(c) THE DEPARTMENT SHALL NOT PROHIBIT OR RESTRICT THE COMPETITIVE PROVISION OF INTRASTATE TELECOMMUNICATIONS SERVICES OFFERED BY A PERSON, FIRM OR CORPORATION AUTHORIZED TO PROVIDE SUCH SERVICE PURSUANT TO THIS SECTION, UNLESS THE DEPARTMENT FINDS THAT THE COMPETITIVE PROVISION OF A TELECOMMUNICATIONS SERVICE WOULD BE CONTRARY TO THE GOALS SET FORTH IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT, OR WOULD NOT BE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-247a, AS AMENDED, SECTION 16-247b, AS AMENDED BY SECTION 3 OF THIS ACT, THIS SECTION, SECTIONS 16-247e TO 16-247h, INCLUSIVE, AS AMENDED BY SECTIONS 5 TO 8, INCLUSIVE, OF THIS ACT, OR SECTION 9 OF THIS ACT.

Sec. 5. Section 16-247e of the general statutes is repealed and the following is substituted in lieu thereof:

[Between May 23, 1985, and July 1, 1987, the department of public utility control shall not, with regard to any telephone company which provides intrastate interexchange telecommunications service, increase the percentage of the company's revenue requirement allocated to rates for telecommunications service provided within exchanges and extended local calling areas, unless such an increase is necessary to prevent (1) the loss of customers to intrastate interexchange bypass services, (2) the switching of customers to special access services provided by the telephone company or (3) the loss of revenue as a result of the provision of specialized telecommunications services under subdivision (3) of subsection (a) of section 16-247c.]

(a) IN ORDER TO ENSURE THE UNIVERSAL AVAILABILITY OF AFFORDABLE, HIGH QUALITY TELECOMMUNICATIONS SERVICES TO ALL RESIDENTS AND BUSINESSES THROUGHOUT THE STATE REGARDLESS OF INCOME, DISABILITY OR LOCATION, THE DEPARTMENT SHALL (1) PERIODICALLY INVESTIGATE AND DETERMINE, AFTER NOTICE AND HEARING, LOCAL SERVICE OPTIONS, INCLUDING THE DEFINITION AND COMPONENTS OF ANY BASIC TELECOMMUNICATIONS SERVICES, NECESSARY TO ACHIEVE UNIVERSAL SERVICE AND MEET CUSTOMER NEEDS; AND (2) ESTABLISH A LIFELINE PROGRAM FUNDED BY ALL TELECOMMUNICATIONS COMPANIES ON AN EQUITABLE BASIS, AS DETERMINED BY THE DEPARTMENT, SUFFICIENT TO PROVIDE LOW INCOME HOUSEHOLDS OR INDIVIDUALS WITH A LEVEL OF TELECOMMUNICATIONS SERVICE OR PACKAGE OF TELECOMMUNICATIONS SERVICES THAT SUPPORTS PARTICIPATION IN THE ECONOMY AND SOCIETY OF THE STATE. THE LIFELINE PROGRAM SHALL BE ADMINISTERED BY AN ENTITY AUTHORIZED, AND SUBJECT TO OVERSIGHT, BY THE DEPARTMENT. THE DEPARTMENT SHALL DETERMINE BY ORDER WHICH CUSTOMERS QUALIFY FOR THE LIFELINE PROGRAM. RECIPIENTS OF LIFELINE FUNDS SHALL USE SUCH FUNDS TO PAY FOR TELECOMMUNICATIONS SERVICES PROVIDED BY ANY TELECOMMUNICATIONS COMPANY.

(b) THE DEPARTMENT MAY, IF NECESSARY, ESTABLISH A UNIVERSAL SERVICE PROGRAM, FUNDED BY ALL TELECOMMUNICATIONS COMPANIES OR USERS IN THE STATE ON AN EQUITABLE BASIS, AS DETERMINED BY THE DEPARTMENT, TO ENSURE THE UNIVERSAL AVAILABILITY OF AFFORDABLE,

HIGH QUALITY BASIC TELECOMMUNICATIONS SERVICES TO ALL RESIDENTS AND BUSINESSES THROUGHOUT THE STATE REGARDLESS OF LOCATION. ANY FUNDS CONTRIBUTED TO A UNIVERSAL SERVICE PROGRAM SHALL BE USED TO SUPPORT THE AVAILABILITY OF BASIC TELECOMMUNICATIONS SERVICES PROVIDED BY ANY TELECOMMUNICATIONS COMPANY IN A MANNER TO BE DETERMINED BY THE DEPARTMENT.

Sec. 6. Section 16-247f of the general statutes, as amended by section 4 of public act 93-330, is repealed and the following is substituted in lieu thereof:

[(a) The department may authorize any person, firm, or corporation certified pursuant to section 16-247g to offer (1) the sale or lease of intrastate interexchange telecommunications service, except foreign exchange service, to another person, firm or corporation, (2) interexchange nonswitched private line services, except that the access facilities of the local exchange carrier shall be used for such services, (3) customer-owned, coin-operated telephones, (4) specialized telecommunications services ancillary to the same specialized telecommunications services offered by the provider on an interstate basis under effective Federal Communications Commission tariffs, and (5) such additional intrastate interexchange telecommunications services as the department may determine pursuant to this subsection. The department, on its own initiative or in response to the petition of an interested party, may determine that an interexchange telecommunications service may be offered on a competitive basis, provided that the department, on and after July 1, 1988, may determine when facilities-based toll competition may be authorized, except that the services specified in subdivisions (2) and (4) of this subsection may be authorized prior to July 1, 1988. Prior to authorizing the services specified in subdivisions (1) to (5), inclusive, of this subsection, the department may hold a hearing, with notice to all interested parties, and determine whether authorizing such services would meet the needs of customers and not reduce the availability of telephone service in the state, increase the price of telephone services provided within exchanges or extended local calling areas, or impair the availability of public telephones. If the department finds that authorizing such services would not meet the needs of customers without reducing the availability of telephone service in the state, increasing the price of telephone services provided within exchanges or extended local calling areas, or impairing the availability of public telephones, it may deny authorization of such services.

(b) The department, after holding a hearing with notice to all interested parties, may establish such terms and conditions, including, but not limited to access charges, for the offering of competitive telecommunications provided by a telephone company, as defined in section 16-1, or a certified competitive telecommunications provider, as defined in section 16-49, as it deems necessary to protect the public interest and maintain universal service and the availability of public telephones. Notwithstanding any provision of chapter 277 to the contrary, such terms and conditions for the offering of such competitive telecommunications service shall apply equally to all providers, including telephone companies, with respect to their provision of any such service and any service that is competitive with such service, unless the department determines that the public interest requires different levels or types of regulation. In making such determination, the department shall consider all relevant factors, which may include, but

not be limited to: (1) The number and sizes of providers of such service, including other applicants; (2) the extent to which such service will be available from such providers; (3) the ability and willingness of other providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions in a timely manner; (4) the presence or absence of economic, technological or other barriers to entry into or exit from the relevant geographic or service market; (5) the ability of the telephone company to set and maintain rates in the relevant geographic or service market; (6) the effect of the proposed determination on the continued availability of existing services; and (7) the ability of the telephone company to engage in discriminatory pricing or to cross-subsidize competitive services.

(c) As used in this section "IOXXX" interexchange competition for intrastate interexchange services" means a system which allows customers to use any provider of interexchange telecommunications services certified pursuant to section 16-247g by dialing "1", "0" and a three-digit code identifying the provider selected by the customer. The department of public utility control shall implement "IOXXX" interexchange competition for intrastate interexchange services, including the resale of "10XXX" services, except non-facilities-based operator services, coin-operated telephones and the resale of foreign exchange service. All intrastate interexchange services authorized pursuant to this section shall be provided pursuant to tariff which shall be approved by the department in accordance with the provisions of subsection (d) of this section.]

(a) THE DEPARTMENT SHALL REGULATE THE PROVISION OF TELECOMMUNICATIONS SERVICES IN THE STATE IN A MANNER DESIGNED TO FOSTER COMPETITION AND PROTECT THE PUBLIC INTEREST.

(b) NOTWITHSTANDING THE PROVISIONS OF SECTION 16-19, AS AMENDED BY SECTION 12 OF THIS ACT, A TELECOMMUNICATIONS SERVICE OFFERED ON OR BEFORE THE EFFECTIVE DATE OF THIS ACT BY A TELECOMMUNICATIONS COMPANY CERTIFIED PURSUANT TO SECTION 16-247g, AS AMENDED BY SECTION 7 OF THIS ACT, AND A WIDE AREA TELEPHONE SERVICE, "800" SERVICE, CENTREX SERVICE OR DIGITAL CENTREX SERVICE OFFERED BY A TELEPHONE COMPANY SHALL BE DEEMED A COMPETITIVE SERVICE. ANY OTHER SERVICE OFFERED BY A TELEPHONE COMPANY ON OR BEFORE THE EFFECTIVE DATE OF THIS ACT SHALL BE DEEMED A NONCOMPETITIVE SERVICE, PROVIDED SUCH INITIAL CLASSIFICATION SHALL NOT BE A FACTUAL FINDING THAT SUCH SERVICE IS NONCOMPETITIVE.

(c) ON PETITION, ON ITS OWN MOTION, OR IN CONJUNCTION WITH A TARIFF INVESTIGATION CONDUCTED PURSUANT TO SUBSECTION (f) OF THIS SECTION, AND AFTER NOTICE AND HEARING, THE DEPARTMENT MAY RECLASSIFY A TELECOMMUNICATIONS SERVICE AS COMPETITIVE, EMERGING COMPETITIVE, OR NONCOMPETITIVE, IN ACCORDANCE WITH THE DEGREE OF COMPETITION WHICH EXISTS FOR THAT SERVICE IN THE MARKETPLACE, PROVIDED A COMPETITIVE SERVICE SHALL NOT BE RECLASSIFIED AS AN EMERGING COMPETITIVE SERVICE.

(d) IN DETERMINING WHETHER TO RECLASSIFY A TELECOMMUNICATIONS SERVICE, THE DEPARTMENT SHALL CONSIDER:

(1) THE NUMBER, SIZE AND GEOGRAPHIC DISTRIBUTION OF OTHER PROVIDERS OF THE SERVICE;

(2) THE AVAILABILITY OF FUNCTIONALLY EQUIVALENT SERVICES IN THE RELEVANT GEOGRAPHIC AREA AT COMPETITIVE RATES, TERMS AND CONDITIONS;

(3) THE FINANCIAL VIABILITY OF EACH COMPANY PROVIDING A FUNCTIONALLY EQUIVALENT SERVICE IN THE RELEVANT MARKET;

(4) THE EXISTENCE OF BARRIERS TO ENTRY INTO, OR EXIT FROM, THE RELEVANT MARKET;

(5) OTHER INDICATORS OF MARKET POWER WHICH THE DEPARTMENT DEEMS RELEVANT, WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, MARKET PENETRATION AND THE EXTENT TO WHICH THE PROVIDER OF THE SERVICE CAN SUSTAIN THE PRICE FOR THE SERVICE ABOVE THE COST TO THE COMPANY OF PROVIDING THAT SERVICE;

(6) THE EXTENT TO WHICH OTHER TELECOMMUNICATIONS COMPANIES MUST RELY UPON THE SERVICE TO PROVIDE THEIR TELECOMMUNICATIONS SERVICES;

(7) OTHER FACTORS THAT MAY AFFECT COMPETITION; AND

(8) OTHER FACTORS THAT MAY AFFECT THE PUBLIC INTEREST.

[(d)] (e) Each person, firm or corporation certified pursuant to section 16-247g, AS AMENDED BY SECTION 7 OF THIS ACT, and each telephone company, as defined in section 16-1, AS AMENDED BY SECTION 1 OF THIS ACT, shall file WITH THE DEPARTMENT a [proposed] new or amended tariff for each competitive OR EMERGING COMPETITIVE intrastate [interexchange] telecommunications service authorized pursuant to [this section with the department at least thirty days prior to the proposed effective date of said tariff. Said tariff shall] SECTION 16-247c, AS AMENDED BY SECTION 4 OF THIS ACT. A TARIFF FOR A COMPETITIVE SERVICE SHALL BE EFFECTIVE ON FOURTEEN DAYS WRITTEN NOTICE TO THE DEPARTMENT. A TARIFF FOR AN EMERGING COMPETITIVE SERVICE SHALL BE EFFECTIVE ON TWENTY-ONE DAYS WRITTEN NOTICE TO THE DEPARTMENT. A TARIFF FILING FOR A COMPETITIVE OR EMERGING COMPETITIVE SERVICE SHALL include (1) [proposed] rates and charges which may consist of a maximum rate and a minimum rate, (2) applicable terms and conditions, (3) a statement of how the tariff will benefit the public interest, and (4) any additional information required by the department. A telephone company filing a tariff pursuant to this section shall include in [such] SAID tariff FILING the information set forth in subdivisions (1) to (4), inclusive, of this subsection, [and, when required by the department, supporting cost and revenue information showing that the services proposed in the tariff shall not be subsidized by monopoly telecommunications services] A COMPLETE EXPLANATION OF HOW THE COMPANY IS COMPLYING WITH THE PROVISIONS OF SECTION 16-247b, AS AMENDED BY SECTION 3 OF THIS ACT, AND, IN A TARIFF FILING WHICH DECLARES A NEW SERVICE TO BE COMPETITIVE OR EMERGING COMPETITIVE, A STATEMENT ADDRESSING THE CONSIDERATIONS SET FORTH IN SUBSECTION (d) OF THIS SECTION. If the department approves a [proposed] tariff

which consists of a minimum rate and a maximum rate, the certified provider or telephone company may amend its rates upon [at least ten] FIVE days written notice to [each of its customers and] the department AND ANY NOTICE TO CUSTOMERS WHICH THE DEPARTMENT MAY REQUIRE, provided the amended rates are not greater than the approved maximum rate and not less than the approved minimum rate. A PROMOTIONAL OFFERING FOR A PREVIOUSLY APPROVED COMPETITIVE OR EMERGING COMPETITIVE TARIFFED SERVICE OR A SERVICE DEEMED COMPETITIVE PURSUANT TO SECTION 16-247f, AS AMENDED BY SECTION 6 OF THIS ACT, SHALL BE EFFECTIVE ON FIVE DAYS WRITTEN NOTICE TO THE DEPARTMENT.

(f) [The] ON PETITION OR ITS OWN MOTION, THE department may [suspend the proposed effective date of the tariff in order to] investigate [the proposed] A tariff or any portion of [the proposed] A tariff, which investigation may include a hearing. THE DEPARTMENT MAY SUSPEND A TARIFF OR ANY PORTION OF A TARIFF DURING SUCH INVESTIGATION. Not later than [sixty] SEVENTY-FIVE days after [suspending] the effective date of the tariff, UNLESS THE PARTY FILING THE TARIFF, ALL STATUTORY PARTIES TO THE PROCEEDING AND THE DEPARTMENT AGREE TO A SPECIFIC EXTENSION OF TIME, the department shall issue its decision, including whether to approve, modify or deny the [proposed] tariff. IF THE DEPARTMENT DETERMINES THAT A TARIFF FILED AS A NEW SERVICE IS, IN FACT, A RECLASSIFICATION OF AN EXISTING SERVICE, THE DEPARTMENT SHALL REVIEW THE TARIFF FILING AS A PETITION FOR RECLASSIFICATION IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (c) OF THIS SECTION.

(g) THE PROVISIONS OF THIS SECTION SHALL NOT PROHIBIT THE DEPARTMENT FROM ORDERING DIFFERENT TARIFF FILING PROCEDURES OR EFFECTIVE DATES FOR AN EMERGING COMPETITIVE SERVICE, PURSUANT TO A PLAN FOR AN ALTERNATIVE FORM OF REGULATION OF A TELEPHONE COMPANY APPROVED BY THE DEPARTMENT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 9 OF THIS ACT.

Sec. 7. Section 16-247g of the general statutes, as amended by section 5 of public act 93-330, is repealed and the following is substituted in lieu thereof:

(a) Any person, firm or corporation may apply to the department for a certificate of public convenience and necessity to offer and provide [interexchange telecommunications services authorized under section 16-247f] INTRASTATE TELECOMMUNICATIONS SERVICES. Such application shall include such information as the department shall require in regulations adopted pursuant to chapter 54. The department may issue such certificate and may, as a precondition to certification, require any applicant with total assets OF less than five million dollars to procure a performance bond sufficient to cover moneys due or to become due to other telecommunications companies for the provision of access to local [exchange] TELECOMMUNICATIONS networks and to protect any advances or deposits it may collect from its customers if the department does not order that such advances or deposits be held in escrow or trust. Following receipt of such application, the department may approve or deny the application after holding a hearing with notice to all interested parties.

(b) The department may [deny such certification to any] CERTIFY AN applicant which: (1) [Does not provide] PROVIDES the information requested by the department pursuant to the provisions of [section 16-247c,] sections 16-247f to 16-247h, inclusive, AS AMENDED BY SECTIONS 6 TO 8, INCLUSIVE, OF THIS ACT, and section 16-247j; (2) [fails to provide] PROVIDES a performance bond or [comply] COMPLIES with escrow or trust requirements, if required by the department; [or] AND (3) [does not possess and demonstrate] POSSESSES AND DEMONSTRATES adequate financial resources, managerial ability, and technical competency to provide the proposed service.

(c) Any person, firm or corporation certified to provide [intrastate interexchange] telecommunications [service] SERVICES under this section, and any telephone company providing such [service] SERVICES shall (1) maintain its accounts in such manner as the department shall require; (2) file financial reports at such times and in such form as the department shall prescribe; (3) file with the department such current descriptions of services and listings of rates and charges as it may require; (4) cooperate with the department in its investigations of consumer complaints, and comply with any resulting orders; and (5) comply with such service standards and additional requirements as the department shall prescribe by regulation.

(d) Notwithstanding any decision of the department to [open a telecommunications service to competition pursuant to section 16-247f, as amended by section 4 of this act, or its granting] ALLOW THE COMPETITIVE PROVISION OF A TELECOMMUNICATION SERVICE OR TO GRANT a certificate pursuant to this section, the department, after holding a hearing with notice to all interested parties and determining [either] that [a] g CONTINUED COMPETITIVE PROVISION OF A telecommunications service [can no longer be open to competition without impairing universal service or having a substantial impact on the cost of telecommunications service within exchanges or the extended local calling areas of the exchanges, or that] WOULD BE CONTRARY TO THE GOALS SET FORTH IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT, OR WOULD NOT BE IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 16-247a TO 16-247c, INCLUSIVE, AS AMENDED BY SECTIONS 2 TO 4, INCLUSIVE, OF THIS ACT, SECTIONS 16-247e AND 16-247f, AS AMENDED BY SECTIONS 5 AND 6 OF THIS ACT, THIS SECTION, SECTION 16-247h, AS AMENDED BY SECTION 8 OF THIS ACT, OR SECTION 9 OF THIS ACT, (2) a certified provider of the service does not have adequate financial resources, managerial ability, or technical competency to provide the service, OR (3) A CERTIFIED PROVIDER OF THE SERVICE HAS FAILED TO COMPLY WITH AN APPLICABLE ORDER MADE OR REGULATION ADOPTED BY THE DEPARTMENT, may suspend or revoke the authorization to provide said telecommunications service or take any other action it deems appropriate. In determining whether to suspend or revoke such authorization, the department shall consider, without limitation, [(1)] (A) the effect of such suspension or revocation on the customers of the telecommunications service, [(2)] (B) the technical feasibility of suspending or revoking the authorized usage only on an intrastate basis, and [(3)] (C) the financial impact of such suspension or revocation on the provider of the telecommunications service.

Sec. 8. Section 16-247h of the general statutes, as amended by section 6 of public act 93-330, is repealed and the following is substituted in lieu thereof:
The department shall authorize any person, firm or corporation certified pursuant to section 16-247g, as amended by section 5 of [this act] PUBLIC ACT 93-330 AND SECTION 7 OF THIS ACT, to install, maintain, operate, manage or control poles, wires, conduits or other fixtures under or over any public highway or street for the provision of [interexchange] telecommunications service authorized by section [16-247f, as amended by section 4 of this act] 16-247c, AS AMENDED BY SECTION 4 OF THIS ACT, if such installation, maintenance, operation, management or control is in the public interest, WHICH INCLUDES BUT IS NOT LIMITED TO, FACILITATING THE EFFICIENT DEVELOPMENT AND DEPLOYMENT OF AN ADVANCED TELECOMMUNICATIONS INFRASTRUCTURE, FACILITATING MAXIMUM NETWORK INTEROPERABILITY AND INTERCONNECTIVITY, AND ENCOURAGING SHARED USE OF EXISTING FACILITIES AND COOPERATIVE DEVELOPMENT OF NEW FACILITIES WHERE LEGALLY POSSIBLE AND TECHNICALLY AND ECONOMICALLY FEASIBLE. The department shall adopt regulations
in accordance with chapter 54, governing such use of the public right-of-way, including, without limitation, design and construction standards and specifications to protect the public safety and implement the purposes of [section 16-247c] THE GOALS SET FORTH IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT, SECTIONS 16-247a TO 16-247c, INCLUSIVE, AS AMENDED BY SECTIONS 2 TO 4, INCLUSIVE, OF THIS ACT, SECTION 16-247e, AS AMENDED BY SECTION 5 OF THIS ACT, sections 16-247f [to 16-247h, inclusive] AND 16-247g, AS AMENDED BY SECTIONS 6 AND 7 OF THIS ACT, THIS SECTION and section 16-247j.

Sec. 9. (NEW) (a) The department may, and is encouraged to, implement an alternative form of regulation, including, but not limited to, price indexing, price regulation, cost indexing or price benchmarks, for noncompetitive and emerging competitive services provided by a telephone company. Any such alternative form of regulation shall be developed for, and tailored to, the individual company. A plan for such an alternative form of regulation may be filed by a telephone company or developed at the initiative of the department. Prior to approval by the department of any such plan, the noncompetitive and emerging competitive services provided by a telephone company shall continue to be regulated in accordance with the provisions of sections 16-19 and 16-19e of the general statutes, as amended by sections 12 and 13 of this act. Upon approval by the department of any such plan, the services to which the plan applies shall be regulated in accordance with the provisions of the plan, and the provisions of said sections 16-19 and 16-19e, as amended, shall not apply to such services.

(b) Upon the filing of a proposed plan for alternative regulation by a telephone company, the department shall, after notice and hearing, issue a decision in which it approves, modifies or denies the proposed plan. The department shall approve the proposed or modified plan only if it finds that such plan (I) includes a pricing methodology that reasonably ensures that customers and other telecommunications companies have access to the noncompetitive services of the telephone company at just and reasonable rates which reflect prudent and efficient management, and that

such access is available on nondiscriminatory terms and conditions, (2) is designed to streamline, minimize the costs of and maximize the effectiveness of regulation for the telephone company, (3) encourages prudent infrastructure investment and improvements in productivity and service quality for noncompetitive services, (4) does not impede the continued development of competition for the noncompetitive services or disadvantage the provision of emerging competitive or competitive services by the telephone company, (5) ensures that the investment risk associated with the provision of competitive and emerging competitive services by the telephone company shall not be borne by customers of noncompetitive services, (6) notwithstanding the provisions of sections 16-l9, 16-19e and 16-22 of the general statutes, as amended by sections 12 to 14, inclusive, of this act, and subsection (a) of this section, includes a mechanism by which the department may monitor the earnings of the affected company over a monitoring period, (7) is in the public interest, and (8) is consistent with the goals set forth in section 16-247a of the general statutes, as amended by section 2 of this act.

(c) During the monitoring period of an approved plan for an alternative form of regulation, the telephone company shall use any earnings in excess of a ceiling approved by the department, to offset the depreciation reserve deficiency of the company.

(d) Following the monitoring period, an approved plan for alternative regulation of a telephone company shall continue unless or until the department (l) changes the form of regulation pursuant to an application filed by the company, or (2) determines that the plan does not continue to meet the criteria set forth in subsection (b) of this section. Upon such change or determination, the department may order a different form of alternative regulation consistent with the criteria set forth in subsection (b) of this section. If the department finds that competition has not developed or will not develop for certain services, the department may apply traditional cost-based rate of return regulation to those noncompetitive services.

(e) The department may modify a plan for an alternative form of regulation which it approved pursuant to this section and which is in effect if the department determines such modification is required due to previously unforeseen circumstances.

Sec. 10. Section 16-247i of the general statutes is repealed and the following is substituted in lieu thereof:

Not later than January 1, [1988] 1995, and annually thereafter, the department shall submit a report to the general assembly on the status of telecommunications service and regulation in the state of Connecticut. Such report shall [contain] INCLUDE: (1) An analysis of universal service and any changes therein; (2) [an analysis of those telecommunications services opened to competition pursuant to section 16-247f, if any; (3)] an analysis of the impact, if any, of competition in telecommunications markets on THE WORK FORCE OF THE STATE AND EMPLOYMENT OPPORTUNITIES IN THE telecommunications [workers; (4) an analysis of the impact of federal tax reform; (5) an analysis of the impact of the imposition of federal subscriber line charges, and (6)] INDUSTRY IN THE STATE; (3) an analysis of the level of regulation which the public interest requires; (4) THE STATUS OF IMPLEMENTING THE PROVISIONS OF SECTIONS 16-247a TO 16-247c, INCLUSIVE, AS AMENDED BY SECTIONS 2 TO 4, INCLUSIVE, OF THIS ACT, SECTIONS 16-247e TO 16-247h, INCLUSIVE, AS

AMENDED BY SECTIONS 5 TO 8, INCLUSIVE, OF THIS ACT, SECTION 9 OF THIS ACT, AND SECTION 16-247i, AS AMENDED BY THIS SECTION, INCLUDING ACHIEVING EACH OF THE OBJECTIVES OF THE GOALS SET FORTH IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT; (5) THE STATUS OF THE DEVELOPMENT OF COMPETITION FOR ALL TELECOMMUNICATIONS SERVICES; AND (6) THE STATUS OF THE DEPLOYMENT OF TELECOMMUNICATIONS INFRASTRUCTURE IN THE STATE.

Sec. 11. Section 16-18a of the general statutes is repealed and the following is substituted in lieu thereof:

In the performance of its duties the department of public utility control and the office of consumer counsel may retain consultants to assist their staff in proceedings before the department by providing expertise in areas in which staff expertise does not currently exist OR WHEN NECESSARY TO SUPPLEMENT EXISTING STAFF EXPERTISE. In any case where the department or office of consumer counsel determines that THE SERVICES OF a consultant [is] ARE necessary or desirable, [it] THE DEPARTMENT shall (1) [order a hearing to demonstrate the need for the consultant, which hearing shall provide for the public service company, as defined in section 16-1, involved in the proceeding to participate and comment and (2)] ALLOW OPPORTUNITY FOR THE PARTIES AND PARTICIPANTS TO THE PROCEEDING FOR WHICH THE SERVICES OF A CONSULTANT ARE BEING CONSIDERED TO COMMENT REGARDING THE NECESSITY OR DESIRABILITY OF SUCH SERVICES, (2) UPON THE REQUEST OF A PARTY OR PARTICIPANT TO THE PROCEEDING FOR WHICH THE SERVICES OF A CONSULTANT ARE BEING CONSIDERED, HOLD A HEARING, AND (3) limit the reasonable and proper expenses [of the consultant or consultants] FOR SUCH SERVICES to not more than two hundred thousand dollars for each agency per proceeding involving A public service [companies] COMPANY, AS DEFINED IN SECTION 16-1, AS AMENDED BY SECTION 1 OF THIS ACT, TELECOMMUNICATIONS COMPANY, AS DEFINED IN SECTION 16-1, AS AMENDED, OR PERSON, FIRM OR CORPORATION SEEKING CERTIFICATION TO PROVIDE TELECOMMUNICATIONS SERVICE, PURSUANT TO CHAPTER 283, AS AMENDED BY THIS ACT, with more than fifteen thousand customers, and to not more than fifty thousand dollars for each agency per proceeding involving [public service companies] SUCH A COMPANY, PERSON, FIRM OR CORPORATION with less than fifteen thousand customers, provided the department or THE office of consumer counsel may exceed such limits for good cause. IN THE CASE OF MULTIPLE PROCEEDINGS CONDUCTED TO IMPLEMENT THE PROVISIONS OF THIS ACT, THE DEPARTMENT OR THE OFFICE OF CONSUMER COUNSEL MAY EXCEED SUCH LIMITS, BUT THE TOTAL AMOUNT FOR ALL SUCH PROCEEDINGS SHALL NOT EXCEED THE AGGREGATE AMOUNT WHICH WOULD BE AVAILABLE PURSUANT TO THIS SECTION. All reasonable and proper expenses, [of the consultant] as defined in subdivision [(2)] (3) of this section, shall be borne by the affected [companies] COMPANY, PERSON, FIRM OR CORPORATION and shall be paid by such [companies] COMPANY, PERSON, FIRM OR CORPORATION at such times and in such manner as the department or THE office of consumer counsel directs. All reasonable and proper costs and expenses, as defined in subdivision [(2)]

(3) of this section, shall be recognized by the department for all purposes as proper business expenses of the affected company, PERSON, FIRM OR CORPORATION. The PROVIDERS OF consultant SERVICES shall be selected by the department or THE office of consumer counsel [The consultant shall prepare a written report of his] AND SHALL SUBMIT WRITTEN findings and recommendations [for] TO the department or THE office of consumer counsel, AS THE CASE MAY BE, which shall be made part of the public record. [The provisions of this section shall terminate on January 1, 1997.]

Sec. 12. Section 16-19 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) No public service company may charge rates in excess of those previously approved by the authority or the department of public utility control except that any rate approved by the public utilities commission or the authority shall be permitted until amended by the authority or the department, that rates not approved by the authority or the department may be charged pursuant to subsection (b) of this section, and that the hearing requirements with respect to adjustment clauses are as set forth in section 16-19b. Each public service company shall file any proposed amendment of its existing rates with the department in such form and in accordance with such reasonable regulations as the department may prescribe. Each electric, gas or telephone company filing a proposed amendment shall also file with the department an estimate of the effects of the amendment, for various levels of consumption, on the household budgets of high and moderate income customers and customers having household incomes not more than one hundred fifty per cent of the federal poverty level. Each electric company shall also file such an estimate for space heating customers. Each water company, except a water company that provides water to its customers less than six consecutive months in a calendar year, filing a proposed amendment, shall also file with the department a plan for promoting water conservation by customers in such form and in accordance with a memorandum of understanding entered into by the department pursuant to section 4-67e. Each public service company shall notify each customer who would be affected by the proposed amendment, by mail, at least one week prior to the public hearing thereon, that an amendment has been or will be requested. Such notice shall also indicate (1) the department of public utility control telephone number for obtaining information concerning the schedule for public hearings on the proposed amendment and (2) whether the proposed amendment would, in the company's best estimate, increase any rate or charge by twenty per cent or more, and, if so, describe in general terms any such rate or charge and the amount of the proposed increase, provided no such company shall be required to provide more than one form of the notice to each class of its customers. In the case of a proposed amendment to the rates of any public service company, the department shall hold a public hearing thereon, except as permitted with respect to interim rate amendments by subsection (d) and subsection (g) of this section, and shall make such investigation of such proposed amendment of rates as is necessary to determine whether such rates conform to the principles and guidelines set forth in section 16-19e, or are unreasonably discriminatory or more or less than just, reasonable and adequate, or that the service furnished by such company is inadequate to or in excess of public necessity and convenience. The

department, if in its opinion such action appears necessary or suitable in the public interest may, and, upon written petition or complaint of the state, under direction of the governor, shall, make the aforesaid investigation of any such proposed amendment which does not involve an alteration in rates. If the department finds any proposed amendment of rates to not conform to the principles and guidelines set forth in section 16-19e, or to be unreasonably discriminatory or more or less than just, reasonable and adequate to enable such company to provide properly for the public convenience, necessity and welfare, or the service to be inadequate or excessive, it shall determine and prescribe, as appropriate, an adequate service to be furnished or just and reasonable maximum rates and charges to be made by such company. In the case of a proposed amendment filed by an electric, gas or telephone company, the department shall also adjust the estimate filed under this subsection of the effects of the amendment on the household budgets of the company's customers, in accordance with the rates and charges approved by the department. The department shall issue a final decision on each rate filing within one hundred fifty days from the proposed effective date thereof, provided it may, before the end of such period and upon notifying all parties and intervenors to the proceedings, extend the period by thirty days.

(b) If the department has not made its finding respecting an amendment of any rate within one hundred fifty days from the proposed effective date of such amendment thereof, or within one hundred eighty days if the department extends the period in accordance with the provisions of subsection (a) of this section, such amendment may become effective pending the department's finding with respect to such amendment upon the filing by the company with the department of assurance satisfactory to the department, which may include a bond with surety, of the company's ability and willingness to refund to its customers with interest such amounts as the company may collect from them in excess of the rates fixed by the department in its finding or fixed at the conclusion of any appeal taken as a result of a finding by the department.

(c) Upon conclusion of its investigation of the reasonableness of any proposed increase of rates, the department shall order the company to refund to its customers with interest any amounts the company may have collected from them during the period that any amendment permitted by subsection (b) of this section was in force, which amounts the department may find to have been in excess of the rates fixed by the department in its finding or fixed at the conclusion of any appeal taken as a result of a finding by the department. Any such refund ordered by the department shall be paid by the company, under direction of the department, to its customers in such amounts as are determined by the department.

(d) Nothing in this section shall be construed to prevent the department from approving an interim rate increase, if the department finds that such an interim rate increase is necessary to prevent substantial and material deterioration of the financial condition of a public service company, to prevent substantial deterioration of the adequacy and reliability of service to its customers or to conform to the applicable principles and guidelines set forth in section 16-19e, provided the department shall first hold a special public hearing on the need for such interim rate increase and the company, at least one week prior to such hearing, notifies each customer who would be affected by the interim rate increase that such an increase is being requested. The company shall include the

notice in a mailing of customer bills, unless such a mailing would not provide timely notice, in which case the department shall authorize an alternative manner of providing such notice. Any such interim rate increase shall only be permitted if the public service company submits an assurance satisfactory to the department, which may include a bond with surety, of the company's ability and willingness to refund to its customers with interest such amounts as the company may collect from such interim rates in excess of the rates approved by the department in accordance with subsection (a) of this section. The department shall order a refund in an amount equal to the excess, if any, of the amount collected pursuant to the interim rates over the amount which would have been collected pursuant to the rates finally approved by the department in accordance with subsection (a) of this section or fixed at the conclusion of any appeal taken as a result of any finding by the department. Such refund ordered by the department shall be paid by the company to its customers in such amounts and by such procedure as ordered by the department.

(e) If the department finds that the imposition of any increase in rates would create a hardship for a municipality, because such increase is not reflected in its then current budget, or cannot be included in the budget of its fiscal year which begins less than five months after the effective date of such increase, the department may defer the applicability of such increase with respect to services furnished to such municipality until the fiscal year of such municipality beginning not less than five months following the effective date of such increase; provided the revenues lost to the public service company through such deferral shall be paid to the public service company by the municipality in its first fiscal year following the period of such deferral.

(f) Any public service company, as defined in section 16-1, filing an application with the department of public utility control to reopen a rate proceeding under this section, which application proposes to increase the company's revenues or any rate or charge of the company by five per cent or more, shall, not later than one week prior to the hearing under the reopened proceeding, notify each customer who would be affected thereby that such an application is being filed. Such notice shall indicate the rate increases proposed in the application. The company shall include the notice in a mailing of customer bills, unless such a mailing would not provide timely notice to customers of the reopening of the proceeding, in which case the department shall authorize an alternative manner of providing such notice.

(g) The department shall hold a special public hearing on the need for an interim rate decrease (1) when a public service company has, for six consecutive months, earned a return on equity which exceeds the return authorized by the department by at least one percentage point, (2) if it finds that any change in municipal, state or federal tax law creates a significant increase in a company's rate of return, or (3) if it finds that a public service company may be collecting rates which are more than just, reasonable and adequate, as determined by the department, provided the department shall require appropriate notice of hearing to the company and its customers who would be affected by an interim rate decrease in such form as the department deems reasonable. At such hearing, the company shall be required to demonstrate to the satisfaction of the department that earning such a return on equity or collecting rates which are more than just, reasonable and adequate is directly beneficial to its customers. At the completion

of such hearing, the department may order an interim rate decrease if it finds that such return on equity or rates exceed a reasonable rate of return or are more than just, reasonable and adequate as determined by the department. Any such interim rate decrease shall be subject to a customer surcharge if the interim rates collected by the company are less than the rates finally approved by the department or fixed at the conclusion of any appeal taken as a result of any finding by the department. Such surcharge shall be assessed against customers in such amounts and by such procedure as ordered by the department.

(h) The department shall review the effects of the federal Tax Reform Act of 1986 on public service companies having seventy-five thousand customers or more and shall report its findings and recommendations to the joint standing committee of the general assembly having cognizance over matters relating to energy and public utilities not later than January 8, 1988.

(i) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE REGULATION OF A TELECOMMUNICATIONS SERVICE WHICH IS A COMPETITIVE SERVICE, AS DEFINED IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT, OR TO A TELECOMMUNICATIONS SERVICE TO WHICH AN APPROVED PLAN FOR AN ALTERNATIVE FORM OF REGULATION APPLIES, PURSUANT TO SECTION 9 OF THIS ACT.

Sec. 13. Section 16-19e of the general statutes is repealed and the following is substituted in lieu thereof:

(a) In the exercise of its powers under the provisions of this title, the department of public utility control shall examine and requital the transfer of existing assets and franchises, the expansion of the plant and equipment of existing public service companies, the operations and internal workings of public service companies and the establishment of the level and structure of rates in accordance with the following principles: (1) That there is a clear public need for the service being proposed or provided; (2) that the public service company shall be fully competent to provide efficient and adequate service to the public in that such company is technically, financially and managerially expert and efficient; (3) that the department and all public service companies shall perform all of their respective public responsibilities with economy, efficiency and care for the public safety, and so as to promote economic development within the state with consideration for energy and water conservation, energy efficiency and the development and utilization of renewable sources of energy and for the prudent management of the natural environment; (4) that the level and structure of rates be sufficient, but no more than sufficient, to allow public service companies to cover their operating and capital costs, to attract needed capital and to maintain their financial integrity, and yet provide appropriate protection to the relevant public interests, both existing and foreseeable; (5) that the level and structure of rates charged customers shall reflect prudent and efficient management of the franchise operation and (6) that the rates, charges, conditions of service and categories of service of the companies not discriminate against customers which utilize renewable energy sources or cogeneration technology to meet a portion of their energy requirements.

(b) The department of public utility control shall promptly undertake a separate, general investigation of, and shall hold at least one public hearing on new pricing principles and rate structures for electric companies and for gas companies to consider, without limitation, long run incremental cost of marginal cost pricing, peak load or time of day pricing and proposals for optimizing the utilization of energy and restraining its wasteful use and encouraging energy conservation, and any other matter with respect to pricing principles and rate structures as the department shall deem appropriate. The department shall determine whether existing or future rate structures place an undue burden upon those persons of poverty status and shall make such adjustment in the rate structure as is necessary or desirable to take account of their indigency. The department shall require the utilization of such new principles and structures to the extent that the department determines that their implementation is in the public interest and necessary or desirable to accomplish the purposes of this provision without being unfair or discriminatory or unduly burdensome or disruptive to any group or class of customers, and determines that such principles and structures are capable of yielding required revenues. In reviewing the rates and rate structures of electric and gas companies, the department shall take into consideration appropriate energy policies, including those of the state as expressed in subsection (c) of this section. The authority shall issue its initial findings on such investigation by December 1, 1976, and its final findings and order by June 1, 1977; provided that after such final findings and order are issued, the department shall at least once every two years undertake such further investigations as it deems appropriate with respect to new developments or desirable modifications in pricing principles and rate structures and, after holding at least one public hearing thereon, shall issue its findings and order thereon.

(c) The department of public utility control shall consult at least once each year with the commissioner of environmental protection, the Connecticut siting council and the office of policy and management, so as to coordinate and integrate its actions, decisions and policies pertaining to gas and electric companies, so far as possible, with the actions, decisions and policies of said other agencies and instrumentalities in order to further the development and optimum use of the state's energy resources and conform to the greatest practicable extent with the state energy policy as stated in section 16a-35k, taking into account prudent management of the natural environment and continued promotion of economic development within the state. In the performance of its duties, the department shall take into consideration the energy policies of the state as expressed in this subsection and in any annual reports prepared or filed by such other agencies and instrumentalities, and shall defer, as appropriate, to any actions taken by such other agencies and instrumentalities on matters within their respective jurisdictions.

(d) The commissioner of environmental protection, the commissioner of economic development, the Connecticut siting council and the office of policy and management shall be made parties to each proceeding on a rate amendment proposed by a gas or electric company based upon an alleged need for increased revenues to finance an expansion of capital equipment and facilities, and shall participate in such proceedings to the extent necessary.

(e) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE REGULATION OF A TELECOMMUNICATIONS SERVICE WHICH IS A COMPETITIVE SERVICE, AS DEFINED IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT, OR TO A TELECOMMUNICATIONS SERVICE TO WHICH AN APPROVED PLAN FOR AN ALTERNATIVE FORM OF REGULATION APPLIES, PURSUANT TO SECTION 9 OF THIS ACT.

Sec. 14. Section 16-22 of the general statutes is repealed and the following is substituted in lieu thereof:

At any hearing involving a rate or the transfer of ownership of assets or a franchise of a public service company, the burden of proving that said rate under consideration is just and reasonable or that said transfer of assets or franchise is in the public interest shall be on the public service company. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE REGULATION OF A TELECOMMUNICATIONS SERVICE WHICH IS A COMPETITIVE SERVICE, AS DEFINED IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT.

Sec. 15. Subsection (e) of section 16-331 of the general statutes is repealed and the following is substituted in lieu thereof:

(e) No certificate issued by the department under this section for the construction or operation of a community antenna television system shall be construed to authorize the provision of noncable communications service. [, except as provided under section 16-247b.] For the purposes of section 16-247c, AS AMENDED BY SECTION 4 OF THIS ACT, noncable communications service shall not be deemed to be service which is provided by a community antenna television company pursuant to a special charter or PURSUANT TO A certificate of public convenience or necessity ISSUED PURSUANT TO THIS SECTION. Nothing in this subsection shall be construed to affect service which is both authorized and preempted pursuant to federal law.

Sec. 16. This act shall take effect July 1, 1994.

# STATE OF CONNECTICUT

Attachment B

RECEIVED
MAY 16 1996
FCC MAIL ROOM

**DEPARTMENT OF PUBLIC UTILITY CONTROL**
**ONE CENTRAL PARK PLAZA**
**NEW BRITAIN, CT 06051**

**DOCKET NO. 94-10-02 DPUC INVESTIGATION INTO THE UNBUNDLING OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY'S LOCAL TELECOMMUNICATIONS NETWORK-REOPENED**

January 17, 1996

By the following Commissioners:

Thomas M. Benedict
Reginald J. Smith
Jack R. Goldberg

## DECISION

RECEIVED
MAY 16 1996
FCC MAIL ROOM

# DECISION

## I. INTRODUCTION

On July 1, 1994, Public Act 94-83, "An Act Implementing The Recommendations Of The Telecommunications Task Force" (the Public Act or Act), became Connecticut law. The Act is a broad strategic response to the changes facing the telecommunications industry in Connecticut. The technological underpinnings, the framework for a more participative, and ultimately more competitive, telecommunications market, and the role of regulation envisioned by the legislature are essential to the future realization and public benefit of an "Information Superhighway" in Connecticut.

At the core of the Public Act are the principles and goals articulated therein. Section 2 (a) of the Act provides in pertinent part:

> Due to the following: affordable, high quality telecommunications services that meet the needs of individuals and businesses in the state are necessary and vital to the welfare and development of our society; the efficient provision of modern telecommunications services by multiple providers will promote economic development in the state; expanded employment opportunities for residents of the state in the provision of telecommunications services benefit the society and economy of the state; and advanced telecommunications services enhance the delivery of services by public and not-for-profit institutions, it is, therefore, the goal of the state to (1) ensure the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state, (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services, (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market, (4) facilitate the efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity, (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible, and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service.

Conn. Gen. Stat. § 16-247a (a).

The central premise of the legislation is that broader participation in the Connecticut telecommunications market will be more beneficial to the public than will broader regulation. It is significant, however, that the Act does not chart a detailed plan for realization of its goals and compliance with its principles. Rather, the Act entrusts the Department of Public Utility Control (Department) with the responsibility of

implementing both the letter and spirit of its important provisions; the Act thus endows the Department with broad powers and procedural latitude as it seeks to achieve the legislative goals through the facilitation of the development of competition for telecommunications services.

In light of the Public Act, the Department's efforts must facilitate market conditions and create regulatory conditions that will maximize the benefits of future competition for the user public of Connecticut. As articulated by the Department's Chairman, Reginald J. Smith, during the June 23, 1994 technical meeting in Docket No. 94-05-26, General Implementation of Public Act 94-83, the passage of Public Act 94-83 places the Department and the telecommunications industry at an unprecedented point in Connecticut regulatory history with an opportunity to define a markedly different future for Connecticut telecommunications. The Department, therefore, established a framework for the implementation of Public Act 94-83 that would allow it the opportunity to fully and publicly explore all the alternatives available to it under the terms and conditions of the legislation and establish therefrom appropriate regulatory mechanisms to effect the legislative intent that telecommunications services be regulated "in a manner designed to foster competition and protect the public interest." The implementation framework involves four phases: the initial conceptual infrastructure phase, the competition phase, the alternative regulation phase and the holding company affiliate phase.

The Conceptual Infrastructure Phase consisted of Docket No. 94-07-01, The Vision For Connecticut's Telecommunications Infrastructure, in which a Decision was issued on November 1, 1994. The Department initiated that docket in recognition of the fact that effective and efficient implementation of Public Act 94-83 required at the outset an investigation of the state's telecommunications infrastructure which is the foundation for the provision of all telecommunications services. In its Decision, therefore, the Department identified the attributes that will be required of any future infrastructure to achieve the Act's goals, articulated intended Department initiatives to facilitate the development of a future infrastructure that exhibits those identified attributes and identified issues to be more fully explored in subsequent implementation dockets.

To begin the Competition Phase, in July of 1994, the Department initiated eight highly focused, limited discovery dockets to address specific issues raised by the legislature's commitment to broader market participation in Connecticut: Docket No. 94-07-02, Development of the Assumptions, Tests, Analysis, and Review to Govern Telecommunications Service Reclassifications in Light of the 8 Criteria Set Forth in Section 6 of Public Act 94-83; Docket No. 94-07-03, DPUC Review of Procedures Regarding the Certification of Telecommunications Companies and of Procedures Regarding Requests by Certified Telecommunications Companies to Expand Authority Granted in Certificates of Public Convenience and Necessity; Docket No. 94-07-04, DPUC Investigation into the Competitive Provision of Local Exchange Service in Connecticut; Docket No. 94-07-05, DPUC Investigation into the Competitive Provision of Customer Owned Coin Operated Telephone Service in Connecticut; Docket No. 94-07-06, DPUC Investigation into the Competitive Provision of Alternative Operator Service in Connecticut; Docket No. 94-07-07, DPUC Investigation of Local Service

Options, Including Basic Telecommunications Service Policy Issues and the Definition and Components of Basic Telecommunications Service; Docket No. 94-07-08, DPUC Exploration of Universal Service Policy Issues; and Docket No. 94-07-09, DPUC Exploration of the Lifeline Program Policy Issues. Those proceedings have been completed and Final Decisions issued.

The instant investigation is also integral to the achievement of effective competition as prescribed by Public Act 94-83 and has therefore been included in the Competition Phase of implementation. Public Act 94-83 directs this Department to fully investigate and fairly determine means to unbundle "the noncompetitive and emerging competitive functions of a telecommunications company's local telecommunications network that are used to provide telecommunications services and which . . . are reasonably capable of being tariffed and offered as separate services." Conn. Gen. Stat. § 16-247b. As will be evidenced in this Decision, the Department has considered in this proceeding many of the complex and interrelated issues that must be resolved if effective competition is to technically and economically emerge among the telecommunications services providers in Connecticut.[7]

In addition to the immediate areas of interest in the instant docket, the Competition Phase will entail a companion investigation of selective participative architecture issues that will impact the achievement of competition as discussed by this Department in Docket No. 94-07-01 and which emerge in consequence of the current docket. A docket for that investigation has been opened, Docket No. 94-10-04, DPUC Investigation into Participative Architecture Issues. The Department will also sponsor an examination of quality of service performance standards compelled by changes in provider responsibilities in a participative market such as that envisioned by Public Act 94-83.

Relevant to both the Competition Phase and the Alternative Regulation Phase, which are being conducted concurrently, the Department initiated individual investigations of each of the state's incumbent telephone companies' (local exchange carriers (LECs)) costs of providing telecommunications services for the purpose of constructing a financial and procedural framework for use by the Department in evaluating the unbundling and pricing initiatives to be proposed by those telephone companies: Docket No. 94-10-01, DPUC Investigation into The Southern New England Telephone Company's Cost of Providing Service (Final Decision issued on June 15, 1995); Docket No. 94-11-02, DPUC Investigation into the New York Telephone Company's Cost of Providing Service; and Docket No. 94-11-05, DPUC Investigation into the Woodbury Telephone Company's Cost of Providing Service (the latter two

---

[7] At the participants' request, the Department separated from the instant docket the issue of mutual compensation between SNET and wireless carriers. That issue was considered in Docket No. 95-04-04, DPUC Investigation into Wireless Mutual Compensation Plans, in which a Final Decision was issued on September 22, 1995. Unbundling issues unique to the state's two other telephone companies will be addressed in Docket No. 94-11-03, DPUC Investigation into the Unbundling of the New York Telephone Company's Local Telecommunications Network; and Docket No. 94-11-06, DPUC Investigation into the Unbundling of the Woodbury Telephone Company's Local Telecommunications Network.

dockets are currently in development stages). With similar intent, the Department initiated individual companion dockets to review each local exchange carrier's depreciation policies and practices: Docket No. 94-10-03, DPUC Investigation into The Southern New England Telephone Company's Intrastate Depreciation Rates (Draft Decision to be issued on or about September 26, 1995); Docket No. 94-11-04, DPUC Investigation into The New York Telephone Company's Intrastate Depreciation Rates; and Docket No. 94-11-07, DPUC Investigation into The Woodbury Telephone Company's Intrastate Depreciation Rates (the latter two dockets are currently in development stages). In addition to being relevant to this and the other unbundling proceedings, the detailed financial reviews are essential to full and fair examination of the impact upon competition of any alternative regulatory framework or treatment of the local exchange carrier community by this Department in the future. Findings, conclusions and recommendations of this Department developed in the context of these proceedings will serve as a foundation in future proceedings wherein the Department will consider specific requests filed by the incumbent telephone companies for increased discretionary authority and reduced regulatory participation in the telecommunications services business. The Southern New England Telephone Company has filed such a request for alternative regulation with this Department, which request is currently under review and consideration in Docket No. 95-03-01, Application of The Southern New England Telephone Company for Financial Review and Proposed Framework for Alternative Regulation.

Finally, the Department has initiated Docket No. 94-10-05, DPUC Investigation of The Southern New England Telephone Company Affiliate Matters Associated with the Implementation of Public Act 94-83. In this proceeding, the Department will examine the financial, structural and operational impact of broader competition and any increased discretionary authority that may be provided SNET. Although the docket is currently open, the Department has deferred active investigation of holding company structure and affiliate relationships to a point closer to the end of the implementation period, thereby permitting construction of a better set of preliminary policies to guide the Department's investigation.

Public Act 94-83 presents a significant challenge to a number of regulatory principles that historically have guided Department decisions. The earlier statutory authority specifically focused on maximizing the public benefit by authorizing only a single telecommunications service provider for any given market. The Department, therefore, was able to direct the attention solely at regulating the conduct of a single dominant corporation against a desired public standard of affordable and available telephone service. Under provisions of Public Act 94-83, the Department faces an unprecedented task of managing the introduction of broader participation into a heretofore single-provider market without unduly risking the availability, accessibility and affordability of basic telecommunications services to all prospective Connecticut users. The Department intentionally designed its implementation process to chart an orderly transition to effective competition such that the full scope and scale of benefits envisioned by the Connecticut legislature in enacting Public Act 94-83 may be realized. The Department's implementation decisions to date have consistently reflected its stated commitment to establishing a regulatory framework that affords fair competition

among incumbent providers and new competitors while protecting the interests of the Connecticut public.

## II. PARTIES AND INTERVENORS

The Department recognized as parties in this proceeding: The Southern New England Telephone Company (SNET), 227 Church Street, New Haven, Connecticut 06510; the Office of Consumer Counsel (OCC), 136 Main Street, Suite 501, New Britain, Connecticut 06051; New York Telephone (NYTel), 1095 Avenue of the Americas, New York, New York 10036; Cablevision Lightpath, Inc. (Cablevision), 111 New South Road, Hicksville, New York 11801; and MFS Intelenet, Inc. (MFSI), 6 Century Drive, Suite 300, Parsippany, NJ 07054. Separately, the Office of the Attorney General (AG), Connecticut Ad Hoc Telecommunications Users Group (Ad Hoc), AT&T Communications of New England, Inc. (AT&T), MCI Telecommunications Corp. (MCI), MFS Telecom, Inc. (MFS), New England Cable Television Association, Inc. (NECTA), Sprint Communications Company L.P. (Sprint), Teleport Communications Group (TCG), Wiltel, Inc. (Wiltel), and Message Center Beepers, Inc. (Message Center) requested and were granted intervenor status.

## III. DOCKET SCOPE AND PROCEDURE

The Department initiated the instant docket as an administrative means to implement certain prescribed policy provisions embodied in Conn. Gen. Stat. § 16-247b. Specifically, that statute mandates:

> (a) On petition or its own motion, the department shall initiate a proceeding to unbundle the noncompetitive and emerging competitive functions of a telecommunications company's local telecommunications network that are used to provide telecommunications services and which the department determines, after notice and hearing are reasonably capable of being tariffed and offered as separate services. Such unbundled functions shall be offered under tariff at rates, terms and conditions that do not unreasonably discriminate among actual and potential users and actual and potential providers of such local network services.

(b) Each telephone company shall provide reasonable nondiscriminatory access to all equipment, facilities and services necessary to provide telecommunications services to customers. The department shall determine the rates that a telephone company charges for equipment, facilities and services which are necessary for the provision of telecommunications services. The rate that a telephone company charges for a competitive or emerging competitive telecommunications service shall not be less than the sum of (1) the rate charged to another telecommunications company for a noncompetitive or emerging competitive local network service function used by that company to provide a competing telecommunications service and (2) the applicable incremental costs of the telephone company.

(c) A telephone company shall not use the revenues, expenses, costs, assets, liabilities or other resources derived from or associated with providing a noncompetitive service to subsidize its provision of competitive, emerging competitive or unregulated telecommunications services.

Conn. Gen. Stat. § 16-247b

Pursuant to a Notice of Request for Comments dated December 16, 1994, all interested persons were given opportunity to file with this Department written comments regarding the mandates of Conn. Gen. Stat. § 16-247b. By Notice of Hearing dated December 19, 1994, a public hearing was held on January 17, 1995, in the offices of the Department, One Central Park Plaza, New Britain, Connecticut 06051, and continued without date.

On April 7, 1995, SNET filed with the Department an Executed Unbundling and Resale Stipulation (the Stipulation) signed by SNET, OCC, the A.G., TCG, MFSI, AT&T, Sprint, Cablevision, and MCI. The Stipulation represents agreement among the signatories on certain unbundling principles, processes and procedures. Briefly, the Stipulation prescribes the universe of service elements to be unbundled as a part of the first phase of unbundling: the means for interconnection of unbundled elements; the administrative process for considering and approving future requests for further unbundling and resale; the operational framework in which facilities-based certified local exchange companies (CLECs) will interface with the E-911 network; the administrative procedure to be used by SNET and CLECs for handling misdirected repair calls; Central Office Code (NXX) Administration procedures; cooperative practices among SNET and the CLECs; the provision of operator services and directory services; operational procedures; number portability; and billing. Additional discussion of the Stipulation and the Department's treatment thereof is discussed in Section IV.

Upon review of Section 16-247b and the proposed Stipulation, the Department concluded (and the docket participants agreed) that the Stipulation did not fully address all the issues arising from the statutory mandates, and that those issues will have substantial effect on the scale, scope and speed of the development of competition in

Connecticut. Therefore, the Department and participants undertook the task of addressing the highly complex issues that require further refinement -- resale, pricing, interconnection and mutual compensation -- and associated subject areas. Equitable resolution of these identified issues will be instrumental to the achievement of effective competition in the local exchange services arena and the fulfillment of the stated goals of Public Act 94-83. In this proceeding, therefore, the Department provided the participants the opportunity to fully and fairly address each subject area as well as the prospective consequences of any Department action regarding them.

The positions of the participants on each of the subject areas immediately follows this section; however, some preparatory discussion is warranted to properly frame the participants' individual observations and opinions and the Department's analysis in this Decision. For purposes of providing a common, but recognizably limited, base of reference to the issues in this proceeding, the Department has developed the abridgments below.

**Interconnection** - As detailed above, Public Act 94-83 articulates as a goal of the state the "efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity" and further encourages the "shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible." Conn. Gen. Stat. § 16-247a (a). In Docket No. 94-07-01, the Department recognized that "the telecommunications infrastructure will play a dominant role in the success or failure of the development of effective competition in Connecticut's telecommunications markets and will thus greatly determine the public benefit to be derived from Public Act 94-83." Decision, Docket No. 94-07-01, November 1, 1995, p. 33. The Department, therefore, stated its commitment in future Public Act 94-83 implementation proceedings to "facilitate the development of independent networks, physically interconnected, functionally integrated and technically interpositioned with those of [the incumbent telephone companies]." Id., p. 29.

It is uncontested in this proceeding that if the participative architecture envisioned by Public Act 94-83 is to be realized, the Department must ensure the physical interconnection of switching, transmission and distribution systems of incumbent telephone companies, interexchange carriers and prospective local services market entrants. The question before the Department is how to achieve interconnectivity in the most efficient and effective manner possible.

**Mutual Compensation** - In a multi-provider market, the question arises as to how to fairly reimburse a provider for costs incurred in terminating a call on its network which originated on another provider's network. The Department had not specifically discussed this issue in previous implementation proceedings, in part, in the hope that the participants had experience and expertise in this subject area which might result in a resolution of the issue through a stipulation that would be presented for Department consideration. In this proceeding, however, it has become clear that the individual interests of the various participants make agreement on all aspects of mutual compensation virtually impossible. The Department, therefore, is faced with the task of

determining a mutual compensation framework for all service providers that facilitates the development of competition and sufficiently recognizes the roles, responsibilities and requirements imposed upon all market participants by statute and Department action.

**Resale** - For the purpose of this Decision, the term "resale" refers to the practice of a competitor purchasing or leasing services or unbundled elements of a local exchange carrier (LEC) for the purpose of reselling such services or elements to its customers. The Department has acknowledged in previous decisions that "resale is consistent with the Act's encouragement of shared use of existing facilities and its mandates for unbundling." Decision, Docket No. 94-07-01, November 1, 1994, p. 29. Moreover, the Department has found that "[l]ocal service competition will be facilitated by the removal of any and all restrictions on the resale of telephone company local service offerings by authorized service providers in Connecticut." Decision, Docket No. 94-07-04, March 16, 1995, p. 20. As the Department explained: "Full resale authority of telephone company local service offerings would serve to meet the immediate needs of prospective entrants for physical plant without capital investment as well as ensure that existing plant infrastructure is not left immediately stranded by the entrance of competitive alternatives." Id. The Department, therefore, determined that "resale tariff offerings for noncompetitive and emerging competitive residential and business offerings shall be required by the Department of the telephone companies."[8] Id. The question before the Department in this proceeding is whether all -- or something less than all -- of the family of telecommunications services currently offered by SNET on a retail basis only should be made subject to the resale requirements in order to foster the legislative goal of effective competition.

**Pricing** - In Docket No. 94-10-01, the Department faced the issue of what methodology (or methodologies) should be authorized by the Department for use by SNET in determining the respective costs-of-service for its noncompetitive, emerging competitive and competitive offerings. As articulated by the Department, "[t]he importance of such a determination is the fact that the prescribed methodology (or methodologies) will establish the underlying price floors upon which all prices will be calculated." Decision, Docket No. 94-10-01, June 15, 1995, p. 19. "With the introduction of competition to the services of SNET it is imperative that those price floors are set in a manner equitable to all interested parties, including the buying public of Connecticut." Id. To that end, the Department held that SNET shall produce a Total

---

[8] The Department has further expounded on the necessity for suitable resale offerings in Docket No. 94-07-03, wherein the Department set forth the requirement that "any applicant receiving authority to operate as a telecommunications services provider in Connecticut will be obligated to serve any and all consumers seeking service from the provider in its authorized area(s) of operation." Decision, Docket No. 94-07-03, March 15, 1995, p. 26. The Department stated that "[s]uch a requirement can be satisfied with owned facilities, resold facilities or a mix of both." Id. In Docket No. 94-07-07, the Department required "each provider of local service to provide basic telecommunications services (either employing its own network or as a resale offering) within the geographic area for which the local service provider is certified." Decision, Docket No. 94-07-07, February 28, 1995, p. 18. The Department thus recognized "that this requirement may only be fulfilled if telephone companies offer the defined functions of basic service on a tariffed wholesale basis for resale." Id., pp. 18-19.

Service Long Run Incremental Cost (TSLRIC)[9] for all of its services, including unbundled services. Id., p. 28. The question before the Department in this proceeding is what additional pricing precepts and parameters are required to ensure that the development of full and fair competition between SNET and prospective entrants to the Connecticut market is not distorted by an unwarranted aberration in the price of LEC services made subject to the Department's wholesale offering rules.

Given the relevant issues of consideration, on April 10, 1995, the Department issued a Notice of Hearing, pursuant to which a public hearing was conducted on May 8, 1995, May 9, 1995, May 10, 1995, May 19, 1995, and May 23, 1995. That hearing was continued to June 1, 1995 and again to June 15, 1995, at which time it was closed. Participants were thereafter given the opportunity to file Briefs and Reply Briefs.

After extensive review of the evidence provided in the proceeding and with benefit of the Briefs and Reply Briefs of the participants, the Department issued a draft Decision in this docket on September 1, 1995. Pursuant to Notice, all parties and intervenors were provided opportunity to file written exceptions and to present oral arguments on the draft Decision. The Department heard oral argument on the Draft Decision on September 21, 1995, and issued a Final Decision on September 22, 1995. On October 6, 1995, SNET filed a Petition for Reconsideration. The Department reopened this docket limited to two issues: (1) whether the Measured Rate and Combined Rate Options for mutual compensation contained in the OCC Revised Mutual Compensation Plan should apply to intrastate toll traffic; and (2) whether the Bill and Keep mutual compensation agreement contained in the Plan applies to intrastate toll traffic.[10] The Department provided opportunity for all participants to comment on these limited issues. Having determined that no further evidence was required to resolve the issues, the Department issued a Draft Decision in this reopened docket on December 13, 1995. Pursuant to Notice, all parties and intervenors had an opportunity to file written exceptions and to present oral argument on the reopened Draft Decision.

## III. PARTICIPANTS' POSITIONS

---

[9] The TSLRIC method is a means of estimating the additional cost incurred by the provider to provide additional output. TSLRIC scenarios consider the total addition to output that may be experienced for a service (always something more than one) and calculates an average unit cost for each increment in the total. Decision, Docket No. 94-10-01, June 15, 1995, p. 19.

[10] TCG objects procedurally to the Department's reopening of this docket because 1) the December 13, 1995 Draft Decision does not contain a finding that SNET's October 6, 1995 Petition for Reconsideration (Petition) has established the grounds for reconsideration in Conn. Gen. Stat. § 4-181a, and 2) SNET's Petition did not specifically allege that it was entitled to reconsideration based on § 4-181a or base its Petition on facts constituting good cause for reconsideration. SNET, in its Petition, alleged that the Department's September 22, 1995 Decision in this docket violated Conn. Gen. Stat. §§ 16-19 and 16-19e by substantially lowering its intrastate access revenues. As such, it is an allegation of an error of law by the Department, and meets the minimal standards set out in § 4-181a. That statutory section does not require an administrative agency to make a finding in its modified final decision that the Petitioner's allegation was in fact correct. TCG's objection elevates form over substance, especially in light of the discretion granted this Department in Conn. Gen. Stat. § 16-9, which allows the Department to rescind, reverse or alter any of its decisions upon showing cause.