

Federal Communications Commission

FCC-CIRC1809-02

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Accelerating Wireless Broadband Deployment by)	WT Docket No. 17-79
Removing Barriers to Infrastructure Investment)	
)	
Accelerating Wireline Broadband Deployment by)	WC Docket No. 17-84
Removing Barriers to Infrastructure Investment)	

DECLARATORY RULING AND THIRD REPORT AND ORDER*

**REPLY COMMENTS NEW NETWORKS INSTITUTE
& THE IRREGULATORS**

We have previously filed in these proceedings and it is clear that the FCC is clueless about the harms it has caused and is going to cause. Since this is going to end up in court, we refresh the record and add to it.

The IRREGULATORS is an independent consortium of senior telecom experts, analysts, forensic auditors, and lawyers who are former senior staffers from the FCC, state advocate and Attorneys General Office experts and lawyers, and former Telecom consultants.

- 1) We put into the record “The Book of Broken Promises: \$400 Billion Broadband Scandal and Free the Net”, which is the 3rd book in a trilogy that details how Verizon and AT&T made multiple promises and statements that they were going to upgrade America to fiber optics.
- 2) **There are Massive Financial Cross-Subsidies of the Wireless company with the State Utility**

Verizon and AT&T et al. are not the funders of the wireless networks – they are in fact funded via local phone rates and rate increases and other ‘wired’ inflated services

The FCC has not examined or acknowledged that we have been supplying the FCC data – actual financial information from Verizon New York the state utility, showing the massive financial cross-subsidies of the wireless network build outs.

[We attached a separate report](#), which was previously filed that details, from then Verizon NY annual reports, billions of dollars that have been cross-subsidized from the wired, state utility networks to pay for the wireless networks.

“Proving Verizon’s Wireline Networks Diverted Capex for Wireless Deployments Instead of Wiring Municipalities, and Charged Local Phone Customers for It.”

Verizon’s CFO, Fran Shammo, stated in a 2012 investor meeting that the wireline networks were funding wireless deployments.

“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.”

The New York State Attorney General’s Office found that 75% of Verizon NY’s capital expenditures for Local Service had been diverted to fund FiOS and the wireless networks.

“Verizon New York’s claim of making over a ‘billion dollars’ in 2011 capital investments to its landline network is misleading. In fact, roughly three-quarters of the money was invested in providing transport facilities to serve wireless cell sites and its FiOS offering. Wireless carriers, including Verizon's affiliate Verizon Wireless, directly compete with landline telephone service and the company's FiOS is primarily a video and Internet broadband offering...”

Therefore, only a fraction of the company's capital program is dedicated to supporting and upgrading its landline telephone service.

3) The FCC’s own Accounting Rules were Frozen – and caused the Digital Divide

In fact, as we have just submitted in the FCC’s docket to ‘freeze’ the freeze for an additional 15 years. The FCC is going to have to deal with this – because it shows negligence on the part of the FCC in every proceeding, including this one.

NOTE: We have documented this “Digital Divide by Design” in 16 new research reports (to be released over the next month) and our recent FCC filings.

- [REPORT 1:](#) Did AT&T, Verizon, CenturyLink & the FCC Intentionally Make the Wired Utility Networks Look Unprofitable—Overcharging America at Least \$½ Trillion? Did They Create the Digital Divide?
- FILED WITH FCC SEPTEMBER 1, 2018

- [**REPORT 2:**](#) Verizon New York 2017 Annual Report: An Analysis of Cross-Subsidies and Customer Overcharging
- FILED WITH FCC SEPTEMBER 1, 2018, Docket 18-141, Docket 80-286
- [**REPORT 3: FILED:**](#) Bell Access Line Accounting Manipulation 1984-2018
- **FILED WITH FCC SEPTEMBER 1, 2018, Docket 18-141,**
- **THE BIG FREEZE PROCEEDING:**
- [**FILING: Comments filed in “The Big Freeze”**](#)– Docket 80-286,
- ***FURTHER NOTICE OF PROPOSED RULEMAKING, FCC 18-99***
- **DESCRIPTION:** AT&T et al., with the help of the FCC, created the Digital Divide by “freezing” a federal accounting formula to match the year 2000– 18 years ago. The FCC wants to extend this “FREEZE” until 2033– 15 more years.

If the capital expenditures are being cross-subsidized on all levels of this discussion, then the FCC has no way to actually create a financial model based on actual costs—because it stopped collecting basic data.

Moreover, every FCC decision about wireless, then has a gaping hole because 5G is not profitable if the actual expenses incurred were paid by 5G wireless.

4) All accounting of lines in service or the retirement of lines or the copper lines or the fiber optic lines are now deceptive in every aspect.

We filed in multiple proceedings that the FCC has to clean up its accounting of lines – we already did this in this proceeding 17-84

- THE USTELECOM PETITION FOR FORBEARANCE
- [**REPORT 3: FILED AS COMMENTS:**](#) Bell Access Line Accounting Manipulation 1984-2018
- **Description:** Verizon, AT&T, CenturyLink, and their association, USTelecom, with the help of the FCC, have manipulated the basic accounting of access lines, and have removed or hidden 80% of all lines, including all Business Data Services, (special access) DSL, competitor lines, FiOS, U-Verse, all of the wires to the cell sites or WiFi-hot spots, alarm circuits, and this has been done to reinforce a claim that the utility networks are unprofitable.

The FCC’s data is so terrible as we believe it is intentional and fraudulent and the FCC knows it is using tainted data for political purposes.

5) A Total Structural Flaw of the FCC: It fails to acknowledge that there are state utilities or intrastate services or that these services have been funding the interstate lines of business through illegal cross-subsidies.

The FCC has not once discussed that the residential POTS lines are part of the state utility or that these lines have been funding the interstate services, like special access—and it goes on and on.

We submit previous comments on this that were part of the record.

The Structural Flaw: The FCC ignored almost everything that is State-Based.

America is made up of 50 states, (and the District of Columbia, D.C.) and they all have state-based telecommunications utilities. And, in almost every state (and DC), there were and are broadband investments, commitments, financial incentives, etc., and they have all relied on using Title II for state-based broadband deployments and investments—that's right, Title II.

And the FCC's decisions can be reversed because:

- The FCC has ignored, left out, and never mentioned that there are state utilities or “intrastate” (in-state) services. The FCC also never acknowledged that there were and are broadband commitments, and that the companies were given massive financial incentives for investment to build out the networks—over and over.
- The FCC failed to recognize that “Title II” is used in every Verizon state to fund these ‘financial investments’ via charging local phone customers. In fact, the telcos have been ‘playing’ the state regulations off the federal regs—called “Title Shopping”. Thus, Verizon's fiber optic wires for FiOS are Title II.
- This flaw is made worse by the FCC's failure to examine the impacts of its cost accounting rules for 17 years, which allocates expenses between the “intrastate” (state-based) or “interstate” services using the state utility wires. But, over the last decade, they now dump most of the expenses into the local state networks. I.e.; Verizon has made the state utilities cash machines to fund the company's other lines of business, including wireless.

And **this flaw is in every 2017-2018, FCC proceeding**, from repealing Net Neutrality to shutting off the copper wires and replacing them with wireless, to the 'Business Data Services' deregulation decision. (These are utility wires that are used for business services, such as ATM machines, broadband or wireless services, but are classified as “interstate”.)