

1 facilities, schools, libraries, other offices.  
2 Souris River Telecommunications is the local  
3 provider for one of the most critical Air Force  
4 bases in the nation. Polar Telecommunications, as  
5 mentioned earlier, is a cooperative and it's the  
6 Internet provider of choice for that college  
7 outside its service territory. Consolidated  
8 Telephone Cooperative has a broad rollout of HDSL  
9 services for next month.

10           We have further committed to our customers  
11 by ensuring that regardless of where they live in a  
12 telco's service territory, it's going to be a  
13 toll-free call to access Internet connections.  
14 This policy has been adopted by virtually every  
15 independent telephone company in the state.

16           The fact remains, however, sir, that  
17 deploying DSL is extremely expensive, and beyond  
18 about three miles of the central office,  
19 technically challenging. We're going to continue  
20 our best efforts because it's the right thing to  
21 do, but we also wish to stress, sir, rural is  
22 different and North Dakota is the most rural of the  
23 rural in this country.

24           In recognition of the vast differences  
25 between serving rural and urban, as well as

1 deployment of advanced telecommunications services  
2 being in the national interest, we believe the  
3 Commission must act decisively to achieve these  
4 goals.

5           Finally, it is the opinion of the  
6 association that the Commission should attempt to  
7 strike a more reasonable balance between the Act's  
8 intent for competition introduced into the  
9 marketplace with the equally important directive to  
10 maintain universal service. It is said that some  
11 services in some markets are more efficiently  
12 served by sole providers. That decision for rural  
13 North Dakota and other extremely high-cost areas  
14 will be made at some point, but if other providers  
15 are allowed to serve just a portion of the people  
16 or offer just a limited range of the services, this  
17 Commission will be ensuring a society of  
18 information haves and have-nots in rural America,  
19 in our opinion.

20           Mr. Chairman, members of the Commission,  
21 it's been my pleasure to appear before you today.  
22 Members of the association have asked that I convey  
23 their appreciation to you all and the great honor  
24 that you bring upon us by visiting our state.

25           CHAIRMAN KENNARD: Thank you very much.

1 Thank you for that presentation. Next, we'll hear  
2 from Joe Floyd, who is president and CEO of  
3 Midcontinent Communications.

4 MR. FLOYD: Mr. Chairman, Senator Dorgan,  
5 Commission, I guess it's nice to be last on the  
6 list. Let me take the time to welcome you to  
7 Bismarck, Lincoln and Mandan, North Dakota, where  
8 our company has just completed the conversion of  
9 our cable system so it is now a 750-megahertz, 40-  
10 megahertz return with fiber HSC system with extra  
11 fiber for inter-city connections out here in our  
12 community.

13 I could not go on without pointing out our  
14 people here from the public access panel. They are  
15 in fact the C-SPAN of North Dakota. So if you go  
16 home to your individual towns, you most likely will  
17 see this on your local cable television system.

18 Midcontinent is a privately-held company  
19 with our origins in the 1930s in the motion-picture  
20 theater business here in the Dakotas. We entered  
21 the television business, radio back in the 1950s.  
22 We entered the cable television business virtually  
23 at the start of the industry in the late 1960s. In  
24 fact, we built our first system in 1968 in Huron,  
25 South Dakota. We were the first company to serve

1 the State Capitol in the United States in 1969.

2           Today we are connecting customers  
3 throughout South Dakota and here in Bismarck,  
4 Lincoln and Mandan with high-speed Internet  
5 services using the Excite@Home service, and our  
6 commercial customers to our own proprietary  
7 Internet service called MidcoNet. If you have time  
8 after this conference, we would certainly like you  
9 to tour our facilities at 719 Memorial Highway and  
10 you can see how we're put together.

11           Today I'm kind of a fan of show-and-tell.  
12 Today our service territory is generally defined as  
13 being the Dakotas. We start in the sand hills of  
14 Nebraska and go all the way to the Canadian  
15 border. We serve about 130,000 subscribers in 166  
16 communities, most of which are extremely small.

17           Almost 30 years ago Midcontinent formed a  
18 partnership with a company called TCI, and we  
19 constructed a cable system in Sioux Falls, South  
20 Dakota, with that partnership. We have since  
21 expanded that partnership to include towns like  
22 Mitchell, South Dakota, and also Bismarck and  
23 Mandan, North Dakota. We are the managing partner.

24           We have recently announced an expansion of  
25 this partnership to include all of the cable

1 systems operated by our company and AT&T. This  
2 will add approximately 65,000 subscribers, another  
3 33 communities to our operation. The locations of  
4 our systems are shown on the attached map.

5 In 1996 our company served mainly rural  
6 and small communities throughout the Dakotas. If  
7 you were going to describe us, we looked more like  
8 bug spots on a windshield. With the advent of DBS  
9 it became evident to us that we had to  
10 substantially develop our program service  
11 offering.

12 Fortunately for us, we had access to  
13 fiberoptic network systems. So we reduced the  
14 number of headends at the beginning of our capable  
15 systems from 130-some down to about 60.

16 In a process starting in 1998, we laid  
17 approximately 2,000 route miles of interconnecting  
18 fiber and reused other channel equipment to systems  
19 that were not connected to the network to expand  
20 our services to at least a minimum of 40 channels.  
21 At the same time we were involved in developing our  
22 own Internet ISP service, which would be supported  
23 on an HFC cable system. We started that in 1996  
24 because it did not appear to us that there would be  
25 a nationally distributed ISP service available for

1 cable systems in our part of the country.

2           We commenced this high-speed cable  
3 Internet service in Aberdeen, South Dakota, in 1997  
4 as part of a city/federal project to connect small  
5 communities to the information super highway.  
6 Because of our early development of cable-based  
7 Internet service we've undergone certainly several  
8 evolutions in technology. Today our basic system  
9 is at Excite@Home service deployed on HFC 750-  
10 megahertz interactive cable system with fiber nodes  
11 serving 3 to 400 homes through our technology of  
12 choice.

13           Our commercial service is deployed upon  
14 our cable network using land city modems. For our  
15 deployment of residential service we use the DOCSIS  
16 system, which is the cable television industry  
17 standard today, and we believe it will grow the  
18 Internet service by allowing customers to purchase  
19 their own modems.

20           The deployment of cable-based, high-speed  
21 Internet service in our company is subject to many  
22 of the same economic and marketplace circumstances  
23 that all facilities-based providers sitting at this  
24 table experience with the exception of DBS in areas  
25 serving small communities in low density. While

1 the construction of fiber networks in the Midwest  
2 is much less on a cost-per-mile basis, if you live  
3 here, you know the distances between towns makes up  
4 for any savings in unit costs.

5           It's our estimation that our investment  
6 for facilities to deploy high-speed advances for  
7 our customers is about two to three times more per  
8 household than the national average.

9           In addition to the 2,000 miles of fiber  
10 interconnect which we installed early in our  
11 system, we also deployed a 530-mile gateway system  
12 from Sioux Falls, South Dakota, down here in this  
13 corner, clear to Bismarck, North Dakota. This 24-  
14 count backbone network is an ATM SONET using  
15 Cellworks technology developed by ADC Company in  
16 Minneapolis. This will also be the delivery system  
17 for our new 120-channel digital service and provide  
18 interconnect for ultimate service.

19           This has been an extremely expensive and  
20 risky venture for our company. We now have two  
21 one-and-a-half megabytes symmetrical-based cable  
22 Internet services available both for commercial and  
23 residential. Today 50 percent of our customers  
24 have access to this service. We anticipate by  
25 1999 -- by end of 2000, next year, that over 60

1 percent of our subscribers in the combined  
2 Midcontinent/AT&T partnership will have service by  
3 the end of the year 2000. Those are the green dots  
4 of people who have Internet service today on our  
5 system, and, Mr. Carlson, if you could go to that,  
6 that's the systems that we plan to provide Internet  
7 service to in the year 2000, including, sir,  
8 Mayville, North Dakota. The stand-up map shows we  
9 expect our combined budget for '99 and 2000 to be  
10 somewhere north of 20 million dollars.

11 We've been achieving a level of success in  
12 our broadband service. In Aberdeen, South Dakota,  
13 where we've had the service for about three years  
14 we're experiencing about a five percent penetration  
15 of this high-speed service. However, Mr.  
16 Commissioner, in smaller communities where dial-up  
17 ISP service is accessible only by long distance,  
18 our penetration is exceeding nine percent.  
19 Midcontinent is certainly not alone in doing this.  
20 Cable Services, Inc., my friend, Roy Sheppard, over  
21 here, is providing Internet services in Valley City  
22 and Jamestown, North Dakota. CableOne in Fargo  
23 plans to deploy service in early 2000. South of us  
24 Galaxy Cable Company has followed a network similar  
25 to ours and is providing high-speed service

1 throughout Nebraska and Missouri.

2           As the Cable Bureau recently recognized in  
3 its broadband report, service has been available in  
4 rural and small towns across the country provided  
5 by the cable division industry.

6           I might say in contrast, I live in  
7 Minneapolis, Minnesota, and they say it will be at  
8 least two years before I receive that service in my  
9 home.

10           As a company we are also committed to  
11 delivering new broadband services not only to rural  
12 customer residents but also to schools and  
13 libraries in communities which we serve. As part  
14 of the cable industry's long-standing commitment  
15 for high-speed education and cable in the  
16 classroom, all state-certified K-through-12 schools  
17 in our service territory are eligible to receive  
18 free Internet cable services and cable service as  
19 well. We currently are providing free Internet  
20 service to approximately 130 K-through-12 schools  
21 in North and South Dakota.

22           Midcontinent, together with AT&T, in  
23 Bismarck, North Dakota, for example, is  
24 participating with the Great Western Network, which  
25 is right here, which is a collection of fiber and

1 with ours in other companies in connecting 19  
2 community schools for classroom interconnect, as  
3 well as Internet access provided by our company.

4 Midcontinent and companies like ours are  
5 poised to continue deploying broadband services in  
6 rural America, even though the upgrades required  
7 are extremely expensive. We are willing to  
8 undertake the financial risks of deploying the low-  
9 density, high-cost areas in a large part because of  
10 the very stable both state and federal regulatory  
11 environment in which we have been operating today,  
12 and because we believe that the services we offer  
13 appeal to the customers that we have.

14 We are concerned of recent calls for  
15 regulation. I agree with Mr. McLeod that change of  
16 the regulation will certainly create uncertainty in  
17 our capital market, increase our costs of capital  
18 and certainly slow down deployment of already  
19 provided high-speed connections to rural  
20 communities.

21 We sincerely hope you consider the issue  
22 of deployment in rural areas. You will recognize  
23 both our company's contribution and that of other  
24 cable television companies as you adopt policies  
25 that promote continued deployment.

1 I appreciate the opportunity to discuss  
2 the deployment of broadband Internet services being  
3 provided by our company and the AT&T partner. We  
4 have provided handouts which have copies of these  
5 maps showing the communities which receive Internet  
6 service today and will in the year 2000. All this  
7 has been accomplished through our investment of  
8 risk capital and the dedication of more than 200  
9 employees. Thank you.

10 FCC CHAIRMAN KENNARD: Thank you very  
11 much, Mr. Floyd. You certainly have a terrific  
12 story to tell, and I appreciate you telling it  
13 today. I want to get back to the question that I  
14 posed to the other panel, and that is what is the  
15 appropriate role of government in this environment  
16 to make sure that consumers get access to  
17 broadband?

18 We heard really two very different  
19 approaches outlined here by Judy Pepler and then  
20 by David Conn. It's not Mr. McLeod, by the way,  
21 but his net worth increased about a thousand  
22 percent when you called him McLeod, but, Judy, you  
23 had mentioned that you think that the pathway to  
24 getting more broadband access to consumers is  
25 through more aggressive deregulation on the one

1 hand and then increased universal subsidy support  
2 on the other.

3           Now just in the interest of full  
4 disclosure, I'm on record as agreeing with Mr. Conn  
5 on this point. I think we do need a period of  
6 stability, and having defended our local  
7 competition rules all the way to the Supreme Court,  
8 I think that we don't want to go through that  
9 again, but my question to you is: Even assuming  
10 that you're right, even assuming that if we were to  
11 wipe away all the things that the Commission has  
12 worked on in the past almost four years to  
13 implement this Act and did away with the interLATA  
14 restrictions and did away with unbundling and line  
15 sharing and all these things, what assurances could  
16 you give us that U S West would not take that new  
17 freedom and invest in broadband in Denver and  
18 Seattle and Phoenix instead of in Minot and Regent  
19 and Bismarck?

20           MS. PEPPLER: Thank you, Chairman  
21 Kennard. I think that our chairman is on record  
22 with you to say that he would commit to a time  
23 schedule of expanding the deployment of DSL to an  
24 additional two million customers within a certain  
25 time frame, and he would make those commitments.

1           CHAIRMAN KENNARD: But he would only make  
2 those commitments if we were to pretty radically or  
3 dramatically deregulate the current environment; is  
4 that right?

5           MS. PEPPLER: I believe that the position  
6 that we've taken is a deregulation of the data  
7 buildout, the buildout for the data networks so  
8 that we can deploy it in the most economical  
9 fashion possible without the restrictions of the  
10 LATA lines. So we are not advocating that you  
11 would lift the restrictions on the voice network.  
12 It's on the data networks that we're trying to  
13 build out at this point.

14          CHAIRMAN KENNARD: So you're telling us  
15 that those two million subscribers will not get  
16 broadband from U S West until you get deregulation  
17 of the data restrictions; is that right?

18          MS. PEPPLER: No. I don't think I'm  
19 saying that. What we're saying is it would  
20 accelerate the rollout of the broadband networks if  
21 we were to get that -- those restrictions lifted  
22 for the data network. You know, we are -- still as  
23 is evidenced by the rollout that we've had here in  
24 North Dakota, we are still working to bring those  
25 to as many customers as possible, but unfortunately

1 it goes into our largest cities first, and so some  
2 of the smaller cities won't have the advantage of  
3 that quite as quickly as they would have.

4 FCC CHAIRMAN KENNARD: Right.  
5 Commissioner Ness.

6 FCC COMMISSIONER NESS: Following up on  
7 this discussion, we just heard stories about how  
8 Midcontinent is rolling out Internet access in its  
9 communities, we've heard some of the stories about  
10 how McLeod is as well in progress realigning the  
11 infrastructure to begin to be able to provide  
12 advanced services. Would it be U S West's position  
13 where, for example, it is seeing those services  
14 rolled out to its voice customers to simply allow  
15 Midcontinent, for example, to take over those  
16 customers and provide the Internet service, or  
17 would you go in and compete in those areas by going  
18 ahead with either DSL or other technologies to  
19 provide broadband access?

20 MS. PEPPLER: Well, I'd just make a slight  
21 distinction, Commissioner, between Internet access  
22 and high-speed Internet access. We are  
23 aggressively ringing out our U S West.net Internet  
24 service to as many communities as possible. We'll  
25 be expanding that to the Jamestown, Valley City,

1 Dickinson areas within the next three to six  
2 months, but we are continuing to try to expand our  
3 rollout of dot-net services, and it's not  
4 necessarily a situation where we don't have  
5 facilities in place. Even in Mayville we might  
6 have facilities.

7           It becomes an issue of affordability, and  
8 we have a number of restrictions, as you know, in  
9 terms of our at the time network and how we can use  
10 our network that other cable providers do not have  
11 and even that McLeod does not have in terms of  
12 whatever we provided to our end customer, we also  
13 have to provide to our competitors on a  
14 nondiscriminatory, competitive, neutral basis, and  
15 so we don't have the flexibility to do different  
16 pricing methodologies that another provider might  
17 have because we always need to look at what the  
18 implications are going to be for our resale or our  
19 wholesale business.

20           FCC COMMISSIONER NESS: But, again, my  
21 understanding was that Midcontinent, for example,  
22 was planning to provide and is providing broadband;  
23 is that not right? You're providing broadband  
24 access to --

25           MR. FLOYD: Yes, ma'am. Our service is

1 between one-and-a-half megabytes technical service  
2 to both residential and commercial customers  
3 provided on an HFC fiber.

4 FCC COMMISSIONER NESS: Now I don't know  
5 to what extent your customers are coextensive with  
6 U S West's customers, but it would seem to me that  
7 if you're going out and rolling out that service in  
8 a community, that U S West might be interested as  
9 well in rolling out a broadband service to those  
10 same customers in competition.

11 MS. PEPPLER: I'm sorry. I didn't  
12 understand your question. We are definitely  
13 interested in doing that and have been doing that  
14 as aggressively as we can. We rolled it out in the  
15 Fargo area, we rolled it out last week in the Grand  
16 Forks area, it will be available in a  
17 week-and-a-half in the Bismarck area, and I guess  
18 from our perspective if the LATA restrictions were  
19 lifted, we would have the opportunity to use those  
20 ATM switches to cross the LATA boundary and maybe  
21 reach over into the Jamestown area or to bring  
22 service over across the borders on the Minnesota  
23 side without redeploying switches in each of the  
24 LATAs that we serve.

25 FCC COMMISSIONER NESS: Mr. Conn.

1           MR. CONN: Thank you. And I want to be  
2 sure that the audience is clear about what we're  
3 talking about because I think it's important to  
4 understand that for those of you who don't live and  
5 breathe this every day, and God bless you if you  
6 don't, you know, what the Telecom Act says is that  
7 incumbent Bell operating companies have certain  
8 requirements that they have to fulfill before they  
9 can carry interLATA traffic. Now we think it's  
10 pretty clear that the Telecom Act anticipates that  
11 that applies to both voice and data traveling, and  
12 to us the solution is if U S West believes it needs  
13 to get into the interLATA data market, it ought to  
14 meet the requirements of the Act and meet the 271  
15 checklist in the Act and then we're done and they  
16 can do it.

17           The question in our mind is whether  
18 regional Bell companies should be allowed into this  
19 marketed before they've met the competitive  
20 checklist or where they've showed that they've met  
21 it, and to us the answer is clearly no.

22           MR. FLOYD: I might add that Mr. Conn and  
23 I compete in many markets and don't agree on very  
24 many things, but I do agree on that particular  
25 issue.

1           FCC CHAIRMAN KENNARD: And we at the FCC  
2 are looking forward to the day when we do get an  
3 application for interLATA entry from U S West.  
4 It's been four years and we're still waiting. So  
5 we hope that you will do the hard work of opening  
6 up your market and give us an opportunity to review  
7 one of your applications one of these days.

8           PSC COMMISSIONER HAGEN: North Dakota  
9 Commission would like to see that, too.

10          MS. PEPPLER: And I would just say that we  
11 fully intend to do that and look forward to the  
12 clear pathway that gets us to 271. I think there  
13 have been a number of regional Bell companies that  
14 have applied with the FCC, and no regional Bell  
15 company has been allowed into the long-distance  
16 market yet.

17                So we're still wallowing through the mire,  
18 as is everyone, trying to figure out how we get  
19 there, and we're making aggressive efforts in  
20 Nebraska, Arizona and will be soon filing in  
21 Colorado to get that first approval process done at  
22 the state commission level to move on to the FCC  
23 level. We just, as a matter of fact, upgraded our  
24 operating support systems once again in response to  
25 a request from our competitors on how they'd like

1 those to operate and are pleased with the results  
2 of that. We're certainly anticipating that we will  
3 soon be before you for a 271 filing.

4 FCC CHAIRMAN KENNARD: Well, we look  
5 forward to that day. Commissioner Furchtgott-Roth,  
6 did you want to say something? I saw you move to  
7 the mike there.

8 FCC COMMISSIONER FURCHTGOTT-ROTH: I had a  
9 question on universal service, but I don't want to  
10 interrupt the line of questions, if you want to  
11 continue.

12 FCC CHAIRMAN KENNARD: No, no. Please go  
13 right ahead.

14 FCC COMMISSIONER FURCHTGOTT-ROTH: We  
15 heard in the last panel some references to  
16 universal service and the possibility of advanced  
17 services being brought under it, and we also heard  
18 earlier about some money that's come to North  
19 Dakota, roughly about four million dollars new  
20 money on universal service in the past couple of  
21 years, and it's gone for some very worthy purposes.

22 The nationwide universal service programs  
23 in the past couple of years have increased by about  
24 three billion dollars a year or more, and North  
25 Dakota's share of this is very small. It's a

1 little bit over one percent.

2 If the Commission were to change its  
3 definition of universal service -- I know that at  
4 least three of you all represent companies that get  
5 some federal universal service funds -- what could  
6 we do to be sure that new definitions would somehow  
7 lead to money being targeted for North Dakota as  
8 opposed to elsewhere?

9 MS. PEPPLER: If I could just ask a  
10 clarifying question, are you talking about changing  
11 the definition to include broadband services or --

12 FCC COMMISSIONER FURCHTGOTT-ROTH: In the  
13 prior panel there was some discussion of what can  
14 be done to get broadband service into rural  
15 communities in North Dakota, and there was some  
16 references to, well, some concepts that might  
17 possibly fall under universal service. If the  
18 Commission were to take steps in that direction,  
19 what could be done to be sure that money is plugged  
20 to North Dakota as opposed to going to the 99.9  
21 percent of locations that other universal funds  
22 have gone?

23 MS. PEPPLER: Commissioner, I would just  
24 say from U S West's perspective we are on extensive  
25 record with the FCC with all of our cost experts in

1 terms of what we believe that the appropriate  
2 definition of what would constitute a rural area  
3 would be, and unfortunately -- I talked with the  
4 Commissioners earlier this morning -- we were  
5 disappointed that the universal service fund order  
6 that came out last week did not include any funding  
7 for our telephone -- regular telephone service here  
8 in North Dakota for the area that we serve. Now I  
9 know that the independent companies do generate  
10 quite a bit of funding from that fund.

11           So I would say that we would still target  
12 a similar definition for rural for broadband access  
13 as well universal service telephone access.

14           MR. CONN: From our standpoint, and I  
15 guess because I'm a lawyer, I look at it in a  
16 fairly simple-minded way, but if -- if the  
17 investment in a certain area is not being made  
18 consistent with what the Commission believes is  
19 good public policy, then the way to get that done  
20 is to target funds for making the investment in  
21 that area, and I think there are lots of ways that  
22 that can be done, but in the final analysis a  
23 company that's making an investment decision is  
24 trying to figure out whether the revenue stream  
25 from that decision is going to cover its costs, and

1 one of the sources of revenue may be universal  
2 service funds.

3           You know, there are other services that  
4 can be provided over those broadband facilities,  
5 and those revenue streams obviously need to be  
6 recognized, too, but in recognizing all those  
7 revenue streams, the facilities still are not being  
8 deployed consistent with what the Commission would  
9 like to see, then it seems to me the only answer is  
10 you've got to increase the revenue stream or  
11 somehow reduce the service costs, which technology  
12 may do over time and which could conceivably be  
13 done through some sort of investment ways, but in  
14 the final analysis it's got to change on one side,  
15 either on the revenue side or the expense side.

16           MR. CROTHERS: Commissioner, we're mindful  
17 of the potential problems and pitfalls that full  
18 deployment to broadband has in rural America.  
19 Issues such as the ultimate size of the fund we've  
20 watched, as you noted earlier, grow exponentially.  
21 We do not have an easy answer for how to target it  
22 specifically. I think it is more than a  
23 telecommunications problem, however. It's an  
24 economic one, it's the very fabric of this country  
25 for about a 13-, 14-, 15-state area, depending on

1 how one counts the Great Plains.

2           The center of this country has a massive  
3 transition going on right now from agriculture  
4 ultimately to information. We have an aging  
5 population. One of the other speakers noted that  
6 we've got these tremendous levels of education. So  
7 we're very confident of success if we can have the  
8 tools to do it.

9           I think it's going to be incumbent on this  
10 Commission when it has the opportunity if this  
11 Commission is unable to -- Congress to look at the  
12 center part of this country in a completely  
13 different way, and it is going to require more  
14 resources. I noted that if we're going to  
15 participate in an information economy out here, it  
16 is going to take a substantial amount of federal  
17 recognition. We do not believe that we can carry  
18 it on our own, not even to the point of state  
19 universal fund assessments. The dollars are not  
20 there.

21           We recognize that we have an obligation to  
22 participate, we're fully prepared to do that, but  
23 we think that it's going to be a whole new way of  
24 looking at making sure that a substantial number of  
25 people in this country are not left behind, that

1 you don't walk away from your universal service  
2 policy that you've had in effect for essentially  
3 60, 65 years now and turn your backs on them.

4 MR. FLOYD: Mr. Commissioner, in the cable  
5 television business we can't talk a great deal  
6 about universal service, but I might point this  
7 out, that I think it's important for the Commission  
8 to always keep in mind that any kind of public  
9 funding should always be technology neutral. You  
10 can see from these maps there are several of us at  
11 this table that are competing with each other with  
12 various types of technology, and it doesn't take a  
13 lot to upset the apple cart in any given market and  
14 totally halt development by either one or several  
15 players because of potential funding of one type of  
16 technology over another. Your government needs to  
17 be very careful about how they spend those funds.

18 And one side comment on universal service  
19 funds. As you can see, we serve a lot of schools,  
20 and fortunately there is money from there to help  
21 these schools to provide their internal networks  
22 that we can connect to, and although I'm not an  
23 educator, I know that they are at times frustrated  
24 by how difficult it is to get these actual funds to  
25 do that work. We provide the service at no charge,

1 but we expect them to be able to connect up their  
2 computers inside of the network. We are told that  
3 our company supports about 10,000 computers today  
4 run by kids during a schoolday, and I know that  
5 would be even more rapidly developed if those were  
6 made easier to access. That's my understanding,  
7 and I'm not involved in how they do that.

8 FCC CHAIRMAN KENNARD: Senator Dorgan.

9 SENATOR DORGAN: Mr. Chairman, on this  
10 subject it's possible that five or ten years from  
11 now we look in our rearview mirror and see that  
12 wireless technology or satellite capability pole-  
13 vaulted over all of these issues in all parts of  
14 the country, every corner and crevice in this  
15 country, has access to advanced services at  
16 reasonable cost. It's also entirely possible that  
17 will not be the case. None of us knows at this  
18 point.

19 But when we wrote the Telecommunications  
20 Act, we convened this farm team and we were very  
21 concerned about rural America. We included in the  
22 Act, I would say, Commissioner Furchtgott-Roth,  
23 that Section 254 and also Section 706 in our  
24 judgment anticipates that the universal service  
25 fund be a fund that supports the buildout of

1 advanced services. The buildout of advanced  
2 services we felt was essential, and so we want the  
3 FCC to be bold in using that fund, universal  
4 service fund, to accomplish both sections of the  
5 Act that we think anticipates that buildout.

6           And if I might make one additional point,  
7 you know, the Commission when it had to assume  
8 responsibility for implementing this Act, had a  
9 pretty difficult task. I think Commissioner Ness  
10 is the only commissioner still on the Commission  
11 who was part of the original Commission having  
12 implemented this Act. The other four members of  
13 the Commission are new to this, but this has been a  
14 very difficult proposition, perhaps one of the most  
15 challenging areas of public policy the Commission  
16 has ever had to try to grapple with because it's so  
17 new and new to all of us, and we don't know exactly  
18 in which direction it moves, but my understanding  
19 is that following the two hearings that we held in  
20 Washington that, Mr. Chairman, you and the  
21 Commission will ask the joint board, the federal/  
22 state board, to convene early and begin a process  
23 to make recommendations on the universal service  
24 fund and its application as they see it to the  
25 buildout of advanced services; is that correct?

1           FCC CHAIRMAN KENNARD: That's exactly  
2 right. Just to elaborate a little bit on that,  
3 we -- and this is really addressed to Mr. Crothers  
4 representing the independent telephone  
5 cooperatives. When I first assumed this job in  
6 1997, we had completed sort of the first round of  
7 rules to be written under the '96 Act, and there  
8 was a lot of concern and a lot of nervousness among  
9 people in rural parts of the country, particularly  
10 from the independents and cooperatives, that the  
11 FCC was poised to completely change the whole  
12 universal service mechanism for those companies,  
13 and I think I speak for my colleagues here,  
14 certainly for myself, in saying that we do not want  
15 to impose any solution for the rural telephone  
16 industry until we know what the right answer is.  
17 We don't know what the right answer is.

18           We took a stab at it for the non-rural  
19 companies, the large companies, about a month ago,  
20 and what we have tried to stress is that that  
21 solution is not necessarily going to be adopted  
22 wholesale and imposed on the independents and  
23 cooperatives. I've spent a lot of time talking to  
24 representatives of those companies, as you know,  
25 and I think that what I hear often is a real sense

1 of nervousness that the world is changing, it's  
2 becoming more competitive, and the universal  
3 service subsidy system has to change in order to  
4 keep up, but no one has really provided us with the  
5 right answers yet.

6           So we are very much -- that's one of the  
7 reasons we're here. We want to find the right  
8 answers and set up a rural task force to come up  
9 with some recommendations for us. It's a task  
10 force composed of representatives of rural  
11 companies. We're in the process of convening a  
12 group of federal and state commissioners, all the  
13 FCC Commissioners will serve on this conference, to  
14 come up with ways to implement Section 706 that  
15 Senator Dorgan mentioned.

16           Once we figure out what the best solution  
17 is, we're going to convene a -- the federal/state  
18 board again in the spring, we're calling that  
19 early, and Commissioner Ness is one of the  
20 co-chairs. What I'm trying to tell you is we don't  
21 have the answers. We are trying to find the  
22 answers, and we're not going to impose solutions  
23 until we have the answers, and to you, Mr.  
24 Crothers, and the folks that you represent, help us  
25 out and bear with us, but please understand that we

1 are not going to waltz into your world and  
2 completely turn it upside down unless you tell us  
3 what the right answers are.

4           And the -- one of the things that we have  
5 found about rural America today is that competition  
6 isn't coming as quickly as everyone wanted. So the  
7 imperative of restructuring this whole subsidy  
8 system for rural America is not what people thought  
9 even a year or two ago, and so please help us, bear  
10 with us, but please do it in the spirit that we're  
11 not out to get you. We want to work with you, and  
12 we're working closely with Senator Dorgan and  
13 Senator Daschle to try to come up with positive  
14 solutions.

15           FCC COMMISSIONER NESS: If I can add to  
16 that, I think the other message that we've been  
17 hearing over time is that there are some  
18 opportunities, we are seeing some wireless carriers  
19 providing services where they had not done so  
20 before in rural areas. We're starting to see the  
21 cable companies beginning to build out in some of  
22 the areas. These are all very, very good signs.  
23 We want to make sure that whatever we do has the  
24 technology, the neutrality so that you have the  
25 opportunity of having a selection of services

1 eventually that will provide the better -- the best  
2 choice for you and your families and your  
3 businesses. So we want to make sure that we can do  
4 it in a way that's technology neutral, in a way  
5 that encourages investment and does not discourage  
6 investment, but what I think Chairman Kennard said,  
7 which is great to underscore, we don't want to  
8 upset the apple cart in here as we go about doing  
9 this.

10           So we're trying to work with all of the  
11 parties, which is one of the reasons why we're  
12 holding this hearing today.

13           One of the other points that I wanted to  
14 make just in part in response to some of the  
15 comments that Ms. Pepler had made earlier. Just  
16 so that you understand, we throw out these acronyms  
17 and 271 applications and the like. What does that  
18 mean for the consumer and for businesses that are  
19 looking to compete, to use the incumbent telephone  
20 operators, the Bell operating company operator  
21 systems and lines? What it means basically is we  
22 want to avoid a situation where a customer decides  
23 to go to a competing carrier, subscribes to the  
24 carrier and the customer's line is disconnected on  
25 a Friday and not reconnected until Monday. Not a

1 good thing. No customer is going to want to have  
2 that, no competitive carrier is going to want to  
3 have that.

4           What we want to make sure is that all of  
5 the operating systems, the backroom operations, go  
6 smoothly so that the backroom operations serve the  
7 competing carrier in the same manner with the same  
8 speed and the same service quality that are served  
9 the customers of the incumbent carrier, and so this  
10 is one of the fundamental concepts under all of the  
11 requirements that an incumbent has to go through,  
12 the Bell operating company has to go through in  
13 order to be able to get into long distance within  
14 the state, and we've been very religious about  
15 making sure that those requirements are met  
16 because, otherwise, what you'll end up with  
17 unfairly will be a situation where customers of a  
18 competing carrier just simply cannot get in the  
19 state, not because they don't offer good services,  
20 but because they can't compete based on the  
21 incumbent's operations.

22           So it's difficult, it takes time, but  
23 we've come an incredibly long way to get this  
24 accomplished, and everyone's patience I know has  
25 been tried, but I think that trial will end up

1 proving to be worthwhile.

2           CHAIRMAN KENNARD: Thank you,  
3 Commissioner. Unfortunately, we're going to have  
4 to wrap up. I'd hoped to have some time for  
5 questioning, but, unfortunately, we ran out of  
6 time. I thought we had really good interchange,  
7 and I appreciate very much the opportunity to be  
8 here and to talk to all of you. Let's consider  
9 this, though, the beginning of a dialogue and not  
10 the end. We have a web site [www.fcc.gov](http://www.fcc.gov). I'll  
11 also give you my own E-mail address. It's  
12 [wkennard, k-e-n-n-a-r-d, @fcc.gov](mailto:wkennard@fcc.gov), and I do get  
13 through most of my E-mails. It may take awhile,  
14 but I usually do get through them.

15           I did want to thank Senator Dorgan and his  
16 staff for assisting in setting this up on pretty  
17 short notice. They did a great job and got a lot  
18 of people out here.

19           So thank you all very much, and I hope to  
20 see you on my next trip to North Dakota. Thank  
21 you.

22           (Concluded at 2:51 p.m., the same day.)

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CERTIFICATE OF COURT REPORTER

I, Stephanie A. Smith, a Registered  
Professional Reporter,

DO HEREBY CERTIFY that I recorded in  
shorthand the foregoing proceedings had and made of  
record at the time and place hereinbefore  
indicated.

I DO HEREBY FURTHER CERTIFY that the  
foregoing typewritten pages contain an accurate  
transcript of my shorthand notes then and there  
taken.

Dated at Bismarck, North Dakota, this 26th  
day of November, 1999.



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Stephanie A. Smith  
Registered Professional Reporter