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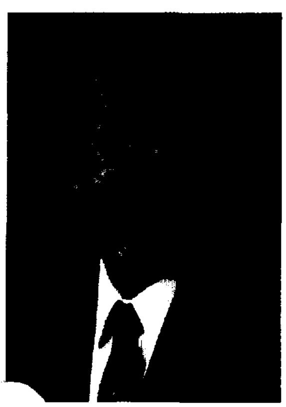
NEW YORK STATE CONSUMER PROTECTION BOARD

Testimony
To

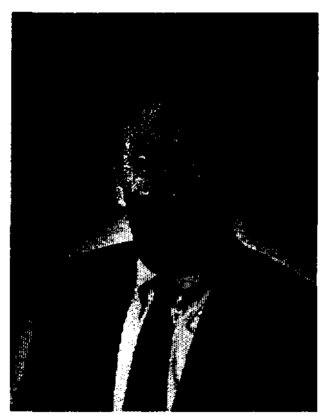
Federal Communications Commission En Banc Regarding Telecom Mergers

9:30 AM - 12 Noon - Monday, December 14, 1998
Commission Meeting Room
1919 M Street, N.W.
Washington, DC



George E. Pataki
Governor

NEW YORK STATE CONSUMER PROTECTION BOARD
5 EMPIRE STATE PLAZA, SUITE 2101
ALBANY, NY 12223-1556
GOVERNOR PATAKI'S CONSUMER HOTLINE - 1-800-697-1220
FAX: 518-474-2474
WWW.CONSUMER.STATE.NY.US



Timothy S. Carey Chairman
and
Executive Director

TESTIMONY OF
TIMOTHY S. CAREY, CHAIRMAN AND EXECUTIVE DIRECTOR
NEW YORK STATE CONSUMER PROTECTION BOARD
TO THE FEDERAL COMMUNICATIONS COMMISSION

Good morning Mr. Chairman, Commissioners and distinguished colleagues. Thank you for the opportunity to discuss the impact of proposed mergers involving the Regional Bell Operating Companies on the goals and objectives of the Telecommunications Act of 1996. I am Chairman and Executive Director of the New York State Consumer Protection Board, an agency in the Executive Department of New York State Government, and I am charged with representing the interests of New Yorkers.

Our belief is that mergers are not necessarily consistent or inconsistent with competition in telecommunications markets or the public interest. All mergers are not created equal and each potential merger must be analyzed thoroughly by considering the facts and circumstances of each proposal, not only at the federal level, but also by state regulators.

In general, consumer advocates are skeptical of mergers, since tangible consumer benefits are not always easily identified. Merger proponents must demonstrate how they will bring more competition to telecommunications markets and how the public interest and average Americans will benefit. Regulators must ensure that the advertised benefits from the mergers are in fact realized in the marketplace.

I'd like to share with you the experiences we've had in New York with the recent merger between NYNEX and Bell Atlantic, because it is a good example of how consumers have been well served by a merger when regulators provide appropriate oversight. Shortly after NYNEX and Bell Atlantic announced their proposed merger in the Spring of 1996, under the direction of Governor Pataki, former Chairman of the State Public Service Commission John O'Mara stated that the PSC would not approve the merger unless the quality of New York Telephone's local service improved substantially. Over the past year, the Company's service quality improved dramatically. To ensure that the Company's service quality did not deteriorate after the merger was approved, the Company was required to hire at least 750 additional employees to address service quality and to invest an additional $1 billion in service-related infrastructure.

The Company's service quality standards were also made more rigorous.

New Yorkers also obtained other benefits from the NYNEX/Bell Atlantic merger:

* The cost savings from that merger are essentially funding the costs of opening local markets to competition, such as the substantial costs of developing Operations Support Systems (OSS);

* Local rates in New York have not increased to fund those costs;

* Those cost savings have also partially funded a reduction in New York's intrastate carrier access charges; and

* The NYNEX/Bell Atlantic merger benefited New York's economy, since the merging companies established their headquarters in New York City and committed to maintain all existing work functions in the state.

Overall, more than one year after that merger was ultimately approved subject to conditions, there is no doubt that the average New Yorker is better off than had the merger not occurred, because the New York PSC ensured that Bell Atlantic satisfied each of those conditions.

If local markets are to be opened and competition expanded, the FCC must ensure that conditions imposed on mergers are implemented in a timely fashion. Unfortunately in the Bell Atlantic/NYNEX merger, some of the conditions imposed by this Commission, particularly the requirement for uniform OSS interfaces, have yet to be satisfied.

Meanwhile, New York State is continuing the hard work to fully open Bell Atlantic's markets to competition. Tests by an independent auditor of the ability of the Company's OSS to handle commercial volumes are now beginning. Under the guidance of the New York PSC, substantial progress has been made, although more work needs to be done. Based on progress to date, I fully expect New York to be among the first states in which you will find that an RBOC's market is fully and irreversibly open to competition, probably before you rule on the proposed Bell Atlantic/GTE merger. Accordingly, while the merger could eliminate one would-be potential competitor to Bell Atlantic in New York, GTE is not well known in New York and has no particular advantages over the literally dozens of companies that are already serving customers in New York. Since New York's local market is expected to be open to competition in the near future, the merger would not materially harm local competition in New York.

Overall, we're looking for verifiable and enforceable conditions to be imposed on these mergers at the state and federal levels. At the state level, we're looking for similar conditions as we obtained in the previous merger involving Bell Atlantic. At the federal level, we recommend that:

1. Bell Atlantic be required to satisfy the conditions imposed by the FCC on its previous merger, and those conditions should be extended to GTE's territory as well;
2. The proponents demonstrate that the mergers will enhance local telephone competition; and
3. The proponents demonstrate that the public interest will be better served by the merger.

Overall, if consumer benefits cannot be shown, the merger should be rejected. Just as with past mergers, the federal determination should not impede the ability of states to conduct their own review and impose their own conditions.

Thank you for the opportunity to address the FCC on this important issue, and also for moving expeditiously in reviewing the proposed merger. To the extent that there are benefits from the proposed merger in terms of reduced prices, more competition in certain markets, innovative new services, etc., the public interest is served if those benefits are realized sooner, rather than later. For the benefit of the Commission, we've attached our comments to our State Public Service Commission regarding the Bell Atlantic/NYNEX merger and the Bell Atlantic/GTE Merger.

Thank you again, and I look forward to your questions.