State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF THE RATEPAYER ADVOCATE
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CHRISTINE TODD WHITMAN
Governor

BRIAN W. CLYMER
State Treasurer

BLOSSOM A. PERETZ
Director

June 3, 1996

VIA EXPRESS MAIL

DOCKET FILE COPY ORIGINAL

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996 (CS Docket 96-85)

TO THE HONORABLE COMMISSION:

Enclosed please find an original and eleven copies of Comments to be filed with the Commission in the above-referenced matter. Please time/date stamp the copy marked "File" and return it to this office in the enclosed, self-addressed stamped envelope.

Respectfully submitted,
Blossom Peretz, Ratepayer Advocate

By: _____
Jonathan Askin, Esq.
Assistant Deputy Public Advocate

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CS Docket No. 96-85
Implementation of Cable Act Reform Provisions	)	
of the Telecommunications Act of 1996	)	

Comments of the New Jersey Division of the Ratepayer Advocate

I. Introduction

The New Jersey Division of the Ratepayer Advocate ("Ratepayer Advocate") submits these comments in response to the Order and Notice of Proposed Rulemaking, In the Matter of Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, CS Docket No. 96-85 ("Order and NPRM"), released by the Federal Communications Commission ("FCC") on April 9, 1996.

The Ratepayer Advocate is statutorily empowered to represent and protect the interests of New Jersey's utility consumers -- residential, small business, commercial and industrial, to ensure that they receive safe, adequate and proper utility service at affordable rates that are just, reasonable and nondiscriminatory. The Ratepayer Advocate is a statutory intervenor in cases

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where cable operators seek to alter their rates or services through filings made at the New Jersey Board of Public Utilities (the "BPU"), the local franchise authority ("LFA") in New Jersey.

The federal Telecommunications Act of 1996 ("Telecom Act") and the proposed and interim rules ("Interim Rules") set forth in the Order and NPRM contain sweeping changes in the regulation of cable television. Congress intended, through the Telecom Act, to look to a competitive marketplace to restrain unreasonable rate increases for cable subscribers. Although the Telecom Act reduced certain existing rate protections for consumers, it did not eliminate the continued need for clear regulatory standards and for a workable complaint process. The Ratepayer Advocate respectfully requests that the FCC recognize these goals in adopting its final rules and policies.

II. Effective Competition

A. Effective Competition Under The Telecom Act.

In the Cable Television Act of 1992 ("1992 Cable Act"), Congress laid out three tests to determine whether or not a cable system is subject to effective competition:

> (1) Fewer than 30 percent of the households in its franchise area subscribe to the cable service of a cable system.
>
> (2) The franchise area is: (i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable programming to at least 50 percent of the households in the franchise area; and (ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15% of the households in the franchise area.

> (3) A multichannel video programming distributor, operated by the franchising authority for that franchise area, offers video programming to at least 50 percent of the households in the franchise area.

Section 76.905(b) of the FCC rules incorporates these statutory tests.

The Telecom Act adds a fourth effective competition test to include situations in which a local exchange carrier ("LEC") or its affiliate offers comparable video programming services directly to subscribers by any means (other than direct to home satellite services) in the cable operator's franchise area. Unlike the 1992 Cable Act, the Telecom Act does not explicitly include any "penetration" or "homes passed" tests to determine when a LEC's video services in a cable franchise area constitute effective competition for purposes of decertifying the local cable franchise authority. Under the Telecom Act, "effective competition" exists if a:

> local exchange carrier or its affiliate (or any multichannel video programming distributor using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.

Telecom Act, § 301(b)(3), *to be codified at* Communications Act, § 623(1)(1)(D).

B. Defining "Effective Competition" and the Need for Clear Guidelines.

In the Order and NPRM, the FCC seeks comment to determine at what point the level of competition provided by a LEC or its affiliate is sufficient to have a restraining effect on cable rates, thereby allowing for decertification of the local cable franchisor. In seeking comment, the FCC recognizes that some ambiguity exists in the Telecom Act regarding Congress's intent to

include some standard of how much of the franchise area must have access to a LEC-controlled video offering before effective competition exists.

1. Adoption of Standards to Guide Determinations of Effective Competition.

Although the specific homes-passed and penetration rate tests of the 1992 Cable Act were omitted by Congress in enacting Section 301(b)(3)(C), the FCC must still provide the regulatory parameters and guidelines to assure a genuinely competitive marketplace. The FCC is specifically charged with implementing the Telecom Act promptly and may make the necessary policy determinations to interpret its statutory directives. See, U.S. v. FCC, 707 F2d. 610, 618 (D.C. Cir. 1983) (ratemaking not exact science and rate of return decisions are appropriately treated as policy determinations in which FCC is acknowledged to have expertise).

The Ratepayer Advocate urges the FCC to adopt the statutory definition of "effective competition" as set forth in the 1992 Cable Act and incorporated into section 76.905(b) of the FCC rules, which requires, in relevant part, that "at least two unaffiliated multichannel video programming distributors each offer comparable programming to at least 50 percent of the households in the franchise area . . . and . . . the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15% of the households in the franchise area." By extending the 1992 Cable Act's effective competition test to circumstances in which a LEC enters the video delivery market, the FCC will establish a consistent test, which will avoid the confusion and disparate results that could arise from applying different tests

depending on the nature of the video competitor. Applying a "mere presence in the franchise area" test, as suggested by Commissioners Quello and Chong in their separate statements to the Order and NPRM, could have the unfortunate result of allowing a dominant cable company to raise rates, unabated by regulation or genuine competition, whenever a LEC delivers video signals to just one home in the franchise area. A penetration test, on the other hand, could ensure that consumers remain protected from rate increases and from subsidizing rates in other portions of the franchise area or adjacent franchise areas during the transition to a competitive marketplace. Franchise-wide decertification of a LFA without genuine competition would provide an incentive to a newly deregulated cable operator to raise rates in an area where no competition exists in an effort to subsidize its operations where it faces genuine competition from a LEC-affiliated video provider.

The Conference Report accompanying the Telecom Act does not expressly prohibit the FCC from considering the adoption of such standards for determining effective competition. In fact, the Conference Report references the FCC's existing rule 76.905(e) to define "offer" as used in the new statute which, as discussed below, requires that the competitor is "physically able to deliver service to potential subscribers" and that "potential subscribers in the franchise area are reasonably aware that they may purchase the services." The references to the immediacy of delivery and to the franchise area can be reasonably read to mean that a "competitive" service is one that has achieved some level of penetration in the marketplace and the potential to serve all of the marketplace.

Section 301(b)(3)(C) of the Telecom Act can be read as simply providing an additional prong to the regulatory authority embodied in Section 543 of the 1992 Cable Act. In enacting

Section 543 in the 1992 Cable Act, Congress stated its intent that the 1992 Cable Act be implemented to ensure that ". . . consumers interests are protected in the receipt of cable service." Pub.L. No. 102-385 § 2(b)(4), 106 Stat. 1460 (1992); see also H.R. Rep. No. 628, 102d Cong. 2d Sess. At 34 (1992). Nothing in the Telecom Act contradicts this basic goal of protecting consumer interests. The Ratepayer Advocate is confident that the FCC can craft final rules which are consistent with the rules controlling video service market entry by non-LECs, rely on marketplace oversight to the maximum extent feasible, and continue to protect cable subscribers who lack competitive choices from increases in their cable rates. The Ratepayer Advocate believes that a penetration test is necessary in order to ensure that all cable subscribers in a particular area receive the benefits of a competitive market.

A LFA should not be forced to relinquish its regulatory oversight franchise-wide, when only a small portion of the affected geographic area receives competitive service. A LEC may either provide video services to only a small portion of a franchise area or to an entire franchise area and extend into a small portion of an adjacent franchise area. An obvious example would be when a LEC-affiliated wireless video provider delivers programming to an entire franchise area and its video signals happen to extend into a tiny portion of an adjacent franchise area. Without a clear penetration or homes passed test, it is possible to conclude that the cable operator in the second franchise area should be deregulated even though it only faces effective competition in a tiny portion of its franchise area. To ensure a genuinely competitive marketplace and to promote the deregulatory goals of the Telecom Act, cable operators' decertification petitions should be targeted to the particular geographic area subject to competition. Perhaps, the FCC, in its final rules, could sanction the creation of a deregulated rate area within a larger rate district (franchise-

wide or systemwide, as in New Jersey). The Ratepayer Advocate understands that the BPU also supports this regulatory proposal. The creation of decertified regions would further operators' ability to compete, would uphold LFAs' administrative authority, and would be consistent with the Telecom Act's revisions on "uniform rates" in the absence of competition in "any geographic area." See Section 301(b)(2) of the Telecom Act.

Neither the enactment of the Telecom Act nor the mere presence of alternative video services in the local community will create effective competition. Just as in the telephony market, new video programming carriers must enter the market and gain a share of the market before competition can become effective in terms of increased choice and lower rates for consumers.

2. New Jersey's Experience: LEC Competition and Franchise Decertification.

The key terms of the Telecom Act's effective competition test require precise regulatory definition and clear procedural mechanisms for determining the presence of effective competition and the procedures to decertify the local cable franchisor. LFAs across the country cannot uniformly and consistently apply the requirements of the Telecom Act without additional guidance from the FCC. For instance, of immediate concern to New Jersey is the fact that the cable operator in Dover Township, New Jersey, Adelphia Cable Communications ("Adelphia"), has filed, pursuant to Rule 76.915 and the new "effective competition" test, for decertification of the BPU's rate authority by Petition to the New Jersey BPU, dated April 2, 1996. The Ratepayer Advocate filed Comments at the BPU on April 26th raising the procedural and substantive

uncertainties affecting BPU action in light of the pending FCC rulemaking. The BPU has since dismissed the petition by letter dated May 3, 1996, ruling that the petition must be filed with the FCC. Adelphia filed a Reply on May 8, 1996 seeking BPU action. At this point, none of the parties can be truly certain whether the FCC, the BPU or both actually has the authority to rule on Adelphia's decertification petition. The Ratepayer Advocate believes the FCC should clarify the rules so that LFAs and operators will know the proper procedures for handling decertification petitions.

The FCC has already tentatively concluded in the Order and NPRM, that "all tests for effective competition would be determined in a uniform manner," by proposing in paragraph 73 to "conform" the existing procedures for decertification detailed in Rule 76.915 (emphasis supplied). An amendment to this rule, however, was not included in the Appendix of the Order and NPRM. The Ratepayer Advocate agrees that decertification procedures should be "uniform." The FCC must clarify whether or not a LFA has, or will have, authority to review decertification petitions filed pursuant to the original three tests, along with the new statutory test, for "effective competition."

In New Jersey, Adelphia has claimed it had a choice of filing before the FCC or the BPU. The Ratepayer Advocate and the BPU have read the Order and NPRM and the Interim Rules as requiring that the petition should go directly to the FCC. Such questions will undoubtedly arise again throughout the country as LECs become video providers. The Ratepayer Advocate believes it is important for the FCC to indicate precisely how, or if, LFAs should handle decertification petitions. Furthermore, in order to promote uniform application of the effective competition test, the Ratepayer Advocate believes there should be one procedure to determine

effective competition regardless of whether or not the competitor is a LEC.

C. Rules on "Comparable Programming," "Offer", and "Affiliate."

The Telecom Act has defined the term "comparable video programming" to mean programming containing at least 12 channels of programming, at least some of which are television broadcast signals. The FCC's, in its Interim Rules, requires that the broadcast programming include the signals of local broadcasters. The Ratepayer Advocate agrees with this conclusion in the Interim Rules. The Ratepayer Advocate believes it is important for the FCC to encourage, to the fullest extent possible, video service providers to provide access to local broadcast channels, so that local stations continue to have an effective presence in the community.

The definition of "offer" must be applied in a manner similar to its current application under Section 76.905(e) of the FCC's Rules. Until the FCC decides the outstanding issue of whether to include a percentage pass or penetration rate test for competitive telephone providers, the FCC must closely scrutinize cable operators' evidentiary submissions to include the necessary "technical and geographic" information to demonstrate that the telephone provider is "physically able" to offer service to subscribers "in the franchise area." See Order and NPRM at ¶ 10; see also Cable Operators' Petitions for Reconsideration and Revocation of Franchising Authorities' Certifications to Regulate Basic Cable Service Rates, 9 FCC Rcd 3656 (1994). To assure that consumers have a choice of providers and the prospect of a decrease in cable rates, the FCC must review evidence of the competitor's "offer" such as construction schedules, the

availability of necessary personnel and equipment to activate service, and whether or not any significant technical investments may be necessary, i.e., alterations in switches, to assure franchise-wide "physical" availability of service.

Lastly, the Ratepayer Advocate supports the FCC's proposed use of the Title I definition of "affiliate", which specifies a 10 % interest," for purposes of reviewing a telephone company's offering under the new "effective competition" test. As technologies begin to merge and telecommunication companies themselves merge or operate jointly to provide a variety of telecommunications services, it is desirable to create uniformity throughout the Commission's rules and incorporate the same "affiliate" tests for purposes of Title VI.

III. Subscriber Complaints Regarding Cable Programming Service Tier ("CPST") Rates.

The FCC in the Order and NPRM has implemented the 1996 Act's provision which allows only LFAs to file cable rate complaints and only after receiving complaints from multiple subscribers within 90 days of the rate increase at issue, and which requires the FCC to dispose of such complaints within 90 days.

Under the 1992 Cable Act, a single subscriber could file a complaint at the FCC questioning the rates for the CPST services and equipment through the Form 329 process, independent of the LFA. The Telecom Act mandates that states and/or LFAs are the appropriate entities to initiate a rate proceeding at the FCC upon receipt of "subscriber complaints." See Section 301(b)((1)(C) of the Telecom Act. In Interim Rules 76.950 and 76.951(b)(7), (b)(8), the FCC provides, in relevant part, that a LFA must have "received more than one subscriber

complaint within 90 days of the operator's imposition of the rate in question; and . . . [a] certification that, to the best of the complainant's knowledge, the information provided on the form is true and correct." (Emphasis added). The Ratepayer Advocate believes that "more than one" subscriber complaint requires only that two complaints be filed with the LFA to trigger an LFA's authority to file a rate complaint with the FCC.

The Telecom Act, fortunately, should streamline the CPST rate complaint process in that the FCC must issue a decision disposing of a complaint within 90 days of its receipt of such complaints. Since LFAs are responsible for filing at the FCC, it seems fair and logical to provide LFAs a similar 90-day review period. A 180-day time period from the effective date of the rate increase (90 days awaiting subscriber complaints plus 90 days for a LFA to act on these subscriber complaints) should in most instances provide sufficient time for the LFA to obtain an operator's response to a subscriber's filing and preparation of the FCC complaint form. See Interim Rule 76.1402. The final rules, however, should permit extensions of time on the basis of good cause as presented by the LFA.

A LFA must have sufficient latitude to exercise its discretionary authority to question a CPST rate increase, to discern the egregiousness of an operator's proposals regardless of the volume of subscriber complaints, and to take into account the scope of the area/population affected by the rate increase. Where an operator responds to a LFA's draft Form 329 with an assertion that it is exempt from rate regulation, the FCC's final rules should clarify the proper entity capable of determining decertification based on "effective competition" or exemptions based on other grounds, such as small operators. See Interim Rule 76.1402. The FCC should also consider amending its Form 329 (as shown in Appendix B) to provide a space for describing

equipment and installation rate complaints. Since individual subscribers no longer retain the right to complain about CPST rates, the Ratepayer Advocate submits that the protective role of LFAs should not be compromised but should be strengthened in the FCC's final rules.

The Ratepayer Advocate is concerned that the proposed rules make cable subscribers dependent upon their LFAs in order to obtain redress of rate complaints. In the event that a LFA fails to file a rate complaint at the FCC upon receipt of more than one subscriber complaint within the prescribed time period, subscribers should be allowed to appeal the LFA's inaction to the FCC or the courts. In order to ensure the protection of consumer interests, a state consumer advocacy group, such as the Ratepayer Advocate, should be noticed on all complaint filings and allowed to file a rate complaint on behalf of the cable subscribers within its state. Subscribers should not be penalized for the potential, unreasonable inaction of their LFAs.

The FCC has also proposed to eliminate the requirement in Section 76.964 that operators notify subscribers of their right to file complaints with the FCC and the requirement that operators notify subscribers of the FCC's address and phone number for purposes of filing rate complaints. This is a logical consequence of the fact that the FCC will no longer directly handle subscriber CPST rate complaints. Operators, however, should still be required to inform subscribers periodically in writing (e.g., through bill inserts) as to where and how to submit rate complaints through the LFA. If a LFA utilizes a particular complaint form, an operator should so advise subscribers and make copies available to all consumers. Furthermore, in the event that the LFA does not respond to subscriber complaints, a consumer advocacy groups, such as the Ratepayer Advocate, should be recognized to file complaints on behalf of cable subscribers within its region. At a minimum, subscribers should know that the Cable Services Bureau of the

FCC, or a consumer advocacy group, exists and, while it may not handle their complaints directly, it may be able to direct subscribers to other entities which could respond to subscriber complaints.

IV. Subscriber Notification of Changes in Rates and Services.

The Order and NPRM, pursuant to the statutory mandate imposed by the Telecom Act, states that cable operators may use any reasonable written means to provide notice to subscribers of rate and service changes. Telecom Act, § 310(g), *to be codified at* Communications Act, § 632(c). Prior notice is not required for rate changes resulting from a regulatory fee, franchise fee, or any other fee, tax, assessment or charge of any kind imposed by any federal, state or franchising authority on the transaction between the operator and the subscriber.

Although the Telecom Act liberalized the rules specifying the precise content and placement of subscriber notice, the FCC must still prescribe the parameters of operators' continuing written notice requirements. See Telecom Act, § 310(g). The FCC rule modifying 47 C.F.R. 76.964, set forth in Appendix A of the Order and NPRM, provides the necessary content to subscriber notices for informed decisionmaking but should specify in subpart (b) of Rule 76.964 that effective written notice is required.

Cable subscribers cannot be expected to read every notice in every newspaper and, therefore, the Ratepayer Advocate believes that cable operators should still be required to notify subscribers by mail (e.g., with bill inserts) of changes in rates or service. The Ratepayer Advocate, however, recognizes that the Telecom Act does not require such precise means of

notification, although "written" (not electronic) notice remains a statutory requirement. Telecom Act, § 310(g), *to be codified at* Communications Act, § 632(c). As such, the Ratepayer Advocate believes the FCC should prepare rules that, to the fullest extent possible within the parameters laid out in the Telecom Act, ensure that consumers receive sufficient opportunity to be made aware of rate or service changes.

Although in paragraph 39 of the Order and NPRM, the FCC interprets the legislative history to state that "[subscriber] notice provided through written announcements on the cable system or in the newspaper will be presumed sufficient," the FCC should clarify in Rule 76.964 that such newspaper announcements should be of the type placed by a cable operator and that a reporter's inclusion of a rate change announcement within the text of a news item is not sufficient notice of publication. Such a requirement should not be viewed as burdensome, rather it will benefit all parties by clarifying for all operators and consumers the content and form of subscriber notices. It would also be desirable if such notice were published both in English and in any other languages used by a large proportion of the residents of the franchise area. The Ratepayer Advocate disagrees with the FCC's suggestion that electronically-scrolled messages of rate changes or announcements appearing on the cable video service constitute the requisite "written notice." At this point in time, Congress's intent to permit operators to use "reasonable written means" to convey rate change information should be restricted to tangible written communications to subscribers. The Ratepayer Advocate believes it would also be desirable for operators to convey rate and service information on its cable system, as a supplement to written notification.

V. Technical Standards.

Pursuant to Section 624(e) of the 1992 Cable Act, the FCC adopted technical standards governing the picture quality performance of cable systems. Under the 1992 Cable Act, a LFA could also require provisions for the enforcement of such technical standards within local franchise agreements. Section 624 also provided that a LFA could apply to the FCC for a waiver to impose stricter technical standards than those of the FCC. The 1996 Telecom Act amended Section 624 and in Section 301(e) provided that "No state or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology." The Order and NPRM at Paragraph 104 seeks comment regarding the impact of the new provision on LFA enforcement and administration of technical standards.

The Ratepayer Advocate is concerned that the FCC may interpret Section 301(e) of the Telecom Act as precluding LFAs from considering technical requirements at the time of franchise renewal or from enforcing local or statewide standards adopted by a LFA which address technical issues but not "transmission technology." The FCC should restrict the application of the statutory amendments to LFA imposition of "transmission technology" requirements or specific "type[s] of subscriber equipment" as delineated in the statute. In order to provide for the needs of its community, the LFA must have latitude to negotiate for the best services and features offered by the area cable system. Many franchise renewals reference items such as "upgrades" of the cable system, as recognized by the FCC in the Order and NPRM and since 1984 in 47 U.S.C. Sect. 546(b)(2). Construction timetables are also important components of franchise renewals and franchise oversight. The quality of the operator's service to customers

is also an integral part of a LFA's decision to renew a franchise and its ongoing oversight of a franchisee on behalf of subscribers. See Section 626 of the 1992 Act; 47 U.S.C. Sect. 546; see, e.g., N.J.A.C 14:18-10.1 et seq. Local oversight authority for these items of franchise concern remains unchanged by the new statutory language of Section 301(e). The Ratepayer Advocate respectfully requests that the FCC respond to the issues raised in the Order and NPRM by preserving LFA and state authority to oversee technical qualifications and service issues consistent with the Telecom Act and previous statutes.

VI. Uniform Rate Requirement.

According to the Order and NPRM, the uniform rate structure requirements will no longer apply to the provision of cable service in a geographic area in which the cable operator is subject to effective competition. The Ratepayer Advocate reasserts its belief noted above in Section II that the 1992 Cable Act penetration test be required to determine when effective competition exists. Without a level playing field, the incumbent cable operator may be able to use predatory pricing effectively to keep a competing video services provider from penetrating the franchise area.

The Order and NPRM tentatively concludes that bulk discounts to multiple dwelling units ("MDU") are not subject to the uniform rate requirements, except that a cable operator of a cable system may not charge predatory prices to a MDU. The Ratepayer Advocate has some initial concerns about the fairness of allowing cable operators to charge different rates depending on whether a residents lives in an apartment or a house. Given that the provision is statutorily

mandated, the Ratepayer Advocate does not challenge the FCC on this provision, except to request that the FCC apply the provision in such a way so as to ensure, to the fullest extent possible, that the cable operators do not discriminate against any residents in the franchise area. The Ratepayer Advocate believes that if a cable operator offers a bulk discount to any MDU in the franchise area, it should offer the same discount to all MDUs in the franchise area. This will help to guard against predatory pricing and also ensure equal treatment of all MDU residents in the franchise area.

The Ratepayer Advocate supports the FCC's tentative conclusion that the bulk rate exception should not permit a cable operator to offer discounted rates on an individual basis to subscribers simply because they are residents of a MDU. Such individual discounts could readily result in predatory pricing and discriminate against certain residents. The Ratepayer Advocate, however, does not see any problems caused by permitting bulk discounts in situations where MDU residents are billed individually provided that all residents in the MDU are allowed to participate in the same bulk discount.

The Telecom Act and the Order and NPRM require that a cable operator bear the burden of demonstrating that its rates are not predatory where a prima facie case has been made establishing reasonable grounds to believe that the discounted rate is predatory. In order to quash incumbent predatory pricing and foster a competitive market place, the Ratepayer Advocate believes the FCC should develop relatively lenient standards to determine when a complainant has made out a prima facie case "that there are reasonable grounds to believe that the discounted price is predatory . . . ." Telecom Act, § 301(a)(2), *to be codified at* Communications Act, § 623(d).

VII. Advanced Telecommunications Incentives.

The FCC, pursuant to Section 706 of the Telecom Act, seeks comments on methods to advance the legislative goal of providing advanced telecommunications capability to all Americans, particular the nation's elementary and secondary schools. See ¶ 109 of the Order and NPRM. The term "advanced telecommunications capability" includes video telecommunications as well as voice and data communications. The FCC has already solicited input on this important goal in other pending dockets implementing the Telecom Act, i.e., the Universal Service Proceeding, CC Docket 96-45.

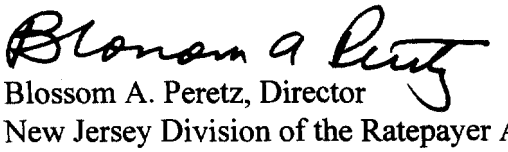
The Ratepayer Advocate welcomes this opportunity to reiterate its support for promoting access to technology for all consumers, a view which has already been expressed in the context of universal telephone service (CC Docket 96-45 Comments) and applies equally for cable television providers. The provision of service discounts for local school and libraries, as well as financial support to implement new technologies, are two measures which will promote the deployment of advanced video services. As set forth in its Docket 96-45 Comments, "the Ratepayer Advocate strongly recommends that the Commission consider implementing rules requiring all telecommunications carriers to provide schools and libraries the necessary basic infrastructure to allow access to advanced services at discounted rates." Cable operators have already been instrumental in delivering new services to many educational institutions in New Jersey through its national *Cable in the Classroom* project. Federal, state and local mandates regarding educational services, the wiring of schools, interactive instructional initiatives, Internet access, and the use of dedicated public access cable channels for educational purposes must

remain in effect and be strengthened as the FCC relies increasingly on the marketplace for regulation. Cable subscribers and state/local regulatory authorities are integral participants in the FCC's on-going inquiry into Advanced Telecommunications Services, as required by Section 706 of the Telecom Act.

VIII. Conclusion

The Ratepayer Advocate is cautiously optimistic about the effects the Telecom Act and its attendant regulations will have on the prices of, and options for data, voice and video delivery services. The Ratepayer Advocate is concerned that some of the proposed rules in the Order and NPRM -- particularly the provisions considering the possible definition of "effective competition", uniform rate regulation and CPST rate complaints -- could, without proper safeguards, have the unintended and unwanted effect of increasing prices for video services or further entrenching cable monopolies. The Ratepayer Advocate respectfully requests that the FCC consider the forementioned comments and the interests of the nation's cable subscribers while promulgating final rules on cable reform.

Respectfully submitted,



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Dated: June 3, 1996