \$950-\$1,100.¹⁴²

"For offering interactive applications, systems such as those being installed by Bell Atlantic and using technology from broadband technologies are less expensive than the cable TV hybrid fiber-coax (TVHFC) network solution. Total costs for installing the BBT FLX System (Broadband) would range from \$650 to \$900 per home, while the typical cable TV HFC system should range between \$950 and \$1,100."

Technological issues aside, their price for the various components or the set-top box was only \$225 for a "telephone digital video terminal" and \$450 per home for a "cable TV hybrid fiber-coax set top". Other expenses were outlined, such as the "Telephone Optical Network Unit" at \$60 to \$180, and the telephone's "Host Terminal" at \$200 per-home passed, excluding inside wiring costs.

None of these prices were even in the ball park for fiber optic services of 1995.

A Few Techno-Naysayers

There were some analysts and consultants who knew that the prices being quoted, or the services being promised, were fantasyland. For example, numerous speeches given at a conference titled "Interactive Marketing", May 1994,¹⁴³ (and interviews by the author), discussed the technological and manufacturing hurdles required to bring to the residential subscriber full-motion, interactive video services.

The consensus was simple:

- The boxes required computer chips that were not yet being mass manufactured.
- The initial boxes would cost \$2,000–\$5,000 per unit, since they were, in reality, high speed computers and not production models.
- The mass market manufacturing price would most likely wholesale for \$1,200–\$1,500 per unit.

In fact, in most of the Interactive TV trials during 1994-1995, the price per set-top box was between \$4,000-\$5,000. The Time Warner trials in Orlando, originally scheduled for spring 1994 (and shut down in 1997) were delayed a year because even the prototypes were not fully operational and the boxes reportedly cost \$5,000. In another trial by Viacom and AT&T in Castro Valley, that was also canceled, the cost was \$4,000 per box.

And it should have been obvious to anyone examining this as the commercial computers for home use cost \$800-\$1,200 with a 40 meg hard drive and 640K of 'ram', the computer chip that also controlled the speed and capability of the computer.

In 2013, some wrist watches have more computing power, but in the 1990's the crop of machines available couldn't handle a 45 Mbps speed, much less do anything with even the files without using up the hard drive in a few seconds of use.

Chapter 15 Follow the Money: The Regulations.**Timeline: 1992-2004**

On the Federal side, The Communications Act of 1934, the original congressional act that regulated all telecommunications, was the primary law in America. It specifically stated that services were supposed to be both universal as well as reasonably priced.¹⁴⁴

"The purpose of this Act is for regulating interstate and foreign commerce in communication by wire and radio so as to make it available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communications service with adequate *facilities at reasonable charges.*"

Also, the Act specifically gave the FCC the right to investigate any overcharging or unreasonable increases.¹⁴⁵

"Section 47 U.S.C. 215. The Commission shall report to Congress ... any undue or unreasonable increase in charges or in the maintenance of undue or unreasonable charges."

Continuing, the Telecommunications Act of 1996 clearly states that prices should be "just, reasonable, and affordable".¹⁴⁶

"CONSUMER PROTECTION — The Commission and the States should ensure that universal service is available at rates that *are just, reasonable, and affordable.*"

The New Jersey state law and regulations regarding Verizon's Opportunity New Jersey, which was one of the first state decisions tied to the commitments to construct the new I-Way highway, also uses the term "reasonable" throughout the Order.¹⁴⁷

"In the New Jersey Telecommunication Act of 1992, the Legislature declared that it is the policy of the State to, among other things *'ensure that customers pay only reasonable charges for local exchange telecommunications service'*. To this end the Act permits the board to approve a plan for an alternative form of regulation if it finds that the plan, among other things *'will produce just and reasonable rate for telecommunications services'*."

While the Federal laws were the overarching rules that governed telecom, it was the state based change in the laws that were the most important in exactly how these new networks would be built and financed.

Let's set the base of our analysis. We're not going into a long discussion of the regulatory environment, state regulation, or even a lesson in economics, but a simple as possible explanation.

We will present the evidence to build the case.

- When a state granted "deregulation" and the phone company was given more money and other perks for building the fiber optic network, and replacing the old copper wiring, the "PSTN", what exactly was the horse-trade?
- How much money are we talking about and what are the factors we need to consider?

And we will use the best data, which is data supplied by the companies themselves, as well as other experts.

To Summarize: In order to get more money to build the networks and replace the existing infrastructure with a fiber optic one, the companies requested changes in state regulation. There are differences state by state, but the general trend was to go from a "rate of return" regulation, which examines the companies profits for most, if not all

services, to “alternative”, “incentive”, or “price cap” regulation, which essentially took away controls on the profits a company could make.

Let’s go through the basic regulatory models and how it was changed to charge customers more for services they never got.

Rate of Return — A Horse-Trade from the Start¹⁴⁸

The concept of the rate of return model is simple. A telephone company's revenues are X, their operating expenses are Y, and so, in the simplest sense, a rate of return model should examine:

$$X - (\text{minus}) Y = \text{Profit}$$

Unfortunately, like everything else in telecommunications, the caveats and variety of how each state applied this model was completely different. What they examined, what the Bells could include as expenses, and even which services contributed to the regulated pool of funds to calculate the rate-of return, were all up for grabs.

Rate of return models traditionally accounted for most revenue paid to the local telephone company, since most services were regulated. This included all local service charges, such as basic service, installation, toll calls, directory assistance, and even Touchtone service. In 1980, even the wire in the home and the telephone handset were part of the rate of return calculation.

However, the treatment of each charge has gone through major changes and how an item was accounted for in the rate base had great variability. Even the simplest of service, such as Touchtone, (which used to be a separate service with a separate charge on the bill), was treated differently by each state and each state's regulatory model.

Redefining the Term “Basic Service” through Deregulation: The Original Sin.

In 1980, local phone service was simple. Known as “POTS”, “Plain Old Telephone Service”, in most states local phone service was a “bundle” of services which included

unlimited local calling (known as “Flat rate” service), unlimited Directory Assistance (411), the phone rental, and the wire in the home — and everything cost \$8-\$10 a month.

Starting in 1982, as preparation for the break-up of AT&T on January 1, 1984, everything started to become ala carte and was “deregulated”, another term for raising the rates for every service. By 1987, just 6 years later, every charge had gone up 100-400%, and every charge was now ala carte. There was also a host of other changes. For example, many states replaced flat rate service with the more expensive measured service, while the number of free local directory assistance (DA) calls was dropped and each DA call cost more.

Worse yet, the FCC added a new charge, known as the "Subscriber Line Charge" or "FCC Line Charge", which is on every phone bill for local service. It started at \$3.50 a month and is now capped at \$6.50 a month. To add insult to injury, the FCC added a new charge in 2013, which is essentially an addition to this fee, but added as a new fee called the “Access Recovery Charge” (ARC). And this doesn’t take into account the 20+% taxes being applied to this charge, which makes a total of \$94 a year in extra costs.

These were the overall changes based on national averages for 1980 through 1996. Though each state has a different price and regulation for every telephone charge, the overall telephone bill charges went up an average of 275% (from 1983-1996), but each line-item went up varying amounts (and we added some of the newer increases through 2005). The next exhibit highlights the basic findings.¹⁴⁹

EXHIBIT 18

Nationwide Telephone Charge Increases 1980-1996

Installation Fees	956%
Directory Assistance	1800%
Inside Wiring	375%
Telephone Rental	437%
FCC Subscriber Line Charge	\$78.00 a year
(taxes vary by state)	\$16.00 Taxes on FCC
FCC Second Line Charge	\$94. Annual

Sources: NNI's "Telephone Charges in America," updated 1997, 2005

To demonstrate just how bad deregulation can be, take my Aunt Ethel's rotary telephone. It came with local service and was installed in 1966, cost \$22 to manufacture and was written off, (depreciated), in 1983. The price of the phone rental went from \$1.30, counting tax, in 1980, to \$4.95 a month, not counting other "hidden" expenses, such as the "Investment Recovery Charge". From 1982 through 1997, the phone companies had made \$1,119.00. There was a split — the local phone companies had made \$217 per phone (plus tax) and AT&T, who had kept the phone rental as part of the deregulation deal made \$902 per phone for — 5100% profit! This was based on phone bills, not the FCC's data on phone charges, which was and continues to be flawed in multiple ways.

In 1993, New Networks Institute (with Probe Research) did a nationwide telephone survey and found that over 25% of all seniors were still renting their phones. Due to our research, among other factors, there was a class action suit pertaining to phone rental, which was settled.

Deregulation impacted almost all other services, such as inside wire maintenance, where the companies could essentially charge what they want for the service. They argued that these services were "competitive", though we never found other companies that rented phones or maintained the wires for customers.

These are but a few of the phone bill problems. See the "Unauthorized Bio of the Baby Bells" for a more complete history of telephone charges in America.

However, by 2005, the costs for local service had gotten outrageous and in New York City, it had increased over 400% from 1980.¹⁵⁰ By 2012, it went up 598% for the exact same service, and this is based on phone bills, not the FCC's data.¹⁵¹

Horse-Trade Philosophy of Regulation, but still a Monopoly in the 1980's

Rate of return guaranteed the Bells a specific return on equity — profit — and this amount had some variables based on which service was being examined. But in a lot of ways the price of each service was a virtual-construct, created, not by what it cost to run the network or the actual cost of a service, but by hundreds of calculations, Public Interest needs, etc..

It was a horse-trade from start to finish. How much they should charge for a directory call, how many free calls came with basic service, and even charging for Touchtone service, were all thrown into a basket, and stirred.

Some states also examined some of the deregulated items, such as inside wiring, some did not.

However, remember, the concept was to make sure that these companies, which were still monopolies that maintained and controlled essential infrastructure, had a guaranteed income. They were “utilities” and could simply ask a state commission to raise its rates when it needed more.

There are those that argue that they are still a monopoly on wireline service, still have control of essential infrastructure and that deregulation has raised rates and hampered growth. With the collapse of the old-AT&T and MCI and the other competitors being thrown off the networks, this argument gains more credence every day. (NOTE: Some states still have rate of return regulation on some service items.)

Allowable RBOC Spending on Advertising, Contributions and Dues

In examining advertising expenditures as part of the 1980’s rate of return models, we find that each state applied different laws and reasoning to what they would and would not allow under this category. While the words *reasonable* and *limits* appear everywhere, telephone companies could charge ratepayers for the advertising they did.¹⁵²

The National Association of Regulatory Utility Commissioners, (NARUC), conducted annual surveys. Their 1994-1995 study found that almost 50% of the states allow for most types of advertising, from goodwill to sales promotions.¹⁵³

EXHIBIT 19
Allowable Advertising Expenses by PUCs, 1995

100%	Advertising
92%	Special-service ads
50%	Institutional advertising
42%	Goodwill advertising
52%	Sales-promotion expenses

Source: NARUC, 1995, NNI 1995

On the topic of contributions and dues we find, once again, that many different types of expenses were allowable, with trade and professional dues leading the list. NARUC's 1994–1995 survey asked: *"In the cost of service, does the agency allow contributions/dues payments to these types of organizations?"* The exhibit on the next page summarizes the findings.¹⁵⁴

Though few states allowed for all charges, only 30% allowed telephone companies to include charitable contributions as a deductible item, 16% allowed religious contributions, 54% allowed economic development, while 20% allowed state/local fund-raising drives.

While some states such as Florida, Indiana, or Maine allowed for very few specific contributions and dues, others such as Massachusetts or Mississippi allowed for most charges, albeit on a case-by-case basis.

EXHIBIT 20**States' Rate of Return Policies on Contributions and Dues**

16%	Religious
30%	Charitable
40%	Educational
20%	Patriotic
0%	Political
8%	Fraternal
54%	Economic Development
50%	Service
92%	Trade
86%	Professional
26%	Promotional
20%	State/local fund-raising drives

Source: NARUC, 1994-1995 and New Networks Institute, 1995

And loading advertising costs happened in all states. For example, according to the New York Citizens Utility Board, New York Telephone charged \$24 million to ratepayers for changing the name of New York Telephone to NYNEX.¹⁵⁵ Considering every Bell changed their name multiple times, we estimate that by 2005, customers paid over \$3 billion for the privilege of renaming the utility. For example, New York Telephone became NYNEX, which became Bell Atlantic, which became Verizon.

NOTE: As we will discuss in future chapters, all this pales when compared to the current situation of massive cross-subsidization, where the state-based utilities are now a dumping ground for every conceivable expense from all of the companies' affiliates. Example? It appears that Verizon New York, the state utility, received rate increases in 2009 on residential POTS customers for 'massive investments in fiber optics' and for 'losses' by the utility. Verizon New York in 2010 showed a loss of \$2.2 billion alone, resulting in an income tax benefit of \$716 million. When examined it appears that the other Verizon companies, such as Verizon Wireless and Verizon

Online are all dumping expenses into the state utility; the rate increases to residential customers appear to be the end result of expenses that would never have been allowed under the old rate of return.

We will come back to this new mathematics — where the companies' affiliates can maneuver to essentially make the utility the garbage pail for any expense, marketing, legal, regulatory, or even executive pay and foundation grants.

And with the state commissions already being threadbare, there's been no audits or investigations of the affiliate by a state or the FCC in decades.

Chapter 16 Alternative Regulations: The I-Way Sleight of Hand

Almost at birth, the Baby Bells pitched a series of new regulations, called “alternative” or “price cap” or “incentive” regulation to the Public Utility Commissions. By 1997, the Bells had convinced almost every state regulator to grant some form of alternative regulation.

From the telephone company perspective, alternative regulation has been the buzzword for giving incentives to the telephone company to give new technology to the masses sooner. For example, Ohio Bell, in its alternative regulation proposal in 1993, Advantage Ohio, stated:¹⁵⁶

"The purpose of alternative regulation is to maintain responsible prices and high-quality service for telephone customers *while providing incentives for telephone companies to deploy advanced telecommunications throughout the state*. The purpose of alternative regulation is to address the state's public policy goals:

- "ensure the availability of adequate basic local exchange service to citizens throughout the state,
- "maintain just and reasonable rates, rentals, toll, and charges for public telecommunications service,
- "encourage innovation in the telecommunications industry,
- "promote diversity and options in the supply of telecommunications services."

Also, alternative regulation was supposed to help the local phone companies compete with “unregulated competitors”. According to Robert Harris Berkeley, in testimony for Indiana's alternative regulation case, Opportunity Indiana, regulation was used so that companies could be more flexible in pricing, and that these increase the companies' incentive to reduce costs, known as productivity gains, and stimulates competition.¹⁵⁷

"Although each state has adopted a somewhat different form of alternative regulation, they have certain important features in common. They are more flexible in enabling LECs (local phone companies) to compete with unregulated competitors; they incorporate adjustment or indexing factors that are more adaptive to changing economic conditions than traditional rate of return regulation; they eliminate strict 'cost-plus' features of rate of return regulation to increase the company's incentive to reduce costs; they tend to stimulate competition and they promote efficiency, innovation, service quality and customer responsiveness."

These three reasons, flexibility to deal with unregulated competitors, building infrastructure, and productivity gains drove almost all state plans. Ironically, when these comments were made and the alternative regulations were being implemented, there was virtually no competition for most services. The Telecom Act of 1996, which opened the local networks to competition, had not yet been created. And productivity gains? They were simply another way of saying — give the phone companies more profits and let them cut staff and speed up writing off the networks.

The Pitch for ISDN — Alternative Regulation, Round 1

The early alternative regulation plans of the 1980's were basically created as a trial plan, with specific "sunshine" expiration dates of 3 to 5 years. These simplistic plans were usually pitched as "incentive plans", where the company could garner more profits if they would guarantee a modernization of the plant, usually from analog to digital switches, as well as for "productivity gains" where the local company becomes more efficient, but the real overarching theme was that this new technology wonderland was just a deregulation away.

The technology that Southwestern Bell was selling for its alternative regulation in the 1980's was fiber optics and ISDN. In 1986, Southwestern Bell stated that ISDN would "revolutionize day- to-day communications".

Southwestern Bell, **1986** Annual Report¹⁵⁸

"At the forefront of new technology is ISDN. Scheduled for commercial **availability in 1988, ISDN will revolutionize day-to-day communications** by allowing simultaneous transmission of voice, data and images over a single telephone line."

And by 1988, Zane E Barnes, then Southwestern Bells' Chairman and CEO, stated:¹⁵⁹

"Southwestern Bell company, the subsidiary that provides telephone network service, *is bringing high tech home to millions of people.*

"In 1988, Southwestern Bell telephone company tested new services that ultimately could bring the Information Age to everyone in the company's five-state area. One of the links will be fiber optic cable which has more capabilities than standard telephone line.

"Our regional telephone operation continues in leadership in development of Integrated Services Digital Network (ISDN). With more than 17,000 lines under contract, we're the nation's number one producer of this advanced technology capable of simultaneously transmitting voice, data, video services over the telephone line."

Non-Technical Definition: ISDN — Integrated Service Digital Networks, is a regular phone line, known as a 'digital access line', that should give the customer more information, faster, over a single copper wire. An ISDN line should deliver 3-5 times more speed for Internet connections or deliver larger graphics files faster.¹⁶⁰ The service could also be used as two separate telephone "channels" over one wire,

meaning that the customer may have two telephone calls simultaneously, without bringing an additional second wire into the home.

Technical Definition: See this endnote.¹⁶¹

And these early plans were a form of “incentive” regulation. Telefuture 2000, the plan for Missouri, froze local service rates, and required a \$180 million investment in advanced technology. This five year plan was approved October 1989.¹⁶²

EXHIBIT 21

Southwestern Bell's TeleFuture 2000, 1989

- Freeze on the rates for local telephone service
- Local exchange prices would be tied to the Consumer Price index
- An investment of \$180 million **in advanced technology for its customers.**

Source: Southwestern Bell Telephone Company 10-K, 1991

Isn't a “Freeze on Rates for Local Service” a Good Thing and “Customer Friendly”?

Before we move on, we need to explain that it does sound good for customers to have their rates frozen — they won't go up at least. But herein lays the problem — rates should continually go down because the costs of offering service continue to drop. In our next section “Follow the Money”, we present a 20-year analysis of employees, construction budgets, and write-offs of the networks. What happened was that in order to have “productivity gains”, there were massive cuts in staff and construction. If the two largest expenses have been dropping, “freezing rates” makes the company more profits.

TeleKansas

TeleKansas was another five-year incentive plan and was approved by the Kansas Corporation Commission in February 1990. This plan also froze rates, reduced some rates, required network upgrades, but also allowed for flexible pricing for some, not all "discretionary" products.¹⁶³

EXHIBIT 22**Southwestern Bell's TeleKansas, 1989**

- Freeze basic local rates for five years.
- A reduction of other annual rates approximately \$22 million.
- A network modernization plan at an estimated cost of \$160 million.
- A flexible pricing for a specific list of discretionary services.

Source: Southwestern Bell Telephone Company 10-K, 1991

However, there were caveats. Under both these plans, the companies' profits still had a schedule of earnings based on the return on equity. Make too much money and you give some back.¹⁶⁴

"The Missouri Public Service Commission requires that certain ratemaking adjustments be made to the telephone company's reported earnings in order to compute earning subject to sharing."

The next exhibit highlights the schedule of earnings.¹⁶⁵ Anything under 14.1% return on equity was the phone company's profit. From 14.1% to 14.5% the company shared the revenues with the customers on a 60%-40% split, from 14% to 17% the company split it 50%-50%, and anything over 17% was supposed to be returned to the customer.

EXHIBIT 23**Southwestern Bell's TeleFuture 2000 Return on Equity Splits, 1989**

- Return on Equity 14.1% to 14.5 shared 60% with customer
- Return on Equity 14% - 17% shared 50-50
- Return on Equity anything above 17% returned to customer

Source: Southwestern Bell Telephone Company 10-K, 1991

ISDN: "It Still Does Nothing"

ISDN, in the end would be the poster child for every technology-hyped commitment that failed to be deployed. It is ironic that according to the FCC, Southwestern Bell's total ISDN lines in 1995 was only 38,000, with Texas having 32,000, approximately 85% of the total.¹⁶⁶

And yet the promise of ISDN continued into the 1990's. For example, Pac Bell's "Education First" program was to spend \$100 million in connecting all schools to the superhighway by 1996.¹⁶⁷

"Pacific Bell Helps Bring Schools On-line. As part of a continuing commitment to education in California, Pacific Bell has launched Education First, a \$100 million program to connect the state's schools to the communications superhighway. *By the end of 1996, all of the nearly 7,400 public K-12 schools, libraries, and community colleges in Pacific Bell territory will have access to the company's Integrated Services Digital Network (ISDN),* which enables simultaneous transmission of voice, data and video signal over a simple telephone line."

According to CNN in 1997¹⁶⁸, only 60% of California schools had computers and less than half were online. Notice the word "access", a term that means — we don't have to give the schools actual services; they can get it if they can afford it.¹⁶⁹

By 1993, ISDN was all but forgotten. The fiber optic Information Superhighway, that nationwide, 500 channel, full-motion video network, was being touted as the new, bigger, better, next generation telephone network coming soon — and to a TV set too. This perceptual change was not something imagined. One has only to look at the number of articles on ISDN topics that disappeared in 1992, only to be supplanted by Info Highway topics.

For example, a Bell Atlantic sponsored study presented by the "National Economic Research Associates", pooh-poohed ISDN rollout. It suggested that industry groups such as the Electronic Frontier Foundation,¹⁷⁰ which were calling for ISDN deployment, employed "old world" thinking, while broadband fiber optics was "new world".

The Bell sponsored research stated:¹⁷¹

"It would be unfortunate if the public policy focus were to be on implementing only ISDN rather than on taking the necessary steps to facilitate the transition to a broadband network. While it is important to use existing technology fully during the transition, the danger of the emphasis is that policymakers may take away from it a view of the 'Old New World', rather than the 'New New World' of Broadband."

If ISDN was old, then the fabulous fiber optic-based Information Superhighway was the new broadband, promise-them-anything, with the main goal — more money through changing regulations.

Chapter 17 Fiber Optic Scandal Alternative Regulation, Round 2

The series of alternative regulation plans before the 1990's were dress rehearsals for the "Opportunity" plans. Like our case study on "Opportunity New Jersey", we will dissect these plans which were much more grandiose and focused more on the Info Bahn, a full, multimedia fiber optic future, not the relatively low tech, ISDN. In fact, the Opportunity plans were created by Deloitte & Touche, which were million dollar studies to prove that fiber optics was the wave of the future. The plan in New Jersey was so successful that other states used similar studies. There was an "Opportunity Pennsylvania", "Advantage Ohio", "Opportunity Indiana", "Advantage Illinois", and maybe even more states had this or other similar consulting studies.

The promises for this round of regulation were much more pronounced. For example, Advantage Ohio stated that regulatory changes would benefit jobs, education, and healthcare.¹⁷²

"What does Ohio stand to benefit from regulatory reform and a broadband telephone network?"

"Creation of Jobs: Ohio's strongest performers in business growth and job creation are in telecommunications-intensive industries. According to a Case Western Reserve University study completed in 1991, these industries generated 250,000 jobs for Ohio during 1980 to 1987 and are expected to generate 88% (497,000) of Ohio's new jobs by the year 2000.

"Education: New telecommunications technology has the potential to produce quantum leaps in providing high-quality education for all students throughout Ohio. The broadband network could transport two-way interactive video and link all of Ohio's primary and secondary schools. Distance-learning applications would support teachers, benefit students, and provide more equitable education by carrying universal and special

educational programs to every school, including those that are economically disadvantaged in both urban and distant rural areas.

"Health Care: Telecommunications technology holds great promise for delivering health-care services to the public. A broadband network would free health care providers and patients from the confines of buildings separated by time and distance. A broadband network would be capable of transmitting high-resolution, full-color, full-motion video images that would facilitate improvements in medical diagnostics, X-ray lithography, and medical training. For example, surgeons at the Cleveland Clinic could guide a surgical procedure at a hospital in Ironton. Such technology could be used to produce high-quality health care while containing health-care costs."

The companies didn't want surveillance of any revenues or profits except one line-item, "basic service". This meant that every other service the company offered would be considered "competitive". Earlier plans still required profit monitoring and had forms for revenue-sharing when profits exceeded specific limits.

Indiana Bell's proposal put it succinctly. According to Testimony by Norman L. Cubellis, Vice President-Regulatory and External Affairs, Indiana Bell Telephone Company:¹⁷³

"Indiana Bell now presents Opportunity Indiana, a progressive plan which is designed to protect the price of Basic Local service through a rate stability index, provide equal freedom to Indiana Bell to respond to competitive actions and as a consequence of reform eliminate the outmoded and costly rate of return regulatory process. *In response to approval of the total package of these forward looking initiatives by this Commission, Indiana Bell commits to accelerate and increase its infrastructure investment, thereby accelerating the benefits of technology to its customer.*"

Another way of saying this, emphasized below, is that in exchange for the removal of rate of return regulation, "Basic service" prices and carrier access would be stable and everything else would be priced at "market prices", meaning whatever the company deemed they could get away with.¹⁷⁴

"As a result of this proposal (Opportunity Indiana), rate base/rate of return regulation would be replaced by price regulation for Basic local service and Carrier Access services.¹⁷⁵

"Market prices would apply to the balance of the Company's services. The Commission would decline its jurisdiction and allow the marketplace to determine the prices of these services which are already competitive in nature."

We want to re-emphasize one crucial point — the company would commit funds to build the I-Way.¹⁷⁶

"Finally, the Opportunity Indiana Plan recognizes the need for Indiana Bell to provide a high level of new investment to achieve and maintain a state-of-the-art telecommunication infrastructure."

Many of the other Ameritech states, Illinois and Michigan, for example, had similar packages, though each state had different wording and investment amounts. According to Ameritech's 1993 Investor Handbook, by 1993, both Michigan and Illinois had plans that freed Ameritech from earning limits and required a commitment of construction.¹⁷⁷

EXHIBIT 24**Alternative Regulation in Illinois, Ameritech, 1993¹⁷⁸**

- No limit on earnings or depreciation
- Basic service (residence access lines capped for three years, then indexed to inflation, productivity, and service quality)
- Competing services not included
- \$3 billion investment commitment
- Currently authorized 13.1% on equity

EXHIBIT 25**Alternative Regulation in Michigan, Ameritech, 1993**

- No limit on earnings or depreciation
- Basic service (residence/business access lines and local usage) expedited rate adjustments subject to inflation and productivity factors.
- Toll rates capped at 12/31/91 level
- Prices of other competitive services not regulated
- \$2 billion investment commitment 1993–1995

Source: Ameritech's 1993 Investor Handbook

These plans say — no limit on the money they can make, no limit on what they can write-off; (depreciate), basic service could increase with inflation, toll rates would remain ‘price capped’, and “competitive” services, which is a buzz word for anything including all calling features, including Call Waiting, Call Forwarding, and Caller ID, could be priced at whatever they want, and all of the profits would be theirs.

But the key part is: they would also have to spend \$2 billion on new infrastructure. But this was a ruse. As we will explain, this number could include all of the money they already were spending, with some small increases.

With the pitch in place and the wondrous promises being made, the Opportunity plans and state regulations went forward. The companies worked hard for

these changes in state and federal legislation that gave the companies more money, called marketplace realities.

NYNEX 1995 10K¹⁷⁹

“We worked hard for this legislation, and so did many of you. Thanks for your letters and calls to Congress in support of telecommunications reform. You helped make a difference in a tough legislative battle.

“The new market freedoms spelled out in the national legislation complement the state regulatory breakthroughs we've already achieved. With ‘incentive regulation’ plans approved in New York, Massachusetts and Maine, we've brought the regulation of more than 95 percent of our telecommunications operations into line with marketplace realities. These plans provide the right framework for growth — and provide an incentive to operate more efficiently. In fact, NYNEX already is using its new pricing flexibility to introduce a number of popular optional calling plans for business and residence customers.”

Ameritech would write the equivalent — *“We’re free to charge what we want and keep it. Customers beware.”* In 1994, Ameritech's Investment Alert stated that the company no longer had any regulatory controls by the states in terms of earnings.¹⁸⁰

"Ameritech has led the industry in achieving regulation that removes regulatory earnings caps.... All of Ameritech's intrastate operations are off of return-on-asset regulation resulting in freedom from regulatory caps on earnings and no earnings sharing."

By 1995, Ameritech Investor Alert, January 1995, would add:¹⁸¹

"Federal and state regulators no longer limit the company's profits."

Part II Acts Against Nature: The Bells Married Their Siblings

This next series of chapters were written specifically to discuss one topic — How the Bell mergers killed off the fiber optic deployments and competition.

The mergers include:

- **At&t** — **SBC** (originally Southwestern Bell) started the mergers with Pacific Telesis, then SNET, Ameritech, BellSouth, and finally AT&T
- **Verizon** mergers were Bell Atlantic with NYNEX and then GTE, and then MCI.

This chart summarizes the original commitments made by the phone companies. However, this is not the total, as each state could have separate commitments and funding requirement that were part of the state law, but not highlighted in the companies’ annual reports.

We will cover AT&T’s U-Verse and Verizon’s FiOS separately.

EXHIBIT 26

SBC Verizon Fiber Optic Broadband (as stated) and Households

	Money	Households	Merger	Shutdown
SBC				
Pacific Telesis	\$16.0	5,500,000	1997	1997
Ameritech (3states)	\$7.5	6,000,000	1999	2000
SNET	\$4.5	1,000,000	1998	2000
SBC, Texas	\$1.5			
Pronto	\$6.0			
BellSouth	\$1.0			
SBC Total	\$35.5	12,500,000		
AT&T(BellSouth)		100%	2007	In-complete

EXHIBIT 27**Verizon Fiber Optic Broadband (as Stated) and Households**

Verizon	Money	Households	Merger	Shutdown
Bell Atlantic	\$11.0	8,750,000	1997	1997
NYNEX (in MA)	\$.5	2,000,000	1997	1997
GTE	\$4.1	7,000,000	2000	2000
Verizon Total	\$15.6	17,750,000		

EXHIBIT 28**Verizon & SBC Fiber Optic Broadband Spending and Households¹⁸²**

	Money	Households	Deadline
SBC	\$35.5	12,500,000	
Verizon	\$15.6	17,750,000	
TOTAL	\$51.1	30,250,000	2000

The primary finding, which even surprised this author, was that at every merger, whatever fiber optic-based services were being built or deployed were shut down when the ink dried. This impacted almost of America in different ways. And while we will contain this discussion here to the mergers prior to 2004, we will of course go through all of the Bell mergers by the end of this tale.

At the end of 2004, SBC was to have spent \$35.5 billion and have 12.5 million households while Verizon was supposed to spend \$15.6 billion on 17.7 million households. Combined, Verizon and SBC were to spend \$51.1 billion and have 30.2 million households by 2000 (with caveats). This was the fiber-to-the-home services we have previously highlighted, using their own data.

But that was only part of the story. SBC and Verizon were also supposed to compete with each other for local phone service. SBC promised to compete out of their own regions in 30 cities by 2000 while Verizon was to be in 21 cities in 18 months. And, as we show, they never fulfilled virtually any of these plans, even though their merger plans were all based on competing with each other.

However, it gets even more complicated when the new at&t (small letters) was created. The AT&T-BellSouth merger required 100% of their 22 states to have at

least 200 kbps in 1 direction, (the speed of broadband as set by the FCC) and while this could include 15% of the total being wireless, it was never accomplished.

But don't take our word for anything. Simply read what was promised and what was delivered to make up your own mind. With AT&T and Verizon now controlling the overwhelming majority of the US population for wired services (and wireless), it is clear that the companies can say or do anything and never be held accountable.

Treat this as a cautionary warning for anything you ever hear about the companies' broadband commitments or competition in the future.

Chapter 18 The SBC-Pacific Telesis-SNET-Ameritech Mergers Were the Death of State Fiber Optic Deployments.

Timeline: 1996-2004

We will first focus on the creation of SBC, which was formed from a merger of Southwestern Bell, Pacific Telesis, SNET and Ameritech. This enlarged mega-Bell harmed the fiber optic-based broadband deployments that were underway in EVERY state — from California-Pac Bell and Connecticut-SNET, to Ohio-Ameritech and Texas-Southwestern Bell. SBC never fulfilled its state obligations to upgrade the networks properly — ever.

At the time SBC controlled 40% of America's Digital Future, representing 13 states' communications.

By 2002, over \$35.5 billion should have been spent by the mega-Bell for fiber optic cable deployment in over 12.5 million households. As discussed, Pacific Bell promised deployment in 5.5 million households and to spend \$16 billion by 2000; Ameritech promised 6 million households at over \$6.6 billion by 2000 (in just 3 states); SNET promised \$4.5 billion for just Connecticut, while Texas was to commit \$1.5 billion to wire schools, libraries and government agencies with fiber optics, and most of this was to be done before 2000.

First, Who Was SBC? (Now at&t)

During the 1990's, Southwestern Bell became SBC, and starting in 1997, first acquired Pacific Telesis, then SNET and then Ameritech. According to SBC's 1999 Annual Report:¹⁸³

“SBC was formed as one of several regional holding companies (RHCs) created to hold AT&T Corp.'s (AT&T) local telephone companies. On January 1, 1984, SBC was spun-off from AT&T pursuant to an anti-trust consent decree, becoming an independent publicly traded telecommunications services provider. At

formation, SBC primarily operated in 5 southwestern states. SBC subsidiaries merged with Ameritech Corporation (Ameritech) in 1999, Southern New England Telecommunications Corporation (SNET) in 1998 and Pacific Telesis Group (PAC) in 1997, thereby expanding SBC's wireline operations into a total of 13 states."

As of 2004, this one company controlled most of the telecommunications in 13 states:¹⁸⁴

"The term 'SBC/Ameritech' shall mean Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, Nevada Bell, The Ohio Bell Telephone Company, Pacific Bell, The Southern New England Telephone Company ('SNET'), Southwestern Bell Telephone Company ('SWBT'), and Wisconsin Bell, Inc.; any successor or assign of such company that provides wireline telephone exchange service; and Ameritech Corporation, SBC Communications Inc., and any successor of either company."

The states are:

- Ameritech — Ohio, Illinois, Indiana, Wisconsin, Michigan
- Southwestern Bell — Texas, Oklahoma, Missouri, Kansas, Arkansas
- Pacific Telesis — California and Nevada
- SNET — Connecticut

In terms of market reach, SBC controlled two of the largest states in terms of population. According to the 2004 World Almanac,¹⁸⁵ quoting 2002 Census data by state, SBC controlled California, which had about 35 million people, while Texas had 21 million; about 56 million people combined. When all of the states were added together, (without BellSouth) the population coverage was approximately 125 million people; about 40% of the entire United States. (We note that in each state there are

other incumbents, such as Verizon's holdings of the areas covered by what was GTE.) However, SBC was the largest incumbent by far and none of the companies competed with each other directly.

We need to make it clear that SBC controlled 90+% of wireline phone service in most of their states. This is because even their competitors had to rent the wires. Also, SBC and BellSouth owned Cingular, which also gave them about 40% of the entire wireless markets (and would become AT&T Wireless). In broadband, SBC was so successful in putting most ISPs out of business that they owned 90+% of the wireline DSL market.

Besides market size, let's review the circumstances in Texas, California, SNET, and Ameritech as well as SBC and Ameritech's merger broadband carrot, Project Pronto.

And forgive the author but we decided that some of the previous material should be repeated instead of the reader having to go back and search for details.

Pacific Bell: California Dreamin'

Pacific Telesis, the parent of Pacific Bell and Nevada Bell, told regulators, investors, and the public that it was going to spend \$16 billion on the fiber optic info highway in California.

According to Pacific Telesis's 1993 Annual Report:¹⁸⁶

"In November 1993, Pacific Bell *announced a capital investment plan totaling \$16 billion over the next seven years* to upgrade core network infrastructure and to begin building California's 'Communications superhighway'. This will be an integrated telecommunications, information and entertainment network providing advanced voice, data and video services. *Using a combination of fiber optics and coaxial cable, Pacific Bell expects to provide broadband services to more than 1.5 million*

homes by the end of 1996, 5 million homes by the end of the decade."

We also presented video dialtone application materials that showed that specific parts of California were scheduled to be rewired.¹⁸⁷

EXHIBIT 29

Pacific Bell Video Dialtone Deployments, 1995

Date	Phone Co.	Location	Households	Approved
12/20/93	Pacific Bell	Orange Co., CA	210,000	7/19/95
12/20/93	Pacific Bell	San Francisco Bay	490,000	7/19/95
12/20/93	Pacific Bell	Los Angeles, CA	360,000	7/19/95
12/20/93	Pacific Bell	San Diego, CA	250,000	7/19/95
TOTAL			1,310,000	

Like the other video dialtone applications, this was fiber to the home, replacing the old copper wiring, and it had channels galore. Also, the number of households was for immediate deployment. Pac Bell stated that by 1996 it would have 1.5 million households wired. The exhibit above shows 1.3 million.

SBC Does a Hatchet Job on Pac Bell’s Fiber Optic Plans: Merger 1997, Shutdown 1997.

When SBC merged with Pacific Telesis, SBC did a hatchet job on Pacific Bell’s existing fiber optic deployment. While Pacific Bell at least gave the appearance that it cared, though didn’t fulfill any of these obligations, SBC simply pulled the plug on all of these plans.¹⁸⁸

“Pacific and Southwestern Video Curtailment/Purchase Commitments - SBC also announced in 1997 that it was scaling back its limited direct investment in video services in the areas also served by Pacific Bell Telephone Company (PacBell) and

Southwestern Bell Telephone Company (SWBell). As a result of this curtailment, SBC halted construction on the Advanced Communications Network (ACN) in California. As part of an agreement with the ACN vendor, SBC paid the liabilities of the ACN trust that owned and financed ACN construction, incurred costs to shut down all construction previously conducted under the trust and received certain consideration from the vendor. In the second quarter of 1997, SBC recognized net expense of \$553 million (\$346 million net of tax) associated with these activities. During the third quarter of 1997, SBC recorded the corresponding short-term debt of \$610 million previously incurred by the ACN trust on its balance sheet.”

What this says is that SBC pulled the plug early and therefore had to pay off the various vendors, whether or not the work had been completed. There is no indication of the actual expenditures versus the payoffs to terminate early. More important, the company of course took this as a business expense and so got tax benefits from the losses.

As is clear from this quote, Pac Bell never came close to spending any serious money on this project, certainly not anywhere near the \$16 billion as stated in their annual reports.

According to the 1999 Annual Report, SBC also shut down the video dialtone trials in Richardson Texas and San Jose, as well as scaled back the TELE-TV work.¹⁸⁹

“Additionally, SBC curtailed certain other video-related activities including discontinuing its broadband network video trials in Richardson, Texas, and San Jose, California, substantially scaling back its involvement in the TELE-TV joint venture and withdrawing its operations in territory served by SWBell from the Americast venture. During 1999, SBC negotiated a settlement with its Americast partners related to the

withdrawal. The settlement did not have a material impact on SBC's financial condition or results of operations. The collective impact of these decisions and actions by SBC resulted in a charge of \$145 million (\$92 million net of tax) in the second quarter of 1997.”

If the incumbent closes down the entire operations for the entire state, who is left to deploy the fiber optic networks which were upgrades to the current network? The deployment plans of Pac Bell were in place since the early 1990's and led to the deregulation of the company's revenues and profits on the state level.

SNET

SNET (Southern New England Telephone) told the state of Connecticut, investors and the public that it would be spending \$4.5 billion over 15 years.¹⁹⁰

“On January 13, 1994, the Telephone Company announced its intention to invest \$4.5 billion over the next 15 years to build a statewide information superhighway ("I-SNET"). I-SNET will be an interactive multimedia network capable of delivering voice, video and a full range of information and interactive services. The Telephone Company expects I-SNET will reach approximately 500,000 residences and businesses through 1997.”

As previously quoted, the materials filed with the FCC showed that they would be rolling out 1 million households of video dialtone services.¹⁹¹

EXHIBIT 30

SNET's Filed Connecticut Fiber Optic Video Dialtone Deployments, 1995

Date of Application	Telco	State	Homes	Type
4/28/95	SNET	CT	1,000,000	permanent

And it was to go to ALL customers. SNET Release, January 21, 1997

“The company is building I-SNET, Connecticut's broadband, information superhighway to serve all its customers.”

In a very early move, SNET received a statewide cable franchise in 1996, which was to complete the entire state by 2007. Annual Report 1996:

“On September 6th, 1996, SNET Personal Vision, Inc. (*“Personal Vision”*) received an 11 year license from the DPUC to operate a community antenna television system that will serve the entire state of Connecticut.”

The state laws were changed in 1996 to give the company more money and the company even took a massive \$1.2 billion dollar tax deduction as they were replacing the copper wiring with a fiber optic/coax service.

According to the 1996 Annual Report:

“Since 1994, the wireline business has been replacing its existing network of twisted copper wire with low maintenance fiber-optic and coaxial cable. The buildout of I-SNET, a \$4.5 billion investment, is expected to be completed by 2007.”

And, to top it off, the project was to be completed by 2007.

The SBC Hatchet on Connecticut: Merger 1998, Shutdown, 2000

In comes the SBC hatchet. By 1999, the SBC 1999 Annual Report calls it a “cable” service with 31,000 customers, and by 2000, SBC decided to close down this service.

SBC 1999 Annual Report¹⁹²

“Cable Television - SBC also operates a cable television system under the SNET brand in Connecticut that is currently included in the Wireline segment. SNET began offering cable television service in the first quarter of 1997. As of December 31, 1999, SNET provided cable television services to approximately 31,000 households in Connecticut.”

SBC 2000 Annual Report¹⁹³

“Cable Television - We also operate a cable television system under the SNET brand in Connecticut that has been included in the wireline segment results. Our request to close this business is currently under review by the Connecticut Department of Public Utility Control and a final decision is expected in early 2001.”

The idea that SNET, which had state laws changed to accommodate the building of a fiber optic-based service would be allowed to simply “close this business”, as if this was some whim is, of course, worth investigation.

More to the point, if SBC was supposed to be serious about providing fiber optic services, closing down two states’ programs, where the wiring alone not only had value, but also could be used with different electronics for the fiber optic services it was claiming it was going to deploy, is, of course, illogical.

And it gets even more bizarre. In 2005, Multichannel News¹⁹⁴ outlined how SNET was not going to allow other companies use the networks and even got a state bill to block competitors.

“Citing claims of ethics irregularities, Connecticut Gov. Jodi Rell declined to sign into law a bill that would have stymied attempts by a competitor to lease unused cable-TV plant owned by SBC

Communications Inc. The competitor, Gemini Networks CT Inc., has been working with the state's Department of Public Utility Control to compel SBC to lease its former Southern New England Telecommunications Corp. fiber plant. But a telephone-pricing-decontrol bill passed June 7 included a late amendment that banned the unbundling of SBC's fiber-coaxial plant unless the Federal Communications Commission orders it."

As of this writing, 2013, we have no idea what happened to these upgrades — paid for by customers.

Ameritech

The oddest closing of all was by Ameritech, which simultaneously closed down its fiber optic deployments in five states, and yet during the merger with SBC, claimed that they were deploying a fiber optic service under 'Project Pronto'.

According to the 1994 Investor Fact Book, Ameritech was building a video network that was going to extend to 6 million customers by 2000.

Ameritech Investor Fact Book, March 1994:¹⁹⁵

"We're building a video network that will extend to six million customers within six years."

Ameritech also filed its video dialtone applications with the FCC, which listed 1.3 million households in Detroit, Columbus, and Chicago, among other places.

EXHIBIT 31**Ameritech Video Dialtone Requested Permanent Authorizations**

- 232,000 homes in Detroit, MI
- 262,000 homes in Columbus and Cleveland, OH
- 115,000 homes in Indianapolis, IN
- 501,000 homes in Chicago, IL
- 146,000 homes in Milwaukee, WI
- **1,256,000 Total homes**

And let's be clear. This is all fiber video dialtone stuff. Ameritech petitioned the FCC for ALL five states.¹⁹⁶

“Ameritech Operating Companies for authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct, operate, own, and maintain *advanced fiber optic facilities* and equipment to provide video dialtone service within geographically defined areas in Illinois, Indiana, Michigan, Ohio, and Wisconsin.”

Ameritech, in five states, would roll out 390 channels in an “economically diverse section of its service area”.

“Ameritech maintains that approval of the applications would permit its video dialtone network to reach 1.3 million homes, businesses and institutions in geographically and economically diverse sections of its service area. The proposed hybrid network would provide 310 multicast (240 digital and 70 analog) channels and 80 switched digital channels.”¹⁹⁷

Billions of Spending on the State Level

Ameritech also made state-by-state commitments to update their networks and sold them as a “fiber optic future.” The Ameritech 1993 Investor Fact Book¹⁹⁸ shows that at least \$6.6 billion was to be spent in just three states: Illinois, Ohio and Michigan, while other data sources showed that Wisconsin was to spend \$700 million and Indiana at least \$150 million. These commitments were all for “alternative regulation” plans (deregulation) that gave these companies more money in the form of higher phone rates for many services and no caps on the companies’ profits.

EXHIBIT 32

Ameritech Investment Commitments, 1992-1998

Illinois	\$3.0 billion	Investment commitment over 5 years
Ohio	\$1.6 billion	Investment commitment over 5 years
Michigan	\$2.0 billion	Investment commitment, 1992-1995
Indiana	\$150 million	<ul style="list-style-type: none"> • \$120 million in “Digital Broadband Facilities” to connect schools, hospitals, and government over the next 6 years • \$30 million for the next six years for educational hardware, software and training
Wisconsin	\$700 million	
Total	\$7.45 billion	

The Ameritech Investor Fact Book, 1993, state annual reports, 1993-1999

And yes, state laws were changed because of a massive press campaign with multiple promises over several years. Below is a collection of articles and their summaries from the Chicago Tribune from 1992 to 1994. To sum up, Illinois Bell would spend \$3 billion on a “massive upgrading” of its fiber optics in exchange for removing its 13.1% profit cap. This would bring fiber optics to Chicago area suburbs and 40 others. Ameritech, the holding company, would spend \$5 billion for the mid-west information superhighway and \$1 billion with two electronic equipment suppliers for hardware to

supply fiber optic service to 5 million of its 16 million customers by 1995! This was supposed to be distributed over six metropolitan areas in the five states to start.

- **Ameritech Fiber Links Going to Suburbs First**, February 2, 1994¹⁹⁹ "Ameritech's plan to bring digital video services to customers through optical fiber will start by targeting nearly two dozen Chicago-area suburbs and parts of more than 40 others, but not the city itself."
- **Ameritech's Fiber Plan**, January 27, 1994²⁰⁰ "Ameritech will announce a plan to spend close to \$5 billion installing optical fiber to bring the information superhighway to Midwest homes, schools and businesses. The construction will center on six metropolitan areas in the five states in which Ameritech provides local telephone service, including Illinois."
- **Bell Rate Plan Appears Right on Line**, December 2, 1992²⁰¹ "Illinois Bell Telephone Co. is likely to find a willing ear among state regulators for its new rate plan, which would lift the profit cap on the state's largest phone utility in exchange for \$3 billion in new fiber optic lines."
- **Bell Seeks Rate Overhaul**, December 1, 1992²⁰² "Illinois Bell Telephone Co is expected to ask state regulators to lift the utility's 13.1% profit cap in exchange for a massive upgrading of its system, including widespread installation of fiber optic cables."
- **Ameritech Expanding Fiber Optics to Residential Users** September 1, 1992²⁰³ "Ameritech will spend almost \$1 billion with two electronic equipment suppliers for hardware to supply fiber optic service to 5 million of its 16 million customers by 1995, the company said Monday."

And each state had its own pitch. For example, according to FCC filed documents, in 1994 Wisconsin Bell was supposed to rewire part of Milwaukee, WI with 146,000 video dialtone customers to start.

Wisconsin Bell claimed it would spend \$700 million on these new services. And it would spur jobs and economic growth.

“Ameritech also has committed to invest a minimum of \$700 million in the state's telecommunications infrastructure over the next five years. The investment will see the installation of advanced fiber optics and call-routing systems throughout Ameritech's Wisconsin operating territory, which will help spur economic development and create jobs in many sectors, he said. Among other things, the investment will bring fiber optic lines to the doorsteps of some 460 Wisconsin middle and high schools, colleges, universities, vocational schools, hospitals and major public libraries by the end of 1998.”²⁰⁴

In the ‘how many times are we going to pay for wiring schools, libraries and hospitals’ category, this was just one of many states that charged customers for services that they would be charged for again and again in multiple ways.

And let’s be clear that state law was changed to charge the customers these deployments — changes in state law that were made to remove the ‘profit’ caps Wisconsin Bell²⁰⁵.

“The PSC will no longer regulate the company's overall earnings, a change that encourages the introduction of new telecommunications services that will become available as the Information Superhighway is expanded in Wisconsin.”

We need to note that Ameritech was proud that it was able to change the regulation in their favor state after state. From the 1994 Investor Fact Book:

“In 1994, Ameritech proactively changed the way in which we are regulated. We have replaced rate of return regulation with price-cap plans without earnings sharing in all five states in which we are franchised as a communications carrier.

“As a result 100% of Ameritech’s \$8 billion of intrastate revenues are now regulated by prices, not earnings. The plans foster market

based pricing and give Ameritech greater incentive to earn more by allowing us to keep all that we earn."

To paraphrase — Ameritech got rid of anyone looking at their profits, even though they were still a monopoly. Some services could now be “market priced.” Ameritech could charge what customers were willing to pay, even though there was no competition in 1994. In this bucket would be “calling features”, such as Call Waiting, Call Forwarding, etc., that cost about one penny to offer, but could sell for \$5.00 per month per line. We will return to this topic in future sections.

Ameritech’s Profits Went Through the Roof. A Summary 10 Year Model for Ameritech, 1988-1998.

We need to note that while Ameritech was deploying some new networks, it is clear that the real benefit was to their corporate profits. From 1988 through 1992, Ameritech’s average was 15.6% “return on equity”, the standard measurement of business returns, the “dividend” paid to its shareholders was \$1.16, and the “net income” was about \$2.2 billion.

As soon as the last passed the companies got rich. By 1993, the numbers start climbing and by 1998 the dividend increased 187% to \$3.27, the return on equity was now 36.2%, an increase of 129%, and the net income was \$4.2 billion, an increase of 97%.²⁰⁶

Virtually every Bell had similar growth in profits, dividends and returns on equity.

SBC’s Next Hatchet Job: Ameritech’s Fiber Networks: Merger 1999, Shutdown 2000

SBC, once again waiting for the ink to dry on its merger agreements, took over in 1999 and by 2000 it was getting rid of the entire Ameritech network.

SBC 2000 Annual Report — “Cable Television Services”²⁰⁷

“We offer enhanced cable television services in the Chicago, Cleveland, Columbus and Detroit metropolitan areas through our subsidiary Ameritech New Media, Inc. (ANM). As of December 31, 2000, ANM provided cable services to approximately 304,000 customers in approximately 100 Midwestern communities. In 2000, ANM scaled back its construction of additional cable networks and expansion plans for new cable franchises and we are currently in negotiations to sell ANM.”

Ironically, the Bell companies got various federal and state Senators and Congressmen to write bills so that they could offer cable services with limited or no franchises. Curiously, Ameritech had 115 franchises that it owned and then SBC threw away.

SBC 2000 Annual Report — “Cable Television Services”²⁰⁸

“ANM’s cable television systems are subject to Federal, state and local regulation, including regulation by the FCC and local franchising authorities. ANM has entered into approximately 115 cable television franchise agreements with local government authorities. Generally, these franchise agreements are in effect for a period of 15 years, and are transferable with regulatory approval.”

The Sale of Ameritech's Cable Plant — WOW, What a Deal.

An article in *Telephony* magazine, “Wow, What a Deal”,²⁰⁹ told of a quite bizarre end to the fiber optic future in the entire Ameritech region. As previously discussed, Ameritech promised 6 million households by 2000. In the middle of 2001,

WideOpenWest, “WOW”, purchased the entire plant, about 300,000 customers, for about \$1000 a subscriber.

"According to an industry source, WOW agreed to pay about \$1000 per subscriber, although neither company would confirm the figure.... When the deal closes in October or November, WOW will grow from 200 Denver-area subscribers to 310,000 users in Chicago, Detroit, Denver, Cleveland and Columbus, Ohio."

What is really odd is that this service was supposed to offer 390 channels and fiber to the home, as told by the video dialtone applications.

“Ameritech maintains that approval of the applications would permit its video dialtone network to reach 1.3 million homes, businesses and institutions in geographically and economically diverse sections of its service area. The proposed hybrid network would provide 310 multicast (240 digital and 70 analog) channels and 80 switched digital channels.”²¹⁰

Ameritech put in the fiber! And, according to the article, it was two-way, with a “high fiber count”:

“Mark Haverkate, WOW’s president and CEO.... ‘It’s definitely a two-way system’, Haverkate said. ‘It’s a high fiber count, small home-per-node size [estimated at about 200 homes]. The system was extremely well built — top-of-the-line equipment across the board. It’s been extremely well-maintained.’”²¹¹

And yet, while it had the capabilities to offer more, the system, as rolled out by Ameritech, was based on one-way analog services.

"The Americast system is only being used for one-way analog services but can easily support digital and Internet services', Haverkate said."²¹²

What is odd from any direction of analysis is that SBC stated in the article that its plan was to get fiber "into the neighborhoods" for video and broadband, and the installed fiber optic system could do this with its eyes closed. Instead, SBC decided to close down the entire system for \$300 million dollars.

"SBC has been trying to shed the cable properties it acquired with Ameritech while trying to get some return on the investment because being a cable provider 'didn't fit with our business strategy,' said a company spokesman. 'That strategy doesn't preclude video and high-speed data; it just won't be done over conventional cable networks.'

"We've invested \$6 billion in Project Pronto, which is to get fiber into the neighborhoods,' the spokesman said. 'Video streaming is certainly going to be part of what they'll be able to get from broadband and have it delivered by DSL.'"²¹³

The Project Pronto quote shows the "say anything" mentality of SBC, since it would never spend the \$6 billion it kept quoting to the press.

As of 2004, WOW offered a series of services, including digital phone at speeds of up to 6 Mbps (500 kbps upstream).²¹⁴

Outcome for Pac Bell, SNET, Ameritech and SBC?

SBC trashed all of the various plans when it bought the other phone companies.²¹⁵ This piece of irony from an FCC document on the topic is about what we expect.

“115. Prior to the 1997 Report, SBC acquired Pacific Telesis, and its Pacific Bell Video Services subsidiary. Subsequently, SBC ended its own in-region video efforts, sold its out-of-region systems, scaled back the video plans of Pacific Bell Video Services, and, later, sold most of its interest in Pacific Bell Video Services. SBC later acquired SNET, and proposed to acquire Ameritech. In front of the Senate's Antitrust Subcommittee, SBC Chairman Edward Whitacre would not commit to maintaining Ameritech's cable overbuild operation. SBC, however, as a condition of approval of the SBC-SNET merger, promised the Connecticut Department of Public Utility to continue cable operations for two years. The Connecticut Department of Public Utility gave SBC the right to petition for modification of the state-wide franchise agreement once SBC studies SNET's cable operations. Some have observed that since Ameritech has a well-established cable operation, one that has continued to expand even as the merger is pending, it is less likely that it will be sold or abandoned. Some analysts also have pointed out that the Ameritech cable operation could become more important, in terms of offering a complete package of telecommunications services, in light of the pending AT&T-TCI merger.”

The scorecard: Three mergers and every state retrenched or canceled its fiber optic deployments, and as the quote demonstrates, the FCC had no clue as to what was really going on.

Project Pronto was Part of the SBC-Ameritech Merger Conditions.

According to SBC, the company's broadband plan for the SBC-Ameritech merger was “Project Pronto” and the company announced it would be spending \$6 billion in three years to reach 77 million customers (August 9, 2000). We believe Project Pronto was

needed to show that SBC had a genuine interest in broadband, even though it had cut virtually every fiber optic plan in every state.

"The DSL deployment is part of Project Pronto, a \$6 billion initiative that will transform Ameritech's parent company, SBC Communications, Inc., into America's largest single broadband provider. Project Pronto will make SBC's DSL service available to approximately 77 million people by 2002 and will dramatically increase the speed of DSL service."

On May 9, 2001, SBC stated that the next phase would be "direct" fiber optics to customer's homes and offices.

"Direct fiber is the broadband holy grail — and bringing fiber directly to smaller businesses has always been part of the Project Pronto plan", said Ross Ireland, senior executive vice president of services. 'But we didn't envision when we announced Pronto that viable technology would be available to enable us to begin our initial direct-fiber deployments to smaller businesses a mere 18 months later and to residential customers shortly thereafter.'"

Notice that these two statements are in contradiction, since DSL goes over the old copper wiring, therefore, fiber optics is being used as a selling tool, a glimpse of the future. Of course, this is ironic, when one thinks of all of the promises made in 1992 for full state deployments by 2000 of fiber-based services.

Irony aside, it was clear in 2001 that Project Pronto was nothing but a snail yearning for fast speeds. Dave Burstein, publisher of the respected DSL Prime, did this account of the rollout of DSL by SBC in October 2001. We couldn't have said it better.

“Subject: SBC’s disingenuous financials and Pronto ‘cutbacks’.
Sent: Monday, October 22, 2001 4:01 PM

“DSL is my specialty, so I was surprised and appalled listening to SBC’s call this morning.... I remind everyone that universal broadband service and separation to protect competitors were part of the Ameritech merger deal, voluntarily accepted by SBC. It’s a repudiation of a deal they made only two years ago. SBC is now behind (other phone companies, such as) BellSouth, Verizon, Bell Canada, Germany, Japan, and Korea in DSL deployment as a percent of lines, despite all the ‘Pronto’ hype.

“Selim Bingol has disagreements with this work, but after an hour did not have any facts to disprove it either. He did not elaborate, in particular, on how much Pronto is being cut back, and asserted the decision was made late in Q3. Other than initial startup costs of the new subsidiary, he did not offer any facts to explain why it would cost ‘hundreds of millions more’ - highly unlikely, because the same work needs to be done either in SBC or the subsidiary.

“1- Either SBC’s claim they are now cutting Pronto to reduce capital spending is untrue, or last quarter’s statement (that most of the capex is behind them) is untrue.

“This is important because delivering broadband to all Americans can jumpstart the economy. It is also a false economy, that will cost SBC over time, done presumably to pretty up the financials and/or pressure Washington into anti-consumer policies.

“They also had in the first quarter said Pronto was behind, with conclusion of the first stage, 80%, being postponed from 2002 to 2003. The one hard fact they released is that they have only installed 4,000 of the 17,000 Pronto DLCs, and only 300 since Q1, which suggests their prior quarters’ statements were untrue, and/or

that the Pronto build was dropped more than five months ago, despite claims to the contrary in D.C..

“Also from SBC Q2 — SBC views DSL as a strategic growth driver for the future — capable of delivering to residential and business end-users a host of entertainment, information and time-management services, as well as high-speed Internet access. In the second quarter: there is nothing in the last quarter - or year - that makes that any less true today.

“2- SBC said putting DSL in a separate subsidiary added 'hundreds of millions' to costs. Hogwash and unsupportable. SBC's DSL subsidiary is a \$500M business, and only a very small fraction of this - a tenth of what they claim at most - can be explained by the organizational structure. Whether they are part of the parent company or not, they still have essentially the same costs - the same equipment, provisioning, customer acquisition, support, billing etc. SBC has never justified that number because they cannot.

“The only way the number could be true is if SBC's own subsidiary is getting screwed in a major way by how SBC treats independents. We're sure SBC will not make that claim.

“3- Whitacre (I believe it was his voice) said he thought 'regulation had gotten tougher'. I leave you to judge the reasonableness of this statement. Everything I know, and dozens of opinions I've read, believe that Mike Powell's FCC is a less active regulator. This is evidenced, for example, by his acquiescence in so many price increases, and I can give many other examples. What does this say about the man's judgment or veracity?”

The piece continues, but it is clear that in the 2000-2002 timeframe the company was not fulfilling its obligations under Project Pronto.

SBC's "Southwestern Bell" Own Fiber Plans?

SBC, originally known as "Southwestern Bell", owned five states prior to any merger. These included Texas, Missouri, Oklahoma, Kansas, and Arkansas. In reviewing the materials, it is obvious that Southwestern Bell's (now SBC) announcements on video dialtone/broadband services were more constrained than the other companies in the mid-1990's.

However, Southwestern Bell was one of the first to discuss online services when it had touted ISDN back in 1986, almost two decades ago.

Southwestern Bell, **1986** Annual Report: ²¹⁶

"At the forefront of new technology is ISDN. Scheduled for commercial availability in 1988, ISDN will revolutionize day-to-day communications by allowing simultaneous transmission of voice, data and images over a single telephone line.

"With ISDN customers will have the potential to access videotex, telemetry, alarm services, sophisticated calling features, teleconferencing much more economically than they can today."

Of course, there was never any serious deployment of ISDN.

However, SBC's info highway deployment plans were shrouded in secrecy, but it is clear that were activities from specific moments in time.

In 1996, an SBC press release revealed that SBC was pro-broadband. "GTE to join Disney, Ameritech, BellSouth and SBC in Home Entertainment partnership. Increases venture reach to 68 million access lines, 32 states." July 7, 1996. ²¹⁷

“SBC is building a traditional cable network in Richardson, Texas that will be in service in the fourth quarter of this year. It also is constructing a broadband network that will allow the company to offer cable and interactive services to up to 47,000 Dallas area households in 1996. SBC may provide video-on-demand — as well as a host of other interactive services such as home shopping, education programs, and interactive games — to those 47,000 households. SBC, which recently won court approval to provide video programming in its telephone subsidiary's five-state territory, is working with Microsoft, Lockheed and others to develop the delivery system.”

SBC also told the San Antonio Business Journal that Americast was about to purchase \$1 billion worth of digital set top boxes:²¹⁸

“Americast — the television venture between locally based SBC Communications Inc. and four other companies — last week announced the purchase of \$1 billion worth of high-tech boxes, referred to as digital set-top boxes.”

And the article surmised that, from this purchase, SBC was serious about video services and that they'd be coming out in 1997 or 1998.

“SBC officials have been tight-lipped regarding their video plans. However, telecommunications analysts say they expect the San Antonio-based firm to begin offering some type of video services in its major markets in 1997 or 1998....'You should expect to see Southwestern Bell-branded entertainment products in the near future,' says SBC spokesman Bob Ferguson. 'We're very much committed to moving forward with plans to have video offerings for our customers.'”²¹⁹

It seems it was all wishful thinking. By the time of the SBC-Pacific Telesis merger in 1997, the company was pulling out of cable TV and Americast, the joint venture with Ameritech, BellSouth, and Disney. According to Telephony magazine:²²⁰

“SBC effectively ended its attempt to enter the wireline cable TV market last week, selling its 94.6% stake in two Washington-area systems for \$606 million to an investment group that includes Prime Cable.

“The company has also withdrawn from the Americast partnership and sold an option to purchase 75% of Prime Cable of Chicago to the same investment group.”

As previously quoted, the company wrote-off the Richardson, Texas, deployment along with the Pac Bell deployments in 1997.

Along side this, Southwestern Bell (now AT&T) Texas was granted alternative regulation in 1995 to wire educational institutions, libraries, nonprofit telemedicine centers of academic health centers, public or not-for-profit hospitals, or licensed health care practitioners, public or not-for-profit hospitals. And the companies were supposed to spend \$1.1 billion to provide 45 Mbps services.²²¹

We could not find any data about what was actually built or the monies spent. We will return to the wiring of schools in future chapters, but it's clear that this deregulation in Texas was identical to other state plans that never did the wiring but received financial incentives to do so.

Chapter 19 Failure to Compete, Failure of the FCC to Enforce Merger Conditions

Part two of this merger quagmire involves the FCC. The FCC is virtually useless in enforcing any merger conditions, especially pertaining to competition and broadband. For example, the SBC 2001 Annual Report claims that they could be liable for \$1.9 billion if the company was not competing in 30 cities outside their own territories by 2002.²²²

“At December 31, 2001, \$1.9 billion in remaining potential payments could be triggered if the 'Out-of-Region Competition' and 'Opening Local Markets to Competition' conditions discussed below are not met. The following briefly summarizes all the major conditions:

“Out-of-Region Competition: “In accordance with this condition, we will offer local exchange services in 30 new markets across the country. We are required by the FCC to enter these 30 markets as a provider of local services to business and residential customers by April 2002. Failure to meet the FCC condition requirement could result in a payment of up to \$40 million for each market. Entrance into these new markets did not have a material effect on our results of operations or financial position.”

EXHIBIT 33
SBC “Out-of Region” Cities, National-Local Strategy

1. New York	2. Philadelphia	3. Boston	4. Washington DC	5. Miami-Ft. Lauderdale
6. Atlanta	7. Minneapolis-St. Paul	8. Phoenix	9. Baltimore	10. Seattle-Everett.
11. Denver-Boulder	12. Pittsburgh	13. Tampa-St. Petersburg	14. Portland	15. Cincinnati
16. Salt Lake City- Ogden	17. Orlando	18. Buffalo	19 New Orleans	20. Nashville-Davidson
21. Memphis	22. Las Vegas	23. Norfolk - Virginia	24. Rochester	25. Greensboro Winston-Salem
26. Louisville	27. Birmingham	28. Honolulu	29. Providence - Warwick	30. Albany/Schenectady

The FCC agreed to this merger because the Bell company committed to competing outside its regions in 30 of the largest US cities, offering both business and residential customers local phone service. The claim was that this would stimulate nationwide competition as well. The FCC writes:²²³

"This will ensure that residential consumers and business customers outside of SBC/Ameritech’s territory benefit from facilities-based competitive service by a major incumbent LEC. This condition effectively requires SBC and Ameritech to redeem their promise that their merger will form the basis for a new, powerful, truly nationwide multi-purpose competitive telecommunications carrier. We also anticipate that this condition will stimulate competitive entry into the SBC/Ameritech region by the affected incumbent LECs."

This was wireline competition that was supposed to be deployed using their own facilities as well as “Unbundled Network Elements” (UNE-P) that were wholesale services sold by the incumbent to a competitive company.

Phone calls by the author and others over the last few years to purchase SBC wireline residential service were in vain and we could find no sign of any SBC wireline service available in virtually any city in the United States outside of the companies' territories, especially for local residential phone service. Yet, the FCC agreed that SBC had fulfilled its obligations.

What should be obvious is that SBC gamed the regulatory system on multiple levels. SBC claimed that the entire reason for the merger with Ameritech was to give it the size it needed to compete. SBC lied. Numerous documents go on for hundreds of pages about this point. (From testimony by James S. Kahan, Senior VP SBC)

"SBC/Ameritech would not undertake this merger without National-Local strategy.

"In the absence of the merger with Ameritech, the National-Local strategy will not work. The problem is not primarily that SBC on a stand alone basis is incapable of raising the capital necessary to fund the national a local strategy. The more important constraints are a) customer base, b) personnel and earnings dilution and market reactions."

Make no mistake about it; this merger was touted as having many benefits for the public. SBC claimed that it would facilitate more competition in the 30 markets they entered.

"By implementing the National-local strategy, SBC believes that its actions will accelerate the development of competition in all market segments. There should be no question that the national-local strategy will have pro-competitive effects in the 30 new markets SBC will enter."

We also need to make it clear that SBC wasn't simply gaming the regulatory system, but was papering the country with promises of competition. Just look at the headlines of these press releases highlighting states/cities that SBC would be competing in, as well as touting the benefits of the merger in states that the company already served.

- **New Jersey** Customers to Have New Telecom Choice.
San Antonio, Texas — October 11, 1999
- **Baltimore** Will Have New Telecom Choice.
San Antonio, Texas — October 11, 1999
- **Philadelphia** to Have New Telecom Choice.
San Antonio, Texas — October 11, 1999
- **Orlando** Will Have New Telecom Choice.
San Antonio, Texas — October 11, 1999
- **Atlanta** Will Have New Telecom Choice.
San Antonio, Texas — October 11, 1999
- SBC Files to Provide Local Exchange Service in **Florida, Massachusetts, Washington**. San Antonio, Texas — April 16, 1999
- **Ameritech** Chief Says Merger Will Speed Competition; Criticizes AT&T for Hypocritical Anti-Merger Efforts Detroit, Michigan — March 16, 1999
- **Illinois** Consumers and Business Customers Will Benefit from SBC-Ameritech Merger, Chicago, Illinois — March 11, 1999
- SBC-Ameritech to Compete in **Boston, Miami and Seattle** First -San Antonio, Texas — February 4, 1999
- **SBC-PacTel** Merger Brought Job Growth, and Improved Service in Chicago, Illinois — January 26, 1999
- SBC-Ameritech Merger Will Offer Consumers More Choices; Vital to Midwest Growth and Jobs Chicago, Illinois — January 25, 1999

Expectations, at least those being told to the public, were very high. By 2003 the company was to have a positive cashflow of \$2 billion and it would have 5-10% of the

business and residential customers. Within 10 years the company would have 30 million households and 10 million small businesses.²²⁴

“Revenues and customer penetration is targeted to grow quickly under the National-Local strategy. We are aiming for \$2 billion in revenue by 2003 and more than \$7 billion in revenues by 2008. Earnings are estimated to turn positive in 2003. SBC expects to capture between 5-10% of addressable business and residential customers by the end of the plan.

“Within the next 10 years, the 30 out-of-region markets will have 30 million households and 10 million small businesses.”

NOTE: In doing these calculations we discovered that if SBC-Ameritech had garnered 30 million households outside their own regions by 2010, and if the company already had 35-40% of phone customers, at about 35 million households, then SBC would have an additional 1/3 for 70% of all American households. This, of course, would assume that they did not lose market share within their own territories, something that they did not comment on in any testimony about competing with the other Bell companies or the cable companies.

Timing? SBC was supposed to start serving residential customers within one year of the closing and by 2003, the majority of customers in every city should have been offered service. SBC also stated that it would be spending approximately \$1.4 billion (approximately \$500 per customer) for customer acquisition.

“SBC will begin offering service to residential customers within one year of closing with Ameritech and plans to offer service to a majority of households in the 30 out-of-region markets within four years of closing. We will achieve an overall penetration rate of 4% of the residential customers in all of these 30 markets.

“To achieve these results SBC anticipates spending approximately \$500 per line ultimately served on customer acquisition, product development and marketing expenses related to residential and small business — a total of \$1.4 billion.”

SBC’s 2001 Annual Report stated that it introduced service in 22 new markets outside their region and therefore has fulfilled its obligations, even though the company “scaled back” the service offerings.

"As of December 31, 2001 we had introduced service in 22 new markets (Boston, Fort Lauderdale, Miami, New York, Seattle, Atlanta, Denver, Minneapolis, Philadelphia, Phoenix, Baltimore, Bergen-Passaic, Middlesex, Nassau, Newark, Orlando, Salt Lake City, Tampa, Washington D.C., West Palm Beach, Louisville and Charlotte), and plan to enter at least eight more by April 2002. In March of 2001, we scaled back our service offerings in these areas in response to certain economic environment and regulatory factors, while still fulfilling our FCC merger condition requirements."

Since we could not find any competitive SBC Local wireline residential services being offered in any state, we went back to the original merger conditions, and found that the FCC’s conditions were essentially useless; a bad joke on what was promised versus what would actually be delivered.

The Fine Print?

SBC claims it is in compliance because it had **“at least three customers” in 22 states** or at least 66 customers.

- On March 28, 2001, the Company notified the Commission that it had installed local telephone exchange switching capacity and was providing facilities-based local exchange service to **at least three unaffiliated customers** in the **following seven markets: Atlanta, Denver, Ft. Lauderdale, Minneapolis, New York, Philadelphia and Phoenix.**
- On April 9, 2002, the Company notified the Commissioner that it had installed by April 8, 2001 local exchange switching capacity and was providing local exchange service to **at least three unaffiliated customers** in the following **10 markets: Baltimore, Bergen-Passaic, Middlesex, Nassau, Newark, Orlando, Salt Lake City, Tampa, Washington DC and West Palm Beach.**
- In total, SBC notified the FCC that it had installed in 2001 a local telephone exchange switching capacity and was providing facilities-based local exchange service to **at least three unaffiliated customers** in the above listed seventeen markets, **five more than the required additional twelve markets** to be deployed by April 8, 2001. **Additionally SBC started operations in the Charlotte and Louisville markets in November 2001, making a total of nineteen new markets that SBC entered in 2001.**

Meanwhile, the FCC also believed that SBC was in compliance. According to an article in *XChange Magazine*:²²⁵

“‘In fact, SBC had met the terms of its commitment to launch facilities-based local voice services in 30 markets by the second quarter of this year’, says John Winston, assistant bureau chief at the FCC’s Enforcement Bureau. ‘They have complied,’ Winston says. ‘That’s all I have to say on the matter.’”

Unfortunately, the FCC has failed to read its own rulings because SBC’s obligation was to also have offered competitive services to **ALL** residential and business customers through resale and UNE-p services.

“...collocating in each of ten wire centers; offering facilities-based service to all business and all residential customers served by each of those ten wire centers; **and offering service, whether by resale, unbundled elements or facilities, to all business and all residential customers within the entire service area of the incumbent RBOC** or Tier 1 incumbent LEC in the market or make voluntary incentive payments to a state-designated fund (or as governed by state law) in the amount of \$110,000 per day for each missed entry requirement, for a total of \$1.1 million per entry requirement per market.”

There was never any advertising to entire cities that we could find. They gamed the regulatory system and got away with not having to pay \$1.9 billion in damages.

In an interview with a reporter for a major Boston daily newspaper in 2003, when asked if there was SBC wireline competition in Boston, the reporter responded:²²⁶

“No sign of SBC here in Boston, plenty of signs of Cingular. I thought it was a fairly open dirty secret that SBC did nothing more than barely live up to the letter of the FCC decrees, ‘offering’ service within xx months of the merger in these markets, then shutting it down six months later. Haven’t they sort of all but said publicly they have done the bare minimum needed to meet the FCC regs???”

Three customers in twenty-two markets are NOT robust competition. The FCC should never have set a threshold for the merger that could be met with three friends out for a late night beer who are talked into getting some SBC service. America depended on the FCC to make sure that the mergers were in the public interest and both SBC and the FCC failed to do this.

The SBC-Ameritech-SNET-Pac Bell Punchline

By the end of 2002 there is no mention of the “National-Local” strategy in the SBC 2002 Annual Report. There is also no mention of any other city or state outside of their original territories with any significant wireline services being offered.

The Largest Bait and Switch in History: SBC Enters Long Distance.

In his book *The Billionaire Shell Game*²²⁷, published by Doubleday in October 1998, award-winning, former *New York Times* reporter L. J. Davis describes the Bell operating companies’ bait and switch tactics employed in every state and at the federal level in Washington. Based on independent interviews and a survey of the documentary evidence, we came to many of the same conclusions as described here. Further, Davis posits that the tactics for selling broadband were part of the RBOC plans to win approval to enter the long distance markets earlier than they would have otherwise been allowed to under normal market movement. They never really cared about broadband.

"Like the other six regional telephone companies that had come into independent existence with the break up of AT&T in 1984, Bell Atlantic had a single great goal in the autumn of 1993. Bell Atlantic and the other six baby bells were determined to enter the lucrative long distance business before the march of science rendered their existing equipment vulnerable, obsolete, or both, but getting there was no simple task. Before Bell Atlantic could offer a long distance service — even within its own part of the country, using its own lines and switches — sixty years of federal law and judicial decisions had to be overthrown, and there was only one certain, reliable, and simple way to do it: persuade Congress to pass bold new legislation that would remake Bell Atlantic's world.

"Unfortunately, there was no great public outcry for such a new law. There was, in fact, not a peep from the public, whose indifference on the subject of telecommunications law was as large as the public's very considerable ignorance of it, and it was extremely difficult to explain why Bell Atlantic, a company with annual profits of over a billion dollars, felt a compelling need to overturn more than half a century of lawmaking in order to make more money. The easy part had already been done; influential congressman had been provided with large sums of money and more would be forthcoming, but encouraging the legislators to think correct thoughts was only part of the task. It was also essential to provide Congress with a plausible and, above all, a popular and easily understood reason for writing the new law. The secret of the trick, Bell Atlantic and other regional television companies had correctly come to believe was cable television.

"With great fanfare, the telephone companies announced that, if only one small condition was met, they would provide cheap, friendly, and reliable cable television service, using their existing networks. The cable companies would no longer hold the country in the iron grip of monopoly, and the viewing public would soon be happy. All it took was a small change in the existing laws — and, while the legislators were at it, they might as well make a few additional and long-overdue modifications of the statutes in the interest of tidiness and for the benefit of all. To the regional telephone companies, God — long distance service — would be found in the modifications. Television was the cover story.

"The regional telephone companies had never been interested in television, and most of them weren't interested now. The goal had always been the long distance business, and the goal never changed. Once the new telecommunications bill was passed and signed, the

telephone companies could run a few inexpensive tests in places like Omaha, El Cerrito and Richardson, Texas. If the tests succeeded, well and good, the telephone companies could make some extra money. If the test failed, no great harm was done; the telephone companies could claim technical difficulties and public indifference and quietly abandon the undertaking. In the meantime, it was important to feign enthusiasm until the law changed...."

We could not have said this better. What happened was a bait and switch of massive proportions. Let us put some facts into this equation. We have just proved that the fiber optic deployments that were being conducted were all closed down as soon as the ink was dry on the mergers. Whether or not each Bell company would have actually rolled out anything looking like what they had promised is, of course, an additional question, requiring additional investigations.

What Was Long Distance and Why Is It Important?

- A "**Long Distance**" call is a call between states, also known as "interstate"; i.e., a call from New York to New Jersey is interstate, or from New York to California.

When AT&T was broken up in 1984 the Bell phone companies were restricted from entering long distance because their monopoly power would allow them to gain too much market share just from being able to bundle their local service with long distance.

Simply put, if you own the local phone customer and can sell them long distance for another \$20-\$30 a month and use the existing advertising, etc. to sell it (commonly known today as a "package of local and long distance service"), then the local phone company generates almost double the amount of revenue from the same customer.

So the restriction to not allow the company to enter long distance is clear; they would easily be able to out-muscle the long distance companies, AT&T, MCI and Sprint. Verizon, who controls the "PSTN" ("Public" Switched Telephone Network),

was able to get over 50% of its customers to buy both local and long distance as a package by 2004. And as we will discuss in the next chapters, by 2005, the incumbent companies were no longer required to offer wholesale rates to the two largest competitors — AT&T and MCI — from selling local service these companies were essentially taken apart. It is a primary reason they were sold off. The Bell companies were allowed to take over long distance before there was sustainable residential local phone competition.

SBC not only did not compete for local phone service out-of-region and dumped their fiber optic promises, but they instead took the money and entered long distance.

By 2013, long distance has simply become part of the bundled ‘triple play’ or with changes to wireless services over the last decade, which got rid of most ‘roaming’ and other issues surrounding an wireless services, the issue of distance in calling is becoming moot, but when one examines bills there is still a separate component for long distance, even with the popular “triple play”. Moreover, there are separate taxes, fees and surcharges being applied to that specific part of the business.

Long Distance Promise Versus the Fiber Optic and Competing Out-Of-Region Promises.

Let’s follow the money. First, we find in the SBC 2001 Annual Report that SBC had spent virtually no money in 2001 or even 2000 to fulfill its obligations of the merger conditions. SBC stated that their costs "decreased approximately \$90 million in 2001".²²⁸

"Costs associated with our national expansion initiative decreased approximately \$90 (million) in 2001, reflecting the initiative’s scaleback, compared to an increase of \$300 (million) in 2000."

However, long distance spending was way up. In total contrast, SBC spent \$320 million in 2001 and \$260 million in 2000 for entry into just four states to offer long distance.

"InterLATA long distance service expenses increased by approximately \$320 million in 2001 compared to \$260 million in 2000 primarily reflecting our entry into four new states."

As we previously mentioned, the 2001 plan for the company (as told by press releases) was to focus on long distance, and forget about their commitments to compete.²²⁹

"SBC said that delays in regulatory approvals for its entry into in-region long-distance markets, primarily in California and its Ameritech states, have shifted the timing of expected revenues from, and investments in, wireline growth initiatives. SBC continues to work aggressively to accelerate approvals in all of its states.

"Our mission in 2001 is to build on our strengths and move SBC's transformation to the next level,' Whitacre said 'That requires financial discipline, and it requires timely access to new markets - beginning with long distance. The freedom to compete in interLATA long distance throughout our markets is an important revenue driver and a key component in our wireline growth strategies.'

"In 2001, we will place additional emphasis on accelerating long-distance approvals,' Whitacre said.' At the same time, we will pursue growth opportunities with intensity, balanced with a determined focus on enhanced financial strength and flexibility. We are confident that this balanced approach strongly positions SBC for sustained growth and value creation."

Here is a list of the status and approvals to enter long distance as written in the SBC 2001 Annual Report.

EXHIBIT 34
SBC Long Distance Applications and Status as of 2001

	Alternative Regulation	Application Status
Arkansas	Yes	November 2001
California	Yes, review pending	Decision expected in 2002
Connecticut	Yes	Long distance provided
Illinois	Yes, pending approval	Decision expected in 2002
Indiana	Yes, through 12/2003	Filing planned in 2002
Kansas	Yes	March 2001
Michigan	Yes	Decision expected in 2002
Missouri	Yes	December 2001
Nevada	Yes	Decision expected in 2002
Ohio	Yes, through 1/2003	Decision expected in 2002
Oklahoma	Yes	March 2001
Texas	Yes	Long distance provided
Wisconsin	Yes	Filing planned in 2002

The exhibit also highlights the fact that EVERY state had some form of alternative regulation plan, meaning more money than the previous "rate of return". This new alternative regulation was granted, for the most part, based on the fiber optic deployment plans.

By the end of 2002, SBC was able to offer long distance in 6 of the 13 states.²³⁰

“Federal regulation prohibits us from providing interLATA wireline long-distance services in six of our 13 in-region states. We provide interLATA wireline long-distance to our customers in Texas, Kansas, Oklahoma, Arkansas, Missouri, California and Connecticut.”

And by the end of 2003, SBC was able to offer long distance service in ALL of the states.²³¹

“Long-distance voice — Long-distance voice consists of all interLATA (traditional long-distance) and intraLATA (local toll) wireline revenues, including calling card and 1-800 services. Prior

to 2003, Federal regulations prohibited us from offering interLATA wireline long-distance services in six of our 13 states. During 2003, we received regulatory approval to offer these services to customers in these remaining six states.”

Final Punchline to Long Distance: ‘Open the Wires’ and Get Permission to Enter Long Distance.

These previous conversations were able SBC using the monies that were supposed to be spent on networks upgrades and compete outside their own regions in exchange for getting billions a year in being able to offer a new service.

But there is a flip side about all of these regulatory approvals, which we will return to in upcoming chapters — SBC could only enter the long distance market in their regions if the networks were fully opened to all forms of competition which was a condition set in the Telecom Act of 1996

Before SBC could enter long distance they would have to prove that they had fulfilled a checklist of items that would prove that their networks had been open enough so that a Competitive local phone company (CLEC) could offer their own local and long distance service, or Internet or DSL service without complications or blocking from the incumbent phone companies in a state — I.e., that SBC California had opened their networks fully, and this would allow another company, say Covad, to offer their services, including DSL, in California without complications.

The previous exhibit then, was a list of dates where these the SBC incumbent phone companies had supposedly got regulators, from the state commissions to the FCC, to agree that they had complied with the check list.

And yet, by 2004-2005, the FCC decided to erase all obligations for the Bell companies to rent their networks to these competitors, so essentially, the Bells were able to get into long distance as well as close down the competition, but never have any obligations to say, stop offering long distance.

We will return to the issues surrounding the opening of the networks for competition and the removal of competitors once the Bell companies had gotten what they wanted, shortly.

Chapter 20 The Verizon-Bell Atlantic-NYNEX-GTE Mergers Were the Death of State Fiber Optic Deployments: The “Con Job”.

Timeline: 1992-2004

If SBC did a fiber optic hatchet job when the mergers occurred, Verizon did more of a con job. As of 2005, Verizon not only failed to complete any obligations under state laws, such as deploying 45 Mbps fiber optic services, but when it merged with GTE, it closed down any of GTE’s broadband or cable deployments.

As with our previous discussion of SBC, when Verizon became a mega-Bell through mergers it left a path of fiber optic destruction, completely disregarding any commitments made on the state level.

Verizon, like SBC, controlled 13 primary states from the NYNEX-Bell Atlantic merger, as well as sections of an additional 28 states from GTE by 2005. We estimate that approximately 100 million people were impacted by any Verizon decision as of 2005. Verizon’s decisions to not do something impacted over 1/3 of America’s citizens. Worse, SBC and Verizon together had impeded the majority of fiber optic deployments across America.

EXHIBIT 35

The Verizon “Con Job” Summary of Fiber Optic Deployments, by 2000

	Money	Households	Merger	Shutdown
Bell Atlantic	\$11.0	8,750,000	1997	1997
NYNEX (in MA)	\$.5	2,000,000	1997	1997
GTE	\$4.1	7,000,000	2000	1998
	\$15.6	17,750,000		

This chart has a number of caveats.²³² As far as households, NYNEX promised 1.5 - 2 million households by 1996, Bell Atlantic stated it would have 8.75 million households by 2000, while GTE claimed it would have 7 million homes.

We did not include other quotes, however, that would raise this number. NYNEX stated it would have the majority of their territories deployed throughout its entire region by 2010, while Verizon New Jersey would have 100% of their territory completed by 2010 for its fiber optic dreamland; Pennsylvania would have 100% by 2015.

Like SBC, these mergers were sold as a public benefit. Verizon stated in every case that the mergers were good for broadband, competition and the economy, bringing upgrades, new services, etc. According to the Bell Atlantic press release, “Bell Atlantic and GTE Merger Promotes Vigorous Competition in Communications”, December 23, 1998, this merger would “ignite nationwide competition” between the Bell companies.²³³

“Bell Atlantic (NYSE:BEL) and GTE Corp. (NYSE:GTE) today will file reply comments with the Federal Communications Commission (FCC) on their proposed merger, saying the transaction would *ignite nationwide competition* in local, long distance, wireless, Internet and data communications services.

“Local Service Competition — The new company created by the merger of Bell Atlantic and GTE will have a far greater ability to enter and compete quickly and effectively in key markets outside Bell Atlantic and GTE's current service areas. Local exchange customers in GTE's and Bell Atlantic's current service territories will also benefit from the combined company's ability to compete with others on price, service quality and range of product offerings.”

Verizon promised not only wireline phone competition, but also spending \$500 million in 36 months.

“Within 36 months from merger closing, Bell Atlantic/GTE will spend a minimum of \$500 million to provide competitive local

service, including traditional local telecommunications services and advanced services, outside of its service areas or will provide competitive local service to at least 250,000 out-of-region customer lines.”

Who is Verizon?

This is how Verizon views itself as of September 2005:²³⁴

“With more than \$71 billion in annual revenues, Verizon Communications Inc. (NYSE:VZ) is one of the world’s leading providers of communications services. Verizon has a diverse work force of more than 214,000 in four business units: Domestic Telecom provides customers based in 28 states with wireline and other telecommunications services, including broadband. Verizon Wireless owns and operates the nation’s most reliable wireless network, serving 47.4 million voice and data customers across the United States. Information Services operates directory publishing businesses and provides electronic commerce services. International includes wireline and wireless operations and investments, primarily in the Americas and Europe.”

Verizon is the merger of GTE and Bell Atlantic.²³⁵

“Verizon was formerly known as Bell Atlantic Corporation, which was incorporated in 1983 under the laws of the State of Delaware. We began doing business as Verizon Communications on June 30, 2000, when Bell Atlantic Corporation merged with GTE Corporation.”

However, prior to Bell Atlantic taking over NYNEX, these two original Bell companies joined in 1997.²³⁶

“Bell Atlantic Corporation was incorporated in 1983 under the laws of the State of Delaware and completed a merger with NYNEX Corporation on August 14, 1997.”

Here are the official companies in the BA-NYNEX merger.²³⁷

“Bell Atlantic is a telecommunications company that operates in a region stretching from Maine to Virginia. Our principal operating subsidiaries are: New York Telephone Company, Bell Atlantic - New Jersey, Inc., Bell Atlantic - Pennsylvania, Inc., New England Telephone and Telegraph Company, Bell Atlantic - Maryland, Inc., Bell Atlantic - Virginia, Inc., Bell Atlantic - West Virginia, Inc., Bell Atlantic - Delaware, Inc., Bell Atlantic - Washington, D.C., Inc.”

These are the original 13 states and territories, including District of Columbia.

EXHIBIT 36

The Original Bell Atlantic/NYNEX States

Bell Atlantic

- *New Jersey Bell* New Jersey
- *Bell of Pennsylvania* Pennsylvania
- *Chesapeake and Potomac* West Virginia, Delaware
Virginia, Maryland
District of Columbia

NYNEX

- *New York Telephone* New York
- *New England Telephone* Massachusetts, Rhode Island
- (SOLD OFF) Vermont, New Hampshire, Maine

The 1999 Annual Report claims that Verizon covered 63 million people and 22 million households.²³⁸

“The Consumer unit markets communications services to residential customers, as well as operator services, within our territory, 22 million households and 63 million people.”

The 1999 Annual Report showed 43 million access lines.²³⁹

Adding GTE

GTE was a company whose properties were not contiguous like the 13 states of Bell Atlantic, but were spread throughout the country, having locations everywhere from Hawaii to Florida, and Los Angeles to Kentucky. The following quote regarding the revenues for “Network Services” gives a flavor of the various locations.

GTE 1999 Annual Report²⁴⁰

“Subsidiaries accounting for the largest portion of total Network Services revenues are GTE California, 24%; GTE North, 22%; GTE Southwest, 13%; and GTE Florida, 12%. The largest cities served are Los Angeles, Long Beach and Santa Monica, California; Tampa and St. Petersburg, Florida; Honolulu, Hawaii; Lexington, Kentucky; Fort Wayne, Indiana; Everett, Washington; and the metropolitan area of Dallas, Texas.”

And before the merger, GTE covered 28 states with 26 million access lines.²⁴¹

“GTE’s telephone operating subsidiaries in the United States served approximately 26 million access lines in 28 states as of December 31, 1999.”

EXHIBIT 37
Verizon US Territories, 2004

Verizon California Inc.	Arizona	Nevada	
Verizon Florida Inc.			
Verizon Hawaii Inc.			
Verizon North Inc.	Illinois	Indiana	Michigan
	Pennsylvania	Ohio	Wisconsin
Verizon Northwest Inc.	California	Idaho	Oregon
	Washington		
Verizon Maryland Inc.			
Verizon Delaware Inc.			
Verizon Pennsylvania Inc.			
Verizon New England Inc.	Massachusetts	Rhode Island	
(Sold Off)	New Hampshire	Vermont	Maine
Verizon New Jersey Inc.			
Verizon Virginia Inc.			
Verizon Washington, DC			
Verizon New York Inc.	Connecticut		
Verizon South Inc.	North Carolina	South Carolina	Virginia
Verizon West Virginia Inc.			
Verizon Southwest	Texas		

Total Population, Total Lines

Because of the spread-factor, it is hard to exactly pinpoint the actual number of customers impacted by a Verizon decision. We estimate that GTE impacted 38 million customers.²⁴² Therefore, we estimate that a Verizon decision would impact approximately 101 million people (38+63 million). Obviously, there is overlap with our accounting of SBC since we are using state data based on the census information to derive that number (which would include overlap with various GTE properties in the same state).

Other Verizon Holdings

Verizon has a great deal of other properties it does business throughout the world. (We will discuss the losses from overseas investments elsewhere.) Some of the other Verizon holdings include 100% of Northern Mariana Island, 100% of the Dominican Republic and 52% interest in Puerto Rico, a phone company that receives some of the largest endowments from the Universal Service Fund.²⁴³

“Puerto Rico: As of December 31, 2004, we owned a 52% interest in TELPRI, which owns Puerto Rico Telephone Company (PRTC), Puerto Rico’s principal wireline company. Verizon Wireless Puerto Rico (VWPR), a division of PRTC, is Puerto Rico’s second largest wireless company. At December 31, 2004, PRTC served 1.2 million access lines and VWPR provided wireless services to approximately 387,000 customers.”

“Northern Mariana Islands: We are the sole shareholder of Micronesian Telecommunications Corporation (MTC), a full-service telecommunications provider. At December 31, 2004, MTC served approximately 32,000 access lines and 23,000 wireless customers on the islands of Saipan, Tinian and Rota. In November 2001 an agreement was signed to sell MTC, which is pending due to regulatory approvals.”

“Dominican Republic: We own 100% of Verizon Dominicana, the principal telecommunications provider in the Dominican Republic. Verizon Dominicana provides local, wireless, national and international long distance and Internet access services throughout the Dominican Republic. At December 31, 2004, Verizon Dominicana served approximately 793,000 access lines and 1.3 million wireless customers.”

This list keeps changing as Verizon decided to sell off Hawaii in 2004.²⁴⁴

“During the second quarter of 2004, we entered into an agreement to sell our wireline-related businesses in Hawaii, which operates 707,000 switched access lines, for \$1,650 million in cash, less debt. The closing of the transaction, expected in the first half of 2005.”

In fact, as we will discuss, decided to get rid of more ‘rural areas’, so they sold off Maine, New Hampshire and Verizon, part of the original NYNEX territories, and a host of the GTE territories over the last decade.

The NYNEX, Bell Atlantic, GTE Video Dialtone Applications

According to the filed documents, Verizon collectively planned to deliver services to 4.7 million households within a few years of the filings. This was for fiber optic services, 45 Mbps in both directions, capable of 500+ channels, with all of the caveats we discussed in previous sections.

EXHIBIT 38

Summary of Video Dialtone Filings by Verizon, 1992-1994

NYNEX	466,000
Bell Atlantic	3,200,000
GTE	1,041,000
	4,707,000

This is the breakout by phone company of the various proposed deployments.

EXHIBIT 39
Video Dialtone Filings by Verizon, 1992-1995

Date	Company	Location	Homes	Proposal
10/21/92	Bell Atlantic-VA	Arlington, VA	2,000	technical
11/16/92	New Jersey Bell	Florham Park, NJ	11,700	permanent
12/15/92	New Jersey Bell	Dover Township, NJ	38,000	permanent
12/16/93	Bell Atlantic	MD & VA	300,000	permanent
06/16/94	Bell Atlantic	Wash. DC LATA	1,200,000	permanent
06/16/94	Bell Atlantic	Baltimore, MD; Northern NJ; DE; Philadelphia, PA; Pittsburgh, PA; S.E. VA	2,000,000	permanent
10/30/92	NYNEX	New York, NY	2,500	technical
07/08/94	NYNEX	RI	63,000	permanent
07/08/94	NYNEX	MA	334,000	permanent
05/23/94	GTE - Contel of Va.	Manassas, VA	109,000	permanent
05/23/94	GTE Florida Inc.	Pinella and Pasco Co., FL	476,000	permanent
05/23/94	GTE California Inc.	Ventura Co., CA	122,000	permanent
05/23/94	GTE Hawaiian Tel.	Honolulu, HA	334,000	permanent
	Total		4,707,000	

Bell Atlantic

Bell Atlantic 1993 Annual Report²⁴⁵

"First, we announced our intention to lead the country in the deployment of the information highway.... ***We will spend \$11 billion over the next five years*** to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region."

We've created a separate chapter on New Jersey, which was one of the earliest alternative regulation plans to go through. The New Jersey plan was presented with a \$1 million report from Deloitte & Touche, exclaiming that the future had to be fiber optics. The report was so compelling to law makers that it was replicated in Pennsylvania, as well as various Ameritech states including Ohio, Illinois and Indiana.

And it was all about the fiber optic future. Here's just a sample of the article headlines for Pennsylvania and New Jersey:

- **PA Senate OKs Fiber Optics Bill**, Philadelphia Daily News, June 24, 1993
- **PA Legislature Compromises on Fiber Optics Bill. The Measure Calls for the State to Be Wired by 2015.** Philadelphia Inquirer, June 25, 1993
- **N.J. Bell Rewiring Approved By State. About 56 Million Miles of Wire Will Be Replaced with Fiber Optic Cable**, Philadelphia Inquirer, December 23, 1992
- **Fiber Optic TV Coming to N.J.** Philadelphia Daily News, November 17, 1992
- **Bell Clears a Hurdle in Quest to Offer Video. A Judge Overturned Part of a Federal Law. Now Bell Atlantic Will Try Offering Video Services Regionwide.** Philadelphia Daily News, July 28, 1993
- **A Fiber Field of Dreams. The Switch in the Way Phone Signals Are Sent Promises Not Only Faster Transmission, but also Bright New Ideas for Using the Technology** Philadelphia Inquirer, June 2, 1993
- **Phone Bill Goes to House. The Pa. Measure Would Limit Rate Increases and Require a Fiber Optic Network by 2015.** Philadelphia Inquirer, May 24, 1993
- **N.J. Bell Will Alter Its Fiber optic Plans. A Subsidiary Will Run the Network. Newspapers Wanted a Guarantee that They Would have Access to It**, Philadelphia Inquirer, February 7, 1993
- **Working Together to Build a Highway for Information. A Fiber Optic Network Could Move 25 Trillion Bits of Information a Second. Today's Rate? 100 Million Bits.** Philadelphia Inquirer, January 18, 1993

But the truly significant difference between NYNEX and the Bell Atlantic state decisions is that the PA and NJ decisions have specific timeframes for deployment of services.

Previously we outlined New Jersey Bell Order²⁴⁶ for the “Opportunity New Jersey” (ONJ) plan which had a timeline the extended from 1992 through 2010. “Digital Broadband Service” was to be deployed and capable of 45 Mbps in both directions, starting in 1996 and would reach 100% by 2010. If the law didn't go

through and the company didn't get more money from customers, it wouldn't be till accomplished until the year 2030.

Similarly, the Pennsylvania law explained that 20% would be rewired by 1998 in rural, urban and suburban rate centers, 50% would be completed by 2004.²⁴⁷

"Verizon PA has committed to making 20% of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by end of year 1998; 50% by 2004; and 100% by 2015."

As we discuss, according to the Pennsylvania Public Utility Commission, in 2003 the law was for 45 Mbps in both directions.²⁴⁸

"In view of Bell's commitment to providing 45 Mbps for digital video transmission both upstream and downstream, we look forward to Bell's providing this two-way digital video transmission at 45 Mbps."

As late as July 1996, Bell Atlantic was still making signs that it was going to deliver fiber-to-the-curb throughout the territories starting in 1997 and have 12 million customers wired by 2000.

"Later this year, Bell Atlantic will begin installing fiber optic facilities and electronics to replace the predominantly copper cables between its telephone switching offices and customers. Fiber optics provide higher quality and more reliable telephone services at lower operating and maintenance costs. The company plans to add digital video broadcast capabilities to *this "fiber-to-the-curb" switched broadband network by the third quarter of 1997*, and broadband Internet access, data communications and interactive multimedia capabilities in late 1997 or early 1998.

“The fiber-to-the-curb architecture that Bell Atlantic will build is the next step in the company’s ongoing, aggressive network modernization program. Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year. The company plans to expand this Full Service Network deployment to other key markets over the next three years. *Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks.*” (by 2000)²⁴⁹

Maryland

It seems that other Bell Atlantic states also were pitched alternative regulation plans for modernizing/fiberizing their states. Maryland’s ambitious plan, according to the “Modernization of the Maryland Telecommunications Infrastructure: A Summary of Plans to Upgrade the Local Networks”, was for fiber-to-the-home to be completed by 201, and all copper wiring between the offices should have been upgraded by 1994.²⁵⁰

- * ISDN 100% by 1995
- * Fiber to the feeder 100% by 2008
- * Fiber to the home 100% by 2010
- * Fiber-interoffice (all copper retired) 100% by 1994

NYNEX

NYNEX, 1993 Annual Report²⁵¹

“We’re prepared to install between *1.5 and 2 million fiber optic lines through 1996* to begin building our portion of the Information Superhighway.”

Even in 1995, NYNEX was sounding like it was going to be a major player in the video entertainment and information services arena.

NYNEX 1995 10K²⁵²

“VIDEO ENTERTAINMENT AND INFORMATION SERVICES
NYNEX Entertainment & Information Services Company (“NEIS”) licenses, acquires, and packages entertainment, information and other services for distribution over wireless and wireline networks in the NYNEX region. In addition, NEIS provides coordination, support and oversight to NYNEX’s video and information services interests around the globe. NYNEX plans to introduce a branded, price-competitive package of video and information services.”

Just to remind us, NYNEX was instrumental in the creation of TELE-TV.²⁵³

“Our TELE-TV joint venture with Bell Atlantic and Pacific Telesis is getting ready to entertain you, delivering nationally branded entertainment and information services over our networks. As NYNEX and its partners work to deploy full-service broadband networks, we plan to begin offering TELE-TV service later this year through our investment in CAI Wireless. This investment will give us the ability to reach up to 7 million NYNEX customers with digital wireless cable technology.”

NYNEX, in its video dialtone petition at the FCC, claimed that it would have the majority of its region fully deployed by the year 2010.²⁵⁴

“NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education, and health care services. *NYNEX plans to*

deploy this type of network to the majority of its customers by the year 2010.”

We should also point out that NYNEX was building other fiber optic systems in other parts of the world, including a \$3 billion broadband network in the UK.

“CABLECOMMS: NYNEX CableComms is constructing and operating a \$3 billion broadband (high capacity) network, to be substantially completed by 1997, for the provision of cable television and telecommunications services in certain licensed areas in the United Kingdom.”²⁵⁵

Massachusetts

Pertaining to Massachusetts and Rhode Island, NYNEX was not shy about its plans, which gave exact numbers as part of its filing with the state commission to receive financial incentives under the alternative regulation plans, as well as the FCC’s video dialtone proceedings.

EXHIBIT 40

NYNEX Video Dialtone Announcements, 1992-1994

Date	Telco	Location	Homes	Plan
07/08/94	NYNEX	RI	63,000	permanent
07/08/94	NYNEX	MA	334,000	permanent

The NYNEX video dialtone applications clearly laid out the number of homes and business.

“On July 8, 1994, NYNEX filed two (Section 214) applications for authority to provide video dialtone service in certain areas of Massachusetts and Rhode Island. The application to provide video

dialtone service in Massachusetts proposes a system that will pass approximately 334,000 homes and businesses.”²⁵⁶

NYNEX put forward a very specific technological definition of what it would offer if granted relief — fiber optics and coax capable of 400 to 800 digital channels. As the FCC understood the NYNEX proposal:

“NYNEX proposes to deploy hybrid *fiber optic and coaxial (HFC) broadband* networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education and health care services. NYNEX’s proposed video dialtone systems make available three types of service arrangements: analog broadcast, digital broadcast, and digital interactive service. Video programmers may deliver an ‘analog, digital, or other agreed-upon signal’ that NYNEX plans to modulate or encode as necessary. The allocation plan provides for the offering of 21 analog channels, all but one of which will be used for over-the-air broadcast programming services, and, depending on compression rates, *between 400 an 800 digital channels.*”²⁵⁷

And the hype for these service offerings started blowing strong by 1994, when the plans were first presented. NYNEX spun a very compelling vision of the consumer benefits the new technology would allow:²⁵⁸

“The new technology would give Massachusetts residents access to a wide range of information and entertainment services. Among the new types of services envisioned are improved cable television, home banking and shopping, civic and community-based forums and bulletin boards and new forms of interactive entertainment such as movies on demand.

“Ultimately, the broadband network would help Massachusetts education institutions further expand interactive and distance learning opportunities for students of all ages. The health care industry would gain advanced communications capabilities to reduce costs and expand delivery of services, including remote diagnoses and other forms of telemedicine.”

Massachusetts’s alternative regulation plan was pushed through in late 1995, just before the passage of the Telecom Act when the “wind was at the back” of the Bell companies’ getting what they wanted as a rubber stamp. The exact law that was written had only a passing mention of the fiber optic deployments the company had told the public about. This was the opposite of the earlier Bell Atlantic states’ deregulation, especially New Jersey and Pennsylvania, where very specific deployment timelines were used.

Massachusetts-NYNEX told the public it would spend half billion dollars in the Bay state. The company laid out the communities to be wired — “Somerville, Revere and Winthrop, then move to Brookline, Cambridge and neighborhoods in Boston, including Roxbury, Brighton, Beacon Hill and the Back Bay....” The work was supposed to start in late 1994.

As we wrote in a complaint we filed in 1999 with the Massachusetts Department of Telecommunications and Energy (DTE).

“In statement after statement, before consumers, advocates, regulators and the press, employees and executives at the top echelon of New England Telephone made repeated and unambiguous representations that NYNEX would spend over \$500 million to build the fiber optic network in Massachusetts, commencing in 1995. On July 15, 1994, New England Telephone Chairman Paul O’Brien announced that NYNEX was ‘putting its money behind its beliefs. We recently announced plans to build what is essentially a new ... state-of-the-art broadband network ...

capable of providing video-on-demand and interactive information services.’ O’Brien went on to promise that construction would begin late that year, 1994, in eastern Massachusetts. He was also emphatic ‘NYNEX plans to spend nearly half a billion dollars for 330,000 lines in Massachusetts’.

“A few months later, the *Patriot Ledger* quoted NYNEX spokesman Kenneth Horne describing a very specific plan: ‘In Massachusetts, NYNEX plans to begin the new service in Somerville, Revere and Winthrop, then move to Brookline, Cambridge and neighborhoods in Boston, including Roxbury, Brighton, Beacon Hill and the Back Bay....’”

Even though the company was granted most of the financial incentives it requested, in Massachusetts the company did not spend \$500 million on the networks and there were no fiber optic networks available to customers. Rumors exist that some streets were wired in Somerville, Massachusetts, but were never turned on or connected to homes. In our complaint in 1999, we estimated that customers paid over \$1 billion in extra profits to the phone company, not to mention an additional \$800 million that NYNEX Massachusetts (and Rhode Island) had declared in tax deductions.

GTE

As previously stated, GTE (now owned by Verizon) promised 7 million homes by 2004 in 66 key markets.²⁵⁹

“In 1991, GTE Telephone Operations became the first telephone company in the United States to offer interactive video services.... Expanding on this success, the company in 1994 announced plans to build video networks in 66 key markets in the next 10 years. When completed, the new network will pass 7 million homes and will provide broadcast, cable and interactive television programming.

"GTE's pending applications seek authority to build hybrid fiber optic and coaxial-cable video networks in Ventura County, Calif.; St. Petersburg and Clearwater, Fla.; Honolulu, Hawaii; and northern Virginia."

GTE also stated it would be investing \$250 million to build out its video networks in four locations in 1995.²⁶⁰

"GTE Telephone Operations will invest about \$250 million to build broadband video networks in four markets during 1995. GTE's pending applications seek authority to build hybrid fiber optic and coaxial-cable video networks in Ventura County, Calif.; St. Petersburg and Clearwater, Fla.; Honolulu, Hawaii; and northern Virginia."

The 1995 video investments are in addition to the approximately \$2.7 billion GTE spent each year to upgrade and maintain its national telecommunications network.²⁶¹

A Con Job? Verizon Fiber Optic Deployments Were Vaporware.

New Jersey Ratepayer Advocate, April 1997:

"low income and residential customers have paid for the fiber optic lines every month but have not yet benefited." ²⁶²

As we discuss at length, we believe that the promise to fiberize America by Verizon was more for the purpose of getting rid of regulation that controlled the companies' profits and entering the long distance markets than delivering on the broadband future. As discussed in our case study of New Jersey, there were other critics of the phone companies' failed broadband deployments.

According to a brief filed by the New Jersey's Division of the Ratepayer Advocate with the New Jersey Board of Regulatory Commissioners (BRC), NJ's state public utility commission, on March 21, 1997: ²⁶³

"Bell Atlantic-New Jersey (BA-NJ) has over-earned, underspent and inequitably deployed advanced telecommunications technology to business customers, while largely neglecting schools and libraries, low-income and residential ratepayers and consumers in Urban Enterprise Zones as well as urban and rural areas."²⁶⁴

And other analysts and experts also chimed in on other state alternative regulation plans. Testimony by Economics & Technology on Verizon's Pennsylvania failed deployments found \$4 billion in excessive financial gains in that state alone for the failed deployments.

"Verizon PA has realized financial gains in excess of \$4-billion as a direct result of Chapter 30 alternative regulation. Pennsylvania is far from realizing a next generation broadband network."²⁶⁵

The irony of it all is that *nothing* was built so there was very little to close down (much less write-off) and that is provable. It is also no coincidence that the write-offs and pull-outs in the various states were timed to be done either before or right after the companies merged.

How Much Did Bell Atlantic and NYNEX Really Spend? — Chump Change.

Below are the actual write-offs of the projects as outlined in the Bell Atlantic Annual Report for 1998 — \$266 million for NYNEX and Bell Atlantic, combined. This is compared to the promises of over \$11 billion in the Bell Atlantic territories or half billion dollars in Massachusetts. Also, it is clear that Bell Atlantic and NYNEX had to keep a fake-front because they had told their TELE-TV group that everything was going to be rewired by 2000. They lied.

Bell Atlantic Annual Report, 1998²⁶⁶

“YEAR 1997: Video-related Charges: In 1997, we recognized total pre-tax charges of \$243 million related to certain video investments and operations. We determined that we would no longer pursue a multichannel, multipoint, distribution system (MMDS) as part of our video strategy. As a result, we recognized liabilities for purchase commitments associated with the MMDS technology and costs associated with closing the operations of our TELE-TV partnership because this operation no longer supports our video strategy. We also wrote-down our remaining investment in CAI Wireless Systems, Inc.”

“Video-related Charges: In 1998, we recorded pre-tax charges of \$23 million primarily related to wireline and other non-satellite video initiatives. We made a strategic decision in 1998 to focus our video efforts on satellite service being offered in conjunction with DirecTV and USSB. We communicated the decision to stop providing wireline video services to subscribers and offered them the opportunity to subscribe to the satellite-based video service that we introduced in 1998. In the third quarter of 1998, we decided to dispose of these assets by sale or abandonment, and we conducted an impairment review under the requirements of SFAS No. 121, ‘Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of.’ We based our estimate on an estimate of the cash flows expected to result from the use of the assets prior to their disposal and the net proceeds (if any) expected to result from disposal. We are currently providing video service exclusively in conjunction with our arrangements with DirecTV and USSB.”

We would also like to point out that when NYNEX or Bell Atlantic discussed their future plans with broadband, they also included wireless as the other solution. Most, if not all of which, never worked out.

The other item to note is the timing. In 1996, Bell Atlantic and NYNEX decided to merge, and by 1997 it was a done deal. At the same time, the companies closed down whatever activities were underfoot. From these write-offs we now know that they gamed virtually every state, using fiber-to-the-home services as the bait.

GTE's Fiber Optic Hatchet: Clean House to Get Ready to be Sold?

In 1998, GTE started to shut down the video business as well as close down its fiber coax plans in what looks like preparation for the sale to Verizon. According to the GTE 1999 Annual Report:²⁶⁷

“During the first quarter of 1998, the Company also committed to a plan to exit a number of other non-strategic business activities. As a result, the Company recorded a pretax charge of \$156 million to reduce the carrying value of affected assets to expected net salvage value and to recognize costs resulting from the exit plan. The major components of the charge included:

- the write-off of network equipment and supplies for discontinued wireless products and services (\$81 million);
- the shutdown of business units developing interactive video products and services and excess printing facilities (\$42 million);
- the write-off of impaired assets in Latin America (\$33 million).

“After completing the review of its operations, the Company also decided to scale back the deployment of the hybrid fiber coax (HFC) video networks that it had built in certain test markets.

Although the Company is obligated to, and will continue to, use the existing HFC networks to provide video service in these markets, technological innovations have created alternative ways for the Company to deliver video and high-speed data services in the future at a significantly lower cost. Due to the significant change in the scale of the HFC networks and the effect on future revenues and expenses, the Company recorded a pretax charge for impairment of approximately \$161 million based on estimated future cash flows. GTE continues to evaluate its long-term strategic options associated with its video business.”

GTE still had some video properties and received franchises in 1999.

“At the end of 1999, GTE had been granted nine video franchises in the Pinellas County, Florida market and five video franchises in the Ventura County, California market. Video services offerings have also been launched utilizing digital wireless broadcast technology in Oahu, Hawaii. GTE continues to evaluate its long-term strategic options associated with its video business.”

The accounting of all of these numbers seems to indicate that very little was actually built based on the promises made by GTE, and that Verizon planned on unloading all of its properties.

In 2002, we know that Verizon sold off the GTE properties that it had in Florida to Adelphia, and Time Warner was telling its Tampa Bay customers to sign up with them

“Talk about a cable company that really cares. Time Warner, the 800-pound gorilla of Tampa Bay area cable TV, recently sent a concerned letter to Pinellas County customers of Verizon Communications' much smaller Americast cable system.

“As you may already know, Verizon Americast will soon no longer be your cable operator,’ the letter said. It added helpfully, ‘We would be happy to make it easy for you to become a Time Warner customer.’”²⁶⁸

The scorecard on fiber optic deployment plans being fulfilled is virtually a “zero” for Bell Atlantic, NYNEX and GTE. However their press releases and past articles are enjoyable to read. The headline states, “Bell posts its itinerary on Information highway,” Baltimore Sun, December 2, 1993.²⁶⁹

“Racing to solidify its competitive position before its telephone monopoly disappears, Bell Atlantic Corp. outlined an ambitious timetable yesterday under which 1.25 million households — some in Baltimore — will be able to order up movies on demand and place video phone calls before the end of 1995.

“In subsequent years, the regional phone company plans to add 1.5 million homes a year to its fiber optic network, ensuring that some 8.75 million homes of the 11 million homes in its...

Because of the implications of the Verizon, MCI merger, let’s go over the GTE and Verizon merger conditions and the hype surrounding competitive issues.

Chapter 21 **Analysis of Verizon's Merger Conditions and "Truth in Speech" Statements.**

Verizon submitted hundreds of documents and comments to the FCC, state regulators, Congress, and the public to make sure that the Bell Atlantic-GTE merger to create Verizon was completed.

According to a statement by Former FCC Commissioner Gloria Tristani, SBC and Verizon at the time of their merger would control 69% of phone service. Verizon controls 40% of the lines, 69 million phone lines.

“With this merger, two companies — Bell Atlantic/GTE and SBC — will control a staggering 69 percent of the nation’s access lines. Bell Atlantic/GTE alone will control nearly forty percent of those lines, approximately 69 million local exchange access lines.”²⁷⁰

The reason for the creation of Verizon was that this new company would “attack the local markets of the other bells on a widespread and effective basis”.²⁷¹

The FCC stated:²⁷²

"First, the merger will finally enable one of the Bell companies to attack the local markets of the other bells on a widespread and effective basis.

“The commission has concluded in recent orders that the Bell companies themselves may be among the most significant potential competitors to each other in the major metropolitan markets where their geographic regions are contiguous. However, Bell Atlantic today is not a significant potential competitor to any of the other Bell companies, its service areas are geographically separate from the major service areas of the other Bells and it lacks the presence that it needs to be effective to enter and compete in

key urban markets of the other Bells' regions. The merger with GTE will immediately erase that limitation."

Why was the merger with GTE important? GTE is a collection of local phone companies spread throughout the US, unlike the other Bell companies that have specific states they control. According to the Verizon merger petition, it was an enabler to attack the other Bell strongholds.

"With its local telephone facilities greatly dispersed throughout the US, GTE is the enabler that will allow Bell Atlantic to attack the Bell company strongholds across the country.... GTE shares an MSA or serves neighboring suburbs in several of the most attractive Bell markets outside Bell Atlantic's Region including Los Angeles, San Francisco, San Diego, Dallas Fort Worth, Houston, Chicago, Cleveland, Indianapolis, Detroit Miami, Orlando, Jacksonville, Seattle Portland and others."

All of this was being done because these companies would be "pro-competitive" to provide "a broad-scale attack on the local markets of the other RBOC across the country" and it couldn't do it simply as Bell Atlantic or GTE.

"The merger of Bell Atlantic and GTE will produce substantial pro-competitive and pro-consumer benefits in a host of telecommunications markets and no harm to competition in any relevant market. The merger therefore satisfies the Commissioner repeatedly articulated standards focusing on markets.

"The merger promises what few other telecommunications providers have been able to offer: *A broad-scale attack on the local markets of the other RBOC across the country.*

"The merger creates real-work conditions necessary to succeed in such an out-of-franchisee entity that GTE already has demonstrated an interest in pursuing and makes meaningful entry possible where separate companies will not succeed."

What exactly was promised? Statements made over and over again, from the Verizon petition to even the statements by GTE's chairman, were that these companies would compete in at least 21 markets by 18 months of closing.²⁷³

"Based on the simple economic logic of the GTE-Bell Atlantic combination, GTE's Chairman Lee recently testified to Congress that the combined company plans to enter at least 21 markets in SBC's region within 18 months of closing.

- SBC Region — Los Angeles, San Francisco, San Diego, Dallas, Houston, Austin, San Antonio
- Ameritech Region — Chicago, Cleveland, Cincinnati, Indianapolis, Detroit
- BellSouth Region — Miami, Orlando, Jacksonville, Raleigh, Nashville, Memphis Louisville
- US West Region — Seattle, Portland"

The plans to build in GTE's territories demonstrated interest in entering the local market of the other RBOCs.²⁷⁴

"The merger therefore makes possible the first real facilities-based effort to compete on a broad scale against the other RBOCs."

How Were these Companies Going to Compete? — They Would Use "Resale", "UNE-P", and "Facilities".

As we will discuss in detail in the next few chapters, the Bells were able to manipulate the FCC (as well as take them to court) over the use of network services known as "UNE-P" (Unbundled Network Element – Platform) and "Resale". These are the exact same methods that Verizon and the other Bells were claiming they would use themselves to enter new markets — they would have to rent parts of the network from the incumbent, the other Bell. It is clear from testimony by Jeffrey Kissell of GTE, the company started its CLEC business with just resale but the margins were "too low" and so they also wanted to use platform (UNE-P) and facilities to compete.²⁷⁵

"GTE's strategy was to price service on a resale basis in markets near GTE. GTE also encountered problems with its service platform while attempting to implement its roll out plan. Moreover, low resale margins and higher than expected customer acquisition costs significantly impacted earnings. GTE has therefore concluded that a resale strategy can not succeed alone. Current plans call for a shift to a facilities based strategy.... Because a viable out-of-franchise business must therefore provide some facility-based services, a substantial investment in facilities is also necessary.

"The company's new larger scale will allow it to fund the necessary (UNE-P) platform and facilities investment required to compete in new out-of franchise CLEC markets."

"As already mentioned, GTECC's experience has demonstrated that some facilities-based service are necessary to succeed out-of franchise."

The idea that they could at the same time argue to close down the wholesale regime and at the same time claim it was necessary to use to be able to compete, and yet was the basis of their merger plans, show just how much power over the agenda these companies wielded then and honed to a fine art over the last decade.

The Public Interest Merger Conditions Were Just for Show.

The FCC was supposed to base the merger on serving the public interest.²⁷⁶

“In order to persuade us to grant their applications, Bell Atlantic and GTE must demonstrate that their proposed transaction will serve the public interest, convenience, and necessity.”

The FCC agreed to the merger because it would “enhance competition” and strengthen the merged companies’ incentives to expand outside their territories.²⁷⁷

“The Applicants, however, have proposed conditions that will alter the public interest balance. These conditions are designed to mitigate the potential public interest harms of the Applicants’ transaction, enhance competition in the local exchange and exchange access markets in which Bell Atlantic or GTE is the incumbent local exchange carrier (incumbent LEC), and strengthen the merged firm’s incentives to expand competition outside of its territories. We believe that the voluntary merger conditions proposed by the Applicants and adopted in this Order will not only substantially mitigate the potential public interest harms of the merger, but also provide public interest benefits that extend beyond those resulting from the proposed transaction. Accordingly, we conclude that approval of the applications to transfer control of Commission licenses and lines from GTE to Bell Atlantic serves the public interest, convenience, and necessity and, therefore, satisfies sections 214 and 310(d) of the

Communications Act given these significant and enforceable conditions.”

The Merger Conditions Failed the Public Interest.

According to the FCC, the reason they agreed to this merger was:²⁷⁸

“The merger conditions are designed to accomplish the following five public interest goals:

- 1) Promote advanced services deployment;
- 2) Enhance the openness of the merged company’s in-region local telecommunications markets;
- 3) Foster out-of-region local competition;
- 4) Improve residential phone service; and,
- 5) Provide for enforcement of the merger.”

None of these items happened in a meaningful way and there is ample proof that service quality is worsening, the companies never went out of region, the advanced services were never rolled out with any more speed and the entire enforcement of this merger has failed to make the networks fully open to competition. Instead, it has strengthened the monopoly.

Did Verizon Fulfill Its Merger Obligations?

Remember this quote?

“Based on the simple economic logic of the GTE-Bell Atlantic combination, GTE’s Chairman Lee recently testified to Congress that the combined company plans to enter at least 21 markets in SBC’s region within 18 months of closing.”

There is virtually no competition out of region by Verizon, including GTE, today. Here are the merger conditions, which were to spend \$500 million or have 250,000 customers by July 2003.²⁷⁹

“Merger Close Plus 36 Months or, Report Date Plus 60 Days, 6/30/03 Spend at least \$500 Million or provide service to at least 250,000 customer lines on out of region entry. Pay 150% of shortfall if goal not met.”

Out-of-Territory Competitive Entry?

- “Within 36 months from merger closing, Bell Atlantic/GTE will spend a minimum of \$500 million to provide competitive local service, including traditional local telecommunications services and advanced services, outside of its service areas or will provide competitive local service to at least 250,000 out-of-region customer lines.
- Bell Atlantic/GTE is liable for voluntary incentive payments up to \$750 million dollars if it does not satisfy either of these out-of-region competition commitments.
- This condition will ensure that residential consumers and business customers outside of Bell Atlantic/GTE’s region benefit from increased facilities-based competitive service.”

However, the FCC had a different view because anything that Verizon submitted turned into fulfillment of their obligations.

Northpoint — A Sad Story

Northpoint was a promising competitive company that was offering DSL services. Verizon stated it would buy Northpoint and would give the company a large investment. Verizon did put in a smaller amount than was required. Then, while Northpoint stopped selling, waiting for its new owner, Verizon pulled out of the deal

and the company was forced into bankruptcy and folded, leaving customers and shareholders stranded.

Verizon convinced the FCC to allow their investment in the company to be used as part of the \$500 million, even though there would never be customers. This, of course, never helped the “public interest”.

The summary can best be described in this excerpt of an article from *CLEC.com* (now defunct), which quotes ALTS, an association representing CLECs.^{280 281}

“ALTS SAYS VERIZON IS LIKE PARENT-KILLING CHILD. The Association for Local Telecommunications Services today declared its shock at the FCC’s recent determination to count an investment from New York City-based Verizon Communications in now bankrupt data CLEC NorthPoint Communications towards Verizon’s obligation to compete out of region, as stipulated by the Bell-Atlantic/GTE merger. Verizon deposited \$150 million in NorthPoint, but then withdrew its offer to purchase the firm, which ALTS claims drove NorthPoint into bankruptcy. ‘Verizon fabricated a patently absurd argument in its merger obligations to avoid having to compete out-of-region, and the FCC bought it’, said Jonathan Askin, general counsel for ALTS. ‘Even if Verizon has satisfied some absurdist literal reading of its merger commitment, it has certainly violated any reasonable interpretation of the spirit of that commitment and has made a mockery of the FCC process and the bargain that Verizon struck.’ NorthPoint eventually sold its assets to New York City-based AT&T, so Verizon has never used any of NorthPoint’s assets to compete out of region. ‘Like the child who killed her parents and sought mercy from the judge because she’s an orphan, Verizon wants to be rewarded for killing off its competitor’, Askin claimed.”

To add insult to injury, Verizon also wrote off their investment, taking a deduction on their taxes, which lowered their tax requirements.

Verizon 2001 10K²⁸²

"Other charges and special items recorded during 2000 included the write-off of our investment in NorthPoint Communications Corp. (NorthPoint) of \$155 million (\$153 million after-tax, or \$.06 per diluted share) as a result of the deterioration in NorthPoint's business, operations and financial condition."

Verizon Mergers' Perks for Top 6 Executives Exceeds the Money Spent on Local Phone Competition.²⁸³

The mergers did help some people — The top six Verizon executives (including the former Chairman of GTE) received stock options and other perks in a three-year period that are estimated at \$425 million to \$1 billion, not to mention a combined salary of \$195 million. (1999-2001). This largess included tens of millions for each executive from the GTE-Verizon merger.²⁸⁴

Suing to Block Competitors from Using the Networks? — Talk about Talking Out of Both Sides of Their Mouths.

Verizon, SBC and the other Bells took a series of state and federal law suits to block competitors from reselling and using the customer-funded networks. The claim was that these competitors were using the networks "below cost".

"Today, competitors are eroding our core business by purchasing our local service from us at government controlled, below-cost rates."²⁸⁵

In another release, even the title shouts the SBC's position: "SBC Calls Unbundling Rules and UNE-Platform Devastating. Regulations that Impede Investment and Undermine Facilities-Based Competition Must Be Modified," July 17, 2002.²⁸⁶

"Calling the UNE-Platform policy 'devastating,' SBC Communications Inc. today urged the FCC to abolish regulations that force incumbent local exchange carriers (ILECs) to sell portions of their telecommunications facilities that are available from other sources to competitors at bargain prices and to use the so-called UNE-P to cherry-pick only the most profitable customers without investing any capital and without deploying any facilities or networks."

If this is true, then why didn't these Bell competitors go into each other's markets and use these below-cost networks to make a killing? Collusion? What's worse, SBC and Verizon both claimed they would use the discount plans for competitors to compete in out-of-region markets, known as "Resale and "UNE-P" — the same services that they successfully sued over.

This is one of the reasons AT&T and MCI are up for sale. The entire basis for entering local phone service competition was predicated on the availability of UNE-P and resale. These companies lost billions and were closed out of being able to offer a competitive product to the average customer.

We will discuss these new, proposed mergers in future sections.

Geography and Competition

But there are two other items in all of this — geography and competition. Wireline phone competition is easier to do once you own switches and facilities and it would have been easy for Bell Atlantic to have competed with NYNEX in, say, New York City. Why? The "tri-state area" — New York City, Northern New Jersey, and Connecticut, have overlapping media footprints, meaning that the same radio and TV

stations that broadcast to New York City also reach areas of New Jersey, such as Newark and Hoboken.

Similarly, GTE has locations in Pennsylvania that are contiguous to Bell Atlantic's Pennsylvania holdings. It would have been a no-brainer to go into the other market for local phone service at virtually any time.

Or more poignant, SBC and Ameritech or any combination of Bells that have contiguous territories could have rolled out some switches at any time and started to compete. Competition for local service is just that — Local.

The companies, when they sold their case to regulators, knew they should be competing with each other and had considered it seriously, though nothing was done. In fact, in the case of the NYNEX-Bell Atlantic merger, the state Attorney General's Office found proof that Bell Atlantic was not telling the whole truth about their competitive earnings.

The New York State Attorney General's Office asked the New York State Public Service Commission to stop the merger between NYNEX and Bell Atlantic because of untruthful statements. According to the *Wall Street Journal*, February 6, 1997:²⁸⁷

"Attorney General Dennis Vacco said in the brief (to the PSC) that evidence obtained during his office's investigation indicated that Bell Atlantic had 'considered' entering the New York City market as a competitor to NYNEX. *That conclusion directly contradicted repeated assertions by Bell Atlantic to federal and state regulators that it never intended to enter the New York market.*"

Was the BA-NYNEX Merger a “Merger of Equals”? The Buy, Not Merge, Secret

NYNEX and Bell Atlantic promoted their merger as a “merger of equals”, but instead, Bell Atlantic purchased NYNEX, just like SBC purchased Pac Bell. And NYNEX shareholders got only 77¢ on the dollar — so much for equals.²⁸⁸

"On July 2, 1996, NYNEX and Bell Atlantic Corporation ("Bell Atlantic") executed an amendment to their definitive merger agreement (the "Merger"), effecting a technical change in the transaction structure of *the merger of equals* announced on April 22, 1996. As amended, the agreement provides that a newly formed subsidiary of Bell Atlantic will merge with and into NYNEX, thereby making NYNEX a wholly owned subsidiary of Bell Atlantic. There is no change in the fundamental elements of the proposed Merger. The exchange ratio for shares is restated to reflect the difference in the transaction. *Each NYNEX shareholder will receive 0.768 shares of Bell Atlantic common stock in exchange for one share of NYNEX common stock.*"

The reason for this purchase agreement is simple. This tactic side-stepped required congressional hearings and approval, as well as placed limits on the states' regulatory involvement.

AT&T, MCI, and the Consequences of Sibling Marriages

In the next chapter we will complete the mergers story of SBC eating AT&T and MCI being taken over by Verizon.

The consequence of these actions is that we now have, as reporter and author Leslie Cauley²⁸⁹ put it, a Bell East and a Bell West. The problem is that we also allowed these companies to kill off the two largest competitors who acted as a balance in the force against SBC and Verizon, and they have divvy up the two largest "Internet backbones", which are the internal networks that handle broadband, Internet and even wireless traffic, from phone calls to video, and with the purchases of AT&T and MCI, they've created their own fiefdom that has been able to block other competitors, keeps prices inflated, and a host of other harms.

It should be abundantly clear from these mergers that SBC and Verizon played us for fools, and it's been harmful and not a benefit to the public interest.

But this was only the start — it's gotten a lot worse.

Part III The Awakenings: 1996-2005**Chapter 22 How the Bells and the FCC Killed Broadband, Internet,
Phone and Cable Competition.****Timeline: 1996-2005**

"We've been begging the FCC to establish a National Broadband Policy. On Feb. 14th the FCC took action — only it might turn out to be as bloody for ISPs as the St. Valentine's Day Massacre was for George "Bugs" Moran's North Side Gang in Chicago, circa 1929."²⁹⁰

Patty Fusco, Managing Editor, ISP Planet, March 1, 2002

We have just gone through the Bell companies' state fiber optic con game and saw that siblings shouldn't marry; it's against the laws of nature and certainly not good for the public interest and the delivering of broadband to America. Larger was not better.

Alongside these Bell consolidations, the federal video dialtone maneuverings and the Bells' state failures to do the upgrades — (even when they were paid to do so), there was another track, another federal plan to bring broadband and competition to America.

By the 1990's it was recognized that America's local phone networks were a bottleneck to bringing competitive services to America, including broadband. Dubbed "the last mile" problem — or sometimes called "the first 100 feet", the utility wire was still a monopoly and competitors couldn't directly reach the customer. While the original break up of AT&T had brought competition to long distance calling, it was now time to 'open' the wire to all competitors, fiber or copper. In fact, in many states, the agreements to allow customers to be charged for network upgrades, above and beyond the normal maintenance, also made sure that these networks were open to all competitors. But this was mostly a state issue and it was not backed by federal law... yet.

The Telecommunications Act of 1996 was passed to promote this competition and it would be done by deregulation, which in turn would bring lower prices and deployment of advanced technologies.²⁹¹

"An act 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."

Hope springs eternal. While the networks were actually opened in 1996, the telcos made sure that in the new millennium, the networks would again be slammed shut to Internet, broadband, cable or even phone competition. The mergers we discussed only helped to consolidate the Bells' power and resources, more than any other hyped-based wonderland they told the regulators would occur if they could merge.

“Deregulation” Meant ‘Open’ the Networks.

Prior to the Telecom Act of 1996, the long-standing bible of all telecom regulations and laws was the Telecom Act of 1934. And while much of this became part of the 1996 Act, it had left the local wires a monopoly.

And with the goal to open up the bottleneck, there were a series of early versions of the Telecom Act presented by a Democratic Congress which focused on infrastructure and the protection of Universal Service. In 1993 there was H.R 3636 by Congressman Ed Markey called the "National Communications Competition and Information Infrastructure Act of 1993".²⁹²

"To promote a national communications infrastructure to encourage the deployment of advanced communication services through competition."

But in 1995, with a Republican-packed Senate and House, the new laws would focus on “deregulation” bills. Competition, not regulation, will fix everything. In 1995,

Senator Pressler even introduced the "Telecommunications and Deregulation Act of 1995".²⁹³

"This legislation contains pro-competitive, deregulatory national policy framework for telecommunication reform legislation.

"It will spur economic growth, job creation and gains in productivity."

Hear the author yelling? Notice that the Republican bill had in its title 'deregulation'? Deregulation was 'opening the networks' and 'pro-competitive'. Deregulation was NOT close the networks. Yet by the new millennium, the Bell companies were able to even rewrite the meanings of basic words — where 'reregulating' the networks — i.e. closing them to competitors — would now become 'deregulation'. Now that's real power.

Essentially, the Telecom Act of 1996 opened up the local phone wires to direct competition, where competitors could rent parts of the networks at wholesale rates, known as "UNE-P", for phone services as well as offer Internet-line sharing, where the Internet Provider could offer their own DSL service working through a 'D-LEC', (a competitor that offered data services as opposed to phone service) or resell the phone companies' DSL service — using the same wire as used for phone service.

This 'opening' wasn't a gift by the phone companies to America. The Bell companies would be allowed to offer long distance service and other businesses that they had been restricted from. Judge Greene, who oversaw the break up of AT&T, had rightfully predicted that given to their own devices, the phone companies would create subsidiaries that would give the companies marketing and other advantages over all other competitors — and that they could vertically integrate, meaning have a bundle of only their services that customers had to take, especially if they wanted the bundled price.

And right from the start the telcos weren't happy about renting their networks at wholesale rates and this would slow down the process of competition from the git-go. In an interview by the *Kansas City Business Journal*²⁹⁴ with David Cole,

president of Southwestern Bell, Texas, he stated that the wholesaling of the networks was a confiscation of their property.

"Southwestern Bell contends that the deep wholesale discount rates being ordered by the FCC are tantamount to "confiscating our property... "

And this issue of 'confiscation of property' and use of the networks continues today, a theme we will return to shortly.

The Rise and Fall of the Internet Service (ISP) Provider Market

Today, when you hear the term "ISP" you probably think of the incumbent phone or cable company that have a monopoly over the wires — and they require you to take their Internet service, their broadband service or their cable service. But that wasn't the plan.

According to the National Telecommunications and Information Administration's (NTIA) study, "A Nation Online: How Americans are Expanding Their Use of the Internet", released February 2002, half of America, 143 million people, were online as of September 2001.²⁹⁵

"More than half of the nation is now online. In September 2001, 143 million Americans (about 54 percent of the population) were using the Internet — an increase of 26 million in 13 months. In September 2001, 174 million people (or 66 percent of the population) in the United States used computers."

And who was handling all those Internet surfers? The 2001 survey by *ISP Planet* found that the Top 25 ISP companies controlled 45% of the marketplace (including DSL connectivity). This included AOL, (which bought Time Warner) MSN, AT&T (then independent) and EarthLink.

EXHIBIT 41
Top US Internet Service Providers by Accounts, 2001

ISP	2001 Q1 Subs. (millions)	2001 Subs. (millions)
AOL Time Warner	18.9*	17.5*
EarthLink	4.8	4.6
Juno Online	4.1 (15.9m total±)	4.0 (14.2m total±)
NetZero	3.7 (8.6m total±)	3.5 (7.0m total±)
MSN Internet	5.0	4.0
Excite@Home	3.2	2.9
BlueLight.com	1.9* (6.6m total±)	2.8* (5.5m total±)
CompuServe (AOL)	3.0	2.8
Prodigy (Includes SBC Inc.)	3.1	2.17
Gateway.net (AOL)	1.7	1.7
AT&T WorldNet	1.3	1.3
WebTV	1.1	1.1
Road Runner	1.2	1.0
Bell South	.655	.655
All other U.S. ISPs	est. ²	est. ²
Combined	11.5	11.3

NOTE: The chart is discussing ‘accounts’, the quote was of individual users, so there are caveats to these stats.

However, the majority, 55% of the market was controlled by the mostly small ISPs — representing a whopping 77 million customers.²⁹⁶

ISP Planet wrote:

"Of course, 54.2 percent of American's accessing the Internet and the World Wide Web do so through thousands of independent ISPs scattered across the country, which totals some 77.5 million subscribers nationwide."²⁹⁷

These were mostly small entrepreneurial mom-and-pop-techies who realized that with the Telecom Act they, too, could offer this new service — the Internet.

A Very Brief History of Going Online

The grand-dame of all online services was Minitel, which was offered by the French phone company. The company supplied a very cool home terminal and the customers could text ‘chat’ and access other text-based on-line activities. Designed as an online replacement of the printed telephone directories, it was a hit and considered quite chic.

In the 1980s, the Bell companies tried and failed to mimic the success of Minitel and lost about ½ billion dollars.

But other things were bubbling. There were a host of “bulletin board” services, where someone with a computer attached to a modem and a phone line could dial-up a specific location and leave and read text messages.

The 1980’s also we saw the rise of independent online services, such as AOL, Prodigy or Compuserve, which were known as ‘walled gardens’ where the company provided access to their online service via a phone line and a dial up modem, and the call went directly to one company’s services.

However, all this was about to change when the masses were able to use a ‘graphic user interface’ (GUI) (pronounced “goo-ee”) and had the ability to surf to multiple web pages on the World Wide Web, unlike the ‘Walled Garden’ services . Starting around the same time as the passage of the Telecom Act in 1996, the Internet exploded, pushed by mom-and pop entrepreneurs who created their own independent Internet Service Provider that helped their mostly local customers enter this brave new, online world.

The telco ‘dinosaurs’ did not invent it, didn’t innovate it, and most of the basic features we know today as the “Net” or Web were not done by what is now AT&T and Verizon.

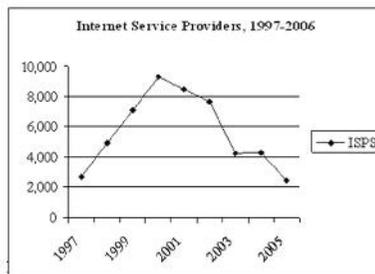
In fact, notice on the previous chart that the Bell companies, like Bell Atlantic or GTE or “Verizon” were NOT in the Top Providers of Internet service in 2001. (SBC bought Yahoo, which put them on this chart.)

How the Government Re-Regulated the ISPs Out of Business

By the end of 2000, according to the US Census, there were 9,335 Internet Service Providers and by the end of 2005 there were only 2,437 wired ISPs left.

EXHIBIT 42

The Rise and Fall of Independent US Internet Service Providers (ISPs)



Source: Census, 1997-2005

EXHIBIT 43**US Internet Service Providers (ISPs)**

Source: Census, 1997-2005

1997	1998	1999	2000	2001	2002	2003	2004	2005
2,751	4,915	7,099	9,335	8,450	7,627	4,249	4,327	2,437

There were two major issues responsible for this decline:

- An internal ‘code red’ by the telcos to harm all competitors.
- The telcos got protection by the government who aided in the removal of competitors; it had nothing to do with market forces.

“Code Red” and the FCC Screwed the Competitors.

We know from interviews with the union installers at the time that there was a ‘code red’ implemented by the phone company management. In effect — don’t help the competitor. In a complaint filed by the Texas ISP Association and others, about 40% of the orders sent in by ISPs for phone lines to the local Bell phone company didn’t get taken care of the first time.

The small ISPs had consistently presented data to the FCC to defend them, as required by law, from the attacks on their businesses and it had fallen on deaf ears. Dave Robertson, the head of the Texas ISP Association, (TISPA) recounted his meeting with then FCC Chairman Michael Powell and senior staffers at the FCC Enforcement Bureau.²⁹⁸

"The meeting was Tuesday May 8th, 2001. In a nutshell, all the "bad acts" submitted to them to date have resulted in exactly "ZERO" dollars in fines, and little delay in their 271 approvals for the Bells to jump into the long distance market. We asked for something blatant as handwriting on a wall as to the future of the complaint process as we are approaching it. We got it.

WE SHOULD EXPECT NOTHING FROM THE INFORMAL COMPLAINT PROCESS. We should expect nothing from any complaints we have submitted to date.

"A couple of weeks ago we met with a senior person in the ENFORCEMENT BUREAU. After a one-hour meeting and receiving some heartfelt empathy for the plight of ISPs and the consumers who are being victimized by the illegal, anti-competitive behavior, I suggested that our best move might be to just jump out a window. He suggested we might want to consider throwing a chair out of the window first, so we wouldn't get cut on the glass as we jumped."

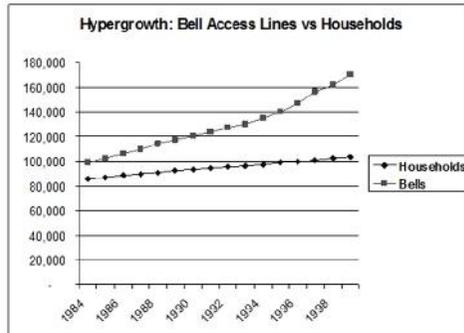
In fact, the Texas ISP Association presented an entire book²⁹⁹ of material showing violation after violation.

Ironically, the telcos were essentially biting the hand that fed them. The ISPs and the Competitive Local Exchange Companies (CLEC) had been generating hyper-growth in access lines. From 1996-1999, the telcos had the largest growth of lines in their history, but also revenues and profits. While much of this was spurred on by the Internet explosion, as we just saw, it was the small and independent ISPs that were generating the buzz, excitement and moreover, helped customers get online — including helping get them phone lines and other telco services.

Hypergrowth of Access Lines — From Competition.

As is evident from the exhibit below, from 1992-1999 the growth of phone lines was 91% to over 650% higher growth than growth of US household, as told by data from the US Census.

EXHIBIT 44



Based on the chart, had hypergrowth not occurred, the number of lines would have been in line with household growth,

EXHIBIT 45

Bell Hypergrowth Internet and Fax Era, 1992-1999

	1992	1994	1996	1998	1999
Access Lines	2.75%	3.27%	4.85%	4.39%	4.59%
Households	1.44%	0.71%	0.64%	1.49%	1.31%
	91.4%	363.6%	653.4%	193.6%	249.7%

And it was the small ISPs that were selling these second lines as they hand-held the customers to figure out how to get their dial up connection, the modem and the computer to work together to cruise the World Wide Web.

For example, BellSouth stated that 1996 was a banner year, spurred on by the addition of new lines, especially for Internet, work-at-home and fax machines, among other uses.³⁰⁰

"Capping a year of record customer growth, BellSouth Corporation became the first telecommunications company to grow by more than one million access lines in a single year.

"New retail distribution channels and marketing promotions of phone lines for Internet access, work-at-home, fax machines and children's numbers spurred record fourth quarter sales of 82,000 additional residential lines."

Meanwhile, Bell Atlantic stated that additional lines in their region grew 24 percent, accounting for 2.1 million lines.³⁰¹

"Total additional lines in service grew almost 24 percent during 1996, approximately 2.1 million."

One has to wonder — Wait a second. Why would they need second lines when DSL could do both voice calling and DSL over the same line, much less a fiber optic wire? The companies hadn't done any deployments by 1996 of broadband and second lines made them more money so they were in no rush to kill off this profit center.

And, in the end, killing off the ISPs by taking over their business started the trend of 'losing phone lines'— because one of the components of their sale force, the independent ISPs, were being put out of business.

Killing Off the Competitive Local Exchange Companies (CLECs) with Government Intervention.

It wasn't simply the ISPs that were wholesaley-put out of business by government intervention but most of the Competitive Local Exchange Companies, commonly known as the CLECs, (pronounced C-LEC).

Starting in 2000, the FCC made a series of bad decisions that rewrote the Telecom Act and no longer required the Bell companies to open their networks to competitors using wholesale rates. This was the main reason AT&T and MCI were put up for sale — they could no longer compete for local service.

This next exhibit highlights what happened before and after the FCC's decision. In 2002, there were 10.2 million competitive lines, rising to 17 million by 2004. Without the ability to use the local networks, there was a steep decline and by

2008 there were only 6.8 million lines left. By 2008, only 6% of Bell lines were used by competitors.

EXHIBIT 46
Rise and Fall of Competitive Lines in America 2002-2008

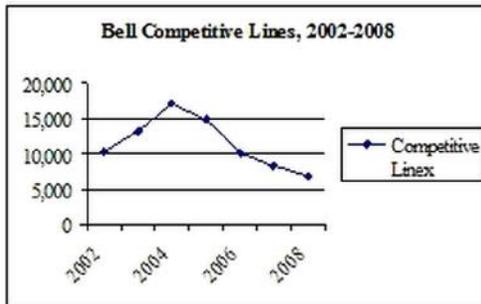


EXHIBIT 47
Competition Rise and Fall, 2002-2008
(000)

	2002	2004	2006	2007	2008	Decline	Total
Verizon	3,698	6,597	3,806	3,046	2,466	62.6%	39,883
SBC	4,476	7,363	4,358	3,849	3,142	57.3%	57,191
Qwest	2,070	3,181	1,906	1,385	1,167	63.3%	11,869
	10,244	17,141	10,070	8,280	6,775	60.5%	108,943
					AVG.	60.95%	

Like the ISPs, the CLECs were also under attack by the telephone companies — even the mighty AT&T and MCI had problems. In some cases there was a systematic attempt to simply poach customers who wanted to switch from the local phone company to the new CLEC — who were offering local and long distance service at cheaper prices — sometimes.

For example, Royce Holland of Allegiance³⁰² testified that there has been a “systematic attempt to thwart sales efforts” — on a customer-by-customer attack.

"We have had additional experiences that we believe warrant Cease and Desist action as well. The Regional Bell Operating Companies (RBOCs) have the ability to thwart CLECs' efforts to attract and retain customers in a myriad of ways other than poor provisioning of the facilities needed to provide service. It has come to Allegiance's attention that Verizon appears to be engaged in a systematic attempt to thwart Allegiance's sales efforts by, among other things, calling our prospective customers after we submit orders to Verizon to switch the customer's service to Allegiance and offering the customers a better deal if they cancel their orders with Allegiance."

This was also discussed in an email that EarthLink, who used Covad as its CLEC, sent to its prospective customers about their orders. The finding: the Bell Atlantic 'No-show' rate for installation appointments was 'as high as 50%'.³⁰³

"Covad's experience has shown that Bell Atlantic has a 'no-show' rate as high as 50% on their installation appointments. We do think it's important for you to know of this potential problem prior to signing up for the service."

Imagine attempting to run a business where you can't supply your service 50% of the time in a reasonable fashion because the company you depend on simply doesn't show up. We note that this was part of the "code red" plan.

I must note that during the time the installers were told by their bosses about how the competitors were destroying the phone companies' business — when in reality, these 'competitors' actually helped to grow the lines and services.

The Ax Man Commeth — FCC Chairman Michael Powell

Michael Powell is the son of war hero Colin Powell and he is now the head of the NCTA, the cable association. Powell was appointed to the Federal

Communications Commission by President Bill Clinton in 1997, and at the beginning of 2001, with the changing of the guard to a Republican, President George Bush made him chairman of the FCC. His transition team comprised of members from the telco-cable think tank, Progress & Freedom Foundation³⁰⁴; their spawn are now part of various corporate-funded groups who are active today.

Powell, I believe, is part of a 'Bell-jar' who has no clue about reality outside of the Beltway. He never had to actually worry about paying a communications bill and most importantly doesn't really care about facts or data — or about competitors or small business.

Let's go through some specific examples of not bothering to examine facts. He was at the FCC when SBC merged with Ameritech, which, as we pointed out, did not bring competition or broadband, but closed down whatever fiber optic broadband networks Ameritech had deployed. According to the FCC merger condition, SBC was to have 30 markets competitive within 30 months of signing — October 1999.

According to the FCC³⁰⁵

"21.Out-of-Territory Competitive Entry (National-Local Strategy)

Within 30 months from the merger closing, SBC/Ameritech will enter at least 30 major markets outside of its region as a facilities-based competitive provider of local services to business and residential customers."

However, the FCC did not take their own conditions seriously. Notice that there are penalties of \$1.2 billion dollars if the company missed to enter the markets, but it was "voluntary".³⁰⁶

"SBC/Ameritech is liable for voluntary incentive payments of nearly \$1.2 billion dollars if it misses the entry requirements in all 30 markets. This condition will ensure that residential consumers and business customers outside of SBC/Ameritech's region benefit from increased facilities-based local competition."

And the FCC's press release³⁰⁷ stated that the merger was "subject to significant, enforceable and unprecedented conditions".

"The 30 conditions adopted by the Commission are designed to accomplish five central public interest goals:

1. promoting equitable and efficient advanced services deployment;
2. ensuring open local markets;
3. fostering significant out-of-region competition for the first time by a Bell Operating Company;
4. improving residential phone service; and,
5. ensuring compliance with and enforcement of the conditions.

As Chairman in 2001, Powell's job was to make sure that the mergers stayed on course — but, as we pointed out, virtually none of it happened.

In fact, during these 30 months the FCC would start the process to get rid of the competitors' ability to even use the networks — and like the rest of Powell's enforcement bureau, it had nothing to do with enforcing the laws — like a policeman on the take.

The FCC Declared War on All Competition

Starting at the end of 2001 and continuing through 2002, the FCC declared war on competition in a blitz-kreig move that took many by surprise. There were multiple inter-related proceedings all of which were designed to close down all competitors on the wires.

"Today's decision (to declare Cable modem service an information service) follows five other related proceedings - the Cable Modem Notice of Inquiry, the National Performance Measures Notice of proposed rulemaking, the Incumbent LEC Broadband Notice, the Triennial UNE Review Notice and, most recently, the Wireline Broadband NPRM. These proceedings, together with today's

actions, are intended to build the foundation for a comprehensive and consistent national broadband policy."³⁰⁸

These inter-related dockets each tore at the fabric of competitive use of the networks that had been established in 1996. We decided for research purposes to give the basics.

- **CC Docket No. 01-337** — "Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services". This docket proposed that the Bells no longer have to resell their broadband networks to CLECs.
- **CC Docket No. 01-338** — "Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability". This docket states that the Bells would no longer have to unbundle their broadband networks for CLECs.
- **CC Docket 02-33** — "Appropriate Framework for Access to the Internet Over Wireline Facilities". This docket declared that 'broadband' was an 'information service and therefore didn't have to be resold to competitors. It also could add/increase new taxes.
- **GN Docket No. 00-185** — "Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities". This docket requested comments on whether high-speed cable services was an information service and therefore all of the current proposed openings for competitive Internet would be closed.
- **CS Docket No. 02-52** — "Internet Over Cable Declaratory Ruling Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities." This docket declared high-speed cable services was

an information service and therefore all of the current proposed openings for competitive Internet would be closed.

- **CC Docket No. 02-39** — “Notice of Inquiry Concerning a Review of the Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers”. This proceeding proposed to eliminate equal access obligations just as the Bell companies were entering long distance.

What a joke. The merger of SBC-Ameritech depended on wholesale rates and being able to use the other companies’ networks, such as SBC getting wholesale rates from, say Verizon in Maryland. And yet while the merger commitments were still in play, at the same time, the phone companies were calling for removing these very same obligations — erasing any requirements to supply these wholesale rates. i.e., the companies could merge without any consequence of reprisals if they simply packed up and left and didn’t compete because, well, the laws were changed so they didn’t have access to wholesale rates anymore.

Reclassifying “Telecommunications” as an “Information Service”

This removal of ‘deregulation’ did one other thing that we are still living with — it redefined basic terms like “telecommunications” and “broadband” and “Internet”. The goal was to remove regulations and obligations.

Before the switcheroo, “broadband” was defined as a “telecommunications” service, commonly called “Title II”, which was established since the Telecommunications Act of 1934 and enshrined in all state laws.

But the Internet had been an ‘information service’ — “Title I” and it had no obligations, such as having to give access to competitors or even quality of service requirements — and so the plan was to redefine all telecom services as an information service.

But oh those tricky bastards. Instead of simply removing the laws, the FCC would keep them in place but would ‘forbear’ on enforcing the laws on the books. I.e., the laws were on the books but not enforceable. The FCC would redefine a fiber optic

line or a broadband-with-Internet service on it as an ‘information service’ and therefore not ‘telecommunications’, even though it was the exact same line wire.

Promise them Broadband — Stupid.

But here is where it all gets well, predictable. There was obviously going to be problems with simply pushing through these new re-regulations — i.e., shutting off the ability of the competitors to use the networks or removing the deregulatory laws that were established by the Telecom Act to “open” the networks.

Looking at the time stamps of approvals of these regulations we find that Verizon and then SBC started telling everyone they would be rolling out fiber optic services — only if the laws were changed so they would ‘invest’.

Gullible Powell bought the telco hype hook, dialtone line and sinker. Powell writes, October 2004:³⁰⁹

“In my separate statement to the *Triennial Review Order* and in countless other statements during my seven years at the Commission, I have emphasized that ‘broadband deployment is the most central communications policy objective of our day’. Today, we take another important step forward to realize this objective.... By removing unbundling obligations for fiber-based technologies, today’s decision holds great promise for consumers, the telecommunications sector and the American economy. The networks we are considering in this item offer speeds of up to 100 Mbps and exist largely where no provider has undertaken the expense and risk of pulling fiber all the way to a home.

“SBC has committed to serve 300,000 households with a FTTH network while BellSouth has deployed a deep fiber network to approximately 1 million homes. Other carriers are taking similar actions.”

- “FTTH” is “Fiber to the Home”, where the fiber optic wire starts at the customer’s location.
- “FTTC”, “Fiber to the Curb”, is defined as 500 feet from a customer's home.

"In granting such relief, we first define FTTC loops. Specifically, a FTTC loop is a fiber transmission facility connecting to copper distribution plant that is not more than 500 feet from the customer’s premises."³¹⁰

However, this was all a total fabrication and Powell’s was simply asleep and didn’t bother to actually track down what was going on — or worse, he decided he’d be working for these companies and just let them do what they wanted to.

We tracked down the original filings from SBC outlining their fiber optic networks. In March 2002, SBC met with the FCC and outlined a plan for fiber to the home — but it was all targeted at telling the FCC that it wouldn’t build if the networks were open to competition.

Now remember, at the exact same time, these companies claimed that they would be going into each others territories and competing for wireline networks — so they claimed that they would be the ones using whatever facilities were in the other Bell’s territories as a “CLEC”.

And yet we find this.

EXHIBIT 48

SBC's Fiber Optic Plans; CLECs Aren't Invited, March 2002³¹¹**CLEC Access Significantly Increases Infrastructure Costs**

- ▲ Driving these additional costs into BPON deployment necessarily will chill investment in BPON and other FTTH solutions, which are risky investments regardless of regulatory hurdles.
- ▲ The end result will be lost opportunity – for customer choice and competition, as cable modem service providers become more dominant and monopoly-entrenched in the provision of advanced and video services.
- ▲ There is significant demand for BPON-like FTTH complete solutions for voice, data and video, but SBC cannot commit to the investment necessary to offer vibrant competition for this demand due to regulatory uncertainty.
- ▲ Regulation can have a significant impact on costs
 - CLEC access to fiber architecture is inherently more expensive than access to copper plant, which itself is quite costly
- ▲ Regulation that drives additional costs into these architectures will increase an already material risk and ultimately eliminate incentives for providers to deploy these technologies and develop new services
- ▲ For SBC, providing CLEC access as described will increase initial infrastructure costs alone by at least 20%.
 - This figure accounts for SBC's use of OCDs already deployed in connection with Project Pronto.
- ▲ The cost ramifications for other providers considering deploying BPON are more significant, as they have not already deployed OCDs in their networks.
 - As a result, BPON infrastructure costs for these other providers will increase by 30% to 50% over the already high costs of such all-fiber architectures.

However, a year after these new regulations were passed, what would become AT&T's U-Verse would not have fiber-to-the-curb but old-copper-to-the-home and fiber within 5000 feet of the customer. Thus AT&T didn't rollout Fiber-to-the-Curb but rather Fiber-to-the-Cabinet. And the size of these "cabinets" is a whole other issue that caused many to complain to their local regulatory authorities.

BellSouth 2005 Annual Report (now part of AT&T) stated:

"BellSouth is well positioned for this transformation due to the high level of fiber in its network and the advanced nature of its IP network. Approximately half the homes in the BellSouth region are expected to be within 5,000 feet of fiber and to be served by

Gigabit Ethernet-fed IP aware DSL technology by December 31, 2007.”

The differences between 500 feet and 5000 feet are huge. The more distance the data has to travel over the wire and the more customers served, the slower the speeds that the service can deliver. So far, AT&T’s speed has been 24 Mbps down and 3 up as the max. The company can now make it faster but it can never seriously compete with fiber to the home, which can do 1 Gbps (1000 Mbps) in both directions easily.

Oh but it does get Sleazy. — Broadband Hype

U-Verse was a hype-filled broadband deployment first and foremost to get the laws passed that would closed down the CLECs and old-AT&T’s ability to compete so that AT&T and MCI would be put up for sale. In June 2004, SBC announced Project Lightspeed, the precursor of U-Verse. Then in October, 2004, as if by magic, the FCC came back with a series of decisions that allowed Project Lightspeed to go forward — because now there weren’t any requirements to wholesale the fiber sections in the network to competitors.

Project Lightspeed, June 2004³¹²

“In June 2004, we announced key advances in developing a network capable of delivering a new generation of integrated digital television, super-high-speed broadband and Voice over Internet Protocol (VoIP) services to our residential and small business customers, referred to as Project Lightspeed.

“In October 2004, the FCC clarified that rules designed for traditional telephone networks would not be applicable to new broadband networks and services. We are conducting trials using the proposed technology and, if successful, we expect to begin our build-out of our fiber-optic network in the first quarter of 2005.”

And the company was lying and laughing all the way to the bank as they simply made up numbers of when they would have 18 million households covered with U-Verse.

“We expect to reach approximately 18 million households by year-end 2007 and expect to spend approximately \$4 billion over the next three years in deployment costs and approximately \$1 billion in customer-activation capital expenditures spread over 2006 and 2007.”

We will discuss U-Verse shortly. U-Verse didn't and wouldn't cover 18 million households nor was it FTTH, nor would they spend \$4 billion of investor capital. Moreover, it was fiber-to-the-cabinet and not fiber-to-the-curb, which is what they had told the FCC all of this new freedom was supposed to be for.

Meanwhile, in a press release dated June 2005, BellSouth and TellLabs wrote that FTTC networks would be going to 1.1 million homes.

“Telllabs Selected by BellSouth for Next-Generation Fiber to the Curb Broadband Network.³¹³

“BellSouth passes approximately 1.1 million homes with FTTC and has approximately 5.3 million miles of fiber within its network. With the Telllabs FiberDirect solution service providers like BellSouth can cost-effectively provide homes and businesses with fiber access up to the last 500 feet, without sacrificing service offerings. This ability enables service providers to deliver broadband services, such as Voice over IP (VoIP) and high-speed Internet access, over a single platform.”

This hype was to make sure that the rest of the dockets that were started over the last few years were completed. There were some naysayers. DSL Prime³¹⁴ wrote about this announcement in September 2005.

“Don’t believe the hype, including VDSL2. It isn’t a ready to deploy product for most carriers. IPTV is generally even further off, according to half a dozen suppliers I spoke with recently. “

Why did BellSouth keep up the hype in 2005 — because all of the dockets had not fully been closed yet and it wouldn’t be good to explain in detail that the company wasn’t doing the deployment it had petitioned the FCC to build?

How AT&T and MCI were Killed by Government Intervention.

The BellSouth 2005 Annual Report³¹⁵ shows that AT&T and MCI were the two leading competitors in the US for local and long distance telephone competition.

“Though our competitors vary by state and market, we believe that at December 31, 2005 our most significant local service competitors were AT&T Corp. and MCI Inc. (currently known as Verizon Communications, Inc.) and our most significant long distance competitors included AT&T, Verizon and Sprint Nextel Corporation.”

Whether all this was worked out in some back rooms at the Mayflower Hotel or maybe at some resort drinking Pina Coladas, by the end of 2005 the competitors were screwed, including AT&T and MCI.

America’s two largest competitors, AT&T and MCI, were essentially closed out of their next steps — closed out of entering the local markets. They had been bundling their local and long distance services as competitors to the incumbents’ local phone service and by the end of 2004, competition was doing fine. Starting in the 1990’s, by 2004 there were 17 million competitive lines. It was also estimated that AT&T and MCI still had the lion’s share of long distance the US.

Within 1 year however, 2005, AT&T and MCI were up for sale and SBC, the company who had gamed every merger, was now going to get what SBC's CEO Ed Whitacre had always wanted — to own the AT&T name. But it was clear that Whitacre didn't really care about the part which said — AT&T was once the most respected and technologically advanced company in the world.

Ironies of ironies, the reason AT&T would be put up for sale was that the company had stopped marketing and couldn't match competitive offerings.

“July 2004, AT&T irrevocably stopped actively marketing traditional mass market services. AT&T thus no longer promotes its traditional mass market services through advertising, telemarketing, direct mail, or affinity agreements. AT&T also has stopped matching competitive offers. Because AT&T is not actively competing on price or marketing itself as an alternative to SBC for traditional mass market services, the merger will not change SBC's current pricing incentives, which are strongly influenced by cable, wireless, and other traditional and non-traditional competitors.”³¹⁶

How insulting. As of this writing I still don't know if all this was planned as AT&T and SBC has actually done an exploratory press campaign in 1997, announcing their merger years before and it was laughed at, as it represented killing off major competitors.

But the idea that the Bell companies first killed off the ability for AT&T to compete through government re-regulation — blocking them from being able to get wholesale rates for using the local wires — and then claim that they stopped marketing so that they weren't a competitive threat — will live in the annals of telecom history as one of the sleaziest deals — ever.

But it gets worse as the closing of the networks also closed down MCI's prospects of competition. MCI was once one of the most litigious companies in telecom, whose feisty president Jim Mc Gowan³¹⁷ won a billion dollar settlement from

the then original AT&T. MCI was instrumental in the 1984 break up of AT&T, America's largest and most respected company.

After its merger with WorldCom, MCI's reputation had been severely tarnished over their last decade by scandal. An article titled "WorldCom Scandal: A Look Back at One of the Biggest Corporate Scandals in U.S. History"³¹⁸, outlined the story of the fall of MCI.

"On July 21, 2002, WorldCom filed for Chapter 11 bankruptcy protection, the largest such filing in United States history. The company emerged from Chapter 11 bankruptcy in 2004 with about \$5.7 billion in debt. At last count, WorldCom has yet to pay its creditors, many of whom have waited years for the money owed.

"On March 15, 2005 Bernard Ebbers was found guilty of all charges and convicted on fraud, conspiracy and filing false documents with regulators. He was sentenced to 25 years in prison."

However, probably the strangest story of all is how Verizon's³¹⁹ fake consumer groups during the trial of WorldCom-MCI had people outside the courthouse screaming about the evils of MCI — and the Judge actually noted — I paraphrase — "*Hear those people out there who want justice?*" — even though Verizon would end up buying the fallen MCI. And Verizon, through a public affairs group, Issue Dynamics, got the Gray Panthers to run advertisements about how harmful the MCI-WorldCom dealings were as well showing that even seniors were outraged by the goings on.³²⁰

The FCC Approves the Mergers of AT&T-SBC and MCI-Verizon

On October 31, 2005, the FCC agreed to the SBC-AT&T Merger and the MCI-Verizon merger. Under the rubric of "Public Interest Benefits", it explained that AT&T and MCI were already kaput and that 'inter-modal' competition, i.e., cable companies

and wireless services competing with wired companies would be the next step in competition.

“Mass market competition: The Commission found that the mergers are not likely to result in anticompetitive effects for mass market customers because AT&T has ceased marketing those services and is gradually withdrawing from that market, while MCI has significantly reduced its marketing. The Commission further found that facilities — based intermodal competition, including cable VoIP and wireless services, is growing rapidly and will play an increasingly important role with respect to future mass market competition.”³²¹

The Commission went on to list various consumer benefits, which included “benefit national defense and homeland security”. And, “Finally, the mergers should result in substantial cost savings, which should benefit consumers throughout the country.”

There was at least one FCC Commissioner who was not happy with the merger or with the first part of the new millennium at the FCC. Then-Commissioner Michael Copps wrote:

Commissioner Michael J. Copps³²² — October 31, 2005

“If you seek the reason why we haven’t arrived at that happy valley of competition rife with consumer benefits, you can start with the misdirected policies of the FCC over the last several years. On too many fronts, the Commission put the spear to the pro-competitive policies of the Telecommunications Act of 1996. It put intra-modal competition for the residential market pretty much beyond reach for new entrant carriers and then proceeded to inhibit enterprise competition, too. We turned our eyes away when enforcement was needed to keep bottleneck facilities open. And all the while we kept singing confidently “Don’t Worry, Be Happy”—

inter-modal competition is going to save us with all its new options. Maybe, but then again maybe not — we're still waiting. I think we ought to be concerned. Thanks in part to our actions, the wireline market became increasingly the province of the few. More than half of the wireless market came under the control of incumbent wireline providers. New services like VoIP have been held back by the high cost of broadband in this country. And now the Internet backbone seems headed in the same direction of control by a favored few.”

Chapter 23 The Last Merger: BellSouth: AT&T Mops Up Loose Ends with Again More Broadband Promises.

Timeline: 2006-2014

(**Note:** We decided to tell the entire story through to the proposed AT&T-DirectTV merger (as of September 2014) and all of the materials will be detailed in the proceeding chapters.)

After these mergers, the now-AT&T looked at a map of the United States and said — Who's left to buy? As you may remember, there were seven Bell companies and independent local phone companies, like GTE and SNET, as well as AT&T and MCI. And what was left after the formation of AT&T and Verizon by 2006 was BellSouth and Qwest, formerly US West. Qwest was large in territory but not population, with states like Wyoming or Montana, so that left BellSouth.

Who was Bellsouth?

BellSouth was one of the original seven Bell companies. BellSouth's 2004 Annual Report³²³ outlined that it was the incumbent in nine states.

“We are the leading communications service provider in the southeastern United States (US), serving substantial portions of the population within Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. BellSouth Telecommunications, Inc. (BST), our wholly-owned subsidiary, provides wireline communications services, including local exchange, network access, intraLATA long distance services and Internet services.”

Moreover, BellSouth was a partner with SBC in Cingular Wireless, which would become AT&T Wireless.

“We have interests in wireless communications through our ownership of approximately 40% of Cingular Wireless (Cingular), the nation’s largest wireless company based on number of customers....During 2004, and we realigned our assets towards domestic wireless and increased investment in broadband to better position the company for the future. Specifically, our wireless joint venture, Cingular Wireless, purchased AT&T Wireless in October 2004, causing Cingular to become the largest wireless company in the United States and increasing the percentage of our revenue from wireless operations on a pro forma basis to approximately 40%.”

As the newly-minted AT&T stared at a map of the US, and since BellSouth was contiguous with both SBC and Ameritech’s states, instead of competing, SBC-now-AT&T decided to buy the company.

There was a small rub, however, as this would mean that the new AT&T would control 22 states, not to mention be one of the two largest wireless companies. So to grease the skids, like the previous mergers, the FCC had the companies make commitments³²⁴ to the public; the FCC wanted to sound like it was ‘hanging tough’.

As part of the merger of AT&T and Bellsouth, AT&T made written commitments to have 100% of this combined 22 state territories capable of 200 Kbps in 1 direction by the end of 2007.³²⁵

“By December 31, 2007, AT&T/BellSouth will offer broadband Internet access service (i.e., Internet access service at speeds in excess of 200 kbps in at least one direction) to 100 percent of the residential living units in the AT&T/BellSouth in-region territory. To meet this commitment, AT&T/BellSouth will offer broadband Internet access services to at least 85 percent of such living units using wireline technologies (the "Wireline Buildout Area"). AT&T/BellSouth will make available broadband Internet access service to the remaining living units using

alternative technologies and operating arrangements, including but not limited to satellite and Wi-Max fixed wireless technologies. AT&T/BellSouth further commits that at least 30 percent of the incremental deployment after the Merger Closing Date necessary to achieve the Wireline Buildout Area commitment will be to rural areas or low income living units.”

I note that this was the ‘brain-dead’ speed of broadband set by the FCC in 1998, which I’ll return to shortly.

The second commitment was to have \$10.00 DSL to new customers.³²⁶

“Within six months of the Merger Closing Date, and continuing for at least 30 months from the inception of the offer, AT&T/BellSouth will offer to retail consumers in the Wireline Buildout Area, who have not previously subscribed to AT&T’s or BellSouth’s ADSL service, a broadband Internet access service at a speed of up to 768 Kbps at a monthly rate (exclusive of any applicable taxes and regulatory fees) of \$10 per month.”

And,

“AT&T/BellSouth will continue to deploy fiber-based facilities and intends to have the capability to reach at least 1.5 million homes’ in the BellSouth in-region territory by the end of 2007.”

One would think that the FCC by now would have realized that the companies never fulfilled any obligations, but the FCC’s tracking was a joke and every merger detail would be forgotten a few months after the document was signed.

True to form, when we checked, the DSL \$10.00 deal never happened, nor did the 100% of the 22 states get covered with the capability of 200Kbps in 1 direction. And the “fiber optic-based” facilities, which was U-Verse, was based on

copper-to-the-home, fiber-to-the-neighborhood (cabinet/node); it was NOT a fiber optic to the home service.

In 2013, Huffington Post's Gerry Smith³²⁷ reported on the progress of the BellSouth-AT&T broadband commitments.

“Many Rural AT&T Customers Still Lack High-Speed Internet Despite Merger Promise...The disconnect here in rural Mississippi highlights a major shortcoming of American telecommunications policy, consumer advocates say. Time and again, regulators have approved enormous mergers in exchange for promises that companies will extend high-speed Internet to underserved communities. Time and again, companies have pocketed the profits from those deals while regulators have failed to enforce their obligations.”

But it gets worse as more data piles on.

First, we have AT&T's “VIP” announcement at the end of 2012, which claims that 25% may never have been upgraded with broadband. In the “VIP plan”, AT&T made it clear that they had failed to properly upgrade and maintain about 25% of their entire 22 states over the last two decades.³²⁸

“AT&T plans to expand and enhance its wireline IP network to 57 million customer locations (consumer and small business) or 75 percent of all customer locations in its wireline service area by year-end 2015.

This network expansion will consist of:

- “U-verse. AT&T plans to expand U-verse (TV, Internet, Voice over IP) by more than one-third or about 8.5 million additional customer locations, for a total potential U-verse market of 33 million customer

locations¹. The expansion is expected to be essentially complete by year-end 2015.

- "In the 25 percent of AT&T's wireline customer locations where it's currently not economically feasible to build a competitive IP wireline network, the company said it will utilize its expanding 4G LTE wireless network -- as it becomes available -- to offer voice and high-speed IP Internet services."

Do the math: AT&T has 76 million 'locations' according to their own statements. (Note: If 75% equals 57 million then 100% is 76 million.) AT&T will have a total of 33 million locations by the end of 2015 — which means that AT&T will only have about 40% of their 22 states covered with TV competition. And it also states that 25% won't ever get properly upgraded — and this obviously was the case in the year 2007.

Next we have the AT&T IP Transition trial documents (which we discuss elsewhere) which more or less proves AT&T never completed the AT&T-Bellsouth commitments. AT&T writes that there are areas where they have no current solution, even with wireless products:³²⁹

"The living units in the "IP Wireline Red and IP Wireless Red" category will not have an IP-based alternative available from AT&T. AT&T continues to consider options for these living units."

AT&T supplies this chart and redacted information to reassure us that we should 'trust them'.

End of Year 2015							
Serving Wire Center	Total Wire Center LUs	IP Wireline Green		IP Wireline Red/IP Wireless Green		IP Wireline Red/IP Wireless Red	
		LUs	% Total LUs	LUs	% Total LUs	LUs	% Total LUs
Carbon Hill	4,388	█	█	█	█	█	█
Kings Point	49,712	█	█	█	█	█	█

3.5.1. *Carbon Hill*. As of December 2013, AT&T provides wireline retail services to [CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE]¹⁷ in the Carbon Hill wire center out of a total of 4,388 living units in the wire center to which it offers wireline services. [CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE] percent of the Carbon Hill living units will have a wireline IP-based alternative to TDM-based services available from AT&T by the end of 2015. [CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE] percent will have at least one IP-based alternative available—wireline, wireless or both. AT&T has not yet found a viable replacement service for the [CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE] percent of living units, and still is considering its options for those living units.

The report goes on to say that AT&T’s plan is to ‘shut off’ 56% of the entire town and push them onto wireless service to ‘improve’ their service, but AT&T hasn’t figured out how to serve 4%. Does this mean that AT&T never upgraded this 4%, much less this 56%, even though under the AT&T-BellSouth commitment was for 100%? (Carbon Hill Alabama is an AT&T IP transition trial site.)

These factors make it uneconomic for AT&T to extend its next generation wireline broadband network and services to all existing customer locations in Carbon Hill. Consequently, AT&T currently plans to offer such wireline IP services to approximately [CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE] percent of living units in Carbon Hill. It will offer its wireless broadband voice and data services only to an additional [CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE] percent of living units. AT&T has not yet found a viable replacement service for the remaining four percent of locations, and still is considering its options for those living units.

The icing on the cake. But it is the recent information disclosed in a press release dated May 19th, 2014 for the proposed AT&T-Direct TV merger that should clinch this. The release claims that a major reason for the merger is that it will bring broadband to 15 million customers in AT&T’s territories that do not have high speed service today.³³⁰

"15 Million Customer Locations Get More High Speed Broadband Competition. AT&T will use the merger synergies to expand its plans to build and enhance high-speed broadband service to 15 million customer locations, mostly in rural areas where AT&T does not provide high-speed broadband service today, utilizing a

combination of technologies including fiber to the premises and fixed wireless local loop capabilities."

If AT&T is already supposed to have 100% completed, how can 15 million locations — at least 20% of all AT&T areas, not already have high speed broadband?

AT&T-Direct TV Proposed Merger — Another Fiber-to-the-Press Release?

The headline reads “AT&T Eyes 100 U.S. Cities and Municipalities for its Ultra-Fast Fiber Network”.³³¹ Dated Apr 21, 2014, the press release is accompanied by a chart of the cities that are being considered for this ‘ultra-fast’ fiber optic service, and yet, at the bottom of the chart there is a footnote detailing that there was one city, Austin, TX, where AT&T was “already servicing with fiber today”.

And during August 2014, there were other announcements.³³² For example, Silicon Valley, in Cupertino California is going to be the first in California to get ultra-high-speed services.

Cupertino Mayor Gilbert Wong is quoted in the AT&T release:

“Cupertino is proud to be the first city announced in California set to receive the ultra-high-speed AT&T GigaPower network, Cupertino is leading the way in creating an environment that fosters innovation, and the deployment of ultra-high-speed broadband service will further support innovation in our community, spur our local businesses, and result in even greater economic development in our city. We are very pleased to work with AT&T to offer this unprecedented service to our residents and small businesses.”

Sound familiar? Reading the release, it is clear why AT&T is making these announcements; the proposed acquisition of Direct TV.

“Additionally, AT&T has committed that upon approval of its proposed acquisition of DIRECTV, the company will expand the AT&T GigaPower network to an additional 2 million customer locations. All of these 2 million locations are over and above what the company announced in April.”

Moreover, AT&T appears to be hedging its bets as the press releases do not contain basic terms like “Fiber-to-the-Home” or “premises”, but instead “includes fiber optic technology”.

“AT&T U-verse uses advanced IP technology and a network that includes fiber-optic technology to go beyond what cable can offer. It transforms the user experience for consumers and business users and is an essential part of AT&T’s commitment to fiber infrastructure.”

Moreover, besides the merger, this is also part of ‘Project VIP’, which, as we will discuss in future chapters, is designed to help AT&T push through their “IP transition” plans to get rid of regulations and oversight on the existing wires.

“The planned expanded availability of U-verse with GigaPower is part of AT&T’s Project Velocity IP (VIP) investment plan to expand and enhance its wireless and wireline IP broadband networks to support growing customer demand for high-speed Internet access, advanced TV services, and new mobile and cloud services. This expanded fiber build is not expected to impact AT&T’s capital investment plans for 2014.”

And we can’t expect too much of the fiber deployment as this is based on existing capital expenditures — no new capital is being used for construction.

But the kicker is this paragraph in the releases, which details that AT&T wants “the most receptive policies”, i.e., it wants to get rid of regulations and obligations and have a sweet-heart deal with any city that agrees to AT&T’s terms.

“AT&T will work with local leaders in these markets to discuss ways to bring the service to their communities. Similar to previously announced metro area selections in Austin and Dallas and advanced discussions in Raleigh-Durham and Winston-Salem, communities that have suitable network facilities, and show the strongest investment cases based on anticipated demand and the most receptive policies will influence these future selections and coverage maps within selected areas.”

But there is a much darker side to this — AT&T is the incumbent utility phone company in the cities that the company has an ‘eye’ to upgrade. Yet, in 22 states, it deployed U-Verse, a copper-to-the-home’ service. It left Cupertino and all of the other cities on the list fiber-starved since the 1990’s. Will throwing some broadband carrots around make those in AT&T’s 22 states feel better knowing some day, they too, may be part of another announcement to get upgraded to fiber optics?

Bottom line: AT&T’s track record is clear— in every merger AT&T will make claims about bringing broadband to areas or competing out of region, and in every case, the commitments made in statements like these were never met.

But, as usual, the press has no clue about AT&T’s ‘say anything’ history. CNN/money writes;³³³

“Where you can get blazing-fast Internet speeds.

“AT&T’s U-Verse service has been most bullish in its gigabit Internet plans, launching or getting set to deploy in 14 cities over the past year -- including major metropolitan areas, such as Dallas, Charlotte, Houston, Miami and Nashville. It is currently operating in Dallas, Fort Worth and Austin, Texas, and it is exploring gigabit

Internet deployments in more than a dozen other markets in the future.”

“Trust us. We’re the phone company.” is now ‘Please Sir, may I have another?’

Chapter 24 The Rise of AT&T U-Verse and Verizon's FiOS**Timeline: 2004-2010**

As we have just demonstrated over the last few hundred pages, most of America's households should have been rewired with a fiber optic service, with about half of the US completed by the year 2000. These services were to be capable of speeds of 45 Mbps in both directions that could handle 500+ channels of service and cost around \$40 bucks. This was supposed to be ubiquitous in urban, suburban and rural areas equally, as well as economically diverse areas. And these networks were completely open to all forms of competition.

By the end of 2005 there were still 0, Zero, Zilch Bell households with these capabilities, even though state laws were changed to give these companies more money. And one top of all of this, in every merger the fiber optic carrot was placed in front of a gullible public — though there are other terms that could be used for the regulators who let these mergers go forward or gave the companies blank checks; the benefits did accrue, but not to the public but to the phone companies.

And so, by 2004 the country was still not upgraded — and the telcos wanted to get larger and remove all regulations.

AT&T did eventually launch a broadband-TV product called U-Verse and Verizon announced FiOS. Let's go through the launch history of these two products and the next round of regulatory concessions which were garnered by the companies' applying for 'state-wide' cable franchises, where again, history was to repeat itself and telco self interest would trump the public interest — with the punchline — by 2010 Verizon and AT&T were able to simply stop expanding their broadband-TV networks.

Say Anything: No One Remembers.

In 2004 Verizon decided to rewrite history. Compare these series of quotes from Verizon in May 2004 and two from Bell Atlantic (now Verizon) from 1993 and 1996. How is it that Verizon was having an historic first in 2004 wiring a community when it was supposed to have 12 million fiber optic upgraded homes by 2000?

Verizon's FIOS Announcement, May 19, 2004³³⁴

- Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber-Optic Technology with Keller, Texas. Verizon has begun installing in Keller a new technology known as fiber to the premises (FTTP), which uses fiber optic cable and optical electronics to directly link homes and businesses to Verizon's network. The fiber optic connections will replace traditional copper-wire links.... Although the use of fiber optic technology is common throughout the telecom industry, *Verizon is the first company to begin using it to directly connect homes and businesses to the network on a widespread scale.*" (Emphasis added)
- "'FTTP is moving from field trials and the lab to the real world, and it's happening in Keller first,' Verizon Network Services Group President Paul Lacouture said at a news conference with city officials here today... In short, we are building a new network that will make us the broadband leader in the 21st century... *Overall, Verizon plans to pass about 1 million homes in parts of nine states with this new technology by the end of the year.*" (Emphasis added)

The original fiber optic promises, Bell Atlantic, 1993-1996

- Bell Atlantic 1993 Annual Report³³⁵. "First, we announced our intention to lead the country in the deployment of the information highway.... We will spend \$11 billion over the next five years to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region... We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets.... These investments will help establish Bell Atlantic as a world leader...."
- Bell Atlantic Press Release, July 1996.³³⁶ "The company plans to add digital video broadcast capabilities to this 'fiber-to-the-curb', switched broadband network by the third quarter of 1997... Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year... Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks."

And to complete the record at hand, here's what SBC said about Lightspeed (later named U-Verse). It would offer "next-generation television, data and voice services" and be "available to 18 million households by the end of 2007".

SBC, November 11, 2004³³⁷

"SBC Communications Inc. (NYSE:SBC) today will provide operational and financial details on its plans to deploy fiber optics closer to customers and build an advanced, IP-based (Internet Protocol) network capable of delivering a rich array of integrated *next-generation television, data and voice services* substantially beyond what is available from today's telephone, cable or satellite TV providers. (Emphasis added)

"In a conference call today, the company will say network lab and field trials are under way, *network construction is scheduled to begin in the first quarter of 2005 and SBC's new IP-based network is expected to be available to 18 million households by the end of 2007. The launch of IP-based TV services over the new network is planned for the fourth quarter of 2005.*" (Emphasis added)

As we pointed out, the SBC-Ameritech-SNET-Pac Bell merged companies should have spent \$33.6 billion and have at least 12.5 million households wired by 2000.

U-Verse Got Off to a Slow Start.

AT&T's U-Verse announcements were simply another version of hype to get the mergers of AT&T-SBC and BellSouth to go through, as well as remove competitors from their right to use the customer-funded networks.

Here's just a sample of "Oops", the changes in schedules that Lightspeed went gone through starting in 2004 and the changes in stated expenditures. "IPTV",

the basis of U-Verse cable services was to be released late 2005, but soon turned into a “controlled entry”, and then a moveable feast to early 2007. Source: SBC.

- 3/11/04 — “IP TV launch expected, late 2005”.
- 3/10/05 — “initial controlled market entry in late 2005 or early 2006”.
- 10/18/05 — “introducing services enabled by the IMS platform in late 2006 or early 2007.”

As of January 2006, SBC had rolled out a few homes in Texas.³³⁸

“AT&T has quietly entered the TV market with the launch of its new Internet-based service in Texas....is offering the service to a limited number of customers in San Antonio, where the company is headquartered.... But in this initial release of the service, many of the features aren’t available....”

Capital Expenditures Were Always Chump Change

Meanwhile, expenditures went from being \$5.5 billion in toto, which was announced in 2004, to \$4 billion in announcements in 2005, even though the company had significant profits every quarter in 2005.

- 11/11/04 — “2005 overall capital expenditures — \$5 billion to \$5.5 billion”
- 8/19/05 — “SBC’s \$4 billion IPTV investment”

Do the Math

The most pathetic part of these statistics is what happens when you start trying to make sense of them. In the quote, SBC stated it would spend \$4 billion over 3 years — about \$1.3 billion a year. An additional \$1.3 billion was essentially chump change when you are talking about a company worth over \$40+ billion in 2004. (This does not include

Cingular's revenues, SBC and BellSouth's wireless venture, or the acquisition of AT&T.)

Simple math: 18 million households divided by \$4 billion yields a sad fact — the actual expenditures are only \$222 per-household, which is probably not even enough for the set top box in the house, much less the costs of rewiring homes and neighborhoods.

Where would these deployments go? An op-ed from Rev. Mark McCleary, who was chairman of the National Black Church Initiative's Minister Alliance, outlined that with FIOS and Lightspeed, the "Digital divide widens even more"³³⁹.

Friday, December 23, 2005

"AT&T's proposal, for instance, is known as 'Project Lightspeed'. Months ago, its executives said that its bold new broadband service would be rolled out to 90 percent of its 'high value' customers but only 5 percent of 'low value' customers. Chaffing at what seemed to be an open admission of redlining, U.S. Rep. Ed Markey, whose subcommittee oversees telecom policy, accused the company of offering 'Lightspeed for the well-off and 'snail-speed' for everyone else.'

"In Markey's state of Massachusetts, Verizon has committed to bring its new FiOS broadband network to only 39 communities, bypassing nearly every major center of African Americans and Hispanics. All but one community resides above the state's median income and not a single neighborhood to be served has a majority African American or Hispanic population. If you pull out a map of the other states Verizon serves — such as New Jersey, New York, Virginia, Texas and Pennsylvania — its rollout plans are equally exclusionary. Middle-income and minority communities are mostly left in the cold."

In our case study on New Jersey it is clear that this pick and choose philosophy puts the Bell companies in control of creating the “haves” and the “have nots”.

Part IV Alternative Paths Leading to the Same Conclusion**Chapter 25 The Other Path: The Rise and Fall of AT&T****Timeline: 1984-2005**

While the book focuses on the Bell companies, we should give the reader the flipside of this equation and discuss the actions of the AT&T that existed post the break up, (the long distance company), which started in 1984 and existed until it eventually became merged with SBC in 2005, who always wanted the brand name and became at&t, now presented in lower case letters.

How AT&T became at&t

By 1996, there were two telecommunications camps — the incumbent Bell companies on one side and on the other was everyone else, including the long distance companies and the competitors, which acted as counterweights to the Baby Bells. The other side was led by the two largest companies, AT&T and MCI, which was the then scrappy long distance company that was rumored to have more lawyers than telecom employees. MCI was driven by the charismatic Bill McGowan, who had wanted to get into the long distance markets. In 1996 with the passage of the Telecommunications Act, both companies were now poised to enter the local phone service arena so they could combine their long distance services as a bundle.

Remember, the Telecom Act of 1996 had opened the networks and had made this possible — on paper.

AT&T's concern, and rightly so, was that even when the networks were opened to competitors, the Bell companies and the cable companies would still control the critical connection to the customer premises, so AT&T decided to buy their way in to have a direct connection to the so-called "Last Mile".

In fact, AT&T never really wanted to compete, it would seem. In 1997, at the beginning of the Bell merger feeding frenzy, AT&T and SBC announced that they wanted to merge. And this was a dream come true for SBC's Ed Whitacre, who had

always wanted to be AT&T and this was the first attempt to try and capture that household 'brand name'.

Unfortunately for Whitacre, it was clear that this idea was as dead as a sun-dried mummy. The New York Times³⁴⁰ wrote about the boos and jeers from the regulators and telecom community.

“The AT&T Corporation broke off its merger talks with SBC Communications yesterday after a hailstorm of criticism from regulators and mounting internal disagreement about how to structure a deal, according to several executives involved in the talks.

”The deal is totally dead,” said one executive familiar with the talks, who insisted on anonymity.”

AT&T then decided that it needed that customer connection and fool-heartedly went after this purchase as a piece of the real estate. AT&T would buy their way into the local markets and started by making a deal to buy the cable company, Media One for \$44 billion dollars.

*CNet*³⁴¹ reported “AT&T, MediaOne merger a done deal.”

“Telecommunications giant AT&T said today it has completed its \$44 billion merger with cable operator MediaOne Group, creating the country's largest cable operator.

“The combined company will become the country's largest cable operator, with about 16 million customers. AT&T said MediaOne will become part of AT&T Broadband, based in the Denver area. MediaOne's services eventually will be renamed under the AT&T brand', the company said.”

According to Wikipedia³⁴², this was just warm up. AT&T was on a buying spree but, this was closer to playing musical chairs on the Titanic and in a few years the company would become the largest cable company, and spent \$105 billion to prove it, but then sold off the companies for only \$47.5 billion just a few years later.

“AT&T Broadband was the name of AT&T’s cable operations, which were composed of the assets of TCI and MediaOne, Prime Cable, as well as two Comcast cable systems. Formed in 1999, AT&T Broadband was the largest provider of cable television services. Media and online services for AT&T Broadband customers were originally provided by either RoadRunner or Excite@Home. In late 2000, AT&T Broadband acquired several Paragon Cable assets in Oregon and Texas during (its)? AT&T spent over \$105 billion to form this cable unit, and then agreed to sell it to Comcast initially for \$72 billion, but finally settled at \$47.5 billion due to the declining market.

“AT&T went through a corporate restructuring process in 2002, which called for AT&T Wireless, AT&T Business, AT&T Consumer, and AT&T Broadband all to become separate companies. Only AT&T Wireless was spun off (although repurchased later by AT&T), and AT&T Broadband was purchased by Comcast in 2003.”

So, in roughly three years, 1999-2002, AT&T spent \$105 billion dollars to become the largest cable company in America and then sold everything off at a fire sale for 60% off.

AT&T Attempted to Enter the Local Markets.

AT&T was also trying to enter the local phone markets, as the Telecom Act of 1996 allowed the company to get use of the incumbent wires at a wholesale cost. And as we

discussed, it wasn't being done for free; the Bells were getting into new businesses as a 'carrot', such as long distance or broadband services.

And what is remarkable is that the old AT&T claimed that what is now at&t, (formerly SBC) and the other Bell companies harmed AT&T's attempts to enter the local market at every turn.

On May 2, 2001, AT&T's President, David Dorman,³⁴³ testified in front of the Senate Judiciary Antitrust, Business Rights and Competition Committee.

“Since 1996, AT&T has been a leader in developing competitive alternatives to the incumbent telephone monopolies. We have invested tens of billions of dollars in local telecommunications and cable networks and now serve over 2 million local customers. Unfortunately, our efforts and the efforts of other local competitors have been resisted at every turn by the incumbents. And now the incumbents seek changes in the law that would repeal the rules that are essential to local competition and remove the incentives put in the statute to encourage them to open their local markets. If enacted, such changes would exacerbate the current financial crunch and extinguish the prospects for competition that seemed so bright only five years ago.”

And the FCC simply did nothing while AT&T outlined that the game was rigged and that the 'wholesale prices' charged by the incumbents could be more than the retail prices.³⁴⁴

“Incumbents Wholesale Rates Would Eliminate Competition. “Although competitors seeking to enter the market by reselling the incumbent's service are entitled to buy that service at the wholesale rate, incumbents have virtually eliminated resale as an option for new competitors by offering wholesale rates for local network capacity that are too high for competitors to make a profit on the resold service. In some cases, the wholesale rates offered to

potential competitors exceed retail rates. In New Jersey, for example, the average retail rate is \$8.19 per month, while the wholesale rate offered to competitors is \$25 per month.”

AT&T’s Structural Separation Play

By 1999, AT&T had decided that they needed to move to the next step and went state to state, as well as to Congress to attempt to get ‘structural separation’ — meaning that the incumbent companies, such as Verizon, would be separated from the controls over the wires.

An article in the *Yale Journal on Regulation*³⁴⁵ by two Bell-funded analysts, Robert W. Crandall and J. Gregory Sidak, described AT&T’s Chairman’s speech on the need for structural separation.

“In February 2001, the chairman of AT&T, C. Michael Armstrong, publicly advocated such intervention by state or federal regulators or by Congress.³⁴⁶ By the summer of 2001, regulators in Pennsylvania, New Jersey, and Florida had considered or begun proceedings on the subject,³⁴⁷ and Senator Ernest F. Hollings, chairman of the Senate Commerce Committee, had introduced the *Telecommunications Competition Enforcement Act of 2001*, a bill that would mandate structural separation of the ILECs.³⁴⁸

And the analysts gave a summary of the term ‘structural separation’.

“The phrase “structural separation” has come to have many meanings. Different meanings of the term, however, have different policy implications. In general, there are three different understandings of structural separation. The first type is the divestiture of the retail service division from the wholesale network division. Under the second form of structural separation, one company owns and operates the telecommunications network

while other companies actually provide the service to end users. The third form, functional separation, requires the ILEC to form separate divisions that interact at arm's length.”

Of course the rest of their analysis was to trash the idea, and structural separation never got traction or passed in any state.

Unfortunately, AT&T couldn't beat out the beat of the drums of the incumbents and by the end of 2005, it was obvious that the networks that AT&T depended on would be closed to almost all competitors, especially for residential services, and was put up for sale in 2005.

MCI?

Wikipedia³⁴⁹ summarized the rise and fall until their sale in 2006 to Verizon.

“MCI Communications Corp. was an American telecommunications company that was instrumental in legal and regulatory changes that led to the breakup of the AT&T monopoly of American telephony and ushered in the competitive long-distance telephone industry. It was headquartered in Washington, D.C.

“Founded in 1963, it grew to be the second-largest long-distance provider in the U.S. It was purchased by WorldCom in 1998 and became MCI WorldCom, with the name afterwards being shortened to WorldCom in 2000. WorldCom's financial scandals and bankruptcy led that company to change its name in 2003 to MCI Inc... The MCI name disappeared in January 2006 after the company was bought by Verizon. As of May 2011, the MCI trademark is still maintained on MCI.com and on a sub-page of Verizon.com.”

And with this, the two largest competitors in the US were closed down because the incumbent phone companies, now at&t and Verizon, had been able to take over the FCC and got the government to do the dirty work — not market forces or competitive offerings.

AT&T vs Portland: The Start of the Cable Modem Fights

Before we leave AT&T there was a pivotal incident in 1999 that would start a course of events to close the cable networks — and eventually the wired networks to competition.

The following were comments filed with the FCC by the Mt. Hood Cable Regulatory Commission in January 1999. AT&T's TCI refused to open their networks to competitors during the transfer of the cable company to AT&T.³⁵⁰

"... AT&T/TCI intend to do everything possible, including filing litigation, to maintain bottleneck control over the cable customer's initial entry to the high-speed cable Internet platform. Such control is maintained by requiring each cable customer to enter the high-speed Internet world only through the proprietary platform (e.g. "@Home", "Road Runner") of the incumbent cable operator, before reaching other platforms, ISP's, and content providers of the consumer's choice. Without a broad menu of wholesale access through the cable modem, it is not clear to us that the present great variety in narrowband retail access choices (through online providers and ISP's) will survive ..."

What irony. While AT&T was fighting to open the Bell phone company wires, it was a legal action by AT&T to block 'open broadband networks' of its cable holdings in Portland that started the path to torpedo the use of the cable networks by competitive ISPs, and was in fact tied to the closing of the phone networks that ended up dropping the bomb and putting AT&T up for sale.

Essentially, AT&T with its newly acquired cable company, TCI, filed to block a condition during the transfer of its cable company that would require the company's broadband Internet service that used a cable modem to be opened to other Internet Service Providers.

Excerpt from City of Portland Ordinance³⁵¹, January 10th, 1999:

“Non-discriminatory access to cable modem platform. Transferee shall provide, and cause the Franchisees to provide, non-discriminatory access to the Franchisees' cable modem platform for providers of Internet and on-line services, whether or not such providers are affiliated with Transferee or the Franchisees, unless otherwise required by applicable law.”

And so started the long steady decline of customers' rights to choose their own Internet Service Provider over a cable modem service. *AT&T Corp. v. City of Portland* (and appeals, etc) started the path to reclassify the 'cable modem' broadband Internet service which had been classified as a Title VI, a cable service by the Telecommunications Act to Title I, an information service.

Brand X vs NTCA

The *AT&T vs Portland* case left open some questions but essentially said that the cable modem service was in fact a combo platter where parts of the service were classified as a 'telecommunications' service, while others were an 'information' service. This would have allowed ISPs to use the cable networks to offer their own Internet service over via a cable modem.

And from the reader's point of view, this meant that you could have selected your own Internet provider and not be tied to only the cable company's own affiliate Internet provider's offerings.

In 2000, the FCC decided to take its own path to help the phone and cable companies and ignored the previous court decision. The FCC ruled that a cable modem service was an ‘information’ service and therefore the companies had no obligations to open the networks to competitors.

This went against Telecom Act’s thrust for ‘opening the networks’ and some ISPs, including a small, scrappy ISP named Brand X, filed a federal law suit³⁵², which ended up in the Ninth Circuit. Brand X argued that the Portland decision specifically outlined that the cable companies’ service was an information service as well as a telecommunications service, and the court agreed with Brand X, but this was a short lived victory.

In 2003, the FCC and the NCTA, the cable association, decided that this decision couldn’t stand and so it appealed and the case made its way to the Supreme Court. And America lost. By 2005, America lost the right to choose their own Internet Provider on the cable networks.

However, the legal mumbo-jumbo of this case allowed the FCC to win based on something called the ‘Chevron deference’. I.e., if the FCC says something — as the ‘agency of record’ that handles telecommunications, they get the court’s preference over logic.

Thus, the case was rigged against the ISPs as the FCC’s goal was to get rid of competitors, and like a Vegas gambling den, ‘the house always wins’.

The Tech Law Journal³⁵³ covered the case and quoted the dissenting Opinion by Justice Antonin Scalia, who was joined, in part, by Justices David Souter and Ruth Ginsburg.

Justice Scalia wrote:

“Actually, in these cases, it might be more accurate to say the Commission has attempted to establish a whole new regime of *non*-regulation, which will make for more or less free-market competition, depending upon whose experts are believed. The important fact, however, is that the Commission has chosen to

achieve this through an implausible reading of the statute, and has thus exceeded the authority given it by Congress."

"What the Commission hath given, the Commission may well take away -- unless it doesn't. This is a wonderful illustration of how an experienced agency can (with some assistance from credulous courts) turn statutory constraints into bureaucratic discretions.

Scalia concluded that cable modem service was a telecom service

"After all is said and done, after all the regulatory cant has been translated, and the smoke of agency expertise blown away, it remains perfectly clear that someone who sells cable-modem service is "offering" telecommunications."

I stress these points because the FCC would use this decision to say that there needed to be a 'level playing field' between the cable and phone companies and so they declared that the phone companies' DSL and broadband service, (or using a fiber optic wire infrastructure) when combined with the Internet was no longer a telecommunications service but an 'information' service.

This decision, of course, also allowed the companies to vertically integrate their own affiliate services over the wire and thus caused Net Neutrality issues.

This would also lead us to the next phase, the FCC's IP transition and the attempt to redefine ALL telecommunications services as 'information services'.

Chapter 26 Municipality Broadband and the ‘Barriers to Entry’.

According to Cybertelecom,³⁵⁴ the history of municipality involvement in communications goes back over 160 years.

- The US government funded part of the construction of the early telegraph network, which extended the municipalities in its coast to coast expansion. At the end of the Civil War, 1500 miles of telegraph line were awarded to Western Union.
- Before the turn of the century, when Alexander Graham Bell's telephone patent expired, there was an onslaught of new independent telephone companies. Municipalities were involved in franchising the new local telephone services, finding them to be common carriers, granting them authority to operate, and setting fair rates.
- During World War I, AT&T was nationalized, and competition was illegal.

And to put these issues into perspective, Jim Baller³⁵⁵, one of the leading lawyers in the municipality wars to upgrade their communities with broadband, made it clear that muni battles have been raging for over a century.

“In October and November of 1906, when electrification was the must-have new technology of the era, Moody’s Magazine invited the leading advocates and opponents of municipal electric utilities to write chapters for a special issue. The opponents contributed the following chapters: “Municipal Ownership Costly and Dangerous”, “Municipal Ownership a Business Problem”, “Municipal Ownership a Delusion”, “Municipal Ownership Uneconomic”, “Why Municipal Service is Expensive”, and “Municipal Ownership Always a Failure.”

While our focus is on incumbent Bell companies' broadband deployments and business practices, the question is — What happens when the incumbent phone company doesn't show up with new services?

In 2013, cities like Lafayette, Louisiana or Chattanooga, Tennessee, both of which have their own municipal electric utilities, are now offering 1 Gbps services, and have made a name for themselves by standing up and offering competition and many times, better services, than the incumbent carriers.

We also note that some companies, most notably Google, have made deals with municipalities to offer services as well. Google currently offers 1 Gbps services in Kansas City, Kansas and Missouri and has started to develop services in Austin Texas and Provo Utah.

According to Broadband Communities, as of June 2013:³⁵⁶

“Broadband Communities’ count of the public and public private fiber-to-the-premises networks now stands at 135, a 15 percent increase from 2012.”

Over the last decade there's been a flurry of activity about getting cities wired, but more importantly, there have been massive cable and phone company campaigns to keep cities from competing on any level. And the phone and cable companies have created an army of shells, co-opted non-profits, telco-funded research and think tanks, not to mention the local telco and cable companies' own lobbying and employees.

We've highlighted some of these battles throughout the book, but we need to go through, from the muni perspective, the legal challenges that brought us to this place.

“The Barriers to Entry” Battle

An article in *Broadband Properties Magazine*³⁵⁷, 2005 outlined the details of the situation at the end of 2004, which included a Supreme Court decision allowing a state to create legislation to block municipalities from building out services,

“There are 2,007 municipalities in the United States that provide electric service to their residents. By 2004, at least 621 of these provided some sort of communications services to residents as well. This number represents a 37 percent increase in municipal communications since 2001. The number, of course, is expected to increase.

“Not surprisingly, the gathering momentum of public networking has generated a powerful backlash from private communications companies, which want to preserve dominance in the market.”

The article continues, outlining that in 2004, the phone and cable companies were given a gift from the Supreme Court, that allowed the states to determine if municipalities could be blocked from offering communications services.

“In 2004, the United States Supreme Court ruled that states can enact laws limiting or prohibiting cities and towns from offering telecommunications services. This was despite the fact that Section 253 of the 1996 Telecommunications Act preempts any state law that “may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications services.”

Justice Souter delivered the opinion of the Court, in *Nixon V. Missouri Municipal League*,³⁵⁸ and as you see, this decision isn’t about whether municipalities should or should not be allowed to offer broadband but is about who should make the decision, and with this decision, the Court moved the decision making process to the states.

“Section 101(a) of the Telecommunications Act of 1996, 110 Stat. 70, 47 U. S. C. §253, authorizes preemption of state and local laws and regulations expressly or effectively “prohibiting the ability of any entity” to provide telecommunications services. The question

is whether the class of entities includes the State's own subdivisions, so as to affect the power of States and localities to restrict their own (or their political inferiors') delivery of such services. We hold it does not."

This Supreme Court's decision to dump the responsibility on the state legislatures to control a municipalities' right to build and compete with the incumbent in 2004 made 2005 the year of the "Barriers to Entry" wars.

According to Jim Baller³⁵⁹, before 2005, 14 states had created laws to hamper, if not totally block municipality broadband. In 2005, five other states joined in this blockade of municipality networks.

Baller³⁶⁰ summed up the harmful factors that made this a pivotal year.

"Several factors accounted for the flurry of activity in 2005...First, 2005 was the first legislative year following the Supreme Court Missouri decision that said federal law does not preempt states from prohibiting localities from providing telecommunications services. Second, at the end of 2004, Pennsylvania enacted a truly ugly law that emboldened the incumbents to seek similar laws elsewhere."

"The Pennsylvania law required communities to gain permission from their local telephone companies before proceeding with a broadband project. If the telephone company would offer broadband at the data speed the community wanted, then the municipality could not proceed. The law, however, focused only on data speed and did not allow consideration of other factors, such as price, quality, mobility, symmetry or efficiency."

"Third, wireless really grew as a broadband option in 2004"... "Not just small rural communities, but even large cities, such as

Philadelphia, San Francisco and Minneapolis, had become intensely interested in developing citywide wireless projects. The incumbents saw this as a much more significant threat than the relatively small number of municipalities that were operating or pursuing wireline options.”

Fast forward to 2014 and many of the same battles continue and have even sped up as the phone and cable companies gang up on munis who want to come in where the incumbents have simply failed to or don’t want to upgrade.

The headlines about Kansas say it all:

“Who wants competition? Big cable tries outlawing municipal broadband in Kansas. Lobbyist for Comcast, Cox, TWC wrote bill to stifle rivals like Google Fiber, Ars Technica,³⁶¹ January 31, 2014

This bill was killed, and the cable companies’ made the following comment. Notice that by 2014, 22 states now restrict some form of municipality broadband.

“Cox Communications was prepared to participate in Kansas legislative hearings regarding Government Owned Networks,” the company said in a statement sent to Ars. “With approximately 22 other states having some type of restriction on the use of taxpayer dollars for these kinds of facilities, we thought it a relevant topic worthy of our involvement given our significant investment in the communities we serve and our public-private partnerships.”

The next week, another bill was started in Utah. Apparently both bills are aimed at Google, which is not only in Kansas City, but also has an agreement with Utopia, a fiber optic network in Utah.

“Utah bill would stop regional fiber networks from expanding”,
Ars Technica³⁶², February 5th, 2014

“The bill, sponsored by Republican legislator Curt Webb, ‘prohibits an inter-local entity that provides telecommunication service through a fiber optic network from constructing infrastructure or providing telecommunication service in locations outside the boundaries of its members’.”

Some of these are directly related to the AT&T-Verizon-CenturyLink ALEC bill we highlighted elsewhere, while some are brought about by either the cable company or the phone company or both.

As of 2014, ALEC is concerned about municipalities building out their networks and posted the following on their networks.³⁶³

“There is no question that broadband will become as ubiquitous as the traditional household utilities. But does it deserve the same classification as water & sewer, roadways, or school systems, in being provided by the government?”

“A growing number of municipalities are answering “yes” by building their own networks and offering broadband services to their citizens. ALEC disagrees with their answer due to the negative impacts it has on free markets and limited government. In addition, such projects could erode consumer choice by making markets less attractive to competition because of the government’s expanded role as a service provider.

“In addition, ALEC is concerned that many cities and towns are signing up for these projects before comprehensively evaluating all the issues surrounding this type of initiative. The fact that no “best practices” or standard business models have yet to emerge and

many local governments have used taxpayer money to fund loosing ventures warrants the need for government officials and citizens to carefully weigh the advantages and disadvantages that exist.”

And ALEC continues:³⁶⁴

“ALEC has explored this issue in detail and compiled a list of questions that should be asked when assessing the appropriateness of such a venture. If municipalities are inclined to pursue broadband initiatives then certain safeguards must be put in place in order to ensure that private providers, with whom the municipality will compete with, are not disadvantaged by the municipality.”

It’s notable that ALEC didn’t bother to ask questions such as —How much money did customers pay in excess phone charges for fiber optic upgrades in the state that didn’t happen? Or why hasn’t the municipality taken the companies to court to make customers whole? Or if the companies didn’t upgrade, then where’s the competition for cable services or broadband services to stop the rising rates of the incumbent cable company?

Chapter 27 US West, Renamed Qwest, Renamed CenturyLink**Timeline: 1984-2014**

US West was one of the original Bell companies and served the largest number of states, 14, and had the largest land mass, but also had some of the least populated states, with only Phoenix AZ being in the Top 20 cities by population.

This is a list of the original local phone companies and the states they served.

- **Mountain Bell** Arizona, Colorado, Idaho, Montana, New Mexico, Utah, Wyoming
- **Northwestern Bell** Minnesota, North Dakota, Nebraska, Iowa, South Dakota
- **Pacific Northwest Bell** Washington, Oregon

I liken US West to one of those European countries that was trampled on multiple times by multiple conquerors due to their location. In this case, US West was used as a 'cash cow', and that money was the play-toy of senior management which allowed them to go into other non-related businesses in other locations. It was a case of sheer gluttony of the executives that ended up with the CEO going to jail, the company declaring losses of \$23 billion dollars, and it was considered one of the largest business scandals in telecom history as Qwest was tied to a company called Enron.

Background

Right out of the gate, US West called for deregulation, claiming they were ready for competition.

US West 1984 Annual Report³⁶⁵

"Our philosophy is 'Bring on the Competition.' In all of our companies we focus on serving the market as competitors. We

welcome competition and ask only that we be permitted to compete on an equal footing. Nothing more. Nothing Less. For that reason, we advocate continued deregulation of our industry at state as well as federal levels."

Ironically, in 1997, 13 years later, Sol Trujillo, president and CEO of US West Communications Group declared almost the exact same sentiment about bringing in competition.³⁶⁶

"We're ready, willing and eager to compete. My pledge from U S WEST and my challenge to competitors is simply this - let's make 1997 the year we deliver on the full promise of competition to the American public."

And like the other Bell companies, US West announced that it would be rewiring their territories with high speed fiber optics services capable of 800-1000 channels, as well as full motion video, interactive services.

The US West 1993 Annual Report states:

"In 1993 the company announced its intentions to build a 'broadband', interactive telecommunications network... US West anticipates converting 100,000 access lines to this technology by the end of 1994, and 500,000 access lines annually beginning in 1995."

This was not ADSL over copper wire. Like the other Bell companies, US West was promising fiber optics to the home or curb.

Broadband: Video Dialtone

US West filed multiple 'video dialtone'³⁶⁷ requests for permanent deployment.

“US West proposed a hybrid fiber-to-the-curb/coaxial cable network to transmit and deliver video dialtone, voice and data services. The network would have the capacity to provide 77 analog channels and 800 to 1,000 digital channels.”

US West claimed it would reach 1,064,000 homes of which 60,000 were part of the “Omaha, Nebraska test”. This included 330,000 in Denver, Colorado, 132,000 in Portland, Oregon and 292,000 in Minneapolis/St. Paul, Minnesota. US West said it would spend at least \$750 million to upgrade 750,000 homes by 1995 and businesses in the four cities, on top of the Omaha project.³⁶⁸

EXHIBIT 49

US West Video Dialtone Deployments

Date	Company	Location	Homes	Plan
06/22/93	US West	Omaha, NE	60,000	Technical/Market
01/10/94	US West	Denver, CO	330,000	Permanent
01/24/94	US West	Portland, OR	132,000	Permanent
01/24/94	US West	Minneapolis/ St. Paul, MN	292,000	Permanent
03/16/94	US West	Boise, ID	90,000	Permanent
03/16/94	US West	Salt Lake City, UT	160,000	Permanent
total			1,064,000	

Meanwhile, in 1993 US West took a one-time tax deduction of \$3,123,000,000.00 and sped up their depreciation in various states, just as the other Bells had done, who also claimed that the state laws had been changed and this deduction of the copper networks was because they would be replacing it with fiber optic networks.

Fiber Optic Outcome: Not.

While the profits accrued from the changes in state laws, the company, like every other incumbent phone company, US West backed out of all of their commitments once the ink was dry.

US West told the New York Times (9/26/1995), it couldn't be built.³⁶⁹

"US West said it had ended its experiment into interactive television shopping because it cost too much and the technology was out of reach... John O'Farrell, president of US West Interactive Services Group said the technology to create two-way television and sophisticated programming production was years away and more expensive than originally thought."

The Omaha service was closed down in 1996 and nothing was ever built.³⁷⁰

And yet, like Verizon and AT&T, US West received changes in state regulation to give the companies more money to fund broadband. Here are three summaries of the promise and the outcome, which were on top of the video dialtone regulations — and hype.

Utah

In 1995 the Utah State Legislature passed H.B. 364, the Telecommunications Reform Act. The goals were to increase local and broadband competition to the state. Alternative regulations were granted based on a price ceiling. By 2000, the rate-of-return regulation of US West was ended.

Outcome: By 1999, competition had not taken hold and broadband had not been deployed with any rigor.³⁷¹

New Mexico

In 2000, House Bill 400 was passed by the state legislature. It eliminated the rate of return regulation and establishment of alternative form of regulation (AFOR). Qwest agreed to invest \$788 million over five years in New Mexico.³⁷²

Outcome: Qwest was taken to task for not fully investing and in 2006 the company was required to pay \$250 million as well as a \$10 million refund to customers.³⁷³ The

settlement required Qwest to “bring high-speed Internet capabilities to 83 percent of the homes and businesses in its service area over three years, including at least 50 percent in rural areas”.³⁷⁴

Oregon

In 1991, the Oregon Public Utility Commission (Commission) adopted an Alternative Form of Regulation (AFOR) plan for U S WEST Communications, Inc. (USWC).³⁷⁵ The basis of the deregulation was to “modernize its infrastructure” “continued access to state-of-the-art telecommunications”, which included “Video Dialtone Service (VDT) (currently renamed Open Video Systems (OVS)): provides for broadband network deployment for interactive video and other multimedia customer services”.³⁷⁶

Video Dialtone: Portland, Oregon was to have 132,000 permanent households wired.³⁷⁷

Outcome: In 1996, the Commission terminated the AFOR as of May 1, 1996, because of service quality problems. In 1997, the Commission reduced USWC’s revenue requirement by \$97.4 million, adopted an authorized rate of return for US West of 10.2 percent and ordered US West to refund \$102 million to ratepayers.³⁷⁸ US West appealed the Commission’s Order. The Commission appealed the judgment to the Court of Appeals, and US West cross-appealed.³⁷⁹ By 2000, the refund was set at \$53 million a year reduction (as of 1996) and a \$58 million dollar refund.³⁸⁰ In 2004, Senate Bill 622 passed. (What was it suppose to do?) The company stated it would spend \$70 million on building fiber-optic ‘self-healing’ rings throughout Oregon and \$50 million in investment for broadband connections to Oregon schools, as well as for libraries and rural health care providers.³⁸¹ Also, rural carriers and Internet Providers claim that it “increased in the cost of circuits that are leased.”³⁸²

The Utility as 'Defacto' Banker

In 1995, US West divided itself into two parts, moving the cable, wireless, and Directory businesses into a "Media" company, while the majority of revenue producing (and profitable) business, the regulated phone business, was put into US West Communications Group.

The utility part of the business acted as the banker in these actions to fund the companies' other lines of business.

However, even the Media company was being buoyed by another part of the utility, the Directory business, which included the very profitable Yellow Pages and directory assistance services, which had over a 50% profit margin. This helped to fund the company's relatively new acquisitions, many of which were losing money.

But it was clear that the regulated side was still a cash machine.

Taken from US West 10Ks from 1995 and 1996, this next exhibit highlights the financials of each part of the business. While the entire company had \$12.2 billion dollars, the Media company made up only 22% of these revenues, including its directory, wireless, cable services, information services, international, etc. — while the telecommunications was 78%. However, in the grand scale of things, the Media company only represented 3% of the total net profits (% of Net), while the phone company made \$1.2 billion and accounted for 97% of the total profits.³⁸³

EXHIBIT 50

US West Communications Group and US West Media Group, Revenues and Net Profits, 1995-1996

(In the millions)

	Revenues	% of Rev	Net
Telephone Company	\$ 9,558	78%	\$1,233
Media Company	\$ 2,665	22%	\$ 35
Total	\$12,222		\$1,268

The chart below compares US West's earnings with five well-known, publicly traded companies for 1998: Nike, Exxon, McDonalds, Walt Disney, and Dow Jones. The result? US West outperformed this group by 155% for the industry standard return-on-equity, generated 181% in earnings per share, and produced 106% in higher net profits.

EXHIBIT 51

Comparing Well Known Competitive Companies to the Bells,³⁸⁴ 1998

	Net	ROE	EPS
Nike, EXXON, McDonalds, Walt Disney, Dow Jones Avg	5.92	11%	\$1.00
	12.19	28%	\$2.81
US WEST COMMUNICATIONS	106%	155%	181%

NET- Net profit, ROE- Return on Equity, EPS-earnings per share

Cable Service

In November 1996, US West merged with Continental Cablevision, Inc., then the nation's third largest cable operator, serving 4.5 million domestic customers and passed 7.4 million domestic homes. Continental held significant domestic and international investments. The total purchase price was \$11.7 billion.³⁸⁵ US West also had a stake in Time Warner and other cable companies in the US and internationally.

In 1996, the company believed that "hybrid fiber-optic and coaxial" ("HFC") broadband networks provide the best and most economical platform for delivery of video, data, telephony and broadband services."³⁸⁶ It stated it would upgrade its cable systems to provide "high-speed Internet access, telephony and digital video offerings".³⁸⁷

But this was only some of the cable network holdings. Back in 1988, US West became a partner with Birmingham cable TV in the U.K and also cut a deal with a cable company serving several cities in France, including Paris.³⁸⁸

The Football: Merger with Qwest

In 2000 US West merged with Qwest International. During the merger meetings in each state, such as in Montana, promises were made about bringing broadband to the state.

“The merged company will bring advanced voice, data and broadband Internet services to customers in Montana,”³⁸⁹ and would use “Qwest’s advanced broadband network with U S West’s local service offerings and leadership in providing digital subscriber line (DSL) technology. The merger will produce significant procompetitive benefits that will result in substantial benefits for customers that will result in substantial benefits for customers.”³⁹⁰

The Qwest Communications Scandal

A slide presentation called “Qwest Communications Scandal: A Failure of Corporate Governance”³⁹¹ says it all.

- “In 1999 Joseph Nacchio was appointed as CEO and the company adopted ‘aggressive accounting’.
- Falsely repeatedly booking revenue by one time sale of equipment and fiber optic swaps
- Inflated revenue between April 1999-2001 by \$2.2 billion
- Inflated earnings by \$358 million

Excessive Internal Trading by Board Members and Senior Executives

- May 1999, Board made \$1.4 billion by selling shares
- Founder Philip Anschutz sold shares worth \$2 billion in a period of 3 years.
- From 1999-2001 Joseph Nacchio made \$52 million.

The Fall:

- Qwest stock fell from a high of \$60 in January 2000 to a low of \$2.00 by February 2002.
- Shareholders lost over \$586 million in this time period.
- In 2005, the company settled with the SEC for \$200 million as well as a shareholder law suit for \$450 million.
- Nacchio was convicted of 19 instances of criminal insider trading and 23 other cases.
- In 2007, Nacchio was sentenced to 6 years in prison and a \$71 million fine.”

Ties to Enron

In March of 2002, *The Street*³⁹² ran an article, “Qwest-Enron Deal Puts Swaps Back in Spotlight”, which, by the dateline showed that there were already cracks in the cover up and bookkeeping and the unraveling had started.

“Like swapaholics at last call, Qwest and Enron bellied up to the bandwidth bar last fall for one last deal before the lights came on and the music stopped.

“On Sept. 30, 2001, the last day of the third quarter, Qwest and Enron subsidiary Enron Broadband Services agreed to buy \$112 million worth of communications network capacity from each other, according to documents filed this week in federal bankruptcy court in Manhattan. Considering that debt-burdened Qwest already had a huge, new, shiny fiber-optic network in place, the deal struck some investors and analysts as odd.

“Industry observers were further intrigued the next month, when Qwest reported a sharp third-quarter earnings and revenue shortfall. The Denver-based telco, which already had come under intense scrutiny for its heavy reliance on nonrecurring network-capacity sales, attributed the shortfall to a sudden drop in demand

for these wholesale bandwidth deals....But to some people, the nature of the swap and its timing suggested a last-minute act of desperation to patch up a particularly weak quarter.”

And by April 2002, these transactions would become investigations. *TheWHIR.com* writes:³⁹³

“The New York Times reported on Friday that executives who were involved in a deal between Enron and Qwest Communications last September, to swap fiber optic network capacity and services, admitted that the companies had inflated prices in an effort to improve each company’s financial picture. Details of the deal, recently disclosed in Enron’s bankruptcy filings, indicate that the two companies sped through the transaction as the third quarter was ending in September. The deal enabled the near-bankrupt Enron to avoid recording a huge loss by liquidating assets after the value of the assets had nose-dived on the open market. Analysts said the timing and the valuation of the \$500 million deal is difficult to justify because a glut of fiber optic capacity had sent network prices plummeting.

“This Enron-Qwest transaction and other, similar deals have forced the Securities and Exchange Commission and Congress to investigate whether network swaps are legitimate transactions or just tools to falsely improve revenues.

“Qwest said we will overpay for the assets, and you will overpay me on the contract,” one former Enron executive said to the New York Times.”

The Outcome: A Net Loss of \$23 Billion Dollars in One Year.

The Qwest 2003 Annual Report reported that the company had taken a \$22.8 billion dollar loss.

“2002 net loss includes a charge of \$22.800 billion (\$13.55 per basic and diluted share) for a transitional impairment from the adoption of a change in accounting for goodwill and other intangible assets, charges aggregating \$14.927 billion (\$8.87 per basic and diluted share) for additional goodwill and asset impairments, a net charge of \$112 million (\$0.07 per basic and diluted share) for Merger-related, restructuring and other charges, a charge of \$1.190 billion (\$0.71 per basic and diluted share) for the losses and impairment of investment in KPNQwest, a gain of \$1.122 billion (\$0.67 per basic and diluted share) relating to the gain on the early retirement of debt and income from and gain on sale of discontinued operations of \$1.950 billion (\$1.16 per basic and diluted share).“

Global Crossing and Qwest

Wikipedia writes³⁹⁴

“Global Crossing was a telecommunications company that provided computer networking services worldwide...Its customer base ranged from individuals to large enterprises and other carriers, with emphasis on higher-margin layered services such as managed services and VoIP with leased lines. Its core network delivered services to more than 700 cities in more than 70 countries.”

Unfortunately, part of this tale was caused by the FCC's failure to make sure that the networks would remain open to all competition as many of the companies that were using Global Crossing would be severely damaged or put out of business by the FCC's reversing whole sections of the Telecom Act. But Global Crossing is best known for working with Qwest in their attempts to cover over the declining markets.

I'll let the Congressional Record tell the story. On September 24, 2002 the House of Representatives Committee on Energy and Commerce's Subcommittee on Oversight and Investigations started a series of hearings.³⁹⁵

"Welcome to the Subcommittee on Oversight and Investigations ...hearings on a series of highly questionable business transactions involving the Global Crossing and Qwest Corporations. In particular, this committee is interested in what are referred to in the telecommunications industry as 'reciprocal fiber optic capacity transactions,' more commonly known as capacity swaps.

"Ideally, in a globally competitive marketplace, the ability of one telecommunications firm to purchase capacity from another improves market efficiency and shareholder value by eliminating network bottlenecks and reducing redundancies. In such cases, a firm that is experiencing increased demand on its own network can use such a purchase to meet increased customer demand. If on the other hand the telecommunications firm purchases increased capacity in a market of shrinking demand that raises serious questions about the underlying rationale for such a purpose and in cases where two firms engage in a capacity swap in which both firms are confronting shrinking markets that raises further questions as to the business motives behind these transactions.

"It is this variety of dubious transactions in which both Global Crossing and Qwest engaged that we will examine in the course of our hearings. Were these capacity swap transactions undertaken to

do new business opportunities or were they merely designed to provide the appearance of expanding business and growing revenues?

“Evidence uncovered by this committee’s investigation suggests that...Confronted with shrinking markets and declining business volume, executives at Global Crossing and Qwest used capacity swaps to conceal slowing growth by booking fictitious revenue.

“Global Crossing reported \$720 million in cash revenues from the sale portion of these capacity swaps in the first and second quarters of 2001 alone. At the same time, we have acquired Global Crossing documents that suggest a significant portion of these transactions were constructed solely to meet the company’s publicly announced revenue targets. The documents suggest that it was less important to the executives authorizing these swaps what capacity was actually being purchased by Global Crossing as was the perceived need for consummating the transaction itself and booking the revenues.”

I note that before the crap hit the fan, one of the founders of Global Crossing, Gary Winnick, ended up selling off \$420 million in stock from 1998 to 2001, while the some of the company’s executives also were able to sell off \$900 million.³⁹⁶

Global Crossing was sold to Level 3, a provider of similar services, in 2011.³⁹⁷

CenturyLink

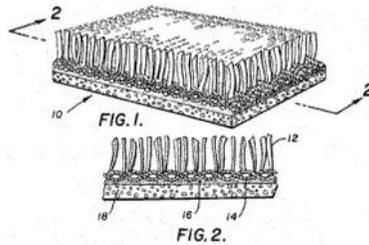
CenturyLink bought Qwest in 2011 and has been consolidating local phone companies including Embarq (formerly Sprint’s wireline division) in 2009. And this story, as told by Wikipedia,³⁹⁸ shows that the company had humble beginnings.

“The earliest predecessor of CenturyLink was the Oak Ridge Telephone Company in Oak Ridge, Louisiana, which was owned by F. E. Hogan, Sr... In 1930, Hogan sold the company, with 75 paid subscribers, to William Clarke and Marie Williams, for \$500. They moved the switchboard to the Williams family front parlor. In 1946, the Williams' son, Clarke McRae Williams, received ownership of the family's telephone company as a wedding gift. In 1947, Clarke Williams learned the telephone company in Marion, Louisiana was for sale. With a loan from business associate Joe Sydney Carter, Clarke purchased the Marion Telephone Company and eventually made it his base of operation as he grew his company through more acquisitions. CenturyLink still maintains offices in the former headquarters building. The company remained as a family-operated business until it became incorporated in 1968.”

According to the CenturyLink 2012 Annual Report:

“Based on our 13.7 million of total access lines at December 31, 2012, we were the third largest telecommunications company in the United States. We operate almost 75% of our total access lines in portions of Colorado, Washington, Arizona, Minnesota, Florida, North Carolina, Oregon, Iowa, Utah, New Mexico, Missouri and Nevada. We also provide local service in portions of Idaho, Ohio, Wisconsin, Virginia, Texas, Pennsylvania, Montana, Alabama, Nebraska, Indiana, Arkansas, Tennessee, Wyoming, New Jersey, North Dakota, South Dakota, Kansas, Michigan, Louisiana, South Carolina, Illinois, Georgia, Mississippi, Oklahoma and California. In the portion of these 37 states where we have access lines, which we refer to as our local service area, we are the incumbent local telephone company. We also operate 54 data centers throughout North America, Europe and Asia.”

Coda: The one thing you can say about US West — if you are going to rip people off, keep a low profile as you might get caught. As history has shown, you can overcharge customers billions if you just do it in the conventional way.

Part V Deception is the Phone Companies' Strongest Trait.**Chapter 28 Fake Consumer Groups, Biased Research, Lots of Lobbyists, Paid-Off Politicians: Behind the Broadband Curtain.****Astroturf Diagram:** ³⁹⁹

Buying a politician used to be the standard for corporations. Now it's buy off a whole legislature, take over the regulatory agency that controls your business, like the FCC, or simply fool the media, who just print whatever they tell them in their press releases. This is the seamy, dirty, underbelly of communications in America.

Maybe you've always expected that this is the case. You've have all heard stories, the vague rumors. But in Washington D.C., and now throughout the US, it has been brought together as a devilish art form. It is the old 'wink-wink-nod-nod'. Everyone knows that most people are paid off; it's just a matter of degree. And no one wants to say anything — they're doing it themselves.

Republicans or Democrats, it almost doesn't matter who's in power at the time. The phone companies back whichever horse will be able to be controlled and will vote to make these companies more money, less restrictions, less investigations.

Call it "skunkworks", (the phone companies' black-ops groups) call it "astroturf" (fake 'grass-roots') or "sock puppets", this web of deception is designed to service the large corporate interests over your interests. They are here to take away your vote and wield undo influence — not in your favor.

And over the last 5 years, some groups, such as the American Legislative Exchange Council (ALEC), have come into the limelight. The group brings together state and federal politicians so that the corporations can have these politicians (most of whom are directly campaign-financed by AT&T or Verizon or the cable companies) create 'model legislation' that is then pushed through by the politicians as well as thousands of others.

And how does it impact our fiber optic tale of woe, broadband, the Internet, wireless, municipalities wiring and Wi-Fi-ing cities, the cost of phone service, VOIP, open access to content, or anything else related to your Digital Future?

The question should be — how do we stop it as it has control over every part of your communications bills and usage, from the services you are offered, whether there are competitive options or even if you can get services.

It's Everywhere and It is Not New.

"Regulatory Capture" is the takeover of a federal agency by the corporations it is regulating and it is not new to the FCC. At a conference in 2010 called Reforming the FCC⁴⁰⁰, its website states that "Former Chair Reed Hundt⁴⁰¹ (1993-1997) suggested that the acronym 'FCC' stands for 'Firmly Captured by Corporations' while former FCC Chief Economist Tom Hazlett countered that 'FCC' stands for 'Forever Captured by Corporations'."

And as former FCC Chairman Kennard stated in 2000:⁴⁰²

"Regulatory capitalism is when companies invest in lawyers, lobbyists and politicians, instead of plant, people and customer service.... Regulatory capitalists would rather litigate than innovate."

"It's always easier to prowl the halls of Congress than compete in the rough and tumble of the marketplace."

In 2003 and in 2012, New Networks filed complaints against the FCC's advisory committees as the majority of the committee members had direct financial ties to the corporations that were being helped by the decisions — or lack of action — both as deadly.

In 2003, while a member of the FCC's Consumer Advisory Committee, the author witnessed how votes were killed pertaining to taking actions on making phone bills readable — known as Truth-in-Billing. But what can you say about a Committee where the longest continuous member is Verizon, or where one group, representing 'low income' and minorities' was a run by Issue Dynamics, a public affairs firm who's clients were the phone and cable companies. Even the lawyer for one of the consumer groups worked as counsel for the USTA, the telephone company lobbying group.

But since that time it has gotten much worse. There are now massive 'skunkworks' organizations that have built an underground and in-your-face network of political deceit in the telecom and broadband industry. It is made up of very well funded fake or co-opted consumer groups, research firms, think-tanks, lobbying groups, politicians and PR firms throughout the United States that are out to fool reporters, state legislatures, Congress, the public and the FCC that they represent the public interest.

And all of this sped up once there were no more impediments like competitors and the companies merged to create three non-competing Bell companies, who now collude, as they now fund ALEC and many other groups as one big mob family.

Why Is Deception so Effective?

Imagine you are an FCC Commissioner and during your day you have 20 meetings, 15 of which are from Hispanic and black groups, senior citizens, consumer groups, non-profit think-tanks with voluminous reports, senator and congressmen aides, hardware and software vendors, not to mention the phone companies. Did the FCC staff or the Commissioners ask — um, how can you, the 'consumer' group, afford to send people to the FCC? Then imagine full-page advertisements in every newspaper, messages on

every TV and radio station, all touting what would be best for the phone companies, and again paid for by the same consumer groups.

Truth is, this is Deception 101 and when there's an entire industry funding hundreds of millions of dollars for every message backing their position, or when the overwhelming majority of visitors are actually compromised Hispanic, seniors or disabled groups, paid-for-research firms and lobbyists — the other side, the truth, is out-funded, out-flanked, out-researched, out-lawyered, out-media-messaged, out-lobbied and we, the public interest, lose.

Why has there never been a full investigation about the failed fiber optic deployments? Who in the TV media is going to stick out their neck when they receive massive amounts of advertising dollars? In one interview on FOX News, when discussing Verizon's phone bill mistakes, the author was told "*Don't mention Verizon. We can get sued.*"

And who can afford to tell the other side of this story? Who has the resources to out-shout the phone companies?

We've decided to keep most of this historical from the original book as it ties to and reflects on the materials we previously presented, but we'll make sure that by the end of the book we've given the full scope of the impacts on current events.

The First Wave: Shills R' Them.

Starting in the 1990's, but being perfected along the way, massive cabals of non-profits and minorities were created to help the incumbent Bell companies — and was funded by what is now AT&T and Verizon.

And just to show you how powerful and continuous this process has been, in a 2013 proceeding at the FCC to close down the phone networks — and push everyone to expensive wireless, AARP actually outed a massive group of non-profits that were siding with Verizon and AT&T.

"Some Consumer and Small Business Groups that are Supportive of AT&T's Petition do not appear to Understand AT&T's Proposal.

"Comments were filed by several parties re presenting consumer and small business groups that offer unequivocal support for the AT&T petition. In each case, these parties offer an extensive discussion of the benefits of the expansion of broadband and IP-enabled services. However, none of these groups provides a single bit of evidence supporting the proposition that AT&T's approach will contribute to achieving these objectives. In fact, these groups appear to misunderstand AT&T's proposal.

This footnote refers to these groups, almost all of whom have been part of this massive cabal.

"Comments of American Consumer Institute; Comments of Women Impacting Public Policy, Small Business & Entrepreneurship Council and the National Association For Moms in Business (hereinafter WIPP, et al.); Comments of League of United Latin American Citizens, United States Hispanic Chamber of Commerce, and Labor Council for Latin American Advancement (Hereinafter League of Latin American Citizens, et. al.); Comments of the Minority Media And Telecommunications Council, National Association for the Advancement of Colored People, 100 Black Men of America, A. Philip Randolph Institute, International Black Broadcasters Association, Minority Business Enterprise Legal Defense and Education Fund, National Association of Black County Officials, National Association of Black Owned Broadcasters, National Association of Neighborhoods, National Black College Alumni Hall of Fame, National Black Farmers Association, National Coalition on Black

Civic Participation, National Organization of Black Elected Legislative Women, Rainbow Push Coalition, United Negro College Fund and United States Black Chamber, Inc. (hereinafter Minority Media, et al.); Comments of Asian American Federation, Asian American Justice Center, Asian Business Association, Asian Pacific American Institute for Congressional Studies, Asian Pacific American Labor Alliance, Asian Pacific American Legal Center, Asian Women in Business, Japanese American Citizens League, Leadership Education For Asian Pacifics, Oca, and Southeast Asia Resource Action Center (hereinafter Asian American Federation, et al.); Comments of National Hispanic Council on Aging and National Hispanic Medical Association (hereinafter National Hispanic Council on Aging, et al.); Comments of American Agri-Women, National Farmers Union, The National Grange, US Cattlemen's Association, United States Distance Learning Association, and Women Involved In Farm Economics. All filed January 25, 2013"

As you read this next section, most of which was written in 2005, notice the majority of the groups mentioned in the above quote, written in 2013, were responsible for raising rates, stopping competition and keeping phone bills unreadable — or are against Net Neutrality or were for the AT&T-T-Mobile merger.

Meet the Astroturf Ring Leader and the New Millennium — Sam Simon.

Let's start with the ringleader for the Bell companies' skunkworks' campaign — Sam Simon of Issue Dynamics, Inc. ("IDI") which is now Amplify Public Affairs.

Just to show you how perverse our current telecommunications environment is, in 2009, Sam Simon received the Everett T. Parker Ethics in Telecommunications award,⁴⁰⁴ as one of his own astroturf creations, TRAC, partnered the event. And the Award was handed to him by a friend, now Former FCC Commissioner Michael Copps.

Simon started out as one of the “Nader Raiders”, Ralph Nader’s early collection of lawyers who created various consumer organizations and took on corporate America. But, in the 1990’s it appears that Simon decided to go to the Dark Side and work for the telcos, acting as puppet-master to hundreds of non-profits and ‘stink tanks’, corporate funded research and consulting.

Starting before the new millennium, many of the campaigns and groups that have been co-opted and paid for by what are now-AT&T and Verizon and the other phone and cable companies were coordinated by this Simon’s Issue Dynamics. The list of groups includes Alliance for Public Technology, (APT) TRAC, New Millennium Research Council, among other groups.

This group is also joined by a host of co-opted groups such as League of United Latin American Citizens (LULAC), and American Association of People with Disabilities (AAPD), the Gray Panthers, NAACP, the National Council of La Raza, the National Consumer League and others.

The next examples show that these groups’ influence extends into the halls of the FCC and state fights. This Cabal has done everything from helping to increasing phone rates, or the blocking the WiFi-muni-deployments to harming competition.

Control of the FCC’s Consumer Advisory Committee (CAC)

In 2003-2004, Teletruth was a member of the FCC’s Consumer Advisory Committee and we had a front row seat to see how the game is played. One-third of the members were from the cable or phone or media industries or their associations. However, there were also six different groups tied to Sam Simon and Issue Dynamics. This helped to give the phone companies control of the consumer interests at the FCC. It is the reason phone bills are unreadable or competitors were being put out of business or sold off.

In March 2005, the FCC announced the new members of this Committee. It included:

- Alliance for Public Technology, (APT) — Daniel Phythyon was Senior Vice President, Law and Policy at the United States Telecom Association (“USTA”), the phone companies’ primary lobbying association. APT was funded by Verizon,

BellSouth and SBC. APT is run out of Issue Dynamics' offices.⁴⁰⁵ (NOTE: In 2009 APT would morph into "National Broadband Research Center")

- Telecommunications Research and Action Center (TRAC) — Sam Simon is the founder of the group, which was designed to help the phone companies enter the long distance markets and harm competitors. The outcome, AT&T and MCI were sold to the phone companies. And again, this group is directly tied to Issue Dynamics. According to the companies' non-profit IRS filing:

"During the year, TRAC purchased goods and services from an affiliated taxable organization named Issue Dynamics, Inc. provider management services as well as overhead costs for fees to TRAC."⁴⁰⁶

- The Consumer Advisory Committee's industry members included — National Association of Broadcasters, Sprint Corporation, Time Warner, T-Mobile, Verizon, Nextel Communications, Inc., Cellular Telecommunications and Internet Association, and Consumer Electronics Association.⁴⁰⁷

Teletruth filed a complaint about this issue and the committee was increased with more activists, but was still not a committee of consumers. The *Washington Post* wrote:⁴⁰⁸

"You'd think when Chairman Michael Powell had a chance to appoint a Consumer Advisory Committee to act as something as a counterweight to industry lobbying, he wouldn't have handed more than a third of the 35 seats over to representatives from the likes of AT&T, BellSouth, the National Association of Broadcasters and the National Cable & Telecommunications Association."

Raising Local Phone Rates

In 2000, the phone companies created the "CALLS Coalition" that got over 40 consumer groups who agreed to raise the FCC Line Charge (also called "Subscriber Line Charge", among other names) which is on every local phone bill in America — from a cap of \$3.50 to \$6.50. The FCC Line Charge is unmarked, direct revenue to the local phone companies, even though it is in the "Taxes and Surcharges" section of the phone bill.

Issue Dynamics helped to run a campaign to make consumer groups believe this increase was important and good for their constituents, claiming it would lower long phone rates. It didn't work for most Americans. Interestingly, almost all of the groups who signed onto this campaign received major funding from the phone companies.⁴⁰⁹

In "**Report on Consumer Education by the Members of the Coalition for Affordable Local and Long Distance Service ("CALLS")**" September 19th, 2000⁴¹⁰, that was once up at the FCC's web site (and removed), this report laid out, in detail, how the telcos were paying consumer groups to do their dirty work.

The CALLS Coalition report outlined these consumer group-telco-funding activities

- **"The National Consumer League** website entitled 'Understanding Your Phone Bill'. This website was developed by NCL with a grant by Verizon (then Bell Atlantic) and SBC (then Ameritech).

As the *Corporate Crime Reporter* stated:⁴¹¹

"Over the past couple of years, Issue Dynamics played a pivotal role in turning the National Consumers League from a consumer group into a corporate front group. And last year, Sam Simon, Issue Dynamics' founder and president, was named chairman of the board of the National Consumers League."

- **"Alliance for Public Technology ("APT")** — APT is a nonprofit coalition of consumer and public interest groups and individuals, whose mission is ensuring

equitable access to telecommunications technology to all sectors of our society. APT will include CALLS article in APT's September newsletter and will post messages on its membership listserv.

- **“Consumer Action (“CA”)** — CA is a national nonprofit organization, specializing in providing information in many languages. CA is producing a new publication on reading phone bills funded by AT&T.
- **“National Association for the Advancement of Colored People (“NAACP”)** — NAACP is the nation's oldest and largest civil rights organization. CALLS members are coordinating with the NAACP for some telephone consumer education during their upcoming state conferences with local phone companies.
- **“National Grange (“NG”)** — NG is the nation's oldest (founded in 1867) national agricultural organization, with grassroots units established in 3,600 local communities in 37 states. They will include CALLS article in the member newsletter, and have already promoted their activities with members. They are interested in promoting the websites and brochure.
- **“U.S. Hispanic Chamber of Commerce (“USHCC”)** — USHCC represents more than 100,000 small Hispanic business owners. CALLS was working with USHCC on an article focusing on consumer education for small businesses, which will be distributed by USHCC to its local chapters later this fall.”

Other groups backing this were NAACP, the National Hispanic Council on Aging and American Association of People with Disabilities, all on the APT board. All three got grants and donations from the Bell companies.

What should have happened? The FCC Line Charge was never properly audited for the actual cost related to this fee. And a lot of data suggests that this charge was being overcharged before the increased. It is also taxed Universal Service and other taxes and surcharges. Any consumer group worried about low-income families, or seniors or the disabled would surely want an accurate assessment of this charge. There are also those who will claim it helped to lower long distance phone rates. Once again, those people would be proven wrong based on extensive phone bill surveys.

These groups betrayed their constituents' interests in exchange for having their group getting funding. However, as we will be discussing in the next few chapters

this cabal has been active in turning the National Broadband Plan into a plan to add new fees and charges that again, help AT&T and Verizon more these groups constituents.

Stink Tanks: Researchers Who Are Directly Paid By the Phone Companies.

The Bells have a great deal of non-profit think-tanks and research firms that create research they can use to disprove some theory or forward some position.

In 1999, Issue Dynamics created The New Millennium Research Council (NMRC). Through it, think tanks can work together and have a marketing and PR arm to get their message out. To remove some of the bad aroma, Issue Dynamics mixed in legitimate organizations with corporate-funded entities, allowing this all to look more credible. This is a description on an NMRC Web site⁴¹²:

“Over its 8-year history, the NMRC has worked with more than 100 scholars and experts from across the country. The NMRC is proud to have partnered with leading thinkers from the Brookings Institution, the Heritage Foundation, the Progressive Policy Institute, the American Enterprise Institute, the Pew Internet and American Life Project, Harvard University, and UC Berkeley, among many other nationally renowned think tanks, universities, and organizations. Please see our full list of contributing scholars for more information.”

In almost every instance, the experts⁴¹³ listed by MNRC or the groups they are tied to, are funded to some extent by the phone companies. They are paid by them to write reports, put out data and supply testimony that is targeted only toward their corporate funders' wishes. If some company gave you \$100,000 or a million dollars would you write something inimical to the reason you received the funding?

Yet relationships like these have become so normal, so standard, that few people question them these days. It's as though business is supposed to be the

academy's big brother, and why would anyone question whether the beneficiaries are beholden to the donors?

Some New Millennium Research Council experts⁴¹⁴ are from these groups:

- American Enterprise Institute
- AEI-Brookings
- Brookings Institution
- Analysis Group, Inc
- Beacon Hill Institute
- Cato Institute
- Competitive Enterprise Institute
- Criterion Economics
- Heartland Institute
- Heritage Foundation
- Institute for Policy Innovation (IPI)
- Manhattan Institute for Policy Research
- Pacific Research Institute
- Progress and Freedom Foundation
- Progressive Policy Institute
- TeleNomic Research
- U.S. Internet Industry Association

The Skunkworks: Issue Dynamics and New Millennium

It was the combination of Issue Dynamics and New Millennium Research Council that got results. Here's how they described their campaign to close down competitive broadband providers and remove regulations.

Campaign: First, the problem.⁴¹⁵

“TDI’s client, a large economic think tank needed to expeditiously release their study on the economic effects of broadband services to the U.S. economy to the widest possible media audience. The report authors did not work directly with media outlets and wanted to generate maximum exposure. The authors were also interested in ensuring that the report was seen by key public policy influentials.”

And then, using lots of money, Bell money, this think-tank report got noticed, which, of course, was about how broadband would help America if only the laws were changed for the Bell companies.

“Results: TDI was able to provide the client with immediate support to finalize the report, host an event and generate significant earned media. The tele-news event and study release generated earned media from over 20 key industry journals and general circulation newspapers, including one radio broadcast on National Public Radio. The study was also cited by two Democratic presidential candidates as a way to reenergize the U.S. economy.”

The report was written by a third organization/think-tank/bell-funded group and had Issue Dynamics and NMRC helping out.

“Case Study Focus: Issue Dynamics worked with the New Millennium Research Council (NMRC) to provide support and exposure for release of a seminal economic study by an economic think tank. This included recruitment of academic and industry experts to provide commentary, and generating earned media pick-up in key national trade journals and major newspapers.”

Taking Over a Federal Trade Commission Hearing about Net Neutrality is Easy.

In 2006, the author went over the records of an important Federal Trade Commission hearing⁴¹⁶ on Broadband and Net Neutrality. At least 15 presenters to the FTC — the majority — either worked or used to work for the phone or cable companies. Included were representatives of the Progress & Freedom Foundation, Phoenix Center, and Hands Off the Internet, as well as funded individual experts such as Gregory Sidak of Criterion Economics, a visiting professor Georgetown University Law Center; Alfred E. Kahn of NERA (National Economic Research Associates, Inc.) professor-emeritus Cornell University, and William Lehr, research associate, Computer Science and Artificial Intelligence Laboratory of the Massachusetts Institute of Technology.

And yet, none of these ‘experts’ bothered to reveal that they had been or were still on the payroll of the phone companies as consultants or worked at an organization that was funded by the telcos — the same companies that would benefit from the FTC’s decisions.

EXHIBIT 52

Testified at FTC Hearing "Broadband Connectivity Competition Policy"; Did Not Disclose Phone Company Clients, 2007

George S. Ford

- Chief Economist Phoenix Center for Advanced Legal & Economic Public Policy Studies. “The Phoenix Center is funded by ‘the old AT&T, the new AT&T, wireless companies, software providers’ and other Bell competitors.”

⁴¹⁷

Alfred E. Kahn⁴¹⁸

- Robert Julius Thorne Professor of Political Economy, Emeritus, at Cornell University and special consultant to National Economic Research Associates (NERA), (a Bell-funded group) Testifies on behalf of Verizon, SBC, Qwest in multiple states, such as New Jersey, Virginia and Maryland.

William Lehr⁴¹⁹

- “Testimony of William Lehr, Ph.D.— On Behalf Of AT&T... In addition, I comment on the trigger case for mass market switching presented on behalf of Verizon.

Gregory L. Rosston⁴²⁰

- Stanford Institute for Economic Policy Research
- Part of the Progress and Freedom Foundation, The Digital Age Communications Act Project group. His FTC bio omits his telco clients.
- Footnote: “I have consulted for AT&T, MCI, Pacific Bell, Verizon, various CLECs, and Internet-based companies.”

Gregory Sidak⁴²¹

- Visiting Professor Georgetown University Law Center; Founder of Criterion Economics. Clients include: AT&T, Bell Canada, BellSouth, CTIA-The Wireless Association, Qwest Communications, SBC, Verizon, and Verizon Wireless.

Again, none of the speakers identified their corporate ties in the biographies presented in the FTC materials. And we have to note, almost all of these speakers have ‘air cover’ as a professor at a university so that they can show a ‘legitimate’ side.

And it is deceptive and yet all of these experts did it. Here is the impressive bio of Alfred Kahn. It doesn’t mention he worked for the telcos or that NERA was a telco-funded research group or anything else that might trigger a question of ethics.

“Alfred E. Kahn is the Robert Julius Thorne Professor of Political Economy, Emeritus, Cornell University (previously Chairman of the Department of Economics and Dean of the College of Arts and Sciences) and Special Consultant to National Economic Research Associates, Inc. (NERA). Dr. Kahn’s previous positions include Senior Staff, President’s Council of Economic Advisors (1955-57); Chairman of the New York Public Service Commission (1974-77) and Civil Aeronautics Board (1977-78); and Advisor to President Carter on Inflation (1978-80). During the last 30 years Dr. Kahn has concentrated on the economics of regulation — of the

telecommunications industry in particular — as a member of the Economic Advisory Council of AT&T, at the New York PSC, as witness in a large number of regulatory proceedings, and as a member of the National Advisory Council of The Digital Age Communications Act Project to re-write the 1996 Telecommunications Act. Dr. Kahn’s relevant publications include the two-volume *The Economics of Regulation*; three smaller books on the deregulation process, the latest of these, *Telecommunications and Airlines after the Crunch* (2004), published by the AEI-Brookings Joint Center; and “Reforming the FCC and Its Mission: Lessons From the Airline Experience” (2005) and “Telecommunications: the Transition from Regulation to Antitrust” (2006), both in the University of Colorado’s *Journal on Telecommunications and High Technology Law*.”

Yet the outcome of the conference — planned in advance — was to create a report useful to the phone companies. Wasn’t disclosure called for? Did the FTC knowingly make policy decisions without investigating who was presenting?

Even more disturbing: A simple calculation of who is quoted in the report and the number of times they are referenced reveals that corporate-funded speakers Lehr and Sidak were quoted 33 times and 25 times, respectively. On the "other" side, Consumer Union was quoted only 6 times and Media Access Project 11 times. Was their information that much less credible or compelling?

The Rise of ALEC, the American Legislative Exchange Council

At the 2001 ALEC national convention, Tommy Thompson, former Wisconsin governor and then U.S. Secretary of Health and Human Services, stated:¹

"It's wonderful to see so many of my friends from the great state of Wisconsin. There are 29 members of the Wisconsin State Legislature who were so eager to come to New York for this

conference that they rushed to get the state budget passed last week...My good friend Scott Jensen is among them. Scott holds the only job I ever wanted and never reached - Speaker of the Wisconsin State Assembly."

In addition to the 29 state legislators that Thompson claimed as ALEC members, there were three other Wisconsin politicians who have sponsored telecom or cable bills with ties to ALEC — Wisconsin Senator Ted Kanavas, Senator Jeff Plale and Representative Phil Montgomery, who was given ALEC's 2005 "Legislator of the Year" award.

Like ALEC members around the U.S., these legislators had some clout. In 2003, Kanavas and Montgomery were part of Wisconsin's "Special Committee on Public and Private Broadband". Plale chaired the influential Wisconsin Senate Committee on Commerce, Utilities and Rail, the committee that introduced telecommunications bills. Jensen, the former Speaker of the State Assembly, co-sponsored one of the bills in question.

These Wisconsin lawmakers were responsible for at least four bills that appear to correspond to ALEC-generated "models" that mainly help only the state's major phone incumbent, AT&T.

Here are two of the bills:

- **The Broadband Deployment Act of 2003:** Kanavas & Jensen (ALEC model: Broadband and Telecommunications Deployment Act). According to a press release by Ted Kanavas, the bill was to "create an environment of regulatory certainty for the deployment of broadband services by categorizing these services as information services and not as telecommunications services". The "regulatory certainty" referred to in the press release clearly meant that the industry could rest assured that it would no longer be subject to the oversight required of other public utilities. The Wisconsin Legislature passed this bill.

- **Municipal Broadband Bill**, co-sponsored by Kanavas & Montgomery; 2004 (ALEC model: Municipal Telecommunications Private Industry Safeguards Act). In January 2004, co-sponsors Kanavas and Montgomery introduced a bill¹ to block municipalities from offering broadband. It was an ALEC bill. Although hyped as a “competition” bill (a recurring theme in ALEC’s “model” bills), a main goal was to block municipalities from competing with corporate providers of broadband services, even if those private providers didn’t deliver. The bill was passed.

And this was just one state and just a few of the impacts of ALEC which in 2011-2013, with AT&T and Verizon and Centurylink has taken over the telecom agenda in America.

The ALEC Hit Machine: A Brief History

The American Legislative Exchange Council (ALEC) was founded in 1973 and long remained a relatively invisible force influencing legislations in Washington and state capitols throughout the country. With the Tea Party victories of 2010, it came out of the proverbial closet, gaining national prominence in drawn out battles in Wisconsin and Indiana over union rights of state employees.

ALEC promotes itself as a “nonpartisan individual membership organization of state legislators that favors federalism and conservative public policy solutions.” It claims to “advance the Jeffersonian principles of free markets, limited government, federalism, and individual liberty”⁴²² Whether its claims are making Jefferson spin in his grave is an open question; nevertheless, ALEC’s campaign is clear.

It is, formally, a nonprofit group that drafts model legislation. It has an estimated membership exceeding 2,400 state legislators from both political parties, but most are conservative Republicans. It regularly invites members to all-expense paid private gatherings with corporate executives and lobbyists where they devise model legislation to fulfill its political agenda. These legislators, in turn, return to their home states and promote the legislation at state houses throughout the country. Many of their initiatives are enacted.

ALEC actively supports repealing the minimum wage, privatizing Social Security and replacing guaranteed health benefits with medical savings accounts. It took a strong hand in shaping the conservative state politicians opposition to national healthcare reform and in crafting Arizona's anti-immigration law. Union busting is part of the broader campaign to promote stringent right-to-work laws. Efforts are also underway to end the union dues check-off, which the rightwing calls "paycheck protection" laws. Such legislation has been passed in Alabama, Utah and Idaho; it is being pushed in Wisconsin as well as in Arizona, Kansas, Mississippi and Missouri. In Virginia, along with Montana, Ohio and Wisconsin, ALEC-backed bills have been introduced to incorporate such laws into the respective state Constitutions.

Its principal funding comes from large corporate backers and rightwing foundations. About 300 corporate sponsors pay membership fees ranging from \$5,000 to \$50,000. Its backers have included American Express, Coors, Wal-Mart, Texaco, GlaxoSmithKline, Philip Morris, Corrections Corporation of America and Koch Industries as well as the National Rifle Association.

Among its telecommunications backers are AT&T, Centurylink and Verizon as well as the NCTA along with its member cablecos. It has also been a steadfast proponent of telecommunications deregulations and an opponent to net neutrality. Among the telecom legislations it has backed are the Advanced Voice Services Availability Act of 2007, Broadband Parity Act, Cable and Video Competition Act and the Municipal Telecommunications Private Industry Safeguards Act. The Advanced Voice Services Act was written to block state PUCs from regulating rates, terms or conditions for interconnected Voice-over-Internet Protocol (VoIP) services like that offered by Vonage.

According to ALECWatch, during the 1999-2000 legislative cycle, legislators throughout the country introduced more than 3,100 pieces of legislation based on ALEC models and more than 450 of these were enacted. In the 2000-2001 legislative session some 2,150 bills promoting ALEC policies were introduced.⁴²³

Fortune reported that during the 2009 legislative session, ALEC developed 826 state bills and 115 of them were made into law.⁴²⁴ (In 2010, the GOP picked up more than 700 seats in state legislatures and now controls 25 state legislatures, up from 14.) According to Edwin Bender, executive director, National Institute on Money in

State Politics, "Corporations can implement their agendas very effectively using ALEC."⁴²⁵ ALEC often works closely with other corporate-funded think tanks. In 2007, its annual meeting was co-sponsored by the Heritage Foundation, which is itself funded in part by AT&T and Verizon.

We will come back to ALEC as their current 2011-2014 campaign is designed to shut down all regulations, obligations, oversight, and even shut off the copper wires — instead of fixing or upgrading them.

Tauzin-Dingell is Evil: House for Sale

An entire book could be written about Congress, money and telecom, but let's just focus on one player, Billy "the Bell" Tauzin.

In 2001, the "Internet Freedom and Broadband Deployment Act" was introduced by Representatives Tauzin(R-LA) & Dingell(D-MI) and it was designed to give the four Bell monopolies — (before some of the mergers) BellSouth, Verizon (Bell Atlantic, GTE, NYNEX), SBC (Ameritech, Pac Bell) and Qwest, new freedoms. And it was part of the massive campaign, as we previously discussed which was also occurring at the FCC under Chairman Michael Powell, designed to remove all competitors and oversight. (In 2013, these 'talking points' are still in play.)

- The Act prohibited the Federal Communications Commission (FCC) and the state commissions from regulating high-speed access,
- The Act stopped the Bell companies from having to resell the services to competitors,
- The Act allowed the phone companies into data long distance before there is local competition.

One passage was entitled “FREEDOM FROM REGULATION, and it is pretty much an early version of the language used in many of the ALEC bills presented over the last 5 years.

“Except to the extent that high speed data service, Internet backbone service, and Internet access service are expressly referred to in this Act, neither the Commission, nor any State, shall have authority to regulate the rates, charges, terms, or conditions for, or entry into the provision of, any high speed data service, Internet backbone service, or Internet access service, or to regulate any network element to the extent it is used in the provision of any such service; nor shall the Commission impose or require the collection of any fees, taxes, charges, or tariffs upon such service.”

In short, this means that the Bell companies could block competitors from reselling the services, could enter into new business without any competitor safeguards, and the bill would stop regulators from fixing anti-competitive practices.

But it was Tausin himself who was moved into political position to help his friends the phone companies that was most disturbing. One of the leading publications at the time, *Interactive Week*, ran a series of articles titled "Chairman Billy Tausin: Bell Ringer"⁴²⁶ (2/19, 2001) highlighting the dubious ties Chairman Tausin had to the local phone companies.

“The fight for control of the telecommunications networks that are the lifeblood of the Internet may be brewing in Washington, D.C., but its shaping up in the tradition of good old boy Louisiana politics...At the heart of the battle is the powerful new chairman of the House Energy and Commerce Committee, Rep. Billy Tausin, R-La., a small-town Democrat-turned Republican who has built his political career with the help of close personal and financial ties to the regional Bell monopolies.”

And in 2001, New Networks suggested that Tauzin recuse himself because of his direct conflicts of interest. To start, Tauzin's counsel to the Commerce Committee worked for Bell clients. *Interactive Week* wrote:⁴²⁷

"Late last year, when it was clear he had the inside track for the Commerce Committee chairmanship, Tauzin hired Jessica Wallace as his staff counsel and recently named her to oversee telecommunications issues for him as counsel to the Commerce Committee. Wallace's previous post was at the prominent lobbying law firm Verner, Liipfert, Bernhard, McPherson and Hand, where her telecommunications clients included BellSouth and SBC."

There were numerous other ties as well.⁴²⁸

"Staffers have come to him from telecom lobbying jobs", and "his oldest son, Billy Tauzin, III is a state lobbyist for BellSouth in Louisiana."

Interactive Week goes on to discuss the financing and perks Billy Tauzin received from the Bell companies.⁴²⁹

"The Bells have contributed millions of dollars to Tauzin and the GOP through events he organized. They have supplied him with transportation on their corporate jets and paid his travel expenses for excursions across the country and around the world. He has taken frequent hunting trips with Bell executives.

"In last year's election alone, using political action committees and contributions from employee groups and individuals, the remaining four Bells -BellSouth, Qwest Communications International, SBC Communications and Verizon Communications - poured \$55,200 into Tauzin's personal campaign coffers; in fact,

he was the top recipient of money from those interests. All told, Tauzin received \$190,744 from communications and electronics industry interests in the election cycle, besting even House Speaker Dennis Hastert, R-Ill., and trailing only two other House candidates.

"The telecom money was part of the whopping \$1.3 million that Tauzin raised for the race in his home district. Campaign records show Tauzin funneled a sizable amount of that money, \$565,704, to help fund political campaigns of his Republican friends on Capitol Hill, a move that helped him beat Rep. Mike Oxley, R-Ohio, for the Commerce Committee chairmanship."

In fact, the ties to BellSouth were very numerous. According to Common Cause's Schmooze or Lose 2000⁴³⁰ on convention parties, BellSouth helped to sponsor Billy Tauzin's Mardi Gras party at Dodger Stadium. The price tag was \$400,000.

"Billy Tauzin (R-LA/3) - Mardi Gras party Tauzin hopes to be the next Chair of the House Commerce committee. He is the current Chair of the Commerce subcommittee on Telecommunications, Trade, and Consumer Protection. Sponsors who will each donate as much as \$25,000, include BellSouth Corp, Comsat Corp, Southern Co, and SBC Communications, all of whom have various interests before the Commerce Committee.

"Estimated Cost: \$400,000."

The ethical issues had not gone unnoticed. According to Interactive Week's interview with Andrew Schwartzman, at the time the Director of Media Access Project, Tauzin was "Bellsouth's guy".

"From the minute he got here, he was BellSouth's guy," said Andrew Schwartzman, director at the Media Access Project, a consumer interest group. "And if you're a hired gun, after long enough, you think you're right. I don't know when Billy came to think that, but he's been viewing the world through the BellSouth telescope since he got here."

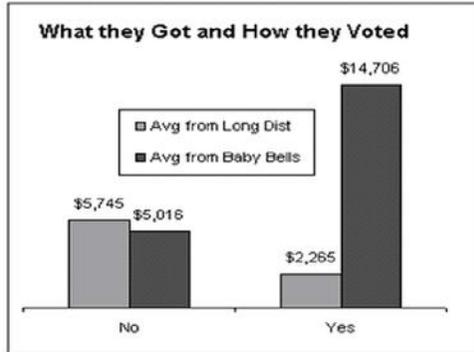
The Vote: House for Sale.

Forget about Democrat or Republican. Money talks. Open Secrets wrote:⁴³¹

"In an era when strict party-line votes are the rule of the day on Capitol Hill, the Tauzin-Dingell bill passed Feb. 27 by the House of Representatives provides a fascinating example of a voting tally that ran much closer to contribution patterns than to party affiliation."

In March 2002, the bill passed the House of Representatives. The chart below shows how those who voted 'Yes' got an average of \$14,700 from the Bell phone companies. And note, the 'other side' of this fight were the long distance companies, AT&T and MCI. During 2004-2005, the FCC finished the job and the two largest competitors lost the right to use the networks and get wholesale rates to offer local service.

EXHIBIT 53
The House Vote for Tauzin-Dingell, 2002



We note that Billy Tauzin was one of Michael Powell's sponsors to become an FCC Commissioner and then Chairman.

Chapter 29 The Statewide Cable Franchise Attack — One More Broken Promise After Another.

Timeline: 2005-2007

Don't you want cable competition?

It's 2005, and now that the phone companies were able to close down the networks to all forms of competition and the companies had made lots of announcements. It was time for more deregulation. Again AT&T and Verizon would make major statements of wondrous new cable services, alongside of their broadband announcements — their creation of Verizon's FiOS TV and AT&T's U-Verse,

Alongside the broadband buzz it was time for another round of hype — and so the company would be bringing out the shills, sycophants, paid off think tanks and fake astroturf groups, not to mention co-opted non-profits to push the AT&T and Verizon agenda — all done so that the companies would get permission to roll out their cable services however and where-ever and to whoever they wanted to, not to mention block the municipalities from offering competition and other nasty deeds.

The Phoenix Center for Advanced Legal & Economic Public Policy Studies⁴³², the telco-funded DC-based think tank, summed it up nicely. To paraphrase: *If you only let these poor phone companies to do what they want, there would be competition and lower prices. And every year that there is a delay, it costs America's consumers \$8.2 billion annually.*

“Traditional phone carriers have announced ambitious multi-billion dollar plans to bulk up their networks with fiber in order to deliver a range of new services, including multi-channel video in competition with video incumbents. This competition promises to benefit consumers through lower prices, enhanced services and expanded choices from both incumbents and new entrants.”

“Drawing on existing data that shows cable prices are about 15 percent lower in the face of wireline video competition, we find that a one-year delay in entry because of franchise requirements would cost American consumers \$8.2 billion. The toll on consumers cumulates as reform is deferred so that four years of delay would cost consumers almost \$30 billion in unrecoverable losses.”

And another Phoenix Center report states that getting rid of local franchising and allowing for state-wide or even federal cable franchising would help low income families get competitive broadband and cable services from AT&T and Verizon.

“The Impact of Video Service Regulation on the Construction of Broadband Networks to Low-Income Households (September 2005): This Policy Paper demonstrates that policies that hinder a new entrant’s ability to sell video programming, such as forcing entrants to obtain a local cable franchise agreement, will strongly diminish that entrant’s incentive to deploy fiber to low-income households”⁴³³.

With a massive budget, thousands of non-profits being funded via foundation grants and a bucket of corporate-funded think tanks — all on the same message — *Don’t you want cable competition — just give the telcos state-wide franchises* — SBC and Verizon started to go state-by-state to sell this snake oil.

The Cable Franchise State Attacks

Like the alternative regulation bills, where the incumbent Bell company created a team and went state to state to get the deregulation passed based on promising to upgrade the networks to fiber, a little more than a decade later, the companies had groups going into each state to get ‘state-wide’ or ‘system-wide’ franchising in place — claiming cable competition in the entire state was immediate. While one would think that the

regulators would have learned from previous lessons, the phone companies knew that they controlled the agenda. They had just taken over the FCC, so state by state they would take over the state legislatures and get the cable franchise with minimal pain or cost.

And in walks ALEC, the American Legislative Exchange Council.

In 2006, ALEC created a statewide cable franchise bill that it called “the Cable and Video Competition Act.” Its goal was to give the phone companies total control over their franchises and to remove previously agreed-to requirements, such as wiring the entire state.

Returning to Wisconsin, in March 2007, Montgomery and State Sen. Plale introduced a statewide cable franchise bill in Wisconsin called “The Video Competition Act”. A major result of the bill, according to an article in the *Milwaukee Journal Sentinel*⁴³⁴, would be to eliminate municipal cable franchises. Upon introducing the legislation, Montgomery and Plale put forth the now-familiar industry talking points of removing “barriers to competition”, increased “cable choice to consumers”, and “increasing technology options”.

The legislation did not hold the companies accountable for previously legislated deployment obligations. As pointed out in the last few hundred pages, companies collected billions to build out the networks in what was to be a five-state plan covering schools, libraries and hospitals as well as homes. In Wisconsin hardly any of that had been done. And yet, these bills allowed companies to choose not only what to build, but where and when or if to build new cable systems.

Outing “Consumers for Cable Choice”

Along side the ALEC attack, in order to perfectly gift wrap the phone companies’ state-wide gifts of these new cable franchises a new astroturf group was formed called “Consumers for Cable Choice”. One would think that with a name like that, it would be defending your rights and getting cable competition, right?

Sorry. They were just another bell-front whose goal was to make sure that their creator, the Bell companies, would be able to offer cable services without serious obligations that local cable franchise agreements required.

“Consumers for Cable Choice” acted as a skunkworks group, coordinating activities in different state and federal campaigns and “supported by telecommunications companies, including SBC (now AT&T) and Verizon”. Using members of the non-profit cabal, it controlled an ‘alliance’⁴³⁵ of astroturf groups and non-profits, such as LULAC and National Grange.

Their position was the Phoenix Center’s position and C4CC used their data to reinforce the points.

“C4CC is committed to the development of a competitive, vibrant cable communications market. Our goal is the creation of an open, diverse, pro-consumer market for cable subscribers that will stimulate price, choice and service options. “

“Consumers for Cable Choice advocates...Unreasonable franchise rules that nurtured and protected cable video providers during the last century must make way for a new era in cable video based on competitive choice in the marketplace.”

Consumers for Cable Choice started working in Indiana and in NJ, among other states, but the plan was the same — model campaigns to back model legislation.

In December 2005, in New Jersey, NJ Cable Choice sent full color mailings and had a web site, which didn’t identify Verizon as its funding source, However, Cable Choice was also buying-off the common thought by putting out research from new groups and other their cadre of paid off researchers.

And they had the power to overwhelm a meeting. For example, they controlled a panel at the annual meeting of the National Conference of State Legislatures (NCSL) in 2005.

"During its annual fall meeting last week in Chicago, members of the National Conference of State Legislatures (NCSL) got an earful from analysts and advocacy groups about the problems associated with local franchise authorities (LFAs) and the related issue of "high price" among cablecos dominating the video business.

"In one of its public hearings during the annual session, the NCSL's Standing Committee on Communications Technology & Interstate Commerce heard about the ills of municipal governments handling franchise matters and complaints about cableco control from such groups as Institute for Policy Innovation (IPI), Consumers for Cable Choice (C4CC), the Alliance for Rural Television (ART, a C4CC member), the American Consumer Institute (ACI), the Phoenix Center for Advanced Legal and Economic Public Policy Studies and others."

In this case — All of these groups worked for Cable Choice. The American Consumer Institute was another new creation. At its head was Steve Pociak, who is a former Bell company-economist.

And with the force of millions of dollars played against an unsuspecting public model legislation bills that were similar to almost identical were passed in New Jersey, California, Illinois, Indiana and Ohio, among others. In Wisconsin, the bill was signed into law in December 2007, after the Governor line-item vetoed a few of the most egregious anti-consumer clauses.

We will return to the outcomes of these cable franchise campaigns in a moment. There was another series of Issue Dynamic campaigns being done to block municipalities from building broadband WiFi and wired networks, even when the incumbents failed to show up. While ALEC was involved, many times they stayed in the background, letting others do the dirty work.

Blocking Wi-Fi and Municipality Broadband Competition

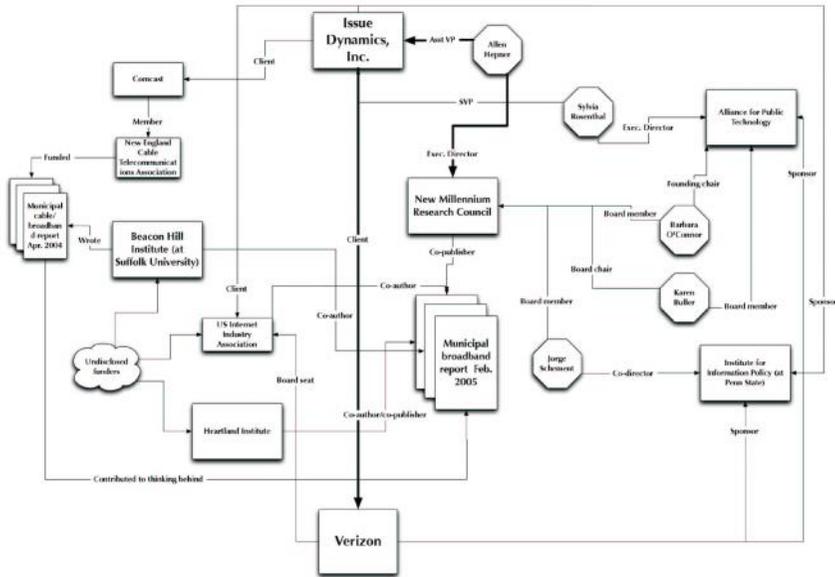
Returning to our friend Issue Dynamics, we find that there was an additional series of campaigns around the same time to close down the rights of municipalities to offer broadband or Internet. One study by the New Millennium Research Council, as well as members of the Issue Dynamics cabal, including the United States Internet Industry Association (USIIA), Beacon Hill Institute, The Heartland Institute, Institute for Policy Innovation (IPI), Competitive Enterprise Institute's (CEI) had all come out against municipalities offering Wi-Fi or broadband services. Just the name of the report should have triggered that it was a Bell funded report, published to close down municipalities who want to offer Wifi services in underserved areas.

“Not In the Public Interest — The Myth of Municipal Wi-Fi Networks’ Why Municipal Schemes to Provide Wi-Fi Broadband Service with Public Funds Are Ill-Advised”, February 2005

In 2005, Wi-Fi Networking News and others uncovered how Issue Dynamics, APT and the New Millennium Research Council (a project of Issue Dynamics) had issued reports bashing municipalities’ ability to offer broadband and Wi-Fi Internet services and that this data was being used in multiple states throughout the US to make state legislatures vote against competition.

Wifi-Networking News charted some of the relationships in this campaign.⁴³⁶

EXHIBIT 54
Relationship of Various Groups in the Municipality Fights



And while all of these groups claimed to be independent, non-partisan, or just ‘great guys’, their agenda was to get paid to trash the muni-deployments for the Bell companies who fund some/much/all of this campaign. That’s why one of the conclusions was about the “negative impact on broadband competition”.

“The contributing experts identify several key concerns regarding these city-funded networks, including: (i) cost overruns that are unanticipated by the city and place the burden on taxpayers; (ii) the negative impact on broadband competition caused by municipal entry; and, (iii) questionable assertions regarding the ‘build it and they will come’ claim, since economic development is not perceived as a guaranteed result of municipal Wi-Fi deployment.”⁴³⁷

The Cable Franchise Aftermath

The Alliance of Community Media⁴³⁸ and others assembled a list of laws that were passed, including Texas, California, Michigan, and the Carolinas, among others. The next exhibit highlights the build out requirement for the state-wide franchise, including AT&T’s U-Verse cable service and Verizon’s FiOS.

EXHIBIT 55

Sample of State-Wide Cable Franchise laws, 2005-2007

Michigan (2007)	Texas (2005)	Virginia (2006)	Indiana (2006)	Kansas (2006)	North Carolina (2006)	South Carolina (2006)	New Jersey (2006)	California(2006)
Video service provider with more than 1 million access lines shall provide access to: 25% of its homes, of which 15% must be low income) within 3 years 50% of homes (30% must be low income) within 6 years. (Later obligation is only if provider achieved 30% penetration rate.)	No Redlining but no build out	65% of households within 7 years — subject to broad force majeure relief.	No Redlining, but no build out	No Redlining, but no build out	NONE	NONE	Within 3 years begin service in: (a) each county seat, and (b) Each municipality with pop. density greater than 7,111 per square. Within 6 years of the date the CATV company first provides cable television it must make cable television service available throughout the residential areas of any such municipalities	Must reach 25% of Verizon current homes passed within 4 years and 40% within five years. AT&T 35% of homes in three years and 50% in five years. Either system must have no less than 25% of homes be low-income (\$35,000 or less per annum in income.)

A Quick Scan of These State Fights:

- NOTE: New Jersey and Virginia are Verizon states and Verizon also controls the old GTE territory in California. All the rest of California and the other states are AT&T territories.
- The majority of states had no real requirements to do anything. Some of these had restrictions ‘red-lining’, so that they would not just build in the richer communities at the exclusion of the poorer ones.

Best Best & Kreiger, whose clients include municipalities, gave a presentation in May 2013 titled “State Franchising: An idea whose time has past, whose benefits have failed to appear, but whose damages we see every day.”⁴³⁹

The presentation had these basic points about state-wide cable franchising:

- Prices continue to rise” — 144% since 1995 for ‘expanded basic’ — and this doesn’t include the add-on prices of taxes, fees, and surcharges.
- Ninety eight percent (98%) of local regulators in state franchise states when surveyed disagreed with the statement ‘Customer service is working better now than it was before the implementation of state franchising.
- No state has made any significant effort to enforce build-out requirements.

According to the presentation, part of the cable franchise agreements dealt with supplying cable channels for PEG channels.

“Public, Education, or Government Channel (PEG) is a commonly used acronym by the local television industry to describe publicly funded access stations. These may be run by municipalities, school districts, or volunteers.”⁴⁴⁰

And the presentation outlined how it was open season on these community-based networks. Based on research from the Buske Group Report:

- Over 100 PEG centers have closed with a large majority being public access.
- California lost no less than 51 PEG centers.
- Nearly half of the PEG centers who provided financial information to Buske Group reported an average funding decrease of nearly 40 percent 2005-2010.
- 20 percent reported in-kind support has been cut back or eliminated during this five-year period.
- 165 PEG centers reported that they expect elimination or reductions in funding within 3 years.

AT&T' U-Verse in Michigan

To highlight one state from this chart, let's examine Michigan law. The law stated that:

“Video service provider with more than 1 million access lines shall provide access to:

- 25% of its homes, of which 25% must be low income) within 3 years
- 50% of homes (30% must be low income) within 6 years. (Later obligation is only if provider achieved 30% penetration rate.)

The Michigan Uniform Video Services Local Franchise Act passed January 1, 2007 and it requires an annual report by the Michigan Public Service Commission (Commission) to supply information regarding the “status of competition for video/cable services in Michigan, as well as recommendations for needed legislation to the Governor and Legislature”⁴⁴¹

The report from 2013 was a fluff piece to make the regulators happy. According to the report, everything is just fine with cable services in Michigan.⁴⁴²

“Increases in subscribers as well as the emergence of another video/cable provider are positive signs for the video services industry in the state of Michigan. Both franchise entities and providers have continued to report that video/cable competition is continuing to grow.”

And yet, the numbers presented and the comments made by the ‘franchise entities’ (also referred to as municipalities or communities) collected through an annual survey, tells a much different tale.

First, the number of cable subscribers dropped since 2009 about 10% in 2012. Next, there are 370 communities and only 105 reported two or more video/cable providers offering service in 2012 — only 28%.

There is no mention of AT&T's position in any of this, even though they are the largest incumbent phone company that was entering the local cable markets for competition.

The original law in Michigan de-clawed the state commission and so it couldn't do anything to check rates. This the report doesn't bother giving the carriers and the rates they charge.

“Pursuant to 2006 PA 480, neither the Commission, nor the franchise entity has rate regulatory authority or control over a provider. The Commission does not regulate video/cable rates.”⁴⁴³

But it is the comments of the municipalities that show just how out of whack this report's conclusions are with reality. The comments below are from the survey of municipalities conducted in 2012.

EXHIBIT 56

Franchise Entities' Suggestions or Comments in Michigan, 2012

Build Out/Expansion

- Build outs are needed for residents in rural communities with sparse population.
- Residents question when cable service will be available in their area.
- Cable provider is not interested in expanding south of I-94 (too expensive).
- Unable to access top quality service due to lack of expansion in more rural areas.
- Expand cable service into the outlying areas of rural townships needed.
- Has had a franchise for 6 years and still no expansion.

Requirements for Providers

- System updates not completed as promised. Large numbers have gone to satellite.
- Upgrades are needed to allow for better reception and channel selection.

Competition

- There are two providers in our area, yet little increase in competition.
- Two providers offer service, but neither extended services to meet customer requests.
- Cost to extend service to reach potential customers affects competition.
- Additional providers = competition = good.
- Cable provider left when switch from analog to digital, stating not enough customers to afford the change-over. Now only satellite is available.

For detailed reporting on Michigan, see *Stop the Cap's* article "Statewide Video Franchising Laws: Still Handing the Balance of Power to Big Telecom", July 2013.⁴⁴⁴ The title says it all.

We will come back to the cable franchise issue in our in-depth analysis of New Jersey, but it is clear that once again, it has been a bonanza for the telcos and cable companies.

Part VI Mob Bell: The Takeover: 2010-2014**Chapter 30 The National Broadband Plan - Or How to Raise Rates and Taxes.****Timeline: 2009-2012**

It is 2009 and the US is in a severe recession. Congress passes the American Recovery and Reinvestment Act of 2009⁴⁴⁵ which mandates that the FCC creates a national broadband plan. The plan was released in March, 2010.

Oh what lofty goals.

“Broadband is the great infrastructure challenge of the early 21st century. Like electricity a century ago, broadband is a foundation for economic growth, job creation, global competitiveness and a better way of life. It is enabling entire new industries and unlocking vast new possibilities for existing ones. It is changing how we educate children, deliver health care, manage energy, ensure public safety, engage government, and access, organize and disseminate knowledge.”⁴⁴⁶

Sound familiar? Oh, but it’s really good for healthcare or education...

“Broadband-enabled health information technology (IT) can improve care and lower costs by hundreds of billions of dollars in the coming decades, yet the United States is behind many advanced countries in the adoption of such technology.

“Broadband can provide teachers with tools that allow students to learn the same course material in half the time, but there is a dearth of easily accessible digital educational content required for such opportunities.”

Need I remind the reader of these bullet points from the New Jersey Deloitte Infrastructure report from 1991 — 21 years ago.

- "advance the public agenda for excellence in education,"
- "improve quality of care and cost reduction in the healthcare industry."

There was no institutional memory of any broadband commitments made in the past nor any examination of the state laws, any examination of who is actually paying for the broadband deployments as the Plan states that the money is 'private investment' — ignoring the real investor — the customer.

“Fueled primarily by private sector investment and innovation, the American broadband ecosystem has evolved rapidly.”

But at least the FCC was going to cover its bases and ask the questions and for public input, even though the FCC was going to do whatever it wanted to.

“The FCC started the process of creating this plan with a Notice of Inquiry in April 2009. Thirty-six public workshops held at the FCC and streamed online, which drew more than 10,000 in-person or online attendees, provided the framework for the ideas contained within the plan. These ideas were then refined based on replies to 31 public notices, which generated some 23,000 comments totaling about 74,000 pages from more than 700 parties. The FCC also received about 1,100 ex parte filings totaling some 13,000 pages and nine public hearings were held throughout the country to further clarify the issues addressed in the plan”

Phew. A lot of pages and time and yet here we are today with the major consequence of the plan being to overcharge customers. The irony here is — we pointed out that the

FCC that the agency had never examined the tens of thousands of pages of state-based alternative regulation plans over the last two decades, not even the statements made by the companies in everything from their annual reports to state filings. In fact, over the last decade, the FCC's annual advanced networks reports, which were required under Section 706 of the Telecommunications Act of 1996 — and which required the agency to examine whether broadband was being deployed in a time fashion, was never examined or even included in the record.⁴⁴⁷ In fact, we've begun filing comments about this intentional rewriting of history, broadband commitments and customer funding starting in 1998, the first inquiry into whether broadband was being delivered on a timely basis.

The National Broadband Plan never investigated why AT&T's entire U-Verse networks were based on copper-to-the-home — or any previous commitments, or even addressed why there was no competition for Internet or broadband or cable services — as the FCC helped to close these networks to competition just a few years before.

The National Broadband Map: Garbage in = Bad Policy Out.

At the same time of this plan, the FCC spent an estimated \$300 million⁴⁴⁸ creating a database of broadband availability which is so corrupted that most people simply start laughing when they see the results — or cry at just how blatant this mistakes are. The title of a *DSL Reports*' article in March 2012 says it all; “Our National Broadband Map Remains Largely Useless.”

In fact, in 2011 and in 2013 we queried the database using home addresses and some small businesses in Manhattan, New York City — and there was no correct information too be had. In my case, two of the providers mentioned, CSC Holdings and Platinum Equity, did not offer service in my building, Verizon didn't offer 100 Mbps and neither does Time Warner Cable, especially not in December 2012 when the data was added. And it was the same bad data I found when I queried the National Broadband map in 2011.⁴⁴⁹

EXHIBIT 57**National Broadband Map: Advertised Speeds Above 3 Mbps**

Data as of: 12/31/12

CSC Holdings, LLC	100 Mbps - 1 Gbps
Verizon Communications, Inc.	50 - 100 Mbps
Time Warner Cable, Inc.	50 - 100 Mbps
Platinum Equity, LLC	10-25 Mbps

Try it for yourself at: <http://broadbandmap.gov/>

The Speed is Atrocious: We Pay \$50-\$75 Billion and We Get Tin Cans & Sting?

The National Broadband Plan's primary goal is 100 Mbps services:

“Goal No. 1: At least 100 million U.S. homes should have affordable access to actual download speeds of at least 100 megabits per second and actual upload speeds of at least 50 megabits per second.”

But that is not what the current plan calls for. Please do not laugh. This is what we get for spending all this money, as told by the FCC's Connect America Fund documents —Wireless with a minimum speed of “4G (768 kbps/200 kbps minimum at cell edge)” or wired speed of “4 Mbps/1 Mbps to all supported locations”.

EXHIBIT 58**Component of CAF Broadband Performance Characteristics**

- **Price Cap CAF (Phase I) (Incremental support)** Speed of at least 4 Mbps/1 Mbps to a specified number of locations, depending on level of incremental support
- **CAF in Price Cap Areas (Phase II)** Speed of at least 4 Mbps/1 Mbps to all supported locations, with at least 6 Mbps/1.5 Mbps to a number of supported locations to be specified.
- **Mobility Fund, Phase I**
 - 3G (200 kbps/50 kbps minimum at cell edge) OR
 - 4G (768 kbps/200 kbps minimum at cell edge)

This speed can not be used to compete with cable as it requires at least 6-10Mbps speeds to supply HD video. It can not do HD-telemedicine as the upload speeds are too slow. On mobility, these speeds are just embarrassing as the FCC has fallen back on using “200 Kbps” for broadband. That is 1/5 of 1 Mbps. 200 kbps was originally initiated in 1998 as part of the original advanced networks proceeding as the goal was to make sure that the country was fooled into thinking that there was broadband everywhere, even if it was two cans and some string. Remember, the speed of broadband as listed in state alternative regulation plans was 45 Mbps in both directions, and the FCC wanted nothing to do with that as they’d have to hold the companies accountable and the facts would get in the way of the hype. It is now almost 2014 and we are still using a standard that was embarrassing 16 years ago. Ironically, the title of Al Gore’s book, "Inconvenient Truth" comes to mind as Gore was Vice President at the time and this information highway deployment was his plan.

How is the National Broadband Plan Funded — Rate Increases and New Taxes.

In the name of getting broadband to America's unserved and fixing the broken Universal Service Fund, the FCC has just raised everyone's phone rates and added new taxes, among other odious things. Worse, in reality, much of the money, even the new taxes are just more money to AT&T, Verizon and the other phone companies.

The FCC even claims that raising rates and new fees will add "500,000 jobs and \$50 billion in economic growth over this period".⁴⁵⁰ Did you know that increasing your rates and adding new taxes is even good for you? It will save consumers who make long distance calls money, and wireless customers alone will have a billion dollars in benefits.

According to the official FCC blog:⁴⁵¹

"Consumers who make long-distance calls — including nearly all landline and mobile phone subscribers — will benefit from reduced prices or greater value for the money — or both, with an FCC-estimated \$1 billion or more per year in benefits for wireless consumers alone."

Truth be told, when you strip away the rhetoric, The FCC has been snookered by the phone companies' plan — hook, dialtone line and sinker. In fact, we are all going to be charged about \$10-\$15 billion annually and history shows that the 'savings' are never accrued, they are simply hype. That means they are collecting \$50-\$75 billion from us customers over the next 5-6 years.

We estimate that residential customers will be spending \$40-\$75 a year more and small businesses \$150-\$300 a year, and this amount increases with the number of phone and wireless services they have. That's on top of the current 15% tax applied for the Universal Service Tax of which, ultimately, AT&T and Verizon are the largest recipients.

Is the Economic ‘Growth’ Really Nothing More than You are Paying More to the Phone Companies?

The FCC claims that these increases aren’t going to amount to much money for each customer, i.e., you, as the phone companies would never, ever, charge the maximum. The FCC doesn’t have a clue about the reality of these changes as they don’t collect actual phone bills nor have they done any analysis on what the entire costs will be, including taxes, fees and surcharges being applied today, much less when the increases hit. History shows that if there’s a way to get the maximum, the companies will figure out how to bill you for it.

Here’s how They Will Be Overcharging You.

Let’s expose all the money as this entire plan has multiple moving parts. There is the Universal Service reform, the Connect America Fund and something called “intercarrier compensation”, (which are the payments made between the phone companies to handle traffic), but are all tied to the National Broadband Plan. Because it’s very complicated and these various documents are over 1,360 pages, the FCC has not bothered to actually show anyone what all of these charges are going to look like (but only gives the total amount raised in some cases).

A summary of new phone bill pain includes:

- **Universal Service Fund (USF)** — remains at the all time high. Currently around a 15% tax collected on all ‘interstate’ services, wireline or wireless service, the USF is running around \$8-\$9 billion annually About half of the money goes to “high cost funds”; the other half goes to Lifeline, Schools & Libraries and Rural Healthcare Funds.

- **High Cost Fund Capped at \$4.5 billion** — The FCC capped the high cost fund \$4.5 billion and this is, in fact, not changed from the current 12-year high amount.
- **“Access Recovery Charge (ARC)”** — on wireline telephone service, is a new tax/charge that could add \$2.50-\$3.00 a month per line after 6 years. Originally the phone companies’ plan was to raise the FCC Subscriber Line Charge on customers’ bills, but that would be too obvious. Note: This is direct revenue to the phone companies.
- **ARC Multi-line Business** customers are really hosed as they can be charged \$5.00-\$6.00 or more a month extra as “ARC plus the existing FCC Subscriber Line Charge can go to \$12.20 per line”. There is NO cap on the rate increases on businesses. The current FCC Line Charge is capped at \$6.50 a month per line, (with other caveats).
- **Connect America Fund (CAF)** — This is a new tax collecting \$1.8 billion annually. Named after the astroturf group, it gives more money to the phone companies.
- **The Mobility Fund** — has a “\$500 million total budget”, as if the cell phone companies needed a \$2.5 billion 5-year subsidy, though in principle it should be going to underserved areas.
- **Tribal Areas** — are “up to \$100 million per year” (out of the Mobility Fund).
- **Remote Areas Fund** — The FCC states is “at least \$100 million per year to ensure that Americans living in the most remote areas in the nation, where the cost of deploying traditional terrestrial broadband networks is extremely high can make use of ‘alternative’ methods of Internet access). It is designed for areas

that the Bell companies won't bother with. Previously, remote areas could receive \$5,000-\$10,000 per line per year. (However notice the words "at least", meaning it could be a lot more.)

- **FCC Subscriber Line Charge** — (on all local bills) does not go to fund the FCC but is direct revenue to the phone companies and it may also get raised. The FCC claims that they are "reassessing existing FCC subscriber line charges (SLCs), which are not otherwise implicated by this Order, to determine whether those charges are set at appropriate levels". NOTE: The "ARC is a combination of new charge and SLC", so how can the FCC claim this isn't directly related if it's tied directly to the ARC increase? Moreover, the FCC doesn't want people to figure out that this increase was planned by the phone companies at least 5 years ago.

There are some other charges that we expect, most specifically:

- *"We are the phone company and this is our plan and all of this money goes to us charge",*
- *"Please Sir, may I have another charge?"*

BTOP and Stimulus Monies

Alongside the National Broadband map was other funds to deploy broadband in unserved areas and other related projects.

"The American Recovery and Reinvestment Act provided the Department of Commerce's National Telecommunications and Information Administration (NTIA) and the U.S. Department of Agriculture's Rural Utilities Service (RUS) with \$7.2 billion to expand access to broadband services in the United States. Of those

funds, the Act provided \$4.7 billion to NTIA to support the deployment of broadband infrastructure, enhance and expand public computer centers, encourage sustainable adoption of broadband service, and develop and maintain a nationwide public map of broadband service capability and availability. NTIA will make all grant awards by September 30, 2010.”

The most notable for broadband was the BTOP grants.

“Broadband Technology Opportunities Program (BTOP). The NTIA administers the Broadband Technology Opportunities Program (BTOP) within three project categories:

- **Comprehensive Community Infrastructure:** Projects to deploy new or improved broadband Internet facilities (e.g., laying new fiber-optic cables or upgrading wireless towers) and to connect “community anchor institutions” such as schools, libraries, hospitals, and public safety facilities. These networks help ensure sustainable community growth and provide the foundation for enhanced household and business broadband Internet services.
- **Public Computer Centers:** Projects to establish new public computer facilities or upgrade existing ones that provide broadband access to the general public or to specific vulnerable populations, such as low-income individuals, the unemployed, seniors, children, minorities, and people with disabilities.
- **Sustainable Broadband Adoption:** Projects that focus on increasing broadband Internet usage and adoption, including among vulnerable populations where broadband technology

traditionally has been underutilized. Many projects include digital literacy training and outreach campaigns to increase the relevance of broadband in people's everyday lives.

There are a host of good activities that deserving communities and people will receive, no doubt. But, when push comes to shove, when one examines the underbelly of all of this, parts of this, especially something called Connect2Compete, was a way for the phone and cable companies to co-opt the FCC with their own agenda, and make sure that the national broadband plan was essentially a new way of making more money and block any investigations about the increases — all in the name of broadband.

Connect2Compete: The Telco Owned Non-Profit Cabal.

America's broadband is snail-band slow and these plans call for new taxing and raising rates — then why didn't the non-profits like the NAACP or LULAC, one of the largest Hispanic groups, or the Broadband Coalition not start screaming about these new charges especially as the impact seniors, low income families, disabled and minorities, not to mention all small businesses more money?

In our astroturf chapter we outed a gang of non-profits, research firms, astroturf groups and skunkworks organizations who have been taking over the FCC for decades.

“Connect2Compete is a front group we believe was created to co-opt the FCC and shut everyone up about the actual monies being charged to customers by AT&T and Verizon, throw in Comcast. There are thousands of AT&T and Verizon non-profits and other corporations who have a business relationship with the telcos that are part of this cabal. In fact, some of these astroturf-y groups have arranged to get stimulus monies, but were started by the phone companies to essentially be used as human shields so as to get more money for Verizon and AT&T, both wireline and wireless.

Why has not one group called for an investigation of what happened to the \$400 billion and counting that's been collected by the phone companies and that was

supposed to be dedicated to upgrading the Public Switched Telephone Networks, the utilities, replacing the old copper wiring with fiber optics to the home and office?

Let's give some details about Connect2Compete: This is what Connect2Compete is supposedly attempting to fix.

There is a growing divide between the digital-haves and have-nots.

- Less than one-third of the poorest Americans have adopted broadband, while 90%+ of the richest have adopted.
- Less than 50% of African Americans, Latinos, elderly and rural populations have adopted broadband
- About 46% of low-income families have adopted broadband at home compared with over 90% of higher-income families
- Low-income Americans, rural Americans, seniors, and minorities disproportionately find themselves on the wrong side of the digital divide and excluded from the \$8 trillion dollar global Internet economy

A laudable task. And the FCC has embraced Connect2Compete, as the headline of the press release states:

“FCC & “Connect2Compete” Tackle Barriers To Broadband Adoption new Low-Cost Broadband And Computer Offerings For Eligible School lunch Children & Their Families \$4 Billion, Unprecedented In-Kind Offer for 15-25 Million Americans Builds on FCC’s Digital Literacy Announcement biggest Effort Ever to Help Close the Digital Divide”

Sounds great until you realize that every group is tied to AT&T or Verizon or Comcast and not one group actually complained that the National Broadband plan was going to

raise rates of low income families or was there any discussions of the lack of competition to lower rates or even to deliver broadband.

Connect2Compete, in fact, has nothing to do with bringing in competition — it has everything to do with getting more government subsidies, especially for the groups that are involved with Connect2 Compete.

- **Connect2Compete is Housed at ‘One Economy’**

This is what One Economy claims it is doing: Getting money from corporations to help the ‘low income families.

“One Economy’s vision could not be a reality without the investment and commitment of this country’s socially responsible corporations. Through our corporate partnerships, One Economy has been able to significantly improve the lives of low-income residents, bringing financial independence, higher education, civic engagement and improved health outcomes to millions of people on four continents.”

And its supporters⁴⁵² include the phone and cable companies. — Verizon, AT&T, Comcast, Time Warner, Joint Center, CTIA, LULAC, USTA (Phone association) T-Mobile & Cablevision.

- **Accountability Will be Done by Another Phone Company Funded Group.**

Connect2Compete will be evaluated by The Media and Technology Institute of the Joint Center for Political and Economic Studies.

“Joint Center will serve as the independent evaluator of Connect2Compete and will implement a longitudinal research plan

that sets program metrics and assesses the short-and long-term impact of the initiative.”

The Joint Center For Political And Economic Studies⁴⁵³ has AT&T as part of the ‘president’s circle’, and other contributors are Verizon, Comcast, Time Warner, CTIA, the wireless association, the NCTA, the cable association, among others.

And to do the evaluation of and research, Joint Center created the Media and Technology Institute.

“In 2008, the Joint Center created the Media and Technology Institute with the mission of studying how emerging communications technologies can become avenues of advancement for the disadvantaged.”

And its research used in Connect2Compete was funded by Verizon among others.

“In the last three years, the Media and Technology Institute⁴⁵⁴ has generated robust research that has contributed to sound public policies that realize the importance of equal and affordable broadband access for people of color.”

So, the organization running the Connect 2Compete and the group that doing the research for and evaluation of Connect2Compete both are funded by Verizon, AT&T and the cable companies.

What doesn’t exist is the research showing that Verizon, AT&T, Comcast and Time Warner lack adequate competition to lower rates. Where’s any discussion that America’s telecom companies are overcharging customers, especially disadvantaging the very people they claim they are studying and helping?

- **The Telcos Figured Out how to Double Down on Their Investment.**

One Economy⁴⁵⁵ got one of the largest “BTOP” grants of \$28.5 million dollar grant.

“The NTIA announced 9 recipients of BTOP grants today totaling \$114 million. Among the big winners are One Economy (\$28.5 million),

Talk about scam — so, AT&T and Verizon figured out how to help their ‘non-profits’ by getting more government subsidies so that they don’t have to pay the full freight.

One can argue that the group is doing good things with the money — one can also argue that it has shut down any criticism of work AT&T and Verizon should be doing or about their prices of their service. For example this massive government subsidy is paying for “wireless Internet access, broadband awareness marketing” — aren’t that products AT&T and Verizon offer and aren’t they doing broadband awareness marketing?

- **The Broadband Opportunity Coalition is another Telco Front.**

But it gets a lot worse — The Broadband Opportunity Coalition, BBOC) is yet another mega-astroturf coalition that is part of Connect2Compete and it consists of major non-profits including

The BBOC includes National Urban League, National Association for the Advancement of Colored People (NAACP), National Council of La Raza (NCLR), Asian American Justice Center (AAJC), and the League of United Latin American Citizens (LULAC). The Joint Center for Political and Economic Studies (JCPES) provides research support for the BBOC, and the Minority Media and Telecommunications Council (MMTC) provides legal, policy, and PSA placement support to the BBOC.

And every one of these groups are funded with the help of AT&T, Verizon and Comcast — one, big, happy family.

But it gets really ugly when we find that the groups have figured out how to get massive government subsidies — \$51 million dollars in 2010 to be exact.

*“FUNDING WILL PROPEL LOW-INCOME PEOPLE TO
ENTER THE ECONOMIC MAINSTREAM*

“One Economy Corporation, a global nonprofit that leverages the power of technology to improve the lives of low-income people, and the Broadband Opportunity Coalition (BBOC) will be implementing \$51.5 million in broadband initiatives through the U.S. Department of Commerce’s Broadband Technology Opportunities Program (BTOP), announced today.

“One Economy and the BBOC were awarded \$28.5 million in federal stimulus from the National Telecommunications and information Administration (NTIA)’s BTOP program. Through partnerships with AT&T, Comcast, National Association of Broadcasters, Cisco, Google, CTIA — the Wireless Association, and others, One Economy and the BBOC are supplementing the stimulus award with private sector matching support valued at \$23 million.”

So, we have the corporations creating a major new campaign, Connect2Compete. It gathers lots of non-profits — all of whom are supposed to be serving low income families and who are all funded by the phone and cable companies — and then they in turn get government subsidies — with matching monies from the phone companies.

And yet — and worth repeating, not one group discusses how low income families are being hit with new taxes and surcharges and fees from the National Broadband plan nor that there is no competition to lower phone, broadband, Internet and wireless rates, which is one of the reasons low income families can’t use the new technology.

But there’s a final kicker — Where does AT&T and Verizon get all this money to give out to these groups to secure their silence? Well, they’ve created a war chest in the form of the Foundations they’ve established. And where does this money come from to fund this war chest — well, all of their customers through higher rates. — I.e., you dear reader.

“The Verizon Foundation, the philanthropic arm of Verizon, uses its technology, financial resources and partnerships to address critical social issues, with a focus on education and domestic violence prevention. In 2010, the foundation awarded nearly \$67 million to nonprofit agencies in the U.S. and abroad.”

That’s right. Not only do these groups get government subsidies, and not only did the FCC create new fees and charges, much of which goes back to the phone companies, but Verizon and AT&T have been able to siphon off lots of money to give to the foundations, paid by rate increases that is then given to these groups who’s job it is to obfuscate that this is happening and to in fact, cover over all of this, using the low income families as human shields.

Connect2Compete: Most are Part of the Telco-Funded Cabal.

These are the groups that are part of Connect2Compete and here are a just a few of the links to the monies they receive from AT&T and Verizon.

- **Boys & Girls Clubs of America** received \$1 million from AT&T.⁴⁵⁶
- **Goodwill** Greater Washington, Corporate sponsor Verizon⁴⁵⁷.
- **The Asian American Justice Center**⁴⁵⁸ This toolkit has been produced through the generous support of the Verizon Foundation.
- **Connected Nation**⁴⁵⁹ There are 12 outside directors, eight of which are directly in the orbit of network operators. They are not small players. Including, James W. Cicconi — AT&T senior executive vice president-external and legislative affairs, Steve Largent — CTIA — The Wireless Association president and CEO, Joseph W. Waz — Comcast senior vice president, external affairs and public policy Counsel, Thomas J. Tauke — Verizon executive vice president for public affairs.
- **4-H Camp** building project receives \$25,000 from AT&T Louisiana⁴⁶⁰.

- AT&T supports 4-H⁴⁶¹
- **CFY**⁴⁶² major supporters AT&T, Verizon
- Verizon Foundation Invests \$2.2 Million in Partnership **with National Council of La Raza and National Urban League**⁴⁶³ to Create After-School Education Program Using Thinkfinity.org
- Verizon grants \$1.5 million to **NAACP**⁴⁶⁴ to strengthen IT systems
- **LULAC** Literacy Program for Hispanic Children Receives \$1 Million Grant From the Verizon Foundation⁴⁶⁵ Feb 28, 2008
- **LULAC** fights Latino illiteracy with support of Verizon Foundation⁴⁶⁶, July 2012 “With a \$1 million grant from the Verizon Foundation”,

And one group needs to be highlighted as the new astroturf king.

Minority and Media Telecommunications Council, (MMTC).

According to ‘The Hill “MMTC receives funding from telecom interests”,⁴⁶⁷ but a recent expose in 2013 on the group and their director David Honig, but the Center for Public Integrity shined a new light on the new skunkworks leader for coordinating corporate funding and moving the non-profits, who are also getting funding, in the ‘right’ direction.

Center for Public Integrity writes:⁴⁶⁸

“From 2009 through 2011 MMTC received at least \$725,000 in contributions and sponsorships from network neutrality foes including Verizon, Time Warner, and the National Cable and Telecommunications Association, according to MMTC tax filings and sponsorship lists.

“MMTC’s relationship with Verizon demonstrates the group’s various methods of obtaining industry revenue. In 2009, at the height of the net neutrality debate, Verizon made a direct \$40,000 contribution to MMTC. From 2010 to 2013, MMTC documents “list Verizon as funding at least \$160,000 in MMTC conference sponsorships.

“Additionally, MMTC worked with Verizon on a \$189 million sale⁴⁶⁹ of wireless spectrum licenses to minority-owned Grain Management this year — a deal announced in conjunction with a larger \$1.9 billion license sale to AT&T. A spokesman for Verizon says money paid to MMTC wasn’t intended to influence its policies but to support its mission of promoting inclusion in the industry.

“Some saw Honig playing a key role in organizing traditional civil rights groups like the National Urban League and the League of United Latin American Citizens (LULAC) to sign on to anti-network neutrality filings with the FCC.

“Honig is “the nerve center for much of the action we’ve seen on the part of the civil rights groups,” blogged James Rucker⁴⁷⁰, then the executive director of ColorOfChange.org, a technology-oriented civil rights group that supported network neutrality.”

Chapter 31 The Fall of AT&T U-Verse and Verizon's FiOS — and Why there's No Cable Competition in America.

Timeline: 2010-

“Verizon Axes FIOS Expansion.” *PC Magazine*, March 2010

“Have you been lured by the temptation of Verizon's FIOS service and are just waiting for the day until the company's fiber-optic mishmash of Internet, telephone, and TV connectivity snakes its way to your front door? Keep waiting. According to the Associated Press, Verizon is indicating that it's ready to stop replacing antiquated phone lines with its fiber-backed network for new locations, preferring instead to improve the connectivity of areas that are already fiber-friendly.

“In other words, unless your neighbor has FIOS and you don't, you're likely out of luck. It's been no small sum for Verizon to come close to hitting its goal of wiring up 18 million households with fiber service by the end of 2010. The *Associated Press* reports that Verizon budgeted away \$23 billion for such conversions between 2004 and 2010 — that might sound like a lot, but it costs Verizon roughly \$750 per household to wire up an entire neighborhood, as well as an additional \$600 per house on top of that amount.

“The company's fact sheet boasts that FiOS's connectivity “passed” 15.4 million households by the end of 2009.”

After decades of demanding and getting rate hikes and tax breaks in return for promising to deliver broadband Internet access to schools, libraries, hospitals and

every home and business in their territories, Verizon is now making it clear⁴⁷¹ that it is no longer expanding FiOS, its fiber optic cable service.

AT&T, in 2011, announced pretty much the same thing. In May 2011, Dave Burstein, *DSLPrime* writes⁴⁷²:

“AT&T’s Stankey: U-verse Build Virtually Over Company Comments Suggest Build Ends at 55-60% of Homes.

“AT&T is scheduled to reach 30 million U-verse homes passed by the end of the year with their U-Verse service, or roughly 55-60% of their homes. They will virtually stop there according to President John Stankey speaking at Citibank, who announced 55-60% as their ultimate goal. He suggested that 25-30% of AT&T homes will only be offered ADSL. 20% are "not a heavy emphasis for investment," i.e. 5-10 million of AT&T's 50 million homes are screwed unless they have a decent cable alternative. (Yes, rounding means not necessarily equal to 100 %.)

As we’ll discuss, AT&T has decided to once again use broadband as the hostage — Remove all regulations and we will expand U-Verse to more locations and with higher speeds, but of course, not to everyone.

Let’s start with Verizon’s FiOS.

Customers Paid for FiOS Deployments, Including the ‘Cable TV’ Deployment

Verizon’s FiOS is a brand name for a group of services — broadband, Internet, cable TV, and phone service that goes over a fiber optic wire and it is a ‘Fiber-to-the-Home’ product. There are some caveats but that’s the good news.

The bad news: Verizon claims it is a separate network from the PSTN when it suits them, and sometimes it is part of the PSTN, especially when the company

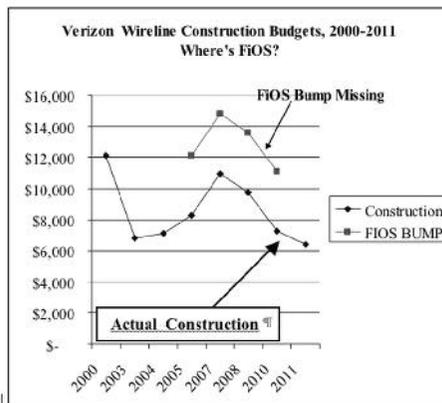
wants to dump the expenses on customers to pay for these upgrades. And there is the problem.

Is Verizon Charging Customers for FIOS?

Stare at a decade’s worth of Verizon annual reports, and you’ll notice something odd. Where, exactly, is that \$23 billion? Specifically, where are the construction budgets to support this claim?

This chart shows Verizon's construction budgets for 2000 through 2011, taken directly from the Verizon annual SEC-filed reports. It also shows an imaginary "FiOS Bump" — about \$3.8 billion dollars per year in addition to the baseline that should have been spent annually over a six-year period if the company had really been paying out \$23 billion dollars for the construction. But the numbers show no bump in construction for FiOS; no major increases in capital expenditures in general. In fact, Verizon, on average, spent more on construction from 2000 to 2004 than from 2005 to 2011.

EXHIBIT 59



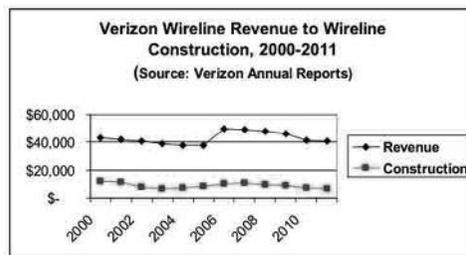
Another way to look at it is this: Construction budgets for wireline services historically equal about 20 to 25 percent of revenues. One could reasonably expect that building

out a \$23 billion network over seven years would lift that percentage to well over 25 percent a year.

But it didn't happen. From 2000 to 2004, construction amounted to 22.2 percent of wireline revenues. From 2005 to 2011, it was only 19.7 percent. That's actually a \$5.9 billion reduction in construction spending in those latter years, compared to what would have been spent had they just continued spending at the same ratio as during the earlier period.

This chart compares revenue and construction costs for wireline services from 2000 to 2011, in millions of dollars.

EXHIBIT 60



So How Did FiOS Get Built?

If Verizon did actually spend \$23 billion, then it appears to have come at the expense of the traditional maintenance and upgrades of the utility plant — and the PSTN got totally hosed. At the very least, prices for basic phone service should have been in steep decline as one of the major costs, construction, was dramatically lowered.

And, Verizon was also getting rate increases specifically to pay for FiOS. For instance, when New York State Department of Public Service Commission Chairman Garry Brown announced the approval of a \$1.95 a month rate hike for residential phone lines in 2009, he said "there are certain increases in Verizon's costs that have to be recognized."⁴⁷³ He explained: "This is especially important given the magnitude of the company's capital investment program, including its massive deployment of fiber optics in New York. We encourage Verizon to make appropriate

investments in New York, and these minor rate increases will allow those investments to continue."

Insult to Injury: Verizon Abandons FiOS for Wireless

What has become clear is that Verizon is going to stop deploying/upgrading the wired networks and is instead going to put its money in wireless. As a result, places that don't have FiOS now will never get higher speed services and cable competition from Verizon.

A New Jersey state commission report⁴⁷⁴ from June 2010 saw this coming, and noted:

"While it is possible for Verizon to extend service throughout its authorized territory, to an additional 155 municipalities in the state that are not included in its current application of 369 towns, Verizon has indicated it will now concentrate its capital expenditures, expected to be between \$16.8 billion and \$17.2 billion in 2010 on its wireless telephone network. Further FiOS expansion will be limited to increasing penetration in those communities where FiOS is currently available, according to the company."

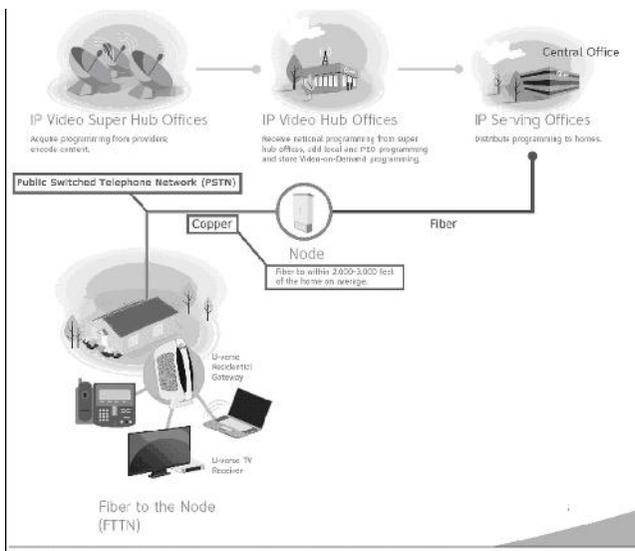
(The \$16.8 and \$17.2 billion are the companies' total annual construction budgets, not New Jersey only.)

Which brings Us to U-Verse.

In the end, after all the hype and hoopla, consolidations of the Bell companies' siblings to cover 22 states, after claiming over and over again in every joining that America would be a fabulous fiber optic palace — in the end AT&T's U-verse service — its broadband, Internet and TV service — is a copper-to-the-home service. More importantly, it is 'fiber-to-the-press-release'. Going through hundreds of blogs and

articles as well as AT&T's state and federal testimony and filings — including AT&T's recent FCC Petition to close down the Public Switched Telephone Networks, (PSTN), AT&T never once mentioned that AT&T's U-verse is a copper-based PSTN service even though U-verse uses the same, exact wires that have been in homes and offices for decades.

EXHIBIT 61
AT&T's U-Verse is PSTN Copper-to-the-Home, 2013



We had to add, in red, the copper being used as well as the caveat that the node can be 2000-3000 feet away from the home.

These are links to current AT&T U-verse information that can be found with any search engine where they define U-verse as "fiber optic". Most of them are directly from AT&T and all of them failed to actually tell anyone reading these materials that U-Verse is copper-based.

- **AT&T U-verse Fiber Technology**⁴⁷⁵ — "Learn how AT&T is taking the fiber optics within our network and turning it into the vehicle that's delivering all your entertainment to your television, computer and phone."

- **Welcome to the Evolution of Digital TV, Internet, and Voice**⁴⁷⁶ — "AT&T U-verse® includes fiber optic technology and computer networking to bring you better digital TV, faster Internet, and a smarter phone. Bring it all together by customizing your own bundle now."
- **U-verse Modified Neighborhood**⁴⁷⁷ — I particularly like the AT&T modified neighborhood with its animation that **never** tells the customer that the wires that actually go on the road and on the poles to the house are copper.
- **"Save with AT&T U-verse® Bundles AT&T U-verse®"**⁴⁷⁸ — "Better DVR, Better Features, A Better Experience. The universe is at your fingertips with AT&T U-verse®. U-verse is an exciting new AT&T product that uses fiber optic technology and computer networking to bring you advanced digital television, high speed Internet and digital home phone service."

Project VIP Another — Please Sir, We'll Really Build if Grant our IP Transition Petition.

In 2012, in order to get the FCC to pass its Petition to 'transition', read close down the 'public switched telephone networks', AT&T has proposed to yet again start building out their U-Verse networks to more households. However, it also revealed just how little AT&T has actually completed of their 22 state territories.

According to AT&T, the company has 76 million⁴⁷⁹ total 'locations', representing households and small businesses. In their Petition they claim that by 2016, 75 percent will have broadband and 33 million customer locations will have a TV option. (Note: 57 million is 75 percent of 76 million locations.)

"AT&T plans to expand and enhance its wireline IP network to 57 million customer locations (consumer and small business) or 75 percent of all customer locations in its wireline service area by year-end 2015. This network

expansion will consist of...AT&T plans to expand U-verse (TV, Internet, Voice over IP) by more than one-third ...for a total potential U-verse market of 33 million customer locations¹. The expansion is expected to be essentially complete by year-end 2015."

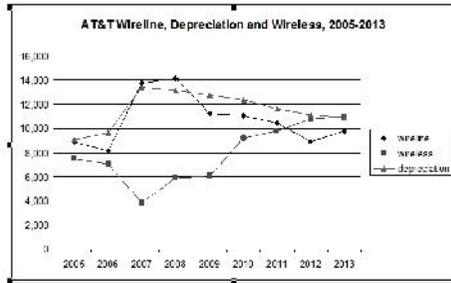
Defunding the Wireline Business; Moving Monies to the Wireless Division.

However, the expansion of U-Verse appears to be a mirage and in fact, the numbers tell a different story — that companies are writing off the wireline networks — defunding them and writing them off, while they boost the capital expenditures of the wireless side. Alongside this, it appears that the companies are maneuvering to show that revenues and expenses to make the wireless company more profitable.

This next exhibit highlights the capital expenditures for wireline and depreciation as well as capital expenditures for the wireless business. What we see is that after 2009, AT&T started to dramatically slow down construction on the wires and increased the construction on wireless. And the third line shows that AT&T wrote off 110-125% as compared to construction — meaning they are writing off more than they are building.

It also brings into question the Project VIP addition that AT&T claimed was going to happen if the FCC grants AT&T's IP Petition to close down the networks.

EXHIBIT 62



However, in 2010, AT&T made a serious accounting change where somehow when the wireline and wireless revenues and profit are combined, magically, the wireline side becomes less profitable — the wireless side more profitable.

AT&T's 2010 Annual Report:

“Historically, intersegment activity had been reported as revenue in the billing segment and operating expense in the purchasing segment. Upon consolidation, the intersegment revenue and expense were eliminated with the consolidated results reflecting the cash operating and depreciation expense of providing the intersegment service. As part of AT&T’s ongoing initiatives to manage its business from an external customer perspective, we no longer report intersegment revenue and report the cash operating and depreciation expense related to intersegment activity in the purchasing segment, which provided services to the external customer. While this change did not affect AT&T’s total consolidated results, the impact to each operating segment varied. In particular, the Wireless segment, as a purchaser of network, IT and other services from the Wireline segment, experienced a reduction in cash operating expense partially offset by increased depreciation expense, with the net result being increased operating

margins. This change was effective with the reporting of operating results for the quarter ended March 31, 2010. We have applied this change retrospectively, adjusting prior-period segment information.

Chapter 32 The Perfect Man-Made Storm: The End Game of Telecommunications in the US.

Timeline: 2010-2014

Lowell McAdam, Verizon Chairman & CEO⁴⁸⁰ and former CEO of Verizon Wireless, June 21, 2012

“The vision that I have is we are going into the copper plant areas and every place we have FiOS, we are going to kill the copper. We are going to just take it out of service and we are going to move those services onto FiOS.”

“And then in other areas that are more rural and more sparsely populated, we have got LTE built that will handle all of those services and so we are going to cut the copper off there. We are going to do it over wireless. So I am going to be really shrinking the amount of copper we have out there...”

And AT&T’s plan to ‘shut off the copper’ is identical. November 2012⁴⁸¹

“In the 25 percent of AT&T’s wireline customer locations where it’s currently not economically feasible to build a competitive IP wireline network, the company said it will utilize its expanding 4G LTE wireless network — as it becomes available — to offer voice and high-speed IP Internet services. The company’s 4G LTE network will cover 99 percent of all in-region customer locations. AT&T’s 4G LTE network offers speeds competitive with, if not higher than, what is available on wired broadband networks today. And in many places, AT&T’s 4G LTE service will be the first high speed IP broadband service available to many customers.”

How Did We End Up Here?

There has been a massive state and federal campaign, with multiple moving parts that has been in play for over a decade, but has sped up. There is now something called the “IP transition”, to shut down the “PSTN”, we have the state based ALEC campaign, funded by AT&T and Verizon to close down obligations, regulations and oversight, and 30 states have already done some piece of this. Meanwhile, members of Congress are now talking trash and want to trash the Telecom Act of 1996, and as of this writing the Court of Appeals has struck down the Open Internet Order⁴⁸² by the FCC, which gave us some protections, commonly known as Net Neutrality. And there’s a new FCC Chairman who was once the head of the CTIA, the wireless association, while another FCC Commissioner, (and formerly counsel for Verizon), Ajit Pai⁴⁸³, is congratulating ALEC on its model legislation.

It’s All About the Money.

All of this hype and maneuvering is not about moving everything to IP. All of these actions are about AT&T and Verizon making lots more money. And we should take some time to make sure that everything you are about to read was done as part of a roadmap to get more money and remove regulations.

In June, 2012, Lowell McAdam⁴⁸⁴, Verizon Communications, Chairman & CEO stated that killing the copper was a “pot of gold”.

“But the vision that I have is we are going into the copper plant areas and every place we have FiOS, we are going to kill the copper. We are going to just take it out of service and we are going to move those services onto FiOS. We have got parallel networks in way too many places now, so that is a **pot of gold in my view.**”

And at the September 2012 JP Morgan analyst conference, McAdam⁴⁸⁵ said moving the customers to FiOS makes the company more profits.

“And we’re going to move them off of copper and on to the FIOS, which helps the FIOS profitability as well as removes all the expense associated with that copper plant. So we’re going to move forward with that.”

Verizon also admitted that it stopped selling DSL and was forcing customers onto FIOS — and again to make money and upsell customers.

”On Wireline margins, just a couple things here to talk to. Number one, we did have the FiOS-to-copper migration, which impacted our short-term results. But we’ve talked that this is a strategy that we are deploying. It is better for us long-term to get most of these customers off of our copper network to our FiOS network, as you saw that we are -- stopped selling our naked DSL in FiOS-covered area. And we started to convert a number of customers in this quarter over to our FiOS network from a voice perspective.

“Now, a couple things here that this will launch. Number one, we will see a long-term benefit in our repairs and maintenance decrease over time. We will also get the upsell capability to start selling these voice customers on better speeds of FiOS and better experience, and also then into the linear TV product that we have to offer. And what we are seeing is the minimal number that we converted last year during our trials, we are starting to see a 30% sale upgrade on those customers. But it does take us three to six months to convince those customers to upgrade. So this is a longer-term type strategy.”

And in April, 2012, McAdam⁴⁸⁶ pointed out that when the company wanted more money, they simply printed it by increasing the prices:

“In addition, going into the future, you are going to see -- you may have already saw -- that we are starting to do some price-ups in strategic areas. We've already started that in April, but over the next two quarters, we're going to have several price-ups in our FiOS packages. In addition, we are going to rebundle certain of our packages to better bundle our content in order to make it more profitable, based on the tier that you pick for us. The other thing is that there are other revenue streams coming down the pike, like home monitoring control, that will contribute to the overall ARPU of our FiOS platform.”

Verizon also decided that instead of fixing the copper, it would force customers in ‘more rural areas’ to be put onto wireless services.

Lowell McAdam⁴⁸⁷, stated in June 2012

“And then in other areas that are more rural and more sparsely populated, we have got LTE built that will handle all of those services and so we are going to cut the copper off there.”

At the September 2012 JP Morgan analyst conference, McAdam⁴⁸⁸ said moving the customers to wireless makes the company more profits.

“And in many areas we're also taking customers that aren't performing well on copper and we're moving them over to the wireless technology. So that improves our cost structure significantly and streamlines all those ongoing maintenance costs.
“

Wireless LTE is Not a Substitute for FiOS for Video.

Verizon knows that wireless, even their LTE product, doesn't replace wireline broadband networks for video.

Lowell McAdam⁴⁸⁹, June 2012 stated:

“I mean we want to shift as much onto FiOS or onto the fixed network where we can and then provide -- use that capacity to provide those higher demand services like video. I don't expect anybody to sit in their home watching video over LTE. I want them to be able to watch it on their tablet anywhere in the house using the Wi-Fi network.”

And this admission means that Verizon's plan to halt their FiOS deployment will harm every customer outside the 'footprint', which could be as much as 50% of their territories.

The Path of the Telecom Twister

In 2009, AT&T filed comments as part of the National Broadband Plan,⁴⁹⁰ claiming that there are two networks — the aging copper networks that supply Plain Old Telephone Service (POTs) and the new shiny broadband network. Worse, this position has been taken as gospel by the regulators and politicians.

“AT&T strongly supports a Commission Notice of Inquiry regarding the transition from the circuit-switched legacy network to broadband and IP-based communications. That transition is underway already: with each passing day, more and more communications services migrate to broadband and IP-based services, leaving the public switched telephone network (“PSTN”)

and plain-old telephone service (“POTS”) as relics of a by-gone era.”

These comments discuss the importance of that transition, explaining that the goal of Congress for universal access to broadband will not be met in a timely or efficient manner if providers are forced to continue to invest in and to maintain two networks.

“Private investment from network operators has brought broadband access to over 90% of Americans, and these operators will continue to play a pivotal role in bringing broadband to the remaining 8-10% of citizens who do not currently have broadband access. It is accordingly crucial that the Commission pursue forward-looking regulatory policies that remove disincentives to private investment and encourage operators to extend broadband to unserved areas.

“While broadband usage — and the importance of broadband to Americans’ lives — is growing every day, the business model for legacy phone services is in a death spiral. Revenues from POTS are plummeting as customers cut their landlines in favor of the convenience and advanced features of wireless and VoIP services. At the same time, due to the high fixed costs of providing POTS, every customer who abandons this service raises the average cost-per-line to serve the remaining customers.”

If you’ve read this far, I assume you know how much of this is magic pixie dust and a rewriting of history. We will address that shortly.

In 2010, with the announcements by AT&T and Verizon that they were no longer going to expand their current deployments of Verizon’s FiOS or AT&T’s U-Verse (and, as discussed, a new AT&T offering to do more upgrades if the FCC grants their deregulatory wishes), the current plan is now to see who can they shut off and

push onto wireless — regardless of whether it really substitutes for high speed broadband — the networks most customers have been paying for since the 1990’s.

Recapping IP Verbal Jujitsu Con

In order to do this plan Verizon and AT&T, working at ALEC, the American Legislative Exchange Council, decided that what needed to be done was to make sure that term “PSTN” was defined only as the copper wiring and that this equals ‘old, bad, tired, luddite’, while ‘broadband’ equals ‘new, shiny, ‘advanced’, and the ‘future’.

This line would be drawn by some verbal jujitsu. Using the buzzwords of “IP” (Internet Protocol) or ‘VOIP’, Voice Over the Internet (Protocol), the companies would claim that the Internet shouldn’t be regulated.

Sounds great until you realize that Internet service is defined as an ‘information service’ so redefining everything as an “IP” service, and as we discussed, removes all obligations of a ‘telecommunications’ service’ — and erases the companies’ obligations to rent their networks to competitors — information services don’t have that obligation.

Many may have heard other terms being thrown around, such as “Title II” or “TDM”.

- “Title II” is a part of the Telecommunications Act of 1996 that defines the term ‘telecommunications’,
- “Title I” is the category for ‘information’ services.
- “TDM”, sometimes called “switched” access, as in “Public Switched Telephone Networks”, refers to the current phone networks’ way of handling the calls or data. It has nothing to do with the actual wiring, or if it is broadband or not. And from a customer perspective, a phone call is a phone call; they could care less if the call is being done by some subterranean magic.
- “IP” or “Internet Protocol” is another way to handling the calls and data, and again it has nothing to do with broadband or the wiring.

But all of these ‘catch phrases are great for removing regulations and obligations and easy to fool everyone into thinking it’s all about ‘technology’.

In reality, there is a wire, and what’s happening is that the calls and data going over the wire are now changing the way the wire and the calls are regulated.

The best example is AT&T’s U-Verse. AT&T’s old copper wiring, which could have been in place for decades, was never replaced with fiber optic wires and is part of the PSTN. U-Verse’s broadband, Internet and cable service travel over these same wires. And U-Verse leaves the old copper wiring in place but has a large box somewhere within ½ mile from the customers’ home, which is the only fiber optic part. So the video goes through this box and then uses the old copper wiring to the home to show the video.

Before this attachment, the wire was a ‘telecommunications service’; after the attachment, the wire becomes classified as an ‘information’ service and because of the ties to the neighborhood box and the addition of the broadband capability, suddenly and magically it is no longer part of the PSTN and at least some of the monies are now going into a different subsidiary. Again, the exact same wire gets re- categorized and magically no longer telecommunications and therefore is regulated differently. And since the traffic over this wire is now becoming ‘IP’, even though the exact same copper wire could have been using the Internet since the 1990’s and used “IP” — now, apply pixie dust and tell everyone it is no longer that ‘old’ network but is now a ‘new networks’.

The ALEC-AT&T-Verizon Campaign to Shut Down the Wires.

Starting in 2007, and using this verbal jujitsu, AT&T, Verizon and Centurylink, working through our friends at the American Legislative Exchange Council, ALEC, were able to create ‘model legislation’ which would be used in state after state in an attempt to remove all regulations and obligations. As we pointed out in our Wisconsin model, state politicians, who are members of ALEC and who are usually funded by the telephone companies via campaign financing or foundation grant money, would present a bill in their legislature and line up the other politicians who also got money from the phone companies. They would get lots of other groups, such as Tech America

or the VON coalition to back these plays, and get astroturf groups or minority groups to back these bills, even when it went against their own constituents.

As of December 2013, about 30 states have passed laws to deregulate Verizon, AT&T and Centurylink to varying degrees — strip mining the regulations, obligations and oversight by the regulators.

According to a report by NRRI,⁴⁹¹ May 2013

"Twenty-five states had passed legislation eliminating or reducing state commission authority over telecommunications by the end of the 2012 legislative sessions. By the end of 2013, this number could increase significantly, given the legislation pending in states across the country. Legislation reducing regulatory oversight (or clarifying the deregulation initiatives passed earlier) was proposed in 20 states during the 2013 legislative session... Should the majority of the legislation pending in the 2013 sessions be enacted, nearly 70% of the states will have significantly reduced or eliminated commission jurisdiction over retail telecommunications services."

Meanwhile, Center for Media and Democracy's PR Watch detailed the signing of yet another ALEC inspired AT&T-Wisconsin bill⁴⁹² dealing with the removal of regulations that was based on the ALEC model bill called the "Regulatory Modernization Act".

"On May 23, 2011, Governor Walker signed into law one of the first bills he requested, a radical deregulation of the telecommunications industry in Wisconsin. Under the bill, the Wisconsin Public Service Commission (PSC) could no longer set telecommunication rates to keep prices low for consumers, perform audits of providers, or investigate consumer complaints. It

guts the PSC's authority to regulate rates of basic phone service in areas with little or no competition."...The bill tracks ALEC's "Regulatory Modernization Act" which prohibits any commission from regulating rates and charges, terms and conditions of services, mergers or acquisitions and more."

Basic Principles of these Acts: Screw the Customer.

Though it varies by degree, there are basic principles for these state deregulatory campaigns:

- **Remove Regulation** — "Basic Service", commonly known as "POTS", (Plain Old Telephone Service) and all other services including broadband or VoIP are "deregulated" and the regulations and obligations are being removed on the incumbent utility.
- **Remove Oversight** — The state commissions are being stripped of oversight capabilities and in many cases are 'defunded', with major budget cuts to staff.
- **Remove "Quality of Service"** — No more requirements or oversight, including the removal of any metrics or penalties if the company doesn't fix services or supply quality service in a timely fashion - or at all.
- **Remove "Carrier of Last Resort" (COLR)** — The companies had obligations to supply services to all customers — and this is now being diminished or removed completely.
- **Let the FCC Remove Competition** — On the state level, the obligation of the incumbents to offer "wholesale services" to competitors is now based on FCC and the Telecom Act rules, not state laws.

- **Remove Customer Protections** — such as the ability to take the company to court instead of having to arbitrate based on the incumbent's own contracts.

Federal Attack: AT&T's FCC Takeover of the Technological Advisory Council

In 2011, the phone companies were able to maneuver the FCC to create a new working group called “Sunsetting the PSTN” which was part of the Technological Advisory Council, (TAC). And it was a set-up job as the TAC was comprised mainly of companies who were focused on wireless, on VOIP and had direct financial ties to AT&T or Verizon or both.

As discussed earlier, "Regulatory Capture" is the takeover of a federal agency by the corporations it is regulating and it is not new to the FCC and the Technological Advisory Council is simply part of the DC-wink-wink-nod-nod.

First, AT&T and Verizon are members of the TAC, the very companies who are the ones who will benefit from getting the government to protect their wireline business decisions.

Next, there is a core group of companies⁴⁹³ which includes:

- Hardware and software vendors including Apple, Motorola, Intel, Cisco and Microsoft all of whom have multiple financial deals with AT&T and Verizon including wireless phones, tablets and technology.
- The cable companies, Comcast, Time Warner and Brighthouse not only sold spectrum to Verizon, but Verizon has a marketing deal with some of them to sell their cable products with Verizon's wireless services.

- Other hardware and consulting companies, from Accenture, Qualcomm, Alcatel-Lucent or Harris all have deals with either Verizon or AT&T or both.

In fact, the core 16 companies represented about \$800 billion dollars in revenues in 2011.

There are a number of other members with conflicts of interest:

- New Venture Partners⁴⁹⁴ is an investment firm which is part of the Verizon 4G investment forum.
- Silicon Flatirons is a "Center for law, technology, and entrepreneurship at the University of Colorado"; funders include AT&T, CenturyLink, and Verizon⁴⁹⁵.
- There's also the Von Coalition⁴⁹⁶, which has been lobbying for years to put through ALEC — state-based VOIP legislation.

Timeline of the AT&T-FCC-IP Transition

Using the momentum of ALEC's bills and the Technological Advisory Council's recommendations to have everything move less regulation, Internet protocols and wireless, **In** November 2012, AT&T files a petition to start the transition⁴⁹⁷ to close down the networks and ties it to an extortion plan; if the FCC passes the Petition AT&T will spend \$14 billion⁴⁹⁸ and expand U-Verse.

Then in December 2012, the Technological Advisory Council presented their recommendations⁴⁹⁹, which were, of course, to let AT&T et al do what they want. And this was followed by the creation of the Technology Transition Task Force⁵⁰⁰ to close the deal, which is an extension of the work of the TAC A year later, December 12, 2013 the FCC Technology Transition Task Force presented its findings to move forward on a 'test' of this transition.

AT&T-ALEC’s Fingerprints on the AT&T FCC Petition.

When you compare the state ALEC legislation and the AT&T Petition at the FCC one can understand that America is being played. The state and federal attacks are in fact the same as AT&T and Verizon created both model legislation as well as the FCC’s plan for sunseting the PSTN

On a point for point analysis, the plans are identical, with state vs federal flavors.

EXHIBIT 63

State ALEC Deregulation Principles and AT&T FCC Petition, 2013

	AT&T FCC Petition	ALEC Model Legislation
Remove Regulation on “Basic Service”	X	X
Remove Oversight by Commissions	X	X
Remove “Quality of Service”	X	X
Remove “Carrier of Last Resort” (COLR)	X	X
Let the FCC Remove Competition	X	X
Remove Customer Protections	X	X

A Glimpse into the Future — Fire Island Erupts, Mantoloking NJ is Put on Voice Link.

It’s April 2013 and I’m sitting in a high ceiling parlor in an aged brownstone at the E.9th Street Block Association in New York City meeting and I can’t believe my ears. People are telling me, somewhat muting their anger, that some have had no phone service since Sandy, October 28th 2012 — over 6 months, over half a year. Some had their service restored over the last month, only being out for about 5 months.

This wasn’t the outer boroughs of New York City, like Brooklyn or the Bronx, but dead center in the center of one of the major metropolitan cities in the world.

At the end of October, 2012, a massive storm hit the East Coast named Sandy, and it caused massive damage, especially to the telephone networks in areas of New York and New Jersey. And Verizon decided it was a good time to start their new

policy of declining to fix the copper wires after the storm — and either replace it with fiber in some areas, but mostly, just screw the customer in others.

Fire Island, New York was one such place where the company decided that it would not fix the copper wires on the island but gave customers a 1990's styled cell phone device called Voice Link, which can't do basic applications, such as fax or alarm monitoring or small business services such as credit card processing or ATM machines. Other services, known as "jet pack" and Home Fusion were offered by Verizon as a substitute for their DSL broadband service, but the pricing can be hundreds of dollars more because of the cost of wireless — \$10.00 per gig, after the allowance.

Verizon filed in New York, New Jersey and at the FCC to be able to 'discontinue' wired phone service and force customers onto wireless — or nothing.

But, over the summer of 2013, the town erupted with the help of the media and consumer groups — and even the workers for the company, such as the Communications Workers of America, and by September 2013, Verizon screamed uncle and decided it would, in fact, upgrade Fire Island with FiOS and replace the old copper — to be completed Memorial Day 2014.

Mantoloking wasn't as lucky or had the citizen 'umph', and it was put on Voice Link and there it remains, with the caveat that the town also had a cable company, while on Fire Island Verizon is the sole wired provider.

This is a glimpse into the future of communications, where the company simply doesn't care about customers and will make any excuse — even a disaster — to close down the networks as fast as possible.

Chapter 33 Debunking Basic Myths — Line Losses and Everyone Is Going Wireless Only.

One other factor to the end-game analysis is the biased and manipulated data being presented by the phone and cable companies, which is then parroted by the FCC. This slide was part of an FCC presentation on December 2nd, 2013, and it is exactly on point. While these figures sound reasonable, they have so many caveats as to be deceptive and most importantly, support the telco position vs the public interests.

EXHIBIT 64

FCC Data on Access Lines and Wireless Only December 2013



- December 2009 vs. December 2012*
 - **Retail switched access lines:** decrease from 127 million to 96 million
 - ❖ Compound annual decline of 9%
 - **Interconnected VoIP subscriptions:** increase from 26 million to 96 million
 - ❖ Compound annual growth of 17%
 - **Mobile subscriptions:** increase from 274 million to 305 million
 - ❖ Compound annual growth of 4%
- Nearly 40% of U.S. households are now wireless-only (over 60% for adults age 25-29)**

“Wireless Only” Doesn’t Count Actual Lines in Service.

After a hard day at work, you get home, take off your shoes, maybe even have a cold beer, sit on the couch, and pull out your two-inch by three-inch cell phone to watch a night of Netflix, right?

Lots of reporters, from CNN⁵⁰¹ to USA Today⁵⁰², or the phone companies or even the General Counsel of the FCC, Sean Lev, all quote the Center for Disease Control's⁵⁰³ (CDC) statistics on 'wireless only' households. Lev states⁵⁰⁴:

"More than a third of U.S. households are now wireless and the percent of adults between the ages of 25 and 29 living in wireless-only homes is 60 percent. Yes 6-0."

Really? Besides the fact that your wireless bill would be hundreds of dollars if you watched Netflix with HD regularly on your wireless devices, what's going on is simple — the CDC's data is based only on residential phone calling. Period. It did not ask whether there is a wire in the home or how it is used. It doesn't matter if it is copper or fiber or coax wire. Moreover, the CDC doesn't survey businesses, especially small businesses, about whether they are 'wireless only.'

Doesn't "wireless only" mean — no wires?

A few months back I was doing a talk at a law school and asked "How many students are wireless only?" I held up my cell phone and everyone raised their hands. But then I asked "How many have a wire into their home for broadband or Internet or cable?" — 5 percent were left with their hands up — not 60 percent as the FCC's Lev would say.

And this issue of services coming over a wire vs. voice-only phone calling is at the crux of the Fire Island-Voice Link debate. Instead of repairing or replacing the wires, even though it was an emergency, Verizon foisted Voice Link on customers, and as we said, it that can't do basic data applications.

And now we see that the CDC statistics are really the 'Voice Link of Data'. The customers who have data applications, like grandma's Life Alert, or a small business using an ATM machine or DSL service or anything over the wire that is not a residential voice call, has NOT been counted.

There's been no study of the diversity of applications over the wires, but when all the wires are included — cable, phone, broadband, Internet, and the data applications like alarm circuits, etc. are added, we estimate that only 5 to 10 percent of America is really 'wireless only' — and probably less for small businesses.

This brings us to the rigging of America's landline accounting.

Oh, But Customers are Dropping Access Lines. Yawn...

Those poor telcos. '*Oh, we're losing lines*' they exclaim. We agree that people are dropping their expensive landline as the companies have continued to raise rates, or they went wireless for some of their communications. But here again, the data we are being given is garbage. The companies have decided to pull a massive shell game with the actual lines that are in service. The accounting does NOT include ALL lines; it only includes one category, known as 'switched' lines or 'TDM,' which overlaps with voice calling but can be different.

But most importantly, a regular phone line may not be counted once the landline is combined with another service — even though it still uses the identical copper wire. Sometimes called "special access" (or "non-switched") these other lines are never discussed but include all of the data lines, like DSL or it can include alarm circuits in your house or ATM machines or even business lines which have packages of features.

Example — there's a wire in your office. It is an old copper wire. When it is used for DSL, the line magically gets taken out of the original landline accounting even though it is the exact same wire. Or with AT&T's U-Verse, which is based entirely on the old copper, in place wire. It was once classified as a landline, but once the company attaches the exact same line to the U-Verse equipment, suddenly it is no longer considered a landline.

And this all changes once there's a fiber optic service involved as that, too is called an 'information service' and that may not be counted as a 'line'.

Or it's one of the remaining competitors using the utility wires or under contract for the use of the fiber wires, and that, too, may not be part of the 'access lines' as told by the telcos.

The last data available on total lines was published by the FCC in 2006. When we examined the AT&T and Verizon's companies, as listed by the FCC's Statistics of Common Carriers and compared this to what was listed in the AT&T and

Verizon annual reports for the same year, and mysteriously, 70 percent of all lines disappeared.

Talk about a shell game. This means that the telcos line accounting probably represents only 30 percent of the total lines in service. But don't believe me, here's the FCC data and the telco annual report data.

EXHIBIT 65

**2006 Annual Reports and FCC SOCC Report Data
(For the year ending December 31, 2006)**

Sources:	Total Lines Listed	% Lines Missing
AT&T FCC SOCC Report	154,705,469	
AT&T Annual Report Total Lines	46,307,000	
		70%
Verizon FCC SOCC Report	159,359,964	
Verizon Annual Report Total Lines	43,258,000	
		73%

There are caveats, but we have no idea how many lines are out there today. The FCC stopped requiring basic information about the types of lines in 2006 and the data currently offered is, well, rigged, as it doesn't give enough details. Neither do the companies' annual reports. And the state commissions also do not require basic data about lines.

Part VII Overcharging America in the Name of Broadband**Chapter 34 Scorecard for America: AT&T's U-Verse, Verizon's
FiOS and the Rest of the World****Scorecard as of 2014**

Let's sum up how far Verizon and AT&T have come to rewire their territories with fiber optics or even TV-cable competition-capable services. How many customers are still on copper wiring and how many customers will never get upgraded?

Regardless of what the companies say, using their own data, we found:

- AT&T's U-Verse is probably 99 percent copper-to-the-home. Out of 76 million locations, AT&T only has 5.8 million U-Verse TV locations as of second quarter, 2014⁵⁰⁵ — about 7.6 percent. **AT&T could be abandoning 50-60 percent of customers.**⁵⁰⁶ NOTE: AT&T today controls 22 states' infrastructure.
- Verizon also has about 5.4 million premises as of second quarter 2014, with FiOS TV, out of 27 million premises in its territories — about 20 percent, meaning that 80 percent of the wires are still copper. **Verizon could be abandoning 45%-60% percent of customers.**
- No serious cable competition. Combined, out of 120 million households, AT&T and Verizon less than 10 percent of the households in America as cable customers. It is less when 'locations' and businesses are subtracted from this number.

Before we go through some of these numbers in detail, there are caveats of how these numbers are presented to the public to 'inflate' the deployments or 'confuse' the public.

The “Accounting” of the Upgraded Networks

While we hear lots of numbers, essentially these companies have mashed together different terms that can include 'households', 'small businesses', or even customers. Or they can confuse it more with terms like 'locations' or 'premises' as opposed to 'households-only'. We are using the "TV" capability because it represents 'ALL' applications that can come over a wire, not some subset such as 'DSL only' or 'broadband only', or worse 'wireless replacement only'. Also, we can't discuss all of the fiber in the networks, including obscure areas like "backhaul" or "inner-office" as neither Verizon nor AT&T publishes any statistics about it.

Households "Passed" Vs Households Using a Service

As we will show, the numbers promulgated by the companies are usually 'households passed' or 'locations' passed — a chest-beating exercise to outline the '**footprint**' of a service instead of actual homes that have been wired with the service and are using it. A 'footprint' is the areas where the company may eventually upgrade the homes, but the wiring can be down the block or blocks away.

Verizon claims (in various places) it has 18 million FiOS TV households, but in reality these are only households 'passed', not wired and the company only had 5 million that are using the TV service at the end of 2013. All the rest of the households in that 'footprint' are still on copper wiring. i.e., the majority.

In going through the numbers, and using the companies' data — AT&T claims to have 76 million 'locations'⁵⁰⁷ and has about 5 million U-Verse TV customers in 2013. Since U-Verse is a copper-to-the-home service, about 99% are based on copper as the only non-copper households are in new build-outs, and over the last few years, especially due to the recession in 2009, there wasn't a great deal of new developments.

AT&T has told everyone that they had 30 million locations or premises, which include businesses and households, but at the end of 2013 it was closer to 25

million with TV. In their Petition, they claim that by 2016, 75 percent will have broadband and 33 million customer locations will have a TV option. (Note: 57 million is 75 percent of 76 million locations.)

"AT&T plans to expand and enhance its wireline IP network to 57 million customer locations (consumer and small business) or 75 percent of all customer locations in its wireline service area by year-end 2015. This network expansion will consist of...AT&T plans to expand U-verse (TV, Internet, Voice over IP) by more than one-third ...for a total potential U-verse market of 33 million customer locations¹. The expansion is expected to be essentially complete by year-end 2015."

Simple math then dictates that only 43% of the locations will be able to get TV, leaving 57% not upgraded and the total TV customers today vs total U-Verse locations is a paltry 6.6%. (We used this chart from August 2013 to show that the actual progress of the deployment has been slow as compared to the most recent stats by AT&T and Verizon. And note: none of this information was audited by a regulatory agency for accuracy.)

EXHIBIT 66

**AT&T's Copper and U-Verse TV Statistics,
*(As of August 2013)**

AT&T Total Locations	76 million
Current U-Verse TV Customers	5 million
Total Copper U-Verse Households	99%
Total 22 State Copper-based	over 95%
Total U-Verse TV Locations Passed 2013	25 million
Total "Hype" Number	30 million
Total who will get Passed by 2016 with TV	33 million
Percent of Customers Passed 2013	33%
Percent of TV Customers Passed by 2016	43%
Percent of TV Customers Not Upgraded	57%
Current Percent of U-Verse TV-to-Total	6.6%

Verizon's penetration and delivery is not any better.

EXHIBIT 67

Verizon's Copper and FiOS Statistics
(As of August 2013)

Verizon's Total Locations	Unknown
Verizon Households in Territories	27 million
Current FiOS TV customers	5 million
Total Households Passed FiOS TV 2013	14.5 million
Total "Hype" Number	18 million
Percent of Customers "Passed"	53%
Percent of Customers Still on Copper	82%
Percent of U-Verse TV and Total	18%

And there is a difference from the reported information to numbers published in annual and quarterly reports. As of August 2013, Verizon's FiOS was only in 5 million TV customers, and while the media was parroting the original numbers by Verizon that they would have 18 million households passed, it appears that the deployment was closer to 14-15 million currently.

Verizon 2012 Annual Report states:

"We have continued to grow our subscriber base and consistently improved penetration rates within our FiOS service areas during 2012. Also contributing to the increase in revenue from FiOS services were changes in our pricing strategy adopted in 2012. As of December 31, 2012, we achieved penetration rates of 37.3 percent and 33.3 percent for FiOS Internet and FiOS Video..."

If 33.3 percent of premises passed represented 4.7 million customers, then the total coverage at the end of 2012 was only 14.2 million TV households PASSED, not wired. And the Internet service was only available to 14.7 million.

This means that Verizon has misled the public in a few thousand statements as they keep telling everyone that they have 18 million households. — or at least they don't bother to correct the reporters⁵⁰⁸.

But here's the rub — while it is almost impossible to find Verizon's exact number of households or businesses or 'locations', as the company has been dumping rural properties over the last decade (including Maine, New Hampshire, Vermont and Hawaii — they really 'care' about their rural customers), it would appear that Verizon's footprint has about 27 million households,⁵⁰⁹ but it could be higher.

This then means that 47 percent of customers were not in a service area for FiOS. Moreover, this also means that Verizon's lines are still mostly copper — about 80 percent in the Verizon footprint as of August 2014, as the company only has 5.4 million customers out of 27 million households — it is probably higher as businesses are not included.

Chapter 35 Comparing the US Broadband to the Rest of the World Statistics.

CableTechTalk, the official blog of the NCTA, the cable association writes in 2013:⁵¹⁰

“Standing solo in front of a staggering 72-foot uninterrupted projection screen, Powell took stock of everything the cable industry has delivered over the last sixty years. From amazing television to some of the fastest broadband Internet on earth, the past, present, and future of cable was laid out in a fashion befitting an industry dedicated to technology and storytelling....We saw everything from the original sounds of a dial-up modem to the latest numbers in rural broadband investments and penetration. 93% of America can connect to cable Internet and 85% have access to speeds over 100 Mbps.”

One has to laugh as the FCC’s own data,⁵¹¹ published in June 2014 for the status of high speed Internet in June 2013, showed that only 307,000 customers had 100 Mbps or better, with only 172,000 from cable modem service. But we’ll get to that.

There are a host of groups that provide surveys of broadband speeds and prices in both the US as well as comparing America to the rest of the world.

America is never, ever 1st in broadband in either speed or price... Ever. This fact should resound in your brain as you already paid thousands of dollars to be Number 1. We note that there are many caveats and each survey firm or regulatory agency has different approaches to collecting the data, and different standards applied or even what they are examining. However, America is never Number 1.

Powell’s presentation also warns that the comparing America’s speeds and services to other countries can’t be done because, well, some of the countries are small, like Latvia and France, as compared to the US.

“During his address, Powell noted the challenges of delivering super-fast Internet to a country as large and as spread out as the United States. When paralleling broadband speeds between one nation and another, he said, ‘It is foolish to compare countries like Latvia and France to the United States of America. The landmass of the U.S. is 3.8 million square miles, much of it rural. And we are home to 316 million people. Our challenges are different, but our results are nonetheless impressive’.”

All of these statements are also taken as the bible of policy making. The FCC proceeding on broadband availability⁵¹² included this:

“Industry reports that the upgrade of cable infrastructure to DOCSIS 3.0 technology means that more than 80% of Americans have access to networks technically capable of 100 Mbps or more.”

While FCC Commissioner Jessica Rosenworcel⁵¹³ writes:

“Today’s report shows real progress in the deployment of advanced telecommunications capability to all Americans. It reveals that for some, broadband services are faster and more robust than ever. Consider, for instance, that more than 80 percent of households now have access to broadband at speeds as high as 100 Mbps.”

In 2013, the FCC’s own data showed that there were only 156,000 customers that had a service that was ‘capable’ of 100 Mbps for the year 2012, the data for 2013 showed only 307,000 and was true for most of the incumbent phone and cable companies..

And to bring back to Powell’s point about Latvia. “Latvia has a total area of 64,589 square kilometers (40,136 square miles),”⁵¹⁴ and they managed to beat out New

Jersey, which is only has 7,354 square miles according to the US Census. And there are a host of states or even cities where the comparison of speeds should be made.

Let’s go through various reports and surveys to see just how America fared...or fell as a world leader in broadband.

- **FCC Data on Download Speeds in the US.**

In June 2014, the FCC released data for June 2013 pertaining to download speeds in America. There were only 7.3 million connections with fiber optics and there were no mobile wireless services with speeds of 25 Mbps or above, and on wireless, the FCC's data for upstream speeds stops at 1.5 Mbps. This information is for all broadband services, whether offered by the incumbent phone company, a competitor or even municipalities who decided to take their destiny into their own hands when the incumbent carriers didn’t show up.

EXHIBIT 68
FCC America’s Broadband Speeds
June 2014 (for June 2013)⁵¹⁵

Table 10
Connections by Downstream Speed Tier and Technology as of June 30, 2013
(In thousands)

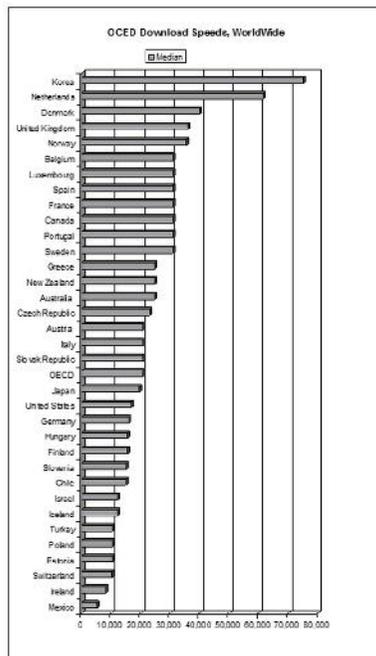
Technology	Downstream Speed								Total
	Greater than 200 kbps and less than 768 kbps	At least 768 kbps and less than 1.5 Mbps	At least 1.5 Mbps and less than 3 Mbps	At least 3 Mbps and less than 6 Mbps	At least 6 Mbps and less than 10 Mbps	At least 10 Mbps and less than 25 Mbps	At least 25 Mbps and less than 100 Mbps	At least 100 Mbps	
aDSL	454	2,859	4,023	9,232	6,032	7,524	168	#	30,892
sDSL	26	37	21	*	*	*	*	*	117
Other Wireline	38	43	410	114	29	86	48	32	750
Cable Modem	134	1,003	3,271	4,106	1,510	22,920	19,844	172	52,760
FTTP	13	89	102	272	197	4,080	2,407	101	7,261
Satellite	233	372	218	*	*	*	0	0	1,823
Fixed Wireless	73	137	227	248	65	56	2	1	810
Mobile Wireless	36,257	4,570	42,605	32,889	19,797	38,198	*	*	181,365
Total	37,227	9,113	51,177	47,061	28,233	73,469	29,021	307	275,808
Percentages									
aDSL	0.2	1.0	1.5	3.3	2.4	2.7	0.1	0.0	11.2
sDSL	0.0	0.0	0.0	*	*	*	*	*	0.0
Other Wireline	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.3
Cable Modem	0.0	0.4	1.2	1.5	0.5	8.3	7.1	0.1	19.1
FTTP	0.0	0.0	0.0	0.1	0.1	1.5	0.9	0.0	2.6
Satellite	0.1	0.1	0.1	*	*	*	0.0	0.0	0.8
Fixed Wireless	0.0	0.0	0.1	0.1	0.0	0.0	0.0	0.0	0.3
Mobile Wireless	13.2	1.7	15.6	11.9	7.2	13.9	*	*	65.8
Total	13.5	3.3	18.8	17.1	10.2	26.7	10.5	0.1	100.0

Using this as standard bar which is outlined by the FCC, let's examine America as compared to the rest of the world.

- **OCED, US was 21st, September 2012**

One of the most quoted sources is the international organization, OCED. The last data published pertaining to the speed of service was for September 2012, America was 21st in download speeds world wide.

EXHIBIT 69
America's Broadband Speeds vs the World.⁵¹⁶
OCED, US was 21st, September 2012



And as of December 2013, the OCED also showed that America was 1 Number in the number of broadband subscriptions, but 15th in the number of fiber optic connections.

- **Ookla — America is 27th in Download Speeds, 47th in Upload Speeds as of August 9th, 2014.**

One of the companies offering speed tests is Ookla and their data is also used by the FCC. Ookla does millions of tests daily,⁵¹⁷ and the exact ranking therefore shifts daily. And they do very large samples.

“Results were obtained by analyzing test data between Nov 3, 2013 and Dec 2, 2013. Tests from 79,136,479 unique IPs have been taken in this country and of 285,495,772 total tests, 10,311,802 are being used for the current Index.”

This exhibit is based on their speed test results for August 9th, 2014. It shows that while Hong Kong has an average of 89 Mbps down and 81 Mbps up, the US is 27 Mbps down and 8 Mbps up. Hong Kong is Number 1 and the US is 27th. And these speeds are more generous compared to other surveys.

EXHIBIT 70

Household Download Index, Ookla Speedtest.net, August 9th, 2014

	Download	
1	Hong Kong	88.77 Mbps
27	United States	27.37 Mbps
	Upload	
1	Hong Kong	81.44 Mbps
47	United States	8.21 Mbps

Over the last six months we retested and found that these statistics shift daily, and even by time of day.

One other statistic that we tracked was the “median monthly cost in US dollars per megabit per second”. America was 32nd. i.e., 31 other countries have cheaper rates for broadband.

- **Akamai**

Akamai⁵¹⁸ has a massive network and therefore tracking capability, but it appears that they do not track ‘end users’, but Akamai customers using the Akamai services.

“In the second quarter, Akamai observed a 2.0% increase in the number of unique IPv4 addresses connecting to the Akamai Intelligent Platform, growing to over 752 million, or approximately 18 million more than were seen in the first quarter of 2013.

In second quarter, 2013, Akamai pegged US broadband speeds as 8th in the world.

EXHIBIT 71

Akamai Average Broadband Speeds Worldwide, June 2013

Country/Region	Q2 '13 Avg. Mbps	QoQ Change	YoY Change
– Global	3.3	5.2%	9.2%
1 South Korea	13.3	-6.3%	-6.4%
2 Japan	12.0	6.5%	11%
3 Switzerland	11.0	9.1%	31%
4 Hong Kong	10.8	0.8%	21%
5 Latvia	10.6	12%	22%
6 Netherlands	10.1	6.2%	27%
7 Czech Republic	9.8	8.7%	36%
8 United States	8.7	3.4%	22%
9 Sweden	8.4	0.7%	44%
10 United Kingdom	8.4	11%	48%

Figure 12: Average Connection Speed by Country/Region

However, in the first quarter of 2014, the US was not in the top 10 when the criteria was over 15 Mbps.

EXHIBIT 72**Akamai Average Broadband Speeds Worldwide, 1st Quarter, 2014⁵¹⁹**

Country/Region	% Above 15 Mbps	QoQ Change	YoY Change
— Global	11%	19%	99%
1 South Korea	60%	15%	272%
2 Japan	32%	20%	52%
3 Hong Kong	26%	19%	39%
4 Switzerland	23%	14%	85%
5 Latvia	23%	25%	40%
6 Netherlands	22%	-0.9%	75%
7 Sweden	20%	5.6%	49%
8 Norway	18%	24%	85%
9 Finland	18%	29%	116%
10 Czech Republic	17%	-5.6%	75%

Figure 18: 4K Ready (>15 Mbps) Connectivity

- **Akamai vs Ookla**

In another comparison, we decided to cross-reference Akamai to Ookla. We did this because the Akamai results, also quoted frequently, were not even close to Ookla's in speed. We note that Ookla examines end-user speeds while Akamai is taking their results off of their networks.

And the difference in analysis for the US states is quite large. Akamai claimed that Washington DC was 1st in speed while Ookla showed it as 15th and almost double the speed of Akamai.

EXHIBIT 73**State Download Speeds, Ookla vs Akamai**

Ookla Speed Test		Akamai	
November 27, 2013		Second Q, 2013	
Ranking, State	Speed	Ranking, State	Speed
15 District of Columbia	22.30 Mbps	1 District of Columbia	11.4 Mbps
6 Massachusetts	26.20 Mbps	2 Massachusetts	11.2 Mbps
8 Virginia	25.71 Mbps	3 Virginia	11.1 Mbps
2 Delaware	28.88 Mbps	4 Delaware	10.8 Mbps
14 New Hampshire	22.31 Mbps	5 New Hampshire	10.7 Mbps
3 Maryland	27.93 Mbps	6 Maryland	10.6 Mbps
11 Utah	23.26 Mbps	7 Utah	10.3 Mbps
1 New Jersey	30.99 Mbps	8 New Jersey	10.2 Mbps
5 Washington	26.26 Mbps	9 Washington	10.1 Mbps
9 Connecticut	24.59 Mbps	10 Connecticut	10.0 Mbps

We couldn't begin to explain why these are so dramatically different. The only issue for us is — We are never Number 1, never.

Pricing of Broadband Compared

- **FCC Data — US Pricing for Broadband Is Higher Than 31 Other Countries.**

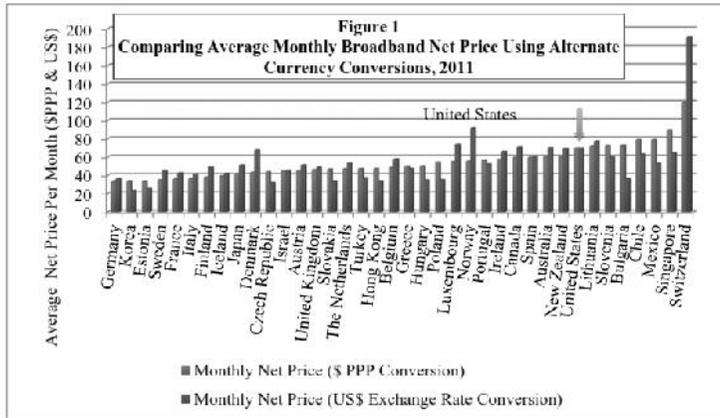
America doesn't have the fastest speeds, but we are also more expensive. According to the FCC, the average monthly broadband net price for broadband in America was more expensive than 30 other countries (out of 38). And these prices don't reflect the taxes, fees and surcharges added to the bills, even when they are just more revenue to the phone or cable companies.

EXHIBIT 74

FCC’s America’s Broadband Costs Compared to Other Countries:

The US was 31 Out of 38.⁵²⁰

August 2012 (for 2011)



- **“The Top Fifteen Providers are Still International, While U.S. Carriers Come in at 32nd Place on the List; Verizon Was 47th”.**

And in an examination of the ‘triple play’, (phone, broadband-Internet and cable) pricing in cities across the globe, New America Foundation found that the US is 32nd place, with Verizon coming in at 47th.

EXHIBIT 75

Triple Play Worldwide Costs by City*, 2013⁵²¹

New America Foundation

Triple Play Rankings by Price

Rank	City	ISP	Price (USD/PPP)	Download Speed	Upload Speed	Network Technology	Data Cap (GB)
1	Seoul	C&I	\$14.62	10		Cable	N/A
2	Seoul	HelloVision	\$15.73	8		Fiber	N/A
3	Riga	Balti Com	\$21.75	20	5	Cable	N/A
4	Zurich	VIX	\$29.96	10	.	DSL	.
5	Zurich	Sunrise	\$32.37	5	10	DSL	.
6	Berlin	TeleColumbus	\$33.52	16	1	Cable	N/A
7(t)	Paris	Free	\$34.07	20	1	ADSL	.
7(t)	Paris	SFR	\$34.87	25		ADSL	N/A
9	Bucharest	Romtelcom	\$34.93	4 to 6	1	ADSL	N/A
10	Seoul	LG Uplus	\$34.98	100	100	Fiber	N/A
11	Seoul	SK broadband	\$36.31	100	100	Fiber	N/A
12	Berlin	Kabel Deutschland	\$36.46	32	2	Cable	N/A
13(t)	Paris	Freebox Telecom	\$37.09	20	16	ADSL	.
13(t)	Paris	Orange	\$37.09	20	1	ADSL	.
15	London	Sky	\$38.26	16	1.3	DSL	N/A
32	Bristol, VA	BVU	\$54.70	6	1	Fiber	N/A
44	Lafayette, LA	LUS	\$65.39	15	15	Fiber	400
45	Washington, DC	RCN	\$68.30	25	2	Cable	N/A
47(t)	Los Angeles, CA	Verizon	\$69.99	15	5	Fiber	N/A
47(t)	New York, NY	Verizon	\$69.99	15	5	Fiber	N/A
51	New York, NY	Time Warner Cable	\$74.67	15	1	Cable	N/A
54	Lafayette, LA	AT&T	\$79.00	6	.	DSL	200
66	Los Angeles, CA	Time Warner Cable	\$79.96	15	1	Cable	N/A

I leave you with another quote from the head of the cable association, Michael Powell and one expert’s analysis of the claim America is Number 1.

Powell⁵²² wrote this as part of a rebuttal to critics of the recent Net Neutrality decision in January 2014 for USA Today.

“By nearly any objective measure, the U.S. is a world leader in broadband. We are one of only two countries to have three fully deployed broadband technologies actively competing against one another (cable, telephone and 4G LTE wireless). And we have some of the most advanced networks in the world — connections capable of 100 Mbps and faster are available to 85% of U.S. homes. U.S. broadband networks have given rise to the world’s top Web companies, including Google, Facebook, Amazon and Twitter. New exciting start-ups are born every day.

Karl Bode of *DSLreports*⁵²³ writes: (July 23rd 2013)

“U.S. Broadband #1! In Everything! Forever!

“2013, to put it bluntly, has been a banner year for broadband bullshit... The latest odiferous entry came last week, courtesy of John Sununu and Broadband for America⁵²⁴, a lobbying and disinformation tentacle forged by giant carriers to frame public perception. In an editorial circulated⁵²⁵ nationally last week by the group, former White House Chief of Staff turned telecom sock puppet Sununu informs readers, much like similar pieces by Comcast lobbyists, that United States broadband is secretly awesome and those claiming otherwise are just crybabies.”

Chapter 36 Overcharging by the Numbers

In *\$200 Billion Broadband Scandal*, written in 2004, sections of the book were dedicated to explaining, in detail, just how much customers had ended up paying for fiber optic upgrades they never received.

We made one basic assumption in the original accounting: State laws were changed to give the phone companies more money to fund the deployment of fiber optic broadband services to homes and business, schools and libraries? How much money was garnered by this deregulation? We would have examined the refunds, but we know of no state regulator that ever forced the companies to return to the original laws nor returned the monies collected, though a few did try.

We examined revenues, expenses, profits, return on equity, construction expenditures, ‘in-construction’ expenditures, depreciation, employees, ‘extraordinary items’, dividends, as well as the costs of services, state and federal regulations, tariffs and other normal items one would to examine a company’s financials.

Or another way of saying it: How much extra money and profits did the company make from the deregulation? Did they spend it on construction or somewhere else? Were the ‘profits garnered from rate increases or cutting staff and construction, and what actually got built — or didn’t?

In order to double-check our findings we used two methodologies — a ‘top down model’ of overcharging, which used the phone company Corporate SEC reports and a ‘bottom up’ model based on the state-based quarterly annual reports and state commission filings and testimony submitted. Since we also filed complaints or comments in multiple states doing this type of financial modeling since 1998, including PA, NJ, MA, OH, IL, WI, and other states for specific periods of time, we had a robust analysis — to a point.

Much of this was thrown into disarray because of more recent findings massive cross-subsidization by the State-based company and the corporate affiliate companies, such as Verizon New York with the other Verizon affiliates, including Verizon Wireless, which added a totally new dimension to the statistics.

The Hatchet Job on All Telecommunications Data

Unfortunately, all of these sources stopped over the last decade and now it makes it impossible to do accurate assessments using actual data — thus projections are modeled using historical company data or FCC data. The only sources remaining are the overall corporate financials, such as Verizon Communications annual report, which is a holding company and all of the detailed get washed away or they are simply able to hide any useful details.

- **Statistics of Common Carriers was Cancelled; Last data from 2006-2007.**

On September 16, 2010, the FCC published the last “Statistics of Common Carriers” report, which supplied data for 2006 and 2007, and had been published since 1939.

As the FCC writes⁵²⁶:

“Since 1939, the FCC has published the Statistics of Communications Common Carriers, a reference work widely used by academics, consultants, and other researchers in the field of telecommunications. This report includes a wealth of data on telecommunications costs, revenues, prices, and usage.”

“The Statistics of Communications Common Carriers (SOCC)” is one of the most widely used reference works in the field of telecommunications. It is the only permanent record of common carrier activity published by the Government Printing Office and sent to repository libraries.”

- **Significant Changes to ARMIS Reporting Rules, 2005-2008**

By 2008, the FCC had ‘forebeared’, meaning erased most obligations to even supply basic data to the FCC by the incumbent phone companies.

“The ARMIS reporting requirements were established by the Commission in 1987 to facilitate the timely and efficient analysis of carrier costs and revenue, to provide an improved basis for audits and other oversight functions, and to enhance the Commission’s ability to quantify the effects of alternative policy proposals. Additional ARMIS Reports were added in 1991 and 1992. Carriers must submit the ARMIS reports to the Commission annually on or before April 1.”

These combined quotes from 2008⁵²⁷ state that the FCC got rid of ‘service quality’ reports, infrastructure expenditures and data, “operating data”, summary of financial data and basic accounting information.

What’s left is a carcass or bones instead the actual meat of the companies’ business dealings.

During 2008, the FCC “granted significant forbearance from the rules requiring that all carriers file ARMIS Reports 43-05 (the Service Quality report), 43-06 (the Customer Satisfaction report), 43-07 (the Infrastructure report), and 43-08 (the Operating Data report)... as well as granted to AT&T in the AT&T Cost Assignment Forbearance Order, andgranted conditional forbearance from the requirement that AT&T, Qwest, and Verizon file ARMIS Reports 43-01 (the Annual Summary of Financial Data report), 43-02 (the Uniform System of Accounts report), and 43-03 (the Joint Cost report)”

- **Verizon Stopped Publishing Its State-Based Quarterly SEC Filed Reports in 2010; AT&T Stopped Over a Decade Ago.**

In 2010, Verizon stopped making public its state-based SEC filed annual and quarterly reports that gave basic information about the business and the affiliates. Meanwhile, AT&T combined the SEC filed reports so that “BellSouth”, which represented 9 states, would only file one annual reports.

But, unlike Verizon, AT&T had stopped over a decade to supply state-based SEC filed publicly available annual and quarterly reports.

- **The State Commissions Stopped Publishing Almost All Telco Data.**

The State commissions, in general, only publish data on the telcos in as much as they are needed in some commission proceeding — i.e., during the cable franchise renewal, some ‘assessment’ of the company’s performance would be made public. The State commissions never collected or published the affiliate transactions between the utility and the company.

However, and to our surprise, during the creation of this book we found that at least the New York State Public Service Commission required Verizon New York with a full accounting of the ‘regulated’ financials in an annual report. This practice was stopped but restarted in 2008. As we will discuss, when this information is compared with the last SEC-state-based reports for Verizon New York, there are large discrepancies and what we call “Black Hole” revenues.

With these caveats, let’s go through the overcharging.

Chapter 37 \$400 Billion in Overcharging: Broadband Scandal

We estimate that by the end of 2014, the failure to upgrade the utility plant with 45 Mbps services available for use by residential and business customers, much less the wiring of schools, libraries and hospitals, cost customers about \$400 billion nationwide, with varying amounts by state. And this is the low number.

The simplest way of explaining how this money accrued at the customers' expense can best be seen in this next exhibit.

In 1993, the alternative regulation plans allowed the company to make more profits on services that were declared 'competitive', and at the time, the companies were all starting to roll out services known as "calling features", like Call Waiting or Caller ID. These services can sell for \$4.00 to over \$12.00 per item, and even today they can be sold by the local phone company separately or in a 'package'. This also includes other add-on services, such as 'unlisted' numbers.

Deregulated Calling Features

This next exhibit highlights findings from a 1999 Florida Public Service Commission report comparing the actual cost to offer various calling features to the price paid by subscribers. The Florida Commission found the profit margin on BellSouth's (now-AT&T) Call Waiting feature to be 48,680%. Caller ID, which cost the customer \$7.50 per month, had a 3,264% profit margin.⁵²⁸

EXHIBIT 76

Revenue, Expense & Profit Margin for Selected BellSouth Calling Features, 1999

	Price	Cost	Profit	Percentage
Call Waiting	\$4.00	\$0.0082	\$3.99	48,680%
Call Forwarding	\$4.00	\$0.0362	\$3.96	10,950%
Caller ID	\$7.50	\$0.2230	\$7.28	3,263%

I.e., Call Waiting cost less than 1 cent to offer but had a \$3.99 profit per item, while Caller ID had a \$7.28 profit margin — and this was about 15 years ago.

And as we noted earlier, calling features had massive growth in sales as a ‘new thing’ in the 1990’s Ameritech showed an almost 25% increase in calling features in 1996.⁵²⁹

"23.5% annual growth in sales of call management services such as Caller ID, Call Waiting and voice messaging."

And the profit margins post-1993 for companies that were still monopolies and are still utilities shows just how much these pennies, nickels, dimes and quarters can make. In comparing the Bell profits (return on equity) as compared to Business Week’s Scoreboard “Industry” and “Utilities”(1992-2004).

Return on Equity was 188% above Other Utilities 1993-2000 — From 1993, when the alternative regulation plans were starting to be implemented, the Bell companies’ return on equity went from 14.9% to 29.1% return; a 9-year increase of 126%. However, it was 188% above the other Utilities. (Source: Business Week Scoreboards, 1993-2000)

Profit Margins Were 155% Higher than Business Week “Industry” and “Utilities” During 2000-2004 — Almost all companies were hit by the economic recession and yet, Business Week’s “Industry” average had returns of only 5.4% profit margins, “Utilities” had a 4.5% return, while the Bell companies averaged 12.5%; that’s 132% higher profit margins than the other industry players, 177% higher than the other utilities.

Projection: 2004 through 2014.

In 2009, New Networks created a new report “25 Year Analysis of Key Financial Indicators for the Bell Companies — AT&T, Verizon and Qwest”,⁵³⁰ which continued the statistical analyses we created for our previous books.

Some basic trend lines had not only remained the same as our previous analysis but it was clear that the companies were continuing to cut staff, had slowed to a drizzle post-2000 upgrades of the utility networks, under-spending by almost 40% from the previous decade, and accelerating the network write offs,

EXHIBIT 77

25th Anniversary Financial Analysis of the Bell Companies, AT&T, Verizon and Centurylink, 2009

Construction Expenditures

- Wireline construction expenditures have been down since 2000. In 1984, construction expenditures accounted for almost 25% of revenues, and it remained over 20% till 2000. (This includes Y2K upgrades.) Post 2000, construction expenditures have been as low as 14%, and the current expenditures are around 18%, but that includes ALL wireline expenditures, including FIOS and U-Verse.
- Under-funding of construction: Had the companies actually spent 20%-25% of revenues on construction, they would have spent an additional \$58-\$161 billion dollars more.
- Removing the construction budgets for FiOS and U-Verse. Verizon and AT&T are under-spent over \$25 billion dollars on the PSTN from just 2005-2008.

Depreciation

- (NOTE: Depreciation is the write-offs of the networks and the equipment, lines and other assets, and it is usually ‘amortized’ meaning tax deductions are taken over a period of time. Every business takes these depreciation write-offs, such as buying computers and ‘depreciating’ them over the likely ‘life’ of the equipment.)
- Depreciation has been averaging over 90% for most years as a percentage of new construction. In the 1980’s, the companies depreciated at a rate of 65% of capital expenditures.

- **Overcharging:** Using 65% as the traditional depreciation, and 85% as an aggressive depreciation schedule, since 1984, the phone companies over-depreciated \$100 billion to \$371 billion, taking into account various “special items” that the companies took to write off portions of the networks or speed up their depreciation schedules. Much of these changes were created based on the state deregulation plans for network upgrades that did not occur.

Employees

- Overall, there’s been a 29% drop in employees, from 680,000 to 491,000 employees. (Includes the addition of the merged long distance companies.) However, this is for the entire company. When examining separate Bells, like Qwest or BellSouth (before 2006), there has been a 51% and a 39% drop in employees, respectively.
- The real issue of employees is that job cuts have been exasperated by the fact that revenues have increased 220%. Thus, the actual job cuts are over 70% when compared to revenues for wireline phone services.

Executive Compensation

- From 2006 through 2008, Verizon’s top 5 executives received \$194 million dollars. In 2006, AT&T was bought by SBC and the top 6 executives made \$168 million.
- From 1999-2002, the top executives from the Bell companies received an estimated 54 million shares of stock options with an estimated value of \$1 — \$2.1 billion dollars — almost 10% of all stock options.

In short, the trend lines we had tracked through 2004 had speeded up — less money was being used for wireline construction, especially used for the utility network upgrades, faster write offs of the networks, more staff cuts and profit taking so that the top executives in the companies were given hundreds of millions in pay and perks and between \$1-2 billion dollars in stock options.

Adding these to our model of previous overcharging, in 2011 we estimated that \$340 billion had been garnered via the original alternative and subsequent deregulations, and it would be about \$360 billion in 2012; and again that was the low number.

Ironically, the FCC released report in 2009⁵³¹ as part of the National Broadband plan, outlining that it would cost \$350 billion dollars to have almost all of America upgraded with a service capable of 100 Mbps.

And it was news. *Information Week* wrote:

“The total cost of developing a universal broadband plan for the United States could run as high as \$350 billion, but the plan would produce major economic and social benefits ranging from improving healthcare and education to helping people with disabilities and improving public safety programs, according to a report prepared by an FCC task force.

“The huge price tag dwarfs the \$7.2 billion earmarked in President Obama's economic stimulus program. The task force estimated universal broadband deployment costs would range between \$20 billion and \$350 billion. The highest figure calls for providing service at 100 Mbps or faster.”

I note that the National Broadband Plan was based on 230 witnesses and 26 hearings and workshops.⁵³²

“The report, prepared to help FCC commissioners develop a national broadband plan for Congress, was prepared after information and suggestions were acquired from about 230 witnesses who presented evidence and opinion at 26 hearings and workshops. In addition to laying the groundwork for the February report to Congress, the report discussed the present state of broadband in the United States.”

But I was soon to learn around 2009 that this overcharging was simply a taste of the total mount of excess charges and rate increases customers have had to endure.

Chapter 38 Cooked Books? Forget about Broadband Scandal: This Is an Accounting Scandal.

Since our original accounting of overcharging in 2004, doing the current financial model for overcharging of broadband was thrown in disarray when a new problem came into view — the dismantling of the PSTN — The Public Switched Telephone Networks. We uncovered massive cross-subsidization; i.e., the movement of assets out of the utility and into separate subsidiaries where the expenses remain but the revenues and profits go into another financial pocket. However, during the writing of this book, we uncovered a cache of financials for Verizon New York.

Part 1 of this discussion relates to the SEC-filed quarterly reports by Verizon's state-based companies, like Verizon New York and Verizon New Jersey. These would be the reports for investors.

Part 2 are another set of Verizon New York financials that are required as an annual report to the NY State Public Service Commission, (NYPSC). Using this data, in May 2014, we created a new report for Public Utility Law Project, PULP, which cross-referenced these two sources, as well as added FCC data for Verizon New York. This report exposed a new series of cross-subsidy issues, as well as “black hole revenues”, which were revenues that were listed in the SEC filed books but were not part of the NYPSC filed annual reports.

However, this journey started in 2009 when we first uncovered the state-based SEC report by Verizon for its state-utility holdings.

Part 1: Don't Look Behind the Curtain

In 2009, our curiosity was piqued when we decided to figure out how Verizon New York was able to get the NYPSC to raise basic "POTS," (plain old telephone service) rates on residential customers in 2009,⁵³³ claiming it was for “massive investments in the deployment of fiber optics” and that the company was in need of financial relief.

New York State Public Service Commission, June 2009⁵³⁴

“We are always concerned about the impacts on ratepayers of any rate increase, especially in times of economic stress,’ said Commission Chairman Garry Brown. ‘Nevertheless, there are certain increases in Verizon’s costs that have to be recognized. This is especially important given the magnitude of the company’s capital investment program, including its **massive deployment of fiber optics in New York**. We encourage Verizon to make appropriate investments in New York, and these minor rate increases will allow those investments to continue.’”

And the Order to raise rates specifically states that Verizon needed financial relief, meaning rate increases, because of the losses, which appear to have been going on for years.

“Verizon’s financial condition is ‘relevant’ when the Commission considers pricing changes because “the state has an interest in a viable company....There seems to be little question that the company is in need of financial relief; Verizon reported an overall intrastate return of a negative 4.89% in 2006 and its reported intrastate return on common equity was a negative 73.6%.”

“For 2007, Verizon reported an overall intrastate return of negative 6.24% and a return on common equity of negative 46.0%.”⁵³⁵

In just 2010, for example, Verizon New York’s fourth quarter 2010⁵³⁶ SEC filed report showed a loss of \$2.2 billion (and created an income tax benefit of \$716 million). I wondered — isn’t Verizon’s FiOS profitable?

The more we dug the uglier it got. It appears that Verizon has been able to essentially game the regulatory system. The losses for 2010 appear to be caused, not

particularly by a loss of "POTS" phone customers, which was one claim, but by all of the Verizon affiliate companies, such as Verizon Online, Verizon Wireless, or Verizon Services.

- It appears Verizon Wireless is shortchanging the state utility by paying less than what other wireless competitors pay for services.
- Verizon Wireless appears to be dumping some of their construction budgets into the utility.
- Some of the other affiliates, such as Verizon Services, have turned the local phone utilities into a garbage pail of expenses — everything from executive pay to foundation grants may have been dumped.

To the customer it is all one big blur — isn't everything just Verizon? Truth is, Verizon has "subsidiaries" and each has taken over a slice of the business. However, we found that each affiliate is now taking a slice out of the customer's pocket book, while Verizon Wireless appears to be in control of the overall company's agenda, including the wires.

NOTE: We quote 2010 data because that was the last year Verizon published state-based financial reports, while the FCC stopped publishing basic data in 2007.

The consequences of these actions are many. First, these maneuvers make the wireline companies look unprofitable while it "gooses" the wireless profits. But the real kicker is the double-whammy on customers. Verizon gets doubly paid back because customers got hit with a rate increase (which is still being applied to bills), while using these losses caused by the wireless networks or Verizon's other affiliates aids Verizon in getting its policy goals as well — i.e., Verizon walks around claiming it is "losing money" on the wires so it can call for shutting down all of the wires and replacing them with wireless — which is Verizon's corporate policy.

Lowell McAdam⁵³⁷, Verizon's Chairman and CEO and former CEO of Verizon Wireless, stated on June 21, 2012 that Verizon plans to "cut the copper" and force customers onto wireless:

"In other areas that are more rural and more sparsely populated, we have got (wireless) LTE built that will handle all of those services and so we are going to cut the copper off there. We are going to do it over wireless."

And we've seen this play out after the Sandy storm when Verizon decided to start implementing its new plan. Fire Island, N.Y., and other parts of New York and New Jersey⁵³⁸ were the first wave of Verizon's corporate strategy. As we discussed, Verizon refused to fix the wires and instead forced customers onto an inferior wireless service, Voice Link.

Closing the wires helps many of Verizon's favored policies. It closes all obligations as wireless is not regulated for, say, "quality of service." Closing the wires also removes the unions — who are tied to the wires. And customers can't even sue the wireless company for malfeasance because it is a 'contract' which is sacrosanct, according to the Supreme Court, as opposed to a telecommunications tariff, which has obligations.

And let us not forget the Verizon-cable deal to sell cable bundles with Verizon Wireless services wherever Verizon doesn't upgrade or shuts off the copper. The customers will have one wired choice — the cable company's cable, broadband, Internet and phone service.

In 2012, and 2013, New Networks published a series of reports; the first examined Verizon's affiliate transactions in five states⁵³⁹ — Verizon New York, New Jersey, Pennsylvania, Massachusetts and Rhode Island, the state-based wired state utilities networks, commonly referred to as the PSTN. And in 2013, New Networks released a separate report on New York⁵⁴⁰ and Verizon other affiliate Companies.

These report were used, in part of a call for an investigation into the influence of the wireless company over the wireline state-based networks provided Verizon New York by Common Cause-NY, Communications Workers of America

(District 1), Consumer Union and the Fire Island Association in comments filed in a New York State proceeding about Fire Island.⁵⁴¹ They write:

"We assert that there is evidence that the reported losses are substantially the result of misallocation of revenues and expenses as between the landline and wireless systems. The evidence is strong enough to require the Commission to consider it, and seek such additional information as will prove or disprove the existence of systematic and intentional misallocation by the Company, with consequences for customers/ratepayers of both systems, the tax payments due to federal, state and local jurisdictions, and policy decisions made by the Commission."

New York: Verizon Wireless and Verizon Affiliates Are Out to Get You.

Let's examine this dark underbelly as told by Verizon's New York's financials that came from the SEC-filed quarterly reports.

It appears that Verizon Wireless's construction expenses have been dumped into the wireline network expenses.

Fran Shammo, Verizon's EVP and CFO⁵⁴² stated that the wireline construction budgets have been diverted to charge wireline customers for the Wireless companies' construction needs.

"The fact of the matter is Wireline capital — and I won't get the number but it's pretty substantial — is being spent on the Wireline side of the house to support the Wireless growth. So the IP backbone, the data transmission, fiber to the cell that is all on the Wireline books but it's all being built for the Wireless Company."

Simply put: Wireline POTS customer may have been charged to develop and build the Verizon Wireless's networks — saving the company potentially billions.

This tie of wireline expenditures being used for wireless construction also appears in almost every Verizon New York press release. In 2011, Verizon claimed it spent \$1.5 billion in New York⁵⁴³ on wireline investments, but it includes the “accelerated deployment of fiber optic links to 1,848 cell sites”.

"Verizon Invested More Than \$1.5 Billion in New York's Wireline Communications, IT Infrastructure in 2011."

"Accelerated deployment of fiber-optic links to wireless carriers' cell sites throughout New York as these carriers expand their infrastructure to meet ever-growing demand for wireless broadband and advanced 4G services. In 2011, Verizon deployed fiber optics to connect 1,848 of these sites in the state."

Did the NY State allow Verizon New York to raise rates of local POTS residential phone customers for "fiber optic investments" that were instead used by the wireless company? Were these expenses part of the expenses that caused the massive losses that were then used as an excuse to raise rates?

Wholesale Dumping of "Verizon Services" Expenses to Make the Wires Look Less Profitable

Then we have Verizon Services, the group of companies that supply services to Verizon New York but dumps billions of dollars of expenses into the state-based wired company. And it is a kitchen sink of expenses.

Verizon New York's 4th Quarter 2010⁵⁴⁴ state-based SEC report states:

"We have contractual arrangements with Verizon Services for the provision of various centralized services. These services are divided into two broad categories. The first category is comprised of network related services which generally benefit only Verizon's operating telephone subsidiaries. These services include

marketing, sales, legal, accounting, finance, data processing, materials management, procurement, labor relations, and staff support for various network operations. The second category is comprised of overhead and support services which generally benefit all subsidiaries of Verizon. Such services include corporate governance, corporate finance, external affairs, legal, media relations, employee communications, corporate advertising, human resources, treasury, and rent expenses associated with the rental of facilities and equipment. Costs may be either directly assigned to one subsidiary or allocated to more than one subsidiary based on functional reviews of the work performed."

Translated into English, this most likely means that Verizon Services dumps everything, from lobbying, monies for the Verizon Foundation, executive pay, travel and a host of other charges that have nothing to do with the cost of actually offering phone service. Prior to massive deregulation, virtually none of these expenses would have been allowed to be considered as a factor in a local rate adjustment.

In just 2009 and 2010 Verizon Services charged Verizon New York \$3.7 billion. If we compare the total revenue of Verizon NY for these years with Verizon services, Verizon Services were 25 percent — i.e., the company revenues were \$15 billion for 2009-10 and Verizon Services charged Verizon 25 percent, or \$3.7 billion (with rounding). However, from 1995 to 2002, the Verizon Services expense was only 16 percent of revenues for Verizon New York and the company was also profitable including the addition of this expense. In fact, in most years Verizon NY paid a dividend back to corporate. So, it raises the question — if Verizon New York is "losing money," is Verizon Services one of the reasons why?

Not Paying Income Taxes and Charging Customers for their Taxes

Then we have the question of tax payments or the lack thereof. This has multiple layers because Verizon is not only showing losses created by the affiliates and then using these losses to get rate increases — rate increases in the name of broadband —

but the corporate parent, Verizon Communications, shows that the wireline division is profitable.

Massive Financial Losses in 5 Verizon States 2009-2010

For just two years, 2009-2010, Verizon’s state-based SEC 4th quarter reports revealed \$5.4 billion in losses with an income tax benefit of \$1.96 billion. Verizon, New York had the largest losses with \$2.2 billion in just 2010. In the state of New Jersey, Verizon claimed to have lost \$786 million in 2009-2010 and received an income tax benefit of \$321 million. These losses appear to be common throughout the Verizon territories as in just 2 years, 2009-2010 New England Telephone (Massachusetts & Rhode Island) claimed to have lost \$1.2 billion and had a tax benefit of \$477 million while Pennsylvania claimed \$202 million in losses and a tax benefit of \$62 million.

EXHIBIT 78

Verizon Losses & Tax Benefit in 5 States, 2009-2010

(In the millions)

	Losses		Tax Benefit		2-Year Total	
	2009	2010	2009	2010	Loss	Savings
New Jersey	-\$355	-\$431	\$161	\$160	-\$786	\$321
New York	-\$971	-\$2,200	\$379	\$716	-\$3,171	\$1,095
New England (MA, RI)	-\$345	-\$877	\$164	\$313	-\$1,222	\$477
Pennsylvania	-\$41	-\$161	\$23	\$39	-\$202	\$62
Total by Year	-\$1712	-\$3,669	\$727	\$1,228		
2-Year Total					-\$5,381	\$1,955

NOTE: Massachusetts and Rhode Island are combined because they are part of “New England Telephone” which was part of the original regional Bell Company, NYNEX.

In fact, over a 4 year period, 2007-2010, Verizon, New York claimed to have lost \$4.25 billion and received an ‘income tax benefit’ of \$1.74 billion.

As we discussed, the available data for these calculations stopped in 2010, but simply projecting these numbers for 2011 and 2012 would give us over \$10.8 billion in losses and almost \$4 billion in 'income tax benefit' for these 5 states.

And note that the 'income tax benefit' goes back to Verizon corporate to be used against all of its other taxable income so that the parent company gets to dump expenses into the state-based utility and reap the benefits on the federal tax returns.

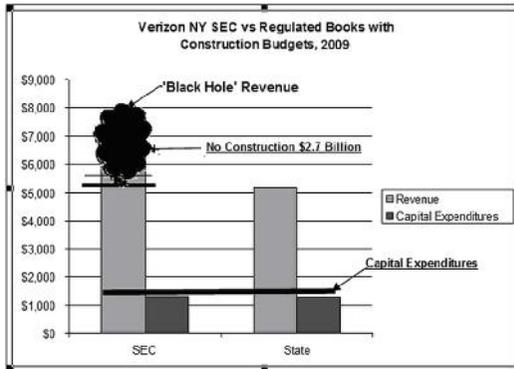
Part 2: Different Financial Books Tell Different Stories: "Black Hole" Revenues

While the previous findings surprised the author, in January 2014, we uncovered more financials. Verizon New York is required to submit an annual financial report to the New York State Public Service Commission about the state-based utility networks, and which were never examined by other analysts, etc. as we could not find any previous information.

When we compared Verizon's SEC-filed financials with the PSC-annual reports, the SEC books had an additional \$2.7 billion in revenues for just the year 2009 as compared to the PSC filed annual reports. I.e., while Verizon's PSC books had \$5.17 billion in revenues and the SEC books had \$7.84 billion in revenues, there was no information about what exactly this extra \$2.67 billion was for; thus we call it 'black hole' revenues.

However, when we examined the construction expenditures for both books they were almost identical, and this meant that all of the construction budgets were only in the regulated books and the \$2.7 billion was paying no identifiable construction costs.

EXHIBIT 79



As far as we can tell, the revenues for Verizon's broadband, Internet and even their digital phone service, whether they are based on the copper-based networks, such as DSL, or are part of the FiOS's products, are most likely in the 'black hole' revenues or moved into the 'nonregulated' side, and these services are only paying incremental monies for the use of the networks, while some of the Fiber-to-the-Premises expenses are mostly in the 'local service' regulated part of the business, as they are classified as 'Title II'. I.e., there are NO financial buckets in the Verizon New York State-PSC books for Internet and broadband services which are classified as 'information services' revenues, so we believe that the revenues have to be in the unknown 'black hole'.

We note that when we cross-checked Verizon's state-based financial SEC reports with the Verizon Communications (the parent company) annual reports Verizon corporate's wireline networks are profitable even though the local service area is hemorrhaging losses in almost all of the Verizon states in 2010, the last year the data was available.

The Excitement Continues with a Call for an Investigation

On July 1st, 2014, a newly formed group "Connect New York Coalition"⁵⁴⁵ filed a petition⁵⁴⁶ with the New York State Public Service Commission to investigate the

telecommunications companies in New York State — including Verizon. Consisting of AARP, Consumer Union, Communications Workers of America, Common Cause, among others, the press release states that:

“15 major consumer and labor organizations and a bi-partisan group of 69 elected officials announced today the formation of the Connect New York Coalition, a major new effort to reverse the decline in telephone service and ensure high-quality advanced telecommunications services for all New Yorkers.”

Based, in part on the PULP-New Networks⁵⁴⁷ report and New Networks previous report, the Petition stated:

“There is significant evidence challenging the notion that legacy systems are money losers, and evidence indicating that even if they are, the losses have been inflated by accounting techniques. There is reason to believe that providers are cooking the books. If true, the consumers of the state are being either manipulated or defrauded.

“The Commission allowed Verizon rate increases in 2006 and 2008 based, in significant part, upon the assumption that the revenue from the higher rates would lead Verizon to invest in fiber optic lines, presumably for the benefit of wireline customers. Serious questions exist regarding the extent to which funds may instead have been used to build out the network for the benefit of wireless customers. Publicly available reports, while fragmentary, suggest that Verizon may have included construction costs for significant benefit of its wireless affiliate to be included in the costs of the Verizon New York wireline company, thus adding to its costs and tax losses.”

The bottom line to all of this is that the overcharging of customers for broadband, especially as documented in the Verizon New York territory, brings into question the total amount of money that customers paid. We assume that this financial shell game is not unique to New York State but is happening in every state, including all AT&T states.

The Final Insult: Those Dirty, Little Taxes, Fees and Surcharges

If cross-subsidization wasn't enough, then we have all of those little charges in the taxes, fees and surcharges section of the bill — nickel, dime and quartering customers every month.

Whenever a customer gets their first communications bill, there is usually some 'sticker shock' as the price of the bill can be 10%-40% more than what the advertisements outlined. And in many states there are a host of taxes, fees and surcharges, many of whom are direct revenues back to the phone, cable or wireless companies. While we went through some of the new additions that were put on bills based on the National Broadband Plan, these other dirty, little fees have always been around — and some are for 'broadband', some are the companies' taxes being 'passed through', but in doing calculations of overcharging they become a serious nuisance as not only are the taxes and surcharges different in each state, or worse, some are driven based on 'usage' as opposed to a flat fee, but there is no accounting of these charges by the FCC or states in any useful way, especially supplying the amounts of money being collected in a state or by carrier.

California Taxes, Fees and Surcharges

California has simply decided to nickel and dime everyone in the state and may win in the most taxes, fees and surcharges and direct gifts to the phone companies at the customer's expense. And the problem isn't simply the number but these are applied to almost all services, and so while some may not be directly called a 'broadband tax', it can be added on top of the other fees customers pay.

EXHIBIT 80**California Surcharge Rates of the Telecommunications Programs⁵⁴⁸**

- Universal Lifeline Telephone Service (ULTS)
- California Relay Serve & Communications Device Fund (CRS)
- California High Cost Fund A (CHCF-A)
- California High Cost Fund B (CHCF-B)
- California Telephone Fund (CTF)
- California Advanced Services Fund (CASF)
- PUC User Fee
- Emergency Telephone Users Surcharge Tax (E911)
- City and County Utility Taxes
- Federal Excise Tax

The main problem with this list is that many of these charges are duplicates of the Federal Universal Service Funds, like the “high-cost funds”, or ‘relay service’, while others, such as the California Advanced Services Fund is for broadband where the State never, ever went back to the companies to get refunds for the companies’ original commitments to build out the networks and so the additional profits that were added to the cost of service in the form of additional, read excess phone charges, were never ‘reduced’ — and this is since the 1990’s.

Here’s a few of the charges.

- **“The California Advanced Services Fund (CASF) —** The CASF provides grants to “telephone corporations” as defined under P.U. Code § 234 to bridge the “digital divide” in unserved and underserved areas in the state. With an initial funding of \$100 million, the CASF supports projects that will a) provide broadband services to areas currently without broadband access and b) build out facilities in underserved areas, if funds are still available.”

Talk about a scam. As we noted, during the AT&T-BellSouth merger, AT&T was required to complete 100% of their territories with a service capable of 200Kbps in 1 direction by 2007. While a miniscule speed, at least in the AT&T territories they were supposed to have already built out services to everyone — there shouldn't be any 'unserved' areas.

- **“California-High Cost B⁵⁴⁹** — provides subsidies to carriers of last resort (COLRs) for providing basic local telephone service to residential customers in high-cost areas that are currently served by Pacific Bell Telephone Company dba AT&T California, Verizon California Inc., Citizens Telecommunications Company of California dba Frontier Communications of California, and Cox Communications. The purpose of the subsidies is to keep basic telephone service affordable and to meet the Commission's universal service goal.”

What this says is — We created a special additional payment to the phone companies, even though they are supposed to be 'averaging' the costs of service so there aren't any 'high cost areas'.

- **PUC User Fee⁵⁵⁰** — “A fee, annually established by the California Public Utilities Commission (CPUC or Commission), is levied on all telecommunications carriers (carriers) providing services directly to customers or subscribers within California.”
- **Emergency Telephone Users Surcharge Tax (E911)** — This surcharge tax provides funding for Emergency Telephone Service (911) in California. Every provider providing intrastate telephone communications services in California and subject to the Commission's jurisdiction is required to register with the Board of Equalization
- **City and County Utility Taxes**
- **Federal Excise Tax**

Conclusion:

So, how much of all of these taxes, fees and surcharges, or the ‘cross-subsidization’ by the affiliates are part of this overall accounting of overcharging for broadband — much less examined starting when the promise of broadband changed state laws?

We confess: Without audits, there is no clear way of calculating this on a state, much less on a national basis, as all of this hanky panky appears to be billions per state, with only some of it reflected in our original calculations.

Chapter 39 Opportunity Costs: How Much Money Did Verizon and AT&T's Failure to Deliver Fiber Optic Service Cost America?

Forget about the \$400 billion or the billions extra per state though cross-subsidies and hanky panky, imagine that the companies had actually deployed what they said they would — wiring almost all of America by 2010, including schools, libraries and hospitals. From the economic growth that should have occurred, the benefits to education that didn't accrue, the rural communities that are still not served, or the lack of competition to lower phone, broadband, Internet, or cable even rates, regardless of the hype, America isn't Number 1, didn't lead the world in broadband, but is now hovering near a 3rd world nation in broadband bragging rights and benefits.

Using the phone company or their think-tanks and astroturf supplied numbers, let's reverse engineer the hype and quantify the 'Opportunity Costs' — How much did the failure of providing fiber optic broadband cost customers and America?

How Much Extra did Customers Pay for Cable Service Nationally?

Before I give you the answer, the first question is — What is cable TV?

The FCC states⁵⁵¹:

“Cable television is a video delivery service provided by a cable operator to subscribers via a coaxial cable or fiber optics. Programming delivered without a wire via satellite or other facilities is not "cable television" under the Commission's definitions.”

As we wrote previously, The Phoenix Center for Advanced Legal & Economic Public Policy Studies⁵⁵², a telco-funded DC-based think tank summed it up in 2006 — to paraphrase, *If the phone companies are allowed to do what they want to there would be*

cable competition and lower prices. And every year that there is a delay, it costs America's consumers \$8.2 billion annually.

“Drawing on existing data that shows cable prices are about 15 percent lower in the face of wireline video competition, we find that a one-year delay in entry because of franchise requirements would cost American consumers \$8.2 billion. The toll on consumers cumulates as reform is deferred so that four years of delay would cost consumers almost \$30 billion in unrecoverable losses.”⁵⁵³

ALEC,⁵⁵⁴ writing about cable franchising added these caveats. Considering they are funded by the phone and cable companies, they round up to the costs at \$9 billion dollars annually.)

“Consumer Choice - Increasing competition means more choices for consumers. Competition also will bring innovation, new service offerings, and improved customer service. Only 3% to 5% of US households live in a competitive cable wireline market.

“Lower Prices — Competition also brings lower prices. The FCC has reported that prices in markets where wireline cable competition exists are 15% lower than areas with no competition. This means an approx. savings of \$100 a year per household. It is estimated that the lack of competition is costing consumers a total of \$9 billion year.”

But notice that their analysis only starts when the phone companies decided to deploy cable service, which didn't happen until 2006-2007 for either AT&T or Verizon.

Using statistics from TVB, Kagan, NCTA, Census and the FCC, we can calculate the amount of monies customers would have saved had the phone companies actually deployed their services.

EXHIBIT 81

**TVB's Number of Total Cable TV Households by Year and Service,
1996-2011⁵⁵⁵**

Alternate Delivery Systems: National

Total ADS is at an all-time high and has more than doubled since 2001. Wired Cable has seen penetration drop significantly over that same time period.

November	% TV Households					
	SHATV	MMDS	Satellite DISH (lg.)	DBS	TOTAL ADS	Wired Cable
1996	0.9	1.3	1.8	2.1	6.0	69.5
1997	1.1	1.2	1.6	3.8	7.6	69.4
1998	0.7	0.9	1.5	5.9	9.0	69.8
1999	0.7	0.8	0.9	6.8	9.1	70.7
2000	0.8	0.6	1.0	9.2	11.4	70.2
2001	0.6	0.4	0.7	12.3	13.9	70.5
2002	0.6	0.3	0.5	15.3	16.5	69.1
2003	0.4	0.2	0.4	15.8	18.2	67.4
2004	0.5	0.0	0.3	18.5	19.2	66.4
2005	0.5	0.1	0.2	20.2	20.8	64.8
2006	0.4	0.0	0.1	24.0	24.5	62.1
2007	0.4	0.0	0.0	27.6	28.0	61.3
2008	0.3	0.0	0.0	28.4	28.7	61.3
2009	0.3	0.0	0.0	29.0	29.3	61.7
2010	0.3	0.0	0.1	30.2	30.5	60.7
2011	0.3	0.0	0.1	30.7	31.1	60.4

In comparison, by the end of the year 2000, the Bell companies should have deployed about 46 million lines of fiber optics capable of 45 Mbps — and cable TV.

EXHIBIT 82

Announced RBOC, GTE, SNET Upgraded Residential Subscribers, 1994-2000¹⁹

	Total by 2000
Ameritech	6,000,000
Bell Atlantic	12,000,000
BellSouth	5,600,000
NYNEX	5,000,000
Pacific Telesis	5,500,000
SouthWestern	5,600,000
US West	2,600,000
GTE	2,800,000
SNET	1,000,000
Total	46,100,000

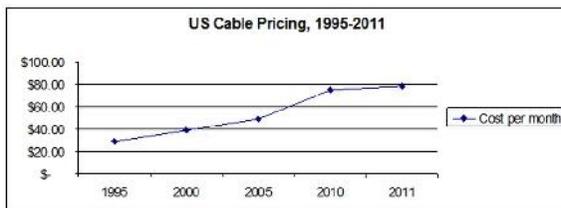
Sources: AT&T, Verizon and Qwest Annual Reports and Announcements.

Virtually none of it was built, with the exception of cable services (later sold off) in Ameritech, GTE, SNET and BellSouth. These were all closed down or sold off — but there was no serious deployment in any state by 2000.

- **Cable prices have gone up about 188%, including bundles since 1995.**

This is the average cable pricing by year as told by Kagan and other sources. On average, in 1995, the cost was about \$29.00 and by 2012 it was almost \$80.00, which can include the set top box, remote, taxes, fees and surcharges.

EXHIBIT 83
US Cable Price Averages. Total Bill, 1995-2012



Using the exact methodology of the ALEC and the Phoenix Center, we found that:

- From 1995, the start of the “information superhighway” and state alternative regulations to 2012, customers paid, on average about \$1,627 to \$1,920 in excess cable charges.
- This added \$51.91 in excess cable rates annually due to a lack of competition to over \$243 annually.

EXHIBIT 84
Extra Cable Charges Due to a Lack of Competition and Telco Cable Deployment
1995-2012

	Excess	2012	Total
Cable Service	\$ 51.91	\$144.00	\$1,626.91
Bundle	\$84.40	\$243.00	\$1,920.60

This chart says it all. Out of 85 million total households with cable or satellite, Verizon and AT&T combined had only 9.2 million in 2012 (about 10-11 million in 2013), only 11%, and thus the companies never fulfilled their promises to build out the networks and supply serious cable competition, regardless of the hype.

EXHIBIT 85

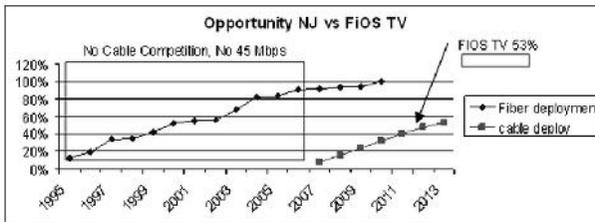
Cable Services in the US by Company, 2012

Service Provider	Technology	Total Subscribers (4Q/2012)
Comcast	Cable	21,995,000
DirecTV	Satellite	20,080,000
DISH Network	Satellite	14,056,000
Time Warner Cable	Cable	12,030,000
Verizon	IPTV	4,700,000
AT&T	IPTV	4,500,000
Charter	Cable	3,989,000
Cablevision	Cable	3,197,000
Total		84,547,000

However, when all of this is added up — there was a total lack of deployment of cable services from 1992-2006 by AT&T and Verizon. From 2007-2010 there was a flurry of work and then the companies again slowed down deployments. And this is against a framework where almost all of the US should have been upgraded to fiber — and offering cable competition.

The next chart supplies a visualization of the national failure to do the upgrades and uses Verizon New Jersey’s “Opportunity New Jersey” actual timeline from the state law and the actual deployments of FiOS cable service households ‘passed’ in New Jersey, (which we will discuss soon). It pretty much sums up most of America.

EXHIBIT 86



The total excess cable rates caused by these companies' failure to deploy came to between \$117 billion to \$155 billion, depending on whether you believe that 'households passed' is competition.

EXHIBIT 87

Total Excess Cable Customer Overcharge Range, 1995-2013

(In the Billions)

	Low	High
Excess Cable charges	\$117.5	\$ 155.1

Using the average cable pricing from Kagan and the FCC (and of course they don't match), for bundling and stand alone cable bills, we simply used a 15% lowering of costs, based on Phoenix. Center's work. We used Census data for number of households, TVB for number of customers by type, and started when the Bell companies stated they would be deploying their fiber optic networks.

How Much Did America Lose in Economic Growth from the Failure to Properly Upgrade the US?

We have just spent a few hundred pages outlining the fabulous legacy of broadband — thanks to AT&T and Verizon and Centurylink.

The big question remains — If they had actually done what they got paid to do, about \$400 billion dollars, and accomplished a fiber optic utility wire to every home, office, school and library, capable of at least 45 Mbps in both directions — what would have been the economic gains to the US, and thus to everyone reading this in America.

There have been thousands of reports, analyses and political screeds that claim broadband will increase job creation and economic growth, not to mention help in every facet of our lives from 'tele-medicine' to entertainment. .

David Salway⁵⁵⁶, who Director of the Broadband Program Office in NY State writes:

“There is little debate that increasing broadband access spurs economic development, but can this be quantified? There have been numerous studies by economic and telecommunications analysts which study the correlation between broadband access and number of jobs created, as well as measuring the economic impact of broadband. There are multiple economic factors that could affect the results, as well many facets of providing broadband Internet access, which have the potential to significantly affect the results.”

The list includes:

- For every one percentage point increase in broadband penetration in a state, employment is projected to increase by 0.2 to 0.3 percent per year.⁵⁵⁷
- An increase in the broadband penetration rate by 10 percentage points raises annual growth in per-capita GDP by 0.9 to 1.5 percentage points.⁵⁵⁸
- According to the U.S. Department of Commerce, between 1998–2002 communities that gained access to broadband service experienced an employment growth increase of 1% to 1.4%, a business establishment increase of 0.5% to 1.2%, and a rental value increase of 6%.
- The SRRI⁵⁵⁹, in California, estimates that for every one percentage point of the adult population using broadband, the employment growth rate rises by 0.075 percentage points and the payroll growth rate also grows by up to 0.088 percentage points.
- It is estimated that for every \$1 million granted for broadband development, 15 jobs would be created.⁵⁶⁰

- A 2001 Study from the Brookings Institution Predicted 1.2 Million Jobs and as much as \$500 Billion Per Year Could be Added to the U.S. Economy if All Homes had Basic Broadband Services.⁵⁶¹
- U.S. Investment in Broadband and Related Information Technology Has Driven 1/3 or More of the Productivity Growth of This Decade. The Ongoing Productivity Impact On GDP Growth Could Exceed \$200 Billion Annually. *USTelecom Analysis*.⁵⁶²
- Connected Nation Reported National Broadband Would Provide a \$134 Billion Economic Stimulus Nationwide. "Using the state of Kentucky's experience with its aggressive rollout of broadband, Connected Nation reported that a similarly accelerated national broadband push would provide a nationwide economic stimulus of \$134 billion while creating 2.4 million new jobs."⁵⁶³

Opportunity Costs: \$7 Trillion in Economic Harms, But Who's Counting?

Our 'Opportunity Cost' losses are based on using the methodology of two well-known studies which had similar projections for America's economic growth. The first is a study that was funded by Verizon and released in 2001 titled "The \$500 Billion Opportunity: The Potential Economic Benefit of Widespread Diffusion of Broadband Internet Access"⁵⁶⁴. Written by Criterion Economics and the Brookings Institute, the original intent of this paid research was to claim that if competitors were thrown off the networks, Verizon would start to really, really, finally, build-out the networks. The report claimed that if broadband was ubiquitous it would increase the Gross Domestic Product, (GDP) of the US by \$200-\$500 billion dollars annually, (though there would be a ramp-up of 15-25 years).

They write:

“We conclude that the eventual consumer benefit for universal diffusion of broadband could be \$300 billion or more. Were broadband to spread to only 50 percent of U.S. households, this estimate would be only about \$100 billion per year.

“These estimates assume that broadband spreads to 94 percent or 50 percent of all U.S. households, the former figure reflecting the current penetration of ordinary telephone service among U.S. households. If this does not occur, the consumer benefits would obviously be much lower.

“Producers will also benefit from the greater demand for electronic equipment used in the delivery of broadband service, increased spending on household computer and networking equipment, and increased spending on household entertainment. These benefits could easily amount to another \$100 billion per year if broadband became ubiquitous. If it spread to only 50 percent of households, we estimate that producers would ultimately gain less than \$50 billion per year.

“Thus, a reasonable figure for the total annual benefits to the U.S. economy of the widespread adoption of broadband access in all its forms — ADSL, cable modems, satellites, 3G wireless, and others — could be more than 400 billion dollars per year.

“Faster rollout of high-speed access services gives us these benefits earlier. A reasonable estimate of the net present value of faster rollout of broadband is as much as 500 billion dollars.”

Around the same time, Gartner Dataquest⁵⁶⁵ released their own report and it, too, claimed that America could have a \$500 billion dollar annual bump in GDP after 10 years of building if ‘true’ broadband — over 10 Mbps, were deployed.

“Dataquest Inc, a unit of Gartner Inc. (NYSE: IT and ITB) has modeled the impact of ubiquitous broadband based on the United States and estimates the incremental increase as \$500 billion annually for each of the next 10 years.

“While many consumers associate the term broadband with the typical 384 kbps downstream that service providers offer today, Gartner Dataquest defines “true” broadband as broadband to the home with aggregate downstream capability of a minimum of 10 Mbps. Gartner Dataquest analysts said boosting bandwidth to this rate could drive tremendous change and opportunity in today’s depressed technology segment and lead to overall broader economic benefits.”

“The participants in today’s economic activities cannot tolerate slow, unsophisticated narrowband communications without suffering a loss of productivity, just as participants of yesterday’s industrial age economic activities benefited considerably by the availability of even a modicum of communications capability,” said Kathie Hackler, vice president and chief analyst for Gartner Dataquest’s worldwide telecommunications and networking group.”⁵⁶⁶

The Deployment Hype vs the Deployment Reality

Using just this framework of broadband as a growth stimulator, there are a host of questions we could ask — but we will focus on one aspect — The phone companies made commitments to start rewiring the states and schools with fiber optics, which

could deliver speeds at 45 Mbps in both directions. Let’s apply the actual deployments against the timeline of the last 20 years.

EXHIBIT 88

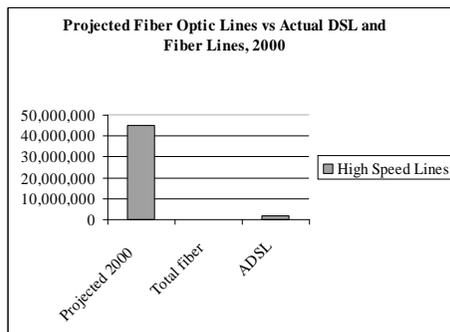
FCC Report Data on DSL and Fiber Deployment⁵⁶⁷

(Based on June, 2000)

	Telco	FCC DSL	FCC Fiber
Announced	46,100,000		
FCC Data		1,750,804	40,627
% vs statement		3.798%	0.088%

Comparing the AT&T, Verizon and Qwest announcements pertaining to fiber with actual deployments, while the telcos announced roughly 46 million lines, the total US fiber optic market (which could include business services) was only 41,000 lines — less than 1% of the actual announcements.

EXHIBIT 89



From 1993 through 2000 the Bell companies claimed they would have about ½ of the US wired, and yet, based on the data from the FCC show — they had zip.

Then we get to the deployments from 2000-2013. Some states, such as NJ, have a timeline which continued through 2010 to have 100% of the state completed, while Pennsylvania extends to 2015 to complete 100% of the state, while SNET was to be completed by 2007. Ameritech claimed its five states would be completed by 2010

and had the companies actually kept building as they claimed was their plan, as we noted in the opening, 86 million households would have been completed around 2005. Even if we include the FiOS and U-Verse deployments, together the companies have less than 10 million customers with TV, and U-Verse can't handle 45 Mbps in both directions, no matter how hard they try as the system is based on mostly 1 way connections.

Besides all of the other economic harms, the customer overcharging, the schools not being fiberized, or the cross-subsidization, had the companies actually deployed what they said they were going to deploy and on schedule, the USA would have been a 'fully-fiberized' country.

Using the Bells' projected timeline and the economic growth models provided by Criterion-Brookings and Gartner, we estimate that from 1993-2013, America lost big-time:

America Lost \$6.7-7.1 trillion dollars in economic growth.

There are a hundred caveats to this:

- What about cable deployments? Aren't they offering broadband in 90+% of the country?
- What about wireless deployments? Aren't there a few hundred million cell phone subscribers and many have broadband?

As we outlined, we are only using the ability to offer and compete with cable TV, even with broadband, as the standard as it represents full motion video capabilities.

Wireless today, can't handle large amounts of video, especially cable TV and because the wireless cell towers and cell sites are attached to a wire, which today is almost monopoly product offered by the same companies who control the wireless markets — AT&T and Verizon, the companies control not only the speed but also the price. Today, if a customer uses a Verizon wireless broadband substitute product, like "Home Fusion" to watch 1 month of cable would cost \$780.00 — and that's per person as some cable services allow you to have different programming on different TVs.

There are also WISPs, wireless ISPs, sometimes referred to as the “Telecom Cowboys”, who offer wireless point-to-point broadband services, but they can’t compete with cable TV for the most part and are mostly in more rural areas as the services require a ‘line of sight.

Cable has been and continues to be a mostly 1 way broadband product where the upstream path is about 1 mbps in speed, which can’t handle applications like HD video conferencing or other ‘new’ services like cloud, which requires ‘symmetric’ broadband.

And everything I just wrote about these offerings were mostly developed over the last 5 years or so and the commitments made were started before the Wireless market existed or before cable was offering broadband.

And there are a number of independent buildouts, Google⁵⁶⁸ is currently laying fiber in a few towns, including Kansas City, and offering 1 Gigabit speeds for \$70.00 while other cities have decided to not wait for their incumbent carrier to deploy services, even though they got paid billions to do these upgrades. And had Verizon started in 1995 with 45 Mbps, one would expect that by 2013, they, too, could have had ubiquitous gigabit speeds. And while other municipalities are starting to offer services, 19 states have passed laws to ban the ability of municipalities to compete with the incumbent carriers.

Chapter 40 Special Access: The ‘Secret’ Networks and Excess

Forget about the NSA and the phone networks. There’s another secret network you should know about. I call it ‘special excess’, though it’s known in the telecom industry as ‘special access’ (or sometimes called “middle mile” or “backhaul”). You won’t hear about these secret wires. For example, when AT&T and Verizon tell us they are losing lines, the special access wires are not part of the accounting, even though they represent the majority of access lines in America. Or when you hear that local service is losing money, the secret is that much of the revenues from these ‘special’ networks are not being added to that calculation and are hidden from sight.

Some analysts estimate that they are overcharging the competitors and businesses that use these networks by \$12+ billion dollars annually.⁵⁶⁹ Or worse, this network has obscene profit margins of over 100% last time there was any data available, which was 2007.

But new findings from recently uncovered, unexamined, yet public financial reports for Verizon New York (used in the new report “It’s All Interconnected” published by Public Utility Law Project, (PULP), in May 2014) found that these networks could be generating a whopping \$60 billion dollars in the US, half of which is in the regulated, utility side of the equation and the other side is in the financial ‘black hole’, where there is no breakouts of these revenues that are from the fiber-based or Internet Protocol-based services. This would include Verizon’s FiOS or AT&T’s U-Verse, as well as the wireless payments for ‘access fees’, which are costs associated with using these networks.

Something Special and Nothing Special about Special Access

First, there is only one network, but there two parts. There as the retail networks where the companies offer triple play services or just phone service. And the special access networks are ‘data services and business services.

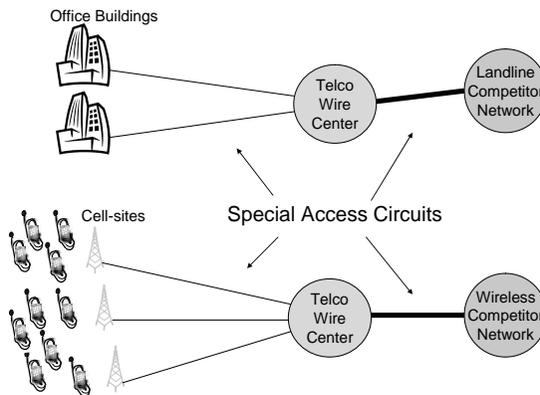
But, Kushnick's Second Law:

"Companies that control 'access' control America's communications."

However, on the other hand, special access is not 'special'. Special access are a category of 'access lines' — pretty much any business-class data broadband line with a speed of over 1.5 Mbps in both directions, though there are 'heavy duty' business-class services used by the wireless and phone companies, including competitive wireless providers like Sprint or T-Mobile.

As this diagram shows, they are just more wires and services that are part of the network.

EXHIBIT 90
Diagram of Special Access Wires



When you make a wireless call it ends up going to a cell tower and then takes a ride on a wire. Or when you download or upload using your broadband connection, these bits are all traveling over these monopoly wires.

In fact, No Choke Points,⁵⁷⁰ a group that's been talking about special access for years, states:

“Nearly every American uses high-capacity broadband lines each day. These lines connect our cell phones, workplaces, banks, factories, data centers, universities, and hospitals to enable communications among customers, employees, suppliers, government, and each one of us.”

And, according to the FCC:⁵⁷¹

"Special access lines are dedicated high-capacity connections used by businesses and institutions to transmit their voice and data traffic. For example, wireless providers use special access lines to funnel voice and data from cell towers to wired telephone and broadband networks. Small businesses, governmental branches, hospitals and medical offices, and even schools and libraries use special access for the first leg of communications with the home office. Branch banks and gas stations even use special access for ATMs and credit card readers. The FCC has the obligation to ensure that special access lines are provided at reasonable rates and on reasonable terms and conditions."

According to most sources, these wires are monopoly products as the incumbent phone companies, AT&T, Verizon and Centurylink, control an estimated 80 to 90% of the market in their own territories and there is no competition between them for these services, even though every merger was predicated on direct competition of the incumbent companies for wired services.

And because of this lack of competition, America's broadband is expensive and this is why your cell phone service has data caps. Think of it like the gas in your car. They keep raising the price. Special excess is the gas of the Internet; the more

expensive it gets, the less you get to travel, and at slower speeds, and the more you have to pay.

And at this time there is a war going on about these services and wires, even though this has long been simmering, in part because the FCC has been kicking the ball down court since 2005 and letting the incumbent companies, AT&T and Verizon, and Centurylink, reap the benefits.

But this is only a small brushfire compared to the host of hidden secrets no one is talking about — until now. I'll get to that.

AT&T Says 'Go Eat Some Cake' to Competitors and Businesses.

Why now? In October 2013, AT&T decided that since 'special access' is a monopoly service and because the company is closing down the 'old networks' and going to Internet protocols (IP) where there are no regulations or requirements, the company can simply raise rates or start phasing out long term contracts to competitors. And at some point in the future, since they control special access (the price of gas) as well as the use of the wireline broadband, Internet, phone cable and even the wireless networks, they'll just get rid of those other pesky companies — wireline, broadband or wireless.

To demonstrate the arrogance, AT&T sent this letter (excerpt) to their business customers and competitors using these networks.

“AT&T Announces the elimination of Term Plans Exceeding 3 Years for Multiple Digital Services, Date” October 10, 2013

“Effective November 9, 2013, AT&T 13-State no longer will offer new term plans longer than 36 months for Tariffed TDM services....AT&T 13-State is modifying its ordering systems to reflect these tariff changes. Upon completion of those modifications, if a customer submits an order for a term plan longer than 36 months, the order will be rejected automatically.”

After an outcry by companies whose business depends on these services, from Sprint to Earthlink,⁵⁷² the FCC stepped in to halt AT&T's plans⁵⁷³ and started an investigation at the end of 2013. And it's about time since the last data collected by the FCC was in 2007.

America has been held hostage by three companies — AT&T, Verizon and Centurylink who control monopoly wires in their territories and don't compete — and the government has been asleep, (or worse).

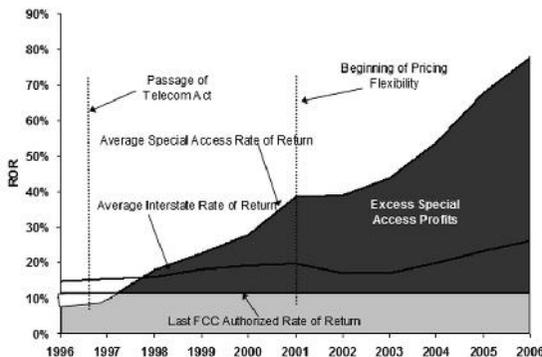
Obscene Profits: Overcharging on Special Access is Really the Overcharging of You.

As of 2007, the profit margins for these services would make a Wall Street analyst drool. As this next chart shows, at one point the profits were regulated at 11.25% by the FCC — that's the gray portion all the way at the bottom of the chart that says the 'last FCC authorized rate of return'.

And then 'wham', let the good times roll. According to a few sources, as of 2007 the profit margins averaged 101% for the incumbents AT&T, Verizon and Centurylink. — about an 800% increase. (See presentation⁵⁷⁴)

EXHIBIT 91

RBOC Special Access Rates of Return: 2006



How much is that in extra dollars collected? According to a report by Economics & Technology:⁵⁷⁵

“Over the combined four year period of 2003, 2004, 2005 and 2006 the Regional Bell Companies (now Verizon AT&T and Centurylink) overcharged purchasers of special access service almost \$28-billion.”

And in 2007, they estimated that it was \$9-billion to \$9.5-billion.

Simply projecting special access overcharging forward using the whopping \$9 billion a year about \$91 billion extra was overcharged by the end of 2013. However, according to some, revenues have been increasing and they estimate it to be around \$12 billion⁵⁷⁶, bringing the total to over \$100 billion dollars — and counting.

And this should all be thought of as a ‘pass through’ — because someone has to pay it — and it might as well be you. So, the cell phone companies’ costs for data, the data caps, or the costs of broadband or even the speed of America’s broadband connections are all tied up in this.

And other reports have been published, such as Economists Incorporated (“EI”),⁵⁷⁷ which claimed that new jobs and economic growth would accrue if these fees were reduced.

“(Using) mid-range assumptions, a 50% reduction in Special access prices would result in a \$20-\$22 billion increase in U.S. output, a \$4.4-\$4.8 billion increase in employee earnings, an increase of between 94,000 and 101,000 jobs and an increase in value added to the U.S. economy of between \$11.8 - \$12.4 billion.”

Now for the Secret — That’s Not All the Overcharging or Hanky-Panky.

Of course, the phone companies claim that these numbers are inflated. But no one is talking about the other secret money and more customer overcharging.

The real ‘special access’ kicker is the collusion between the wired state-based utility and all of the separate company affiliates that offer wireless or broadband or Internet or long distance, among others services.

As we discussed, our report on Verizon New York’s affiliate transactions⁵⁷⁸ with the other Verizon affiliate companies, outlined how Verizon Wireless is getting serious financial perks on special access fees and even the ‘special access’ wires, such as the wires that run to the cell towers, and these add expenses to the cost of local phone service.

Fran Shammo,⁵⁷⁹ Verizon’s EVP and CFO stated that the wireline construction budgets have been diverted to charge customers for the wireless companies’ construction needs.

“The fact of the matter is Wireline capital — and I won’t get the number but it’s pretty substantial — is being spent on the Wireline side of the house to support the Wireless growth. So the IP backbone, the data transmission, fiber to the cell, that is all on the Wireline books but it’s all being built for the Wireless Company.”

And it gets worse. In our analysis of the ‘special access’ services sold to wireless competitors, it appears that Verizon could be paying 1/3⁵⁸⁰ of what other competitors are paying, based on Verizon’s own SEC filed state reports.

And this is just scratching the surface of these collusive ties of the special access networks with the rest of the wireline and wireless networks owned by the same company.

The Double Whammy on Customers

The telcos have us coming and going. Because the competitors are being squeezed, the other wireless or broadband companies can’t simply lower their prices and worse, AT&T and Verizon, the incumbent phone companies, have given their own affiliates financial advantages. And so the Special Access costs are then passed through to the customers. But it gets worse. Verizon is dumping expenses into the utility and not

paying their fair share back and there's a vicious circle as the 'losses' are being used as an excuse to raise rates — and save money on taxes. So, these fees end up impacting all services in varying degrees and we pay for it multiple times and in multiple ways.

And this collusion appears to pay off. Verizon's current profit margin for wireless services was about 50% at the end of 2013 and that's in part because they aren't paying their fair share to use the wired networks — more profits for wireless.

Of course there have been no audits of the affiliate transactions for at least a decade or two, either by the FCC or by the state commissions. Worse, the companies no longer have to give the FCC data for public inspection, nor are they required to supply their financials to the state public service commissions that are made public or even supply any state-based information to the SEC, such as filed quarterly or annual reports.

Ouija boards and tarot cards are all we have left to cipher what the companies are really doing with these affiliates behind the scenes.

New Data Rips Apart the Traditional Analysis.

Manipulating the Accounting of Total Lines in Service — No Info about Special Access.

Again, Special access is a hidden network and here's a simple example. Below is the full accounting of 'access lines' in New York State from the FCC for the year 2007. It shows that special access lines eclipsed regular phone lines long ago, and the regular "POTS", (plain old telephone service) access lines (also called "switched access") accounts for only 15% of total lines. And while there are 'accounting issues' for special access lines (too technical for a discussion here), the accounting has been erased as the FCC stopped publishing the information in 2007 and no state bothers to collect basic information.

EXHIBIT 92

	2007	2006
Switched Access Lines in Service:		
Main Access Lines	4,858,451	5,116,406
PBX & Central Trunks	460,379	463,709
Central Extensions	999,354	963,213
Other Switched Access Lines	1,066,494	1,417,158
Total Switched Access Lines	7,184,678	7,960,486
Central Office Switches Excluding Remote Switches	391	391
Remote Switches	299	299
Central Office Switches	690	690
Basic Rate ISDN Control Channels	62,486	67,019
Primary Rate ISDN Control Channels	14,952	14,442
Access Lines in Service by Customer:		
Business Switched Access Lines:		
Single Line	145,466	151,497
Multiline Other Than Payphone	2,677,695	2,799,816
Payphone Lines	98,614	99,105
Residential Switched Access Lines:		
Lifetime	283,479	276,013
Non-Lifetime Primary	3,584,790	4,137,612
Non-Lifetime - Non-Primary	427,640	496,203
Total Switched Access Lines	7,184,678	7,960,486
Special Access Lines (Non-Switched):		
Analog (60Hz or Equiv)	45,767	37,737
Digital (64Kbps or Equiv)	39,615,573	35,003,428
Total Access Lines (Switched and Special)	46,821,928	42,991,155
Local Private Lines	393,311	398,202

(FCC Statistics of Common Carriers, for the Year Ending December, 31, 2007)

DATA WARNING: The 'declining access lines' we all hear about are really the 'switched' lines and NOT special access and the decline has been a shell game to move basic phone lines into the 'data' category or change them into 'Internet Protocol' to reclassify the exact same wire into one of the 'uncountable' lines. So, in 2007, Verizon New York was claiming it had 7.2 million lines, while the actual total lines-in-service in New York was 47 million lines.

Special Access and 'Black Hole' Revenues

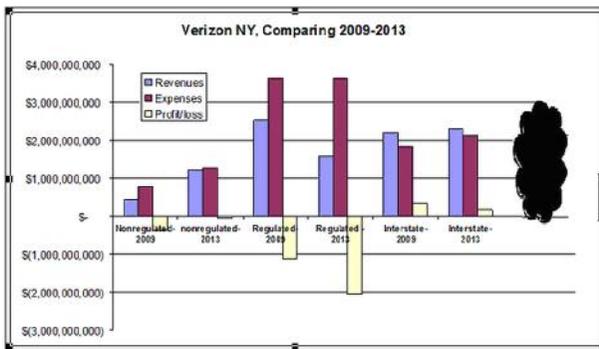
In the previous chapter we highlighted the affiliate transactions, which are the flows of money between Verizon New York and the affiliate companies, (Verizon's subsidiaries) from Verizon Online or Verizon Business to Verizon Wireless.

Using the data from Verizon New York's own financials we uncovered that "special access" is special in that it is getting a free ride like the cable TV, broadband and Internet affiliate services.

For the year 2013, we found that local service has been paying a disproportionate amount of the construction budgets, based on revenues. When we examined one area called "plant specific" expenses (the wired network expenses), we found that while the regulated side had revenues of \$1.6 billion, the 'plant specific' charges were \$1 billion. Conversely, the 'interstate-access', (which are the 'access' revenues, including special access, defined by the FCC as 'interstate' traffic and are the

fees paid for companies to use wired access services) which had \$2.3 billion in revenues was paying less than ½ billion — half of what local service was paying. (Special access accounts for 78% of the access-interstate financial bucket.)

EXHIBIT 93



VNY Local and Access-Interstate Revenues Compared to Plant Specific Expenses, Verizon New York Annual Report, 2013

Revenues	Local Service	Access-Interstate	
	\$1,585,135,695	\$ 2,300,289,434	69%
Plant Specific Expenses	\$1,022,525,390	\$ 498,103,075	49%
	65%	22%	

In fact, as a percentage of revenues, local service is paying 65%, but access is paying only 22%. When one considers that copper-based local service is declining and Verizon has stated that it is no longer repairing the copper wires, then where are the plant specific expenses for local service coming from?

'Black Hole' Special Access Has Never Been Examined.

But here's the kicker — what we just discussed are the special access revenues and expenses that are part of the utility regulated books.

Historically, the special access services, which are "Title II", were the copper-based services, (commonly called "TDM"). But then we have the "IP" based special access services, (which can be fiber optic-based) and that revenue appears to be

about the same size and is in the "Black Hole" revenue area, (or some in the 'non-regulated' area we discussed).

This would mean that it is not paying construction budgets or some other expenses, and this area is profitable in and of itself (at least based on the last accounting in 2010), even though Verizon New York lost \$2.2 billion in 2010 overall.

In terms of the US markets, the numbers used by others have been off by a factor of 2-6 times.

- **Total Special Access Market is \$29.3 Billion: Regulated Only:** With Verizon NY representing about 6-7% of the US, this would mean that just the regulated special access charges are estimated at \$29.3 billion in 2013, nationwide.
- **Total Special Access could be \$60 billion.** The total special access is most likely more than double the regulated amount when "Black Hole" revenues -- i.e., revenues that were in the SEC-filed books but not the state-PSC books, are included.

We note that almost all of the other calculations done by other analysts are based on the FCC's data, which stopped in 2007. However, the FCC NEVER included the 'black hole' revenues for special access in its "Statistics of Common Carriers" reports or "ARMIS" data.

Chapter 41 The Time Warner and Comcast ‘Social Contract’ — on America.

I would be remiss to not mention the cable companies’ role in broadband, Internet and cable, since the upgrades were paid for — by you. Here’s the smoking gun: By the end of 2014, based on an FCC Order known as the "Social Contract",⁵⁸¹ (which is an actual agreement and not Jean-Jacques Rousseau’s “Social Contract” of 1762⁵⁸²) cable customers were charged an additional \$61 billion and counting; that’s almost \$1000 per customer, for upgrades of the cable plant.

And this is only part of the largesse the cable companies appear to be getting from customers. There’s probably another \$30-\$40 billion that’s been charged over the last decade for ‘pass-throughs’ and made-up fees that have been added to the cost of cable services.

There’s also possibly another \$30-\$40 billion extra paid by customers in Universal Service Fund (USF) taxes as the cable companies (and phone companies) were supposed to wire the schools in areas they ‘passed’ at cost; I’ll come back to that.

Then we should add to this the \$117 billion to \$155 billion dollars in rate increases on customers’ bills for cable service that never would have happened if there was actual competition for cable services.

And all of this plays out to the fact that the cable companies’ broadband and Internet services have a 96% profit margin thanks to charging basic rate customers extra with the Social Contract and other questionable acts.

Welcome to the Cable Social Contract on America.

The ‘Social Contract’ is not some pie in the sky discussion of responsibilities and ethical practices and treatment of the public, but a real ‘contract’ that was a deal with the FCC to bring a wave of new ‘fabulous’ high speed services.

In the 1990s, the cable companies whined to the FCC that they needed rate increases to pay for upgrades to the cable plant for new services, as well as fixing quality-of-service issues. The original cable franchises were only for ‘cable service’ but

the companies wanted the new revenues from broadband, Internet and even phone service.

In 1995, the FCC created the Social Contract⁵⁸³ — a deal with the cable companies — where they could charge up to \$5 a month extra on America's cable bills. These payments were to stop in the year 2000 — 14 years ago. Instead, there's been no formal investigation by the FCC and even when it has been brought up in the states, nothing has been done to remove the charge, hidden as part of basic service.

And let's be specific. The original agreement was for five years, thus ending in the year 2000. Time Warner was supposed to spend \$4 billion on their networks. According to the Order:⁵⁸⁴

"The Social Contract is for a term of five years. From 1995 through 2000, Time Warner is required to invest \$4 billion to rebuild and upgrade all of its domestic cable systems, including deployment of fiber optic technology, increased channel capacity and improved system reliability and signal quality."

Thus, if you have cable service, not only is it a monopoly in many parts of the country, as Verizon and AT&T only has 11 million upgraded cable TV premises, out of 120 million households — less than 10% of the US, and not only are there made-up taxes, fees and surcharges that have been added to your bill, but customers, in fact, paid extra for the upgrades without any benefit — as a stealth charge on the bill.

The FCC Social Contract for Time Warner, 1995⁵⁸⁵

"To fund this investment, Time Warner will be permitted to increase the monthly rate for the most highly penetrated CPST (Cable Programming Service Tier) in each of its systems by \$1.00 during each year of the Social Contract. Further, this increase will serve as the only increase on the CPST with the exception of revenue-neutral adjustments provided elsewhere in the Social Contract and adjustments for inflation and external costs permitted

under the Commission rules. For the term of this contract, Time Warner waives its right to increase its CPST rates pursuant to the Commission's Going Forward rules.”

All of the Social Contracts, including Comcast, have similar requirements.

With an average of 63 million customers annually over the last 13 years,⁵⁸⁶ from the year 2000 through 2013, the estimated Social Contract payments were \$315 million dollars extra a month — \$3.8 billion a year. Since 1996, this means customers paid about \$61 billion to 2013. However, \$53 billion of this was overcharged since 2000, though, again, without audits it is impossible to tell the exact amount. From the reader's perspective, if you had cable from 2001-2014, you paid about \$60 a year or about \$840 extra. And because there's no competition it will continue add infinitum. (This chart is based on the NTCA, the cable association's data.)⁵⁸⁷

EXHIBIT 94

Social Contract Estimated Customer Overcharging, 1996-2013

Average Subscribers	63 million
Collected Per Year	\$3.8 billion
Per Month	\$315 million
Total Collected	\$61 billion
Total Since 2000	\$53 billion
Total Per Customer	\$958.00
Overcharge Since 2000	\$840.00

They Have 97% Profit Margins on Internet Service — Coming Directly from You.

In February 2013, an article ran in the MIT Technology Review⁵⁸⁸ claiming that cable companies had 97% profit margins on their Internet Services.

“In parts of the country, slower-speed copper, fast-download cable, and a few fiber networks are already built out. The cable

distribution giants like Time Warner Cable and Comcast are already making a 97 percent margin on their “almost comically profitable” Internet services, according to Craig Moffet, an analyst at the Wall Street firm Bernstein Research. As Levin points out, “If you are making that kind of margin, it’s hard to improve it.” And most Americans have no choice but to deal with their local cable company.”

And after checking, it was 100% true. Here’s the numbers directly from the Time Warner Annual Report for 2012, showing 96% profits on ‘broadband-Internet’ services.

EXHIBIT 95

Time Warner Cable and Broadband Profits, 2011-2012

Residential Services	2012	2011
Video programming	58%	59%
High-speed data	96%	96%
Voice	71%	70%
Overall Profit margins	46.5%	46.4%

Of course, there are the cable and phone company lovers, who decided to take a pot-shot at the numbers.⁵⁸⁹

“It’s another misleading statistic all too easily accepted by those who insist that cable is a rapacious monopoly requiring public utility regulation.”

And they, of course, do the math and make the conclusion:

“In short, a more careful look at Craig Moffett’s work would have revealed that cable isn’t exceptionally profitable. But that wouldn’t have fit into Talbot’s (the author of the article) narrative: that cable

companies are already so profitable, they have no incentive to improve their service...”

NOTE: Looking at the bios⁵⁹⁰ of the two ‘reporters’, one had worked for Comcast and the other had been at Progress & Freedom Foundation, another telco-cable funded group.

But while the telco and cable enthusiasts attempt to debunk the numbers — they decided to not examine the details.

First, the companies’ divisions for Internet or broadband appear to not be paying their fair share of the construction and maintenance of the networks, which is, as we outline, what Verizon has done with its subsidiaries — i.e., claim that the networks aren’t that profitable so that you can get continuous rate increases or add made up charges.

Second, we have the Social Contract, which was done to allow the cable companies to upgrade their networks for new services, such as Internet, and charge ‘basic’ cable service customers extra for services they may never use. And this is also in the form of the cable set-top box, which is now about \$10.00 a month or more in New York City, or the cable modem, where the prices also continue to increase — a double whammy.

What Happened to the Internet Services and Wiring for Schools?

Oh, but it gets stranger — and worse. Schools were all supposed to be given free cable modem service and even a free cable modem — and even do the inside wiring at cost. We decided to include this entire paragraph⁵⁹¹ from the Comcast Social Contract as most people -- and regulators, appear to have forgotten about this.

"Comcast will provide a free service connection to each public and private school located within 200 feet of Comcast's activated cable plant. Comcast will provide a service connection at cost to public and private schools beyond 200 feet of its activated cable plant.

Comcast will also provide a free modem and free modem service to all such schools within a year after Comcast makes personal computer-based Internet access service via cable commercially available to residential customers. Free cable service, including basic and enhanced basic service, and service offered on migrated and new product tiers, will be provided to all connected public and private schools. ...Additional internal wiring to serve additional outlets in any school will be provided at cost. Such wiring will be provided at no charge if Comcast is able to coordinate installation with other comparable electrical wiring installation being done in new or rehabilitated schools."

Meanwhile, the Time Warner "Social Contract" specifically states that the first modem, the box to use the Internet, is free, and all of the other modems in the school will be 'at cost.' "If requested, each school will receive one free modem to use this service with additional modems provided at cost." Notice the word "requested." Based on interviews with auditors of school districts' telecommunications bills, including E-Rate recipients, it is clear that most schools were never informed of this option as most schools didn't get the free modem and service, much less the rest 'at cost'.

Universal Service Fund E-Rate Monies?

Let's assume that the schools were wired and done 'at cost' and that this was as of 1995. Then why has America been paying massive Universal Service Fund (USF) taxes to fund the "E-Rate"? According to the FCC,⁵⁹² the E-Rate is "to provide discounted eligible telecommunications, Internet access, and internal connections to eligible schools and libraries." (There are other parts of the USF which include High-cost funds and other funded areas.)

The E-Rate, which gives the schools discounts of 20 to 90 percent off⁵⁹³ the cost of these services was capped at \$2.25 billion annually. But talk about a scam; the phone companies get reimbursed their full business retail rates.

If the cable companies had provided Internet access at their 'cost' then over the last decade, billions of dollars in charges to customers for USF would not have been required. Today, the USF tax is at 16 percent and is applied to cell phone service and any long distance service so if the cable companies had shown up, then the schools would have spent a fraction of the 'cost' as compared to AT&T and Verizon business retail rates.

We estimate that this has added at least an additional \$10 billion extra over the last decade, just for the E-Rate, but without audits there is no way to complete an exact accounting for this.

The Not So Hidden Charges on the Cable 'Triple Play'.

This next chart highlights the taxes, fees and surcharges that appear on a standard Time Warner Triple Play in New York City.⁵⁹⁴ The advertised cost was for \$99.99 yet the total bill comes to \$121.95 — an additional 22 percent. The reason? These are all of these additional charges added to the bill. We divided them up into "mandatory" — fees that the state or federal government requires, and "questionable" — fees that are not required to be charged.

Of the "questionable" charges, it is clear that the company is charging costs to customers that are not 'mandatory', and some are simply made-up, such as the "Regulatory Recovery Fee". Even the Universal Service Fund is not mandatory and in fact, most of these charges are taxes applied to the company — which they pass through to customers.

- **Cable Franchise Fee:**⁵⁹⁵ "State regulations do not require that there be a franchise fee for cable television service." In fact, most of the cable companies claim that they pay franchise fees, which are charged in exchange for the Private use of the Public Rights of Way when in fact, it is passed through to the subscriber as permitted by the 1992 Cable Act. Prior to its passage, the franchise fee was a cost of doing business.

- **Regulatory Recovery Fee:**⁵⁹⁶ "These charges ARE NOT MANDATED by state or federal authorities and are therefore not charged separately by all telephone companies."
- **Universal Service:**⁵⁹⁷ "This line item appears when a company chooses to recover its USF contributions directly from its customers by billing them this charge. The FCC does not require this charge to be passed on to customers."
- **Telecom Excise Tax:**⁵⁹⁸ "Unlike the sales tax, the excise tax is imposed on the telecommunications provider, but it may be passed through to the consumers of the service and appear on their monthly bill."
- The mathematics to calculate how much extra cable customers are paying would require more data than is available, as the price of service, the franchise fees and every tax, fee and surcharge varies by municipality, county and state.

But using just \$5 a month, with an average of 63 million cable customers over the last 14 years, (about half having two or more products, such as the Triple Play) — there could be an additional \$3-\$4 billion extra a year; over the last decade that would be \$30-\$40 billion dollars.

And there are other odious things. GigaOm's 2012 article points out that Time Warner is charging⁵⁹⁹ for cable modem rentals and is making an additional \$350 million a year.

Meanwhile, the Triple Play at \$89.99 doesn't come with a cable set-top box, which adds an additional \$9.99 fee.⁶⁰⁰ And the \$89.99 price is a 'promotional price'; it then goes to \$156.25 per month, so the company gets not only get a 56 percent rate increase but this also means that every tax, fee and surcharge goes up 56 percent as most of these charges are not flat fees but are applied as a percentage against some of the service costs. (And coda, by the end of 1.5 years, the author's "Triple Play", advertised at \$89.99 now costs \$188.46— an increase of 109% above the advertised price.)

Cable Association Hype

The cable companies, of course, will argue that they have been working to help America. Former FCC Chairman Michael Powell, now the head of the cable trade association, the National Cable Telecommunications Association (NCTA), claims that 80 percent of the U.S. has 100 Mbps capability.⁶⁰¹ And yet the FCC's data shows none of this capability. The FCC's standard for broadband speed in America was only 4 Mbps in one direction (noted from FCC 8th Broadband Progress Report, August 2012).

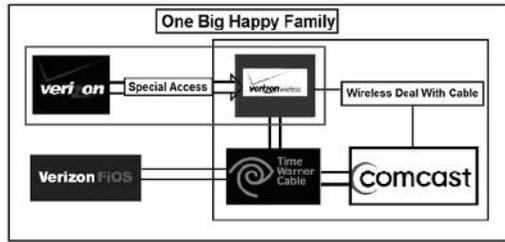
Meanwhile, another FCC report,⁶⁰² (May 2013, data from 2012) showed only 156,000 residential customers having service that supplies 100 Mbps or more, and the most recent report, June 2014 only showed 307,000 customers with 100 Mbps or faster, with only 172,000 from cable modem service.⁶⁰³

Ironically, as Chairman of the FCC, Powell didn't bother to examine or investigate the Social Contract; instead he heads the association of the companies that have potentially overcharged America.

Powell has a lot more to worry about however. Customers don't like the cable companies. The "American Customer Satisfaction Index"⁶⁰⁴ showed that four of the Top 10 "Most Disliked Companies in America" were the cable companies, including Time Warner, Comcast, Cox and Charter Communications.

One Big Happy Family: Verizon's Wired Networks and Comcast and Time Warner and Verizon Wireless

With the announcement of the proposed Comcast-Time Warner merger, New Networks submitted comments to New York State outlining not only the Social Contract issues, but the ties between Verizon Wireless, Verizon New York and Comcast and Time Warner. And it is the reason the mergers should not be allowed to move forward. Most of this material we've already covered in the book, but it's good to see it all in one place.



Verizon's Wired Networks and Comcast and Time Warner and Verizon Wireless

There are relationships and financial ties between Verizon's wired-business and Verizon Wireless, as well as Verizon's deal with Time Warner and Comcast that are complicated, twisty, multi-layered and reveal a nasty underbelly — and it is just another reason why the Comcast-Time Warner merger will harm all of the states where Verizon is the incumbent phone company that controls the wires.

EXHIBIT 96

Verizon Wireless and Comcast Marketing, July 6, 2014⁶⁰⁵



If we overlay Verizon's FiOS deployments, Verizon's plan to shut off the copper and replace it with Verizon Wireless, and the deal Verizon has with Comcast and Time Warner today—for one state, New York, we find that:

- FACT: Verizon's FiOS is a brand name of cable, phone, and high speed Internet service that rides over a FTTP, Fiber-to-the-Premises, telecommunications line.
- FACT: Verizon FiOS is only going to be in 20% of New York State's municipalities⁶⁰⁶ and that creates a 'duopoly', at best between Verizon and Time Warner for cable, broadband and phone service. (In New York State, Time Warner is the major cable incumbent, but Comcast has a presence.)
- FACT: 80% of the State's municipalities will have a monopoly service from Time Warner and/or Comcast, the cable provider, on cable and broadband.
- FACT: Verizon announced that in areas that are not upgraded with FiOS, the company plans to 'shut off the copper' and offer Verizon Wireless services.
- FACT: Verizon Wireless is in bed with Comcast and Time Warner and the advertisement above outlines that instead of competing, Verizon Wireless will be colluding to sell their service in 1 bundle with either Comcast or Time Warner.
- FACT: Verizon Wireless is also in bed with Verizon New York's special access-wired services.
- FACT: Wireless can't compete with cable for cable service.

Special Access: The Secret Wired Networks.

In our previous chapters we outlined the special access networks that are mostly broadband and data lines to businesses that have a speed of 1.5 mbps or more in both directions. There are much larger configurations where the wires that go to the wireless cell towers, hot spots and broadband networks and are used by large competitors, such as Sprint, (and these are sometimes called "back haul").

Verizon and AT&T have a monopoly on these hidden networks in the states where they are the incumbent utility, and special access has obscene profit margins,

and it is one of the reasons America's broadband is slow and expensive, as the companies have been able to keep control of these networks, to the detriment of all users and competitors.

But here's the secret — in areas where Verizon is 'shutting off the copper', it isn't shutting off the 'special access wires' that were laid as part of the wireline networks and used by the wireless company — and Verizon Wireless is getting special advantages over all other competitors who will be using these networks as well.

The Ties and Advantages of Verizon Wireless — In tracking Verizon New York's fiber optic deployment it is clear that:

- Verizon Wireless' 'fiber to the cell towers' is part of the wireline expenses.
- Verizon Wireless appears to be paying a fraction of what other competitors are paying for the use of the 'special access' services.
- Moreover, Verizon is transferring 'utility customers' to Verizon Wireless — for free, while other companies would have to pay hundreds of dollars in acquisition fees of new customers.
- Verizon can claim losses that are caused the wireless company's financial perks - i.e., added expense from paying for the wireless fiber lines or the wireless company not paying its fair share, thus lowering the wired revenues.

Verizon Wireless/wireline make money on every wireless call — Because Verizon controls the special access wires and has inflated rates for competitors, then it knows that it will get revenue from everyone who goes to wireless, regardless of the company.

Verizon hedged its bets with cable — Even though Verizon has not upgraded 80% of the municipalities, it has been continuously putting in 'special access wires' especially used by Verizon Wireless. So, if Verizon 'shuts off the copper', it still keeps the special access services online.

- The deal with the cable company to move these customers onto the cable companies' triple play while supplying them with Verizon Wireless — is part of Verizon's calculation of whether they should upgrade the networks to fiber optics is specific locations.
- Verizon-wired New York is always part of this equation as their 'special access' services are part of the Verizon Wireless plan as well.

So we have:

"Verizon New York-wired and Verizon Wireless and Comcast and Time Warner all working together already."

Making Time Warner and Comcast larger doesn't bring more competition and reinforces the 'DO NOT COMPETE' status today with Verizon Wireline and Verizon Wireless. There can't be lower prices when the wireless company is colluding with the wired company who has a deal with the cable company. And this is not competition. Last time I looked you need more than two companies to be called 'competition'. In New York, 80% of the municipalities will be a cable monopoly product — and if the merger goes through, by only 1 company.

Chapter 42 How Many Times Are we Going to Pay for the Wiring of Schools in America?

Please repeat after me — Dear and phone and cable companies: Stop charging us for the wiring of schools and libraries, over and over and over. To the FCC: Start investigating how many times the cable and phone companies, sometimes with the help of the FCC, sometimes with the help of the state commissions and legislatures, were able to add taxes, fees and surcharges on bills for decades, all in the name of broadband for educating our children.

In February 2014, President Obama announced yet another plan to spend \$2 billion dollars over 2 years, because, according to the White House, only 30% of schools have the “broadband they need”.⁶⁰⁷

“Fewer than 30% of America’s schools have the broadband they need to connect to today’s technology. Under ConnectED, however, 99% of American students will have access to next-generation broadband by 2017.

“The Federal Communications Commission (FCC) will invest \$2 billion over the next two years to dramatically expand high-speed Internet connectivity for America’s schools and libraries -- connecting more than 20 million students to next-generation broadband and wireless. He also announced that private-sector companies have committed more than \$750 million to deliver cutting-edge technologies to classrooms.”

As we discussed America should have been wired with fiber optics already by Verizon, AT&T and Centurylink, and in most states so were the schools. The cable companies were supposed to wire the schools multiple times, some states have created separate funds to bring broadband to schools, not to mention that states have added taxes and surcharges. Add to this that the Federal Government has also added multiple charges, such as the massive Universal Service E-rate, and this has been going on for

decades, and we found that there were at least 9 different rounds of customers being charged for the wiring schools, but worse, at the end of day, most of these fees end up going back to the Bell phone companies who control the wires.

And since there's been no tracking or cross-referencing by the federal or state government of the commitments made or the monies collected, it will continue ad nauseum.

I note that this accounting not only includes the wiring of schools, but also bringing high speed broadband to everyone including wiring of unserved and low income areas, as plans were usually tied at the hip — using the wiring of schools was a sexy, socially conscious, 'broadband carrot' — and it worked every times.

Let Us Count How Many Times You've Paid for the Wiring of Schools — At Least 9 Times or More.

Let us discuss the slush funds, excess phone charges, federal and state surcharges and taxes. Call it what you want. This list is an embarrassment of massive proportions. We note that each state had differing laws, regulations, projects and funds, and there can also be municipal as well as state based taxes for school wiring. Also, all of this telco and cable collection pot for money was driven by the promises of both broadband to the homes, as well the public interest broadband to community services, from schools and libraries to wiring police and fire stations.

EXHIBIT 97

How Many Times You Paid for the Wiring of Schools and Broadband?

Cable:

1. Cable franchises of the 1980's had requirements for schools
2. Cable's 'Social Contract' — wiring of schools , 1995-2014

Telephone companies: State

3. Pre-Alternative Regulation plans: ISDN, 1980's
4. Phone company "Alternative Regulation" included schools, 1993-2014

5. Failure to upgrade cost customers billions in excess school charges 1993-2014
6. State initiated projects: state bonds and other funding for broadband and schools
7. Added fees on state phone bills for broadbands and schools, 1996-

Telephone companies: Federal

8. American Recovery and Reinvestment Act ARRA Funding for broadband and schools
9. Universal Service Slush Fund — E-Rate — 1996, and a host of other initiatives along the way.

1) Cable’s ‘Social Contract’ — Wiring of Schools

Compare the Obama quote from 2014 with this 1995 commitment by Comcast⁶⁰⁸ which was part of the “Social Contract”,⁶⁰⁹ an actual agreement with the FCC all the cable companies, including Time Warner, to raise rates \$5.00 a month for upgrades and for the wiring of schools.

“Comcast will provide a free service connection to each public and private school located within 200 feet of Comcast's activated cable plant. Comcast will provide a service connection at cost to public and private schools beyond 200 feet of its activated cable plant. Comcast will also provide a free modem and free modem service to all such schools within a year after Comcast makes personal computer-based Internet access service via cable commercially available to residential customers. Free cable service, including basic and enhanced basic service, and service offered on migrated and new product tiers, will be provided to all connected public and private schools. ...Additional internal wiring to serve additional outlets in any school will be provided at cost. Such wiring will be provided at no charge if Comcast is able to coordinate installation

with other comparable electrical wiring installation being done in new or rehabilitated schools.”

The FCC’s Social Contract for Time Warner details the rate increases⁶¹⁰ starting in 1995 — \$1 increases a year for five years.

“To fund this investment, Time Warner will be permitted to increase the monthly rate for the most highly penetrated CPST (Cable Programming Service Tier) in each of its systems by \$1.00 during each year of the Social Contract.”

Will Obama ask the FCC to investigate the \$61 billion charged directly to customers for upgrades (which we highlight elsewhere) — especially since Comcast and Time Warner plan to merge and both signed the contract? Or will the FCC examine why these continue to be built into rates, even though they should have stopped in 2000? Every cable subscriber is paying at least \$60 extra, not counting the additional taxes, fees and surcharges in 2014.

Or will the FCC explain why this largess turned directly into bottom line profits; Comcast and Time Warner had 96% profit margins on their Internet and high speed services in 2012.⁶¹¹

Who Knows Truth About School Wiring?

In going through the materials, it is clear that there has been no extensive data collection about what has and hasn’t been deployed by the cable companies. From their perspective, they have been active since 1989 in a program called “Cable in the Classrooms”, and this included the wiring of schools for both video cable service as well as high speed Internet.⁶¹² And, according to the cable industry, 97% of the schools are already connected to the Internet.

“In the 16 years since that meeting, the cable industry has changed dramatically and 97% of America’s schools have been connected to the Internet... The only industry-wide philanthropic initiative of its kind, Cable in the Classrooms unique contribution to schools has included, from the beginning, free cable service that provides access to... and now, high-speed Internet access through cable modems.

“Cable in the Classroom members provides rich video and online resources delivered via cables broadband pipe. With 8500 local cable company members and 39 national cable network members, Cable in the Classroom serves 81,000 public and private schools, reaching 78% of the K-12 students in the United States.”

2) Many of the Cable Franchises of the 1980’s had Requirements to Wire Schools

The 1980’s is known in the cable industry as the ‘franchise wars’. The industry was in its infancy and it was considered a goldmine for investors who could get local franchises. And it was a time of promise them anything.

According to an expert on the early cable franchises, Chuck Sherwood of TeleDimensions, Inc, schools, libraries and every other municipal service were to be wired up with a cable service.

“Anchor institutions, schools, libraries, town halls, fire and police stations were all connected at no cost for the provision of cable services, and then eventually cable modem services were added to the mix. This was based on the Telecommunications Act of 1996, which classified cable modem services as a Title VI, cable service.”

And many of municipalities had sold this Kool-aid and the ‘public interest’ side of it to get the franchises. But there was also a reality that the companies had over-promised and the locality have asked for too much so over time some of these services were added to be done as part of the cable agreement, or the commitments could also be relaxed. (There are no specific documents we could find to give a definitive answer of these horse-trades by state or municipality.)

3) **Phone Company “Alternative Regulation’ included Schools**

As we documented, Verizon, AT&T and Centurylink also made the wiring of schools — with fiber optics, as part of their state-based ‘broadband hype’ to get laws changed to raise rates.

In Ohio, the Alternate Regulation Plan included the wiring of all schools with fiber optics by the end of the millennium.

Ohio Bell (then Ameritech, then SBC, now at&t Ohio) the Alternate Regulation Plan, September 20, 1994

"21. INFRASTRUCTURE COMMITMENTS The Company's infrastructure commitment in this Plan shall consist of the commitment to deploy, within five years of the effective date of the Plan and within the Company's existing service territory, broadband two-way fully interactive high quality distance learning capabilities to all state chartered high schools including vocational, technical schools, colleges and universities; deploy broadband facilities to all hospitals, libraries, county jails and state, county and federal court buildings..."

In fact, almost every state in America had some form of ‘alternative regulation’ plan to wire the schools and libraries that gave the companies billions per state — read excess phone charges paid by customers to fund these deployments.

Texas

In 1995, the Texas Legislature passed HB No. 2128,⁶¹³ which granted the phone companies alternative regulation to build out the networks. Southwestern Bell (now AT&T) committed to spending \$1.1 billion to educational institutions, libraries, nonprofit telemedicine centers of academic health centers, public or not-for-profit hospitals, or licensed health care practitioners, public or not-for-profit hospitals; and projects funded by the FCC's Telecommunications Infrastructure Fund.⁶¹⁴

Notice that the speed of broadband in the Texas law was for 45 Mbps in 1995.⁶¹⁵

“On customer request, the electing company shall provide broadband digital service that is capable of providing transmission speeds of up to 45 megabits per second or better for customer applications and other customized or packaged network services (private network services) to an entity described in this section for their private and sole use except as provided in Subsection (d) of this section:

- (i) educational institutions, as that term is defined in Section 3.605 of this Act;
- (ii) libraries, as that term is defined in Section 3.606 of this Act;
- (iii) nonprofit telemedicine centers of academic health centers, public or not-for-profit hospitals, or state-licensed health care practitioners;
- (iv) public or not-for-profit hospitals”

What happened to these plans? What happened to the billions collected in the form of rate increases on all customers using phone service, including seniors, low income families or even the schools who buy regular phone services?

New Jersey

(See the Chapter on New Jersey for the full story.)

In 1993 Verizon New Jersey proposed Opportunity New Jersey (ONJ) and it received massive financial incentives to have 100% of their territories wired with a fiber optic service capable of 45 Mbps in both directions, to be completed by 2010. It's in state law. And in 1997, the State added "Access New Jersey", a commitment to also wire schools and libraries.

"Having established the Board's legal authority to modify the Plan so as to equalize the level of ONJ benefits between the business community and the education, low-income, residential rural and urban communities, the Ratepayer Advocate urges the Board to modify ONJ to require BA-NJ to (1) create a fund to wire all public and not-for-profit schools and libraries for broadband capability by the year 2000 and provide these institutions with Internet access and discounted rates for these and other services."

4) Failure to Upgrade Cost Customers Billions in Excess School Charges.

Verizon New Jersey failed to do any fiber optic upgrades until at least 2006, and the law had a timeline to do their entire state-territory. Verizon created what appears to be fraudulent annual reports, claiming that they had fulfilled their commitments. In 2001, Verizon claimed to have 52% of the state completed with 45 Mbps services — and it was all made up.

And since Verizon didn't upgrade home and businesses, they also didn't wire the schools with 45 mbps services but instead extorted the schools. This pricing schedule as of 2008 lists the price of a 45 Mbps service at \$3,800 a month, retail. And the discounted price was still a whopping \$1825.00 a month.

EXHIBIT 98
Access New Jersey Pricing for Broadband, 2008

Services	Quantity	Current Monthly Tariff Rate (Ea.)	% off Current Tariff Rate	Monthly Education Rate (Ea.)	Non-Recurring Charges (Ea.)
Verizon's Access New Jersey Frame Relay Service:					
56 kbps Subscriber Network Access Line (SNAL)		\$175	43%	\$100	N/A
1.5 mbps Subscriber Network Access Line (SNAL)		\$435	31%	\$300	N/A
4 mbps Subscriber Network Access Line (SNAL)		\$2,300	42%	\$1,325	N/A
6 mbps Subscriber Network Access Line (SNAL)		\$2,600	45%	\$1,425	N/A
22 mbps Subscriber Network Access Line (SNAL)		\$3,000	46%	\$1,625	N/A
45 mbps Subscriber Network Access Line (SNAL)		\$3,800	52%	\$1,825	N/A

But it gets worse as in 2002, the schools could also get Universal Service Fund monies,⁶¹⁶ — E-Rate, which gave them discounted prices on top of the discounts, but Verizon got business retail payments reimbursed.

This must all be examined against the backdrop of the fact that the Verizon New Jersey should have wired over about 90% of the State by 2008, with residential 45 Mbps services, which should have cost \$50-\$100.00 retail. Putting this into perspective, the schools were gouged, or in many cases, these faster services were too expensive for many schools to get, even with the discounts. This hurt the students and education at the school but also the student's learning as they didn't have affordable broadband to use to do their homework when they returned home.

5) Pre-Alternative Regulation Plans: ISDN

Before these alternative regulation plans of the 1990's, in the 1980's there was a wave of earlier plans that called for the deployment of ISDN, the poster child of America's first failed broadband deployment. Using the copper wiring, it could have both data and voice services over the same wire, with a speed of 144 kbps.

Pacific Bell of California⁶¹⁷ writes that it was supposed to have ALL schools using this technology by 1996.

"Pacific Bell Helps Bring Schools On-line. As part of a continuing commitment to education in California, Pacific Bell has launched 'Education First,' a \$100 million program to connect the state's

schools to the communications superhighway. By the end of 1996, all of the nearly 7,400 public K-12 schools, libraries, and community colleges in Pacific Bell territory will have access to the company's Integrated Services Digital Network (ISDN), which enables simultaneous transmission of voice, data and video signals over a single telephone line."

6) State Initiated Projects: State Bonds and Other Funding.

According to the National Conference of State Legislatures, 2012⁶¹⁸

"All 50 states have created either a task force, commission, or broadband project. Some states have created programs to identify underserved and unserved areas through online public mapping websites, while others have established task forces or commissions to provide input on the development of a statewide broadband framework and promote public-private sector participation. At least 14 states have enacted these initiatives and authorities through legislation."

For example, take the Massachusetts Broadband Institute, which allocated \$40 million dollars for broadband.

"2008 H.B. 4864 (ALM GL ch. 40J, § 6B) established the Massachusetts Broadband Institute (MBI) as a new division within the Massachusetts Technology Collaborative. The act gives the MBI the authority to invest up to \$40 million of state bond funds in necessary and long-lived infrastructure assets, such as conduits, fiber-optic cable and wireless towers. As the state entity for broadband mapping and availability, the MBI is collecting, verifying and mapping detailed information about the current levels of broadband availability in Massachusetts to create the

Massachusetts Broadband Map. The MBI is also developing broadband adoption programs for veterans and small businesses.”

“**Axia MassBroadband 123** is a critical component of Governor Patrick’s initiative to extend broadband access across the Commonwealth. The network will provide the necessary broadband infrastructure to foster economic growth, improve health care and education, and strengthen public safety. When complete, the network will connect more than 120 communities in Western Massachusetts with over 1300 miles of fiber infrastructure.

“**The network will:** Connect close to 1,400 public safety entities, community colleges, libraries, medical facilities, and town halls.”⁶¹⁹

6) **Added Fees on State Phone Bills.**

California has a host of taxes, fees and surcharges that are added to the bill, many of which mimic the federal Universal Service Funds.

SurfLink, a company that offers competitive DSL, Internet, wireless and phone service in California outlined these taxes and fees.

“A variety of local, state and federal items are included on your bill when you have SurfLink Voice service.”

- California Lifeline Telephone Service Surcharge
- California Deaf and Disabled Telecom Program Surcharge
- California High Cost Fund-A Surcharge
- California High Cost Fund-B Surcharge
- California Teleconnect Fund Surcharge

- California Advanced Services Fund Surcharge
- California 911 Emergency Telephone Users Surcharge
- California Public Utility Commission User Fee
- Federal Universal Service Fund (FUSF)
- Federal Subscriber Line Charge
- Federal Interstate Telecommunications Service Provider (ITSP) Fee
- FCC Telecommunications Relay Services (TRS)
- Local Utility Users Tax
- San Francisco 911/Access Line Tax

One fee that has been on the bills since 1996 is the CA Teleconnect Fund Surcharge.

“California Teleconnect Fund Surcharge Making Telecommunications Services Affordable for Schools, Libraries, and Others. The California Teleconnect Fund (CTF) Program was established by Decision 96-10-066 on October 25, 1996. In this decision, the Commission reaffirmed its commitment to universal service, and in accordance with state and federal directives, created the CTF program to provide 50% discount on selected telecommunications services to qualifying schools, libraries, government-owned and operated hospitals and health clinics, and community based organizations. The program is funded through a surcharge on all end-users of intrastate telecommunications services.”

Also related to Broadband is the California Advanced Services Fund.⁶²⁰

“The Commission authorized the California Advanced Services Fund (CASF) on December 20, 2007, by adopting D.07-12-054 in accordance with Public Utilities (P.U.) Code § 701. The CASF provides grants to “telephone corporations” as defined under P.U. Code § 234 to bridge the “digital divide” in unserved and underserved areas in the state. With an initial funding of \$100 million, the CASF supports projects that will a) provide broadband services to areas currently without broadband access and b) build out facilities in underserved areas, if funds are still available.”

“The CASF is funded by a surcharge rate on revenues collected by telecommunications carriers from end-users for intrastate telecommunications services.

These charges are on wireline and wireless bills. That’s right. What this says is that this charge is on every service, including customers’ wireless and phone service.

And this fee is also connected to other monies the State gets. The California Broadband Council⁶²¹ outlines the Federal ARRA fund as well as the State California Advanced Services Fund.

“The California Broadband Council was created by 2010 SB 1462 (Cal. Gov. Code § 8885) to promote broadband deployment in unserved and underserved areas of the state, and broadband adoption throughout California. The council is charged with reviewing implementation of the 2008 Broadband Task Force Report recommendations and improving coordination among state agencies. The council assists applicants in becoming more competitive for federal funds made available through the National Broadband Plan, building on the \$420 million in broadband infrastructure grants from the federal American Recovery and Reinvestment Act (ARRA) and the \$57 million in California Advanced Services Fund grants already awarded in the state.”

7) American Recovery and Reinvestment Act (ARRA)

About.com writes:

“Back in February 2009, \$7.2 billion in ARRA broadband funding seemed like a dream come true to broadband advocates. Two federal agencies were responsible for the administration of separate grant programs to award funding to broadband projects around the country, tribal and U.S. territories. A small agency within the Department of Commerce (DOC), named the National Telecommunication Information Administration (NTIA) was responsible for \$4.2 billion. The United States Department of Agriculture (USDA) was responsible for \$2.5 billion in grants and loans.”

And this was for infrastructure as well as connecting schools, etc. In 2012 a number of individuals were honored by the White House, for the Michigan based Merit Network and MCNC.

“Merit Network and MCNC both received ARRA Broadband Grants from NTIA for broadband infrastructure projects that are currently underway and connecting community anchor institutions, including schools, libraries, and hospitals, to high-speed Internet.”

Forbes, quoting a report (by analysts who have worked for the phone companies) wrote a cynical analysis of ARRA funding.⁶²²

“So how much did it cost per unserved household to get them broadband access? A whopping \$349,234, or many multiples of household income, and significantly more than the cost of a home itself.”

8) Universal Service Slush Fund — Net Day

The Clinton Gore White House had plans to get every school and library wired and they weren't going to wait for the telcos or cable companies to show up. In order to inspire the nation to get America's schools wired, an event called Net Day was launched and in the tech community it was all the rage.

The White House reported in 1997:⁶²³

“Since March 9, 1996, NetDay has spread across the country like wildfire, ensuring that thousands of schools are wired for the Internet. In 1996, an estimated 250,000 volunteers wired 50,000 schools as a first step towards Internet access. Organizers report that NetDay activities are occurring in more than 40 states on April 19th. In Florida, for example, NetDay volunteers are expected to wire 500 schools with internal wiring, putting Florida half-way to its goal of wiring 100% of its public and private schools.

This was among other government sponsored funding and projects.⁶²⁴

“President and Vice President launched a \$2 billion, five-year Technology Literacy Challenge Fund, with \$200 million in funding approved in 1996. In the last two years, the percentage of classrooms connected to the Internet has jumped from 3% to over 14%, and the percentage of schools connected to the Internet has jumped from 35% to 65%.

And it was the beginning of the Universal Service Fund “E-Rate”.⁶²⁵

“President Calls on FCC to Approve Plan for "E-rate." On May 6, the FCC will vote on a plan to provide discounts to connect

schools and libraries to the Internet. This plan would provide up to \$2.25 billion in discounts for schools and libraries per year.”

Net Day continued for years but there were some disconnects, as getting the schools wired was one part of the issue.

Eschool News wrote in 1998⁶²⁶

“Net Day and other efforts to wire our nation’s schools are fine as a first step. But they’re not enough. We must also focus on curriculum, teacher training, and fostering a change in attitudes among educators, politicians, and the general public. Installing wires and connecting computers are fine. But, at the end of the day, they’re just tools. The real value comes from what we do with them. “

9) Universal Service Fund, E-Rate’s Multiple Increases.

The FCC’s web site states that the FCC is now ‘modernizing’ the E-Rate.⁶²⁷

“The FCC’s E-rate program is the government’s program for connecting the nation’s schools and libraries to broadband. It is the government’s largest educational technology program. When E-rate was established in 1996, only 14 percent of the nation’s K-12 classrooms had access to the Internet. Today, virtually all schools and libraries have Internet access.

“But learning is changing. Innovative digital learning technologies and the growing importance of the Internet in connecting students, teachers, and consumers to jobs, life-long learning, and information, are creating increasing demand for bandwidth in schools and libraries. In an FCC survey of E-rate recipients, nearly

half of respondents reported lower speed Internet connectivity than the average American home - despite having, on average, 200 times as many users.

“The FCC began updating E-rate in 2010, and is now initiating a full review to modernize the program. This revitalization is centered around three proposed goals:

- Increased connectivity to high-capacity broadband
- Efficient purchasing through bulk buying, consortia, and competitive bidding improvements
- Cutting red tape to speed, streamline, and increase transparency in application reviews

A report titled “Unrepentant Policy Failure Universal Service Subsidies in Voice and Broadband”,⁶²⁸ delivers a scathing review of the Universal Service Fund, and the E-Rate.

“Since 1998, an average of well over \$2 billion per year has been devoted to connecting all U.S. schools and libraries to the Internet via high-speed connections through the Schools and Libraries, or E-Rate, Program. That task was long ago achieved; indeed, as of 2003, the National Center for Education Statistics reported that 100% of U.S. schools enjoyed Internet access, 95% of which were via broadband connections.

“Nonetheless, the subsidies continue to flow, large expenditures producing no observed change in opportunity or educational outcomes for school children. In its repeated reports on E-Rate, the Government Accountability Office has pleaded for clearer goals, greater transparency, and effective assessments. Policy makers

have largely ignored the GAO. The program, lacking effective oversight, has been plagued by widespread abuse and even criminal fraud in the disbursement of funds to politically connected contractors.”

The Universal Service Fund is now at 16.4% and while schools get discounts of 20-90% off on their bills, the phone companies are able to charge business retail and they get reimbursed.

And Where Does All this Money Go?

The game is rigged.

According to Tellus Venture Associates,⁶²⁹ February 19th, 2014, discussing a ‘rural broadband program, funded by the FCC, the incumbent phone companies, are getting paid for services they never rendered and other companies, competitors are left out in the cold.

“Only traditional telephone companies, or companies and agencies that jump the same regulatory hurdles, can apply for grants to take part in the FCC’s upcoming rural broadband experiment program. That’s the word today from the California Public Utilities Commission.”

And this is part of the “Connect America Fund”, which is now part of the increased Universal Service Fund.

“Ultimately, the FCC wants to use its Connect America Fund to subsidize experimental broadband build outs in rural areas that don’t have broadband service.”⁶³⁰

Oh, are you surprised?

An Out of Control Slush Fund May be an Understatement.

The FCC’s Office of Inspector General’s semi-annual report in 2008 claimed that there was a “100% erroneous payment level in the federal universal low income support program” — meaning paying too much out, not too little. The FCC has since stepped back from that analysis but there was no final report we could find. Meanwhile the December 2008 audit report for the Schools & Libraries fund found an error rate of 13.8% representing overpayments of \$232 million dollars. An agency program is considered at risk if the “erroneous payment rate” exceeds 2.5% or \$10 million dollars.⁶³¹

Government Subsidies for Failure to Properly Upgrade and Maintain the Networks.

And, of course, those ‘unserved rural areas’, are in AT&T, Verizon and Centurylink territories and they have been getting the largest Universal High-Cost Fund subsidies, and this was from Congressional requests for data in 2009.

EXHIBIT 99

Universal Service High Cost Fund: Government Subsidies, 2007-2009

		2007	2008	2009	Total
1	AT&T	\$440,707,434	\$426,411,917	\$435,421,362	\$1,302,540,713
2	Verizon	\$287,180,856	\$308,584,044	\$679,709,081	\$1,275,473,980
3	CenturyLink	\$377,736,839	\$348,809,297	\$418,379,314	\$1,144,925,450

And AT&T and Verizon are also the top recipients for the Universal Service E-rate for these years. (We note that the documents have been taken down for these years — a fitting end to this chapter.)

More Than We Can Count: Phone Company Foundation Grants That Could be Charged to You.

While we found nine different areas of charging us for the wiring of schools and writing, there are other practices that also need investigation — such as whether Verizon or AT&T’s Foundations have been created and sustained by the ability to dump the expenses for the foundation into local rates.

Getting back to Obama’s new initiative in 2014, we find that the phone companies, including AT&T and Verizon, really care.

“The Verizon Foundation today announced an ambitious, multiyear program to drive student achievement in STEM subjects — science, technology, engineering and math — by helping to change the way teachers teach and students learn. The announcement came at a White House-sponsored event with President Barack Obama and students and teachers at Buck Lodge Middle School in Adelphi, Md.

“Over the next three years, the foundation will invest up to \$100 million in cash and in-kind contributions in current and new initiatives, which will accelerate professional development for teachers on how to effectively use technology to boost student achievement in STEM.”⁶³²

As of this writing an audit of Verizon Services, the corporate subsidiary that, as we discussed has dumped billions per state into the local phone utility that caused major losses in most Verizon states, and it is like that the foundation grant monies are part of this equation.

“AT&T to Provide \$100 Million of Free Mobile Access to Educational Resources. AT&T Enables 21st Century Learning

Opportunities with a Three-Year Initiative as part of President Obama's ConnectED Initiative, February 04, 2014

And we assume AT&T is doing the same thing.

“AT&T today announced plans to commit \$100 million of free mobile broadband access to educational websites, applications and services, and professional development to help middle-school students and their teachers. AT&T’s mobile broadband service will enable students to utilize tablets and other mobile devices for educational purposes that support student learning in new and more effective ways.”⁶³³

I leave you with this quote from the Washington Post, October, 1996, outlining the proposal by the Clinton Administration that became the Universal Service Fund.⁶³⁴

“The Clinton administration proposed yesterday to give every school and library in the United States free basic access to the Internet, with the cost to be paid collectively by the nation's communications carriers.

“In a speech yesterday in Knoxville, Tenn., [Bill] Clinton called on the Federal Communications Commission to approve the plan, which aims "to give every elementary, middle and high school and every library in the country the lowest possible 'e-rate' {education rate}: free basic service to the Internet.”

To summarize what happened:

- If you were a telephone subscriber you paid for a fiber optic to go to the school, it was not supposed to be copper after 1993 — and the monies are built into rates for 2 decades, and there were

previous increases for 'ISDN and other 'tech', some of which was to do schools.

- If you were a cable subscriber, you paid \$5.00 extra a month under the Social Contract to have cable company do cable modem Internet service since 1995, not to mention some of the original franchises from the 1980s' were already supposed to be wiring schools.
- Added to this since the 1990's was the Universal Service Fund tax on your wireline and wireless services that were classified as 'interstate', which is now a tax at 16.4%.
- Your state may have added additional state-based Universal Service Fund taxes for the wiring of schools.
- Your state may have created separate taxes to fund broadband or Internet deployments including to schools.
- Your state may have projects that it initiated to do the wiring in areas as well, that were paid for by bonds or other methods that you paid for indirectly.
- Your phone company may have been able to include their foundation grants, including for the wiring of schools, etc in your phone rates.

No regulator every did an audit to find out exactly how much was added to your wireline, wireless or cable bills. And this has been going on for over 20 years.

And the fact that all of the telco deployments were supposed to start 1993-2005 were for fiber optics, or for cable modem services that should have been deployed starting in 1995 should have been upgraded to 100 mbps in both directions is insulting.

But now, according to our President, only 30% of the country has adequate broadband — This should make you scream — Audit the books!

PART VIII Case Study of One State — New Jersey**Chapter 43 Case Study: Opportunity New Jersey — A
Broadband Failure⁶³⁵**

In order to get the full scope of this broadband journey, here's a complete picture of how it all played out in one state — going through the alternative regulation cycle, the merger cycle, the statewide cable franchise cycle, the 'refusal to fix the networks after a storm' cycle, and finally ending with the current planned ALEC-based deregulation campaign to remove all regulations and obligations, including the provision of even basic phone service.

And you can say it all started in Jersey. Opportunity New Jersey was the first of the "Opportunity" alternative regulation plans. More importantly, New Jersey Bell was going to lead the nation and be the "first fully fibered state". *The New York Times*⁶³⁶ in 1991, which tracked the New Jersey story from its inception, wrote:

"A \$1 BILLION plan by New Jersey Bell to make New Jersey the first state to have fiber-optic communications available to virtually every household and business..."

"With fiber optics, New Jersey Bell officials say, they can create a vast network of high-speed audio, video and data services that will revolutionize the way residents and businesses in the state communicate."

"Mr. Bone, president of New Jersey Bell said a 'fully fibered network would provide consumers with unprecedented access to information and entertainment services and would encourage economic development as well'."

Opportunity New Jersey: Bring on the Fanfare.

It's 1991 and Al Gore's insistence that the country needs an information superhighway is everywhere. And in March of 1991, the findings of a report written by Deloitte & Touche on behalf of New Jersey Bell were presented to politicians and government regulators, from the Governor on down. Dubbed "Opportunity New Jersey", it stated that New Jersey needed to implement "policies that encourage development of an advanced telecommunication infrastructure". In fact, the study stated that fiber optics was essential for New Jersey's future.⁶³⁷

- "(fiber optics is) essential for New Jersey to achieve a high level of employment and job creation in that state",
- to "advance the public agenda for excellence in education",
- to "improve quality of care and cost reduction in the healthcare industry."

This rhetoric was also repeated by the phone company. Alfred C. Koepee, Vice President of New Jersey Bell, said the plan was New Jersey's future, building new networks to create jobs.⁶³⁸

"You have a choice as a regulator. You can move into the future, or you can put through a 10-cent reduction in somebody's bill. It makes a lot of sense to build the new technology to create new jobs."

According to an article by Rick Linsk titled "All the Right Connections — New Jersey Bell and the Wiring of a Regulatory Bonanza" in *The New Jersey Reporter*, the series of events that led to the passage of Opportunity New Jersey by the state legislature and endorsement by the state utility commission was due to one of the most masterful lobbying jobs in the state's history. According to Rick Linsk:

"Above all, though, credit goes to a combination of muscle and merit and to one of the savviest, most complete and aggressive lobbying efforts ever to accompany a public issue in New Jersey. For nearly a year, Bell missionaries had swarmed over the state spreading the gospel of fiber optics to doctors, teachers, labor leaders, the (Governor) Florio Administration and the Legislature. It is now clear, in retrospect, that the hard-sell worked so well, and the connections forged by top-flight influence-peddling ran so deep, that Bell had won long before the first vote was cast.

"When the dust had settled, the Bell had spent \$640,000 on lobbying, a huge sum by New Jersey standards. For comparison's sake, Bell spent \$79,079 the year before." (Note: This figure does not include the Deloitte & Touche study.)

Others, such as Nancy Becker of the New Jersey Cable Association, believed that the Deloitte & Touche study, at a cost of \$1.2 million, was nothing more than a lobbying document.⁶³⁹

"It was basically a lobbying document with the imprimatur of the board (Utility board) on it. It was a million-dollar lobbying document."

According to Linsk, other critics made it clear that the Board of Regulatory Commissioners (BRC), specifically Chairman Edward Salmon, was perceived as "too tight" with the Bell company.⁶⁴⁰

"Arthur Cooper, president of a pay-phone company that competes with the Bell: 'This is my opinion, but if everybody in the room was blindfolded, and without being introduced if he (Salmon) read his testimony, they would have thought he was not from the BRC; they would've thought he was from Bell'."

In 1992, the Telecommunications Act of 1992⁶⁴¹ was passed by the state legislature and in April of 1993, the New Jersey Board of Regulatory Commissioners, (now the Board of Public Utilities) officially implemented Opportunity New Jersey, with a few other closing alterations later.⁶⁴²

What exactly was the plan? The old copper wiring of the Public Switched Telephone Networks (PSTN) was going to be replaced with a fiber optic wire. The existing copper wire, that was mandated by the Telecommunications Act of 1934 and the updated 1996 Act, guaranteed that everyone could receive service — and in the state of New Jersey that was going to become fiber optic-based broadband, as standard.

The New Jersey Alternative Regulation Plan made this clear:⁶⁴³ The phone line for voice was to be a fiber optic landline for video and data.

"NJ BELL'S PLAN FOR AN ALTERNATIVE FORM OF REGULATION MAY 21, 1992 — NJ Bell's plan declares that its approval by the Board would provide the foundation for NJ Bell's acceleration of an information age network in New Jersey and was referred to by NJ Bell as 'Opportunity New Jersey'... Opportunity New Jersey would ...accelerate the transformation of NJ Bell's public switched network, which today transports voiceband services (voice, facsimile and low-speed data), to a public switched network, which transports video and high-speed data services in addition to voiceband services."⁶⁴⁴

Moreover, according to the Order,⁶⁴⁵ \$1.5 billion was to be spent from 1992-1999 to do these upgrades; that amount being increased one-half billion dollars before the law was finally passed.

Speed Mattered and Deployment Was Set.

In 1993, the plan was NOT for DSL, which travels over the old, existing copper wiring, but for a new, rewired network and connections to the home and office with fiber optics.

Regarding speed, the State Commission Order quotes testimony given by Verizon (then New Jersey Bell). Broadband was 45 Mbps services (or higher) that was capable of “high definition video” in both directions.⁶⁴⁶

“Broadband Digital Service — Switching capabilities matched with transmission capabilities supporting data rates up to **45,000,000 bits per second** (45 Mbps) and higher, which enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two-way) video signals.”

And the deployment schedule, as outlined in the next exhibit, was also part of the Order. The BAU (business as usual) is the deployment schedule without the new plan being in place, while ONJ (Opportunity NJ) is what would be deployed if the plan went through. For example, the old plan would have AIN (Advanced Intelligent Network) services starting in 1992 and 100% would be implemented by 2001. Under ONJ, the work would start in 1992 but be completed in 1998, saving three years. (‘Initial’ is when the project would start and the next line is when it would be finished.)

More to the point, under the new plan, “Wideband Digital Service” would have a speed of 1.5 Mbps and there would be 100% deployment by 2000, while the “Broadband Digital Service” would have speeds of 45 Mbps and would start in 1996 and be completed by 2010. Without the plan, “broadband” would be delivered by 2030.

EXHIBIT 100

**NJ Bell Advanced Network & Broadband Deployment Schedule,
1993**

Verizon New Jersey Time Line of Broadband Deployment, 1992-2010

BAU -- Business as Usual
ONJ -- Accelerated Deployment

	<u>BAU</u>	<u>ONJ</u>
<u>Advanced Intelligent Network (AIN):</u>		
Digital switching and signaling systems deployed to provide call routing and database access services, which enables "follow me" type services, for example, that allow customers to program the public switched network to forward their calls automatically to different locations depending on the time of day.	Initial: 1992 100%: 2001	1992 1998
<u>Narrowband Digital Service:</u>		
Switching technologies matched with transmission capabilities to support data rates up to 144,000 bits per second which enables services, for example, that will meet the requirements of customers who use any combination of work stations, personal computers, FAX machines and telephones.	Initial: 1992 100%: after 2001	1992 1998
<u>Wideband Digital Service:</u>		
Switching technologies matched with transmission capabilities to support data rates up to 1,500,000 bits per second, which enables services, for example, that will allow students to remotely access multimedia information, including video, from home or school.	Initial: 1994 95%: undetermined but before 2030	1994 2000
<u>Broadband Digital Service:</u>		
Switching technologies matched with transmission capabilities support data rates up to 45,000,000 bits per second and higher, which enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals.	Initial: 1996 100%: 2030	1996 2010

384 Channels of Video: The Video Dialtone Commitments

Around the same time that Bell Atlantic New Jersey was pitching the state, Bell Atlantic also put in requests with the FCC to offer video dialtone services for Dover Township, New Jersey. Bell Atlantic committed to 384 channels of services.

“The Commission’s grant is conditioned on the requirement that any video dialtone service offered after January 3, 1995, have available 384 channels of capacity and that all video programmer- customers pay the Tariffed rates filed with and approved by the FCC.”⁶⁴⁷

And it is clear from Bell Atlantic’s releases that this network was tied directly to Opportunity New Jersey with “all” of the customers getting interactive video “during the next several years”. That’s 1996-1997, not 2006-2007.

"This video dialtone network is significant to New Jersey because it reaffirms the state's historic leadership in introducing new telecommunications technology that benefits consumers, the economy and quality of life. Under Bell Atlantic-New Jersey's Opportunity New Jersey plan, we will offer interactive video capability to all of our customers during the next several years."⁶⁴⁸

The FCC materials clearly demonstrate that the plan was for new fiber-based networks, not simply a rehash of the old copper wiring.⁶⁴⁹

“New Jersey Bell states that the video signal will travel over *fiber optic cable to the curb* and over coaxial cable from the curb to the home.”

“Common Carrier” Provisions Were Included to Make Sure the Networks Were Open to Competitors.

The FCC’s video dialtone decisions clearly laid out that these networks had “common carrier” provisions for use by competitive services. Common carrier means open to competitors for the public interest.⁶⁵⁰

“In the Video Dialtone Order, released in August 1992, the Commission established the video dialtone regulatory framework. The Commission defined video dialtone as the provision of a basic common carrier platform to multiple video programmers on a non-discriminatory basis. A 'basic platform' is a common carriage transmission service that enables customers to gain access to video programming carried on that platform. If a local telephone company provides such a basic platform, it may also provide enhanced and unregulated services related to the provision of video programming.”

The Commission also made sure that these networks would not be funded through customers or discriminate against competitors by the companies controlling the wires.⁶⁵¹

“The Commission granted the application subject to conditions that will help protect against improper cross-subsidization and discrimination by New Jersey Bell, and help ensure that sufficient video dialtone capacity is available for video programmer-customers.”

The issue of keeping the networks open to competition was repeated page after page in the state Commission’s decision. “Unbundling” means to make competitive services available by selling necessary components of the network for the use by a competitor.⁶⁵²

“Staff submits that the unbundling provision must apply to all competitive services and not just for new filings to make a service competitive....”

“The Board FINDS’ that it is essential that this Board encourage optimal use of the public switched networks, and that therefore NJ Bell shall be required to unbundle all noncompetitive service into service arrangements... so that competitors may market such services.”

The Outcome — Opportunity for the Bell, 1997

According to the NJ Advocate:

"low income and residential customers have paid for the fiber optic lines every month but have not yet benefited."⁶⁵³

According to a brief filed by New Jersey's consumer advocate (Division of the Ratepayer Advocate) with the New Jersey Board of Regulatory Commissioners (BRC), on March 21, 1997:⁶⁵⁴

"Bell Atlantic-New Jersey (BA-NJ) has over-earned, underspent and inequitably deployed advanced telecommunications technology to business customers, while largely neglecting schools and libraries, low-income and residential ratepayers and consumers in Urban Enterprise Zones as well as urban and rural areas."

So much for the promise of the Info-bahn. The original rate of return regulation was replaced by Opportunity New Jersey, an alternative regulation plan that was based primarily on the promise of "greatly accelerated deployment of advanced technologies... approximately \$1.5 billion above current expenditures".⁶⁵⁵

"The ONJ (Opportunity New Jersey) plan replaced traditional rate-base/rate of return regulation with an incentive ratemaking system in exchange for a commitment from BA-NJ to greatly accelerate deployment of advanced technologies in its communications network to the entire State by the year 2010 at *an estimated additional capital expenditure of approximately \$1.5 billion above 'business as usual' from 1992 through 1999*. Through the incentive of alternative regulation under the ONJ Plan, BA-NJ was given the financial flexibility to operate in the new competitive telecommunications market in exchange for commitments to upgrade the network in order to realize 'positive benefits' to the New Jersey economy."

In fact, according to the Advocate, the Bell company only spent \$79 million, not the \$1.5 billion promised.⁶⁵⁶

"Although BA-NJ projected that it would expend approximately \$1.5 billion in network investment above 'business as usual' by the end of 1999.... However, the Ratepayer Advocate has calculated that *BA-NJ has spent a total of \$79 million above 'business as usual' over these years.*"(1992-1995)

More to the point, the actual dollars spent on construction dropped below normal levels from 1992-1995.⁶⁵⁷

"BA-NJ can hardly be characterized as having made capital expenditures beyond 'business as usual' during the first three years of ONJ (1992-1995). Indeed, in constant 1987 dollars, the company's capital expenditures have actually decreased."

How did Bell Atlantic prosper from the plan? By 1997, almost one billion dollars of excess profits and a return on equity almost twice what a regulated monopoly should be making was their reward.⁶⁵⁸

"Since the time of the adoption of the ONJ Plan, BA-NJ has received enormous financial benefits, greatly in excess of the Company's original projections. The gains captured by BA-NJ, which probably would not have been achievable but for the Plan, as set forth immediately below, involve earnings, dividends, return on equity, cost of debt and additional benefits."

During this period (1992-1995):

- "BA-NJ paid out an additional \$954.8 million in dividends* over what was projected in 1992." (1992-1995)
- "The Company is earning a return on equity in excess of 21%, well above the average New Jersey State utility rate of return (11.25%) and substantially higher than any rate of return authorized by the Board in recent memory."
- "Net earnings have increased by \$85 million; its cost of debt has declined substantially, resulting in an annual savings of \$22 million in interest expense."

*Dividends, in this case, are the monies that New Jersey Bell paid to Bell Atlantic, the holding company.

Uh-Oh, Another Billion Owed? What about the Massive Network Write-Offs?

The Advocate found that Bell Atlantic-NJ's dividends were excessive and that the return on equity had doubled, but there was another billion dollars of extra profits that they didn't include. It was accrued from a massive network write-off, based on a

change in accounting, a change that was implemented because of Opportunity New Jersey.

"Depreciation" is a business accounting term that describes how a company writes off its construction expenses. We explain this issue in more detail in other sections. Essentially, by accelerating the write-offs, the Bell companies were able to garner billions in basically free cash being generated by a major savings in taxes. This cash was supposed to be used specifically to build the fiber optic highway but virtually nothing was ever built.

More to the point of our story, in examining the 1994 Bell Atlantic-New Jersey Annual Report we find that with the implementation of Opportunity New Jersey, the telephone company changed its accounting principles and took additional write-offs, adding over \$1 billion in free money. This accounting change is called "FAS 71" for "Financial Accounting Standard 71".⁶⁵⁹

EXHIBIT 101

Bell Atlantic New Jersey, Write-Off Bonanza, 1994

(In the millions)

Increase in plant and equipment depreciation reserve	\$946
Other regulatory assets and liability elimination	\$67
Total	\$1,013

Source: New Jersey -Bell Atlantic Annual Report 1994

This billion dollars was applied to income tax and so the company showed the charges as a savings of \$423 million in taxes and a charge of \$589.7 million in extra cash.⁶⁶⁰

"In connection with the decision to discontinue regulatory accounting principles under Statement No. 71, the Company recorded a noncash, *after-tax extraordinary charge of \$589.7 million, which is net of an income tax benefit of \$423.2 million.*"

Make no doubt about it; these savings were accrued because of Opportunity New Jersey.⁶⁶¹

"The Company's determination was that it was no longer eligible for continued application of the accounting required by Statement No. 71. It was based on the belief that the convergence of competition, *technological change (including the Company's technology deployment plans)*, actual and potential regulatory, legislative and judicial actions, and other factors were creating fully open and competitive markets."

Other Analyses Demonstrate Verizon's Ability to Benefit from ONJ at the expense of Customers.

The Advocate's report was not the only data to show that Verizon New Jersey had essentially gamed the regulatory system in order to make more money. A study done by Economics & Technology found many of the same issues — a failure to invest coupled with cuts in expenses and new profits, and the only opportunity was to New Jersey Bell, not the customers.⁶⁶²

"The state's current regulation system, which was authorized by the New Jersey legislature in its 1992 *Telecommunications Act*, offers Bell Atlantic-New Jersey, Inc. (BA-NJ) expanded pricing flexibility and the opportunity for significantly increased earnings in exchange for a commitment by BA-NJ to substantially increase its level of investment in New Jersey's telecommunications infrastructure under the so-called 'Opportunity New Jersey' (ONJ) Plan.

"In the five years following the Board of Public Utilities' adoption of the ONJ Plan, BA-NJ has enjoyed major financial benefits even though it has not increased its investment as promised and has opposed competition at every turn. The increased pricing and earnings flexibility coupled with reduced investment and continued monopoly pricing practices has enabled

BA-NJ's profits to soar under alternative regulation. Consumers clearly have suffered under the ONJ Plan from unnecessarily inflated prices for many services, and have received few benefits in the form of new services and increased competitive choices."

The report continues: "Since the adoption of the ONJ Plan in 1993:

- "BA-NJ's financial return on equity (ROE) jumped from 22% to almost 40%.
- "Rather than put those profits back into its telecommunications infrastructure, BA-NJ actually *disinvested* some \$76-million between 1993 and 1995." ("Disinvestment" is to write-off more than you put into new construction.)
- "BA-NJ has paid increasing dividends to its parent holding company since 1993, and in fact, BA-NJ's dividend payments to Bell Atlantic Corp. are among the highest, on both a relative and an absolute basis, of any BA operating company.
- In 1997, BA-NJ provided a \$559-million dividend to its parent — equating to approximately \$93.17 per access line per year (or \$7.76 per line per month). By way of comparison, BA NY's dividend was only \$42.52 on a per-access line basis (\$3.54 per line per month)."

Access New Jersey (ANJ) is Added

The Ratepayer Advocate's solution for these harms was to make sure that Verizon was put back on track to build out the networks, and, as penance, Verizon NJ should be making these new, fabulous broadband services available to schools and libraries.

"Having established the Board's legal authority to modify the Plan so as to equalize the level of ONJ benefits between the business community and the education, low-income, residential rural and urban communities, the Ratepayer Advocate urges the Board to

modify ONJ to require BA-NJ to (1) create a fund to wire all public and not-for-profit schools and libraries for broadband capability by the year 2000 and provide these institutions with Internet access and discounted rates for these and other services; (2) institute rate reductions.”⁶⁶³

Access New Jersey was added in 1997. Verizon’s press release⁶⁶⁴ in 2000 stated it had built a ‘video portal’ to “deliver broadband video services to schools”.

“New Jersey’s K-12 students have a new gateway to learning through a statewide video portal and “virtual academy” that is the first of its kind in the nation. The video portal, provided by Verizon New Jersey, enables schools around the state to hold live, interactive video classes for students statewide without incurring long-distance charges.

“Verizon is the first local phone company to deliver broadband video services on a large scale to schools across LATA (long-distance) boundaries under a provision of the Telecommunications Act of 1996. The portal provided by Verizon is part of the company’s Access New Jersey program to provide advanced technology to the state’s K-12 schools and public libraries.

But there was a massive gap between bringing the committed speeds of 45 Mbps to the schools and libraries versus selling very expensive services that most schools couldn’t afford.

Testimony by Thomas H. Weiss, on Behalf of the New Jersey Division of the Ratepayer Advocate, May 15, 2001⁶⁶⁵ outlined the findings.

“While I found that approximately 98 percent of all New Jersey schools currently have some form of access to the Internet, only about 50 percent enjoy such access at wideband or broadband bit

transfer rates — rates that would permit the transmission of virtual full motion interactive video signals.

“This is an unacceptable penetration rate given that VNJ has deployed technology sufficient to enable wideband access, or better, to reach all schools in the state. I conclude that in order to effect improved deployment of wideband and broadband access for schools and libraries, VNJ should increase substantially the level of the discounts from tariff rates at which it offers wideband and broadband access to New Jersey schools and libraries.”

Weiss continued, outlining that average speed in 2001 was 1.5 Mbps.

“According to Verizon, schools and libraries in New Jersey are using approximately 2,700 data circuits at discounted prices under the ANJ program. Service is taken within the full range of bit transfer rates from 128 Kbps ISDN through OC3 SONET. By far the most extensively employed service is ATM at 1.5 Mbps.”

The next exhibit is Verizon Access New Jersey pricing sheet as of 2008 and gives the services and costs offered to schools, including the discounts. Even with the discount, a 45 Mbps service cost over \$1,825.00 a month. By 2008, fiber optics should have been almost ubiquitous in the state and should have cost \$50.00-\$100.00 a month or less with a discount, especially since these networks were being built with the help of excess profits charged to customers and were supposed to be part of the state utility networks. Also, since the schools were buying in bulk and there appears to be one provider for Access New Jersey — Verizon — it’s clear that Verizon was able to take advantage of a captive audience. Also, we have no way of knowing just how many schools and libraries were upgraded to a fiber optic wire.

EXHIBIT 102
Access New Jersey Pricing for Broadband, 2008

Services	Quantity	Current Monthly Tariff Rate (Ea.)	% off Current Tariff Rate	Monthly Education Rate (Ea.)	Non-Recurring Charge (Ea.)
Verizon's Access New Jersey Frame Relay Service:					
56 kbps Subscriber Network Access Line (SNAL)		\$175	43%	\$100	N/A
1.5 mbps Subscriber Network Access Line (SNAL)		\$435	31%	\$300	N/A
4 mbps Subscriber Network Access Line (SNAL)		\$2,300	42%	\$1,325	N/A
8 mbps Subscriber Network Access Line (SNAL)		\$2,600	45%	\$1,425	N/A
22 mbps Subscriber Network Access Line (SNAL)		\$3,000	40%	\$1,625	N/A
45 mbps Subscriber Network Access Line (SNAL)		\$3,600	52%	\$1,825	N/A

Doubling Up? The Universal Service Fund, which is a tax on any interstate call/cell phone call or service, was designed to make sure everyone in America can get phone service, as well as other activities. One component, commonly dubbed the “E-Rate”, has a Schools & Libraries Fund which gives discounts to schools — while the phone companies get reimbursed for their full business rates. This caveat, on a web site about school funding, explains that the schools could also get USF funding on their ‘ANJ services’.

“Effective 7/1/02 schools and libraries participating in Verizon’s Access New Jersey program will be able to apply for federal Universal Service discounts on their ANJ services. All schools and libraries intending to file for E-Rate discounts should follow the procedures outlined ...before signing any new contract for telecommunications services.”⁶⁶⁶

As of 2013, there are only remnants of the ANJ agreement; the web site is a placeholder in the state ‘archive’ with none of the links working.⁶⁶⁷

Bring on FiOS, Bring on Cable.

While we discuss FiOS in detail elsewhere, it is important to remember that Verizon decided to rewrite history. In New Jersey, where fiber optic deployments were supposed to have been in full swing by 1995, Verizon now claimed that the first fiber optic deployments were about to happen — but about a decade later.

Verizon's FIOS Announcement, May 19, 2004⁶⁶⁸

“Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber-Optic Technology with Keller, Texas, Deployment. Verizon has begun installing in Keller a new technology known as fiber to the premises (FTTP), which uses fiber optic cable and optical electronics to directly link homes and businesses to Verizon's network. The fiber optic connections will replace traditional copper-wire links.... Although the use of fiber optic technology is common throughout the telecom industry, *Verizon is the first company to begin using it to directly connect homes and businesses to the network on a widespread scale.*”

With total amnesia, in 2004, Verizon New Jersey stated it was about to ‘begin’ bringing fiber optic services, again, to New Jersey. But first, Verizon wanted another round of new deregulations passed so once again they used this broadband carrot to hold the state hostage. *Associated Press*⁶⁶⁹ put it this way:

“Verizon tells staff it may not build fiber network in N.J.

“Verizon, the state’s dominant phone carrier, is threatening to drop plans to install a \$250 million fiber-optic network because state regulators will not let it charge competitors more to lease its local lines.

”We believe the future is broadband. The question for New Jersey is whether it will be sooner or later?” Verizon-New Jersey spokesman Richard J. Young said Friday... Verizon advised 4,000 managers of the review in an e-mail Wednesday. ‘This decision comes as a result of the New Jersey Board of Public Utility's failure last week to make any meaningful improvement in the artificially low rates Verizon can charge competitors for leasing its network facilities’, the memo said.”

And as we will soon discuss, Verizon New Jersey even stopped building out any of the networks — their construction expenditures went from about \$1 billion in 2000 to \$395 million in 2004 — a drop of 60%.

After the state capitulated, according to a letter from New Jersey League of Municipalities in April 2005, Verizon once again said that it was delivering fiber optics and it would be part of the obligations under Opportunity New Jersey and completed by 2010.⁶⁷⁰

“In 1993 the NJ Board of Public Utilities (BPU) came to an agreement with Verizon, called Opportunity New Jersey, which obligates Verizon to upgrade its telephone network by 2010 to include broadband access throughout its service area. Verizon’s installation of fiber optic cable is part of this telephone system upgrade and subject to BPU review for compliance with applicable laws governing the telephone system.

“Verizon has assured us on several occasions that they intend to abide by all appropriate state and municipal processes, including franchising, if and when they officially seek to offer video service over their fiber optic network.”

Verizon New Jersey’s FIOS TV Cable Franchise.

Not to miss a beat, right after FiOS was announced, Verizon and AT&T, via the ALEC-based bills, went state-to-state to call for offering cable TV over the existing FiOS networks. In New Jersey, Verizon started heavily promoting this type of ‘system-wide’ cable franchise, where ‘system-wide’ was a made-up term, so that the company only had to do their own territories and not, for example, the entire state.

According to an article in *NorthJersey.com*,⁶⁷¹ the company planned to roll out services possibly by 2006.

“Verizon said it will be ready to turn on TV service in 70 towns by year-end. If the franchise process begins on a town-by-town basis this summer, consumers won't see service until mid-2006.”

And a bill did pass, but with a small ironic twist. As discussed before, Verizon New Jersey had a campaign being run by the astroturf group “Consumers for Cable Choice”.

On January 30, 2006, Assemblyman John E. Rooney requested that the State start an investigation into Verizon New Jersey and NJ Consumers for Cable Choice (C4CC). While we found no serious consequence of this action, the investigation was amusing to read, as it reveals the standard operating procedure for C4CC that was documented in other states.

“An Assembly Resolution urging the Attorney General and the Board of Public Utilities to investigate certain conduct of Verizon New Jersey and New Jersey Consumers for Cable Choice.

- Verizon New Jersey (“Verizon”) has been seeking a Statewide cable television franchise; and
- According to an article in *The Record* on January 1, 2006, Verizon took the names of New Jersey residents and, without their permission, generated letters in support of Verizon’s plan using those residents’ names and sent them to State Legislators; and
- *The Record* reported that, in at least one case, Verizon even went so far as to create fake stationery for the letter supposedly sent by the person whose name was used without permission; and
- *The Record* story also cited examples of letters which were purportedly sent by people who may not exist or were sent from street addresses that cannot be found; and

- Whereas, According to *The Record* story, a group calling itself “New Jersey Consumers for Cable Choice”, which has been actively lobbying in favor of pro-Verizon legislative action and which represents itself to be an independent coalition of community and civic groups, was actually created with \$75,000 in “seed money” from Verizon.”

“This House urges the Attorney General and the Board of Public Utilities to undertake an investigation as to whether Verizon New Jersey and New Jersey Consumers for Cable Choice have violated any laws by sending letters through the mail which purport to be from persons who have not given permission for their names to be put on the letters; by committing fraud in misrepresenting constituent opinion to Legislators; and by misrepresenting to Legislators and the public that a supposedly independent grassroots organization was in fact created with funds provided by Verizon New Jersey.”

And yet C4CC congratulates the State of New Jersey for allowing a system-wide cable franchise — and supposedly saving \$19 million a month, \$220 million a year.

“C4CC Congratulates NJ on New Cable Competition Law.

TRENTON, N.J. (August 5, 2006) — Consumers for Cable Choice and its Garden State sister organization today hailed New Jersey’s new cable competition law, which will help consumers save as much as \$19 million on their monthly bills this year.

‘With today’s high price of gas taking its toll on everything from family road trips to school supplies and the cost of morning cereal, the savings that will come from this law will really help New Jersey families,’ said Robert K. Johnson, C4CC president.

“Rachel Holland, executive director of C4CC New Jersey, said consumers in the Garden State are relieved to see the bill become law. ‘This law puts out a welcome mat for new cable television providers, and New Jersey residents are ready to open their doors to better prices, better service and innovative products,’ Holland said.”

How Far Did Verizon Get with a Fiber Optic Service?

Verizon was granted the system-wide cable franchise, yet unbelievably the state never tied the franchise to Opportunity New Jersey, even though the cable service is made possible because it rides over the wires that were part of the original ONJ commitments.

And in 2013, Verizon’s cable franchise was up for renewal and the State’s assessment report on Verizon’s cable franchise deployment is a grim story of just how the state got played. In the end, Verizon was only responsible for 70 communities to be fully wired, with 352 other municipalities partially wired. And since 2010, Verizon has slowed the progress to a crawl.

“In the June 2010 report, Verizon represented that its FiOS service passed 1.9 million New Jersey homes. Verizon indicates in its comments that it now has already passed more than 2.2 million premises with its FiOS network in New Jersey, and is presently offering cable television service in all or parts of 352 of the total 372 towns in its franchise. As of December 31, 2012, Verizon provided FiOS to approximately 600,000 customers. Data appears to indicate that Verizon’s deployment efforts have decreased dramatically in the last three years, with only three towns being added to the franchise since the June 2010 report. However, the State Act does not require that Verizon provide service outside of the 70 must-build towns, and it is therefore within Verizon’s

discretion as to where they will deploy service outside of its statutory deployment commitments.”⁶⁷²

Stow Creek, Greenwich and Mantoloking; A Tale of Three Cities

The story might have ended with literally one-third to one-half of customers never getting upgraded — except for some wrinkles — and new evidence.

In 2012, the NJBPU issued two Orders to show cause pertaining to Verizon New Jersey’s broadband commitments and service quality issues. One ‘show cause’ order⁶⁷³ asked Verizon to explain why they failed to wire 100% of their territories with a broadband service as they had promised. Moreover, the original ONJ laws were never ‘disturbed’, thus the commitments are still in force.

As the NJBPU writes

“Pursuant to the Order, (known as “PAR-1”) Verizon was required to achieve Opportunity New Jersey (ONJ) in its entirety, including full broadband capability, by the year 2010, specifically, switching technologies match with transmission capabilities to support data rate up to 45,000,000 bits per second and higher, which enable services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive video signals with complete deployment by 2010.

“By order dated August 19 2003... the Board approved a second plan for alternative regulation (PAR-2) that replaces PAR-1. PAR-2 further enhanced Access New Jersey (ANJ), but did not disturb the existing ONJ broadband commitments made by Verizon.”

“Based upon information and belief, residents of Greenwich and Stow Creek, Cumberland County are not being provided

broadband capabilities consistent with ONJ. To date, full deployment of broadband has not been achieved.

“The Board hereby orders: Verizon to show cause before the Board why the Board should not Verizon failed to comply with the PAR order in providing full broadband capability by 2010.”

On April 29, 2013, the NJBPU issued another Order⁶⁷⁴ for the two towns to be upgraded by Verizon but this Order does not reference the ONJ commitments to have the rest of the state completed by 2010 with a fiber optic service capable of 45 Mbps in both directions; it only deals with quality-of-service issues as the reason for Verizon supplying fiber optic services.

Mantoloking, located near the ocean, wasn't as lucky. After Superstorm Sandy came through in October 2012, the town's phone lines, power lines, not to mention homes and businesses, had extensive damage. Verizon decided that it would not 'fix the copper wiring' but instead would put these customers onto Voice Link, a 1990s-styled cell phone service that can't handle basic data applications like a fax machine or alarm monitoring.

Verizon had filed in New York to 'discontinue' wired phone service and push customers onto Voice Link. On Fire Island, this resulted in a mass filing of comments by the citizens with the state commission.

In September 2013, Verizon New York backed down; it claims it is now going to wire Fire Island with fiber by Memorial Day 2014. Mantoloking hasn't taken any steps in the matter, even though the law is on its side.

Should Verizon New Jersey be Taken to Court? How Much Money Did They Collect for this Broadband Scandal and What Were the Economic Harms?

The State required Verizon to submit an annual infrastructure report that would detail the amount of upgrades accomplished for different technologies from 1996-2010. Verizon submitted these reports faithfully, but as the data shows, Verizon New Jersey

was lying about its deployments in every year. The following exhibit is from Verizon’s 2001 infrastructure report.

EXHIBIT 103

Verizon, New Jersey Annual Infrastructure Report, 2001

APPENDIX B Service Capability & Enabling Technology Deployment

I. Opportunity New Jersey's Service Capabilities	1997	1998	1999	2000	2001	Commitments
Advanced Intelligent Network						
w/o acceleration (est)	80%	88%	94%	achieved		100% 1998
with acceleration (act)	100%					
Narrowband (up to 144 kbps)						
w/o acceleration (est)	74%	82%	87%	achieved		none
with acceleration (act)	100%					100% 1998
Wideband (144 kbps to 1.5 mbps)						
w/o acceleration (est)	50%	62%	71%	achieved		none
with acceleration (act)	66%	78%	84%	95%		95% 2000
Broadband (up to 45 mbps & higher)						
w/o acceleration (est)	1%	3%	9%	achieved		none
with acceleration (act)	34%	35%	42%	52%	55%	100% 2010

The exhibit, taken directly from the report, shows the deployment schedule for two services, Wideband, which was 144Kbps to 1.5 Mbps, and Broadband, which has speeds “up to 45 Mbps & higher”.

- **w/o acceleration** is what would happen if the Opportunity New Jersey deregulation didn’t happen.
- **with acceleration** means the law passed and the company got excess profits and tax perks to build out the networks.
- Note the (act), meaning actual deployments vs the (est) which means estimated.

This type of bold face misrepresentation happened in every year. Verizon, in their response to the Show Cause Order, made obfuscation a new art form — 100% never meant 100% and the speeds were capabilities, not services. This is from Verizon New Jersey 2005 and 2010 annual infrastructure reports that they quote in their response.

EXHIBIT 104**Verizon New Jersey's Infrastructure Report Summaries, 2005, 2010****2005 Infrastructure Report:**

- 2.1 million miles of fiber
- 83% broadband availability
- 129 Fast Packet Switches
- 62 ATM Switches
- Mass market deployment of FTTP
- 100% of Verizon wire centers and 766 remote terminals equipped to provide DSL service

2010 (Final) Infrastructure Report¹⁴:

- 3.7 million miles of fiber
- Over 99% broadband availability
- 100% digital switching
- High speed switching available statewide via 146 Fast Packet and ATM switches deployed hub locations around the state
- DSL available in 100% of Verizon Central Offices and more than 750 remote terminals equipped for DSL
- 2.1 million premises passed with the fiber-to-the-home technology on the FiOS network

Notice that, in 2010 Verizon NJ claimed that they had “99% broadband availability”, and this included DSL, which, as we discussed, was considered inferior in the companies’ 1991 Deloitte Study. The “45 Mbps” doesn’t appear at all; also notice 100% DSL and 100% Digital Switching are ‘capabilities’ in the networks and not actual services offered to residential or business customers.

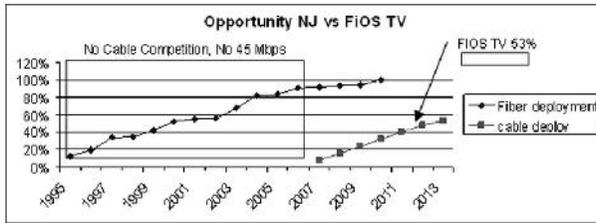
In our rebuttal to Verizon’s response of the Show Cause Order⁶⁷⁵ we noted that annual reports were printed and mailed and they are public documents. The company fabricated statistics for massive financial gains — from 1996-2010, 15 years. The most-likely scenario is that Verizon believed no one would read, notice or have the fortitude to do anything about it.

Verizon NJ Cable Competition Didn’t Show Up, And Now It Won’t.

What do we know about the ONJ commitments and the actual deployment? The New Jersey cable franchise renewal and Verizon’s own response to the State’s Show Cause

Order give us data for actual deployments.

EXHIBIT 105



Beginning in 1995 and continuing through 2010, Verizon NJ was supposed to have 100% of the state completed. FiOS TV didn't start until 2007 and has now reached about 50% completion.

- Verizon indicates in its comments that it now has already passed more than 2.2 million premises with its FiOS network in New Jersey.
- As of December 31, 2012, Verizon was offering FiOS cable to approximately 600,000 customers.
- The State of New Jersey⁶⁷⁶ has 3.2 million residences and 782,000 businesses. Notice that in the above 2 bullet points they are using 'premises' and 'customers', not residences. Since lawyers write and OK these stats, we assume there is a reason they are not using the word 'residences'.
- There is a caveat in the 2012 Verizon Annual Corporate report⁶⁷⁷ that claims that in 2012, Verizon had a 33.3% penetration rate for FiOS video, which would mean that with 600,000 customers, 53% of Verizon New Jersey's premises are using the service, equating to 1.7 million homes passed by FiOS for cable service.

This all adds up to no cable competition from 1995-2007, 13 years; then it ramped up to the current 53% (though they could have added customers since 2012).

Opportunity Costs: How Much Money Did Verizon's Failure to Deliver 45 Mbps Cost Customers and the State?

Imagine that in the State of New Jersey, Verizon had actually deployed what they were contractually required to do — have 100% of their territory completed by 2010 with a fiber optic service capable of 45 Mbps in both directions. And let's throw in the caveat that that the networks were supposed to be fully opened to all competition, something that was also in the Telecom Act of 1996 — and also in the NJ state law.

- **Economic Growth** — New Jersey would have been the first fully fiberized state and our belief, based on the data pertaining to 'broadband as an economic driver', is that the state would have been an attractor, a high-tech hub of the US, as NJ was also the home of Bell Labs and AT&T's former headquarters.
- **Education** — Schools and libraries would have had 45 Mbps as well at reasonable prices, as it would have been a 'commodity', not a scarcity and therefore Verizon wouldn't have been able to get away with charging \$3,800 retail, \$1,825 with the discount, per month for a 45 Mbps service.
- **Rural Communities** — All of the rural areas would have also been upgraded. Instead, the current plan for areas where Verizon failed to upgrade and the customers are still on copper is to force these customers onto wireless services.
- **Competition for Cable Services** — Verizon's FiOS TV currently goes to about 50% of customers (though Verizon's statements are contradictory). Moreover, the law was passed in 1993 and yet the first FiOS deployment was in 2006-2007; customers did not have any wired cable choice for at least 13 years, about half still don't, and about 30%-50% never will.
- **Lower Phone Rates** — Phone service prices should have been cheaper due to competition on broadband, Internet, phone and cable services.

Using data from Verizon New Jersey, Verizon and AT&T's funded think-tanks and astroturf-supplied numbers, and other primary sources including census data, let us

reverse-engineer the hype and quantify the ‘Opportunity Costs’ — How much did Verizon’s failure to properly upgrade and maintain the state-based utility networks cost customers and the state?

Follow the Money

Since 1993 we have tracked Verizon New Jersey’s broadband infrastructure deployment as well as the company’s financials using Verizon’s own SEC filed state-based annual reports. This included the financial returns generated from the Opportunity New Jersey’s alternative regulations, including basic items like profit margins, construction expenditures, depreciation, dividends paid and other financial gains.

In other words, the laws were changed in 1993 to give the company rate increases and tax perks that were to be used for new construction, exchanging the existing copper wires with fiber optic wires — and all were part of the PSTN, public switched telephone networks. And it was to be completed by 2010. How much money was collected, how much was spent on construction, and how much ended up as profits?

We estimate that Verizon NJ overcharged customers about 15-16 billion dollars — \$4000-\$5000 per household in New Jersey for upgrades of the utility networks that never happened from 1993-2013 — and it continues today unabated as these excess profits were built into the cost of service or the deregulation of services.

Two simple examples of deregulation: The law removed the profit caps on basic services, such as ‘calling features and ancillary services’ which were deemed ‘competitive’ and therefore were not examined by the commission for profits. Caller ID cost business customers \$12.75 while non-listed numbers cost \$3.70 (as of 2012). Caller ID had a profit margin estimated to be 5,695% and non-published numbers had a 36,900% profit margin. And while under ONJ, Verizon NJ’s excess profits were supposed to be used for new construction. They weren’t.

You can argue that FiOS is a fulfillment of their commitments in part, except that it is not the PSTN and it appears that some of FiOS is now part of a separate subsidiary, where the profits don’t go to Verizon New Jersey, only the expenses. Or

you can argue that FiOS TV is also part of the fulfillment, but it is illegal to charge customers for the deployment of a cable service as it cross-subsidizes the cable networks — getting customers to pay for the development and deployment of a cable product.

All of these factors could be taken into consideration once there actually were audits to examine the flow of money in detail.

Not Having Cable Competition Cost Customers \$4 Billion Extra.

Using the same approach as with the national statistics — where we relied on a report and data provided by the Verizon-funded think tank, the Phoenix Center, we found that \$8.2 billion nationwide was charged to customers in excess cable expenses because of a lack of competition. Verizon New Jersey’s failure to provide cable competition — which was one of the intents of the original Opportunity New Jersey proposal, added an estimated \$4.1 billion to cable bills, about \$1,626 per household, from 1993-2013.

This is an excerpt from our analysis.⁶⁷⁸ It shows that in 1995 customers, on average, paid an additional \$51 a month and by 2012, it was about \$144 a month, and the overall excess in 2012 came to about \$400 million. The “Kagan” numbers are based on Kagan’s average cable bill.

Note: Consumers for Cable Choice stated that \$19 million a month, \$228 million annually, was being saved by competition in 2005-2006 timeframe. Our number, generated using the Phoenix Center’s analysis, came to \$223 million for 2005.

EXHIBIT 106

	C	D	F	F	G	H	I
Verizon New Jersey FiOS and cable deployments in New Jersey, 1995-2012							
		1995	2000	2005	2010	2011	2012
Subscribers		2,179,105	2,451,695	2,530,317	2,658,165	2,675,138	2767444.5
Add 10% sat.			2,696,865	2,783,349	2,924,312	2,942,652	3,044,189
Kagan	\$	28.50	\$ 39.00	\$ 49.00	\$ 75.00	\$ 78.00	\$ 80.00
Excess		111,788,087	172,108,989	223,173,959	358,692,775	375,589,375	398,512,008
Customer excess	\$	51	\$ 70	\$ 88	\$ 135	\$ 140	\$ 144

- **Verizon New Jersey FiOS Entry — No Reduction of Costs to Consumers.**

Verizon's entry with FiOS TV appears to prove one thing — a duopoly doesn't appear to impact pricing. In fact, the state summary of the impact of Verizon's FiOS entry into the marketplace found that:⁶⁷⁹

“Today, the average is... \$45.68 for CPST for a hike of... slightly more than 28% in CPST rates. Equipment prices have fluctuated as have initial installation charges. ...advanced converters have risen between 2% and 56% depending on functionality. Initial installations charges are up on average 13% since 2006.”

A caveat: the state data didn't include taxes, fees or surcharges or most of the other additional costs, which can come to 15-40% more.

In summary, Verizon New Jersey didn't provide cable competition for at least 13 years and when it did, it was only offering service to about half the state. Its entry didn't lower prices significantly, but actually appears to be part of the raising of rates.

Cross-Subsidies Add Billions to Customer Overcharging.

The \$15 to \$16 billion pales to the additional harms outlined in the previous discussion of cross-subsidization by affiliates. Did customers get charged for the construction budgets that were transferred, in part, to the Wireless company, for example?

As we discussed in our section on cross-subsidization, Fran Shammo⁶⁸⁰, Verizon's EVP and CFO, stated that the wireline construction budgets have been diverted to charge customers for the wireless companies' construction needs.

“The fact of the matter is wireline capital — and I won't get the number but it's pretty substantial — is being spent on the wireline side of the house to support the wireless growth. So the IP

backbone, the data transmission, fiber to the cell that is all on the wireline books but it's all being built for the wireless company.”

We add that without audits it is impossible to determine the full extent of the overcharging of phone customers who may have been charged for the construction of the wireless fiber optics-to-the cell towers or charge for the development of the cable service.

Opportunity Costs — Economic Harms

Using the same ramp-up analysis that was used for the national potential additional GDP growth from broadband as claimed in the Criterion-Brookings and Gartner studies, that growth would be incremental over a 10-20 year timeframe. In New Jersey we have a definitive fact — there was a timeline in the law which established how fast these deployments were to come, giving us a unique picture of actual deployment vs the ‘commitments’.

- **Verizon Pulled a No-Show from 1995-2006.**

As discussed, Verizon was supposed to originally start deployment in 1995, then it was moved to 1996, but no fiber optics were deployed for any 45 Mbps residential service until at least 2006-2007, which coincided with the Verizon cable deployments.

This means that whatever economic growth that was to accrue from the ramp-up didn't even start until 2007.

We estimate that the State lost between \$173 billion to \$214 billion — based purely on the methodologies of Verizon's own funded research and Gartner Dataquest's analysis, which we quoted earlier. The reports claimed that ½ trillion would accrue if the US had the companies built out these broadband networks. (Gartner's belief is that the speed of broadband would have to be 'true' broadband, with at least 10 Mbps or better to get the benefits of broadband deployment.) Tracking the 45 Mbps in both directions means that virtually in no year did Verizon actually deploy and customers have available and in use 45 Mbps — thus the higher number.

Closing Caveat

A curious report circulated in New Jersey in 2010. The state appears to have lost economic growth, especially with rich people. An article in the *Star-Ledger* had the headline: “N.J. loses \$70B in wealth during five years as residents depart”.⁶⁸¹ The article goes on to quote a study by the Center on Wealth and Philanthropy at Boston College, stating “the report found wealthy households in New Jersey were leaving for other states — mainly Florida, Pennsylvania and New York — at a faster rate than they were being replaced.”

The article continues:

“More than \$70 billion in wealth left New Jersey between 2004 and 2008 as affluent residents moved elsewhere, according to a report released Wednesday that marks a swift reversal of fortune for a state once considered the nation’s wealthiest.”

Wouldn’t you know it, the article quoted then-president of Verizon New Jersey, Dennis Bone, who was also the Chairman of the NJ Chamber of Commerce. He blamed it on the state’s tax policies.

“‘This study makes it crystal clear that New Jersey’s tax policies are resulting in a significant decline in the state’s wealth,’ said Dennis Bone, chairman of the New Jersey Chamber of Commerce and president of Verizon New Jersey”.

Verizon didn’t even start doing the upgrades until 2006-2007, and worse, in Verizon’s response to the Show Cause Order, Verizon claimed that in 2006 the company had completed 91% of the State, which was supposed to be for 45 Mbps in both directions. It didn’t exist in 2006.

Might the State have not lost these wealthy residents but instead added to them, as broadband might have ‘retained’ the businesses and citizens and thus added to

the wealth of the state? Or, would the tax base have increased to the point where the taxes weren't so onerous in the first place?

11th Hour Attack: Erasing the Laws

Like one of those action or horror movies — just when you think there's a light at the end of the tunnel, you see an oncoming train with the villain in the engine car, smiling.

Instead of the State doing the right thing and actually attempting to get Verizon to finish wiring the state based on their original commitments, the state is now planning to erase the entire set of commitments — and replace it with something so embarrassing that it is now clear that the Board of Public Utilities should remove the words "public" and the State's Rate Counsel should change its name to 'rate-increase'.

But it gets suspicious that Governor Christie, now famous for 'bridge-gate', has been manipulating the situation to help Verizon.

On January 29th, 2014, the State Board of Public Utilities decided to extinguish the contract with Verizon — Opportunity New Jersey.

But, on January 14th, 2014, two weeks before, a new President of the Board of Public Utilities⁶⁸² was installed and she was not only chosen by Governor Christie, but is part of his cabinet.

“Dianne Solomon was named by Governor Christopher J. Christie as President to the N.J. Board of Public Utilities (BPU) on January 14, 2014. President Dianne Solomon also serves as a member of the Governor's Cabinet. President Solomon was nominated by Governor Chris Christie to serve as Commissioner to the Board of Public Utilities on April 17, 2013, and confirmed by the New Jersey Senate on June 27, 2013.”

Is it coincidence that they decide to erase the laws, even though the State had actually issued a show cause order asking Verizon why Stow Creek and Greenwich weren't upgraded, and ordered them to do so in 2013?

And yet, right after this appointment, Verizon is about to get multi-billion dollar bonus, not to mention be able to start getting rid of the unions, and force customers onto their wireless products. Oh, and every municipality loses its taxes Verizon pays — if they removes the wires, they remove their taxes.

What Does Erasing a Law Looks Like?

There is a stipulation agreement⁶⁸³ between Verizon and the State and the language demonstrates that those who created it really do give a damn about anything but helping Verizon put this behind them.

(I must note that this Commission also OK'ed the cable franchise without any regards to the original commitments or to the fact that it doesn't cover all of Verizon's customers, leaving 1/3 to 1/2 without upgraded service.)

What this says is — forget you paid thousands of dollars to have the phone networks upgraded with fiber optics by 2010 with a 45 Mbps, bi-directional service. Forget that the FiOS cable franchise was granted because it guaranteed cable competition. If you have any other choice, including Verizon Wireless 4G or a cable provider or even DSL or satellite — sorry. Go somewhere else. Or if you quality, then wait 9 months before we give you service.

The Stipulation agreement:

- 1) “have no access to Broadband from cable service providers (including single-line business or residential consumers located outside of cable providers' Primary Service Area (defined in the applicable cable providers' Franchise Order issued by the Board));
- 2) have no access to 4G-based wireless service; and

“Broadband is defined as delivering any technology including Verizon's 4G wireless, fiber, copper or cable, data transmission service at speeds no less than the minimum speed of Verizon New

jersey's Digital Subscriber line (DSL that is provided by Verizon New Jersey today.”

I.e., we're continuing our plan to close down the copper wires so we'll be glad to give you our more expensive 4G product.

As we outlined elsewhere, Verizon is closing down the copper wiring because it makes them more money.

Lowell McAdam, Verizon's CEO stated in June 2012.⁶⁸⁴

“And then in other areas that are more rural and more sparsely populated, we have got LTE built that will handle all of those services and so we are going to cut the copper off there.”

At the September 2012 JP Morgan analyst conference, McAdam⁶⁸⁵ said moving the customers to wireless makes the company more profits.

“And in many areas we're also taking customers that aren't performing well on copper and we're moving them over to the wireless technology. So that improves our cost structure significantly and streamlines all those ongoing maintenance costs.”

Wireless LTE is Not a Substitute for FiOS for Video.

Verizon knows that wireless, even their LTE product, doesn't replace wireline broadband networks for video.

Lowell McAdam,⁶⁸⁶ June 2012 stated:

“I mean we want to shift as much onto FiOS or onto the fixed network where we can and then provide — use that capacity to provide those higher demand services like video. I don't expect

anybody to sit in their home watching video over LTE. I want them to be able to watch it on their tablet anywhere in the house using the Wi-Fi network.”

And this admission means that Verizon’s plan to halt their FiOS deployment will harm every customer outside the ‘footprint’, which could be as much as 50% of their territories.

And this is happening in every state, including New Jersey.

The Villains Win?

On April 24th, 2014 the BPU voted unanimously to close down Opportunity New Jersey. According to *The Bergen Record*.⁶⁸⁷

“BPU President Dianne Solomon said that there was ‘clearly confusion’ over Newark- based Verizon’s original broadband obligations under an agreement, called Opportunity New Jersey, a deal that also reduced regulation of the company. The agency and its staff said that the telecom company, known as New Jersey Bell in 1993, was never required to deliver broadband via fiber-optic lines and denied that Verizon customers were ever issued a surcharge to finance ONJ.”

What? Did you think that the State would defend the rights of customers? If the HBO series ‘The Sopranos’, about a bunch of Jersey wise guys, was still on the air, I could imagine Tony Soprano, head of the ‘family’ saying “And they call us crooks?”

The Villains Challenged.

And just like one of those movies where the innocent guy (and yes, we saw the real murderer confess) is on death row and being strapped to the electric chair, and

everyone is staring at the clock— something miraculous almost always happens to restore our faith in happy endings.

In this case, the New Jersey Ratepayer Advocate (now called the Division of the Rate Counsel) did the right thing and filed an appeal to stop the stipulation agreement, and as of August 5th, 2014, there is a stay of execution. And as of February 14th, 2015 the appeal is still going on.

Will New Jersey really get the fiber optic state that they paid for?

Part IX Net Neutrality Is Not the Issue**Chapter 44 The Net Neutrality Raucous**

On January 14, 2014, with a decision by the US Court of Appeals⁶⁸⁸ to shoot down the FCC's Open Internet Order, many proclaimed the death of Net Neutrality. In fact, Net Neutrality is like one of those Rorschach Tests used in psychological examinations where everyone sees something different in the same picture. Most people understand it to be a catch-all phrase to mean the blocking or degrading of service or even charging customers or companies for preferential treatment. And Verizon had challenged whether the FCC had overstepped its authority to 'regulate' the Internet'—and the court agreed, for the most part.

The FCC started a comments period and by August 2014⁶⁸⁹ there were over 1.1 million respondents, a clear indication that at least the activists, tech savvy, and just regular folks had a gut reaction that something was up. In fact, in August the FCC released a data-set of 450,000 comments to examine.⁶⁹⁰

And one of the major themes has been that there should not be 'fast lanes' and 'slow lanes', Net Neutrality is not the primary problem of telecommunications in America — and solving it doesn't solve the issue of the "No Lane"; which is what happens when the phone companies aren't required to offer any service, including phone service, or return customers to service after a storm?

A bit of history is in order.

In December 2010, the FCC initiated the Open Internet Order:⁶⁹¹

“Preserving the Free and Open Internet; Today the Commission takes an important step to preserve the Internet as an open platform for innovation, investment, job creation, economic growth, competition, and free expression. To provide greater clarity and certainty regarding the continued freedom and openness of the Internet, we adopt three basic rules that are grounded in broadly accepted Internet norms, as well as our own prior decisions:

- **Transparency.** Fixed and mobile broadband providers must disclose the network management practices, performance characteristics, and terms and conditions of their broadband services;
- **No blocking.** Fixed broadband providers may not block lawful content, applications, services, or non-harmful devices; mobile broadband providers may not block lawful websites, or block applications that compete with their voice or video telephony services; and
- **No unreasonable discrimination.** Fixed broadband providers may not unreasonably discriminate in transmitting lawful network traffic.

I note, however, that the decision⁶⁹² wasn't about the 'Open Internet' but about the procedures and activities of the regulatory agency's reach that were in question.

"Accordingly, our task as a reviewing court is not to assess the wisdom of the Open Internet Order regulations, but rather to determine whether the Commission has demonstrated that the regulations fall within the scope of its statutory grant of authority."

The Electronic Frontier Foundation (EFF)⁶⁹³ outlines that that there was documented history of "non-neutral, discriminatory practices that ISPs have actually deployed in recent years".

These include:

- Packet forgery: in 2007: Comcast was caught interfering with their customers' use of BitTorrent and other peer-to-peer file sharing;
- Discriminatory traffic shaping that prioritizes some protocols over others: a Canadian ISP slowed down all encrypted file transfers for five years;

- Prohibitions on tethering: the FCC fined Verizon for charging consumers for using their phone as a mobile hotspot;
- Overreaching clauses in ISP terms of service, such as prohibitions on sharing your home Wi-Fi network;
- Hindering innovation with "fast lane" discrimination that allows wireless customers without data plans to access certain sites but not the whole Internet;
- Hijacking and interference with DNS, search engines, HTTP transmission, and other basic Internet functionality to inject ads and raise revenue from affiliate marketing schemes, from companies like Paxfire, FairEagle, and others.

And EFF concludes that this brave new world will do serious harms.

“Individually and collectively, these practices pose a dire threat to the engine of innovation that has allowed hackers, startup companies, and kids in their college dorm rooms to make the Internet that we know and love today.”

And who is to blame about this? Many believe that the previous FCC Chairman, Julius Genachowski, was an empty suit and could have taken care of this during his watch. Some blame the government, some even blame sun spots. But many have no idea about the history of telecommunications; Net Neutrality is about telecommunications, it is not about the Internet only.

If you’ve read the previous few hundred pages and look at the timeline of events, it should be clear that the Open Internet Order in late 2010 was simply a band-aid, an afterthought, and it backfired on the FCC and on the Internet enthusiasts who bought the telco hype along the way.

By 2005, five years earlier, the FCC under Powell had killed off most competition and closed the wires coming into the home. 7000 small ISPs had been put out of business, mostly by the FCC, who had decided to not enforce the laws, and then smacked them by removing their rights to use the networks for DSL or Internet

service. These harms were also inflicted on hundreds of CLECs, including the two largest, AT&T and MCI, who were restricted from competing for local service and then being put up for sale.

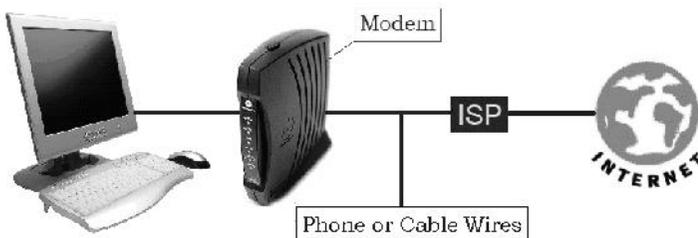
Whatever the perceived issues, the fact of the matter is Net Neutrality issues became a serious concern because customers not longer had choices of actual competition over the incumbent wires — cable, phone or wireless networks. And the FCC's action had allowed the companies affiliates to collude and block other competitors by 'vertical integration' of all of the products and services — i.e., the customer is forced to buy the broadband and cable service from one provider, and they can't choose their own service providers for Internet or cable, using the wire coming into your home.

The Internet Is Not the Wire.

But there is another problem with Net Neutrality and that is the lack of education and understanding of the public, even counting those in the various related communications industries, and it is worth noting just how out of whack common knowledge can be.

EXHIBIT 107

A Diagram of the Connection to the Internet



Repeat after me:

- The Internet is not the wire. — The wire in homes and offices or even the air waves is not the Internet, which is a service that rides over the wireline or

wireless communications infrastructure. When you go to the World Wide Web, the Internet service provider makes the connection between the communications networks and the Internet networks.

- The Internet is not broadband — which is the speed and capacity of the wireline or wireless network and had been a telecommunication service for decades.
- The Internet modem (or cable modem) — is the device that makes the connection between the wired networks and the Internet.
- A ‘wireless router’ — in your home that attaches to either the cable or phone company wired networks is not a “wireless service” but a wired service.
- The wireless phone — has the same component parts where the computer and modem are in the phone and the wireless phone’s signal goes to a wire, as hot spot or a cell sites are usually attached to a wireline special access (sometimes called “backhaul”) service.
- The wire was ‘common carriage’ — (sometimes Title II) which was defined as a ‘telecommunication’ service and allowed other companies to use the wire.
- ‘Common carriage’ is like a city street — no tolls to pay, no one blocking your travel and all vehicles and pedestrians are treated the same.
- The FCC instead classified the broadband part and the Internet Service Provider part as one thing — the Internet, also called an ‘Information Service’.
- The FCC’s decision to combine the wire (broadband) and the ISP portion together is what caused Net Neutrality issues.

- The reason the ‘incumbents’ are considered the ‘ISP’ is because they can combine the wire, the broadband service and the connection to the Internet — and force everyone to use their combination of services.
- Net Neutrality — then is caused when the ISP can control your service. If there were choices, you could simply take your business somewhere else — i.e., replace the ISP, on the same wire.
- The Internet enthusiasts want to deal with the ‘Internet’ part of this equation, which is where the services are delivered.
- The ‘Bellheads’ want to deal with the issue by bringing in competition and opening the wires.
- The ‘reclassification’ discussion, — then, would return the wires to ‘Title II’, a telecommunications service and separate the Internet and broadband services classifications, as was the case for decades before.
- In this model, ‘Free the Internet’, and ‘Don’t regulate the Internet’, now means removing regulations on the entire wire — or more importantly removing the requirements of the phone and cable companies as most consumer only choice for voice, video and data services.

In conclusion, this fight is just starting and regardless of anything else, the sheep have woken up and combined with other news events, like the NSA phone tapping, or the anger over raising rates and diminishing choice and customer service issues, people are more aware that there is an underbelly to these issues. I’ll discuss solutions by the end of the book.

Chapter 45 Fast Lane, Slow Lane, No Lane, End Game in Telecommunications.

As of this writing, with over a million electronic comments⁶⁹⁴ filed at the FCC in the Open Internet proceeding, it is now clear that Net Neutrality (NN) has captured the attention of the tech savvy, activists, and the FCC. But, what is not clear to most is that Net Neutrality is simply a feign — it covers over the underlying problems of communications in America.

NN doesn't have anything to do with getting America upgraded or more importantly, stopping the "No Lane"— the end game if AT&T, Verizon, Comcast and Time Warner continue on their path. These companies are the incumbent wireline and cable companies that control most of the wired infrastructure in the US — and that also means that they control all wireless infrastructure, which must be connected to the wired infrastructure. Control of the wires also gives them control over all services, including competitor services that sometime have data caps so once those caps are exceeded the consumer must pay more for those services along with the throttling of certain services, but more importantly it gives them the ability to control who gets their infrastructure upgraded and who doesn't, or who will be 'shut off' and end up in a 'Digital Dead Zone'.

Let's recap some of the issues we discussed.

The "No Lane".

- Verizon and AT&T have announced that they will be 'shutting off the copper'; in upgraded areas they will force customers to move to the upgraded service, which can be more expensive or be 'shut off'; in areas that are not upgraded, customers will have to 'migrate' to their wireless service.
- AT&T's proposed IP transition trial plan⁶⁹⁵ for the Carbon Hill, Alabama test site is to shut off 60% of the working phone lines and offer customers a wireless-only substitution, as opposed to upgrading these areas to U-Verse.

- Verizon New York⁶⁹⁶ has stated it will only upgrade areas with FiOS where there are existing cable franchise commitments, leaving 80% of the State's municipalities on the old copper.

Rural areas? Who cares? AT&T's VIP plan (which was designed to help push through AT&T's IP transition plan and the proposed AT&T-Direct TV merger), admitted that it was not going to upgrade most customers for cable competition.

But the reality is — AT&T, with all of its hype about U-Verse, as of second quarter 2014, had only 5.8 million premises with U-Verse video in their 22 states.⁶⁹⁷ According to AT&T, the current 'pick up' rate was only 20%, so AT&T's U-Verse covers 29 million premises out of 76 million or about 38% of their territories with upgraded services.

And Verizon's second quarter 2014 results showed that the company only had 5.4 million FiOS TV users.

This means that between the two largest phone company incumbents, about 11.2 million out of 120 million households have competition today from AT&T and Verizon, less than 10% of households.

But it gets worse because these numbers are for 'premises', meaning households and businesses, so the number of households is even lower.⁶⁹⁸

Meanwhile, Verizon plans to 'harvest' customers — i.e., raise rates and replace the copper with more expensive (and less capable) wireless, like VoiceLink — the same 2G-styled wireless service that can't do basic data applications and that caused a revolt on Fire Island, New York.⁶⁹⁹

At a recent investor meeting, a Citi Investment Researcher asked Fran Shammo, Verizon's CFO, about "the homes where you don't have FiOS. I think it's... maybe roughly 8 million homes."⁷⁰⁰

Fran Shammo responded:⁷⁰¹ VoiceLink and 'harvesting' is the plan.

"Outside of the FiOS footprint obviously, really we are taking two measures there. One is the Wireless portfolio and replacing some of that that old voice legacy copper voice with our LTE voice

product that Wireless has been selling across the nation for almost two years now called Home Phone Connect. Within Wireline, they have a very similar product called VoiceLink which in essence is the same thing.

“So we will try to replace that copper legacy with those technologies. But look, I mean, outside, this is kind of where you say it’s you have to nurture it and harvest what you have and we know that we are not going to be able to compete with speed in that environment and we will continue to do the best we can.”

There have been complaints nationwide about the shutting off of the networks in this forced migration.⁷⁰²

“Public Knowledge, TURN, National Association of State Utility Consumer Advocates, NASUCA et al write to the Federal Communications Commission today to express concern about reports that have surfaced across the country indicating carriers are forcing customers off of traditional copper-based phone service. Complaints often state that customers are being involuntarily moved to fiber or IP-based service (or some combination thereof), even if those new technologies fail to serve all of the user’s needs or will be more expensive. Denying basic phone service to people who have relied on the network for decades violates the network compact that has successfully guided our communications policy for one hundred years.”

In short, the real issue isn’t simply about Net Neutrality issues, but about being able to even get competitive broadband, Internet, phone and cable services at reasonable prices. Net Neutrality doesn’t fix price gouging and “harvesting”, or a lack of cable competition, or making sure that your basic phone service gets repaired if the wire is damaged during a storm or other natural and man made disasters.

And right now the entire US is a battleground as whole areas of the America are being ‘shut off’ or migrated’ — with or without their consent.

Starting in April, 2014, Verizon started a stealth plan⁷⁰³ to shut off the copper in areas where the company has laid FiOS. It is doing this using a ‘below-the-radar’ procedure called “Section 251”, where the FCC simply rubber stamps Verizon’s application — no proper notice or hearings. And as we uncovered, in the Rockaways, New York City, (an area that covers a population of 50,000), Verizon appears to have refused to fix the copper after Super Storm Sandy, even though it was an emergency, and left thousands waiting over 5 months to put in fiber.

This Is Not to Say that Net Neutrality’s Principles and Goals Aren’t Important.

All of the Net Neutrality issues are important and need to be dealt with. Reddit’s⁷⁰⁴ list from their Open Internet filing includes:

- Ban blocking;
- Ban technical discrimination;
- Ban paid prioritization;
- Ban discriminatory exemptions to bandwidth caps;
- Mandate ISP transparency; and
- Apply both to fixed and mobile access pipes to the Internet; and
- Ensure that last-mile interconnection is not used to get around the above rules. As a technology company, we favor good solutions. While some of these solutions may be politically difficult, failing to adopt them will be fatal to the wider Internet economy and an existential threat to our company.

Net Neutrality Doesn’t Give You a Choice of ISPs.

NN may stop your Internet service from a ‘slow’ lane problem, but it doesn’t open the networks to direct competition. Today you can’t choose a competitive Internet Service Provider — ISP on the cable or telco wires, much less a different cable provider, since

their infrastructure is not required by regulation to provide Open Access to unaffiliated, competitive service providers.

The i2Coalition's⁷⁰⁵ FCC comments points to the difference of an 'Open Internet' and what they call 'Open Access'. They write:⁷⁰⁶

"Net Neutrality is not Open Access. Indeed, Tim Wu, who is credited with crafting the Net Neutrality concept, took great pains to distinguish Net Neutrality from Open Access in his original paper that introduced the topic.

"Open Access is about opening essential infrastructure to competition. Net Neutrality accepts that there is no Open Access, and regulates Internet access rather than the essential facilities."

And America can not really be free if there is no choice of an entrance ramp to the Internet. Ironically, in the 1990's, the Telecommunications Act of 1996 was established to open up this 'last mile' or some call it 'first hundred feet' so that customers had a choice of ISPs. And competition drove innovation and Internet growth by expanding the number of independent ISPs and Competitive Local Exchange Carriers (CLECs).

Net Neutrality was caused, in a large part, because now AT&T and Verizon got the government (the FCC) to protect their monopolies over the wire, all the time claiming they were doing it for competition.

Bottom line — if you had a choice of ISPs and broadband providers, then if your ISP blocks or degrades your service, you could simply choose another company that doesn't.

Net Neutrality Doesn't Stop the Mergers

Time Warner and Comcast are now in the midst of attempting to merge.⁷⁰⁷ Allowing the two largest cable providers to get larger without direct competition is ridiculous. Worse, both companies have a marketing deal with Verizon Wireless. In the Verizon

territories, not only is Verizon not building out their networks, but in the areas they don't upgrade they have a de-facto 'do-not-compete' agreement where they bundle Verizon Wireless with the cable triple play. This non-compete deal is known as "Parallel Conduct", as Susan Crawford has explained.

"These companies don't have to agree in writing to carry this out or even raise their prices; they can simply, within their separate geographic and product territories, bundle and tie their services, buy up inputs that a competitor might need, and refuse to connect to competitors — among many other potential tactics. It's in their interest for these local monopolists to cooperate, because any defection would make the whole system crumble."

What Crawford is describing is parallel conduct, which is when companies that would otherwise compete create a monopoly-like setting without having to merge or coordinate operations.

Meanwhile, Time Warner and Comcast had signed agreements with the FCC called the "Social Contract",⁷⁰⁸ which required the companies to wire schools in their area (for free) for broadband Internet service; customers were charged up to \$5.00 a month, starting in 1996, which was supposed to terminate in the year 2000, but we can find no proof that the companies stopped adding this extra charge to cable bills nor wired the schools.

Moreover, AT&T has proposed a merger with Direct TV. First, it eliminates Direct TV from competing with AT&T in its 22 states for cable and broadband. But there is a subplot — AT&T claims that it will expand their "VIP" offerings which we mentioned, and even start new fiber-to-the-home developments. History shows that it is simply another promise-them-anything smokescreen. In AT&T's merger with BellSouth,⁷⁰⁹ it claimed it would have 100% of their territories covered with broadband (at least 200Kbps in 1 direction), but the current AT&T plans claims that the company needs the merger and the IP transition because it can't supply broadband to 25% of their territories today with wired service... and their IP trials shows holes in broadband coverage today.

Net Neutrality Doesn't Fix Speed or Customer Service Issues.

Net Neutrality doesn't fix the fact America is 27th in the world in broadband speed, or 32nd in cost per megabit, according to the on Ookla Speedtest as of August 9th, 2014,⁷¹⁰ which is "Based on millions of recent test results from Ookla Speedtest, this index compares and ranks consumer download speeds around the globe." And we are 32nd in "the median monthly cost in US dollars per megabit per second".

Nor does it fix that Comcast and Time Warner are two of the "most hated companies in America".

"Comcast and Time Warner Cable are the two most hated companies in America according to the American Customer Satisfaction Index... Comcast and TWC have the lowest customer satisfaction ratings of any ISPs in the United States."⁷¹¹

It Doesn't Stop the Attack of IP-Jujitsu and ALEC.

Working as a 'trust', there is a massive coordinated plan by these companies, which includes large skunkworks networks that create major campaigns with co-opted non-profits, coin-operated think tanks and the creation of telco-based-'model' legislation through a group called ALEC, the American Legislative Exchange Council,⁷¹² where Verizon and AT&T work together, and with politicians, most of whom are campaign-financed by these companies, roll out legislation to erase the companies' regulations and obligations or block municipalities from building out their networks where the incumbents have failed to deliver.

And it is clear we are under attack.

"Telecommunications Legislation 2014: Completing the Process",⁷¹³ is the title of the new NRRI report, published July 2014, and it should alert the reader for the need of some immediate actions. It outlines that the deregulation bill that reclassifies telecom regulations into an "internet" service with no regulations has swept through

America —including removing or reducing the obligation to offer phone service, ‘carrier of last resort’.

As discussed, this ‘verbal jujitsu’ — While AT&T and Verizon keep claiming that they want to ‘keep the Internet free of regulation’, the true intent is the opposite —

The companies want to keep the regulation off our business. This play on words and meanings has fooled most of the state regulators, (unless you think that the companies’ funding of key state legislators is simply a coincidence.)

“Deregulation of retail wireline telecommunications continued to be a focus for state regulators and legislators during the 2014 legislative sessions. By the end of 2013, 30 states had reduced or eliminated retail telecommunications regulation. Two additional states, Colorado and Iowa, were added to the map in 2014, bringing that total to 32. Bills pending in another four states (Massachusetts, Pennsylvania, New York, and Oklahoma) could increase that number to 36, covering nearly 75% of the country.

“During 2014, legislators continued to focus on leveling the playing field between the Incumbent Local Exchange Carriers (ILECs) and their competitors by proposing bills that would eliminate or significantly reduce carrier of last resort obligations (COLR), reduce or eliminate the state commission’s authority to resolve customer complaints for both wireline and IP-enabled services, and eliminate oversight of IP-enabled services.

“By the end of 2013, 15 states had eliminated or significantly reduced COLR obligations. By the middle of 2014, bills in Colorado and Michigan increased that total to 17, with additional legislation still pending in Pennsylvania and Massachusetts.”

A Litany of Other Issues

I assume the reader has their own list of issues, but a few to add:

- There is a total lack of audits of the companies' cross-subsidies. Worse, much of the data that is being used by the FCC and state regulators are deceptive or manipulated to the point that it reinforces the bad public policies.
- Verizon's state-based financials revealed major accounting issues dealing with the affiliate companies and the state-based utility networks.

In short, Net Neutrality won't get America where we need to go or fix the major problems in the US.

Chapter 46 Verizon's FiOS is Based on a Title II, Common Carriage, Telecommunications Network

Talk about a surprise ending... During the creation of this book, we uncovered a series of startling new facts, based on unexamined, but public documents, and these are key pillars in reversing the harms and issues we just outlined.

First and foremost — Verizon's entire FTTP, Fiber-To-The-Premises networks are all based on "Title II"— as opposed to 'Title I', an information service.

From the Verizon NJ's FiOS cable TV franchise agreement,⁷¹⁴ renewed in 2014.

"Verizon NJ has been upgrading its telecommunications facilities in large portions of its telecommunications service territory so that cable television services may be provided over these facilities. This upgrade consists of deploying fiber optic facilities directly to the subscriber premises. The construction of Verizon NJ's fiber-to-the-premises FTTP network (the FTTP network) is being performed under the authority of Title II of the Communications Act of 1934 and under the appropriate state telecommunications authority granted to Verizon NJ by the Board and under chapters 3 and 17 of the Department of Public Utilities Act of 1948. The FTTP network uses fiber optic cable and optical electronics to directly link homes to the Verizon NJ networks.

"Pursuant to the NJSA 45:5A-15, telecommunication service providers currently authorized to provide service in New Jersey do not require approval to upgrade their facilities for the provision of cable television service.

"As such any construction being performed in the public rights of way is being undertaken pursuant to Verizon NJ authority as a telecommunication service provider."

You can't make this kind of stuff up. Of course this is seriously problematic.

On May 13th, 2014, a letter signed by Verizon, AT&T, Time Warner, and Comcast, among other phone and cable companies, claims that 'reclassifying' the networks as Title II would stop investment and slow the development of broadband networks.⁷¹⁵

"Not only is it questionable that the Commission could defensibly reclassify broadband service under Title II, but also such an action would greatly distort the future development of, and investment in, tomorrow's broadband networks and services. America's economic future, as envisioned by President Obama and congressional leaders on both sides of the aisle, critically depends on continued investment and innovation in our broadband infrastructure and app economy to drive improvements in health care, education and energy. Under Title II, new service offerings, options, and features would be delayed or altogether foregone. Consumers would face less choice, and a less adaptive and responsive Internet."

And yet, Verizon's FiOS is based entirely on this Fiber-to-the-Premises (FTTP), Title II classification today as it appears in most, if not all of the Verizon FiOS cable franchises. In fact, we found in a 2007 Verizon application for a District of Columbia (DC) franchise, Verizon had already obtained franchises in 835 different locations in 12 states, and in the application Verizon again repeats that the DC deployment is a Title II service.

District of Columbia, Verizon Cable Franchise Application, 2007⁷¹⁶

As of August 3, 2007, affiliates of VZ DC hold cable television franchises (both local and state issued) covering 835 jurisdictions in areas of Texas, Indiana, Virginia, Maryland, Florida, California, Pennsylvania, New York, New Jersey, Delaware and Massachusetts, Oregon, and Rhode Island. As of the end of June, 2007, FIOS TV service was available to more than 3.9 million premises in 12 of the states where the Fiber to the Premises (FTTP) network is being constructed: California, Delaware, Florida, Indiana, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Texas and Virginia. 515,000 customers subscribed to FIOS TV as of the end of June 2007.

Verizon affiliates currently hold cable franchise agreements in the following local franchising authorities in the State of Maryland: Howard County, Montgomery County, Barnesville Town, Brookeville Town, Chevy Chase Town, Chevy Chase Section 5 Village, Chevy Chase Section 3 Village, Chevy Chase View Town, Garrett Park Town, Glen Echo Town, Kensington Town, Laytonsville Town, Martin's Additions Village, North Chevy Chase Village, Poolesville Town, Somerset Town, Takoma Park City, Washington Grove Town, Prince Georges County, Berwyn Heights, Bladensburg, Brentwood, Cheverly, College Park, Colmar Manor, Cottage City, District Heights, Edmonston, Glenarden, Greenbelt, Hyattsville, Landover Hills, Morningside, Mt. Rainier, New Carrollton, North Brentwood, Riverdale Park, Seat Pleasant, University Park, Upper Marlboro, City of Bowie, City of Laurel, Anne Arundel County, City of Annapolis, Baltimore County, Anne Arundel County, City of Annapolis, Baltimore County and Highland Beach.

Verizon affiliates currently hold cable franchise agreements in the following local franchising authorities in the Commonwealth of Virginia: Arlington County, Fairfax County, Town of Vienna, Town of Herndon, City of Falls Church, City of Fairfax, Town of Clifton, Prince William County, Town of Dumfries, Loudoun County, Town of Leesburg, Spotsylvania County, City of Fredericksburg, Henrico County, Chesterfield County, City of Richmond, City of Virginia Beach and City of Newport News.

Verizon currently provides cable service in Montgomery County, Maryland; the cable franchise agreement was effective as of November 28, 2006 and Verizon initiated cable service in the County on December 5, 2006. Verizon also provides cable service in Fairfax County, Virginia; the cable franchise agreement was effective as of October 1, 2005 and Verizon initiated cable service in the County on November 25, 2005. In both counties, Verizon began the construction of its Title II FTTP network in late 2004. Therefore, Verizon was able to initiate cable service to some residents soon after the execution of a cable franchise agreement.

And the language of this agreement was the FTTP is Title II in DC.

The proposed cable service will be provided over VZ DC's FTTP network, an extension and enhancement of the existing telecommunications network. A general description of the construction of the FTTP network is provided in Attachment 4.

VZ DC will install its FTTP network as a common carrier pursuant to Title II of the Communications Act of 1934, as amended, in accordance with its authority under DC and Federal law. Accordingly, VZ DC is not seeking authority through this Application to construct the FTTP network, but rather is seeking a franchise to use the FTTP network, once installed, to provide cable services in the District.

Reclassifying Broadband as Title II

In May, 2014, MSNBC writes that a possible solution to Net Neutrality — commonly known as an 'Open Internet', is to reclassify broadband as a "Title II" service, which was changed by the FCC to an 'information' service, commonly known as "Title I".⁷¹⁷

"Net neutrality advocates believe that their preferred solution is simple -- simply reclassify broadband services as 'common carriers', which, loosely defined, are services that are legally bound to cater to all, without discrimination, upon reasonable demand. Common carriage is a subtle but crucial pillar of the modern economy; it applies to anything from taxicabs to telephones. The 1934 Telecommunications Act gave the FCC broad powers to regulate telephone companies as common carriers. In 2002, however, the FCC categorized broadband services as 'information services', a category created in 1996 with fewer limitations."

“Title Shopping” Exposed: Never Told the Court, the FCC or the Public that FiOS is Based on Title II.

“Title Shopping⁷¹⁸ is the use of different regulatory classifications for the same product or service in different local, state and federal regulatory or legal proceedings. It is designed to maximize the ‘regulatory’ benefits that would not be available if only one classification was applied.”

Meanwhile, at the FCC and in the courts, Verizon has claimed over and over again that the company and America will be harmed if the FCC ‘reclassifies’ broadband as a ‘Title II’ service using “telephone era utility regulation”. Verizon even sued the FCC to block the Open Internet Order, commonly referred to as “Net Neutrality”.

Verizon Comments, Open Internet Remand Proceeding,⁷¹⁹ May 14, 2014

“Rotary Telephone-Era Utility Regulation Is Not the Answer. In contrast to an approach that encourages innovation and investment in all parts of the Internet ecosystem, some now propose that the Commission “reclassify” Internet access service and apply 1930’s

utility regulation to these services. Similarly, others, including Mozilla, would conjure up new “transport” services out of Internet access services and subject this newly discovered “service” to Title II utility-style regulation, thus having the same effect. Any such approach is unnecessary to protect the openness of the Internet and would be harmful and counterproductive to the Commission’s goals.

“In the case of broadband Internet services, in contrast, policymakers’ longstanding approach has relied – with stunning success – on flexibility and competition to spur innovation and investment, rather than a central-planning model of utility regulation with the opposite effects. This fundamental difference has informed how broadband Internet providers have developed their networks, services, and basic business models and has prompted hundreds of billions of dollars of investment in wireline and wireless broadband infrastructure...

“Any proposal now to reclassify broadband Internet access or some new “transport” component of Internet access as subject to utility regulation would therefore undermine innovation, destabilize current investments and cast a cloud of regulatory uncertainty that would deter these heavy and much needed investments. The Commission itself foresaw these risks nearly a decade ago when it argued before the Supreme Court that common carriage regulation likely would “discourage investment in facilities” and spur broadband providers to “raise their prices and postpone or forego plans to deploy new broadband infrastructure.”

Yet, in almost every state law and in every Verizon local and state-based cable franchise, Verizon’s FiOS uses a FTTP, Fiber-to-the-Premises, network which is classified as a “Title II”, telecommunications, common carriage service.

And the more we dug, it was obvious that Verizon failed to tell the FCC that Title II was an essential classification for its entire fiber optic deployment. After going through thousands of pages of Verizon's statements, filings at the FCC, and court documents, even listening to the oral arguments made by their lawyers, we can not find one place where Verizon told the regulators or the courts that Verizon's entire wireline FiOS deployment in every state is based on Title II.

Was Verizon required to make this essential fact known to the court or to the FCC?

Verizon NY Uses Title II for the FTTP Network to Charge Basic Phone Customers

Truth is that while Verizon et al claim that Net Neutrality and reclassifying broadband will harm investment, Verizon's uses "Title II" as a cash machine. In just New York State, Verizon NY was able to charge regular phone customers approx \$4 billion in extra basic phone charges from 2006-2013 for 'massive deployment of fiber optics' because the fiber optic wires are "Title II".⁷²⁰

Title Tales

And let us be clear that the practice is the current modus operandi of Verizon's business and regulatory activities. We won't dwell on how we ended up with this 'Battle of the Titles', but it is clear that exposing the implications of Title Shopping could change the direction of communications policy in the US.

- **Title I at the FCC:** At the FCC and in the courts, Verizon has claimed that FiOS (and the fiber networks) are Title I, an 'information' service. This allowed Verizon to close the fiber optic networks to competitors, including other ISPs, (Internet Service Providers), and CLECs, (Competitive Local Exchange Companies), and even competitive cable providers as an 'information service' has no requirement for wholesale services, since network unbundling or "Open Access" for cable system was not required by

the '96 Telecom Act as it was for the Telcos. This has also allowed for the vertical integration of all of the Verizon products, which created Net Neutrality concerns, as it creates a bottleneck for unaffiliated services; the controller of the wires gives their own affiliate companies control over multiple lines of business and each affiliate gets advantages from the 'utility' networks.

- In **New York State**, Verizon claims FiOS's FTTP, Fiber to-the-Premises, is **Title II**, a telecommunications service, and using this title, the State granted multiple rate increases on POTS, Plain Old Telephone Service, residential customers for the 'massive investment in fiber optics'.
- **In city and state-wide cable franchises** around the US, Verizon uses Title II to get the rights-of-way to provide their 'cable service', and **'Title VI'**, without having to go through a cable franchise process, as well as gets all of the perks — like passing through the cable franchise fees to customers.

But this is much more damaging and pervasive as all of Verizon's affiliate companies are taking advantage of "Title Shopping".

- **Verizon Wireless**, Title III, appears to be able to have the 'fiber-to-the-cell-towers' expenses dumped into the state utility as a Title II service.
- **Verizon's 'special access'** services are classified as Title II, so that local service customers pay a disproportionate amount of the expenses for the network costs.
- **Transfer of Assets:** Verizon has been dismantling the state-utility networks by using Title II to dump construction expenses into the utility, while the revenues and profits from the affiliates (and assets) goes into a non-regulated area that is 'Title I'.
- **Private vs Utility:** Verizon and AT&T claim these Title I areas are private property for personal use, but they may be confiscating 'utility assets' — funded through excess charges from local phone customers.

As of this writing, no regulator at any level of government has noticed or taken any affirmative actions to stop this practice, but there are serious legal issues to all of this — and many harmful consequences. For example, if Verizon claims the FTTP upgrades are for FIOS and are Title I, they would have serious legal problems as it is not legal to cross-subsidize local rates with an information or cable service in New York State. Or if the networks are really ‘Title II’, then Verizon has gamed the FCC and the courts’ decision making process on almost every aspect of communications, from Net Neutrality, or blocking competitors, to allowing Verizon to charge customers for Title II networks.

Part X Time to Fix Communications & Do Something.**Chapter 47 Aunt Ethel's Revenge: Break Up AT&T and Verizon...
Again.**

Everyone likes and needs a happy ending... and I won't let you down.

In 1992, I stood up at the National Press Club and suggested "Divestiture II". Using volumes of books filled with data and floppy disks loaded with spreadsheets, my analysis (and my previous decade of consulting and research) convinced me that the incumbent phone companies were never going to provide Open Access to their networks for direct competition and those who controlled the wires as well as the price of access services would always be able to block those pesky companies that wanted to compete.

In 1996, with the Telecom Act freshly minted, I thought there'd be a chance to fix the monopoly controls of the wire, but as I wrote, it was all a mirage, simply an 'awakenings', that like the flowers of spring and summer, start on their decay by Labor Day. It became abundantly clear that by 2001, the Act would not complete what was needed and the actions of the 'co-opted' FCC by 2000 would maim or kill any competitive forces. AT&T and MCI, the two largest competitors we put for sale by 2004, and the term ISP came to be known as incumbent phone and cable companies, not one of the thousands of small independent companies and their jobs that came to exist with the creation of the Act.

In 1984, America had the first Divestiture — which separated AT&T from the wires and brought in long distance competition, but left 'the last mile bottleneck'.

And working with Probe Research in 1993, we proposed not only separating the phone companies from the wires — Divestiture II — but that the utilities should be upgraded to Universal Fiber to the Home (FTTH). Everyone who had a copper wire would have it replaced. Yes, that simple. And it would be lightning fast, and open to all competition, from cable, phone, Internet, video, transactional services, or alarm

monitoring. (Note: I later learned that Eli Noam, of Columbia University's CITI program had used the term Divestiture II years before.)

It's now 2014 and all I've got to add is — "I told ya so".

There have been others who suggested similar plans. In July 1997, Dr. Robert Metcalfe, who co-invented Ethernet (networking of computers and communications), put forth the "Coppertone" plan to take the next steps to divest the phone companies from control over the wires. (And considering the majority of the US is still using copper 17 years later...)

"It's time to take matters into hand and sue the telcos for unfair practices. This week, let's sue the telopolies for Coppertone. Two weeks ago, on behalf of small businesses, schools, libraries, and homes, we began asking for low-end packet access to the Internet. And kilobit dial tone from our telephone monopolies will not nearly suffice. We need unbundled megabit Coppertone.

"Think of a Coppertone decision as another divestiture step in the long process of telco demonopolization. Let's break up the telopolies further, spinning off their Coppertone rather than continuing to let them form anti-competitive recombinations. A Coppertone divestiture would allow old and new telephone companies, television companies, and ISPs to have competitive access to our nation's old-fashioned, but enormous, copper-wiring infrastructure."⁷²¹

And in 2013, Susan Crawford, former White House Internet Advisor and law professor, in her book "*Captive Audience*", outlines the case that America should be heading back to a utility model.

“America needs reliable, symmetrical, gigabit level connections to residence and business sufficient to support three of four video streams... To do this, though, America needs to move to a utility model.”⁷²²

There have been a host of others who have called for structural changes. As mentioned previously, AT&T attempted to get state and federal laws to enact ‘structural separation’ legislation to put a wall between the companies’ retail and wholesale businesses.

And others, such as telecom expert Fred Goldstein of Interisle Consulting, called the plan “LoopCo”, where another company runs the local phone wires which are opened to competition.

Simply put, it’s time to finish the job. Unfortunately, there are not a lot of other choices. In 2014, we are at the end game and are losing. During the closing of this book, we had the FCC’s Open Internet Order shut down, and Comcast and Time Warner want to get even larger. And the FCC OK’ed AT&T’s IP transition plans to do a ‘test’, but it’s simply a ruse as they are planning on shutting off about 25% of customers and force them onto wireless. Netflix is being extorted by the phone and cable companies who been allowed to ‘vertically integrate’, meaning have their own services have monopoly control of their wires. And all of this is tied to the ‘secret’ special access networks that control the costs of services to competitors, as well as the ultimate costs to customers.

We have the fact that Verizon has stopped expanding wireline upgrades, due to its ‘parallel conduct’ arrangements with the Cablecos, and is planning on shutting off the copper wires and force-migrate customers onto more expensive wireless, while AT&T’s U-Verse is not going to reach 50% of premises wired for cable TV competition and it, too, is planning on shutting off about 50% of their territories... And let us not forget that U-Verse is a copper-to-the-home service than will never hit gigabit speeds, much less 100 Mbps, and AT&T controls 22 states, and over ½ the US population.

In short, the game is rigged, but not in the Public’s favor. The companies have too much money and political and media clout, and they have been able to have

their affiliate companies, wireline and wireless, not to mention broadband, Internet and phone, collude in a myriad of ways.

But the truth is — Verizon, Centurylink and AT&T are working primarily for their shareholders, their investors, and not the Public. And the ‘filters’ for their actions are:

- Always get rid of regulations, obligations and oversight
- Always charge more on all services.
- Say anything because you will never get held accountable
- If you’re caught, the other side doesn’t have the resources to fix it.
- Buy off everyone, because the mergers gave them a war chest.
- Cut expenses: The Unions’ members are an ‘expense item’, so is new construction.
- Pay no taxes: Verizon has manipulated the books to show losses in almost every local phone utility, and the losses are transferred to corporate to use.
- Always move to more profitable services, from wireline to wireless.

And their strategy worked — but with a cost. The American Customer Satisfaction Index’s (ACSI) study in 2013 found that "Internet Service Providers are now the Most Hated Companies in the U.S" and out of 50 industries that’s saying a lot. In 2014, the new survey found that Comcast and Time Warner lead the pack in the most hated companies in America.⁷²³

And, let us not forget, that they can say anything — so simply leaving everything as is means we lost. The companies are on a path to whittle away our rights, oversight and obligations, while they raise rates, and conspire to gain more controls on all services.

Chapter 48 A Plan to for an Open, Very Fast, Affordable Utility

Where to Start: There are too many issues and unanswered questions to simply get the government to ‘break em up’, here are a series of steps that we believe puts America on a path of an open, affordable, fiber optic broadband utility to everyone.

- **PART 1: Investigate and Acknowledge Verizon’s FiOS Is Based on “Title II”.**

Verizon’s FiOS is based on a FTTP, Fiber-To-The-Premises, Title II, common carriage, telecommunications service in almost all municipalities, cities and state-wide cable franchises. And yet, Verizon neglected to inform either the courts or the FCC of this fact.

Verizon used Title II to charge Local phone customers for the FTTP and other affiliate expenses like the wires to the cell towers for the wireless company or other the affiliate companies’ construction, including special access services.

Ironically, Verizon told the FCC and courts that Title II would ‘harm investment and innovation’, and yet it is a cash machine for Verizon.

More to the point, Verizon has been “Title Shopping”, which is the use of different regulatory classifications for the same product or service in different local, state and federal regulatory or legal proceedings. It is designed to maximize the ‘regulatory’ benefits that would not be available if only one classification was applied.

No Need to “Reclassify”: The State and Federal Regulatory Need to Acknowledge FiOS is Already Title II

There is no need to reclassify a network that is already Title II; the work has been done at least as far as Verizon and its Title II networks. The FCC and the States need to simply acknowledge this fact and use it as the start of the process.

- **PART II: Investigate the Role of Customers as Defacto Investors.**

Throughout the book one theme is clear — Customers have been and continue to be defacto investors, i.e., they are charged extra fees or the companies are granted tax benefits in the name of broadband or the wiring of schools.

The FCC has never investigated this issue at any time and in any report, such the required annual ‘advanced services’ reports. And major policy issues about ‘investments’ of the networks by the phone or cable companies continue to distort the facts— that customers are being charged extra for the deployment and upgrade of networks, or in most cases, being charged for services that were never rendered.

Worse, as we uncovered, it appears that Verizon’s other affiliate have been able to help to create rate increases that were based on expenses by the affiliates or the affiliate not paying their fair share.

What Happened in Your State? How Much Money Were Customers Charged in the Name of Broadband and for the Wiring of Schools?

- Each state should undertake a ‘broadband true-up’, an examination of the total monies paid by customers for commitments made in the state to upgrade the utility, the PSTN, starting when the State initiated an ‘alternative regulation’ plan. This should include all taxes, fees and surcharges as well.
- The FCC should immediately examine the role of the customer as investor and initiate a proceeding to make customers whole.
- The FCC should immediately start a proceeding to examine the USF payments over the last decade, as well as all taxes, fees and surcharges that are related to broadband, as well as all monies collected on the state basis.

Investigate Customers as “Defacto Investors” and “Title Shopping.”

The cross-referencing of the ‘Titles’, brings up a serious issue — Were local phone customers charged for non-local service ‘information services’ or cable service development and deployment of the FTTP networks?

If these networks are ruled to be NOT Title II, then New York State and every State where Verizon's telecommunications networks are required to be Title II in order to get the rights-of-way as well as charge customers for the upgrades to the Utility networks, needs to start immediate proceedings to examine whether customers are entitled to refunds.

Moreover, the FCC needs to examine the customer-funding issue and the use of Title II in the current 'Open Internet' proceeding where Verizon claims that Title II 'chills' investments, when over the last decade it has used Title II to be able to raise rates to pay for their FTTP broadband deployments.

- **PART III: The Affiliate Transactions and the State Based Utility Networks.**

The underlying problem:

“There is reason to believe that providers are cooking the books.”

All of this has a dark underbelly. As we've outlined, there are a host of questions about Verizon New York's book keeping or its ability to raise basic phone rates for 'massive deployment of fiber optics', which was to not only fund the FiOS FTTP networks, but also could have funded the wireless company's fiber-to-the-cell-towers, among other issues.

On July 1st, 2014, a newly formed group "Connect New York Coalition" filed a petition with the New York State Public Service Commission to investigate the telecommunications companies in New York State — including Verizon.⁷²⁴

Consisting of AARP, Consumer Union, Communications Workers of America, Common Cause, among others, the press release states that:⁷²⁵

“15 major consumer and labor organizations and a bi-partisan group of 69 elected officials announced today the formation of the Connect New York Coalition, a major new effort to reverse the

decline in telephone service and ensure high-quality advanced telecommunications services for all New Yorkers.”

Based, in part, on the PULP-New Networks Institute⁷²⁶ report and New NNI’s previous reports, the Petition stated:

“There is significant evidence challenging the notion that legacy systems are money losers, and evidence indicating that even if they are, the losses have been inflated by accounting techniques. There is reason to believe that providers are cooking the books. If true, the consumers of the state are being either manipulated or defrauded.

“The Commission allowed Verizon rate increases in 2006 and 2008 based, in significant part, upon the assumption that the revenue from the higher rates would lead Verizon to invest in fiber optic lines, presumably for the benefit of wireline customers. Serious questions exist regarding the extent to which funds may instead have been used to build out the network for the benefit of wireless customers. Publicly available reports, while fragmentary, suggest that Verizon may have included construction costs for significant benefit of its wireless affiliate to be included in the costs of the Verizon New York wireline company, thus adding to its costs and tax losses.”

The FCC and States Should Initiate Audits of the Affiliate Transaction Issues and the State Based Utility Networks.

While the Connect New York Coalition has started the request for an investigation in New York State, this needs to be done in every state, as well as at the FCC.

Municipalities — What have You been Waiting For?

Over the last decade we have found that the overwhelming majority of municipalities and cities are reticent to take on the incumbents much less build their own communications infrastructure. Many have conflicts of interest with government and elected officials as they have some ties to the incumbent or the incumbent spent money in the town. So many times they simply don't want to confront their only phone provider and continuously believed the hype, hoping that one day the company will change its mind.

While we discussed that there are municipalities who have run the gauntlet to push through a plan, usually the decision is to build new facilities instead of confronting those who control the wires in their towns.

The Connect New York Coalition could help kick-start this process if they make headway in starting the investigations.

- **PART IV Fix the Data**

In 2007 the FCC stopped collecting and making public the basic data that could be examined, from the information that was supplied in the ARMIS reports, to the Statistics of Common Carriers, which had been published starting in 1939. Along side this, most of the State commissions have also stopped collecting basic data, and in some states, the new state laws now block the commissions from collecting basic data.

And yet, the FCC has repeatedly told America its decisions are data-driven. Neither the FCC nor the States have basic data to quintessential questions like — How many total access lines are there in the US, including special access, data lines, etc.? The FCC's last data was from 2007 and it showed that the numbers being promulgated by the phone companies are only a subset of the total lines, and only count the 'switched' access lines, (sometimes called "POTS", Plain Old Telephone Service) which made up only 15% of the Total lines listed in the last FCC reports.

The phone companies use the POTS number intentionally so as to make it appear that everyone is going wireless and that the companies are losing more lines than they actually are.

But there are a host of other data that is simply corrupted or missing or is used to misrepresent. The FCC has no data on wireless-only households or businesses that includes all lines. The Center for Disease Control's (CDC's) numbers are only for residential voice calling. So, for example, everything from an alarm circuit to DSL or an ATM machine are not part of 'wireless only' accounting. Moreover, the FCC's broadband data is the laughing stock on discussion boards as it shows extensive competition where there is none or speeds that don't exist at the location listed.

The FCC, SEC and States Should Initiate the Return of the Basic Data at the FCC and in the States.

- The FCC should restart its ARMIS and Statistics of Common Carrier reports, by state, and audit the data collection process.
- The State commissions should use the New York State Commission as the model for minimum data collected.
- The SEC should investigate if the stopping of the SEC-filed state reports has harmed investors.

PART V Open the Networks to Direct Competition: Solve Net Neutrality

If the Verizon FTTP networks are already Title II, and if customers have been defacto investors to fund these networks, then the next step is to open them up to direct competition and fix Net Neutrality, as well as lower prices and drive new growth in upgrading and maintaining the networks in America.

Net Neutrality was a direct consequence of the FCC's actions under Powell to kill off some 7000 small independent ISPs as well as put America's two largest competitors, AT&T and MCI, up for sale. SBC bought AT&T (and renamed the entire company "at&t", with the small letters) while MCI was taken over by Verizon.

Powell specifically pointed to then-SBC and BellSouth's commitments to deploy 'Fiber to the home' and 100 Mbps services, and it was all a smoke screen.

Powell writes, October 2004:⁷²⁷

“In my separate statement to the *Triennial Review Order* and in countless other statements during my seven years at the Commission, I have emphasized that ‘broadband deployment is the most central communications policy objective of our day’. Today, we take another important step forward to realize this objective.... By removing unbundling obligations for fiber-based technologies, today’s decision holds great promise for consumers, the telecommunications sector and the American economy. The networks we are considering in this item offer speeds of up to 100 Mbps and exist largely where no provider has undertaken the expense and risk of pulling fiber all the way to a home.

“SBC has committed to serve 300,000 households with a FTTH network while BellSouth has deployed a deep fiber network to approximately 1 million homes. Other carriers are taking similar actions.”

Thus the open networks were closed, not through competition and market forces, but by the FCC believing the hype of what is now AT&T. Moreover, it is clear that Verizon made the decision to make its FiOS networks in municipalities and states be based on Title II to be able to get the public rights of way and charge customers for the construction of the networks, but keep the so-called Title I classification alive at the FCC. Opening the networks changes all of this as competition needs to rule, not the phone company’s ability to control the rules via government intervention.

As we pointed out, prices will continue to rise for all services as long as there are no market forces in play to lower rates or even upgrade the networks. And wireless is not a substitute for high speed wireline broadband or cable competition.

And to demonstrate just how far we have fallen, most 20-somethings don’t know that there used to be lots of competitive Internet and broadband providers that

used the incumbent utility networks. Worse, they think that the incumbent phone and cable companies are actually “ISPs”, and this is the way it has always been.

▪ **PART VI Separate the Affiliate Companies from the Wires**

Net Neutrality has become an issue because one company has control over the wire and they force customers to buy their own services, which all have financial cross-subsidies that give them major benefits over all other competitive products.

Even if the networks are open to competition, the affiliate companies have too many financial and marketing advantages that give them market power, not to mention favoritism with the incumbent’s other products.

And financially, the affiliates appear to be paying below market prices and only incremental costs –i.e., Verizon’s cable service didn’t pay for the building of the cable networks, but also only pays a fraction of what another company who wanted to use the lines for cable service would pay.

Considering it has been customers who funded Verizon’s FiOS FTTP networks, and not investors, and that customers may have been funding these other lines of business, it is time to dissolve the vertical integration of Verizon’s products that causes the bottleneck and is actually at the heart of “Net Neutrality”.

Structurally separating these affiliates from the use of the wires, where they are now separate entities without financial ties, is a step that we must take to move forward. We know from history that opening the networks but not putting constraints on the affiliates will kill any success of bringing competition back to the US markets.

PART VII Investigate the Time Warner and Comcast “Social Contract”.

Before any merger of Comcast and Time Warner occurs, assuming it should be permitted to actually occur, the FCC and the states, not to mention municipalities and cities should investigate what happened to the commitments and monies collected under the Social Contracts, signed with the FCC.

According to these agreements, Time Warner and Comcast were able to charge customers up to an additional \$5.00 a month, which was supposed to be used

for network upgrades as well as the wiring of schools and it was supposed to stop in 2000. However, we have never found any cable bills reduced \$5.00 a month nor has anyone tracked whether the schools were wired for broadband internet service, free of charge, and all internal wiring of school buildings at cost.

We estimate that from 1996 through 2013, cable customers paid approximately \$58 billion because of this Order. (Of this, \$42 billion of this was charged since 2000.) Without audits, it is impossible to tell the exact amount. On average, customers paid about \$60 a year and thus about \$830.00 from 2000 through 2014.

- Have the companies been collecting an extra \$5 per month per customer after the year 2000?
- Were the schools wired with free high speed broadband, internet cable modem service and the other work at costs?
- How many schools were wired and if the monies were being collected, did the companies do the work?

Moreover, Verizon Wireless has a marketing deal with Comcast and Time Warner to bundle the companies' wireless service with the cable triple play in areas that were not upgraded to FiOS, which creates a 'do-not-compete' or 'parallel conduct' zone for cable service. On top of this, it is clear that Verizon Wireless has a sweet-heart deal with Verizon wired, especially the 'special access networks', which are used by wireless competitors to handle their wireless calls.

In short, where is the competition to lower prices or bring choice to the market, much less customers being able to get a competing cable and broadband service?

- **PART VIII Separate the Wires from the Wireless Company.**
 - Why were the copper networks not maintained, much less not upgraded to fiber optics everywhere?

- Why is Verizon Wireless able to determine the fate of the wired utility networks?

During 2014, we uncovered that Verizon Wireless had been using the utility wired construction budgets for wireless construction, but moreover charging basic phone customers in at least New York State with multiple rate increases to fund “massive investment in fiber optics” and “losses”, which appear to be caused, in part, because of the additional expenses of Verizon Wireless and the other Verizon affiliate companies.

Fran Shammo, CFO⁷²⁸ stated that the wireline side of the business was paying for the wireless construction. We could find no affiliate transaction payments from Verizon Wireless to Verizon wired to pay for the work being done, etc.

"If you break the Company down today, the fact of the matter is Wireline capital -- and I won't get the number but it's pretty substantial -- is being spent on the Wireline side of the house to support the Wireless growth. So the IP backbone, the data transmission, fiber to the cell, that is all on the Wireline books but it's all being built for the Wireless Company."

On top of that, Fran Shammo outlined that Verizon is not going to be building out rural areas, but force customers onto inferior wireless services.⁷²⁹

"One is via the Wireless portfolio in replacing some of that old voice -- legacy copper voice with our LTE voice product that Wireless has been selling across the nation for almost two years now called Home Phone Connect. Within Wireline, they have a very similar product called Voice Link, which in essence is the same thing, so we will try to replace that copper legacy with those technologies."

And the goal is to continually raise rates, known as 'harvesting'.

“But, look, outside this is kind of where you say you will have to nurture it and harvest what you have. We know that we are not going to be able to compete with speed in that environment and we will continue to do the best we can.”

But there are many twists and turns – all that advantage Verizon:

- With the losses created, in part, by Verizon Wireless expenses and the other affiliate expenses, Verizon claimed hardship and was able to impose rate increases which also drove customers onto wireless services.
- Verizon’s plan, which is like and is part of AT&T’s plan, is to get rid of regulations so that they can force customers onto wireless, and shut off the copper – because wireless makes more money.
- But the kicker — even where Verizon shuts the copper, Verizon wired business still has the special access wires in use for the wireless networks.
- And worth repeating, Verizon Wireless has a deal with Time Warner and Comcast to bundle their wireless product in areas that Verizon wired isn’t going to upgrade.
- Verizon Wireless also has a sweetheart deal with the ‘secret’ special access business networks, (also called the ‘middle mile; and ‘backhaul’ networks.) Besides paying a fraction of what other competitors pays. Since these are near-monopoly networks in most of the US, Verizon wired make money on every wireless competitor call.

But, wireless services aren’t even close to be able to offer cable service much less compete on price because of its ‘bandwidth or data caps’ — which is a consequence of the wireless companies’ collusion with their wired ‘special access’ networks to keep the profits high, which are estimated to be 100% of costs.

Since the wireless and wireline divisions are working together and not competing, there is no scenario that ends well.

Conclusion: The Open, Fiber Optic Broadband Utility

Let's connect the dots.

1) How Do We Pay for Getting Everyone Wired?

Simple. As we just outlined, audits of the financials of Verizon New York demonstrated that entire system is rigged to help the companies other affiliate business.

FACTS:

- a) Verizon New York paid no income taxes for at least 5 years and claimed losses of over \$2 billion a year.

These were caused by:

- b) The affiliate companies dumping expenses into the utility
- c) Not paying their fair share for use of the networks.
- d) The wireless division is getting its own perks and financial advantages.

Customers were overcharged:

- e) Verizon used the 'massive deployment of fiber optics' and 'losses' to raise customer rates multiple times — which paid for the FTTP, fiber to the premises networks.

- **Step 1: Audit the telco's books** in every state and require the FCC to investigate
- **Step 2: Get refunds** for overcharging of POTS customers.
- **Step 3: Separating the companies and their affiliates is a must;** require they pay competitive market prices. — As we pointed out, Verizon's wireline companies are colluding with their wireless company to give their company an advantage over all other competitors. This has jacked up the price of all services in America, such as the hidden 'special access' wires that have an

estimated 100% profit margin. Moreover, there is no competition to lower the prices or create a level playing field.

- **Step 4: Return all assets that are were created via customer funding** and/or are classified as “Title II”,
- **Step 5: Separate the Wireless Company from the Wireline Company Immediately** — It is clear that if we are going to have real competition in the US, the incumbent wireless companies can’t also have a sweet-heart deal with their own wired companies. This would mean that the Wireless company pays what other competitors have to pay for use of the wireline networks.
- **Step 6: Return to the Utility and Open the Wires for All Competitors** — Once the affiliates are removed, the last step is to separate the company from the wires and return the wires to a utility that is regulated and that serves the public. And the municipalities and counties could take the companies to task, but it should be done on the state level, as most municipalities and counties are not going to deal with these issues or go it alone.

Isn’t this a “Takings” of the Phone Company’s Property?

Answer: It is a "takings" – they took from us, the customers.

- a) **Over and over**, customers and competitors have ended up always as the loser. There has been virtually no enforcement of contracts or commitments, and they have been able to get ‘excess’ charges and ‘excess profits’ and excess’ tax breaks’ from their own ‘misrepresentation’.
- b) **We Owe Them Nothing.** America’s phone customers have paid about \$400 billion for fiber optic services they never received, not to mention other harms including the \$155 billion in excessive cable rates because they didn’t come in and compete, or the estimated \$7 trillion in lost economic and

employment growth – growth that the companies claimed would accrue through their ‘commitments’.

- c) **We paid 9 times or more for the wiring of schools and libraries.** How many times are we going to pay for this? Moreover, the schools were not able to fulfill their mandate in 21st Century Education as the kids didn’t have connectivity, technology and tools at the schools or the broadband connectivity at home, at reasonable rates; the list of harms is too lengthy to continue here.

But aren’t the networks ‘unprofitable or ‘uneconomical’ to build out to everyone?

Answer: No. This is not true.

- d) **Build Out to Everyone — There’s Plenty of Money.** In going through the financials of Verizon New York (which we believe are identical to all Verizon, AT&T and Centurylink state holdings) The companies have been dismantling the utility, the affiliates short changing the utility, the corporate affiliates have dumped billions of expenses per year into the costs, and the losses were created based on these financial shell games. With the removal of the affiliate’s controls and financial ties, and them paying market value, as well as the return of the assets developed by customer overcharging, there should be enough money to wire everyone in the franchise area with very speed services.
- e) **The New “PCN” — “Public Communications Networks”** — (as opposed to the older “PSTN”) need to be built out to provide complete service area coverage and these networks must be technology neutral. This would also establish Reliability or Quality of Service (QoS) mandates and establish requirements for repairs and upgrade in a timely fashion.

Time Warner and Comcast?

There is no public interest to have these companies get larger. History shows us that larger is worse— almost always in Communications. AT&T has been able to harm 22 states at the same time, ½ of America, when it decided to not upgrade the state-based utility to fiber, but rather made U-Verse a copper-to-the-home service.

- Have customers paid over \$800 extra for the Social Contract?
- Were schools wired?
- **STEP1:** Investigate what happened to the previous, documented agreed up commitments of the Social Contract.
- **STEP 2:** Start rate regulation on all cable services without direct wired competition.
- **STEP 3:** Separate the affiliated content services from the companies' wireline-wireless delivery infrastructure.
- **STEP 4:** Open the networks to direct competition by unaffiliated service providers.
- **STEP 5:** ALL pricing is based on ALL revenues from ALL services being applied to the cost of the 'basic ala carte' model. As we uncovered, Time Warner allocated most of the expenses to the cable service, while the high-speed Internet pays only incremental costs.

ALL COMPANIES: Bills, Taxes, Fee and Surcharges

- Remove all taxes, fees and surcharges that are applied to the company and should not be allowed to be passed through. Verizon and Comcast claim that they are paying the franchise fees or taxes, when they are simply passing them through.
- All advertisements will include all non-negotiable charges i.e., the price of a package includes all applicable taxes, fees and

surcharges or services or devices that are required to be paid by the customer.

But what about... Didn't you forget...?

The book is over 500 pages, with 720 footnotes and it is a summary of thousands of documents, orders, opinions, etc. We've attempted to focus on the critical issues pertaining to the incumbent phone companies, the progeny of Ma Bell, and infrastructure, and if you feel we missed some critical issue – write us.

For those who care.

But we don't want to hurt them. Who else will supply service?

If you agree with the above line then you are probably suffering from Stockholm Syndrome, where the captive sooner or later agrees and supports the person or person who have kidnapped them or held them hostage.

And if you like the current situation, then I'm surprised you read this far.

If we keep the status quo, we will simply repeat history, yet again, and make the same mistakes. Simply put, The Book of Broken Promises outlines in excoriating and excruciating details of how it all went so wrong and out of control. We can not trust these companies to do the right thing, as they've proven over and over again, that they will say anything and then diminish our rights, raise our rates, erase their obligations and yet, to date, we have let them get away with it.

Breaking them up by separating the controls of the wires and wireless networks, is the only scenario that will stop, once and for all, the decline of America's communications infrastructure and services — and of course overcharging you and giving you slow, expensive service without choice.

However, the reader should keep in mind that there are 50 states and 50 laws, besides federal laws, but more importantly, different circumstances; whether you live in a rural, urban or suburban area, or a rich or low income area, or who your phone or cable company is, and what they feel like supplying your area. And some people

care more about wireless than wireline or cable vs telco or Nethead vs Bellhead. We've attempted to discuss all of these issues in a summary way.

But, with a million comments at the FCC just over Net Neutrality clearly shows that there is a growing number of people and companies who understand that open networks matter. And since the companies have been voted some of the "most hated companies in America".

It won't be easy. Verizon, AT&T, Comcast are each spending about \$50 million in lobbying each year, as well as giving out tens of millions a year from their foundations to buy off non-profits so they won't complain but rather support their agenda. And let us not forget their own hardwired political campaign contributions on the state and federal level or they have legal and regulatory networks to block whatever we do.

But, I can't sit idly by, knowing what I know, And so, If not for yourself, then do it for Aunt Ethel. She may have passed away, but her words still ring out — **"Go get the bastards"**.

Aunt Ethel, (right), Aunt Cecil, and their Friends, Circa 1920's.



New Networks has assembled a team of independent experts, auditors, lawyers, businesses who have been working on this plan — join us.

Bruce Kushnick, bruce@networks.com

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- 677 “As of December 31, 2012, we achieved penetration rates of 37.3% and 33.3% for FiOS
Internet and FiOS Video, respectively, compared to penetration rates of 35.5% and 31.5%
for FiOS Internet and FiOS Video, respectively, at December 31, 2011.”
- 678 In 1995 there were 2.2 million cable subscribers (the data doesn’t include satellite, thus the
“Add 10% sat”) and adding them in 2012, there were an estimated 3 million customers
watching cable via cable or satellite. Using the pricing by Kagan, which we did because the
state’s data doesn’t actually give the actual costs on a customers’ bill for cable service, we
found that in 1995, had there been ‘robust’ competition, customers would have saved \$112
million dollars and almost \$399 million by 2012. And that equates to \$51 a month savings
in 1995 to \$144 in 2012. We used only stand alone as the other numbers for bundles, etc get
complicated.
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