# $300
# ~~$200~~ Billion
# Broadband Scandal

**Bruce Kushnick**

# $300 Billion Broadband Scandal

**By**

**Bruce Kushnick**
**Chairman, Teletruth**
**Executive Director, New Networks Institute**

This book has been prepared by New Networks Institute. All rights reserved. Reproduction or further distribution of this report without written authorization is prohibited by law. For additional copies or information please contact Teletruth in writing at 568 Broadway, Suite 404, New York, NY 10012, or by phone at 718-238-7191, or by e-mail at book@teletruth.org.

© 2009 New Networks Institute

**Dear Reader,**

Since the publication of $200 Billion Broadband Scandal in 2006, New Networks Institute and Teletruth have continued to upgrade the information about broadband.

With the publication of our 25th Anniversary Report of AT&T, Verizon and Qwest on Critical Financial Indicators, which updated the information in this report, it is clear that the overcharging and failure to deploy we covered in the original book continues to be a major issue in America. The FCC has issued a Notice of Inquiry pertaining to a national policy on broadband, and our analysis has not changed.

Since 2006, there have been more mergers, including AT&T and MCI being purchased by SBC and Verizon, respectively, not to mention AT&T's purchase of BellSouth. This has increased the companies' ability to harm customers as is evidenced by a lack of broadband as well as rising prices for phone service, which can only occur because of a lack of competition.

We also added our knowledge by doing separate studies in Illinois, Indiana, Ohio, Wisconsin and updates to the information on New York, New Jersey and Massachusetts – and it reinforces our original claims.

Consequently, we have changed the name of this ebooks to $300 Billion Broadband Scandal as it is clear that the overcharging of customers continues unabated and worse, our analysis of the 25 years of the Bells' rule shows that our original projections were actually low.

The new information can be found at http://www.teletruth.org or at http://www.newnetworks.com

Bruce Kushnick, June 8th, 2009

***Dear Juror,***

Thanks for purchasing this book. A bit of a roadmap might be useful.

This micro-history of the Bells' fiber optic plans is designed to let the reader decide if the case we present is correct. The Bells currently are SBC (renamed AT&T), Verizon, BellSouth and Qwest. It is also designed to serve multiple purposes, such as providing case studies for various states including New Jersey, Massachusetts and California, as well as data to back Teletruth's Federal Trade Commission (FTC) complaint against SBC and Verizon.

**The Roadmap**

NOTE: The book officially starts at Part One, Chapter I. However, we've added other items to the front and the back of the book for the reader.

- **The Players: Who Are the Bell Companies?** — This section is designed to give a thumbnail sketch of the Bell phone companies, the territories they served, as well as their old and new relationships with AT&T and MCI.
- **How I Came to Write this Book** — This is the Preface.
- **Introduction and Summary — This was designed as the 'Cliff Notes' version** of the entire story — Volume I and II. If you don't want to read the punchline, but want to read the material as an expose, skip this section.

**NOTE**: Some of the materials in the extra sections are repetitive because they are being used in various filings.

**The Book**

**Part One: The Diss-Information Superhighway** — Driven by the Clinton-Gore Administrations' desire to fiberize America, the entire country in the early 1990's went into a techno-frenzy for the "Information Superhighway", commonly known as the "National Information Infrastructure", (NII). The Bells claimed they would deliver a fiber optic future.

TELE-TV and Americast, the Bells' billion-dollar lobbying effort, was designed to pass the Telecom Act of 1996 and allow the Bells to enter long distance more than upgrade America's networks.

**Part Two: What Was Promised**? — Using the Bells own words and filings, by 2000, approximately 50 million homes should have been rewired with a fiber optic wiring to the home, capable of 45 Mbps in two directions, which could handle over 500 channels of video and was totally open to competition. About 86 million households should be wired by 2006.

**Part Three: Splat** — Detailing how the Information Highway was pitched state by state, we discuss the dark secret — the networks couldn't be built at the time of the commitments. In fact, after the ink was dry, these companies essentially closed down all of the fiber deployments, even though the state commitments were never even close to being fulfilled.

**Part Four: The Bell Mergers Killed Broadband and Competition** — This series of chapters examines the real story — that the mergers of SBC-Ameritech-SNET-Pacific Telesis-Southwestern Bell, and the mergers of Verizon-Bell Atlantic-GTE-NYNEX essentially closed the fiber optic deployments in 26 states. We also demonstrate that the Bells' commitments to compete with each other, which was the paramount reason to merge, went unfulfilled.

**Part Five: Follow the Money** — In order to understand how customers were overcharged for networks they never received, we explain the principles of state "rate of return" regulation and the switch to "alternative regulations", which were changes in state laws that gave the phone companies billions per state in higher phone rates and tax incentives. We estimate that $200 billion was subsidized for networks that customers never received — about $2000 per household.

***The book officially ends here.***

**More Stuff: Additions to the Book**

**Part Six: The States Get Hosed** — We have done extensive case studies, some based on previous state filings. Case studies include: New Jersey, (the New Jersey case study is expanded because it as part of the franchise battles), California, Texas, Pennsylvania and Massachusetts.

**Special 20th Anniversary Data and Analysis Summary Report** — This book's core is a 20-year analysis (1984-2004) of Bell revenues, profits, construction, employees, depreciation, and other business indicators and is based on previously published data from New Networks Institute --- Revenues are up 128%, employees are down 65% based on revenue, construction is down 60%, and only 11% of new construction hasn't been written off. During our 'fiber-optic' years, 1993-2000, the profits (return on equity) were 188% higher than other utilities.

**CODA 1: ISDN — The Advanced Network Posterchild: "It Still Does Nothing"** — Taken from the "Unauthorized Bio of the Baby Bells", this section demonstrates that the fiber optic failure was not the first time the Bells failed to deploy a new technology. ISDN, in the 1980's, was never fully deployed even though they received financial incentives.

**CODA 2: The Verizon FIOS FIASCO and SBC's Dim-Lightspeed: The Rise of the Crippled Networks: Enemies of Openness. The World Is Laughing at Us.** — Verizon's new fiber optic product, FIOS, and SBC's Lightspeed are the wrong plans for America. Korea and Japan have 100 Mbps services for $40, while FIOS's top speed is 1/3 that at $199. FIOS will not be ubiquitous, is not open to competition, and does not fulfill state obligations even though each household paid $2000. We cover the harm to net neutrality, municipality plans for wiring and Wifiing, the Bells' current cable franchise requests, increasing the digital divide, the current regulatory environment, and America's ability to be competitive in a global economy.

**CODA 3: Fake Consumer Groups, Biased Research, Lots of Lobbyists, Paid-Off Politicians: Behind the Broadband Curtain** —There is an underground network of political deceit in the telecom and broadband industry. It is made up of very well funded fake or co-opted consumer groups, research firms, think-tanks, lobbying groups, politicians and PR firms throughout the United States that are out to fool reporters, state legislatures, Congress, the public and the FCC that they represent the public interest. We out Consumer for Cable Choice, TRAC, APT, New Millennium Research, Issue Dynamics and other fake or co-opted groups.

**Table of Contents**

***Who Are the Bell Companies?***
***Preface: How I came to write this book.***
***Introduction and Summary***
***What's in Volume II***

**Part One The Diss-Information Superhighway**
Chapter 1 Promises, Promises: The Future Is Always.
Chapter 2 Why Do It? Benefits of the Superhighway — Justifying the Hype
Chapter 3 Hollywood Calling — TELE-TV and Americast
Chapter 4 Hollywood Calling, Part 2

Part Two What Was Promised?
***Interlude: What Was Promised?***
Chapter 5 And the Promises? The Annual Reports Tell No Lies.
Chapter 6 And the Promises? Video Dialtone Commitments
Chapter 7 And the Promises? Fiber Optic Upgrades-to-the-Home Were Promised.
Chapter 8 Speed Matters: The Faster the Service, the More Stuff You Get, Faster.
Chapter 9 And the Promises? Channels Galore, Interactive Programming
Chapter 10 And the Promises? Open to All Competition
Chapter 11 And the Promises? NOT DSL— SPEED and Coverage Are the Issues.

**Part Three Splat**
***Interlude: The Paths to the Fiber Optic Scandals.***
Chapter 12 The Lay of the Land: The Interplay of Federal and State "Fiber-Optic-Speak".
Chapter 13 Splat — The Retreat: What Happened with the Info Bahn?
Chapter 14 Technology Doesn't Work and It Is Too Expensive: Original Cost Models

**Part Four The Bell Mergers Killed Broadband and Competition.**
***Interlude: How the Bell Mergers Killed Fiber Optic Broadband.***
Chapter 15 The SBC-Pacific Telesis-SNET-Ameritech Mergers Were the Death of the State Fiber Optic Deployments.

Chapter 16 Failure to Compete, Failure of the FCC to Enforce Merger Conditions
Chapter 17 The Verizon-Bell Atlantic-NYNEX-GTE Mergers Were the Death of State Fiber Optic Deployments: The “Con Job”.
Chapter 18 Analysis of Verizon's Merger Conditions and "Truth in Speech" Statements

**Part Five Follow the Money**
Chapter 19 Follow the Money: The Regulations.
Chapter 20 Alternative Regulations: The I-Way Sleight of Hand
Chapter 21 Fiber Optic Scandal Alternative Regulation, Round 2
Chapter 22 Show Me the Money.

**Additions to the Book:**

**Part Six The States Get Hosed.**
Chapter 23 Case Study: Opportunity New Jersey — A Broadband Failure
Chapter 24 How Pac Bell and SBC Stole California’s Digital Future.
Chapter 25 Texas’ Infrastructure Act: A Vanishing Act?
Chapter 26 Massachusetts’s 330,000 Fiber Optic Lines that Never Showed Up.
Chapter 27 Liberty, Bell, Stolen. The Pennsylvania Fiber Optic Scam and the Muni Future.

**Special 20th Anniversary Data and Analysis Summary Report**

CODA 1: ISDN — The Advanced Network Posterchild: "It Still Does Nothing".
CODA 2: Verizon’s FIOS FIASCO and SBC’s Dim-Lightspeed: The Rise of the Crippled Networks: Enemies of Openness. The World is Laughing at Us.
CODA 3: Fake Consumer Groups, Biased Research, Lots of Lobbyists, Paid-Off Politicians: Behind the Broadband Curtain.

**Exhibits**


| | |
|---|---|
| Exhibit 1 | The Original Regional Bells by State |
| Exhibit 2 | The Current and Past Hype — In Verizon's Own Words |
| Exhibit 3 | The Current and Past Hype — In SBC's Own Words |
| Exhibit 4 | The Current and Past Hype — In BellSouth's Own Words |
| Exhibit 5 | Deloitte & Touche Benefits of Information Highway, Indiana Bell, 1993 |
| Exhibit 6 | Opportunity Indiana's Impact on Health Care |
| Exhibit 7 | The RBOC's TELE-TV and Americast Partners |
| Exhibit 8 | Bell Cable and Entertainment Investments |
| Exhibit 9 | Announced RBOC Upgraded Residential Subscribers, 1994-2000 |
| Exhibit 10 | GTE and SNET Projected Fiber-Deployments, 1994-2000 |
| Exhibit 11 | Total Bell Household Deployments 2000, 2005 (with GTE, SNET) |
| Exhibit 12 | Permanent Video Dialtone Applications, Company and Location, 1994 |
| Exhibit 13 | Requested Video Dialtone Applications by the Phone Companies |
| Exhibit 14 | Speed of Service Comparisons, 2005 |
| Exhibit 15 | Number of Channels on Bell Video Dialtone Services |
| Exhibit 16 | New Jersey Bell Advanced Network & Broadband Deployment Schedule, 1993 |
| Exhibit 17 | ONJ's Broadband Digital Deployment vs without ONJ |
| Exhibit 18 | Rollout of Telephone Companies and Interactive TV, 9/96 |
| Exhibit 19 | Local Exchange Carrier Video Dialtone Pullouts, 1994-1995 |
| Exhibit 20 | The Ongoing Bell Rollouts as of December, 1995 |
| Exhibit 21 | Verizon and SBC Fiber Optic Broadband Spending and Households |
| Exhibit 22 | The SBC Hatchet of Fiber Optic Deployments |
| Exhibit 23 | Pacific Bell Video Dialtone Deployments, 1995 |
| Exhibit 24 | SNET's Filed Connecticut Fiber Optic Video Dialtone Deployments, 1995 |
| Exhibit 25 | Ameritech Video Dialtone Requested Permanent Authorizations |
| Exhibit 26 | Ameritech Investment Commitments, 1992-1998 |
| Exhibit 27 | SBC "Out-of Region" Cities, National-Local Strategy |
| Exhibit 28 | SBC Long Distance Applications and Status as of 2001 |
| Exhibit 29 | The Verizon Con Job of Fiber Optic Deployments, by 2000 |
| Exhibit 30 | The Original Bell Atlantic/NYNEX States |
| Exhibit 31 | Verizon US Territories, 2004 |

**Exhibits**


| | |
|---|---|
| Exhibit 32 | Video Dialtone Filings by Verizon, 1992-1994 |
| Exhibit 33 | Video Dialtone Filings by Verizon, 1992-1995 |
| Exhibit 34 | New Jersey Bell Advanced Network & Broadband Deployment Schedule, 1993 |
| Exhibit 35 | NYNEX Video Dialtone Announcements, 1992-1994 |
| Exhibit 36 | Nationwide Telephone Charge Increases 1983-1996, |
| Exhibit 37 | Allowable Advertising Expenses by PUCs, 1995 |
| Exhibit 38 | States' Rate of Return Policies on Contributions and Dues |
| Exhibit 39 | Southwestern Bell's TeleFuture 2000, 1989 |
| Exhibit 40 | Southwestern Bell's TeleKansas, 1989 |
| Exhibit 41 | Southwestern Bell's TeleFuture 2000 Return on Equity Splits, 1989 |
| Exhibit 42 | Alternative Regulation in Illinois, Ameritech, 1993 |
| Exhibit 43 | Alternative Regulation in Michigan, Ameritech, 1993 |
| Exhibit 44 | Revenue, Expense & Profit Margin, Selected BellSouth Calling Features, 1999 |
| Exhibit 45 | Profit Margins for Directory Publishing in 1999 |
| Exhibit 46 | New Jersey Bell Advanced Network & Broadband Deployment Schedule, 1993 |
| Exhibit 47 | Bell Atlantic New Jersey, Write-Off Bonanza, 1994 |
| Exhibit 48 | Verizon New Jersey Employees, 1993-2003 |
| Exhibit 49 | New Construction by New Jersey Bell, 1991-2003 |
| Exhibit 50 | New Jersey Bell Return on Equity, 1991-1997 |
| Exhibit 51 | The Verizon Opportunity New Jersey Commitments vs FIOS |
| Exhibit 52 | Opportunity New Jersey Broadband Digital Deployment vs Without ONJ |
| Exhibit 53 | Pac Bell’s Consumer Broadband Hybrid Fiber/Coaxial Direction |
| Exhibit 54 | Pacific Telesis’ Consumer Broadband Deployment Schedule for California |
| Exhibit 55 | Video Dialtone Applications by Pacific Telesis for California, Filed 1993 |
| Exhibit 56 | Pacific Telesis Construction & Capital Expenditures, 1984-1996 |
| Exhibit 57 | Pacific Telesis Return on Equity, Staff, 1992-1996 |
| Exhibit 58 | San Diego Tribunes’ Year by Year: A Plan that Failed |
| Exhibit 59 | Discretionary Services, Southwestern Bell, Texas |

**Exhibits**

Exhibit 60 Bell Atlantic's Return on Equity and Profit Margins
Exhibit 61 Bell Atlantic-New England Tel Dividends, Depreciation, and Expenses
Exhibit 62 Bell Atlantic-New England Telephone Revenues, Expenses, and Income
Exhibit 63 Regional Bell Residential ISDN Offerings, July, 1995
Exhibit 64 Ameritech ISDN Deployment: (Customer Lines), 1993
Exhibit 65 ISDN Deployment for Specific RBOCs
Exhibit 66 FCC Statistics: ISDN Lines, Kansas and Missouri, 1994-1995
Exhibit 67 Verizon FIOS Pricing, December 2005
Exhibit 68 Korean VDSL Pricing and Costs, December 2005
Exhibit 69 Japan VDSL
Exhibit 70 Comparing FIOS to Korea and Japan for Broadband Price and Speed
Exhibit 72 Bell Atlantic, Opportunity NJ Broadband
Exhibit 71 The Verizon ONJ Commitments vs FIOS

**The Players**

**Who Are the Bell Companies? — BellSouth, Qwest, SBC, and Verizon.**

- BellSouth
- Qwest — US West
- SBC — Southwestern Bell, Pacific Telesis, Ameritech, and SNET, (and now AT&T)
- Verizon — Bell Atlantic, NYNEX, and GTE (and now MCI)

For over 100 years, **"Ma Bell",** sometimes called the "Bell System", and sometimes called "AT&T", controlled almost all telecommunications in the US. Once the largest company in the world with over one million employees, the company consisted of 22 local Bell companies (including New York Telephone and Ohio Bell), AT&T Long Lines (the long distance division), as well as Western Electric (the subsidiary that manufactured telephone equipment), and Bell Labs, (one of the world's premier research organizations).

In 1984, because of the monopoly control the company had over phone service, the company was broken-up and the local Bell phone companies were divvied up among seven, artificially created, very large companies called the "Regional Bell Operating Companies" (RBOCs, pronounced "R-BOKS"), and sometimes the "Regional Bell Holding Companies" (RHC), and sometimes "The Baby Bells".

Please note: AT&T no longer has any ownership relationship of the Bell companies.

The original seven RBOCs were:

| | | |
|---|---|---|
| • Ameritech | Bell Atlantic | BellSouth |
| • NYNEX | Pacific Telesis | |
| • US West | Southwestern Bell | |

Each company controlled specific geographic regions of the US. For example, Ameritech controlled a five-state region — Illinois, Indiana, Michigan, Ohio and Wisconsin. The exhibit on the next page gives the original Baby Bells, the phone companies and the states they controlled.

**Exhibit 1**

**The Original Regional Bells by State**

| | | | |
|---|---|---|---|
| **Ameritech** | | | |
| ***Illinois Bell*** | Illinois | | |
| ***Indiana Bell*** | Indiana | | |
| ***Ohio Bell*** | Ohio | | |
| ***Michigan Bell*** | Michigan | | |
| ***Wisconsin Bell*** | Wisconsin | | |
| **Bell Atlantic** | | | |
| ***New Jersey Bell*** | New Jersey | | |
| ***Bell of Pennsylvania*** | Pennsylvania | | |
| ***Chesapeake and Potomac*** | West Virginia | Delaware | Virginia |
| | District of Columbia | Maryland | |
| **BellSouth** | | | |
| ***Southern Bell*** | North Carolina | Florida | |
| | South Carolina | Georgia | |
| ***South Central Bell*** | Kentucky | Louisiana | |
| | Mississippi | Tennessee | Alabama |
| **NYNEX** | | | |
| ***New York Telephone*** | New York | | |
| ***New England Telephone*** | Massachusetts | Rhode Island | |
| | New Hampshire | Maine | Vermont |
| **Pacific Telesis** | | | |
| ***Pacific Bell*** | California | | |
| ***Nevada Bell*** | Nevada | | |
| **Southwestern Bell Corporation (now SBC Communications)** | | | |
| ***Southwestern Bell*** | Arkansas | Missouri | |
| | Texas | Kansas | Oklahoma |
| **US West** | | | |
| ***Mountain Bell*** | Arizona | Colorado | Idaho |
| | Montana | New Mexico | Utah |
| | Wyoming | Iowa | |
| ***Northwestern Bell*** | Minnesota | North Dakota | Nebraska |
| | Iowa | South Dakota | |
| ***Pacific Northwest*** | Idaho | Washington | Oregon |

**Two Bell Companies Escaped.** Cincinnati Bell and Southern New England Telephone (SNET) were both spun off after the break-up.

**GTE was a separate "8th" Bell.** GTE was considered the 8th Bell in that it was as large as the other companies, though it was spread over multiple states.

**What's in a Name? Renaming the Local Phone Companies.** Starting in the 1990's, all of the holding companies replaced the local Bell names with the name of the holding company names. For example:

- New Jersey Bell became Bell Atlantic, New Jersey.
- Ohio Bell, Indiana Bell, Wisconsin Bell, Michigan Bell and Illinois Bell were all renamed "Ameritech".

**Hundreds of Companies with the RBOC Names.** The holding companies own literally hundreds of other companies, each with their name brand. For example, here are just a few of the original NYNEX companies: NYNEX Entertainment & Information Services Company, NYNEX Asset Management Company, NYNEX Credit Company, NYNEX Capital Funding Company, and NYNEX Trade Finance Company. (Source: NYNEX 3rd Q, 1996)

**Mergers and More Renaming.** Starting in 1997, there were a host of mergers of the Bell companies:

- Bell Atlantic bought NYNEX and called the combination "Bell Atlantic".
- Verizon became the combination of Bell Atlantic (with NYNEX) and GTE.
- SBC now owns Southwestern Bell, Pacific Telesis, Ameritech and SNET.
- US West became Qwest.
- BellSouth did not merge.

Instead of the original 9 RBOCs, today there are only 4: BellSouth, Qwest, SBC, and Verizon.

**Other Local Companies.** There were over 1,400 other local phone companies, including United/Sprint, Lincoln Telephone and Rochester Telephone (renamed Frontier). However, this number keeps changing because of the sales and mergers of properties over the last two decades.

**How Does AT&T and MCI Fit into this Equation?**

Originally, the Bell companies were excluded from offering long distance service. — a "Long Distance" phone call crosses state lines. A call from New York to New Jersey or from Texas to Arkansas is a long distance call.

AT&T, MCI and Sprint were the largest long distance companies in the 1990's. In 1996, the Telecom Act of 1996 formally opened the "Public Switched Telephone Networks" (PSTN), the local phone networks, to competition. The long distance companies started to enter the local markets. Meanwhile, the Telecom Act also allowed the Bell companies to enter long distance once the networks were officially "open".

However, because of seriously flawed regulations, or more to the point, the power of the Bell companies to control the regulatory environment, the long distance companies were forced out of local service. Renting the local phone lines became unprofitable. Meanwhile, by 2005, the Bell companies have been able to garner over 60% of the long distance market because they could upsell local and long distance as a package.

In the Unauthorized Bio we argued that the Bells should never have been allowed into long distance services until there was stable competition. AT&T and MCI are currently sold, and merged into SBC and Verizon, respectively. SBC has taken the AT&T name.

As we will discuss, local and long distance distinctions are blurring — it's all just electrons over wires or through the air. The companies that own the wires can block competition, either through bad legislation or "friendly regulators", who have essentially been bought off or haven't bothered to enforce the laws on the books.

**VOIP, Wireless, WiFi, CLECs, ISPs, Municipalities Offering Service, Etc.**

As we go through this discussion we will address the other types of companies, such as Wireless/Cellular, Wifi, VOIP, Internet Service Providers (ISP), Competitive Local Exchange Companies (CLECs and DLECs), etc..

**Prelude: How I Came to Write this Book.**

**Cover Story, Washington Technology, September 15th, 1994** [1]

> "A telecom analyst's report should raise some eyebrows among those who want to build the forthcoming National Information Infrastructure (NII) and do business on solid, honest ground."
>
> "If telecommunications analyst Bruce Kushnick is talking the truth (and we think he is), systems integrators, content providers, Internet service providers and just about anyone involved with building the forthcoming National Information Infrastructure had better read his report word by word."

No one ever listens to analysts who do not preach the gospel of infinite growth combined with infinite revenue, or are not paid-for by the phone companies to explain why their vision of the future is correct.

As an analyst to the phone companies from 1985 through 1993, I and my gang of consultant/analyst associates had a front row seat to what was going to be a whopper of a tech bubble, the "Information Superhighway", also called the "National Information Infrastructure Initiative".

The brainchild of the Clinton-Gore administration, it was a plan to fiberize America — it was a digital chicken in every pot. A fiber optic wire, which could handle enormous amounts of data at one time (bandwidth), would replace the 100-year-old copper wiring in your home and office. It's the difference between driving a Ferrari on the German Auto-bahn, where there is no speed limit, versus a skateboard on a dirt road.

It was actually the right plan for America, but it would never happen because the phone companies would never roll it out.

By 1992, I had created New Networks Institute to give a fact-based accounting of how the future was not going to be as televised. In 1994 we released a report called "The Information Superhighway: Get A Grip", which claimed that the phone companies could never build what they were promising. The equipment didn't work and the data being presented wasn't even close to being economically correct. In fact, a lot of us knew that the Bell companies were using this as

a ploy to do what they had wanted to do since 1984 — enter and control the lucrative long distance market.

However, with discussions of multiple billions of dollars being thrown around, not to mention a lot of campaign financing, except for a few believers in something called ‘facts’, no one seemed to care.

Looking back, almost none of the wonderous techno-color visions of the future came into focus, much less showed up when they were supposed to. Take a look at the next quote, which discusses the first round of Information Superhighway rollouts, the cable rollout of the 1970's. Here, the writer bemoans the fact that the two-way interactive world, promised in the 1970's, still hadn't arrived by the mid-1980's.

> "**March 4, 1984** Ten years ago, when cable was young, it was envisioned as a technological wonderland, a purveyor — through an 'ultimate box' of 108 channels atop the television set — of a lavish menu of two-way services, home banking, and tele-shopping, home security and energy monitoring, video games, polling, news and sports scores on demand. Some telecommunications experts predicted that the revenues of such services would eventually dwarf the sums realized from cable's more conventional home-entertainment fare."[2] (***The New York Times***)

But hype is a timeless thing. For example, the next quote from the New York Times, this time about John Malone, former-President of TCI Cable, echoes almost the same promises, almost 10 years later.

> "**October 14, 1993** In announcing the $33 billion deal with Bell Atlantic, the cable industry entrepreneur John Malone held out the vision of a single powerful box on top of each home television set that would combine the diverse streams of information that now flow separately into the home: telephone calls, television shows, video rentals, newspapers, and even books."[3] (***The New York Times***)

And the irony and hype keeps on coming. SBC, in announcing its new “IPTV” cable services, based on fiber optics and the Internet Protocol (IP) is developing a “rich array of next generation television”.[4]

> **November 11th, 2004** “SBC Communications Inc. … plans to deploy fiber optics closer to customers and build an advanced, IP-based (Internet Protocol) network capable of delivering a rich array of integrated next-generation television, data and voice services substantially beyond what is available from today's telephone, cable or satellite TV providers.”

I've always been amazed that hype, I mean history, keeps repeating itself, rewriting itself to be current. I remember going to the 1964 World's Fair with a group of over-excited kids, running in and out of AT&T’s egg-shaped videophone rooms, listening to the words of the telephone company stating that “videophones” would be available by the 1970s. Personal vision aside, the Information Age and its associated products, services, and "dramatic" changes have always been driven more by hype than by a sense of reality. And the hype keeps changing, modifying itself to fit the product that is being hyped for this year.

In point of fact, the original Bell vision of the I-Way has been around since the 1980's. Here's SBC on Integrated Service Digital Network's (ISDN) potential from the 1980s. Notice that the words "Information Superhighway" or “Broadband” can almost be substituted for ISDN without missing a beat.

Southwestern Bell **1986** Annual Report[5]

> "At the forefront of new technology is ISDN. Scheduled for commercial availability in 1988, ISDN will revolutionize day-to-day communications by allowing simultaneous transmission of voice, data and images over a single telephone line… With ISDN customers will have the potential to access videotex, telemetry, alarm services, sophisticated calling features, teleconferencing much more economically than they can today."

It is interesting to point out that ISDN, the posterchild for all failed digital deployments and a technology that could have been rolled out in the 1980's, waited until the 1990's before any actual implementation occurred — and it was never fully deployed. We will address ISDN's rollout problems in the chapter subtitled, "It Still Does Nothing".

But it wasn't until my switch away from the dark side in 1992, when I remembered a conversation with a Bell ISDN honcho. Paraphrased, ***"We're never going to roll ISDN out. It allows customers to use their single phone line for 2 call-channels. That means they don't need to buy a second line, and we make a lot of money from that line."*** I then realized that the Info Highway and all tech deployments had nothing to do with what was good for the customer, but what the phone company could make off the press of a new, hot product. Do you think it's any coincidence that the phone companies weren't running to put in ADSL back in 1993, when it was thought of as an inferior service to fiber optics?

And fiber optics? The phone company makes money by charging lots more for more "bandwidth". How could they give away something for $50 a month, when they could charge $1000 to $5000 a month for the same service? No, they'd never cannibalize their offerings for the Public Interest.

This expose is a sort of sequel/update to the ***Unauthorized Bio of the Baby Bells***, but it is also my collected archives. Hopefully, this time the same story will stick –- the phone companies are not to be trusted with our Digital Future. They do not care about their customers as much as their own stock options or "global presence". They are not interested in bringing the future to America but in killing off whatever competitors get in their way. They are no longer the benevolent 'Ma Bell', but are hatchet men and con jobbers who will say anything for a quick buck at the expense of the Public Interest.

This iteration of the tale is different than previous versions. In 1994, when I wrote 'The Grip', I had no idea just how completely the companies were able to control the regulators. And in 1998, I didn't know the full extent of the deception, which was nationwide and required ALL of the companies to essentially lie to the public in a form of collusion. How could ALL of the phone companies give the same bad business and economic models that all pointed to their success? And ALL of them got billions of dollars per-state for services they never rendered. We now know that it was all not real — a phantom fiber optic highway.

As we discovered, this was not simply hyping "vaporware", a new product that may or may not exist. This was grand scale larceny, changing state laws to give the companies the right to print money. How many statements does it take for something to go from a company's overzealous speculations about future products to fraud? Is it fraud when you present thousands of statements with actual product descriptions, deployment schedules, vendor-deals, and then manipulate state laws to make billions more?

To be quite honest, we didn't know the extent of just how much money was collected state by state until we actually filed complaints in Massachusetts in 1999 and Pennsylvania in 2001 over the failed deployments, and did a 20-year summary for this book.

And boy were we naïve to the power of the Bell companies to control the agenda through fraudulent data and gaming the regulatory system using fake consumer groups, biased research firms and campaign-financed politicians, to control everything from the FCC, to Congress, to the state legislatures and commissions to vote for phone-company-financed laws that are not in the public interest. After being a member of the FCC Consumer Advisory Committee (2003-2004), it became clear that many of the groups on the Committee, then and now, were nothing more than mouthpieces for those who fund them – the Bell companies.

And when the fix is in, data and facts are never taken into account. Over the last decade we've filed multiple complaints, comments, and letters, with the FCC, FTC, Congress, state public service commissions, and even the IRS to alert the regulators that the Bells were supplying false data, failing to live up to state and federal obligations, or to the fact that the FCC's own data on broadband was flawed, incomplete and out and out wrong. Facts don't really matter when the FCC has been completely overtaken by the phone companies' minions.[6]

In 1992, I predicted the phone companies would never roll out their fiber optic networks or open their networks to true competition. I even called for "Divestiture II", meaning that the "Public Switched Telecommunications Networks" (PSTN) should be taken out of their control, updated with fiber, and remain a utility for all competitors to use and add services.

As we watched from 2000-2004, the Bell companies have been able to close down virtually all competition that used the PSTN. The regulators have taken a laisse faire approach to enforcement and essentially 6000 Internet Service Providers (ISP) and hundreds of competitive local exchange companies (CLECs) were put out of business. Right now the law says that ISPs can no longer sell broadband using the customers' lines (line sharing); they are forbidden to use the cable networks.

Worse, the voice competitors, like AT&T and MCI, who were selling local service by renting the public networks, have also been driven off the networks.

Ironically, every state law, every merger, and the Telecom Act of 1996, ALL claimed that competition was an imperative for growth of the economy and innovation, not to mention customer choice. In Volume II, I'll address wireless, cable, munis, and VOIP competition.

Now, almost 14 years after I started New Networks, the data is in front of you. It is one of the largest scandals in history and I hope you take the time to examine the data we're presenting.

And this is no history lesson.

We are at a stage when the Bell companies have even more power, controlling the wires and the competitors. AT&T and MCI have been bought by the controllers of the wires, SBC and Verizon respectively, and the few mega-Bell merged concerns will control if and when they feel like giving you new services, or even which services you will be able to get from competitors.

America is 12 Th to16th in the world in broadband for a reason. You don't have your fiber optic wiring with 45 Mbps for a reason, and it has cost you over $2000.00.

In the immortal words of John Belushi in Animal House, "Don't get mad… Get even." I'm doing my part of the job, now it's your turn. Get mad. Call your state Congressmen and Senators and demand "Broadband True-ups", as we describe. Help us get your money back, or use the money to wire your own community.

I'd like to thank: Vicki Blake for the cover, Warneldo Kushnick and Marcus Lewis for the editing, Joe Plotkin, Eric Lee and Jerry Michalski for their long time support, my phone bill soul-mate Tom Allibone, Kate Lynch, Peter Brennan, Teletruth, suethebells, Bob Garnet, Kaarli, and of course, in memory of Aunt Ethel. And thanks to the new kids on the block, our Infrastructure Held Hostage cabal, including Gordon Cook et al.

**$200 Billion Broadband Scandal**

***(The sequel to the "Unauthorized Bio of the Baby Bells")***

**Introduction and Summary**

You're owed money. We estimate that you are owed over $2000.00 per household for a fiber optic broadband network service you have yet to receive and for other overcharging from your local Bell phone company — SBC, Verizon, BellSouth and US West. It is impossible to tell the exact amount in your state without audits.

This is the true tale of one of the largest scandals in US history.

NOTE: See ***"Who are the Bell Companies?"*** for more details about these companies.

We will attempt to show how America entrusted the phone companies with our fiber optic Digital Future and we were taken to the cleaners. It not only cost you and everyone you know a significant sum of money, but it has also harmed our entire economy. It is the reason America is not first in broadband in the world but 12th or 16th, depending on which international agency's data you believe.

We estimate that the failed fiber optic deployments have cost America over $206 billion in higher phone rates, tax breaks and other financial perks to the phone companies, and it has cost the American economy an estimated $500 billion annually in loss of new growth — so far a total of about $5 trillion.

It is a tale of deceit, fraudulent data and gaming the regulatory system using fake consumer groups, biased research firms and campaign-financed politicians to control everything from the FCC, to Congress, to the state legislatures and commissions to vote for phone-company-financed laws that are not in the public interest.

And it's time to take actions now, because it will get worse before it gets better. This expose is not simply some tale of history that you may not know about. This tale impacts the next decade of telecommunications and broadband, not to mention the entire economy. It impacts every aspect of the digital spectrum, from broadband, to peer-to-peer file sharing, to VOIP or Internet services, to municipalities rewiring their cities with Wi-fi services, to the actual costs of service and the choices you will have in the future.

**You, the Jury**

So, think of yourself as someone on a jury, and let us present the case. This story is being presented in two volumes. This first volume is dedicated to the story of fiber optic broadband in America, or the lack thereof.

***The case is simple:***

- Do you have a 45 Megabit-per-second (Mbps), bi-directional (downloading and uploading are the same speed), fiber optic service offering 534 video channels for about $50 bucks a month today? (We will explain all of these terms in future sections.)
- We argue that you, your family and friends, not to mention your company, school, library, and everyone you know, paid for this fiber optic service through higher phone rates, not to mention other perks your phone company received for promising to roll out these fiber-based services. In essence, you have been paying a hidden broadband tax — about $2000.00 per household, to fund these other networks. (NOTE: Every state had different laws and different commitments.)
- Speed is the issue: If you're using DSL or cable modems, your speed is about 50 times slower than what was promised in 1992. Dialing-up the Internet is 1000 times slower.
- DSL is not a substitute. DSL goes over the old copper wiring to the home or office, and should have been replaced by glass-based fiber optic wiring.
- "Fiber to the home", the direct connect to the home or office, is the Holy Grail of broadband. It is sometimes called "The Last Mile", "Last 100 Feet", "FTTH" (Fiber optics-to-the-home), "FTTP" (Fiber-to the-Premises), "FTTC" (Fiber-to-the-Curb) — This fiber optic wiring is NOT somewhere in the ether of the network, but directly to your home or office.

**Overcome the "Forget-Me-Not" Drug: Collective Amnesia.** Like some Harry Potter potion, the story you are about to hear is rarely discussed, improperly remembered, or removed completely from government agencies' reports, including the FCC's (Federal Communications Commission) broadband report.[7] Most, if not all "average citizens" do not remember that they paid for the missing networks through higher phone rates. **Collective Amnesia** or simply the phone companies' and the government agencies' failure to make this essential fact clear is something for you to discern as you read this tale.

**The Background**

Starting in the early 1990's, driven by the Clinton-Gore Administration's desire to create a very high-speed network throughout America, the Bell phone companies claimed that instead of the government taking the lead role, the Bell companies would step up to the plate to rewire America's homes and offices, schools and libraries with a fiber optic broadband network. It would replace the aging, 100-year old copper-based network, with a glass-based fiber optic wire that could handle America's broadband needs.

From 1993 through 1996, there were announcements and plans that would make anyone think that we were in the midst of a fiber optic revolution. In order to make the country believe that these networks were real, the phone companies spent almost a billion dollars on two groups, TELE-TV and Americast. Americast (the group formed by SBC, BellSouth, GTE, Ameritech and Disney to promote fiber optic/broadband content) was promising 68 million fiber optic homes in 28 states. And in virtually every state, the companies hyped the proposed plan with additional millions of dollars in lobbying, advertisements, research reports and campaign financing.

What was promised? By 2000, according to the Bell companies' annual reports, press releases and state filings, about 50 million households should have been rewired**.** California's Pacific Telesis (Pac Bell) promised to have 5.5 million households wired with fiber optic services, Ameritech; which covered 5 states including Illinois, Indiana and Michigan, Ohio and Wisconsin) promised 6 million homes by 2000, Bell Atlantic claimed 8.75 million homes, and NYNEX said 1.5-2 million by 1996. (Ameritech, Pac Bell, Bell Atlantic and NYNEX were four of the original Bell companies.)

Alongside the annual reports, the Bell companies also filed with the FCC to offer "video dialtone" services over fiber optic wire. Over 9,787,400 households in 43 cities were supposed to be upgraded between 1995 and 1997.

None of this was DSL. DSL goes over the old existing copper wiring and could not deliver "broadband", as defined by the Bell companies. "Broadband" was defined as 45 Mbps in both directions, capable of high-quality video services. On average, these plans called for the ability to handle at least 534 video channels. In fact, the Bells' current DSL service was considered "inferior" in 1993 because it traveled over the old copper networks at a fraction of the speed.

And the amount of money to be spent was staggering. Bell Atlantic's 1993 Annual Report announced they were the "leaders" of the Info Bahn, and that they would be spending $11 billion by 2000. Not to be outdone, Pacific Telesis' President Philip Quigley boldly announced that they were going to spend a whopping $16 billion. And if a 1994 article on Ameritech's expenditures is to be believed, the company would be adding $4.4 billion for video services, for a whopping total of $29 billion over the next 15 years.

By 2005, if the Bell companies (including Verizon/GTE) had actually delivered on their broadband promises, approximately 86 million households would have had fiber optic based services. These state commitments also would have rewired schools and libraries, hospitals and government offices. And in most states, the plan called for ALL customers to be rewired equally, whether they were in rural or urban areas, rich or poor. Universal Broadband was to be accomplished state-by-state because customers were, in essence, defacto-investors funding these network upgrades.

**How Do We Fund this Network? Duh… Customers Will Pay for It.**

The local phone companies are regulated by the state public utility commissions. They are utilities, and offer essential services — phone and data services. The utilities were regulated by controlling the companies' profits, known as "rate of return". Remember, in the 1990's, there was no competition of any consequence, and so the phone companies had a guaranteed income. It's still guaranteed in that if their profits fail to please, they ask for a price increase.

The plan was to simply get all 50 states to remove this old "rate of return" regulation with "deregulation", meaning the removal of regulation. In this case, it was also called "price caps", or "alternative regulations", or "incentive regulations", all of which would give the phone companies more money to pay for these upgrades.

Some states also required the laws of the state to be modified and so state legislatures in many states had to kick-start this process and create new statutes. Many of these statutes were written by the phone companies and given to key legislators to sponsor.

From the customer side, in essence, these plans allowed the phone companies to either raise the price of specific services, or allowed the companies to not have to give back money for very profitable services. For example, "Calling Features", such as "Call Waiting" or "Call Forwarding", can cost customers $3-$5 a month, and yet cost less than ***ONE CENT*** to offer. Pennies, nickels, dimes and quarters do add up.

They could also cut staff, take large tax write-offs for the aging equipment, and get a host of other perks.

At the same time the phone companies were lobbying hard to rewrite the Communications Act of 1934 and eventually got the passage of the Telecom Act of 1996. The new law was based on the premise that the local phone networks would be opened up for competition. Of importance to the local phone companies was a trade-off — if they opened their networks sufficiently, they would be allowed into the long distance markets, something that they had wanted to do since 1984, the year of their birth. When AT&T was split up, AT&T got the long distance service while the Bells were the local providers. (A long distance call is an "inter-state" call that crosses state lines, such as a call from New Jersey to California.)

And so, armed with an array of heaving lobbying, biased research, campaign financing, and a large advertising budget to convince customers that they were the next Digital Coming, starting in 1993 through 1996 they were able to get the majority of states to change their laws in favor of giving the phone companies a great deal more money.

Leading these plans were two groups, TELE-TV, comprised of Bell Atlantic, Pacific Bell and NYNEX, and Americast, which included the other Bells, as well as Disney, GTE and SNET. Except for US West, this represented all of the Bell companies, including those that would be merged. It is estimated that these two ventures spent over $1 billion to make sure that their message would not be refuted. Who wouldn’t believe every phone company in America yelling at the top of the lungs, along with a lot of other corporate players, who say we need big bucks for these new networks repeating the gospel of the fiber optic future

**Splat.** Well, more like the sound of a hatchet falling, would be the way to explain what happened next. A primary finding of this tale is that the mergers of SBC (Southwestern Bell), Ameritech, Pacific Telesis, and SNET, and the mergers of Verizon, Bell Atlantic, NYNEX, and GTE killed deployment of fiber optic broadband in 26+ states, starting in early 1997. (See “Who are the Bell Companies” for more details of which states were involved.)

There were two different versions of this story. Pacific Telesis, Ameritech, SNET, and GTE had all rolled out some fiber networks, though not what was promised. Ameritech had rolled out regular cable services over its fiber optic wiring in 5 states, SNET was offering cable in its regions, and various communities in California had been wired by Pac Bell. None of them matched the descriptions as told by the annual reports and press releases, but it was something. In every case, when their time to merge came, their fiber optic plans were shuttered.

The second version of this story is the Bell Atlantic-NYNEX story. In this case, in all 13 states, it looks like the public and the state commissions had been conned, since there is no evidence that any massive fiber-based undertaking in any one of the states occurred. So what if Pennsylvania, New Jersey, Massachusetts, Rhode Island and other states had state fiber optic deregulatory plans that had passed in 1993-1995. NYNEX, in Massachusetts, had told the public and regulators it would have 330,000 lines installed by 1995, while the entire state of New Jersey was to be upgraded with fiber to the home by 2010. Pennsylvania's commitments were to have 50% wired in rural, urban and suburban areas by 2004. Nothing was put in, though these companies argue that the fiber wiring somewhere in the phone networks' ether is what was promised. Poppycock. That wiring is, at best, a highway with no on-and-off ramps.

We also need to point out that these two mergers not only shuttered 26 states' fiber optic deployments, not counting the GTE territories which are spread throughout the US, but the companies also lied about the need to become larger to compete with each other. SBC promised to be competing vigorously for local wireline competition in 30 cities outside of their territories by 2002, while Verizon promised 21 cities, both directly competing with each other. None of that materialized with any competitive force, and it is clear that both companies used competition as an excuse, knowing full well that the regulators weren't going to enforce their statements, or break up the mergers.

**Is this a Fraud Case? A Case of Collusion? A Case of Misleading Commercial Speech?**

Now, there are those who make the case that since the regulators were complacent in much of the changes in the state laws and the phone-bill-booty that would come, the phone companies don't really "owe" customers money, it was the "cost" of bad regulation with no oversight. Others say that the mergers changed the situation or that state laws were changed because of the Telecom Act.

Our belief is that these companies made agreements with the public. State laws were changed in virtually every case based on the announced plans. In many states, such as New Jersey and Pennsylvania, there were committed deployment schedules laid out.

The real kicker? The networks couldn't be built then, much less now. That's right, the fiber optic info-highway, 534 channel, 45 Mbps services, could not be built when these statements were made and these state agreements signed.

How do we know this? Well, Verizon, of course, is one source. Verizon's May 19, 2004 press release states emphatically that Verizon was only now, in 2004, doing fiber optic "field trials".

> "Although the use of fiber optic technology is common throughout the telecom industry, Verizon is the first company to begin using it to directly connect homes and businesses to the network on a widespread scale***… FTTP is moving from field trials and the lab to the real world."***

The fact that Verizon's fiber optic project, FIOS, as of January 2006 still couldn't deliver video services, now called IPTV, should make everyone consider this a case of fraud, and not simply market forces that caused Verizon to offer fiber-based services, only a decade late.

We contend that the state alternative regulation plans, which deregulated the companies, should never have been allowed to stand. Our analysis of overcharging, then, is how much money, write-offs, and other perks were accrued from the changes in law.

The phone companies were a utility and the contractors didn't fulfill their obligations. The companies, as a utility, had to have their networks open to competitors as part of the law, since the funders were the customers. In this case, the contractor pointed to the old copper networks and said, ***"Viola. We're done. That's why we just charged you a few billion."***

More to the point, the laws would never have changed just for DSL. DSL travels over the old copper wiring and could have been deployed without any new, serious upgrades in 1993. It did not require the industry to be "deregulated", and DSL could not handle high-quality video, which was the definition of broadband in 1993.

And then there's collusion. If one company in one state had done this terrible thing — charged customers for a fiber optic wire and services that weren't delivered, that would be bad enough. But as we will show, as early as 1994, some states realized it couldn't be built, not for the prices that they had quoted, and yet, other states still made claims it could be built in 1995. And since none of it was ever built by 9 different companies (SNET, GTE, plus the original 7 Bells), amounting to the majority of states, it's now obvious that this information was surpressed, covered up, a ruse, carried out on a massive scale. Some companies must have known it couldn't be built, but never said a word, especially about giving back the money and perks, not to mention the breaking up of the mergers. TELE-TV and Americast simply acted as the "beard", putting on a face while the phone companies were pulling out of the projects.

To be frank, based on our interviews over the last decade, we know for a fact that the companies senior management and staffers working on the projects were well aware that it couldn't be built, though none would ever come forward to admit it. They could be accused of fraud.

**Follow the Money**

We've prepared a 20-year analysis of data using the Bells' own annual reports — revenues, profits, staff, construction and depreciation (write-offs) are just some of the specific analyses. We also compared them to other standard business information, including the Business Week's Scoreboard for "Utilities" and "Industry", as well as Census data.

While each state has different laws, nationwide, we estimate that the Bell companies overcharged over $205 billion from 1992-2004 for these networks, including various financial perks — and that figure is growing. On average, we estimate that it was over $2000 per household. We'll go through our exact calculations later.

Essentially, what happened was that because of the state and federal deregulations, primarily written for the companies' fiber optic service promises, local service became the Bells' private cash machine. By dumb luck, the timing for deregulation couldn't have been better. There was a massive increase in telephone services being purchased, fueled by the Internet's growth, starting in 1995. Many of the services were now deregulated. But this financial booty, compounded by the other corporate perks of deregulation, including massive staff cuts, massive tax write-offs and depreciation of the networks, as well as cuts in construction, gave the phone companies even more money.

We do not argue that the companies should be entitled to a fair and reasonable return and that some cuts were "productivity gains" that could be argued were needed for shareholder comfort. We argue that the company made false statements that changed the laws, and that those laws should never have been allowed to stand based on what the company delivered. The monies should be refunded or given to others, such as the municipalities, to do the work.

**The Money**

First and foremost, by any indicator, the Bell companies have been highly profitable. Revenues increased 128% between 1984 and 2004, and while this may not sound like a lot of growth, based on Census data, the number of households increased only 28%. And overall, the companies' revenues went from $72 billion, (the money the company received in sales, sale of asset, etc.) to $165 billion in 2004.

But the real cash came from the massive cuts in major expenses: staff and new construction.

- **Massive staff cuts since 1984**. In 2004, there were 30% less employees than in 1984; about 200,000 people were dropped. When you compare this to the revenues, there's been a 65% drop in the staff to do the work.
- **Construction budgets have also been slashed**. In 1984, the Bell companies spent $18 billion on new construction, approximately 24% of revenues. In 2004, the companies spent $17 billion, approximately 14.3% of revenues. There's been an overall drop of 60% as compared to the revenues.
- **Writing-off more than they are putting into the ground** is now the tradition. In 1984, depreciation write-offs were $11.7 billion, new construction was $18 billion and the ratio of write-offs to construction was 65%. By 2004, depreciation was $22.6 billion, construction was $16.7 billion and so the companies wrote off 133% more than they put into the network. We will explain how these write-offs save billions on taxes.
- **Prices should have been slashed.** What should seem obvious to anyone is that if the two major expenses have been cut, prices should have followed, especially if these companies were under rate of return. By removing the safeguards, every indicator shows massive increases, not in the consumer's favor. The network is way cheaper to offer services, but because of deregulation, the prices are all inflated and customers received little, if any benefit.

If anyone thinks that local or long distance prices have been in decline over the last four years, they haven't done their homework and read our research on phone bill charges in America.[8] Studies in California, New York and New Jersey revealed that prices have massively increased. In New York City, it comes to about 400%[9]since 1984, and that's based on actual phone bills and not FCC data, which is seriously flawed.

Briefly, local service for most of the US was a bundled service of unlimited local phone calling, unlimited directory assistance, the wire in the home, and a phone, all for $8-$10 a month. In 2005, everything is up and ala carte, and new monthly bogus charges, such as the FCC Line Charge, now capped at $6.50 (but going up), have been added. The argument has been that long distance prices declined and there was a trade off. Baloney.

Then we have local and long distance packages. About 15%-25% of customers are now paying more than when buying ala carte. The entire thing has been rigged to simply charge customers more, and Teletruth has more than ample proof of this.

**The Fiber Optic Booty**

The specific fiber optic deregulatory years in question, 1993-2000, show the real changes. It is actually easy to track the monies accrued from the failed fiber optic deployments because most state laws were changed starting in the early 1990's and the changes were dramatic.

- **Profits went through the roof**. In raw business indicators, before the advent of the deregulatory plans the Bells' return on equity, a standard business measure of profits, was about 12%-14% from 1984-1992, which was somewhat high, but not outrageous, for a utility. By the mid-1990's this had increased to 29.1%, and was 188% above other Utilities from 1993-2000. If the return on equity went through the roof, the profit margins of the Bells were 158% higher from 1995-2000 than the Business Week Scoreboard "Utilities" or other "Industries".
- **Overcharging.** If you simply track the Business Week Scoreboard statistics for profits and return on equity, it is clear that the difference, "overcharging", grew from a $0.5 billion in 1991 to over $16 billion a year in 2000. This, plus the excessive tax write-offs, brings our estimate to $205 billion garnered by the fiber optic deregulation through 2004.
- **Inflated Pricing Continues**. Prices for all services continue to be inflated and overcharging continues today on every wholesale and retail service, as well as the Universal Service Fund. This also increases all taxes and surcharges, etc.
- **Cross Subsidization: The Largest Bait and Switch in History** Because of deregulation, the phone companies' other products, including long distance, wireless, and DSL have all gotten a free ride at your expense. It is clear that customers have funded the roll out of long distance and DSL through higher phone rates. Under the previous rate of return, the charges for local

service were ONLY for local service, and not for funding other services. Now, the line is clearly blurred. One has only to look at all of the advertisements to know that the phone companies' original local service advertising budgets are now being used for every other product. Under rate of return, these monies would have been refunded to customers in the form of lower phone rates.

All this overcharging is only part of this tale. This does not take into account an additional estimated $80 billion in missing equipment that was added to the cost of phone services — about $600 per household.

**Those "Poor Bells". Give Me a Break.**

The Bells keep insisting that they have been hit really hard in the last 4 years because of competition. Every company had problems because of the economic crash, but the phone companies were still outperforming virtually all of the basic indicators. For example, from 2000 to 2004, the phone companies profit margins were 155% more than Business Weeks' "Industry" and "Utilities".

**Caveats to Volume One**

So, let us present to you the story of fiber optic broadband services that were never delivered and how it cost you $2,000 and counting. We've divided up this story into two volumes. I would like to make a few important points:

- Volume I only deals with fiber optic service deployments as promised by the phone companies, starting in the early 1990's.
- The FCC's "Advanced network reports" do not include any of the hundreds of documents we present in this expose. Teletruth filed a "Data Quality Act" complaint over this.[10]
- This is not a history lesson. We believe that the failed fiber optic deployments still have a financial impact on current telecom rates, and on proposed legislation, both state and federal.
- While we are proposing a "Broadband True-Up" to get refunds from the misdeeds of the phone companies, we do not expect refunds at this time, since they require audits, which no regulator seems willing to undertake.

- Formatting: Because we are using these materials as parts of various filings, please forgive duplicative information. Also, all quotes with “bold” have been added for highlight.

**NOT in this Volume:**

If you’re a follower of telecom and broadband, there are many other items that you might expect to be discussed. Volume II hopefully answers the following questions:

- What about the deployment of DSL? Wasn’t that the Information Highway?
- What were the impacts of wireless phone services? Aren’t they a substitution for the wireline services, so is any of this fiber stuff relevant?
- Isn’t VOIP going to eat everyone’s lunch anyway?
- Why should the phone companies be regulated at all?
- How does the entire growth of the Competitive CLEC market impact on any of this?
- And what about the Independent ISPs?
- Aren’t the Bell companies losing lines, and there’s a changing marketplace and…
- And how does Municipalities offering Wifi and other service fit into this?
- Won’t the cable companies eat the phone companies’ lunch with their own phone offerings?
- Are Verizon’s FIOS and SBC’s Lightspeed real and don’t they fulfill the phone companies fiber optic obligations?

## Volume II We Were Number 1 in the Internet and Now We're 16th in the World in Broadband: What Happened?

Volume 1 tells the story of the fiber optic deployment in America.

### A Short Synopsis of Volume II

Volume II focuses on the other story of broadband and online services — the story of the Internet and World Wide Web and how it is entwined with the consequences of the failed fiber optic deployments. This part of the tale isn't simply about the money residential and business customers were charged. The US economic growth, the collapse of the telecom sector, the economy slowdown, all have roots in the failed broadband deployment. But more to the point, the phone companies' control of the old infrastructure, much less anything that is going to be built, directly hurt the competitive choices you have for broadband, phone and cable services now and in the future.

We estimate that about $500 billion annually, $5 trillion and counting, has been lost in the growth of the economy since 1994 because of a lack of fiber based broadband. Also, over $130 billion of investor losses occurred because of the phone companies' anti-competitive practices, tied with bad enforcement policies of laws, which laisse-faired the regulations into uselessness.

Meanwhile, the rest of the world is laughing at us. America is now 16th in the world in broadband, and our technical expertise is now another country's pride and joy. How can America be Number 1 when our regulators have made anything with a can-and-a-piece-of-string our American standard for broadband speed?

Here's some highlights from Volume II.

### The Rest of the World Is Laughing at Us.

America is behind the rest of the world in speed, price, and deployment. America put its trust in the phone company monopolies. It was a bad idea. America is currently 12th, according to the most recent OCED (Organization for Economic Co-operation and Development) numbers,[11] or 16th in the world in broadband according to the ITU (International Telecommunications Union). America is behind such countries as Korea, Japan, Canada and Iceland, among others.[12]

After a comparison of these two sources it is clear that OCED does not include 4 countries in its analysis, thus making 16th place the logical, yet tragic place, of the US in the world's broadband market.

But those numbers don't tell the entire story. Another part of the equation that makes America far worse off — the speed of service as well as the price for those services are an embarrassment.

Right now, announcements come from all over the world of 100 Mbps services. Broadband Reports (October 2004) stated that Japan's NTT is selling 100Mbps service for $40. FIOS, Verizon's new fiber optic service that is in limited deployment, has a top speed of 30 Mbps in one direction and cost $199.00.

**Economic Harm? $500 Billion Annually — $5 Trillion from Lack of Fiber.**

If these networks had shown up, there would already be cable competition, but more importantly, a host of new, innovative, true-broadband, very high-speed services, "true" broadband being defined as the ability to deliver high-quality video in both directions. If America had the promised speeds, our manufacturers would have been designing more sophisticated, newer, faster computers to keep up. With these new networks, America would have led the digital revolution.

Numerous economists and market research firms, including the Brookings Institute[13] and Gartner Dataquest, have written multiple studies over the decade to show that faster, ubiquitous broadband could add $500 billion to the US economy. Gartner makes the distinction between "true", high speed broadband over 10Mbps vs DSL over the copper wiring.

Since all of the Bells predicted full deployment starting in 1994-1995, it is clear that by 2006, America would have lost over $5 trillion because of this lack of broadband.

**Direct Harm to the Economy: The Telecom Crash — Kill the Innovation Engine.**

If we were destined to use the copper wiring afterall, the scrappy entrepreneurs of America would bring us the best services as "Internet Service Providers" (ISPs) and competitive local exchange companies (CLECs).

It was these innovative companies that brought America to the Internet, not the Bell companies. America Online, Prodigy, and Compuserve may be aging, if remembered brands of

national companies offerings, first their own content, and then the Internet, but they, and not the phone companies, gave the US the Web.

In fact, by year-end 2000, the Bell companies only had 1.8 million DSL lines.[14] None of the Bell companies were in the Top 10 companies of offering Internet Service[15], much less offering seriously high-speed service.

In 1996, Congress passed the Telecom Act of 1996, which was supposed to open the networks to competition, thus spurring on new services. The Bells immediately sued, and by 2000, under FCC Chairman Michael Powell, instead of promoting competition and high-speed services, the FCC led a campaign to close down broadband competition and local competition. It has allowed the phone companies to own “essential network facilities", as well as block competitors from renting and reselling the networks.

Some 6000 Internet Service Providers (ISPs) and hundreds of Competitive Local Exchange Companies (CLECs) were put out of business and investors lost over $130 billion in value by 2001. But more to the point of current history, the largest of the competitors, AT&T and MCI have been blocked from renting these networks to offer local competition and broadband. It is the reason they were up sold off.

**The Municipalities Got Tired of Waiting for Godot.**

In what has become a rather ironic twist to the continuing saga of broadband in the US, across America municipalities and wireless folks are now starting to become aware that the big, bad phone monopolies, using fake consumer groups, well-paid off research firms, campaign-financed senators, congressmen and state legislatures, and gobs of lobbying money are trying to block deployments state by state.

A ***Wall Street Journal*** article's headline, June 23, 2005, shows that the phone companies are once again screaming —- it's unfair competition. "Phone Giants Are Lobbying Hard to Block Towns' Wireless Plans as Cities Try to Build Networks, SBC and Other Companies Say It's Unfair Competition."[16]

Attempting to block muni competition is being played on a federal as well as state battle-level. Bills in Congress would eliminate the ability of municipalities to create competitive networks.

The municipalities are now doing work-arounds to the phone companies for networks that they never received yet paid for, and it is being declared “unfair competition”?

**The Regulators Failed Us.**

The Telecom Act giveth and the FCC has simply taken it back. Over the last four years there has been a redefinition of competition, mainly coming out of the FCC. The FCC, with the help of the courts, has single-handedly closed down the ability of AT&T and MCI to compete, it has removed the ISPs and competitors from using the PSTN, and it has essentially "reregulated" the competitive markets.

And the FCC has had blinders on about the fiber optic deployments. Their report on broadband does not include the hundreds of documents we reference. It has erased the idea that the Bell companies ever had plans for fiber optics before 2005 and it has totally failed to enforce any of the basic laws to hold the Bell companies accountable for anything, from cooked books to their failure to give competitors required services at reasonable prices.

A small example? In a politically driven need to show that America is Number 1 in broadband, our FCC concluded that anything above 200 kilobytes-per-second, in one direction, is broadband — a speed that can't handle video and is 224 times slower than what was the standard broadband speed in 1993. This is unlike, say, Korea, which doesn't start counting its broadband connections unless it is over a megabit — that would be 1000K.

It is also important to note that the FCC has redefined broadband as an "information, interstate service" – i.e., it is not telecommunications and doesn't have any obligations under the law and it is interstate, meaning that it is controlled by Federal and not state regulators — the FCC. We will go into more detail on this topic later.

The Clinton-Gore plan was for fiber to America at speeds of 45megabits per second. The current broadband plan under George Bush is, like the weapons of mass destruction, missing.

**What's Behind the Curtain: Astroturf and Skunkworks.**

As we track through the policies that have been used to give the phone companies more power and control with no oversight, the real players are involved in the Washington Wink-Wink-Nod-Nod — an underground network of political deceit in the telecom and broadband industry. It is made up of very well funded, fake or co-opted consumer groups, research firms, lobbying groups, politicians and PR firms throughout the United States, that are out to fool reporters, state legislatures, Congress, the public and the FCC that they represent the public interest.

In fact, many are controlled or have been co-opted through the Washington-based firm Issue Dynamics and paid for by SBC, Verizon, BellSouth and the other phone and cable companies. Need an ethnic group with the right demographics or make them elderly or infirmed, who really care about allowing the phone companies into long distance or blocking municipalities from delivering? The list of groups includes APT, TRAC, USIIA, IIA, Consumers for Cable Choice, Connect USA, New Millennium Research Council, League of United Latin American Citizens, and American Association of People with Disabilities, among others. It is also the co-opting of well-known groups, from the Gray Panthers and NAACP, to the National Council of La Raza, the National Consumer League and others.

Call it “skunkworks” (the phone companies' black-ops groups), call it “astroturf”, call it “sock puppets”, there is a consortium of groups, including a host of non-profits, directly funded by the Bell companies to wield undo influence — not in your favor. These groups do the bidding of the Bell companies, not your bidding.

The phone companies, through these groups, have also been able to shape or control new state laws or public service commission actions, as well as federal legislation and FCC actions. They have, in essence, subverted the democratic process and stolen your right to be properly represented — and you should resent it. And the sad part is that Washington insiders all know this is happening. It's common knowledge in the Beltway, and they have not stepped in to stop it.

**VOIP? Wireless? Cable Modems? Who Controls the Infrastructure? Infrastructure Held Hostage.**

> “Kill the Competitors..., er, Parasites! When I wrote the other day about P2P (peer-to-peer) file sharing being the justification for broadband access providers blocking or filtering certain Internet-based applications, even I didn't think it would happen so, soon. Hasta la vista, Internet freedom!” October 21, 2005[17]

As analyst Kevin Werbach writes, new services and technology are now in the hands of those who control the wires and airwaves.

From the costs of Universal service, to the new services being offered, such as VOIP, to the ability to use the Internet for phone calls, the Public is no longer invited to the discussion. The phone companies have arranged it that way. For example, companies can block VOIP

service, or they can require that if you want broadband you have to buy local service or cable service.

As of this writing, it seems to be getting a great deal worse. A recent interview of SBC's president, Ed Whitacre, in Business Week,[18] makes it clear that SBC believes the phone networks belong to them and they can do what they want, charge what they please, and block whoever doesn't want to follow their policies.

> "How do you think they're going to get to customers? Through a broadband pipe. Cable companies have them. We have them. Now what they would like to do is use my pipes free, but I ain't going to let them do that because we have spent this capital and we have to have a return on it. So there's going to have to be some mechanism for these people who use these pipes to pay for the portion they're using. Why should they be allowed to use my pipes?
>
> "The Internet can't be free in that sense, because we and the cable companies have made an investment and for a Google or Yahoo! or Vonage or anybody to expect to use these pipes [for] free is nuts!"

The networks we paid for were supposed to be open to competition. They are still utilities, delivering essential services. Competition on all levels is being eliminated as we speak.

But more to the point — WE, the people, paid for these networks, not the phone companies, and we, not the phone companies, should decide on the policies of these utilities. The pendulum has swung too far, and now it needs to swing back.

**The Muni Wireless Defense Package**

The last part of this tale is where the skeletons are buried and how municipalities can use this information to reopen the networks for customers. While wireless is interesting, the real question is — why have we let these companies rob our Digital Future? It's time to get it back. Here's a list of things you or your organization can do to regain our rights.

**Exhibit 2**

**The Current and Past Hype – in Verizon's Own Words.**

| HYPE 1993 | HYPE 2005 |
|---|---|
| **Bell Atlantic1993 Annual Report**<br><br>"First, we announced our intention to lead the country in the deployment of the information highway.… ***We will spend $11 billion over the next five years*** to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region.<br>"We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets.… These investments will help establish Bell Atlantic as a world leader…."<br><br>**NYNEX, 1993 Annual Report** [19]<br><br>"We're prepared to install between ***1.5 and 2 million fiber optic lines through 1996*** to begin building our portion of the Information Superhighway."<br><br>**GTE Video Services: January, 1996**<br><br>"In 1991, GTE Telephone Operations became the first telephone company in the United States to offer interactive video services… Expanding on this success, the company in 1994 announced plans to build video networks in 66 key markets | **Verizon, May 19, 2004**<br><br>"Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber Optic Technology With Keller, Texas, Deployment; Announces Plans for Offering New Services.[20]<br>KELLER, Texas - The most significant transformation in over a century in the technology used to carry phone calls, data and video to and from homes and businesses is under way in Keller, Texas, a fast-growing community in the Dallas-Fort Worth area.<br>"Verizon has begun installing in Keller a new technology known as fiber to the premises (FTTP), which uses fiber optic cable and optical electronics to directly link homes and businesses to Verizon's network. The fiber optic connections will replace traditional copper-wire links.<br>"Although the use of fiber optic technology is common throughout the telecom industry, Verizon is the first company to begin using it to directly connect homes and businesses to the network on a widespread scale.<br>"FTTP is moving from field trials and the lab to the real world, and it's happening in Keller first," Verizon Network Services Group President Paul Lacouture said at a news conference with city |

| | |
|---|---|
| in the next 10 years. When completed, the new network will pass 7 million homes and will provide broadcast, cable and interactive television programming….”<br><br>**Bell Atlantic Press Release, July 1996.**<br>The company plans to add digital video broadcast capabilities to this "fiber-to-the-curb", switched broadband network by the third quarter of 1997…Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year…. Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks." | officials here today. In short, we are building a new network that will make us the broadband leader in the 21st century."<br><br>“Overall, Verizon plans to pass about 1 million homes in parts of nine states with this new technology by the end of the year.” |

**Exhibit 3**

**The Current and Past Hype – in SBC's Own Words.**

| HYPE 1993 | HYPE 2005 |
|---|---|
| **Pacific Bell, 1993**<br>"In November 1993, Pacific Bell ***announced a capital investment plan totaling $16 billion over the next seven years*** to upgrade core network infrastructure and to begin building California's "Communications superhighway". ***Using a combination of fiber optics and coaxial cable, Pacific Bell expects to provide broadband services to more than 1.5 million homes by the end of 1996, 5 million homes by the end of the decade."***<br>==========<br>**SNET 1993 Annual Report**<br>"On January 13, 1994, the Telephone Company announced its intention to invest $4.5 billion over the next 15 years to build a statewide information superhighway ("I-SNET"). I-SNET will be an interactive multimedia network capable of delivering voice, video and a full range of information and interactive services."<br>==========<br>**Ameritech Fact Book, March 1994:** [21]<br>***"We're building a video network that will extend to six million customers within six years."*** | **SBC 2004 Annual Report**<br>**"Project Lightspeed** In June 2004, we announced key advances in developing a network capable of delivering a new generation of integrated IP video, super-high-speed broadband and VoIP services to our residential and small-business customers, referred to as Project Lightspeed…<br>"We anticipate that we will deploy approximately 38,800 miles of fiber, reaching approximately 18 million households by year-end 2007, and expect to spend approximately $4 billion over the next three years in deployment costs and $1 billion in customer-activation capital expenditures spread over 2006 and 2007."<br>ROLLOUT Statements:<br>• 3/11/04 — "IP TV launch expected, late 2005"<br>• 3/10/05 — "initial controlled market entry in late 2005 or early 2006".<br>• 10/18/05 — "introducing services enabled by the IMS platform in late 2006 or early 2007."<br>==========<br>Expenditures went from $5.5 billion for 2005; announced in 2004, to $4 billion for 2005, even though the company has had significant profits every quarter in 2005.<br>• 11/11/04 — "2005 overall capital expenditures —$5 billion to $5.5 billion<br>• 8/19/05 — "SBC' $4 billion IPTV investment" |

**Exhibit 4**

**The Current And Past Hype – In BellSouth's Own Words.**

| HYPE 1993 | HYPE 2005 |
|---|---|
| **BellSouth, June 1st, 2005[22]** | **DSL Prime, September 19th, 2005** |
| "FTTC solves the last-mile bandwidth dilemma and will enable the delivery of next-generation broadband services," said Bill Smith, chief technology officer of BellSouth. "The selection of the Tellabs FiberDirect solution for FTTC marks a key milestone in our advanced network deployment that will bring unparalleled speed and capabilities to our subscribers while allowing BellSouth to leverage previous investments in our network infrastructure."<br>"BellSouth passes approximately 1.1 million homes with FTTC and has approximately 5.3 million miles of fiber within its network. With the Tellabs FiberDirect solution service providers like BellSouth can cost-effectively provide homes and businesses with fiber access up to the last 500 feet, without sacrificing service offerings. This ability enables service providers to deliver broadband services, such as Voice over IP (VoIP) and high-speed Internet access, over a single platform. | "A state-of-the-art network in every respect," Bill Smith of BellSouth<br><br>"Don't believe the hype, including ours. VDSL2 isn't a ready to deploy product for most carriers. IPTV is generally even further off, according to half a dozen suppliers I spoke with recently. The supposed demand of businesses for symmetric bandwidth is repudiated by dismal sales in the U.K. The 'rising power of tech companies in D.C.' is insignificant compared to real pros, the phone company lobbyists. " |

## Chapter 1 Promises, Promises: The Future Is Always.

### The Early 1990's: The Fiber Optic Go-Go Years.

It's the spring of 1993 and the fiber optic Info Bahn is just a few months away. The April 12th, 1993 cover of Time Magazine proclaims: "The Info Highway: Bringing a Revolution in Entertainment, News and Communication: Coming Soon to your TV Screen...."[23] The story continues:

> "It's not here yet, but it's arriving sooner than you think. Suddenly the brave new world of videophone and smart TVs that futurists have been predicting for decades is not years away but a few months…. We won't have to wait long***. By this time next year, vast new video services will be available at a price to millions of Americans."***

Welcome to the Information Age: Again and again ... and again.

The Information Age has always been "just around the corner" with words, such as "soon", "next year", and "tomorrow" describing when this miraculous use of technologies and networks will change the world for the better. As best as we can tell, the term **"Information Age"** was coined in the 1960's by AT&T's public relations department, and it is a polyglot phrase that can mean almost anything you can think of. The author is reminded of meetings in the 1980's that used the term "**Information Products"** to describe everything from 900 number sex lines to home shopping.

**"Information Theory"**[24], the basis for terms using Information-Anything, was developed at Bell Labs in 1948 over 50+ years ago. One of Information Theory's principles is that digitizing something turns it into all ones and zeros — and to a computer, well, that's all just information.

The Information Superhighway, sometimes called everything from the "Info Bahn" to the "I-Way", like the Information Age, was another polyglot term. Attributed to Vice President Al Gore in the 1970's, it has come to describe the future communications network and applications, from the fiber optic conduit to the Information Age products and services carried over the wires and through the air.

The “Information Superhighway” may now be called “broadband plus the web” by some, or “cable service with modem”, by others. And while the inheritance of the Internet and its format of presenting the information in something called “TCPIP”, has brought us to the “Digital Age”, where everything has become digitized, the “Information” moniker still has meaning.

For example, the word “Information Service” is now one of the most hotly debated words in broadband. On August 5th, 2005, the FCC proclaimed that any phone-wire carrying broadband is no longer a "telecommunications" service, but an “interstate information service”.[25] As we will show, by altering the definition, it alters the entire course of competition.

As you read this, remember that the promises were made over a decade ago and sold like soap, but there were some dire consequences to the outcome.

**The Clinton-Gore National Infrastructure Initiative**

As Vice President Gore put it: (National Journal, March 1993)[26]

> "When I first introduced the concept back in the 1970's, the only company that showed any interest at all was Corning Glass, which, for some mysterious reason saw the potential in a nationwide fiber optic network.”

While it can be argued whether Gore “invented” the Internet, he certainly had a strong role in this point of broadband history. Acording to Richard Wiggin’s “Al Gore and the Creation of the Internet”, Gore was making pitches back in the 1980’s for high-speed networking, specifically a 3-gigabit per second national network. In a 1989 floor debate Gore clearly discussed a “fiber optic” highway. [27]

> “…But I genuinely believe that the creation of this nationwide network and the broader installation of lower capacity fiber optic cables to all parts of this country, will create an environment where work stations are common in homes and even small businesses with access to supercomputing capability being very, very widespread. It's sort of like, once the interstate highway system existed, then a college student in California who lived in North Carolina would be more likely to

> buy a car, drive back and forth instead of taking the bus. Once that network for supercomputing is in place, you're going to have a lot more people gaining access to the capability, developing an interest in it. That will lead to more people getting training and more purchases of machines.”

By the early 1990's a confluence of events brought what can only be described as a techno-crescendo of I-Way dreams. It was fueled, in part, by an aggressive administrative policy lead by Vice President Gore to get business to build the I-Way. Vice President Gore’s vision was actually "inventing" the future of networks.

In the Gore vision, as well as most visions of the future, there are basic streams of technologies and industries merging:[28]

- **The Networks** include telephone networks, cable networks, wireless (satellite, microwave, radio, PCS), and "other carriers" electric companies.
- **The Equipment** include computers and modems, televisions, TV boxes, telephones, fax, and videophones.
- **Other Technologies** can include cameras, security and monitoring equipment.

All, or some of these, in various combinations, would play a role in the evolution and deployment of the I-Way. For example, a movie would appear on your computer or television, depending on the room you were in.

According to Gore, the driving regulatory forces would need to include:

- **Investment** — Create incentives for investments in the private sector.
- **Competition** — Create an environment of competition on all levels of communications.
- **Access** — Allow equal access to all competing companies to the network, and all network services have "interoperability"— the ability of all competitors to use the same standards and protocols.

- **Universal Access** — Preserve the basic tenets of Universal Service for all subscribers. Also, the Gore vision gives the rural subscriber the same service offerings as the urban subscriber.

It should be stressed that the Info Bahn's federal life was tied, in a large part, to the telecommunications bills that Congress was trying to make into law since the early 1990's, which culminated in the Telecommunications Act of 1996.

But it is also important to note that at least the Clinton Administration had a plan for driving broadband growth through competition, as well as using both industry and government to kick-start the process.

The Bush Administration's FCC under Michael Powell, and now continuing with Chairman Martin are all but clueless. One writer for the Epoch Times, when comparing the US to the rest of the world in 2005, writes:

> "The United States is the only industrialized nation without an explicit national policy for promoting broadband. Both developed and developing nations have stimulated capital expenditures for infrastructure in ways US public and private sector stakeholders have yet to embrace."[29]

As we will discuss in Volume II, the entire path of the FCC since 2000 has been "death to competition".

In the 1990's "competition" was to appear on all levels of communications; all competitors were welcome to use the public switched network for new services. By the new millennium, this term would come to mean the opposite of the 1990's understanding. It now means, as we will explain, kill off competition and call it "deregulation".

**Superhighway Feeding Frenzy Fuel: The I-Way Go-Go Years**

The 1990's were the beginning of the boom years and the smell of money was everywhere. The telecom and cable giants saw this as something that would make them barrels of new loot, but also give them leverage to remove regulation on the federal, as well as the state level.

At the time, 1993, the phone companies were wisely not allowed into long distance or cable services. They were a monopoly after all. Competition for local service wouldn't start until the late 1990's.

The hype and the promise for upgrading the networks and delivering broadband were that the Info Highway would fix everything — Tele-Medicine, Tele-Learning, even new jobs. For example, Deloitte & Touche's "New Jersey Telecommunications Infrastructure Study, 1991", dubbed "Opportunity New Jersey" (a Bell Atlantic state) proclaimed that the Info Highway was:[30]

- "essential for New Jersey to achieve the level of employment and job creation in that state,
- "advance the public agenda for excellence in education,
- "improve quality of care and cost reduction in the healthcare industry."

Meanwhile, in 1993, Ray Smith, CEO of Bell Atlantic, exclaimed at the "Electronic Summit" conference:[31]

> "Imagine a button on your TV that you push to get your pizza, without the fuss and problems.
>
> "Bell Atlantic will have the first virtual VCR, and 100,000 people by the end of the year (1993) buying things over transactional services. We will never get into the car and jump down to the store once we get used to the idea of any kind of network offering."

Ray Smith, in bravura mode, was interviewed in Wired Magazine, February 1995, and said that Bell Atlantic would have 50% of the cable business by 2000.[32]

> "I would say that by the year 2000, we'll have 50% of the cable business. No doubt about it. Which is why the cable companies are in a panic. Meanwhile, the cable companies won't have even 5% of the telephone revenues in their best markets."

There were a few people with a bit more reality in their assessments of the Info Highway. Sumner Redstone, Chairman of Viacom (a conglomerate which now owns Paramount, Blockbuster, cable channels and Viacom Productions), spoke at the National Press Club in October 1993.[33] He said:

> "It seems to me not to be a 500 channel information Superhighway but rather a road to Fantasy Land. The assumption that individuals will suddenly transform themselves into renaissance men and women with the potential of information and entertainment is an understatement.
>
> "While we may anxiously await that fully-interactive, individually tailored, all encompassing home entertainment and information appliance with the greatest anticipation, the truth of the matter is that plain old television is going to be around for a long time.
>
> "It's gonna cost a lot more, It's gonna take a lot longer, if we ever get there, and there is no guarantee that the customer is willing to pick up the price tag."

But Redstone's concerns were all drowned out by the roar of the politicians and pundits' noise.

## Chapter 2 Why Do It? Benefits of the Superhighway — Justifying the Hype.

Let’s be clear about this — a techno-feeding frenzy was at hand. The reason — the phone companies would make billions from the removal of regulation, the manufacturers would make billions in, at least, increased stock prices, not to mention selling new technologies, and every politician backing it would be secure in the fact that he or she was backed by deep, deep, pockets.

But darn, there still needed to be a justification.

Besides the "chicken in every pot" similarities, what the Highway was and who would use it, much less pay for it, had hundreds of groups issuing thousands of studies all trying to prove their specific point. Almost every state, federal government agency, and of course lobbyists, associations, consumer groups, and the phone companies, spent hundreds of millions of dollars on research, and almost all of it self-serving.

To start, one of the most quoted reports was by the Economic Strategy Institute. Called "The Impact of Broadband Communications on the U.S. Economy and on Competitiveness" (1993), this study stated that $321 billion in new growth could be expected over the next 16 years from the I-Way.[34]

> "Economic growth in the United States would be greatly accelerated by increased private sectors' investment into broadband communications. Creating a more favorable environment for such investment could enable U.S. industries to create as much as $321 billion new GNP growth and 0.4 percent to annual U.S. productivity growth over the next 16 years — about the time currently needed for two cycles of investment in new telecommunication infrastructure. The gains would come on top of the gain of $191 billion in U.S. output that is already expected if present trends in broadband investment continue."

Bear Stearns, the brokerage house, was also quite bullish on the future of the Information Highway. In a report, "New Age Media" released in 1993:[35]

> "In our opinion, we are on the threshold of a technological revolution that will sweep through all modern societies across the globe, dramatically changing the way we communicate, educate our children, access our entertainment and train our workers…. The creation of a fully interactive nationwide communications network could open up the largest opportunity in history."

Hope springs eternal. The hype machine is continually working. For example, in 2001, when the Bell companies wanted to prove to America that increasing broadband deployment (their way of course), could add $500 billion to the US economy, Verizon hired the Brookings Institute to prove the case.[36]

> "While the great broadband debate rages on at Capitol Hill, a new study released yesterday said widespread use of high-speed Internet service in the near future could pump as much as $500 billion annually into the U.S. economy.
>
> "The study, conducted by the Brookings Institute in Washington, D.C. and titled 'The $500 Billion Opportunity: The Potential Economic Benefit of Widespread Diffusion of Broadband Internet Access,' said consumers would benefit from a greater deployment of the technology by using services such as online home shopping, entertainment and traditional telephone services, as well as possibly reducing commuting time. Demand for these services would also provide a boost to computer and software manufacturers as well as entertainment product companies."

We need to note that yet another report came out in 2002 by Gartner Dataquest.[37] It also found $500 billion in growth to the economy could be had with broadband but with a serious caveat — it would require "True" Broadband of over 10 Mbps before the economy would grow.

> "'True' broadband infrastructure would help advanced countries such as the United States add as much as $500 billion to their Gross Domestic Product over several years, according to Gartner Dataquest.
>
> “Gartner Dataquest (NYSE: IT) reckons the impact of ubiquitous broadband in

> the U.S. could total as much as $500 billion worth of goods and services produced over a span of ten years. But it also said the estimate is based on what it calls "true" broadband, defined as 10 megabytes per-second data transmission speeds.
>
> “Within that framework, Gartner said the development of broadband at 10 Mbps or faster could create huge growth in goods and services related to building broadband delivery and including what goes through the broadband pipes.”

This distinction of speed is critical and something that we will address in later sections.

**Three Visions of the Information Superhighway**

In fact, each group in America probably had visions that the Information Superhighway would eventually fulfill some new, unexplored potential for their specific citizenry. However, almost all visions could be summed up by three specific models:

- **Government & State Justification Superhighway**
- **The Home "Wonderland" Model**
- **Internet Expansion Model**

The next section gives a brief explanation of each model. We are not arguing whether these plans are good or bad for the public interest, or that some parts of these models have morphed into other broadband projects. We are trying to paint a picture of a time in telecommunications history.

**Government & State Justification Superhighway**

The first model is called the "Government & State Justification Model" of the Information Superhighway. This approach stated that the primary reason to build the highway was to directly benefit Public Interest and special needs. The wiring was supposed to connect America's hospitals, schools, libraries, jails, and other government and nonprofit organizations to the American public.

Sold as a boon to education, healthcare and the creation of thousands of new jobs, this approach was carried out at both the state and federal levels — on the state level it was pitched as "bringing the state into the 21st Century", while on the federal level, it was used by the Bells and their supporters, as a major pusher of the passage of the Telecommunications Act of 1996. In fact, Senator Pressler, then chairman of the Senate Telecommunications Committee, stated repeatedly that, "This is a jobs bill.".[38]

To highlight how the State Justification approach was sold on the state level, we present a small portion of testimony from Lawton C. "Mitch" Mitchell, a partner at Deloitte & Touche. He discusses their “Opportunity Indiana” study, another million-dollar study, which was done for Indiana Bell-Ameritech. He focuses on, "The benefits that arise from an advanced telecommunications infrastructure ... and the implications of technological innovation on the telecommunications infrastructure of Indiana and various initiatives under way to respond to the demand for an advanced telecommunications network."[39]

The exhibit below highlights Mitchell's testimony topics and is followed by a description of some of the important areas where this Information Highway model would be the most useful — everything from education and healthcare to economic development.

**EXHIBIT 5**
**Deloitte & Touche Benefits of Information Highway for Indiana Bell, 1993**

- The Emerging Role of Telecommunications in Economic Development
- Health Care: The Impact of Telecom on Quality and Cost Effectiveness
- Opportunities to Leverage Telecom to Benefit Other Public Interests
  - Education
  - Public Safety
  - Telecommuting
  - The Criminal Justice System
  - Special-Needs Groups
  - Libraries and Info Services

Here's Deloitte's analysis of telephone's role in building the economy:[40]

**The Emerging Role of Telecom in Economic Development**

> "As the overall economy in the United States continues its transition from a traditional foundation in manufacturing toward the service-based sectors of the economy, access to information has become a major factor in the determination of competitive advantage and commercial success. More than half of the jobs in the U.S. economy are now in the service-producing sectors rather than the goods-producing sectors."

In fact, according to Mitchell, Indiana had "almost one-half of its current employment base in industries that can be defined as telecommunications intensive", — i.e., companies that supposedly spend twice the amount on their telecommunications usage. These "telecom intensive" markets include communications, finance and insurance, education services, and printing and publishing.

But it was the fixing of problems that was supposed to be the major reason to implement the I-Way. Have a problem in your school? No problem. Roll out technology. Mitchell states:[41]

> "Major problems facing the U.S. educational system today include unsatisfactory educational performance, potential teacher shortages, and budgetary pressures.
>
> "Especially within the K–12 community, educational institutions often lack the financial resources or purchase dedicated facilities to accomplish highly effective two-way interactive distance learning and other advanced educational applications that require broadband facilities.
>
> "**Distance learning** is the provision of live, interactive video instruction from a remote source. Often employing interactive video, fax machines, electronic blackboards, and other forms of media, distance learning enables teachers and students in one classroom to discuss lessons with students and teachers in distant as well as multiple locations.
>
> "Distance learning applications, which leverage advanced telecommunication services and capabilities, can help improve educational quality by eliminating the

> geographic constraints which have traditionally prevented teachers in specific fields from reaching a student audience outside their classrooms. Advanced telecommunications can be used to expand the breadth of instruction in schools, not only increasing the value and diversity of education, but also increasing student interest and participation in school."

And let's not forget healthcare. According to Deloitte, everything from reduction of costs, to delivering healthcare, to "less mobile citizens", will be facilitated with the Info Bahn.[42]

**EXHIBIT 6**
**Opportunity Indiana's Impact on Health Care**

***The Information Highway will:***

- "Reduce the cost of health care through technology applications that improve hospital, clinical, administrative, and related insurance operations.
- Expand limited availability of medical knowledge and expertise.
- Improve health care quality.
- Increase health care access for rural and less mobile citizens.
- Improve and increase home health care opportunities.
- Improve the quality and availability of health care education for practitioners.
- Send X-rays to experts realtime via broadband technology.
- Give improved health care for limited resources with telemedicine projects."

In short, tele-everything would be fixed if you we just let the phone companies build these new networks.

**The Home "Wonderland" Information Superhighway Model**

Forget the Public Interest perspective. The Information Age is everything from home shopping to movies-on-demand (the ability to watch a movie or any program at the customers' convenience). These, mainly consumer services, make every household into a "wonderland" of technological advances, making our lives easier. This sales pitch of the Info Highway can be summed up by a series of quotes by Bell Atlantic, Pacific Telesis, and Time Warner from the Electronic Summit, sponsored by the Academy of Arts and Sciences, 1993.

Bernard Shaw, then newscaster from CNN, was the moderator. He wondered how the Superhighway was going to be paid for. "What I'm struck by is there seems to be an unspoken assumption that peoples' discretionary income is going to be there to buy your products."[43]

Ray Smith, then CEO of Bell Atlantic, stated: [44]

> "It already is there. If you look at the early (Info Highway) applications, those markets already exist. Already making those purchases. Home video is $17 or $18 billion, catalogs is gigantic, that is really home shopping. Games and gaming is also huge. You're talking about taking market share from other businesses, not inventing new services. They won't have to spend a single dollar more than they had to before. It's a rather sweet deal."

In another place, Smith stated:[45]

> "Bell Atlantic will have the first virtual VCR, and 100,000 people by the end of the year (1993) will be buying things over transactional services. We will never get into the car and jump down to the store once we get used to the idea of any kind of network offering."

Pacific Bell's President Philip Quigley agreed that the money was already being spent in other areas wastefully, especially in education:[46]

> "In the field of education, there is potentially significant waste and inefficiency today, and there are millions and billions of dollars that can be spent on educating

> our children to the modern technologies. And we can shift a lot of the hard dollars that can be redirected."

Also, the applications are quite similar for either cable or telephone companies. For example, the list of Time Warner's proposed services, from games to shopping, is straightforward, with some creativity added.

Gerald Levin, then Chairman of Time Warner, stated:[47]

> "There are great opportunities for video information. Going into an auto showroom can be an intimidating experience for some. You can call up some four-wheel-drive videos, interact a little bit, then set a time to take a test drive. So there's an auto concept. There are four major areas:
>
> - video-on-demand movies
> - games
> - shopping
> - news, sports, on demand, Videotex with a printer.”

In fact, Levin continued:

> "The conviction that started with our test in Queens, (named) Quantum, consumers really want choice. Starting in 1994, we will need to take one step further, which is true video-on-demand. In our case we think it's going to take about five years and one billion a year—five billion dollars.
>
> "In the short term it makes a lot of sense, so we put in an impulse-purchase box in peoples' homes."

Other sources, such as BellSouth's Annual Report, 1993, begins with the phrase "The Excitement is Now."[48]

> **"Interactively — What you want, when you want it.** Many of these new services will be interactive. This means you'll have the option of controlling a network to make transactions. Select camera angles and replays. Ask a teacher a question. And compete with other viewers in tests of skill and knowledge….
>
> "Need to buy a present? Call up the choices on your TV, select your gift, pay for it electronically, and it arrives the next day. Want to see a movie? Order one of thousands of titles and it will be piped directly to your set. Watch it when you want. Start it, stop it, rewind, and fast forward at your command."

In another paragraph entitled "Linking the Value Chain," BellSouth makes it clear that besides transmission, the company is also going to supply the content.

> "**Content, Packaging, Delivery:** These are the links in the value chain of convergence for customers and investors.
>
> - **"Content** includes TV shows, movies, games, and a limitless array of services — shopping, education, communications, advertising, financial transactions, and information.
> - **"Packaging** means being in contact with you so it is convenient to access, simple to use, and affordable.
> - **"Delivery:** Telecommunication networks, cable TV systems, and computers are the infrastructure of delivery."

So, in the "Wonderland" model, as stated by Time Warner, Pac Bell, Bell Atlantic, and BellSouth, we are looking at gaming, home shopping, movies-on-demand, and sports and news, mainly paid for by redirecting monies already being spent.

**The Internet Expansion Info Highway Model**

There were two expectations of this model. First, there were the cloistered services, such as AOL, Prodigy and Compuserve, which were also called "Videotex", "Online Service" or "Gateways". These services offered the customers their own content and were not attached to the

web in the early 1990's. There were also tens of thousands of "BBS", online bulletin boards. All of these were accessible over the regular phone lines using slow, dialup modems. There were millions of people and companies using these services, and they were the catalyst/baseline for the web's growth.

We will address this model in more detail in Volume II.

There are also numerous people and companies who believed that the Information Highway was the Internet or World Wide Web. This international, data communications network started as a government project in the late 1960s, and for decades remained mostly a network for colleges and government agencies. In 1992 it was "discovered" by the business community at large, and literally overnight thousands of companies and organizations sprung up to offer everything from cooking recipes to the latest in advanced mathematics.

And while the statistics at that time of the Info-frenzy were wildly varied, it is estimated that by 1996 there were somewhere between 10-25 million US online subscribers.

However, right at the time when the Bell companies were planning to deliver fiber-to-the-home, the web would explode, primarily with the convergence of consumers with home computers that were sophisticated enough to handle graphics and new software, and with costs dropping for everything from cheap modems, to add-on sound cards and gaming equipment.

In the early 1990's, the Internet and Web were NOT the Info highway to the majority of those pitching it. It did not require a new upgraded fiber optic plant, and could run on the existing copper wiring.

## Chapter 3 Hollywood Calling — TELE-TV and Americast

The plans were grand.

> “Americast will reach 68 million homes in 32 states.”[49]

> “Americast … last week announced the purchase of $1 billion worth of high-tech boxes, referred to as digital set-top boxes.” [50]

In the movie "My Fellow Americans", Jack Lemmon and James Garner portray two former US presidents. Lemmon asks Garner, "Who did you like meeting the most as president?" James Garner answers "Gorbachev". Lemmon says, "I mean really like?" and Garner answers, "Ella Fitzgerald".

In truth, while the Bells sold the fiber optic Information Highway as a justification for schools and government needs, in the 1990's the Bell's became "star struck", trying desperately to change their personas from a stodgy old utility to flashy entertainment and information companies, even offering cable services.

Bell Atlantic believed that in 1994 their mission was clear-cut and it included everything from video entertainment to cable television.[51]

> "Our business opportunity and beyond is straightforward — enhance the value of our core businesses by expanding our customer and service base, and develop high-growth businesses in the video entertainment, cable transport, cable television, and information services markets."

NYNEX described itself as a “global communications and media corporation” in 1996.[52]

> “NYNEX is a global communications and media corporation that provides a full range of services in the northeastern United States and high-growth markets around the world, including the United Kingdom, Thailand, Gibraltar, Greece, Indonesia, the Philippines, Poland, Slovakia and the Czech Republic. NYNEX has expertise in telecommunications, wireless communications, directory publishing, and video entertainment and information services.”

This change in the description of the companies was indicative of a trend with all of the Bells. For example, the first quote below is from Ameritech in 1985, when the Bells were fresh out of the box and still cared about the states they served.

**1985** Ameritech Annual Report[53]

> "The Ameritech companies are the leading supplier of advanced communications products and services in Illinois, Indiana, Michigan, Ohio and Wisconsin."

By 1996, the company was now a world leader in 50 states and “more than 40 countries”.

**1996** Ameritech Annual Report[54]

> "A worldwide leader in making communications easy, Ameritech serves millions of customers in 50 states and more than 40 countries. Ameritech provides a full range of communications services, including local and long distance telephone, cellular, paging, security monitoring, cable TV, electronic commerce, on-line services and more.”

And so, with the promise of laying fiber optics, all of the companies pursued becoming a major provider of interactive content on their new networks, competing with the likes of Time Warner, at least in their public persona. In reality, the Bells had dismal failures in almost all of their interactive investments.

Simba Research, in its 1996 report "Telco's in Interactive Services", put it this way:[55]

> "The telcos have had virtually no success with the interactive information, transaction and entertainment services that have developed and been brought to market. Through their failures they have shown that they are not in tune with the information and entertainment needs of their customers.
>
> "Part of the reason the telcos have so many problems with interactive TV services is that they are reaching beyond their technological expertise and local advertiser

> relationships. They are trying to develop services that use extremely costly technology and court national advertisers and merchants. The telcos, in particular the RBOCs, simply lack the experience in these areas. As a result, they've had difficulty creating effective broadband transaction services."

Depending on how you count, the Interactive/media investments had been numerous. In fact, in the 1980's, the Bell companies invested in "Videotex" and "Audiotext" gateways, and lost over half a billion dollars. We'll come back to this in our discussion of the Internet in Volume II.

The 1990's investments, not counting the wiring, fell into two major areas: Entertainment Programming companies, and purchasing cable services.

**Entertainment and Content — TELE-TV and Americast**

In order to create new content and have a noise machine for their fiber optic plans, the Bell companies split into two primary new companies, TELE-TV and Americast.

These two companies' partners included six of the seven Bell companies, as well as SNET and GTE (Qwest was missing). TELE-TV was announced in October '94 and consisted of three partners: Bell Atlantic, NYNEX and Pacific Telesis. Americast, created to rival TELE-TV, was created in April '95, and consisted of Ameritech, BellSouth and SBC Communications, as well as Disney and GTE.

**EXHIBIT 7**
**The RBOC's TELE-TV and Americast Partners**

| | |
|---|---|
| **TELE-TV** | • Bell Atlantic |
| | • NYNEX |
| | • Pacific Telesis |
| **Americast** | • Ameritech |
| | • BellSouth |
| | • Walt Disney |
| | • GTE |
| | • SBC Communications |
| | • SNET |

Americast, in 1996, described their organization as developing the “next generation of in home entertainment”. [56]

> “DEVELOPING THE NEXT GENERATION IN HOME ENTERTAINMENT
> Americast is the consortium of Ameritech Corporation, BellSouth Corporation, GTE Corporation, Southern New England Telecommunications and The Walt Disney Company created to develop and market the next generation in home entertainment. The Americast service is currently being introduced in selected markets across the United States. In addition to providing traditional entertainment services, Americast will offer innovative programming and develop such features as a proprietary program navigator, video-on-demand, and a variety of interactive services.”

Note: There seems to be some differences when SNET and SBC were in Americast. The quote above does not include SBC, and yet it was named in the original group and not SNET.

**Star Struck**

These companies started just like a Hollywood movie deal. According to "Ovitz", the biography of super-agent Michael Ovitz,[57] it was a meeting in early 1993 between Ivan Seidenberg, CEO of NYNEX and Ovitz that got the ball rolling. At the time, Ovitz was president of CAA, one of the premier talent agencies. Soon he was flashing movie stars and personalities at the Bell-head, from Michael Crichton and Ivan Reitman, to Aaron Spelling and Warren Beatty. According to "Ovitz", the book:[58]

> "Planning came to a peak in October 1994 when Ovitz and the Baby Bells announced that CAA and the phone companies would be entering into a joint venture with the NYNEX Corporation, Bell Atlantic and Pacific Telesis to buy or invest in programs that the existing Hollywood studio would turn out.
>
> “‘We'll bring technology to the home, but you'll have a twenty five inch pipe instead of a two-inch pipe,’ stated Mike Ovitz."

Only months after the deal went through, Ovitz left CAA for a brief stint as the president of Walt Disney, which was the beginning of the end for TELE-TV. However, Ovitz walked away with a reported $50 million.[59]

As Bell Atlantic put it in their 1996 Annual Report:[60]

> "In October, 1994, Bell Atlantic, NYNEX and Pacific Telesis Group formed two partnerships to provide multimedia services. TELE-TV Media, L.P. was formed to license, acquire and develop entertainment and information services. TELE-TV Systems, L.P. was formed to provide the systems necessary to deliver these services over the partners' networks. At that time, each of the three partners committed to contribute $100 million to fund the activities of these partnerships."

TELE-TV employed a number of people from the broadcast industry with impressive credentials including Howard Stringer, a former president of CBS Broadcasting and Sandy Grushow, former president of Fox Broadcasting. At its peak in 1996, TELE-TV had 200 employees.

Americast was headed by non-Bell Steve Weisswasser as president, a former president of a multimedia division at Capital Cities/ABC, and had Disney Televentures, a unit within Walt Disney Television and Telecommunications, as one of the partners.

**Cable and Entertainment Investments**

During the same timeframe (1993-1996) there were various Bell investments in the entertainment business, with over $16 billion in the last five years. Below is just a sample of the larger investments.[61]

**EXHIBIT 8**

**Bell Cable and Entertainment Investments**

| | | | |
|---|---|---|---|
| NYNEX | Viacom International | $ 1.2 | billion (1993) |
| US West Cable | Continental | $10.8 | billion (3/96) |
| | Time Warner | $ 2.5 | billion (5/93) |
| | Wometo Cable/ Georgia | $ 1.2 | billion (12/94) |
| SBC | Hauser Cable Properties | $ 0.6 | billion (1/94) |

## Chapter 4 Hollywood Calling, Part 2

> "The Walt Disney Company ("TWDC") has a long history of efforts to lead the way in Broadband deployment. For example, in 1995, TWDC established a partnership with SBC, GTE, Ameritech, BellSouth and SNET called Americast. The vision of this partnership was to speed the deployment of Broadband "Full Service" Networks by our telephone company partners***. Despite the best efforts of all partners, that vision proved to be ahead of its time and Disney exited the partnership in 2000 due to lack of Broadband deployment by our partners."***[62]

According to a ***New York Times*** article, by 1997 Americast was already severely scaling back from its heyday in 1996, when the company had about 100 employees.

> "Americast has shut down two divisions, laid off more than a dozen of its 100 employees, and throttled back its ambitions to develop futuristic television service for its five telephone company backers."

According to an article in Electronic Media, in 1997,[63] the company closed its programming business because interactive programming was unobtainable today.

> "The move is seen as a realization of the fact that true interactive programming is still but a gleam in the eye of modern pioneers."

Some believe that these investments were actually just a strategy to keep the cable industry in its place.[64] ***The New York Times*** stated:

> "'Americast and TELE-TV were deterrents to keep the cable industry out of the phone business', said Michael J Wolf, a partner in the media practice at Booz, Allen & Hamilton. 'When the cable companies decided not to get into that business, the phone companies didn't care anymore.'"

Others believe that it was a shifting priorities that was the downfall of these companies — the shift was to long distance.[65]

> "Problems crept into the venture from the start. One of Americast's phone company backers, SBC, announced it was no longer interested in the television business. And some of the other phone companies delayed their plans to offer video services so they could concentrate on other businesses, like long distance."

Whatever the reason, it is now clear that the Bells no longer had intentions of delivering the full-motion interactive video that they had promised. As we will show, after the various mergers of SBC and Verizon, the companies simply closed down every fiber optic plan in every state and it appears that the money went to fund their long distance businesses, overseas investments and losses, as well as excessive senior management compensation.

TELE-TV and Americast were estimated at almost $1 billion and their failures to produce anything useful was a clear sign of the Bells' inability to deliver on interactive services.[66]

**TELE-TV's Demise**

At the end of 1996, the ink was less than a year-old on the Telecom Act, which gave the phone companies the rights to enter long distance once their networks were open. At this point, the phone companies simply trashed anything that would get in their way, including playing games with video service. The closing was not cheap. The major players, besides Ovitz, got millions in great severance packages. Variety said it the best:[67]

> "Howard Stringer, former president of the CBS/Broadcast Group, and Sandy Grushow, former president of the Fox Entertainment GroupFox Entertainment Group, are now officially out of work.
>
> "In May 1995, they both signed on at a brand-new program distribution company called TELE-TV, Stringer becoming chairman and CEO and Grushow becoming president. The setup looked good at the time, because three telephone companies — Bell Atlantic, Nynex and Pacific Telesis — had agreed to fund it to the tune of $100 million apiece.
>
> "High price of failure: Now TELE-TV is going out of business, and one insider says the company will pay through both nostrils. Stringer, this insider says, was

> making $3.2 million a year and still has 2-1/2 years to go on his four-year contract, so he'll pocket a cool $8 million. Grushow's salary was $2.5 million a year - his settlement will come to $6.25 million, according to the insider."

It is estimated that the three TELE-TV Bells spent $500 million in just over two years and all went for projects that they decided to close down, ending the fiber optic deployments.

Wired Magazine writes: [68]

> "The apparent collapse of a US $500 million bet on the future of TV has once again thrown into question whether we'll experience anything resembling facilities-based video competition before the next millennium. Reports last week that Bell Atlantic Corp., NYNEX Corp., and Pacific Telesis Group are finally bagging their resilient yet somewhat scatter-brained TELE-TV venture didn't shock anyone as much as it confirmed a prevalent theory: The Bells have put video on the back burner."

Long distance service would be the next focus. Forget video.

Wired Magazine writes: [69]

> "Long distance, of course, is more familiar territory, and most of all, it's simple. Video, on the other hand, is not. Entrenched cable TV operators lurk under every rock. Direct broadcast satellite is adding millions to its rolls. And when you start talking about interactive services, you're drifting way over the heads of most Bell company execs."

While this event might not prove to be significant to some, the Bells dropping their fiber optic plans left many vendors to swing in the wind.

> "The ripple effect of TELE-TV's demise could be significant for some. Thomson Consumer Electronics, for example, just signed a $1 billion equipment deal with TELE-TV that could now dry up. Silicon Graphics may have to write-off a deal

> for digital media servers that was expected to be worth at least $5 million. And a bunch of smaller companies like DiviCom and Avnet also must give up some juicy contracts they've signed with TELE-TV over the past few months."

More significantly, some blamed the mergers of SBC-Pacific Telesis and NYNEX-Bell Atlantic as one of the catalysts for this closing.

> "A Bell Atlantic spokesman said that the raft of "mega-mergers" affecting the TELE-TV players (Pacific Telesis is trying to pair with SBC Communications Inc.) obviously have affected the venture's business plan. 'But it's not a question of whether we're going to be in video; it's mechanics,' he said."[70]

In short, what happened was after the companies made all of their fiber optic deals, got all of their financial incentives and the Telecom Act of 1996 passed, which was a roadmap to enter long distance, they simply pulled the plug on almost all fiber optic to the home investments.

As we demonstrate in the sections on the mergers of SBC and Verizon, there is more than ample evidence that the fiber optic plans were nothing more than a regulatory smokescreen. The evidence of the tax-write-offs for both companies shows that they never spent anything near what they had stated they would be using for fiber deployments.

**Americast**

Editors Note: The domain "Americast.com" is currently for sale, and is a portal for bath products and other services, as of September 2005.

There are two stories about Americast. The first is the group, which included SBC, BellSouth, SNET, Ameritech, GTE and Disney. The other is a cable programming offering called "Americast", which was sold by these companies and is still sold by BellSouth.

**Americast, the Group**

As covered in our chapter on the SBC merger, when the ink dried or when SBC bought the companies through mergers, these companies simply started dumping their fiber-based

deployments. There never was any serious fiber optic product or services delivered, and in fact, the entire mess can once again be called a bait-and-switch to enter long distance.

By the time of the SBC-Pacific Telesis merger, the company was pulling out of cable TV and Americast, the joint venture with Ameritech, BellSouth, and Disney.[71]

> "SBC effectively ended its attempt to enter the wireline cable TV market last week, selling its 94.6% stake in two Washington-area systems for $606 million to an investment group that includes Prime Cable.
>
> "The company has also withdrawn from the Americast partnership and sold an option to purchase 75% of Prime Cable of Chicago to the same investment group."

Even though the hatchet fell on SBC's own state territories and Pacific Telesis's fiber optic future because of the merger, the other companies — SNET and Ameritech — continued to roll out Americast packages, until the ax fell on them when it was their time to be bought by SBC. We note, however, that what was rolled out didn't at all match what was stated in their video dialtone applications.

SNET Americast in 1998[72]

> "NEW HAVEN - At a launch party staged at the Farmington Public Library on March 11, 1998, SNET became the first company to compete in the state's cable TV market by signing up customers for its new cable service, SNET Americast. Offering 80 channels, interactive on-screen programming, and parental control features, SNET Americast is being marketed in the Hartford area for $24.95 a month (for expanded basic service) and will be available to more than a third of all households in the state by the end of next year. Operated by a consortium that includes BellSouth, GTE and Disney TeleVentures, SNET Americast was formed after the state's Department of Public Utility Control granted SNET the first statewide cable franchise in the U.S. in 1996."

**Ameritech Was Also Offering Americast Services**

The Apr 13, 1999, Ameritech press release says it all:

> "Ameritech Signs 100th Cable Television Franchise Reaches Competitive Milestone in Less than Four Years."[73]

The release continues:

> "Since we installed our first Americast® customer in May 1996, we've won more than 200,000 cable TV subscribers, who have made Ameritech the largest competitive cable company in the nation. We've improved the quality of life for midwestern cable viewers and we look forward to extending those benefits to the people of Chicago Heights.
>
> "Ameritech has built systems in and now competes for cable television viewers in 84 cities and towns in the Detroit, Chicago, Cleveland and Columbus, Ohio, areas."

As soon as Ameritech was bought by SBC, all bets were off and these new fiber optic-based cable companies were essentially sold off. See our chapter on the mergers for more details.

**BellSouth Uses Americast Today as a Brand**

BellSouth Entertainment is selling an "Americast" cable service currently offering 60 channels plus 18 premium channels in Jacksonville, Atlanta, Vestavia Hills, AL, and South Florida.
See: http://www.bims.bellsouth.net/index.htm

> "BellSouth Americast® Premiercast® Cable TV Service features over 60 local and cable channels, including Family, Music & Variety, Home & Leisure, Movies, Sports, News, Specialty Interest and Government Programming. In addition, with an EZ-Smart terminal* you'll get access to 18 optional premium

> and pay-per-view movie channels, along with the on-screen interactive program guide, which includes parental control features."

And talk about irony — there is a more advanced package called “Digital Cable Service”, which has 170 video and music channels and 45 optional premium and pay-per-view channels. The Americast package is inferior:

> "BellSouth Digital Cable Service features over 170 video and music channels, including over 45 optional premium and pay-per-view channels. There's even an on-screen interactive program guide with parental control features. What's more, with your Digital Cable service you'll also receive Americast® Premiercast® Standard Cable Service on all of your other cable-ready TV outlets at no additional monthly cost."

BellSouth’s video dialtone deployments were supposed to be capable of 310 channels.

BellSouth’s FCC Video Dialtone Petition: [74]

> “BellSouth Telecommunications, Inc. (BST) proposed to construct a broadband fiber optic-coaxial cable network for video and telephony, initially offering each subscriber 70 analog channels and approximately 240 digital video channels. According to BST, this network will be capable of providing a variety of programming services, including traditional television programming, enhanced pay-per-view, video-on-demand, and interactive educational, home shopping, and health care services.”

In short, we now believe that Americast and TELE-TV were simply to hedge the bet of the phone companies to gain entry into long distance, more than as the next generation of television. It is now clear that none of the networks could be delivered as promised, and this included all of the phone companies simultaneously. So, the only logical bet was that these two groups would help the Bells get the desired rewrite of the Telecom Act of 1996, which gave them the right to enter long distance once their networks were open.

We also believe that they used many other companies making them part of this ploy — from the hardware vendors to the production companies that were making video programming for these networks.

## Chapter 5 And the Promises? The Annual Reports Tell No Lies.

With the blare of TELE-TV and Americast in the background, and millions of dollars being spent on the state and federal level, the Bells had to convince regulators, investors, and the public that their plans were the best for America.

It turned into a surreal world of phone company bravura on steroids. Let's go through, in detail the promises the companies were making to America based on their own statements, as told by the phone companies' Annual Reports, FCC filings, state filings, etc.

**Fiber Optic Deployment Plans: The Annual Reports Tell No Lies:**

- By 2000, about 50 million households should have been rewired.
- By 2005, we estimate that 86 million households should have been rewired.

Here is a closer look at the original bravura of the RBOCs Info Highway rollouts, as declared in their annual reports according to Baby Bell annual reports and Fact Books.

Ameritech Investor Fact Book, March 1994 [75]

> "***We're building a video network that will extend to six million customers within six years."***

NYNEX, 1993 Annual Report [76]

> "We're prepared to install between ***1.5 and 2 million fiber optic lines through 1996*** to begin building our portion of the Information Superhighway."

US West, 1993 Annual Report [77]

> "In 1993 the company announced its intentions to build a 'broadband', interactive telecommunications network…. ***US West anticipates converting 100,000 access***

> ***lines to this technology by the end of 1994, and 500,000 access lines annually beginning in 1995."***

And the spending on these networks would be staggering. Bell Atlantic's 1993 Annual Report announced they were the "leaders" of the Info Bahn, and that they would be spending $11 billion.[78]

Bell Atlantic 1993 Annual Report[79]

> "First, we announced our intention to lead the country in the deployment of the information highway.… ***We will spend $11 billion over the next five years*** to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region."

And that would be spent on 8.75 million homes by the end of the year 2000.[80]

> "We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets.... These investments will help establish Bell Atlantic as a world leader…."

Another Bell's 1994 annual report was even more bullish than Bell Atlantic’s Ray Smith. Pacific Telesis President Philip Quigley boldly announced that they were going to spend a whopping $16 billion.

Pacific Telesis 1994 Annual Report[81]

> "In November 1993, Pacific Bell announced a ***capital investment plan totaling $16 billion over the next seven years*** to upgrade core network infrastructure and to begin building California's "Communications superhighway". This will be an integrated telecommunications, information and entertainment network providing advanced voice, data and video services. ***Using a combination of fiber optics and coaxial cable, Pacific Bell expects to provide broadband services to more than***

> ***1.5 million homes by the end of 1996, 5 million homes by the end of the decade."***

And if a 1994 article on Ameritech's expenditures were to be believed, the company would be adding $4.4 billion for video services, for a whopping total of $29 billion over the next 15 years.

> "…The Ameritech Corporation said yesterday that it planned to spend an additional $4.4 billion to take video conferencing and other video services to the home, for a total expenditure of $***29 billion in the next 15 years***."[82]

Even the other local phone companies like SNET and GTE would join in the chest-beating. Southern New England Telephone, which handles most of Connecticut, (and is now owned by SBC), made a $4.5 billion commitment.

SNET 1993 Annual Report[83]

> "On January 13, 1994, the Telephone Company announced its intention to invest $4.5 billion over the next 15 years to build a statewide information superhighway ("I-SNET"). I-SNET will be an interactive multimedia network capable of delivering voice, video and a full range of information and interactive services. The Telephone Company expects I-SNET will reach approximately 500,000 residences and businesses through 1997."

The independent GTE (now owned by Verizon) promised 7 million homes by 2004 in 66 key markets.[84]

> "In 1991, GTE Telephone Operations became the first telephone company in the United States to offer interactive video services…. Expanding on this success, the company in 1994 announced plans to build video networks in 66 key markets in the next 10 years. When completed, the new network will pass 7 million homes and will provide broadcast, cable and interactive television programming.

> ”GTE's pending applications seek authority to build hybrid fiber optic and coaxial-cable video networks in Ventura County, Calif.; St. Petersburg and Clearwater, Fla.; Honolulu, Hawaii; and northern Virginia.”

SBC was very tight-lipped about their deployments, but in one announcement they claimed they would have 47,000 homes.[85]

> “SBC is building a traditional cable network in Richardson, Texas that will be in service in the fourth quarter of this year. (1996) It also is constructing a broadband network that will allow the company to offer cable and interactive services to up to 47,000 Dallas area households in 1996. SBC may provide video-on-demand — as well as a host of other interactive services such as home shopping, education programs, and interactive games — to those 47,000 households. SBC, which recently won court approval to provide video programming in its telephone subsidiary's five-state territory, is working with Microsoft, Lockheed and others to develop the delivery system.”

More announcements and plans flooded the landscape. Anyone hearing this clatter would be sure to think that we were in the midst of a fiber optic revolution. For example, Americast, the group formed by SBC, BellSouth, GTE, Ameritech and Disney, was promising 68 million fiber optic homes in 28 states:

> “Americast would reach 68 million homes in 32 states.”[86]

And the group even made announcements to purchase $1 billion worth of equipment:

> “Americast … last week announced the purchase of $1 billion worth of high-tech boxes, referred to as digital set-top boxes.” [87]

Other announcements were even more promising. NYNEX claimed it would have its entire region wired with fiber by 2010 — New York, Massachusetts, Rhode Island, Maine, Vermont and even New Hampshire.[88]

> "NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education, and health care services. NYNEX ***plans to deploy this type of network to the majority of its customers by the year 2010."***

By 2005, if the original seven Bell companies had actually delivered on their broadband promises, approximately 79 million households would have had fiber optic-based services. These state commitments also would have rewired schools and libraries, hospitals and government offices, and in most states, the plan called for ALL customers to be rewired equally, whether they were in rural or urban areas, rich or poor. Universal Broadband was to be accomplished state-by-state because customers were in essence funding these network upgrades.

**Exhibit 9**
**Announced RBOC Upgraded Residential Subscribers, 1994-2000**[89]

| | 1994 | 1995 | 1996 | 1997 | Total by 2000 |
|---|---|---|---|---|---|
| Ameritech | 800,000 | 1,000,000 | 1,000,000 | 1,000,000 | 6,000,000 |
| Bell Atlantic | 100,000 | 1,750,000 | 1,750,000 | 1,750,000 | 8,750,000 |
| BellSouth | | | 1,106,000 | 1,106,000 | 4,324,000 |
| NYNEX | | | 2,000,000 | 1,500,000 | 6,500,000 |
| Pacific Telesis | 780,000 | 780,000 | 780,000 | 780,000 | 5,500,000 |
| SouthWestern | | | 1,106,000 | 1,106,000 | 4,324,000 |
| US West | 100,000 | 500,000 | 500,000 | 500,000 | 2,600,000 |
| PER YEAR | 1,780,000 | 4, 030,000 | 8,042,000 | 7,742,000 | |
| RUNNING TOTAL: | 1,780,000 | 5, 810,000 | 11,840,000 | 19,582,000 | 45,740,000 |

***Sources: Bell Annual Reports***[90]

GTE and SNET would have approximately 3.8 million households by 2000.

**Exhibit 10**
**GTE and SNET Projected Fiber-Deployments, 1994-2000[91]**

| | 1994 | 1995 | 1996 | 1997 | Total by 2000 |
|---|---|---|---|---|---|
| GTE | 700,000 | 700,000 | 700,000 | 700,000 | 2,800,000 |
| SNET | | | | 500,000 | 1,000,000 |
| | | | | 1,200,000 | 3,800,000 |

**To sum up:**

So far, the Annual Reports and other Bell statements suggest that about half of the US, around 50 million households, should have been rewired by the year 2000. If we extend out the supposed wiring plan, we find that about 8 million lines should have been added annually, and by 2005, 86 million households should have had a fiber optic wire into their homes. This includes GTE and SNET.

**EXHIBIT 11**
**Total Bell Household Deployments 2000, 2005 (with GTE, SNET)**

| Total by 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|
| 49,540,000 | 54,000,000 | 62,000,000 | 70,000,000 | 78,000,000 | 86,000,000 |

As we will highlight in future sections, many of the Bell Atlantic states had definite plans for entire state rewiring projects through 2010-2015.

But let’s go deeper. What exactly were customers expecting to get? What were the commitments made to the state and federal governments?

## Chapter 6 And the Promises? Video Dialtone Commitments.

**NOTE: In all, 9,787,400 households should have been upgraded to fiber optic/coax, in 43 different cities/states within a few years, 1995-1997.**

Another source of data about the commitments to rewire America comes from the Bells' FCC petitions to offer "Video Dialtone" services.

Briefly, the video dialtone was a series of proceedings at the FCC, and eventually in the courts, to allow the Bell companies to be able to upgrade telephone networks for video services.[92] (We will go into more details about these deployments in future sections.)

According to the FCC, by September 1994, 24 applications were filed by six of the seven Bell companies and GTE. These applications covered both full state deployments as well as various specific cities/territories.

> "Twenty-four applications for permanent commercial video dialtone services have been filed with the Commission, including applications by six of the seven RBOCs, as well as GTE." [93]

Previously we presented information out of the Annual Reports and Investor Fact Books on the number of households that were promised overall by the phone companies. The next exhibit is a listing of how each state was handling its deployments, as stated by the FCC's "First Video Report".[94] Notice that Pac Bell had at least four different regions of the state being wired; US West and Ameritech picked specific cities for its filings.

The exhibit proceeding the next page outlines the dates when these 24 different applications were filed. The first one was October 1992 by Verizon (then Bell Atlantic); the last one listed was SNET, in April 1995. As we will show, the dates on these filings are significant because as soon as the ink was dry, or the companies merged, every one of the fiber optic plans was either sold off or closed down — all 24 of them.

One other curious note: SBC was absent in either announcing its plans broadly, or filing at the FCC on video dialtone, even though SBC was out front when it was pitching the poster-child of advanced services — ISDN — which came to be known as "It Still Does Nothing", in the 1990's. SBC's lack of interest in broadband will come back to haunt the future of broadband.

**Exhibit 12**

**Permanent Video Dialtone Applications by Company and Location, September 1994**

Pacific Bell has requested permanent authorizations to serve

- 210,000 homes in Orange County
- 490,000 homes in San Francisco
- 360,000 homes in Los Angeles
- 250,000 homes in San Diego, CA

U.S. West has requested permanent authorizations to serve

- 330,000 homes in Denver, CO
- 132,000 homes in Portland, OR
- 292,000 homes in Minneapolis- St. Paul, MN
- 90,000 homes in Boise, ID
- 160,000 homes in Salt Lake City, UT

Ameritech has requested permanent authorizations to serve

- 232,000 homes in Detroit, MI
- 262,000 homes in Columbus and Cleveland, OH
- 115,000 homes in Indianapolis, IN
- 501,000 homes in Chicago, IL, and
- 146,000 homes in Milwaukee, WI

GTE has requested permanent authorizations to serve

- 90,000 homes in Virginia
- 476,000 homes in Florida
- 122,000 homes in California
- 296,000 homes in Hawaii

Bell Atlantic has requested permanent authorizations to serve

- 1,200,000 homes in the Washington DC metropolitan area
- 2,000,000 homes in the Baltimore-NJ-Philadelphia-Pittsburgh area

NYNEX has requested permanent authorizations to serve

- 63,000 homes in portions of Rhode Island
- 334,000 homes in portions of Massachusetts

SNET, Connecticut has requested permanent authorizations to serve

- 150,000 homes in the Hartford, CN area
- 1,000,000 homes in portions of Connecticut

**Exhibit 13**

**Requested Video Dialtone Applications by the Phone Companies**

| Date | Telephone Company | Location | Homes | Type of Proposal |
|---|---|---|---|---|
| 10/21/92 | Bell Atlantic-VA | Arlington, VA | 2,000 | technical/market |
| 10/30/92 | NYNEX | New York, NY | 2,500 | technical |
| 11/16/92 | New Jersey Bell | Florham Park, NJ | 11,700 | permanent |
| 12/15/92 | New Jersey Bell | Dover Township, NJ | 38,000 | permanent |
| 04/27/93 | SNET | West Hartford, CT | 1,600 | technical/market |
| 06/18/93 | Rochester Telephone | Rochester, NY | 350 | technical/market |
| 06/22/93 | US West | Omaha, NE | 60,000 | technical/market |
| 12/15/93 | SNET | Hartford &Stamford, CN | 150,000 | technical/market |
| 12/16/93 | Bell Atlantic | MD & VA | 300,000 | permanent |
| 12/20/93 | Pacific Bell | Orange Co., CA | 210,000 | permanent |
| 12/20/93 | Pacific Bell | So. San Francisco Bay, CA | 490,000 | permanent |
| 12/20/93 | Pacific Bell | Los Angeles, CA | 360,000 | permanent |
| 12/20/93 | Pacific Bell | San Diego, CA | 250,000 | permanent |
| 01/10/94 | US West | Denver, CO | 330,000 | permanent |
| 01/24/94 | US West | Portland, OR | 132,000 | permanent |
| 01/24/94 | US West | Minneapolis/ St. Paul, MN | 292,000 | permanent |
| 01/31/94 | Ameritech | Detroit, MI | 232,000 | permanent |
| 01/31/94 | Ameritech | Columbus &Cleveland, OH | 262,000 | permanent |
| 01/31/94 | Ameritech | Indianapolis, IN | 115,000 | permanent |
| 01/31/94 | Ameritech | Chicago, IL | 501,000 | permanent |
| 01/31/94 | Ameritech | Milwaukee, WI | 146,000 | permanent |
| 03/16/94 | US West | Boise, ID | 90,000 | permanent |
| 03/16/94 | US West | Salt Lake City, UT | 160,000 | permanent |
| 04/13/94 | Puerto Rico Tel. Co. | Puerto Rico | 250 | technical |
| 05/23/94 | GTE - Contel of Va. | Manassas, VA | 109,000 | permanent |
| 05/23/94 | GTE Florida Inc. | Pinella and Pasco Co., FL | 476,000 | permanent |
| 05/23/94 | GTE California Inc. | Ventura Co., CA | 122,000 | permanent |
| 05/23/94 | GTE Hawaiian Tel. | Honolulu, HA | 334,000 | permanent |
| 06/16/94 | Bell Atlantic | Wash. DC LATA | 1,200,000 | permanent |
| 06/16/94 | Bell Atlantic | Baltimore, MD; Northern NJ; DE; Philadelphia, PA; Pittsburgh, PA; and S.E. VA | 2,000,000 | permanent |
| 06/27/94 | BellSouth | Chamblee & DeKalb s, GA | 12,000 | technical/market |
| 07/08/94 | NYNEX | RI | 63,000 | permanent |
| 07/08/94 | NYNEX | MA | 334,000 | permanent |
| 09/09/94 | Carolina Tel. & Tel. | Wake Forest, NC | 1,000 | technical/market |
| 4/28/95 | SNET | CT | 1,000,000 | permanent |

## Chapter 7 The Promises? Fiber Optic Upgrades, (and Sometimes Coaxial Cable) To-The-Home Were Promised.

Virtually every Bell phone company petitioned the FCC to offer video dialtone services as part of their fiber optic deployments, and, as we will show, these plans called for fiber optic upgrades of the copper plant, sometimes with coaxial cables from the street to the customer's home or office (coaxial cable can handle more bandwidth than copper and is used for cable TV); but don't take our word for it about the fiber optic upgrades. The material is directly from the Bell companies' FCC video dialtone petitions.

This title of Ameritech's FCC Petition for five states outlines the plan and territories. [95]

> "Ameritech Operating Companies For Authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct, operate, own, and maintain ***advanced fiber optic facilities*** and equipment to provide video dialtone service within geographically defined areas ***in Illinois, Indiana, Michigan, Ohio, and Wisconsin***."

BellSouth's video dialtone was for fiber and coax. [96]

> "BellSouth Telecommunications, Inc. (BST proposed to construct a ***broadband fiber optic-coaxial cable network*** for video and telephony."

NYNEX's video dialtone application was for Massachusetts and Rhode Island and was offering video entertainment and healthcare services.[97]

> "NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education, and health care services. NYNEX plans to deploy this type of network to the majority of its customers by the year 2010."

Pacific Telesis, 1994 Investor Fact Book[98]

> "Pacific Bell's Communications superhighway will use fiber optics and coaxial cable instead of the twisted copper wire traditionally used to provide telephone service."

US West 1993 Annual Report [99]

> "U.S. West will construct an advanced fiber-to-the-curb/coaxial cable network capable of providing 77 channels of analog video and between 800 and 1000 channels of digital capacity."

**This is NOT Fiber in the Network — Duh.**

A highway has on and off ramps, and yet Verizon, for example, and the other phone companies will explain that Verizon is fulfilling their promises to rewire the state with fiber optics because they have added fiber optic cable to the phone network alone. For example, in Pennsylvania, Verizon claims that: [100]

> "The truth is that Verizon Pennsylvania has consistently delivered on its promises to deploy a broadband network for its customers under Pennsylvania's alternative regulation law, Chapter 30."
>
> "Verizon Pennsylvania has invested more than $8 billion and deployed nearly 1.2 million miles of fiber optics in its network over the past nine years while under alternative regulation."

This is nothing more than a lie since the requirements for Pennsylvania were to rewire the homes and offices with fiber optics; not any fiber upgrades that may be in the network. Without the connections directly to the home or office, the fiber can't be used if the rest of the 100 feet to the home is still the old copper wiring. It is like selling a highway system, but the on-and-off ramps do not exist.

Regardless of the current hype, Verizon's 1996 press release pertaining to Pennsylvania states that the fiber optic coax mix was for fiber-to-the-curb applications. By 2005, it was never rolled out.

> "Later this year, Bell Atlantic will begin installing fiber optic facilities and electronics to replace the predominantly copper cables between its telephone switching offices and customers. Fiber optics provide higher quality and more reliable telephone services at lower operating and maintenance costs. ***The company plans to add digital video broadcast capabilities to this 'fiber-to-the-curb' switched broadband network by the third quarter of 1997, and broadband Internet access, data communications and interactive multimedia capabilities in late 1997 or early 1998."***
>
> "The fiber-to-the-curb architecture that Bell Atlantic will build is the next step in the company's ongoing, aggressive network modernization program…. Bell Atlantic plans to begin its network upgrade in Philadelphia and southeaster Pennsylvania later this year. The company plans to expand this Full Service Network deployment to other key markets over the next three years. Ultimately, Bell Atlantic expects to serve most of the ***12 million homes and small businesses*** across the mid-Atlantic region with switched broadband networks." (by 2000) [101]

According to the state Commission, 50% of the state should have had fiber-to-the-curb services at 45 Mbps by 2004, available in rural, urban and suburban areas equally.[102]

> "Verizon PA has committed to making 20% of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by end of year 1998; 50% by 2004; and 100% by 2015."

According to the Pennsylvania Public Utility Commission in 2003, the service was bi-directional with the upstream and downstream paths being 45 Mbps.

> "In view of Bell's commitment to providing ***45 Mbps for digital video transmission both upstream and downstream***, we look forward to Bell's

providing this two-way digital video transmission at 45 Mbps."

And so, fiber optics is to the home or office, not in the network. The network upgrades do NOT fulfill the companies' obligations under state law.

## Chapter 8 And the Promises? Speed Matters: the Faster the Service — the More Stuff You Get, Faster.

We discuss the need for speed and next generation services in other chapters. Let's focus on what should annoy us all greatly — the speed of service. As defined by the phone companies themselves and the regulators, it was 45 Mbps in both directions.

**Speed Matters**

Now for those not familiar with the technical terminology, broadband is ALL about speed. How fast can you download something off of the web is the best way of thinking about it.

First, just to reiterate, there are two directions for speed — "upstream" and "downstream" and the speed can be "symmetrical" or "asymmetrical", such as with "ADSL"

- **Upstream** (Upload) is the speed of a service from the customer's computer to the network
- **Downstream** (Download) is downloading something from the network to the customer.
- **"Symmetrical" Vs "Asymmetrical"** — "Asymmetrical" DSL is when the speed downstream is faster than the speed upstream.
- **"Bi-directional"** is when the speed is the same in both directions.

One thing you need to always remember — **1000 Kilobytes = 1 Megabyte.**

Then we have the basic services:

- **Dial Up** service uses the old copper wiring and has a modem speed of 56 kilobytes per second, "kbps". However, most actual speeds are slower. Some rural areas are getting 14.4kbps.

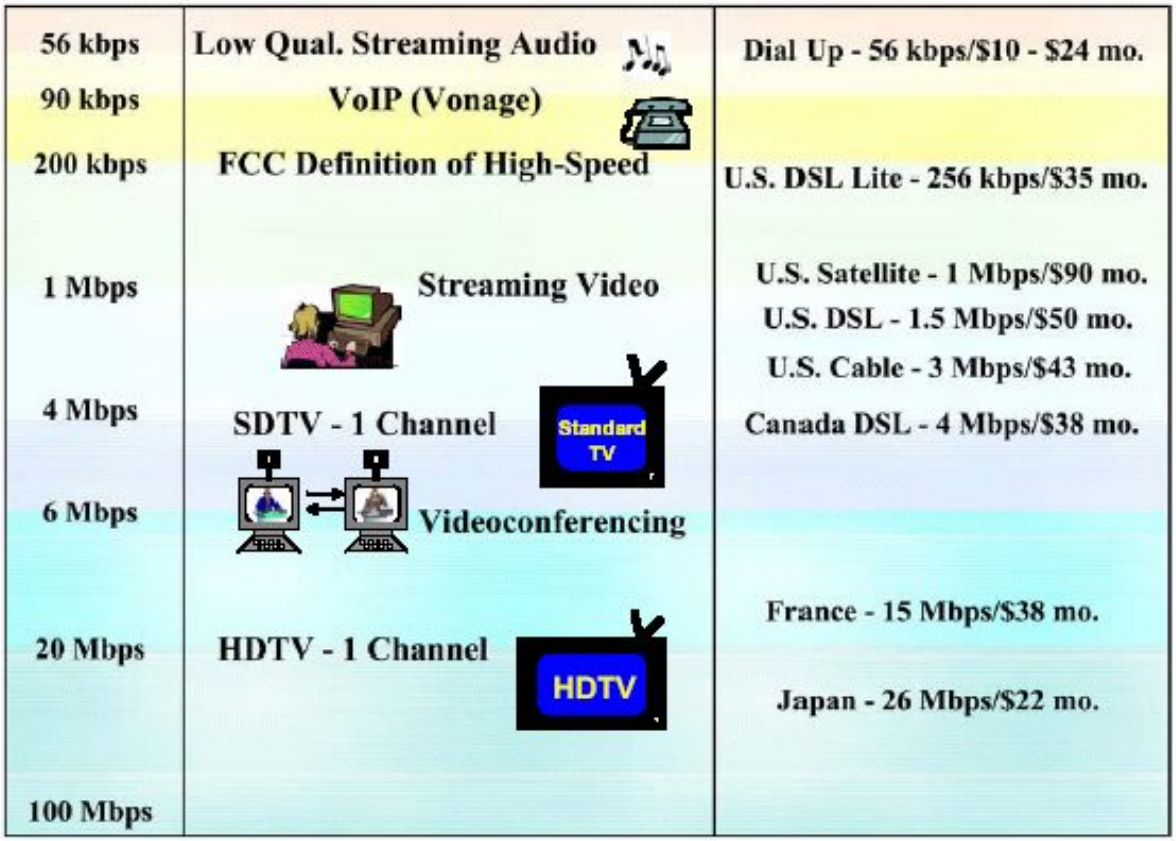
- **DSL line over copper or even a cable modem** has continued to increase over the last few years. The major caveat here is that the speed that the phone company advertises is usually the TOP speed, and not the speed to someone's home. Also, the wiring can have materials attached or be old and therefore is slower.

According to Free Press:[103]

> "In the United States, the average Asymmetric Digital Subscriber Line (ADSL) connection offers download speeds between 256 kbps and 1.5 Mbps, and upload speeds between 128 kbps and 384 kbps. The average cable modem connection provides download speeds between 2 to 3 Mbps, with upload speeds varying between 256 kbps and 384 kbps. These connections cost consumers $35 to $50 per month on average."

Below is a comparison of speed provided by Freepress.net.[104] Notice that nothing is even close to what was promised in 1993, over a decade ago.

**Exhibit 14**
**Speed of Service Comparisons, 2005**



According to this chart, HDTV, which is higher quality than a cable picture, and is the next US standard, requires at least 20 Mbps for one channel. Also note that while the United States' DSL is inferior to Canadian DSL, in France, 15 Mbps averages $38 a month, while Japan is selling 26 Mbps at only $22 a month.

In our added section on Verizon's fiber optic service, FIOS, we compare the Korea and Japan's offerings, and the differences are staggering. Korea and Japan now offer 100 Mbps services in 2-directions for an average of $40. FIOS has a top speed of 30 Mbps in one direction and cost $199, while SBC's Lightspeed is still not being rolled out.

This is about speed. Let us be emphatic that the definition of the Bell companies was 45 Mbps.

**And It's ALL about Speed: The Standard for Broadband Was 45 Mbps in 1992!**

In 1992, testimony given by Verizon (then New Jersey Bell), in order to receive financial incentives to rewire the state, claimed that broadband was 45 Mbps services (or higher) and was capable of "high definition video" in both directions.

> "Broadband Digital Service — Switching Capabilities matched with transportation capabilities supporting data rates up to **45,000,000 bits per second** (45 Mbps) and higher, which enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals."

This was the standard speed for broadband. There would be no reason to give the companies more money for DSL speed over copper wiring.

**And Why 45 Mbps?**

Broadband was defined as being able to deliver high-definition, bi-directional video. Take Texas and Southwestern Bell (SBC). In September 1995, the state passed a law that required SBC to be able to deliver 45 Mbps or faster, in 2 directions. By the year 2000, all schools, libraries, and hospitals throughout the state should have been offered these services.

> "On customer request, the electing company shall provide broadband digital service that is capable of providing transmission speeds of up **to *45 megabits per second or better*** for customer applications."

Even in one of the industry's bibles, ***Newton's Telecom Dictionary***, "Broadband" was defined as a service with a speed of 45 Mbps as late as 2001.[105]

> "Broadband — a transmission facility providing bandwidth greater than 45 Mbps (T3). Broadband systems generally are fiber optic in nature."[106]

(ED NOTE: This definition in the ***Newton's Telecom Dictionary*** has since changed to fit the new idea that slower is more politically correct.)

**The FCC Definition of Broadband Is 200 kbps. — It Can Not Handle Video.**

We believe that the growth of the economy has been directly harmed because of the redefinition of the word "broadband" in terms of speed. Since 1999, the FCC, in order to keep face and to make it look like America was on the right path, published numerous biased reports. The FCC redefined "advanced" broadband as 200 kbps in both directions, and "high speed" as 200 kbps in one direction. New Networks has been a critic of this definition since 1998.[107]

- Advanced networks are 200 kbps in both directions.
- High-speed networks are 200 kbps in one direction.

More importantly, the Telecom Act of 1996 required broadband to handle "high-quality" video services. The definition of "Advanced capability" includes "broadband" with a capability of high-quality voice, data, graphics and video telecommunications. Section 706(c)(1) defines "advanced telecommunications capability" as follows:

> "The term 'advanced telecommunications capability' is defined, without regard to any transmission media or technology, as high-speed, switched, broadband

> telecommunications capability that enables users to originate and receive high-quality voice, data, graphics and video telecommunications using any technology."

200 kbps can not deliver high-quality video. Using 200 kbps as a standard was wrong. Also, the Act does not have a sub-set that would allow 200 kbps to even be "high-speed" as broadband based on the Telecom Act's definition.

**The Rest of the World Is Laughing at the United States**

The rest of the world knows that 200 kbps in the year 2005 is a joke. The Canadian government, as of 2002, set broadband as two-way (symmetrical) services capable of at least 1.5 Mbps, with the understanding that a new standard of at least 4-6 Mbps is coming.

> “Definition of Broadband: Based on today's technology and applications, high-speed broadband is defined as a high-capacity, two-way link between end user and access network suppliers capable of supporting full-motion interactive video applications delivered to all Canadians on terms comparable to those available in urban markets by 2004. A minimum symmetrical speed of 1.5 megabits per second per individual user is currently required to support these applications. Leading up to 2004 and beyond, new applications such as peer-to-peer file interactions and video conferencing will increase individual user demand for symmetric bandwidth in the 4-to-6 Mbps range. Public and commercial facilities will require much higher bandwidth, ranging from this minimum to several hundred times more, depending on their size and user needs.”[108]

According to Fortune magazine on South Korea's broadband "wonderland", September 7, 2004, while the FCC dummied down the definition of broadband to 200 kbps, countries like South Korea only start counting broadband at megabit speeds, because they are rolling out true broadband and not some poor substitute. (A megabit is 1000 kbps)

> "At a time when the Federal Communications Commission defines broadband as an Internet connection capable of transmitting 200,000 bits of information a second (200

> kbps), the Korean speedometer doesn't even start until transmission speeds pass the one million bits (one megabit) mark. Wired connections of eight megabits are routine — about five times faster than my American high-speed cable modem on a good day — and many Korean subscribers have already bumped up to 20-megabit connections."

And as our chapter on FIOS demonstrates, the current speed goal for Japan and Korea is 100 Mbps as the standard.

How many 45 Mbps connections are there in the US? How does it cost-compare to these other countries? We will revisit this issue.

## Chapter 9 And the Promises? NOT DSL— SPEED and Coverage Are the Issues.

If 45 Mbps was considered ‘broadband’ as promised in the states, then what was being promised was NOT DSL, which runs over the old copper wiring. Pennsylvania was one of the states where the Commission noticed that they were promised fiber and that what the phone companies was pawning off was DSL over copper as part of their state commitments.

The Pennsylvania Commission realized that there was a bait-and-switch going on and that what was promised was a Ferrari on the Info Bahn and what the state was getting was a skateboard on a dirt road. The Commission’s reasoning was that DSL is too slow and doesn't even qualify for the definition of broadband, nor does it replace Verizon's obligations. [109]

> "In Verizon PA's 2000 Update, the Company also states that DSL is a broadband service consistent with its NMP (Network Modernization Plan). There are several reasons why we believe that Verizon PA’s current DSL offering is not a broadband service consistent with its NMP.
>
> "First, DSL, as Verizon PA currently provides it, is too slow to be considered a true broadband service as defined by Verizon PA in its original NMP. The industry generally considers 45 Mbps to be the minimum speed for broadband and in its NMP, Verizon PA committed to this higher bandwidth level as well.
>
> "Second, DSL, as Verizon PA currently provides it, can only reach a speed of 1.5 Mbps, the slowest definition of broadband where the customer is located no further than 12,000 feet from the serving wire center. Only a limited number of Verizon PA's residential customers meet this criteria. Third, currently Verizon PA’s ADSL can achieve 1.5 Mbps in only one direction, the downstream direction. In the upstream direction, it is limited to a maximum of 768 kbps (0.768 Mbps).

> "To achieve speeds as fast, or faster, than DSL can currently provide, the wire lines from the serving wire centers to the customers must be replaced with either fiber optic conductors or coaxial cables, or a 'hybrid' combination of the two."

And even the Bell companies thought that ADSL was an inferior product. They were replacing the copper wiring so that the state would not lag behind others. They called ADSL an interim solution and defined it as **"the most bandwidth-limited section of the network."** Here's an excerpt from the Commission on the topic.[110]

> "It should be noted that the evidence the Company introduced in support of its NMP in 1994 established clearly that modernizing the network meant, among other things, replacing the existing copper distribution system with fiber. The Company's direct testimony asserted that its NMP was consistent with the "moderate infrastructure acceleration scenario" described in the Commission's ***Pennsylvania Telecommunications Infrastructure Study*** released by Deloitte and Touche and DRI/McGraw Hill in 1993. Verizon PA placed the study into evidence in its rebuttal testimony. The study makes clear that one of the assumptions underlying all of the acceleration scenarios was deployment of a fiber distribution system. In fact, the study indicated that of all the technology changes needed for a broadband capable network, deployment of fiber in the feeder and distribution systems was the change that would lag behind the others if the Commonwealth did not adopt a strategy to accelerate deployment. The study described the copper distribution system as ***'the most bandwidth-limited section of the network.'*** Finally, it described ADSL technology as a 'potential interim solution' to allow higher bandwidth services pending construction of a fiber distribution system."

And that's not taking into account the slowness to most customers who use the old copper networks. The actual speed of the service can be very, very, slow. Many customers in more rural areas are getting speeds of only 14.4 kbps as their fastest connection.

As the State Commission correctly identifies, what we have here are two broadbands. The first is dependent on the copper wiring which will never be able to get to 45 Mps (enough for sending and receiving movies) and the second is the use of fiber optic wiring that can be

continuously upgraded to faster speed services as they are developed — and its slow speeds are 50-100 times faster than today's ADSL.

## Chapter 10 And the Promises? Channels Galore, Interactive Programming

Virtually every Bell phone company petitioned the FCC to offer video dialtone services as part of their fiber optic deployments. What was promised was video channels galore as well "interactive services", a kitchen-sink definition of anything including, "interactive educational, home shopping, and health care services".

**Exhibit 15**
**Number of Channels on Bell Video Dialtone Services,**
Filed at the FCC, 1993-1995

| | |
|---|---|
| Ameritech | 390 Channels |
| Bell Atlantic | 384 Channels |
| BellSouth | 310 Channels |
| NYNEX | 421-821 Channels (Avg –621) |
| US West | 877-1077 Channels (Avg –977) |
| Average | 536 Channels |

Ameritech, in its 5 states, would roll out 390 channels in "economically diverse sections of its service area".

> "Ameritech maintains that approval of the applications would permit its video dialtone network to reach 1.3 million homes, businesses and institutions in geographically and ***economically diverse sections of its service area***. The proposed hybrid network would provide 310 multicast (240 digital and 70 analog) channels and 80 switched digital channels." [111]

Bell Atlantic's Dover system had 384, 6-Mps channels that were offered and opened to competitors, known as "VPPs", "Video Program Providers".

> "The system s total channel capacity is 384, 6-Mbps, MPEG-2, digital broadcast channels. One third of the total capacity (128 channels) will be set aside for the operator's affiliate, Bell Atlantic Video Services Co. (BVS). In addition, Bell Atlantic will use one channel for a menu channel, and approximately ten channels will be designated for public, educational, and governmental access, and to carry those television broadcast stations entitled to demand carriage pursuant to 47 C.F.R. '76.56 and '76.1506. Therefore, approximately 245 channels will be available for interested VPPs. No VPP will be assigned more than the capacity set aside for BVS (128 channels)."[112]

BellSouth's Atlanta FCC Video Dialtone Petition had 310 channels.[113]

> "BellSouth Telecommunications, Inc. (BST) proposed to construct a broadband fiber optic-coaxial cable network for video and telephony, initially offering each subscriber 70 analog channels and approximately 240 digital video channels. According to BST, this network will be capable of providing a variety of programming services, including traditional television programming, enhanced pay-per-view, video-on-demand, and interactive educational, home shopping, and health care services."

NYNEX's Massachusetts and Rhode Island were up to 800 channels.[114]

> "NYNEX's proposed video dialtone systems make available three types of service arrangements: analog broadcast, digital broadcast, and digital interactive service. Video programmers may deliver an 'analog, digital, or other agreed upon signal' that NYNEX plans to modulate and/or encode as necessary. The allocation plan provides for the offering of 21 analog channels, all but one of which will be for over-the-air broadcast programming services, and, depending on compression rates, ***between 400 and 800 digital channels***."

US West was planning somewhere between 800 and 1000 channels of services.[115]

> "U.S. West will construct an advanced fiber-to-the-curb/coaxial cable network capable of providing 77 channels of analog video ***and between 800 and 1000 channels of digital capacity."***

**Bi-Directional Services – Upstream as Fast as Downstream**

One other point that needs to be made about this promise: the services were as fast down to the customer as the customer sending services.

According to the Pennsylvania Public Utility Commission in 2003:

> "In view of Bell's commitment to providing 45 Mbps for digital video transmission ***both upstream and downstream, we look forward to Bell's providing this two-way digital video transmission at 45 Mbps***."

**Why is Bi-Directional Important?**

A high-quality video–conferencing service needs to have both directions equally available. Imagine sitting in a room where they can see you but you can't see the person you're talking to — the picture is blurry, the words not in sync, as two images can't be handled simultaneously. There are some lower bandwidth video services; however, they also have limits as the bandwidth decreases.

The trend of file-sharing, which can be downloading megabits from someone else's service while someone is downloading back (upstream), is becoming common practice. Legal issues aside, there are thousands of reasons, some of which have not yet been invented, that require upstream and downstream applications. In 1994, they understood that having an upstream path was important.

## Chapter 11 And the Promises? Open to All Competition.

The fiber optic future was based on the principle that all new networks, in all capacities, would be open to competition. As discussed, the vision of the Clinton Administration was competition on all levels of telecommunications.

The FCC also had a similar vision. The FCC's "video dialtone" decision clearly laid out that these networks had "common carrier" provisions for use by competitive services.[116]

> "In the Video Dialtone Order, released in August 1992, the Commission established the video dialtone regulatory framework. The Commission defined video dialtone as the provision of a basic common carrier platform to multiple video programmers on a non-discriminatory basis. A "basic platform" is a common carriage transmission service that enables customers to gain access to video programming carried on that platform. If a local telephone company provides such a basic platform, it may also provide enhanced and unregulated services related to the provision of video programming."

"Common Carriage" is the long held belief that when networks that are funded by customers, especially when they are essential facilities that cannot be easily duplicated, the public interest is best served when these networks remain open for competitors to use. The Commission also made sure that these networks would not fund other Bell businesses through phone rates or discriminate against competitors by the companies controlling the wires.[117]

> "The Commission granted the application subject to conditions that will help protect against improper cross-subsidization and discrimination by New Jersey Bell, and help ensure that sufficient video dialtone capacity is available for video programmer-customers."

The issue of keeping the networks open to competition was repeated page after page in the state commission decisions as well, "Unbundling" means to make competitive services available by selling necessary components of the network for the use by a competitor.[118]

> "Staff submits that the unbundling provision must apply to all competitive services and not just for new filings to make a service competitive….
>
> "The Board 'FINDS' that it is essential that this Board encourage optimal use of the public switched networks, and that therefore NJ Bell shall be required to unbundle all noncompetitive service into service arrangements… so that competitors may market such services."

Other state deregulation plans had a great deal of detail about the issue of openness to competition, unbundling of service and "cross-subsidization". The Delaware Telecommunications Act states: [119]

> "The Delaware Telecommunications Act also provides protections to ensure that competitors will not be unfairly disadvantaged, including a prohibition on cross-subsidization, imputation rules, service unbundling and resale service availability requirements, and a review by the PSC during the fifth year of the plan. In March 1998, the PSC voted to approve the Company's request to extend its term under the Delaware Telecommunications Act until March 2002."

And in 1996, the Telecommunications Act of 1996, which replaced the previous Act controlling telecommunications, the Telecom Act of 1934, was supposed to be based on the premise that the public switched networks would remain open to competition.[120] Here is the opening:

> "To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."

**Every Bell Merger Promised Open Networks.**

Every Bell company merger was also mandated to bring in competition on every level. It was the basis for the mergers. The mergers would guarantee direct competition with the other Bell companies in the form of competition for local and long distance phone service, as well as to opening the networks for competitors to use for DSL and broadband.

On the hype level, the Bell Atlantic-NYNEX merger would open local, long distance and video competition, promote customer choice, innovation and economic growth. [121]

> “Bell Atlantic Chairman and CEO Ray Smith said, ‘We're extremely pleased with the Department of Justice's decision, which came after a thorough and comprehensive review. ***Our merger will continue to open communications markets — local, long-distance and video*** — and help realize the promise of the 1996 Telecom Act’."
>
> “NYNEX Chairman and CEO Ivan Seidenberg said, ‘The merger of Bell Atlantic and NYNEX will promote customer choice, innovation and economic growth in the communities we serve’.”

The FCC agreed to the SBC-Ameritech merger because it would bring Bell against Bell, competing directly with each other. SBC committed to competing outside its regions in 30 of the largest US cities, offering both business and residential customers wireline local phone service. The claim was that this would stimulate nationwide competition as well.

> "This will ensure that residential consumers and business customers outside of SBC/Ameritech’s territory benefit from facilities-based competitive service by a major incumbent LEC. This condition effectively requires SBC and Ameritech to redeem their promise that their merger will form the basis for a new, powerful, truly nationwide multi-purpose competitive telecommunications carrier. We also anticipate that this condition will stimulate competitive entry into the SBC/Ameritech region by the affected incumbent LECs."

See the next series of chapters on the mergers and their outcomes for more details.

## Interlude: The Paths to the Fiber Optic Scandals.

So far we have discussed the public national overview of what was being said by the industry players to America. It is also clear that the government was helping to promulgate the fiber optic future, and was even the platform for the Clinton-Gore ticket.

**To sum up for the jury, the hype would suggest:**

1) 86 million households should have been rewired with fiber optic/coax to the home by 2005.
2) 9,787,400 households should have been upgraded to fiber optic/coax, in 43 different cities/states within a few years, between 1995 to 1997.
3) These networks would deliver 534 channels on average, capable of speeds of 45 Mbps in both directions, or faster,
4) This was NOT DSL over the old copper wiring.
5) The networks would be open to full competition on all levels.

This message was also combined with various applications, such as Telemedicine, Telelearning, and other services to be used by schools, libraries, hospitals, government agencies, and even in customers' homes.

These messages represent the national-fiber optic-speak, data presented to the public in Annual Reports, statements made in Congress, and in FCC filings.

Let's look next at what was promised on the state level and the interplay with the national-fiber-speak.

## Chapter 12 Change State Regulations: Pitch Fiber Optics

In order to understand how this fiber optic future would unfold we need to give the reader the lay of the land.

The original seven Bell companies were holding such as NYNEX or Bell Atlantic, controlled multiple states. Each company would go into a state and do a campaign promoting the wonderful services that would be unleashed in that particular state.

Let's use NYNEX. NYNEX was a holding company that controlled telecommunications in six primary states (and a portion of Connecticut). NYNEX controlled two phone companies, which controlled specific states:

- **New England Telephone**: The phone companies for Massachusetts, New Hampshire, Vermont, Rhode Island, and Maine.
- **New York Telephone** controlled New York.

**On the national level,** as we have noted, NYNEX claimed to investors that it would install 1.5 to 2 million fiber optic lines by 1996.

NYNEX, 1993 Annual Report[122]

> "We're prepared to install between 1***.5 and 2 million fiber optic lines through 1996*** to begin building our portion of the Information Superhighway."

**On the state level,** NYNEX had a team within the company that went state by state and controlled the separate staffs in each state, lobbyists, etc. NYNEX would pitch each state with a proposition to rewire, and use the appropriate promises to make it happen.

This was on top of each state's extensive existing lobbyists, etc.. Remember, the Bell companies have been around for over 100 years and had plenty of time to make sure that any state politician, regulator, press person, community group, or Chamber of Commerce — virtually anyone influential in the state, was a friend of the Bell.

In documents filed with the state commissions of Massachusetts and Rhode Island, NYNEX made separate deals for roll out of the fiber optic services — a total of 390,000 homes.

- 334,000 lines would be deployed by 1995 in Massachusetts.
- 63,000 lines would be deployed in 1995 in Rhode Island.

As NYNEX promised to deploy 1.5 to 2 million homes by 1996, then the difference of over 1.1 million lines would somehow be in the other NYNEX states — New York, New Hampshire, Vermont, and Maine.

**Federal Petition — NYNEX Data.** Alongside this state presentation, NYNEX (and the other Bells) petitioned the FCC to offer video dialtone services. As you can see, the number of households that were to be rolled out in Massachusetts, 334,000 fiber optic homes, was also in the Federal filing.

> "On July 8, 1994, NYNEX filed two Section 214 applications for authority to provide video dialtone service in certain areas of Massachusetts and Rhode Island. NYNEX supplemented each of these applications on July 29, 1994. The application to provide video dialtone service in Massachusetts proposes a system that will pass approximately 334,000 homes and businesses. The application to provide service in Rhode Island proposes a system that will pass about 63,000 homes and businesses."

In the federal pitch, these networks are hybrid fiber optic and coaxial networks. It is interesting to note that the majority of customers would be completed by 2010.

> "NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education, and health care services. NYNEX plans to deploy this type of network to ***the majority of its customers by the year 2010***."

And the applications? As previously quoted**,** NYNEX services had a capacity for 21 analog and between 400 to 800 digital channels, supplying "interactive services" — interactive services

included “video entertainment, multimedia education, and health care services” — i.e., the web and video.

In short, the play by the phone companies was to have a specific fit for each state, and a specific filing for their "federal", FCC video dialtone services.

**The State Pitches and Services**

From the broadband scandals perspective, the action in broadband was at the state level. There are fifty-one jurisdictions (counting Puerto Rico) and we will highlight state deployment campaigns in:

- California, Pac Bell
- New Jersey, Bell Atlantic
- Massachusetts, NYNEX
- Pennsylvania, Bell Atlantic
- Texas, Southwestern Bell

Let’s be more general and discuss the overall state play.

Remember, TELE-TV and Americast would be blaring their messages of the "wonderland" fiber optic future, having a money-burn rate of almost a billion dollars in just of a few years. TELE-TV started in October '94 and consisted of three partners: Bell Atlantic, NYNEX and Pacific Telesis. Americast, created to rival TELE-TV, was formed in April '95, and consisted of Ameritech, BellSouth, and SBC Communications, as well as Disney and GTE; they therefore impacted virtually all of America (except for US West territories, which had its own noise machine going).

**The Pitch: The Bell Promised Fiber Optic Services to Get Deregulation.**

Every state had some tweaking to the sales presentation and deliverables, but all had similar components. First you have the “Pitch” delivered with promise and sizzle. Then the “Deal”, which, of course, was sold as a “win-win”. Finally came the “Outcome”, which ended up being the payment to the phone companies.

- The Pitch and the Promise
- The Deal
- The Outcome: The Payment to the Phone Companies

**The Pitch and the Promise**

We discussed the noise made by the phone companies nationally, but it was the bombardment of the phone companies’ message on the state level that was the deal clincher.

Every Bell made thousands of public statements**,** from press releases and statements made in the press, to even documents presented to the Public Utility Commissions that they would rewire their states with a fiber optic service that would replace the old copper wiring.

In some states, like New Jersey and Pennsylvania, the companies also had to get a new law from the state legislators as well, so it took extra noise, campaign contributions and more "sizzle".

Here’s a small portion of the stories that surrounded the Bell Atlantic fiber plans for New Jersey and Pennsylvania, followed by quotes for Ameritech and Pac Bell, California:

- **PA Senate OKs Fiber Optics Bill**, Philadelphia Daily News, June 24, 1993
- **PA Legislature Compromises on Fiber Optics Bill. The Measure Calls for the State to Be Wired by 2015**. Philadelphia Inquirer, June 25, 1993
- **N.J. Bell Rewiring Approved by State. About 56 Million Miles of Wire Will Be Replaced with Fiber Optic Cable,** Philadelphia Inquirer, December 23, 1992, Page S01
- **Fiber Optic TV Coming to N.J.** Philadelphia Daily News, November 17, 1992, Page 27

- **A Fiber Field of Dreams. The Switch in the Way Phone Signals Are Sent Promises Not Only Faster Transmission, but also Bright New Ideas for Using the Technology.** Philadelphia Inquirer, June 2, 1993
- **Ameritech Expanding Fiber Optics to Residential Users,** Chicago Tribune**,** September 1, 1992.[123] "Ameritech will spend almost $1 billion with two electronic equipment suppliers for hardware to supply fiber optic service to 5 million of its 16 million customers by 1995, the company said Monday."
- **Ameritech's Fiber Plan**, Chicago Tribune, January 27, 1994:[124] “Ameritech will announce a plan to spend close to $5 billion installing optical fiber to bring the information superhighway to Midwest homes, schools and businesses. The construction will center on six metropolitan areas in the five states in which Ameritech provides local telephone service, including Illinois.”
- **“Interactive TV Will Come to Valley in ’94"**, Los Angeles Times, November 16, 1993:[125] “Areas of Canoga Park, Reseda, Sherman Oaks, Northridge, Van Nuys, Calabasas and Hidden Hills have been targeted for Pacific Bell's Los Angeles roll-out of a high-speed fiber optic network that will bring customers everything from phone and cable television services to movies-on-demand, video catalogue shopping and video research libraries.”
- **“The Copper Age Is Over in California.”** PC Week, October 3, 1994**:**[126] "Hundreds of Pacific Bell technicians have begun yanking thousands of miles of twisted-pair copper telephone wire and replacing it with broadband fiber and coax. Lasers and light — that's the future for this Baby Bell's 10 million telephone customers, who will be among the first in the nation to ride on the information highway."

Anyone doing a search for this timeframe, 1992-1995, will find the exact same thing happened in the states where the company wanted the law changed in their favor.

**Separate State Pitches**

However, there were differences in the various states. Many states, such as New Jersey and Pennsylvania, made statements dealing with the "wonderland" model as the primary driver — competition to cable, new services, etc.. As you will see, they even committed to timeframes and specific deployments — though almost no one was ever held accountable.

Other states, such as Ohio and Texas, made different claims, though they also incorporated the "wonderland" as part of the pitch. For example, Ohio Bell, an Ameritech company, was supposed to have 262,000 video dialtone customers in Columbus and Cleveland, and had also made other commitments to rewire the schools and libraries, among other items.
Ohio alternative regulation plan, September 20, 1994:[127]

> "21. INFRASTRUCTURE COMMITMENTS The Company's infrastructure commitment in this Plan shall consist of the commitment to deploy, within five years of the effective date of the Plan and within the Company's existing service territory, ***broadband two-way fully interactive high quality distance learning capabilities to all state chartered high schools including vocational, technical schools, colleges and universities; deploy broadband facilities to all hospitals, libraries, county jails and state, county and federal court buildings…."***

Southwestern Bell's plan was to digitize Texas with fiber optics as well as wire all schools, hospitals, etc., with a fully interactive, two way, 45 megabit service. As the Act states:[128]

> "INFRASTRUCTURE COMMITMENT TO CERTAIN ENTITIES. It is the intent of this section to establish a telecommunications infrastructure that interconnects public entities described in this section. The interconnection of these entities requires ubiquitous, broadband, digital services for voice, video, and data within the local serving area.
>
> "On customer request, the electing company shall provide broadband digital service that is capable of providing transmission speeds of up **to *45 megabits per second or better*** for customer applications and other customized or packaged network services (private network services) to an entity described in this section for their private and sole use except as provided in
>
> - educational institutions,
> - libraries,
> - nonprofit telemedicine centers of academic health centers, public or not-for-profit hospitals, or licensed health care practitioners; public or

not-for-profit hospitals;

- projects funded by the Telecommunications Infrastructure Fund described in this Act;”

**The Promise, Timeframes**

In reading the state materials, it is clear that there were deadlines to be met by the phone companies for various services. We’ve discussed how the national commitments were for a given number of households to be wired by 2000, and what speed was to be delivered. However, some states had specific timeframes for both deployment as well as technology.

For example, the exhibit on the next page was taken directly from the New Jersey Bell Order that outlined the speed of deployment and the year it was supposed to be available. This chart shows that the “Opportunity New Jersey” (ONJ) plan went from 1992 through 2010. The “Digital Broadband Service” was to be available starting in 1996 and 100% completed by 2010. The other column (“BAU”, for “Business As Usual”), was to show when these services would be available if the company didn’t get more money from the customers — the year 2030.

Similarly, the Pennsylvania law explained that 20% would be rewired by 1998 in rural, urban and suburban rate centers, and 50% would be completed by 2004.[129]

> "Verizon PA has committed to making 20% of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by end of year 1998; 50% by 2004; and 100% by 2015."

**Exhibit 16**

**New Jersey Bell Advanced Network and Broadband Deployment Schedule, 1993**

| | **BAU** | | **ONJ** | |
|---|---|---|---|---|
| **Advanced Intelligent Network (AIN)** | 1992 | 2001 | 1992 | 1998 |
| Digital switching and signaling systems deployed to provide call routing and database access, which enables “follow me" type services. This would allow, for example, customers to program the public switched network to forward their calls automatically to different locations depending on the time of day. | | | | |
| **Narrowband Digital Service** | 1992 | Post 2001 | 1992 | 1998 |
| Switching technologies attached to support data rates up to **144,000 bits per second** which will enable customers who use any combination of work stations, personal computers, fax machines and telephones. | | | | |
| **Wideband Digital Service** | 1994 | Before 2030 | 1994 | 2000 |
| Switching capabilities matched with transmission capabilities supporting data rates up to **1,500,000 bits per second**. (1.5 Mbps) This would allow students, for example, to remotely access multimedia information, including video, from home or school | | | | |
| **Broadband Digital Service** | 1996 | 2030 | 1996 | 2010 |
| Switching capabilities matched with transmission capabilities supporting data rates up to **45,000,000 bits per second (45 Mbps)** and higher. This enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals." | | | | |

However, there were even more granular expectations in New Jersey. According to the Bell Atlantic 1997 Infrastructure Report Summary, which gave the specifics about their fulfillment of the Opportunity New Jersey requirements, Bell Atlantic stated that there was a specific number of houses to be passed as a percentage of the total households in the state.

The exhibit below shows that with the acceleration of ONJ, by 1996, 19% of the state should have had access to their 45 Mbps Service, 52% in 2000, etc. And Verizon claimed that in 2000 they had fulfilled their commitments to deliver. [130]

**Exhibit 17**
**ONJ's Broadband Digital Deployment vs without ONJ**

| | 1996 | 1997 | 1998 | 1999 | 2000 | 2010 |
|---|---|---|---|---|---|---|
| w/o acceleration (est) | 1% | 1% | 3% | 9% | n/a none | |
| with acceleration (act) | 19% | 34% | 35% | 42% | 52% | 100% |

(For more details see our chapter on Opportunity New Jersey.)

**The Deal: The Horse Trade**

The crux of our argument is that all of the company statements that make commitments for a given number of households, etc., all lead up to one thing — someone had to pay for these new networks and it wasn't going to be the phone companies.

We will come back to the issue of state and federal laws as well as the money that was paid for the development and deployment of these networks in the next few chapters.

But first — **Splat**. Every promise you have just read about never came to fruition; it was vaporware on the dissinformation highway. Customers were really road-kill on the info bahn, unavailable at any high speed, and rapidly going nowhere. One could ask, "Hey dude, Where's my broadband?"

## Chapter 13 Splat — The Retreat: What Happened with the Info Bahn?

### What the Hell Happened?

Unfortunately, practically nothing was ever built and promises were never kept.

> **Today there are virtually no fiber optic 500 channel, 45 Mbps, HDTV-compatible Bell company-supplied homes.**

Or more to the point, the Bell companies certainly aren't the ones who have shown up — it's the 650 communities around America providing fiber optic services. However, it's a miniscule 323,000 homes in 2005.[131]

> "More than 650 communities are now wired with direct optical fiber connections — or in industry terms, fiber-to-the-home (FTTH). The new data emerged in conjunction with the latest 'U.S. Optical Fiber Communities 2005' research report, sponsored by the FTTH Council, the Telecommunications Industry Association (TIA) and Fiber Optic Communities of the United States (FOCUS). In total, the research listed 652 FTTH communities in 46 states and 322,700 connected homes. By comparison, the September 2004 report listed 217 FTTH communities and 146,500 connected homes."

Some of these deployments are Bell related, but none of the current deployments are 45 Mbps, bi-directional, or can handle 500+ channels.

In 1995, US West told ***The New York Times*** (September 26, 1995) it couldn't be built, regardless of all of the announcements.[132]

> "US West said it had ended its experiment into interactive television shopping because it cost too much and the technology was out of reach…. John O'Farrell, president of US West Interactive Services Group said the technology to create two-way television and sophisticated programming production was years away and more expensive than originally thought."

Here's some other RBOC quotes from the time.

**"Bell Atlantic Delays Home Video Service,"** the ***Washington Post***, April 26, 1995[133]

> "Bell Atlantic Corporation yesterday delayed indefinitely the home video service it had promised to introduce here and elsewhere in its mid-Atlantic service region this year."

**"Bell Atlantic Halts Plan for Video Services,"** ***The New York Times***, April 26, 1995[134]

> "Bell Atlantic Corporation called an abrupt halt to its scramble into television yesterday. Saying it wanted to rethink its strategy for upgrading its telephone network, the company asked the Federal Communications Commission to suspend its application to offer video services to as many as three million telephone customers…"

**"Pac Tel Cuts $1 Billion Interactive Plan"**, ***New York Post***, September 28, 1995[135]

> "Pacific Telesis Group said it will cut $1 billion over 5 years from proposed spending on its Information Superhighway amid concerns about costs, competition and regulations.... The company's revamped strategy calls for it to substitute old fashion roof top antennae for cable in some areas."

According to an article in ***New Media Strategist*** titled "Interactive switched networks dumped in favor of plain digital", the current Info Highway rollout is now just another analog cable supplier, November 16, 1995.[136]

> "Over the last few months the long awaited results from a host of interactive-digital trials have started trickling in. What these trials have in common is that their ***video services are neither digital nor interactive***.... The move is away from complex interactive service toward simpler, cable-like networks."

***Interactive Week***, another publication that had tracked the Info Highway progress ran a summary in August, 1996.[137] The exhibit below shows that only one line with 45 Mbps service, and a host of cable rollouts, with a total of only 31,900, at best, had been created. Notice that Pacific Telesis's clients were non-paying, while BellSouth's service number is only "passed homes", i.e., a wire passes the home and the person could subscribe if they cared to.

**Exhibit 18**
**Rollout of Telephone Companies and Interactive TV, August 1996**

| | 45 Mbps | Fiber/Coax | |
|---|---|---|---|
| **Ameritech** | 0 | 0 | 20 cable franchises, 8-90 basic channels with PPV, Int. Programming guide |
| **Bell Atlantic** | 0 | 1,000 | Virginia: Video-on-Demand **trial** |
| | | 7,000 | NJ Basic cable and Text- based. |
| **BellSouth** | 0 | 8,000 | **Passed** with cable Near-video-on-Demand, and online access |
| **NYNEX** | 0 | 0 | No announced activities |
| **Pacific Telesis** | 1 | 1,300 | **Non-paying customers** with basic cable digital line |
| **SBC** | 0 | 1,800 | Test with paying customers for cable |
| **US West`** | 0 | 12,800 | Basic cable and Pay-Per View—dropped digital trials. |
| **TOTAL** | 1 | **31,900** | |

***Source: Interactive Week, NNI 1996***

We need to remind the reader that over 9,787,400 households in 43 cities were supposed to have video dialtone between 1995-1997.

Meanwhile, ***The New York Time's*** article December 1995, summed up the 1995 reality of the Info Highway in an article titled "Dwindling Expectations; Two Providers Reduced Expectations on Interactive TV" which discussed Bell Atlantic and Time Warner's recent announcements about their Interactive TV services.[138]

> "Within a year Bell Atlantic plans to offer 385 channels to 38,000 residents of Dover township — compared to its full-motion announcements in 1993, which predicted 3.6 million households by 1996."

**Video Dialtone Pullouts**

One of the most disturbing facts that we will address later was the pullout of the entire video dialtone commitments. How do all of the very large phone companies in America make announcements for years about rewiring the entire country, and then simply state a few years later that they can't build the networks they committed to build? We note that virtually every one of these commitments was based on changes in state regulations that gave the phone companies more money. In some cases, the phone companies, such as Ameritech, rolled out cable services instead of video dialtone, but for the most part nothing was created.

**Exhibit 19**
**Local Exchange Carrier Video Dialtone Pullouts, 1994-1995[139]**

| Application | Company | Locations | Households | Status | Closed |
|---|---|---|---|---|---|
| 1/31/94 | Ameritech | Detroit, MI | 232,000 | abandoned | 6/27/95 |
| 1/31/94 | Ameritech | Columbus/Cleveland | 262,000 | abandoned | 6/27/95 |
| 1/31/94 | Ameritech | Indianapolis, IN | 115,000 | abandoned | 6/27/95 |
| 1/31/94 | Ameritech | Chicago, IL | 501,000 | abandoned | 6/27/95 |
| 1/31/94 | Ameritech | Milwaukee, WI | 146,000 | abandoned | 6/27/95 |
| 6/16/94 | Bell Atlantic | Wash., D.C. LATA | 1,000,000 | withdrawn | 5/24/95 |
| 6/16/94 | Bell Atlantic | Mid-Atlantic | 2,000,000 | withdrawn | 5/24/95 |
| 1/10/94 | U S West | Denver, CO | 357,000 | suspended | 5/31/95 |
| 1/19/94 | U S West | Portland, OR | 162,000 | suspended | 5/31/95 |
| 1/19/94 | U S West | Minneapolis/ St. Paul, | 357,000 | suspended | 5/31/95 |
| 3/16/94 | U S West | Boise, ID | 90,000 | suspended | 5/31/95 |
| 3/16/94 | U S West | Salt Lake City, UT | 160,000 | suspended | 5/31/95 |
| 11/16/94 | U S West | Cedar Rapids, IA | 63,000 | dismissed | |
| 11/16/94 | U S West | Colorado Springs, CO | 161,000 | dismissed | |
| 11/16/94 | U S West | Des Moines, IA | 120,000 | dismissed | |
| 11/16/94 | U S West | Albuquerque, NM | 214,000 | dismissed | |

This next exhibit was a list of still active video dialtone deployments as of December 1995. As we will write in future sections, when SBC and Verizon merged, the hatchet fell of America's fiber optic future in virtually every state listed, regardless of the state commitments.

**Exhibit 20**
**The Ongoing Bell Rollouts as of December, 1995[140]**

| Application | Company | Locations | Households | Status | Closed |
|---|---|---|---|---|---|
| 12/20/93 | Pacific Bell | Orange Co., CA | 210,000 | approved | 7/19/95 |
| 12/20/93 | Pacific Bell | So. San Francisco Bay | 490,000 | approved | 7/19/95 |
| 12/20/93 | Pacific Bell | Los Angeles, CA | 360,000 | approved | 7/19/95 |
| 12/20/93 | Pacific Bell | San Diego, CA | 250,000 | approved | 719/95 |
| 5/23/94 | GTE -Contel | Manassas, VA | 109,000 | approved | 5/2/95 |
| 5/23/94 | GTE FL Inc. | Pinella, Pasco Co., FL | 476,000 | approved | 5/2/95 |
| 5/23/94 | GTE CA Inc | Ventura Co., CA | 122,000 | approved | 5/2/95 |
| 5/23/94 | GTE HI. | Honolulu, HI | 334,000 | approved | 5/2/95 |
| 7/8/94 | NYNEX | RI | 63,000 | approved | 3/6/95 |
| 7/8/94 | NYNEX | MA | 334,000 | approved | 3/6/95 |

## Chapter 14 Technology Doesn't Work and It Is Too Expensive: Original Cost Models.

During the 1990's, numerous sources provided information about the costs of outfitting the network and the consumer with the proper Info Bahn technologies. While the phone companies insisted that the average cost per household was $750-$1,000, our finding was that it would cost over $2,500 per customer. And that was just for the required new TV/cable set-top box in the house.

In fact, both numbers were way low. The technology never worked as advertised. As previously mentioned, US West stated that the technology to create interactive television was "years away and more expensive than originally thought".

Meanwhile, an article in ***The New York Times*** in December 1995, quoted Bell Atlantic, which stated that the price to deliver the "Wonderland" applications was about 17 times the original cost.[141]

> **"Bell Atlantic revealed that it cost $17,000 per household to build and deliver a Full-Service network."**

But there's a darker secret, which was revealed in 2004. Verizon, in 2004, claimed it was just beginning to roll out a new fiber optic technology, even though, we have shown that Verizon claimed over a decade ago that it was rewiring whole states with fiber-to-the-home starting in 1995.

Compare the following quotes, two from Verizon in 2004, and two from Bell Atlantic in 1993 and 1996. Can you tell the difference?

Verizon, May 19, 2004[142]

- "Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber-Optic Technology with Keller, Texas, Deployment. Verizon has begun installing in Keller a new technology known as fiber to the premises (FTTP), which uses fiber optic cable and optical electronics to directly link homes and businesses to Verizon's network. The fiber optic connections will replace traditional copper-wire links.... Although the use of fiber optic technology is common throughout

the telecom industry, Verizon is the first company to begin using it to directly connect homes and businesses to the network on a widespread scale."

- "'FTTP is moving from field trials and the lab to the real world, and it's happening in Keller first,' Verizon Network Services Group President Paul Lacouture said at a news conference with city officials here today… In short, we are building a new network that will make us the broadband leader in the 21st century… Overall, Verizon plans to pass about 1 million homes in parts of nine states with this new technology by the end of the year."

Bell Atlantic, 1993-1996

- Bell Atlantic 1993 Annual Report[143] "First, we announced our intention to lead the country in the deployment of the information highway.… We will spend $11 billion over the next five years to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region.… We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets.... These investments will help establish Bell Atlantic as a world leader...."
- Bell Atlantic Press Release, July 1996 "The company plans to add digital video broadcast capabilities to this 'fiber-to-the-curb', switched broadband network by the third quarter of 1997… Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year…. Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks."

In short, it couldn’t be built in 1993 or 1996. It was fiber to the press release. And it is now clear that the current FIOS broadband project is still half-baked and not yet ready to deliver what was paid for since 1993.

SBC’s Light Speed is no better. Not to be outdone by Verizon, SBC also put out its next generation fiber optic service, Lightspeed, or more likely snail speed.

**SBC, November 11, 2004** [144]

> "SBC Communications Inc. (NYSE:SBC) today will provide operational and financial details on its plans to deploy fiber optics closer to customers and build an advanced, IP-based (Internet Protocol) network capable of delivering a rich array of integrated next-generation television, data and voice services substantially beyond what is available from today's telephone, cable or satellite TV providers.
>
> "In a conference call today, the company will say network lab and field trials are under way, network construction is scheduled to begin in the first quarter of 2005 and SBC's new IP-based network is expected to be available to 18 million households by the end of 2007. The launch of IP-based TV services over the new network is planned for the fourth quarter of 2005."

And the hype a year later shows that the company is still planning to begin construction and that it is now late 2005- early 2006 for product launch.

**SBC, April 20, 2005**[145]

> "SBC detailed plans for Project Lightspeed, a $4 billion capital initiative to deploy fiber-to-the-neighborhood and fiber-to-the-premises technologies to 18 million households across 13 states within three years. Through Project Lightspeed, SBC companies plan to deliver IP-based video, voice, and high-speed Internet access services, providing a communications and entertainment experience not previously realized in the mass market. The company plans to offer the first set of products under the U-verse[sm] brand in late 2005 or early 2006.
>
> "SBC plans to begin construction of its advanced, IP-based network in the coming months. Lab tests of the technology have progressed, and a field trial is now underway."

However, besides not being available and working in 2005, even though the phone companies never delivered on previous fiber plans a decade earlier, the phone companies are still hyping Congress to a “light touch” regulatory approach. The press release headline says it all

> **“IP-Based TV Will Revolutionize Entertainment *Company Calls for ‘Light-Touch’ Regulatory Approach to Ensure Consumers Receive New Technology Quickly*,**”

And the release continues:

> “’The FCC and Congress have so far employed a light-touch approach to regulating the Internet and IP-based services. We need to extend this minimal regulation approach that has been applied to VoIP — only now the ‘V’ stands for video,’ said Champion. ‘Only then will consumers benefit from the innovation and choice that is just around the corner’."

Because of the interest in Lightspeed and FIOS, we have added a new final chapter.

Let’s return to what was never delivered the first time fiber optics was promised — in the 1990’s for more of a glimpse of how it will all play out this round — the beginning of the 21st century.

**The Fiber Optic Technology Made Simple**

First, let’s examine what is involved with an upgrade to fiber. There is no need for excessive details, and there’s plenty of places to find this information both for 1993 as well as for 2005.

Simply put, there are a series of costs associated with delivering fiber optic services to the home. These include:[146]

> • **Rewiring the Street:** The entire street wiring, either on the poles or below the ground, as well as all of the "drop-lines”, lines that connect a house to the street's main wiring, must be redone.

• **All New Network Components, Including "Switches":** Over the last decade, many parts of the guts of the networks have been upgraded and modified to handle fiber optics, as well as distribute the massive amounts of video and audio over the network, since the standards are the Internet Protocols. However, the networks have to add capacity to handle the massive amounts of new services that use up a great deal of "bandwidth". As we discussed elsewhere, the phone companies are now trying to limit bandwidth use because the more users at one time, the slower the networks become.

• **A New TV Set-Top Box:** Like the cable set-top box that usually sits on top of the TV or VCR, the Info Highway design required a new, very powerful computer. And in 1995, these computers didn't exist.

• **Rewiring the Entire House:** A house has to be entirely re-wired with fiber optic cable, replacing the copper wire.

Besides all of these charges there are hundreds of other detailed charges that are not important for this discussion.

More importantly, what computer could you buy in 1993, what were its capabilities and how much did it cost? While, today we think hard-drives should handle hundreds of gigabytes of data, in 1995, everything was in megabit sizes, 100 times less powerful. The previous equipment simply couldn't handle the requirements that were being sold to customers.

The rest of this section looks at the costs as presented during I-Way years.

**Other Info Bahn Technology Models: Bear Stearns**

In order to show just how strange all this gets, Bear Stearns released a report in 1994 titled "New Age Media", which estimated technology charges would range from $650 to $1,100. It was using information supplied by Bell Atlantic and other companies. There are two models: the telephone Broadband system (BBT FLX) should cost $650-$900 per household, while a hybrid cable version (TVHFC) would cost $950-$1,100.[147]

> "For offering interactive applications, systems such as those being installed by Bell Atlantic and using technology from broadband technologies are less expensive than the cable TV hybrid fiber-coax (TVHFC) network solution. Total costs for installing the BBT FLX System (Broadband) would range from $650 to $900 per home, while the typical cable TV HFC system should range between $950 and $1,100."

Technological issues aside, their price for the various components or the set-top box was only $225 for a "telephone digital video terminal" and $450 per home for a "cable TV hybrid fiber-coax set top". Other expenses were outlined, such as the "Telephone Optical Network Unit" at $60 to $180, and the telephone's "Host Terminal" at $200 per-home passed, excluding inside wiring costs.

None of these prices were even in the ball park for the fiber optic services of 1995.

**A Few Techno-Naysayers**

There were some analysts and consultants who knew that the prices being quoted, or the services being promised, were fantasyland. For example, numerous speeches given at a conference titled "Interactive Marketing", May 1994,[148] (and interviews by the author), discussed the technological and manufacturing hurdles required to bring to the residential subscriber full-motion, interactive video services. The consensus was simple:

- The boxes required computer chips that were not yet being mass manufactured.
- The initial boxes would cost $2,000–$5,000 per unit, since they were, in reality, high speed computers and not production models.
- The mass market manufacturing price would most likely wholesale for $1,200–$1,500 per unit.

In fact, in most of the Interactive TV trials during 1994-1995, the price per set-top box was between $4,000-$5,000. The Time Warner trials in Orlando, originally scheduled for spring 1994 (and shut down in 1997) were delayed a year because even the prototypes were not fully operational and the boxes reportedly cost $5,000. In another trial by Viacom and AT&T in Castro Valley, that was also canceled, the cost was $4,000 per box.

## Part Three: How The Bell Mergers Killed Broadband and Competition.

***Interlude***

Dear Juror,

This next series of chapters was written specifically to discuss one topic — How the Bell mergers killed off the fiber optic deployments and competition. (AT&T and MCI will be discussed separately.) The mergers include:

- **SBC** merged with Pacific Telesis, then SNET, and finally Ameritech (SBC was originally Southwestern Bell)
- **Verizon** mergers were Bell Atlantic with NYNEX and then GTE

**Exhibit 21**
**Verizon and SBC Fiber Optic Broadband Spending and Households**

| | Money (billions) | Households | Merger | Shutdown |
|---|---|---|---|---|
| **SBC** | | | | |
| Pacific Telesis | $16.0 | 5,500,000 | 1997 | 1997 |
| Ameritech (3states) | $6.6 | 6,000,000 | 1999 | 2000 |
| SNET | $4.5 | 1,000,000 | 1998 | 2000 |
| SBC, Texas | $1.5 | | | |
| Pronto | $6.0 | | | |
| **SBC Total** | **$33.6** | **12,500,000** | | |
| **Verizon** | | | | |
| Bell Atlantic | $11.0 | 8,750,000 | 1997 | 1997 |
| NYNEX (in MA) | $.5 | 2.000,000 | 1997 | 1997 |
| GTE | $4.1 | 7,000,000 | 2000 | 2000 |
| **Verizon Total** | $15.6 | 17,750,000 | | |
| **TOTAL** | **$48.9** | **36,500,000** | | |

The primary finding, which even surprised this author, was that at every merger, whatever fiber optic based services were being built or deployed, were shut down when the ink dried. This impacted 26 states, not including the 28 territories of GTE.

SBC was to spend $33.6 billion and have 12.5 million households while Verizon was supposed to spend $15.6 billion on 17.7 million households.

Combined, Verizon and SBC were to spend $48.9 billion and have 36.5 million households by 2000. This was the fiber-to-the-home services we have previously highlighted, using their own data.

But that was only part of the story. SBC and Verizon were also supposed to compete with each other for local phone service. SBC promised to compete out of their own regions in 30 cities by 2000, Verizon was to be in 21 cities in 18 months. And, as we show, they never fulfilled virtually any of these plans, even though their merger plans were all based on competing with each other.

Teletruth has subsequently filed a complaint with the FTC, calling for an investigation into each of the previous mergers for using false, misleading and deceptive speech to make the mergers occur.[149]

But don’t take our word for anything. Simply read what was promised and what was delivered to make up your own minds. Or at least consider these chapters a cautionary tale of what to expect in the future, especially with the Bell companies’ new conquests of AT&T and MCI.

## Chapter 15 The SBC-Pacific Telesis-SNET-Ameritech Mergers Were the Death of State Fiber Optic Deployments.

***Summary***

We believe that the creation of SBC, formed from a merger of Southwestern Bell, Pacific Telesis, SNET and Ameritech should be investigated and broken up. This enlarged mega-Bell harmed the fiber optic based broadband deployments that were underway in EVERY state — from California-Pac Bell and Connecticut-SNET, to Ohio-Ameritech and Texas-Southwestern Bell. SBC never fulfilled its state obligations to upgrade the networks properly.

More importantly, when one company can control 40% of America's digital future, and it decides to NOT do something, it impacts not only the 13 states the company controls (about 125 million people) but also the entire economy.

**Exhibit 22**
**The SBC Hatchet of Fiber Optic Deployments**
(Sources: Bell Annual Reports)

| | Money (billions) | Households | Merger | Shutdown | Cable |
|---|---|---|---|---|---|
| Pacific Telesis | $16.0 | 5,500,000 | 1997 | 1997 | 0 |
| Ameritech (3states) | $6.6 | 6,000,000 | 1999 | 2000 | 304,000 |
| SNET | $4.5 | 1,000,000 | 1998 | 2000 | 31,000 |
| SBC, Texas | $1.5 | | | | 0 |
| Pronto | $6.0 | | | | |
| Total | $33.6 | 12,500,000 | | | |

By 2002, over $33.6 billion should have been spent by the mega-Bell for fiber optic cable deployment in over 12.5 million households.

As discussed, Pacific Bell promised deployment in 5.5 million households and to spend $16 billion by 2000; Ameritech promised 6 million households at over $6.6 billion by 2000 (in just 3 states); SNET promised $4.5 billion for just Connecticut, Texas was to commit $1.5 billion to wire schools, libraries and government agencies with fiber optics, all by 2000.

We need to stress a vital point: SBC stated in every merger that the mergers were good for broadband, competition and the economy, by bringing upgrades, new services, etc.. According to the SBC 1999 Annual Report, the merged SBC-Ameritech company would start a new $6 billion fiber optic broadband plan called "Project Pronto".[150]

> "Broadband Initiative in October 1999: As the first post-Ameritech merger initiative, SBC announced plans to offer broadband services to approximately 80 percent of SBC's United States wireline customers over the next three years (Project Pronto). ***SBC will invest an estimated $6 billion in fiber, electronics and other technology for this broadband initiative. The build-out will include moving many customers from the existing copper network to a new fiber network***."

As we will show, Project Pronto, as well as every other fiber optic broadband plan in the states, were stopped by the mega-Bell, SBC.

Secondly, the FCC completely failed to enforce the merger conditions when SBC-Ameritech deceptively opted to not create wireline competition outside of their regions. Besides the failure of "Project Pronto", by 2002, SBC-Ameritech was supposed to have been competing with wireline services in 30 cities "out-of-region" or pay large fines.[151]

> "At December 31, 2001, $1.9 billion in remaining potential payments could be triggered if the 'Out-of-Region Competition' and 'Opening Local Markets to Competition' conditions discussed below are not met. The following briefly summarizes all the major conditions:
>
> Out-of-Region Competition: In accordance with this condition, we will offer local exchange services in 30 new markets across the country. We are required by the FCC to enter these 30 markets as a provider of local services to business and residential customers by April 2002. Failure to meet the FCC condition requirement could result in a payment of up to $40 million for each market. Entrance into these new markets did not have a material effect on our results of operations or financial position."

None of this competition happened out of region and the FCC never enforced this condition. In fact, SBC believed it fulfilled its obligations by having 3 customers per 22 cities — 66 customers. Is this nationwide, robust competition?

We will also discuss elsewhere that Verizon, which was formed from NYNEX, Bell Atlantic and GTE, also promised to compete out of region and had also cut virtually every fiber optic deployment in its territories.

Both companies pulled one of the largest bait-and-switches in history. Not only did they both roll out an inferior product, DSL, which used the copper wiring, but both used the mergers to consolidate their own local service positions by taking the money and using it to roll out their long distance services.

Enlarging the mega-Bell SBC (which controls the fate of 125 million customers) is ridiculous on any level, and there are NO merger conditions that will be enforceable.

Let's first focus on the fiber optic broadband deployments and closures, using data to make the case clear: the previous mergers were bad for broadband.

**First, Who Is SBC?**

During the 1990's, Southwestern Bell became SBC, and starting in 1997, first acquired Pacific Telesis, then SNET, and then Ameritech. According to SBC's 1999 Annual Report:[152]

> "SBC was formed as one of several regional holding companies (RHCs) created to hold AT&T Corp.'s (AT&T) local telephone companies. On January 1, 1984, SBC was spun-off from AT&T pursuant to an anti-trust consent decree, becoming an independent publicly traded telecommunications services provider. At formation, SBC primarily operated in 5 southwestern states. SBC subsidiaries merged with Ameritech Corporation (Ameritech) in 1999, Southern New England Telecommunications Corporation (SNET) in 1998 and Pacific Telesis Group (PAC) in 1997, thereby expanding SBC's wireline operations into a total of 13 states."

This one company now controls most of the telecommunications in 13 states:[153]

> "…the term 'SBC/Ameritech' shall mean Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company,

> Nevada Bell, The Ohio Bell Telephone Company, Pacific Bell, The Southern New England Telephone Company ('SNET'), Southwestern Bell Telephone Company ('SWBT'), and Wisconsin Bell, Inc.; any successor or assign of such company that provides wireline telephone exchange service; and Ameritech Corporation, SBC Communications Inc., and any successor of either company."

The states are:

- Ameritech — Ohio, Illinois, Indiana, Wisconsin, Michigan
- Southwestern Bell — Texas, Oklahoma, Missouri, Kansas, Arkansas
- Pacific Telesis — California and Nevada
- SNET — Connecticut

In terms of market reach, SBC now controls two of the largest states in terms of population. According to the 2004 World Almanac,[154]quoting 2002 Census data by state, SBC controls California, which has about 35 million people, while Texas has 21 million; about 56 million people combined. When all of the states are added together, the population coverage is approximately 125 million people; about 40% of the entire United States. (We note that in each state there are other incumbents, such as Verizon (formerly GTE). However, SBC is the largest incumbant by far, and none of the companies compete with each other directly.

We need to make it clear that SBC controls 90+% of wireline phone service in most of their states. This is because even their competitors must rent the wires. Also, SBC and BellSouth own Cingular, which also gives them about 40% of the entire wireless markets. In broadband, SBC was so successful in putting most ISPs out of business that they now own 90+% of the wireline DSL market.

Besides market size, let's review the circumstances in California that we've discussed in our case studies, and also look at SNET and Ameritech. We also discuss Texas (a Southwestern Bell state) and Project Pronto.

**Pacific Bell: California Dreamin'**

(Note: We suggest you read the chapter dedicated to California's failed broadband deployments.)

As discussed in previous sections, Pacific Telesis, the parent of Pacific Bell and Nevada Bell, told regulators, investors, and the public that it was going to spend $16 billion on the fiber optic info highway in California.

According to Pacific Telesis's 1993 Annual Report:[155]

> "In November 1993, Pacific Bell ***announced a capital investment plan totaling $16 billion over the next seven years*** to upgrade core network infrastructure and to begin building California's 'Communications superhighway'. This will be an integrated telecommunications, information and entertainment network providing advanced voice, data and video services. ***Using a combination of fiber optics and coaxial cable, Pacific Bell expects to provide broadband services to more than 1.5 million homes by the end of 1996, 5 million homes by the end of the decade.***"

We also presented video dialtone application materials that showed that specific parts of California were scheduled to be rewired.[156]

**Exhibit 23**
**Pacific Bell Video Dialtone Deployments, 1995**

| Application | Phone Co. | Location | Households | Approved |
|---|---|---|---|---|
| 12/20/93 | Pacific Bell | Orange Co., CA | 210,000 | 7/19/95 |
| 12/20/93 | Pacific Bell | So. San Francisco Bay | 490,000 | 7/19/95 |
| 12/20/93 | Pacific Bell | Los Angeles, CA | 360,000 | 7/19/95 |
| 12/20/93 | Pacific Bell | San Diego, CA | 250,000 | 719/95 |
| TOTAL | | | 1,310,000 | |

Like the other video dialtone applications, this was fiber to the home, replacing the old copper wiring, and it had channels galore. Also, the number of households was for immediate deployment. Pac Bell stated that by 1996 it would have 1.5 million households wired. This data shows 1.3 million.

**SBC Does a Hatchet Job on Pac Bell's Fiber Optic Plans: Merger 1997, Shutdown 1997.**

When SBC merged with Pacific Telesis, SBC did a hatchet job on Pacific Bell's existing fiber optic deployment. While Pacific Bell at least gave the appearance that it cared, though didn't fulfill any of these obligations, SBC simply pulled the plug on all of these plans. [157]

> "Pacific and Southwestern Video Curtailment/Purchase Commitments - SBC also announced in 1997 that it was scaling back its limited direct investment in video services in the areas also served by Pacific Bell Telephone Company (PacBell) and Southwestern Bell Telephone Company (SWBell). As a result of this curtailment, SBC halted construction on the Advanced Communications Network (ACN) in California. As part of an agreement with the ACN vendor, SBC paid the liabilities of the ACN trust that owned and financed ACN construction, incurred costs to shut down all construction previously conducted under the trust and received certain consideration from the vendor. In the second quarter of 1997, SBC recognized net expense of $553 million ($346 million net of tax) associated with these activities. During the third quarter of 1997, SBC recorded the corresponding short-term debt of $610 million previously incurred by the ACN trust on its balance sheet."

What this says is that SBC pulled the plug early and therefore had to pay off the various vendors, whether or not the work had been completed. There is no indication of the actual expenditures versus the payoffs to terminate early.

As we pointed out in the case study, and is clear from this quote, Pac Bell never came close to spending any serious money on this project, certainly not anywhere near the $16 billion as stated in their annual reports.

According to the 1999 Annual Report, SBC also shut down the video dialtone trials in Richardson Texas and San Jose, as well as scaled back the TELE-TV work.[158]

> "Additionally, SBC curtailed certain other video-related activities including discontinuing its broadband network video trials in Richardson, Texas, and San Jose, California, substantially scaling back its involvement in the TELE-TV joint venture and withdrawing its operations in territory served by SWBell from the Americast venture. During 1999, SBC negotiated a settlement with its Americast partners related to the withdrawal. The settlement did not have a material impact on SBC's financial condition or results of operations. The collective impact of these decisions and actions by SBC resulted in a charge of $145 million ($92 million net of tax) in the second quarter of 1997."

If the incumbent closes down the entire operations for the entire state, who is left to deploy the fiber optic networks which were upgrades to the current network? As we discussed in the case study, the deployment plans of Pac Bell were in place since the early 1990's and led to the deregulation of the company's revenues and profits on the state level.

**SNET**

SNET (Southern New England Telephone) told the state of Connecticut, investors and the public that it would be spending $4.5 billion over 15 years.[159]

> "On January 13, 1994, the Telephone Company announced its intention to invest $4.5 billion over the next 15 years to build a statewide information superhighway ("I-SNET"). I-SNET will be an interactive multimedia network capable of delivering voice, video and a full range of information and interactive services. The Telephone Company expects I-SNET will reach approximately 500,000 residences and businesses through 1997."

As previously quoted, the materials filed with the FCC showed that they would be rolling out 1 million households of video dialtone services. [160]

**Exhibit 24**
**SNET's Filed Connecticut Fiber Optic Video Dialtone Deployments, 1995**

| Date of application | telco | state | homes | type |
|---|---|---|---|---|
| 4/28/95 | SNET | CT | 1,000,000 | permanent |

**The SBC Hatchet on Connecticut: Merger 1998, Shutdown, 2000**

In comes the SBC hatchet. By 1999, the SBC 1999 Annual Report calls it a "cable" service with 31,000 customers, and by 2000, SBC decided to close down this service.

SBC 1999 Annual Report[161]

> "Cable Television - SBC also operates a cable television system under the SNET brand in Connecticut that is currently included in the Wireline segment. SNET began offering cable television service in the first quarter of 1997. As of December 31, 1999, SNET provided cable television services to approximately 31,000 households in Connecticut."

SBC 2000 Annual Report[162]

> "Cable Television - We also operate a cable television system under the SNET brand in Connecticut that has been included in the wireline segment results. Our request to close this business is currently under review by the Connecticut Department of Public Utility Control and a final decision is expected in early 2001."

The idea that SNET, which had state laws changed to accommodate the building of a fiber optic-based service would be allowed to simply "close this business", as if this was some whim is, of course, worth investigation.

More to the point, if SBC was supposed to be serious about fiber optic services, closing down two state's programs, where the wiring alone not only had value, but also could be used

with different electronics for the fiber optic services it was claiming it was going to deploy, is, of course, illogical.

**Ameritech**

The oddest closing of all was by Ameritech, which simultaneously closed down its fiber optic deployments in 5 states. According to the 1994 Investor Fact Book, Ameritech was building a video network that was going to extend to 6 million customers by 2000.

Ameritech Investor Fact Book, March 1994: [163]

> "We're building a video network that will extend to six million customers within six years."

Ameritech also filed its video dialtone applications with the FCC, which listed 1.3 million households in Detroit, Columbus, and Chicago, among other places.

**Exhibit 25**
**Ameritech Video Dialtone Requested Permanent Authorizations**

- 232,000 homes in Detroit, MI
- 262,000 homes in Columbus and Cleveland, OH
- 115,000 homes in Indianapolis, IN
- 501,000 homes in Chicago, IL
- 146,000 homes in Milwaukee, WI
- **1,256,000 Total homes**

And let's be clear. This is all fiber video dialtone stuff.

Ameritech petitioned the FCC for ALL five states. [164]

> "Ameritech Operating Companies for authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct, operate, own, and maintain ***advanced fiber optic facilities*** and equipment to provide video dialtone service

> within geographically defined areas in Illinois, Indiana, Michigan, Ohio, and Wisconsin."

Ameritech, in five states, would roll out 390 channels in an "economically diverse section of its service area".

> "Ameritech maintains that approval of the applications would permit its video dialtone network to reach 1.3 million homes, businesses and institutions in geographically and economically diverse sections of its service area. The proposed hybrid network would provide 310 multicast (240 digital and 70 analog) channels and 80 switched digital channels." [165]

**Billions of Spending on the State Level**

Ameritech also made state-by-state commitments to update their networks and sold them as a "fiber optic future." The Ameritech 1993 Investor Fact Book[166] shows that at least $6.6 billion was to be spent in just three states: Illinois, Ohio and Michigan. These commitments were all for "alternative regulation" plans (deregulation) that gave these companies more money in the form of higher phone rates for many services and no caps on the companies' profits.

**Exhibit 26**
**Ameritech Investment Commitments, 1992-1998**
***The Ameritech Investor Fact Book, 1993***

| | | |
|---|---|---|
| Illinois | $3.0 billion | Investment commitment over 5 years |
| Ohio | $1.6 billion | Investment commitment over 5 years |
| Michigan | $2.0 billion | Investment commitment, 1992-1995 |
| Indiana | $150 million | • $120 million in "Digital Broadband Facilities" to connect schools, hospitals, and government over the next 6 years<br>• $30 million for the next six years for educational hardware, software and training |
| Wisconsin | | pending legislation |

We need to make it clear that state laws were changed because of a massive press campaign with multiple promises over several years. Below is a collection of articles and their summaries from the Chicago Tribune from 1992 to 1994. To sum up, Illinois Bell would spend $3 billion on a “massive upgrading” of its fiber optics in exchange for removing its 13.1% profit cap. This would bring fiber optics to Chicago area suburbs and 40 others. Ameritech, the holding company, would spend $5 billion for the mid-west information superhighway and $1 billion with two electronic equipment suppliers for hardware to supply fiber optic service to 5 million of its 16 million customers by 1995! This was supposed to be distributed over six metropolitan areas in the five states to start.

- **Ameritech Fiber Links Going to Suburbs First**, February 2, 1994[167] “Ameritech's plan to bring digital video services to customers through optical fiber will start by targeting nearly two dozen Chicago-area suburbs and parts of more than 40 others, but not the city itself."
- **Ameritech's Fiber Plan**, January 27, 1994[168] “Ameritech will announce a plan to spend close to $5 billion installing optical fiber to bring the information superhighway to Midwest homes, schools and businesses. The construction will center on six metropolitan areas in the five states in which Ameritech provides local telephone service, including Illinois."
- **Bell Rate Plan Appears Right on Line**, December 2, 1992[169] "Illinois Bell Telephone Co. is likely to find a willing ear among state regulators for its new rate plan, which would lift the profit cap on the state's largest phone utility in exchange for $3 billion in new fiber optic lines."
- **Bell Seeks Rate Overhaul**, December 1, 1992 [170] "Illinois Bell Telephone Co is expected to ask state regulators to lift the utility's 13.1% profit cap in exchange for a massive upgrading of its system, including widespread installation of fiber optic cables."
- **Ameritech Expanding Fiber Optics to Residential Users** September 1, 1992 [171] "Ameritech will spend almost $1 billion with two electronic equipment suppliers for hardware to supply fiber optic service to 5 million of its 16 million customers by 1995, the company said Monday."

We will return to this information later.

We need to note that Ameritech was proud that it was able to change the regulation in their favor. From the 1994 Investor Fact Book:

> "In 1994, Ameritech proactively changed the way in which we are regulated. We have replaced rate of return regulation with price-cap plans without earnings sharing in all five states in which we are franchised as a communications carrier.
>
> "As a result 100% of Ameritech's $8 billion of intrastate revenues are now regulated by prices , not earnings. The plans foster market based pricing and give Ameritech greater incentive to earn more by allowing us to keep all that we earn."

To paraphrase — Ameritech got rid of anyone looking at their profits, even though they were still a monopoly. Some services could now be "market priced." Ameritech could charge what customers were willing to pay, even though there was no competition in 1994. In this bucket would be "calling features", such as Call Waiting, Call Forwarding, etc., that cost about one penny to offer, but could sell for $5.00 per month per line. We will return to this topic in future sections.

**Ameritech's Profits Went Through the Roof. A Summary 10 year Model for Ameritech, 1988-1998.**

We need to note that while Ameritech was deploying some new networks, it is clear that the real benefit was to their corporate profits. We go into overcharging and other financial information in the 20th anniversary section, and explain each of the items we discuss here in more detail. But we decided to show just how much money these companies, such as Ameritech were able to garner through the alternative regulation plans. From 1988 through 1992, Ameritech's average was 15.6% "return on equity", the standard measurement of business returns, the "dividend" paid to its shareholders was $1.16, and the "net income" was about $2.2 billion. By 1993, the numbers start climbing and by 1998 the dividend increased 187% to $3.27, the return on equity was now 36.2%, an increase of 129%, and the net income was $4.2 billion, an increase of 97%.[172]

Virtually every Bell had similar growth in profits, dividends and returns on equity.

**SBC's Next Hatchet Job: Ameritech's Fiber Networks: Merger 1999, Shutdown 2000**

SBC, once again waiting for the ink to dry on its merger agreements, took over in 1999 and by 2000 it was getting rid of the entire Ameritech network.

SBC 2000 Annual Report — “Cable Television Services”[173]

> “We offer enhanced cable television services in the Chicago, Cleveland, Columbus and Detroit metropolitan areas through our subsidiary Ameritech New Media, Inc. (ANM). As of December 31, 2000, ANM provided cable services to approximately 304,000 customers in approximately 100 Midwestern communities. In 2000, ANM scaled back its construction of additional cable networks and expansion plans for new cable franchises and we are currently in negotiations to sell ANM.”

Ironically, the Bell companies have been getting various federal and state Senators and Congressmen to write bills so that they can offer cable services with limited or no franchises. Curiously, Ameritech had 115 franchises that it owned and then SBC threw away.
SBC 2000 Annual Report —”Cable Television Services”[174]

> “ANM’s cable television systems are subject to Federal, state and local regulation, including regulation by the FCC and local franchising authorities. ANM has entered into approximately 115 cable television franchise agreements with local government authorities. Generally, these franchise agreements are in effect for a period of 15 years, and are transferable with regulatory approval.”

**The Sale of Ameritech's Cable Plant — WOW, What a Deal.**

An article in ***Telephony*** magazine, “Wow, What a Deal”,[175] told of a quite bizarre end to the fiber optic future in the entire Ameritech region. As previously discussed, Ameritech promised 6 million households by 2000. In the middle of 2001, WideOpenWest purchased the entire plant, about 300,000 customers, for about $1000 a subscriber.

> "According to an industry source, WOW agreed to pay about $1000 per subscriber, although neither company would confirm the figure.... When the deal closes in October or November, WOW will grow from 200 Denver-area subscribers to 310,000 users in Chicago, Detroit, Denver, Cleveland and Columbus, Ohio."

What is really odd is that this service was supposed to offer 390 channels and fiber to the home, as told by the video dialtone applications.

> “Ameritech maintains that approval of the applications would permit its video dialtone network to reach 1.3 million homes, businesses and institutions in geographically and economically diverse sections of its service area. The proposed hybrid network would provide 310 multicast (240 digital and 70 analog) channels and 80 switched digital channels.” [176]

Ameritech put in the fiber! And, according to the article, it was two-way, with a “high fiber count”:

> “Mark Haverkate, WOW's president and CEO.… 'It's definitely a two-way system', Haverkate said. 'It's a high fiber count, small home-per-node size [estimated at about 200 homes]. The system was extremely well built — top-of-the-line equipment across the board. It's been extremely well-maintained.'"[177]

And yet, while it had the capabilities to offer more, the system, as rolled out by Ameritech, was based on one-way analog services.

> "'The Americast system is only being used for one-way analog services but can easily support digital and Internet services', Haverkate said."[178]

What is odd from any direction of analysis is that SBC stated in the article that its plan was to get fiber “into the neighborhoods” for video and broadband, and the installed fiber optic system could do this with its eyes closed. Instead, SBC decided to close down the entire system for $300 million dollars.

> "SBC has been trying to shed the cable properties it acquired with Ameritech while trying to get some return on the investment because being a cable provider 'didn't fit with our business strategy,' said a company spokesman. 'That strategy doesn't preclude video and high-speed data; it just won't be done over conventional cable networks.'

> "'We've invested $6 billion in Project Pronto, which is to get fiber into the neighborhoods,' the spokesman said. 'Video streaming is certainly going to be part of what they'll be able to get from broadband and have it delivered by DSL.'"[179]

The Project Pronto quote shows the "say anything" mentality of SBC, since it would never spend the $6 billion it kept quoting to the press.

WOW currently offers a series of services, including digital phone at speeds of up to 6 Mbps (500 kbps upstream). See: http://www1.wowway.com/wowStory.asp?id=1002

**Outcome for Pac Bell, SNET, Ameritech and SBC?**

SBC trashed all of the various plans when it bought the other phone companies.[180] This piece of irony from an FCC document on the topic is about what we expect.

> "115. Prior to the 1997 Report, SBC acquired Pacific Telesis, and its Pacific Bell Video Services subsidiary. Subsequently, SBC ended its own in-region video efforts, sold its out-of-region systems, scaled back the video plans of Pacific Bell Video Services, and, later, sold most of its interest in Pacific Bell Video Services. SBC later acquired SNET, and proposed to acquire Ameritech. In front of the Senate's Antitrust Subcommittee, SBC Chairman Edward Whitacre would not commit to maintaining Ameritech's cable overbuild operation. SBC, however, as a condition of approval of the SBC-SNET merger, promised the Connecticut Department of Public Utility to continue cable operations for two years. The Connecticut Department of Public Utility gave SBC the right to petition for modification of the state-wide franchise agreement once SBC studies SNET's cable operations. Some have observed that since Ameritech has a well-established cable operation, one that has continued to expand even as the merger is pending, it is less likely that it will be sold or abandoned. Some analysts also have pointed out that the Ameritech cable operation could become more important, in terms of offering a complete package of telecommunications services, in light of the pending AT&T-TCI merger."

The scorecard: 3 mergers and every state retrenched or canceled its fiber optic deployments, and as the quote demonstrates, the FCC had no clue to what was really going on.

**SBC's "Southwestern Bell" Own Fiber Plans?**

In reviewing the materials, it is obvious that Southwestern Bell's (now SBC) announcements on video dialtone/broadband services were more constrained than the other companies in the mid-1990's. However, Southwestern Bell was one of the first to discuss online services when it had touted ISDN back in 1986, almost two decades ago.

Southwestern Bell, **1986** Annual Report: [181]

> "At the forefront of new technology is ISDN. Scheduled for commercial availability in 1988, ISDN will revolutionize day-to-day communications by allowing simultaneous transmission of voice, data and images over a single telephone line.
>
> "With ISDN customers will have the potential to access videotex, telemetry, alarm services, sophisticated calling features, teleconferencing much more economically than they can today."

We bring this up because the company was positively destructive to the info highway projects in every state in the 1990's.

SBC, originally known as "Southwestern Bell", owned five states prior to any merger. These included Texas, Missouri, Oklahoma, Kansas, and Arkansas. However, deployment plans were shrouded in secrecy. In the chapter on Texas, we show that the company had committed to spending $1.5 billion to rewire the schools, libraries, hospitals and government agencies with 45 Mbps services.

An SBC press release revealed that SBC, in 1996, was pro-broadband. "GTE to join Disney, Ameritech, BellSouth and SBC in Home Entertainment partnership. Increases venture reach to 68 million access lines, 32 states." July 7, 1996. [182]

> "SBC is building a traditional cable network in Richardson, Texas that will be in service in the fourth quarter of this year. It also is constructing a broadband network that will allow the company to offer cable and interactive services to up to 47,000 Dallas area households in 1996. SBC may provide video-on-demand — as well as a host of other interactive services such as home shopping, education programs, and interactive games — to those 47,000 households. SBC, which recently won court approval to provide video programming in its telephone subsidiary's five-state territory, is working with Microsoft, Lockheed and others to develop the delivery system."

SBC also told the San Antonio Business Journal that Americast was about to purchase $1 billion worth of digital set top boxes:[183]

> "Americast — the television venture between locally based SBC Communications Inc. and four other companies — last week announced the purchase of $1 billion worth of high-tech boxes, referred to as digital set-top boxes."

And the article surmised that, from this purchase, SBC was serious about video services and that they'd be coming out in 1997 or 1998.

> "SBC officials have been tight-lipped regarding their video plans. However, telecommunications analysts say they expect the San Antonio-based firm to begin offering some type of video services in its major markets in 1997 or 1998….'You should expect to see Southwestern Bell-branded entertainment products in the near future,' says SBC spokesman Bob Ferguson. 'We're very much committed to moving forward with plans to have video offerings for our customers.'"[184]

It seems it was all wishful thinking. By the time of the SBC-Pacific Telesis merger in 1997, the company was pulling out of cable TV and Americast, the joint venture with Ameritech, BellSouth, and Disney. According to Telephony magazine:[185]

> "SBC effectively ended its attempt to enter the wireline cable TV market last week, selling its 94.6% stake in two Washington-area systems for $606 million to an investment group that includes Prime Cable.
>
> "The company has also withdrawn from the Americast partnership and sold an option to purchase 75% of Prime Cable of Chicago to the same investment group."

As previously quoted, the company wrote-off the Richardson, Texas, deployment along with the Pac Bell deployments in 1997.

**Questions Remain.**

Were customers illegally charged for the SNET and Ameritech cable roll outs? In the case of Ameritech and SNET, a separate investigation needs to be considered. How did all of these video dialtone offerings become regular cable services? We discuss the federal changes to the video dialtone laws in other sections, but at issue is the fact that if the state regulators signed off on a proposed rewiring of the state for a fiber optic service with more capabilities than a collection of cable channels, then this changeover could have been a "bait-and switch".

Two other items need mentioning: Texas and Project Pronto (though there may have also been promises in the other Southwestern Bell states, such as Oklahoma, Missouri, Arkansas and Kansas). Texas is addressed separately in a case study as it was not a merger-based fiber optic plan. However, the outcome was the same as in all of the other SBC states.

**Project Pronto Was Part of the SBC-Ameritech Merger Conditions.**

According to SBC, the company's broadband plan for the SBC-Ameritech merger was "Project Pronto", and the company announced it would be spending $6 billion in three years to reach 77 million customers (August 9, 2000). We believe Project Pronto was needed to show that SBC had a genuine interest in broadband, even though it had cut virtually every fiber optic plan in every state.

> "The DSL deployment is part of Project Pronto, a $6 billion initiative that will transform Ameritech's parent company, SBC Communications, Inc., into America's largest single broadband provider. Project Pronto will make SBC's DSL service available to approximately 77 million people by 2002 and will dramatically increase the speed of DSL service."

On May 9, 2001, SBC stated that the next phase would be “direct” fiber optics to customer’s homes and offices

> "'Direct fiber is the broadband holy grail — and bringing fiber directly to smaller businesses has always been part of the Project Pronto plan’, said Ross Ireland, senior executive vice president of services. 'But we didn't envision when we announced Pronto that viable technology would be available to enable us to begin our initial direct-fiber deployments to smaller businesses a mere 18 months later and to residential customers shortly thereafter.'"

Notice that these two statements are in contradiction, since DSL goes over the old copper wiring, therefore, fiber optics is being used as a selling tool, a glimpse of the future. Of course, this is ironic, when one thinks of all of the promises made in 1992 for full state deployments by 2000 of fiber-based services.

Irony aside, it was clear in 2001 that Project Pronto was nothing but a snail yearning for fast speeds. Dave Burstein, publisher of the respected DSL Prime, did this account of the rollout of DSL by SBC in October 2001. We couldn’t have said it better.

> “Subject: SBC's disingenuous financials and Pronto 'cutbacks'. Sent: Monday, October 22, 2001 4:01 PM
>
> “DSL is my speciality, so I was surprised and appalled listening to SBC's call this morning…. I remind everyone that universal broadband service and separation to protect competitors were part of the Ameritech merger deal, voluntarily accepted by SBC. It's a repudiation of a deal they made only two years ago. SBC is now

behind BellSouth, Verizon, Bell Canada, Germany, Japan, and Korea in DSL deployment as a percent of lines, despite all the 'Pronto' hype.

“Selim Bingol has disagreements with this work, but after an hour did not have any facts to disprove it either. He did not elaborate, in particular, on how much Pronto is being cut back, and asserted the decision was made late in Q3. Other than initial startup costs of the new subsidiary, he did not offer any facts to explain why it would cost 'hundreds of millions more' - highly unlikely, because the same work needs to be done either in SBC or the subsidiary.

“1- Either SBC's claim they are now cutting Pronto to reduce capital spending is untrue, or last quarter's statement (that most of the capex is behind them) is untrue.

“This is important because delivering broadband to all Americans can jumpstart the economy. It is also a false economy, that will cost SBC over time, done presumably to pretty up the financials and/or pressure Washington into anti-consumer policies.

“They also had in the first quarter said Pronto was behind, with conclusion of the first stage, 80%, being postponed from 2002 to 2003. The one hard fact they released is that they have only installed 4,000 of the 17,000 Pronto DLCs, and only 300 since Q1, which suggests their prior quarters' statements were untrue, and/or that the Pronto build was dropped more than five months ago, despite claims to the contrary in D.C..

“Also from SBC Q2 — SBC views DSL as a strategic growth driver for the future — capable of delivering to residential and business end-users a host of entertainment, information and time-management services, as well as high-speed Internet access. In the second quarter: there is nothing in the last quarter - or year - that makes that any less true today.

“2- SBC said putting DSL in a separate subsidiary added 'hundreds of millions' to costs. Hogwash and unsupportable. SBC's DSL subsidiary is a $500M business, and only a very small fraction of this - a tenth of what they claim at most - can be

> explained by the organizational structure. Whether they are part of the parent company or not, they still have essentially the same costs - the same equipment, provisioning, customer acquisition, support, billing etc. SBC has never justified that number because they cannot.
>
> “The only way the number could be true is if SBC's own subsidiary is getting screwed in a major way by how SBC treats independents. We're sure SBC will not make that claim.
>
> “3- Whitacre (I believe it was his voice) said he thought 'regulation had gotten tougher'. I leave you to judge the reasonableness of this statement. Everything I know, and dozens of opinions I've read, believe that Mike Powell's FCC is a less active regulator. This is evidenced, for example, by his acquiescence in so many price increases, and I can give many other examples. What does this say about the man's judgment or veracity?”

The piece continues, but it is clear that in the 2000-2002 timeframe the company was not fulfilling its obligations under Project Pronto.

**SBC’s Lightspeed. Another Fiber Optic Scam?**

Before we leave this issue of fiber optic deployments we should once again mention SBC’s newest plan, called “Lightspeed”. Though the puns are many, if history is our guide, this, too, is nothing more than window dressing for the AT&T merger and other regulatory perks the company is trying to achieve. It is NOT real today. There have been no major rollouts. Here’s a sample of the fiber to the release.

**SBC, November 11, 2004[186]**

> “SBC Communications Inc. (NYSE:SBC) today will provide operational and financial details on its plans to deploy fiber optics closer to customers and build an advanced, IP-based (Internet Protocol) network capable of delivering a rich array of integrated next-generation television, data and voice services

> substantially beyond what is available from today's telephone, cable or satellite TV providers.
>
> "In a conference call today, the company will say network lab and field trials are under way, network construction is scheduled to begin in the first quarter of 2005 and SBC's new IP-based network is expected to be available to 18 million households by the end of 2007. The launch of IP-based TV services over the new network is planned for the fourth quarter of 2005."

However, the real issue is — who's paying for it? Well, according to SBC, what-ever they build, the money is coming out of the budgets for local phone service.

> "SBC now expects that three-year deployment costs for Project Lightspeed will be approximately $4 billion, at the low end of its previously announced range of $4 billion to $6 billion. In addition, there will be customer-activation capital expenditures of approximately $1 billion spread over 2006 and 2007. ***Because a significant portion of capital expenditures for Project Lightspeed will replace and refocus ongoing spending for its current network, SBC expects incremental capital investment for this project to be relatively small."***

## Chapter 16 Failure to Compete, Failure of the FCC to Enforce Merger Conditions.

Part two of this merger quagmire involves the FCC. The FCC is virtually useless in enforcing any merger conditions, especially pertaining to competition and broadband. For example, the SBC 2001 Annual Report claims that they could be liable for $1.9 billion if the company was not competing in 30 cities outside their own territories by 2002.[187]

> "At December 31, 2001, $1.9 billion in remaining potential payments could be triggered if the 'Out-of-Region Competition' and 'Opening Local Markets to Competition' conditions discussed below are not met. The following briefly summarizes all the major conditions:
>
> "Out-of-Region Competition: "In accordance with this condition, we will offer local exchange services in 30 new markets across the country. We are required by the FCC to enter these 30 markets as a provider of local services to business and residential customers by April 2002. Failure to meet the FCC condition requirement could result in a payment of up to $40 million for each market. Entrance into these new markets did not have a material effect on our results of operations or financial position."

**Exhibit 27**

**SBC "Out-of Region" Cities, National-Local Strategy**

| | | | | |
|---|---|---|---|---|
| 1. New York | 2 Philadelphia | 3. Boston | 4. Washington DC | 5. Miami-Ft. Lauderdale |
| 6. Atlanta | 7. Minneapolis-St. Paul | 8. Phoenix | 9. Baltimore | 10. Seattle-Everett. |
| 11. Denver-Boulder | 12. Pittsburgh | 13. Tampa-St. Petersburg | 14. Portland | 15. Cincinnati |
| 16. Salt Lake City-Ogden | 17. Orlando | 18. Buffalo | 19 New Orleans | 20. Nashville-Davidson |
| 21. Memphis | 22. Las Vegas | 23. Norfolk - Virginia Beach | 24. Rochester | 25.Greensboro Winston-Salem |
| 26. Louisville | 27.Birmingham | 28. Honolulu | 29. Providence - Warwick | 30.Albany-Troy Schenectady |

The FCC agreed to this merger because the Bell company committed to competing outside its regions in 30 of the largest US cities, offering both business and residential customers local phone service. The claim was that this would stimulate nationwide competition as well. The FCC writes:[188]

> "This will ensure that residential consumers and business customers outside of SBC/Ameritech's territory benefit from facilities-based competitive service by a major incumbent LEC. This condition effectively requires SBC and Ameritech to redeem their promise that their merger will form the basis for a new, powerful, truly nationwide multi-purpose competitive telecommunications carrier. We also anticipate that this condition will stimulate competitive entry into the SBC/Ameritech region by the affected incumbent LECs."

This was wireline competition that was supposed to be deployed using their own facilities as well as "Unbundled Network Elements" (UNE-P) that were wholesale services sold by the incumbent to a competitive company.

Phone calls by the author and others over the last few years to purchase SBC wireline residential service were in vain and anyone else reading this knows that SBC wireline service is not available in virtually any city in the United states, especially for local residential phone service. Yet, the FCC agreed that SBC had fulfilled its obligations.

What should be obvious is that SBC gamed the regulatory system on multiple levels. SBC claimed that the entire reason for the merger with Ameritech was to give it the size it needed to compete. SBC lied. Numerous documents go on for hundreds of pages about this point. (From testimony by James S. Kahan, Senior VP SBC)

> "SBC/Ameritech would not undertake this merger without National-Local strategy.
>
> "In the absence of the merger with Ameritech, the National-Local strategy will not work. The problem is not primarily that SBC on a stand alone basis, is incapable of raising the capital necessary to fund the national a local strategy. The more important constraints are a) customer base, b) personnel and earnings dilution and market reactions."

Make no mistake about it; this merger was touted as having many benefits for the public. SBC claimed that it would facilitate more competition in the 30 markets they entered.

> "By implementing the National-local strategy, SBC believes that its actions will accelerate the development of competition in all market segments. There should be no question that the national-local strategy will have pro-competitive effects in the 30 new markets SBC will enter."

We also need to make it clear that SBC wasn't simply gaming the regulatory system, but was papering the country with promises of competition. Just look at the headlines highlighting states/cities that SBC would be competing in, as well as touting the benefits of the merger in states that the company already served.

- **New Jersey** Customers to Have New Telecom Choice.
  San Antonio, Texas — October 11, 1999.
- **Baltimore** Will Have New Telecom Choice.
  San Antonio, Texas — October 11, 1999.
- **Philadelphia** to Have New Telecom Choice.
  San Antonio, Texas — October 11, 1999
- **Orlando** Will Have New Telecom Choice.
  San Antonio, Texas — October 11, 1999
- **Atlanta** Will Have New Telecom Choice.
  San Antonio, Texas — October 11, 1999
- SBC Files to Provide Local Exchange Service in **Florida, Massachusetts, Washington.**
  San Antonio, Texas — April 16, 1999.
- **Ameritech** Chief Says Merger Will Speed Competition; Criticizes AT&T for Hypocritical Anti-Merger Efforts Detroit, Michigan — March 16, 1999.
- **Illinois** Consumers and Business Customers Will Benefit from SBC-Ameritech Merger, Chicago, Illinois — March 11, 1999.
- SBC-Ameritech to Compete in **Boston, Miami and Seattle** First -San Antonio, Texas — February 4, 1999..
- **SBC-PacTel** Merger Brought Job Growth, Improved Service and Increased Giving Chicago, Illinois — January 26, 1999.

- SBC-Ameritech Merger Will Offer Consumers More Choices; Vital to Midwest Growth and Jobs Chicago, Illinois — January 25, 1999.

Expectations, at least those being told to the public, were very high. By 2003 the company was to have a positive cashflow of $2 billion and it would have 5-10% of the business and residential customers. Within 10 years the company would have 30 million households and 10 million small businesses.[189]

> "Revenues and customer penetration is targeted to grow quickly under the National-Local strategy. We are aiming for $2 billion in revenue by 2003 and more than $7 billion in revenues by 2008. Earnings are estimated to turn positive in 2003. SBC expects to capture between 5-10% of addressable business and residential customers by the end of the plan.
>
> ***"Within the next 10 years, the 30 out-of-region markets will have 30 million households and 10 million small businesses."***

NOTE: In doing these calculations we discovered that if SBC-Ameritech had garnered 30 million households outside their own regions by 2010, and if the company already had 35-40% of phone customers, at about 35 million households, SBC was claiming it would have an additional 1/3 for 70% of all American households.. This, of course, would assume that they did not lose market share within their own territories, something that they did not comment on in any testimony about competing with the other Bell companies.

Timing? SBC was supposed to start serving residential customers within one year of the closing and by 2003, the majority of customers in every city should have been offered service. SBC also stated that it would be spending approximately $1.4 billion (approximately $500 per customer) for customer acquisition.

> "SBC will begin offering service to residential customers within one year of closing with Ameritech and plans to offer service to a majority of households in the 30 out-of-region markets within four years of closing. We will achieve an

> overall penetration rate of 4% of the residential customers in all of these 30 markets.
>
> "To achieve these results SBC anticipates spending approximately $500 per line ultimately served on customer acquisition, product development and marketing expenses related to residential and small business — a total of $1.4 billion."

SBC's 2001 Annual Report states that it introduced service in 22 new markets outside their region and therefore has fulfilled its obligations, even though the company "scaled back" the service offerings.

> "As of December 31, 2001 we had introduced service in 22 new markets (Boston, Fort Lauderdale, Miami, New York, Seattle, Atlanta, Denver, Minneapolis, Philadelphia, Phoenix, Baltimore, Bergen-Passaic, Middlesex, Nassau, Newark, Orlando, Salt Lake City, Tampa, Washington D.C., West Palm Beach, Louisville and Charlotte), and plan to enter at least eight more by April 2002. In March of 2001, we scaled back our service offerings in these areas in response to certain economic environment and regulatory factors, while still fulfilling our FCC merger condition requirements."

Since we could not find any competitive SBC Local wireline residential services being offered in any state, we went back to the original merger conditions, and found that the FCC's conditions were essentially useless; a bad joke on what was promised versus what would actually be delivered.

**The Fine Print?**

SBC claims it is in compliance because it had "**at least three customers" in 22 states** or at least 66 customers.

- On March 28, 2001, the Company notified the Commission that it had installed local telephone exchange switching capacity and was providing facilities-based local exchange

service to **at least three** unaffiliated customers in the **following seven markets : Atlanta, Denver, Ft. Lauderdale, Minneapolis, New York, Philadelphia and Phoenix.**

- On April 9, 2002, the Company notified the Commissioner that it had installed by April 8, 2001 local exchange switching capacity and was providing local exchange service to **at least three unaffiliated customers** in the following **10 markets**: **Baltimore, Bergen-Passaic, Middlesex, Nassau, Newark, Orlando, Salt Lake City, Tampa, Washington DC and West Palm Beach**.
- In total, SBC notified the FCC that it had installed in 2001 a local telephone exchange switching capacity and was providing facilities-based local exchange service to **at least three unaffiliated customers** in the above listed seventeen markets, **five more than the required additional twelve markets** to be deployed by April 8, 2001. **Additionally SBC started operations in the Charlotte and Louisville markets in November 2001, making a total of nineteen new markets that SBC entered in 2001.**

Meanwhile, the FCC also believed that SBC was in compliance. According to an article in XChange magazine.[190]

> "'In fact, SBC had met the terms of its commitment to launch facilities-based local voice services in 30 markets by the second quarter of this year', says John Winston, assistant bureau chief at the FCC's Enforcement Bureau. 'They have complied,' Winston says. 'That's all I have to say on the matter.'"

Unfortunately, the FCC has failed to read its own rulings because SBC's obligation was to also have offered competitive services to **ALL** residential and business customers through resale and UNE-p services.

> "…collocating in each of ten wire centers; offering facilities-based service to all business and all residential customers served by each of those ten wire centers; ***and offering service, whether by resale, unbundled elements or facilities, to all business and all residential customers within the entire service area of the incumbent RBOC*** or Tier 1 incumbent LEC in the market or make voluntary incentive payments to a state-designated fund (or as governed by state law) in the

> amount of $110,000 per day for each missed entry requirement, for a total of $1.1 million per entry requirement per market."

There was never any advertising to entire cities that we could find. They gamed the regulatory system and got away with not having to pay $1.9 billion in damages.

In an interview with a reporter for a major Boston daily newspaper in 2003, when asked if there was SBC wireline competition in Boston, the reporter responded:[191]

> "No sign of SBC here in Boston, plenty of signs of Cingular. I thought it was a fairly open dirty secret that SBC did nothing more than barely live up to the letter of the FCC decrees, 'offering' service within xx months of the merger in these markets, then shutting it down six months later. Haven't they sort of all but said publicly they have done the bare minimum needed to meet the FCC regs???"

Three customers in twenty-two markets are NOT robust competition. The FCC should never have set a threshold for the merger that could be met with three friends out for a late night beer who are talked into getting some SBC service. America depended on the FCC to make sure that the mergers were in the public interest and both SBC and the FCC failed to do this.

**The SBC-Ameritech-SNET-Pac Bell Punchline**

By the end of 2002 there is no mention of the "National-Local" strategy in the SBC 2002 Annual Report. There is also no mention of any other city or state outside of their original territories with any significant wireline services being offered.

**The Largest Bait and Switch in History: SBC Enters Long Distance.**

In his book ***The Billionaire Shell Game***[192], published by Doubleday in October 1998, award-winning, former ***New York Times*** reporter L. J. Davis describes the Bell operating companies' bait and switch tactics employed in every state and at the federal level in Washington. Based on independent interviews and a survey of the documentary evidence, we came to many of the same conclusions as described here. Further, Davis posits that the tactics for selling broadband

were part of the RBOC plans to win approval to enter the long distance markets earlier than they would have otherwise been allowed to under normal market movement. They never really cared about broadband.

> "Like the other six regional telephone companies that had come into independent existence with the break up of AT&T in 1984, Bell Atlantic had a single great goal in the autumn of 1993. Bell Atlantic and the other six baby bells were determined to enter the lucrative long distance business before the march of science rendered their existing equipment vulnerable, obsolete, or both, but getting there was no simple task. Before Bell Atlantic could offer a long distance service — even within its own part of the country, using its own lines and switches — sixty years of federal law and judicial decisions had to be overthrown, and there was only one certain, reliable, and simple way to do it: persuade Congress to pass bold new legislation that would remake Bell Atlantic's world.
>
> "Unfortunately, there was no great public outcry for such a new law. There was, in fact, not a peep from the public, whose indifference on the subject of telecommunications law was as large as the public's very considerable ignorance of it, and it was extremely difficult to explain why Bell Atlantic, a company with annual profits of over a billion dollars, felt a compelling need to overturn more than half a century of lawmaking in order to make more money. The easy part had already been done; influential congressman had been provided with large sums of money and more would be forthcoming, but encouraging the legislators to think correct thoughts was only part of the task. It was also essential to provide Congress with a plausible and, above all, a popular and easily understood reason for writing the new law. The secret of the trick, Bell Atlantic and other regional television companies had correctly come to believe, was cable television.
>
> "With great fanfare, the telephone companies announced that, if only one small condition was met, they would provide cheap, friendly, and reliable cable television service, using their existing networks. The cable companies would no longer hold the country in the iron grip of monopoly, and the viewing public would soon be happy. All it took was a small change in the existing laws— and, while the

> legislators were at it, they might as well make a few additional and long-overdue modifications of the statutes in the interest of tidiness and for the benefit of all. To the regional telephone companies, God — long distance service — would be found in the modifications. Television was the cover story.
>
> "The regional telephone companies had never been interested in television, and most of them weren't interested now. The goal had always been the long distance business, and the goal never changed. Once the new telecommunications bill was passed and signed, the telephone companies could run a few inexpensive tests in places like Omaha, El Cerrito and Richardson, Texas. If the tests succeeded, well and good, the telephone companies could make some extra money. If the test failed, no great harm was done; the telephone companies could claim technical difficulties and public indifference and quietly abandon the undertaking. In the meantime, it was important to feign enthusiasm until the law changed.…"

We could not have said this better. What happened was a bait and switch of massive proportions. Let us put some facts into this equation. We have just proved that the fiber optic deployments that were being conducted were all closed down as soon as the ink was dry on the mergers. Whether or not each Bell company would have actually rolled out anything looking like what they had promised is, of course, an additional question, requiring additional investigations.

**What Is Long Distance and Why Is It Important?**

- A ”**Long Distance”** call is a call between states, also known as “interstate”; i.e., a call from New York to New Jersey is interstate, or from New York to California.

When AT&T was broken up in 1984 the Bell phone companies were restricted from entering long distance because their monopoly power would allow them to gain too much market share just from being able to bundle their local service with long distance.

This is too complex to explain here, but needless to say, if you own the local phone customer and you can sell them long distance for another $20-$30 a month and use the existing advertising, etc. to sell it (commonly known today as a “package of local and long distance

service”), then the local phone company generates almost double the amount of revenue from the same customer.

The reason they were not allowed into long distance is now clear; they would easily be able to out-muscle the long distance companies, AT&T, MCI and Sprint. Verizon, who now has control over the “PSTN” (that’s “Public” Switched Telephone Network), was able to get over 50% of its customers to buy both local and long distance as a package by 2004. With the current restrictions that block AT&T and MCI from selling local service (another long story), these companies were essentially taken apart. It is a primary reason they were sold off. The Bell companies were allowed into long distance before there was sustainable residential local phone competition.

Teletruth’s survey work on phone bills found that the majority of customers pay more for a package than they would if they purchased the service ala carte. This is because the advertised price of a package does not include all of the required taxes and surcharges, many of which, such as the “FCC Line Charge”, are, in actuality, more direct revenues to the phone companies. We will return to this topic at a later point.

We will now show that SBC not only did not compete for local phone service out-of-region and dumped their fiber optic promises, they instead took the money and entered long distance.

**Long Distance Promise Versus the Fiber Optic and Competing Out-Of-Region Promises.**

Let’s follow the money. First, we find in the SBC 2001 Annual Report that SBC had spent virtually no money in 2001 or even 2000 to fulfill its obligations of the merger conditions. SBC states that their costs "decreased approximately $90 million in 2001".[193]

> "Costs associated with our national expansion initiative decreased approximately $90 (million) in 2001, reflecting the initiative’s scaleback, compared to an increase of $300 (million) in 2000."

However, long distance spending was way up. In total contrast, SBC spent $320 million in 2001 and $260 million in 2000 for entry into just four states to offer long distance.

> "InterLATA long distance service expenses increased by approximately $320 million in 2001 compared to $260 million in 2000 primarily reflecting our entry into four new states."

As we previously mentioned, the 2001 plan for the company (as told by press releases) was to focus on long distance, and forget about their commitments to compete.[194]

> "SBC said that delays in regulatory approvals for its entry into in-region long-distance markets, primarily in California and its Ameritech states, have shifted the timing of expected revenues from, and investments in, wireline growth initiatives. SBC continues to work aggressively to accelerate approvals in all of its states.
>
> "'Our mission in 2001 is to build on our strengths and move SBC's transformation to the next level,' Whitacre said. 'That requires financial discipline, and it requires timely access to new markets - beginning with long distance. The freedom to compete in interLATA long distance throughout our markets is an important revenue driver and a key component in our wireline growth strategies.'
>
> "'In 2001, we will place additional emphasis on accelerating long-distance approvals,' Whitacre said. 'At the same time, we will pursue growth opportunities with intensity, balanced with a determined focus on enhanced financial strength and flexibility. We are confident that this balanced approach strongly positions SBC for sustained growth and value creation.'"

Here is a list of the status and approvals to enter long distance as written in the SBC 2001 Annual Report.

**Exhibit 28**
**SBC Long Distance Applications and Status as of 2001**

| | **Alternative Regulation** | **Long Distance Application Status** |
|---|---|---|
| Arkansas | Yes | November 2001 |
| California | Yes, review pending | Decision expected in 2002 |
| Connecticut | Yes | Long distance service provided |
| Illinois | Yes, pending state approval | Decision expected in 2002 |
| Indiana | Yes, through 12/2003 | Filing planned in 2002 |
| Kansas | Yes | March 2001 |
| Michigan | Yes | Decision expected in 2002 |
| Missouri | Yes | December 2001 |
| Nevada | Yes | Decision expected in 2002 |
| Ohio | Yes, through 1/2003 | Decision expected in 2002 |
| Oklahoma | Yes | March 2001 |
| Texas | Yes | Long distance service provided |
| Wisconsin | Yes | Filing planned in 2002 |

The exhibit also highlights the fact that EVERY state had some form of alternative regulation plan, meaning more money than the previous "rate of return". This new alternative regulation was granted, for the most part, based on the fiber optic deployment plans.

By the end of 2002, SBC was able to offer long distance in 6 of the 13 states.[195]

> "Federal regulation prohibits us from providing interLATA wireline long-distance services in six of our 13 in-region states. We provide interLATA wireline long-distance to our customers in Texas, Kansas, Oklahoma, Arkansas, Missouri, California and Connecticut."

And by the end of 2003, SBC was able to offer long distance service in ALL of the states.[196]

"Long-distance voice — Long-distance voice consists of all interLATA (traditional long-distance) and intraLATA (local toll) wireline revenues, including calling card and 1-800 services. Prior to 2003, Federal regulations prohibited us from offering interLATA wireline long-distance services in six of our 13 states. During 2003, we received regulatory approval to offer these services to customers in these remaining six states."

## Chapter 17 The Verizon-Bell Atlantic-NYNEX-GTE Mergers Were the Death of State Fiber Optic Deployments: The "Con Job".

As with our previous discussion of SBC, when Verizon became a mega-Bell through mergers, it left a path of fiber optic destruction, completely disregarding the commitments made on the state level.

We believe that the conglomerate Verizon, formed from a merger of Bell Atlantic, NYNEX and GTE, should be investigated and broken up. This enlarged mega-Bell harmed the fiber optic based broadband deployments that were promised in EVERY one of its states, from Massachusetts-NYNEX and New Jersey-Bell Atlantic to the GTE territories.

Ironically, Verizon, like SBC, controls 13 primary states from the NYNEX-Bell Atlantic merger, as well as sections of an additional 28 states from GTE. We estimate that approximately 100 million people are impacted by any Verizon decision. If Verizon decides not do something, it impacts over 1/3 of America's citizens. With both SBC and Verizon, they have successfully impeded the majority of fiber optic deployments across America.

If SBC did a fiber optic hatchet job when the mergers occurred, Verizon did more of a con job — it never fulfilled its obligations under state laws nor rolled out virtually any services and cut GTE's deployments.

**Exhibit 29**

**The Verizon "Con Job" Summary of Fiber Optic Deployments, by 2000**

| | Money (billions) | Households | Merger | Shutdown |
|---|---|---|---|---|
| Bell Atlantic | $11.0 | 8,750,000 | 1997 | 1997 |
| NYNEX (in MA) | $.5 | 2.000,000 | 1997 | 1997 |
| GTE | $4.1 | 7,000,000 | 2000 | 1998 |
| | $15.6 | 17,750,000 | | |

This chart has a number of caveats.[197] As far as households, NYNEX promised 1.5 - 2 million households by 1996, Bell Atlantic stated it would have 8.75 million households by 2000, while GTE claimed it would have 7 million homes.

We did not include other quotes, however, that would raise this number. NYNEX stated it would be deployed throughout its entire region by 2010, while New Jersey would be fully deployed by 2010 for its fiber optic dreamland; Pennsylvania by 2015.

Like SBC, these mergers were sold as a public benefit. Verizon stated in every case that the mergers were good for broadband, competition and the economy, bringing upgrades, new services, etc. According to the Bell Atlantic press release, "Bell Atlantic and GTE Merger Promotes Vigorous Competition in Communications", December 23, 1998, this merger would "ignite nationwide competition" between the Bell companies.[198]

> "Bell Atlantic (NYSE:BEL) and GTE Corp. (NYSE:GTE) today will file reply comments with the Federal Communications Commission (FCC) on their proposed merger, saying the transaction would ***ignite nationwide competition*** in local, long distance, wireless, Internet and data communications services.
>
> "Local Service Competition — The new company created by the merger of Bell Atlantic and GTE will have a far greater ability to enter and compete quickly and effectively in key markets outside Bell Atlantic and GTE's current service areas. Local exchange customers in GTE's and Bell Atlantic's current service territories will also benefit from the combined company's ability to compete with others on price, service quality and range of product offerings."

Verizon promised not only wireline phone competition, but also spending $500 million in 36 months.

> "Within 36 months from merger closing, Bell Atlantic/GTE will spend a minimum of $500 million to provide competitive local service, including traditional local telecommunications services and advanced services, outside of its service areas or will provide competitive local service to at least 250,000 out-of-region customer lines."

**Who is Verizon?**

This is how Verizon views itself as of September 2005:[199]

> "With more than $71 billion in annual revenues, Verizon Communications Inc. (NYSE:VZ) is one of the world's leading providers of communications services. Verizon has a diverse work force of more than 214,000 in four business units: Domestic Telecom provides customers based in 28 states with wireline and other telecommunications services, including broadband. Verizon Wireless owns and operates the nation's most reliable wireless network, serving 47.4 million voice and data customers across the United States. Information Services operates directory publishing businesses and provides electronic commerce services. International includes wireline and wireless operations and investments, primarily in the Americas and Europe."

Verizon is the merger of GTE and Bell Atlantic.[200]

> "Verizon was formerly known as Bell Atlantic Corporation, which was incorporated in 1983 under the laws of the State of Delaware. We began doing business as Verizon Communications on June 30, 2000, when Bell Atlantic Corporation merged with GTE Corporation."

However, prior to Bell Atlantic taking over NYNEX, these two original Bell companies joined in 1997.[201]

> "Bell Atlantic Corporation was incorporated in 1983 under the laws of the State of Delaware and completed a merger with NYNEX Corporation on August 14, 1997."

Here are the official companies in the BA-NYNEX merger.[202]

> "Bell Atlantic is a telecommunications company that operates in a region stretching from Maine to Virginia. Our principal operating subsidiaries are: New York Telephone Company, Bell Atlantic - New Jersey, Inc., Bell Atlantic - Pennsylvania, Inc., New England Telephone and Telegraph Company, Bell Atlantic - Maryland, Inc., Bell Atlantic - Virginia, Inc., Bell Atlantic - West

> Virginia, Inc., Bell Atlantic - Delaware, Inc., Bell Atlantic - Washington, D.C., Inc."

These are the original 13 states and territories, including District of Columbia.

**Exhibit 30**

**The Original Bell Atlantic/NYNEX States**

| | | | |
|---|---|---|---|
| **Bell Atlantic** | | | |
| • | ***New Jersey Bell*** | New Jersey | |
| • | ***Bell of Pennsylvania*** | Pennsylvania | |
| • | ***Chesapeake and Potomac*** | West Virginia<br>Maryland | Delaware Virginia<br>District of Columbia |
| **NYNEX** | | | |
| • | ***New York Telephone*** | New York | |
| • | ***New England Telephone*** | Massachusetts<br>New Hampshire | Rhode Island Vermont<br>Maine |

The 1999 Annual Report claims that Verizon covered 63 million people and 22 million households.[203]

> "The Consumer unit markets communications services to residential customers, as well as operator services, within our territory, 22 million households and 63 million people."

The 1999 Annual Report showed 43 million access lines.[204]

**Adding GTE**

GTE was a company whose properties were not continuous, like the 13 states of Bell Atlantic, but were spread throughout the country, having locations everywhere from Hawaii to Florida, and Los Angeles to Kentucky. The following quote regarding the revenues for "Network Services" gives a flavor of the various locations.

GTE 1999 Annual Report [205]

> "Subsidiaries accounting for the largest portion of total Network Services revenues are GTE California, 24%; GTE North, 22%; GTE Southwest, 13%; and GTE Florida, 12%. The largest cities served are Los Angeles, Long Beach and Santa Monica, California; Tampa and St. Petersburg, Florida; Honolulu, Hawaii; Lexington, Kentucky; Fort Wayne, Indiana; Everett, Washington; and the metropolitan area of Dallas, Texas."

And before the merger, GTE covered 28 states with 26 million access lines.[206]

> "GTE's telephone operating subsidiaries in the United States served approximately 26 million access lines in 28 states as of December 31, 1999."

**Exhibit 31**
**Verizon US Territories, 2004**

| | | | |
|---|---|---|---|
| Verizon California Inc. | Arizona | Nevada | |
| Verizon Florida Inc. | | | |
| Verizon Hawaii Inc. | | | |
| Verizon North Inc. | Illinois | Indiana | Michigan |
| | Pennsylvania | Ohio | Wisconsin |
| Verizon Northwest Inc. | California | Idaho | Oregon |
| | Washington | | |
| Verizon Maryland Inc. | | | |
| Verizon Delaware Inc. | | | |
| Verizon Pennsylvania Inc. | | | |
| Verizon New England Inc. | New Hampshire | Massachusetts | Maine |
| | Rhode Island | Vermont | |
| Verizon New Jersey Inc. | | | |
| Verizon Virginia Inc. | | | |
| Verizon Washington, DC Inc. | | | |
| Verizon New York Inc. | Connecticut | | |
| Verizon South Inc. | North Carolina | South Carolina | Virginia |
| Verizon West Virginia Inc. | | | |
| Verizon Southwest | Texas | | |

**Total Population, Total Lines**

Because of the spread-factor, it is hard to exactly pinpoint the actual number of customers impacted by a Verizon decision. We estimate that GTE impacted 38 million customers.[207] Therefore, we estimate that a Verizon decision would impact approximately 101 million people (38+63 million). Obviously, there is overlap with our accounting of SBC since we are using state data based on the census information to derive that number which would include overlap with various GTE properties in the same state.

**Other Verizon Holdings**

Verizon has a great deal of other properties it does business throughout the world. (We will discuss the losses from overseas investments elsewhere.) Some of the other Verizon holdings include 100% of Northern Mariana Island, 100% of the Dominican Republic and 52% interest in Puerto Rico, a phone company that receives some of the largest endowments from the Universal Service Fund. [208]

> "Puerto Rico: As of December 31, 2004, we owned a 52% interest in TELPRI, which owns Puerto Rico Telephone Company (PRTC), Puerto Rico's principal wireline company. Verizon Wireless Puerto Rico (VWPR), a division of PRTC, is Puerto Rico's second largest wireless company. At December 31, 2004, PRTC served 1.2 million access lines and VWPR provided wireless services to approximately 387,000 customers."
>
> "Northern Mariana Islands: We are the sole shareholder of Micronesian Telecommunications Corporation (MTC), a full-service telecommunications provider. At December 31, 2004, MTC served approximately 32,000 access lines and 23,000 wireless customers on the islands of Saipan, Tinian and Rota. In November 2001 an agreement was signed to sell MTC, which is pending due to regulatory approvals."
>
> "Dominican Republic: We own 100% of Verizon Dominicana, the principal telecommunications provider in the Dominican Republic. Verizon Dominicana

> provides local, wireless, national and international long distance and Internet access services throughout the Dominican Republic. At December 31, 2004, Verizon Dominicana served approximately 793,000 access lines and 1.3 million wireless customers."

This list is changing since Verizon decided to sell off Hawaii in 2004.[209]

> "During the second quarter of 2004, we entered into an agreement to sell our wireline-related businesses in Hawaii, which operates 707,000 switched access lines, for $1,650 million in cash, less debt. The closing of the transaction, expected in the first half of 2005."

**The NYNEX, Bell Atlantic, GTE Video Dialtone Applications**

According to the filed documents, Verizon collectively planned to deliver services to 4.7 million households within a few years of the filings. This was for fiber optic services, 45 Mbps in both directions, capable of 500+ channels, with all of the caveats we discussed in previous sections.

**Exhibit 32**
**Summary of Video Dialtone Filings by Verizon, 1992-1994**

| | |
|---|---:|
| NYNEX | 466,000 |
| Bell Atlantic | 3,200,000 |
| GTE | 1,041,000 |
| | 4,707,000 |

This is the breakout by phone company of the various proposed deployments.

**Exhibit 33**
**Video Dialtone Filings by Verizon, 1992-1995**

| Date | Telephone Company | Location | Homes | Proposal |
|---|---|---|---|---|
| 10/21/92 | Bell Atlantic-VA | Arlington, VA | 2,000 | technical |
| 11/16/92 | New Jersey Bell | Florham Park, NJ | 11,700 | permanent |
| 12/15/92 | New Jersey Bell | Dover Township, NJ | 38,000 | permanent |
| 12/16/93 | Bell Atlantic | MD & VA | 300,000 | permanent |
| 06/16/94 | Bell Atlantic | Wash. DC LATA | 1,200,000 | permanent |
| 06/16/94 | Bell Atlantic | Baltimore, MD; Northern NJ; DE; Philadelphia, PA; Pittsburgh, PA; and S.E. VA | 2,000,000 | permanent |
| 10/30/92 | NYNEX | New York, NY | 2,500 | technical |
| 07/08/94 | NYNEX | RI | 63,000 | permanent |
| 07/08/94 | NYNEX | MA | 334,000 | permanent |
| 05/23/94 | GTE - Contel of Va. | Manassas, VA | 109,000 | permanent |
| 05/23/94 | GTE Florida Inc. | Pinella and Pasco Co., FL | 476,000 | permanent |
| 05/23/94 | GTE California Inc. | Ventura Co., CA | 122,000 | permanent |
| 05/23/94 | GTE Hawaiian Tel. | Honolulu, HA | 334,000 | permanent |

**Bell Atlantic**

Bell Atlantic 1993 Annual Report[210]

> "First, we announced our intention to lead the country in the deployment of the information highway.... ***We will spend $11 billion over the next five years*** to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region."

We've created separate chapters on New Jersey and Pennsylvania, which were some of the earliest alternative regulation plans to go through. The New Jersey plan was presented with a $1 million report from Deloitte & Touche, exclaiming that the future had to be fiber optics. The report was so compelling to law makers that it was replicated in Pennsylvania, as well as various Ameritech states including Ohio, Illinois and Indiana.

And it was all about the fiber optic future. Here's just a sample of the article headlines for Pennsylvania and New Jersey:

- **PA Senate OKs Fiber Optics Bill**, Philadelphia Daily News, June 24, 1993,
- **PA Legislature Compromises On Fiber Optics Bill. The Measure Calls for the State to Be Wired by 2015**. Philadelphia Inquirer, June 25, 1993
- **N.J. Bell Rewiring Approved By State. About 56 Million Miles of Wire Will Be Replaced with Fiber Optic Cable,** Philadelphia Inquirer, December 23, 1992
- **Fiber Optic TV Coming to N.J.** Philadelphia Daily News, November 17, 1992
- **Bell Clears a Hurdle in Quest to Offer Video. A Judge Overturned Part of a Federal Law. Now Bell Atlantic Will Try Offering Video Services Regionwide.** Philadelphia Daily News, July 28, 1993
- **A Fiber Field of Dreams. The Switch in the Way Phone Signals Are Sent Promises Not Only Faster Transmission, but also Bright New Ideas for Using the Technology** Philadelphia Inquirer, June 2, 1993
- **Phone Bill Goes to House. the Pa. Measure Would Limit Rate Increases and Require a Fiber Optic Network By 2015**. Philadelphia Inquirer, May 24, 1993
- **N.J. Bell Will Alter Its Fiber optic Plans. A Subsidiary Will Run the Network. Newspapers Wanted a Guarantee that They Would have Access to It,** Philadelphia Inquirer, February 7, 1993
- **Working Together to Build a Highway for Information. A Fiber Optic Network Could Move 25 Trillion Bits of Information a Second. Today's Rate? 100 Million Bits.** Philadelphia Inquirer, January 18, 1993

But the truly significant difference between NYNEX and the Bell Atlantic state decisions is that the PA and NJ decisions have specific timeframes for deployment of services.

The next exhibit was taken directly from the New Jersey Bell Order [211] that outlined the speed of service and the year it was supposed to be available. This chart shows that the "Opportunity New Jersey" (ONJ) plan went from 1992 through 2010. "Digital Broadband Service", at 45 Mbps, was to be available starting in 1996 and reach 100% by 2010. The other column, "BAU" ("Business As Usual"), was to show when these services would be available if the company didn't get more money from the customers: the year 2030.

**Exhibit 34**

**New Jersey Bell Advanced Network and Broadband Deployment Schedule, 1993**

| | **BAU** | | **ONJ** | |
|---|---|---|---|---|
| | start | 100% | start | 100% |
| **Advanced Intelligent Network (AIN)** | 1992 | 2001 | 1992 | 1998 |
| Digital switching and signaling systems deployed to provide call routing and database access, which enables “follow me” type services, for example, that allows customers to program the public switched network to forward their calls automatically to different locations depending on the time of day. | | | | |
| **Narrowband Digital Service** | 1992 | Post2001 | 1992 | 1998 |
| Switching technologies attached to support data rates up to **144,000 bits per second** which will enable customers who use any combination of work stations, personal computers or fax machines and telephones. | | | | |
| **Wideband Digital Service** | 1994 | Before2030 | 1994 | 2000 |
| Switching capabilities matched with transmission capabilities supporting data rates up to **1,500,000 bits per second**, for example, that will allow students to remotely access multimedia information, including video, from home or school | | | | |
| **Broadband Digital Service** | 1996 | 2030 | 1996 | 2010 |
| Broadband Digital Service— Switching capabilities matched with transmission capabilities supporting data rates up to **45,000,000 bits per second** (45 Mbps) and higher, which enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals." | | | | |

Similarly, the Pennsylvania law explained that 20% would be rewired by 1998 in rural, urban and suburban rate centers, 50% would be completed by 2004.[212]

> "Verizon PA has committed to making 20% of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by end of year 1998; 50% by 2004; and 100% by 2015."

As we discuss, according to the Pennsylvania Public Utility Commission, in 2003 the law was for 45 Mbps in both directions.[213]

> "In view of Bell's commitment to providing 45 Mbps for digital video transmission both upstream and downstream, we look forward to Bell's providing this two-way digital video transmission at 45 Mbps."

As late as July 1996, Bell Atlantic was still making signs that it was going to deliver fiber-to-the-curb throughout the territories starting in 1997 and have 12 million customers wired by 2000.

> "Later this year, Bell Atlantic will begin installing fiber optic facilities and electronics to replace the predominantly copper cables between its telephone switching offices and customers. Fiber optics provide higher quality and more reliable telephone services at lower operating and maintenance costs. The company plans to add digital video broadcast capabilities to ***this "fiber-to-the-curb" switched broadband network by the third quarter of 1997***, and broadband Internet access, data communications and interactive multimedia capabilities in late 1997 or early 1998.
>
> “The fiber-to-the-curb architecture that Bell Atlantic will build is the next step in the company's ongoing, aggressive network modernization program. Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year. The company plans to expand this Full Service Network deployment to other key markets over the next three years. ***Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks."*** (by 2000) [214]

**Maryland**

It seems that other Bell Atlantic states also had alternative regulation plans for modernizing/fiberizing their states. Maryland's ambitious. plan, according to the "Modernization of the Maryland Telecommunications Infrastructure: A Summary of Plans to Upgrade the Local Networks", was for fiber-to-the-home to be completed by 2010, and all copper wiring between the offices should have been upgraded by 1994.[215]

* ISDN 100% by 1995
* Fiber to the feeder 100% by 2008
* Fiber to the home 100% by 2010
* Fiber-interoffice (all copper retired) 100% by 1994

**NYNEX**

NYNEX, 1993 Annual Report [216]

> "We're prepared to install between ***1.5 and 2 million fiber optic lines through 1996*** to begin building our portion of the Information Superhighway."

Even in 1995, NYNEX was sounding like it was going to be a major player in the video entertainment and information services arena.

NYNEX 1995 10K[217]

> "VIDEO ENTERTAINMENT AND INFORMATION SERVICES
> NYNEX Entertainment & Information Services Company ("NEIS") licenses, acquires, and packages entertainment, information and other services for distribution over wireless and wireline networks in the NYNEX region. In addition, NEIS provides coordination, support and oversight to NYNEX's video and information services interests around the globe. NYNEX plans to introduce a branded, price-competitive package of video and information services."

And just to remind us, NYNEX was instrumental in the creation of TELE-TV. [218]

> "Our TELE-TV joint venture with Bell Atlantic and Pacific Telesis is getting ready to entertain you, delivering nationally branded entertainment and information services over our networks. As NYNEX and its partners work to deploy full-service broadband networks, we plan to begin offering TELE-TV service later this year through our investment in CAI Wireless. This investment will give us the ability to reach up to 7 million NYNEX customers with digital wireless cable technology."

NYNEX, in its video dialtone petition at the FCC, claimed that it would have the majority of its region fully deployed by the year 2010.[219]

> "NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education, and health care services. ***NYNEX plans to deploy this type of network to the majority of its customers by the year 2010."***

We should also point out that NYNEX was building other fiber optic systems in other parts of the world, including a $3 billion broadband network in the UK.

> "CABLECOMMS: NYNEX CableComms is constructing and operating a $3 billion broadband (high capacity) network, to be substantially completed by 1997, for the provision of cable television and telecommunications services in certain licensed areas in the United Kingdom."[220]

**Massachusetts**

NOTE: See the separate chapter on Massachusetts's failed broadband deployment.

Pertaining to Massachusetts and Rhode Island, NYNEX was not shy about its plans, which gave exact numbers as part of its filing with the state commission to receive financial incentives under the alternative regulation plans, as well as the FCC's video dialtone proceedings.

**Exhibit 35**
**NYNEX Video Dialtone Announcements, 1992-1994**

| Date | Telco | Location | Homes | Type of Proposal |
|---|---|---|---|---|
| 07/08/94 | NYNEX | RI | 63,000 | permanent |
| 07/08/94 | NYNEX | MA | 334,000 | permanent |

The NYNEX video dialtone applications clearly laid out the number of homes and business.

> "On July 8, 1994, NYNEX filed two (Section 214) applications for authority to provide video dialtone service in certain areas of Massachusetts and Rhode Island. The application to provide video dialtone service in Massachusetts proposes a system that will pass approximately 334,000 homes and businesses." [221]

NYNEX put forward a very specific technological definition of what it would offer if granted relief — fiber optics and coax capable of 400 to 800 digital channels. As the FCC understood the NYNEX proposal:

> "NYNEX proposes to deploy hybrid ***fiber optic and coaxial (HFC) broadband*** networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education and health care services. NYNEX's proposed video dialtone systems make available three types of service arrangements: analog broadcast, digital broadcast, and digital interactive service. Video programmers may deliver an 'analog, digital, or other agreed-upon signal' that NYNEX plans to modulate or encode as necessary. The allocation plan provides for the offering of 21 analog channels, all but one of which will be used for over-the-air broadcast programming services, and, depending on compression rates, ***between 400 an 800 digital channels***." [222]

And the hype for these service offerings started blowing strong by 1994, when the plans were first presented. NYNEX spun a very compelling vision of the consumer benefits the new technology would allow:[223]

> "[T]he new technology would give Massachusetts residents access to a wide range of information and entertainment services. Among the new types of services envisioned are improved cable television, home banking and shopping, civic and community-based forums and bulletin boards and new forms of interactive entertainment such as movies on demand.
>
> "Ultimately, the broadband network would help Massachusetts education institutions further expand interactive and distance learning opportunities for students of all ages. The health care industry would gain advanced communications capabilities to reduce costs and expand delivery of services, including remote diagnoses and other forms of telemedicine."

Massachusetts's alternative regulation plan was pushed through in late 1995, just before the passage of the Telecom Act when the "wind was at the back" of the Bell companies' getting what they wanted as a rubber stamp. The exact law that was written had only a passing mention of the fiber optic deployments the company had told the public about. This was the opposite of the earlier Bell Atlantic states' deregulation, especially New Jersey and Pennsylvania, where very specific deployment timelines were used.

In the chapter on Massachusetts, we explain how NYNEX told the public it would spend half billion dollars in the Bay state. The company laid out the communities to be wired — "Somerville, Revere and Winthrop, then move to Brookline, Cambridge and neighborhoods in Boston, including Roxbury, Brighton, Beacon Hill and the Back Bay…." The work was supposed to start in late 1994.

As we write in our analysis:

> "In statement after statement, before consumers, advocates, regulators and the press, employees and executives at the top echelon of New England Telephone made repeated and unambiguous representations that NYNEX would spend over $500 million to build the fiber optic network in Massachusetts, commencing in 1995. On July 15, 1994, New England Telephone Chairman Paul O'Brien announced that NYNEX was 'putting its money behind its beliefs. We recently

> announced plans to build what is essentially a new … state-of-the-art broadband network … capable of providing video-on-demand and interactive information services.' O'Brien went on to promise that construction would begin late that year, 1994, in eastern Massachusetts. He was also emphatic 'NYNEX plans to spend nearly half a billion dollars for 330,000 lines in Massachusetts'.
>
> "A few months later, the ***Patriot Ledger*** quoted NYNEX spokesman Kenneth Horne describing a very specific plan: 'In Massachusetts, NYNEX plans to begin the new service in Somerville, Revere and Winthrop, then move to Brookline, Cambridge and neighborhoods in Boston, including Roxbury, Brighton, Beacon Hill and the Back Bay.…'."

Even though the company was granted most of the financial incentives it requested, in Massachusetts the company did not spend $500 million on the networks and there were no fiber optic networks available to customers. Rumors exist that some streets were wired in Somerville, Massachusetts, but were never turned on or connected to homes. In our complaint in 1999, we estimated that customers paid over $1 billion in extra profits to the phone company, not to mention an additional $800 million in improper tax deductions.

**GTE**

As previously stated, GTE (now owned by Verizon) promised 7 million homes by 2004 in 66 key markets.[224]

> "In 1991, GTE Telephone Operations became the first telephone company in the United States to offer interactive video services…. Expanding on this success, the company in 1994 announced plans to build video networks in 66 key markets in the next 10 years. When completed, the new network will pass 7 million homes and will provide broadcast, cable and interactive television programming.

> ”GTE's pending applications seek authority to build hybrid fiber optic and coaxial-cable video networks in Ventura County, Calif.; St. Petersburg and Clearwater, Fla.; Honolulu, Hawaii; and northern Virginia.”

GTE also stated it would be investing $250 million to build out its video networks in four locations in 1995.[225]

> “GTE Telephone Operations will invest about $250 million to build broadband video networks in four markets during 1995. GTE's pending applications seek authority to build hybrid fiber optic and coaxial-cable video networks in Ventura County, Calif.; St. Petersburg and Clearwater, Fla.; Honolulu, Hawaii; and northern Virginia.”

The 1995 video investments are in addition to the approximately $2.7 billion GTE spent each year to upgrade and maintain its national telecommunications network.[226]

**A Con Job? Verizon Fiber Optic Deployments Were Vaporware.**

New Jersey Ratepayer Advocate, April 1997:

> "low income and residential customers have paid for the fiber optic lines every month but have not yet benefited." [227]

As we discuss at length, we believe that the promise to fiberize America by Verizon was more for the purpose of getting rid of regulation that controlled the companies’ profits and entering the long distance markets than delivering on the broadband future. As discussed in our chapters on New Jersey and Pennsylvania, there were other critics of the phone companies’ failed broadband deployments.

According to a brief filed by the New Jersey's Division of the Ratepayer Advocate with the New Jersey Board of Regulatory Commissioners (BRC), NJ's state public utility commission, on March 21, 1997: [228]

> "Bell Atlantic-New Jersey (BA-NJ) has over-earned, underspent and inequitably deployed advanced telecommunications technology to business customers, while largely neglecting schools and libraries, low-income and residential ratepayers and consumers in Urban Enterprise Zones as well as urban and rural areas."

To read the full report see: http://www.rpa.state.nj.us/onj.htm

Other critics also chimed in on this and the other state alternative regulation plans. Testimony by Economics & Technology on Verizon's Pennsylvania failed deployments found $4 billion in excessive financial gains in that state alone for the failed deployments.

> "Verizon PA has realized financial gains in excess of $4-billion as a direct result of Chapter 30 alternative regulation. Pennsylvania is far from realizing a next generation broadband network." [229]

The irony of it all is that ***nothing*** was built so there was very little to close down (much less write-off) and that is provable. It is also no coincidence that the write-offs and pull-outs in the various states were timed to be done either before or right after the companies merged.

**How Much Did Bell Atlantic and NYNEX Really Spend? —- Chump Change.**

Below are the actual write-offs of the projects as outlined in the Bell Atlantic Annual Report for 1998 — $266 million for NYNEX and Bell Atlantic, combined. This is compared to the promises of over $11 billion in the Bell Atlantic territories or half billion dollars in Massachusetts. Also, it is clear that Bell Atlantic and NYNEX had to keep a fake-front because they had told their TELE-TV group that everything was going to be rewired by 2000. They lied.

Bell Atlantic Annual Report, 1998[230]

> "YEAR 1997: Video-related Charges: In 1997, we recognized total pre-tax charges of $243 million related to certain video investments and operations. We determined that we would no longer pursue a multichannel, multipoint, distribution system (MMDS) as part of our video strategy. As a result, we

> recognized liabilities for purchase commitments associated with the MMDS technology and costs associated with closing the operations of our TELE-TV partnership because this operation no longer supports our video strategy. We also wrote-down our remaining investment in CAI Wireless Systems, Inc."
>
> "Video-related Charges: In 1998, we recorded pre-tax charges of $23 million primarily related to wireline and other nonsatellite video initiatives. We made a strategic decision in 1998 to focus our video efforts on satellite service being offered in conjunction with DirecTV and USSB. We communicated the decision to stop providing wireline video services to subscribers and offered them the opportunity to subscribe to the satellite-based video service that we introduced in 1998. In the third quarter of 1998, we decided to dispose of these assets by sale or abandonment, and we conducted an impairment review under the requirements of SFAS No. 121, 'Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of.' We based our estimate on an estimate of the cash flows expected to result from the use of the assets prior to their disposal and the net proceeds (if any) expected to result from disposal. We are currently providing video service exclusively in conjunction with our arrangements with DirecTV and USSB."

We would also like to point out that when NYNEX or Bell Atlantic discussed their future plans with broadband, they also included wireless as the other solution. Most, if not all of which, never worked out.

The other item to note is the timing. In 1996, Bell Atlantic and NYNEX decided to merge, and by 1997 it was a done deal. At the same time, the companies closed down whatever activities were underfoot. From these write-offs we now know that they gamed virtually every state, using fiber-to-the-home services as the bait.

**GTE's Fiber Optic Hatchet: Clean House to Get Ready to be Sold?**

In 1998, GTE started to shut down the video business as well as close down its fiber coax plans in what looks like preparation for the sale to Verizon. According to the GTE 1999 Annual Report:[231]

> "During the first quarter of 1998, the Company also committed to a plan to exit a number of other non-strategic business activities. As a result, the Company recorded a pretax charge of $156 million to reduce the carrying value of affected assets to expected net salvage value and to recognize costs resulting from the exit plan. The major components of the charge included:
>
> - the write-off of network equipment and supplies for discontinued wireless products and services ($81 million);
> - the shutdown of business units developing interactive video products and services and excess printing facilities ($42 million);
> - the write-off of impaired assets in Latin America ($33 million).
>
> "After completing the review of its operations, the Company also decided to scale back the deployment of the hybrid fiber coax (HFC) video networks that it had built in certain test markets. Although the Company is obligated to, and will continue to, use the existing HFC networks to provide video service in these markets, technological innovations have created alternative ways for the Company to deliver video and high-speed data services in the future at a significantly lower cost. Due to the significant change in the scale of the HFC networks and the effect on future revenues and expenses, the Company recorded a pretax charge for impairment of approximately $161 million based on estimated future cash flows. GTE continues to evaluate its long-term strategic options associated with its video business."

GTE still had some video properties and received franchises in 1999.

> "At the end of 1999, GTE had been granted nine video franchises in the Pinellas County, Florida market and five video franchises in the Ventura County, California market. Video services offerings have also been launched utilizing digital wireless broadcast technology in Oahu, Hawaii. GTE continues to evaluate its long-term strategic options associated with its video business."

The accounting of all of these numbers seems to indicate that very little was actually built based on the promises made by GTE, and that Verizon planned on unloading all of its properties.

In 2002, we know that Verizon sold off the GTE properties that it had in Florida to Adelphia, and Time Warner was telling its Tampa Bay customers to sign up with them.

> "Talk about a cable company that really cares. Time Warner, the 800-pound gorilla of Tampa Bay area cable TV, recently sent a concerned letter to Pinellas County customers of Verizon Communications' much smaller Americast cable system.
>
> "'As you may already know, Verizon Americast will soon no longer be your cable operator,' the letter said. It added helpfully, 'We would be happy to make it easy for you to become a Time Warner customer.'" [232]

The scorecard on fiber optic deployment plans being fulfilled is virtually a "zero" for Bell Atlantic, NYNEX and GTE. However their press releases and past articles are enjoyable to read. The headline states, "Bell posts its itinerary on Information highway," Baltimore Sun, December 2, 1993:[233]

> "Racing to solidify its competitive position before its telephone monopoly disappears, Bell Atlantic Corp. outlined an ambitious timetable yesterday under which 1.25 million households — some in Baltimore — will be able to order up movies on demand and place video phone calls before the end of 1995.
>
> "In subsequent years, the regional phone company plans to add 1.5 million homes a year to its fiber optic network, ensuring that some 8.75 million homes of the 11 million homes in its…

Because of the implications of the Verizon, MCI merger, let's go over the GTE and Verizon merger conditions and the hype surrounding competitive issues.

## Chapter 18 Analysis of Verizon's Merger Conditions and "Truth in Speech" Statements

Verizon submitted hundreds of documents and comments to the FCC, state regulators, Congress, and the public to make sure that the Bell Atlantic-GTE merger to create Verizon was completed.

According to a statement by Former FCC Commissioner Gloria Tristani, SBC and Verizon at the time of their merger would control 69% of phone service. Verizon controls 40% of the lines, 69 million phonelines.

> “With this merger, two companies – Bell Atlantic/GTE and SBC — will control a staggering 69 percent of the nation’s access lines. Bell Atlantic/GTE alone will control nearly forty percent of those lines, approximately 69 million local exchange access lines.”[234]

The reason for the creation of Verizon was that this new company would “attack the local markets of the other bells on a widespread and effective basis”.[235]

The FCC stated:[236]

> "First, the merger will finally enable one of the Bell companies ***to attack the local markets of the other bells on a widespread and effective basis***.
>
> “The commission has concluded in recent orders that the Bell companies themselves may be among the most significant potential competitors to each other in the major metropolitan markets where their geographic regions are contiguous. However, Bell Atlantic today is not a significant potential competitor to any of the other Bell companies, its service areas are geographically separate from the major service areas of the other Bells and it lacks the presence that it needs to be effective to enter and compete in key urban markets of the other Bells' regions. The merger with GTE will immediately erase that limitation."

Why was the merger with GTE important? GTE is a collection of local phone companies spread throughout the US, unlike the other Bell companies that have specific states they control. According to the Verizon merger petition, it was an enabler to attack the other Bell strongholds.

> "With its local telephone facilities greatly dispersed throughout the US, GTE is the enabler that will allow Bell Atlantic to attack the Bell company strongholds across the country.... GTE shares an MSA or serves neighboring suburbs in several of the most attractive Bell markets outside Bell Atlantic's Region including Lose Angeles, San Francisco, San Diego, Dallas Fort Worth, Houston, Chicago, Cleveland, Indianapolis, Detroit Miami, Orlando, Jacksonville, Seattle Portland and others."

All of this was being done because these companies would be "pro-competitive" to provide "a broad-scale attack on the local markets of the other RBOC across the country," and it couldn't do it simply as Bell Atlantic or GTE.

> "The merger of Bell Atlantic and GTE will produce substantial pro-competitive and pro-consumer benefits in a host of telecommunications markets and no harm to competition in any relevant market. The merger therefore satisfies the Commissioner repeatedly articulated standards focusing on markets.
>
> "The merger promises what few other telecommunications providers have been able to offer: ***A broad-scale attack on the local markets of the other RBOC across the country.***
>
> "The merger creates real-work conditions necessary to succeed in such an out-of-franchisee entity that GTE already has demonstrated an interest in pursuing and makes meaningful entry possible where separate companies will not succeed."

What exactly was promised? Statements made over and over again, from the Verizon petition to even the statements by GTE's chairman, was that these companies would compete in at least 21 markets by 18 months of closing.[237]

> "Based on the simple economic logic of the GTE-Bell Atlantic combination, GTE's Chairman Lee recently testified to Congress that the combined company plans to enter at least 21 markets in SBC's region within 18 months of closing.
>
> - SBC Region — Los Angeles, San Francisco, San Diego, Dallas, Houston, Austin, San Antonio
> - Ameritech Region — Chicago, Cleveland, Cincinnati, Indianapolis, Detroit
> - BellSouth Region — Miami, Orlando, Jacksonville, Raleigh, Nashville, Memphis Louisville
> - US West Region — Seattle, Portland”

The plans to build in GTE's territories demonstrated interest in entering the local market of the other RBOCs.[238]

> “The merger therefore makes possible the first real facilities-based effort to compete on a broad scale against the other RBOCs.”

**How Were These Companies Going To Compete? — They Would Use "Resale", “UNE-P”, And “Facilities”.**

The Bells successfully sued competitors and the FCC over the use of network services known as “UNE-P” (Unbundled Network Element – Platform) and “Resale”. These are the exact same methods that Verizon and the other Bells were claiming they would use themselves to enter new markets — they would have to rent parts of the network from the incumbent, the other Bell. It is clear from testimony by Jeffrey Kissell of GTE, the company started its CLEC business with just resale but the margins were “too low" and so they also wanted to use platform (UNE-P) and facilities to compete.[239]

> "GTE's strategy was to price service on a resale basis in markets near GTE. GTE also encountered problems with its service platform while attempting to implement its roll out plan. Moreover, low resale margins and higher than expected customer acquisition costs significantly impacted earnings. GTE has therefore concluded that a resale strategy can not succeed alone. Current plans

> call for a shift to a facilities based strategy…. Because a viable out-of-franchise business must therefore provide some facility-based services, a substantial investment in facilities is also necessary.
>
> ***"The company's new larger scale will allow it to fund the necessary (UNE-P) platform*** and facilitie**s** investment required to compete in new out-of franchise CLEC markets."
>
> "As already mentioned, GTECC's experience has demonstrated that some facilities-based service are necessary to succeed out-of franchise."

**The Public Interest Merger Conditions**

The FCC was supposed to base the merger on serving the public interest.[240]

> "In order to persuade us to grant their applications, Bell Atlantic and GTE must demonstrate that their proposed transaction will serve the public interest, convenience, and necessity."

The FCC agreed to the merger because it would "enhance competition" and strengthen the merged companies' incentives to expand outside their territories.[241]

> "4. The Applicants, however, have proposed conditions that will alter the public interest balance. These conditions are designed to mitigate the potential public interest harms of the Applicants' transaction, enhance competition in the local exchange and exchange access markets in which Bell Atlantic or GTE is the incumbent local exchange carrier (incumbent LEC), and strengthen the merged firm's incentives to expand competition outside of its territories. We believe that the voluntary merger conditions proposed by the Applicants and adopted in this Order will not only substantially mitigate the potential public interest harms of the merger, but also provide public interest benefits that extend beyond those resulting from the proposed transaction. Accordingly, we conclude that approval of the applications to transfer control of Commission licenses and lines from GTE

> to Bell Atlantic serves the public interest, convenience, and necessity and, therefore, satisfies sections 214 and 310(d) of the Communications Act given these significant and enforceable conditions."

**The Merger Conditions Failed the Public Interest.**

According to the FCC, the reason they agreed to this merger was:[242]

> "The merger conditions are designed to accomplish the following five public interest goals:
>
> 1) promote advanced services deployment;
> 2) enhance the openness of the merged company's in-region local telecommunications markets;
> 3) foster out-of-region local competition;
> 4) improve residential phone service; and,
> 5) provide for enforcement of the merger."

None of these items happened in a meaningful way and there is ample proof that service quality is worsening, the companies never went out of region, the advanced services were never rolled out with any more speed and the entire enforcement of this merger has failed to make the networks fully open to competition. Instead, it has strengthened the monopoly.

**Did Verizon Fulfill Its Merger Obligations?**

Remember this quote?

> "Based on the simple economic logic of the GTE-Bell Atlantic combination, GTE's Chairman Lee recently testified to Congress that the combined company plans to enter at least 21 markets in SBC's region within 18 months of closing."

There is virtually no competition out of region by Verizon, including GTE, today. Here are the merger conditions, which were to spend $500 million or have 250,000 customers by July 2003.[243]

> **"Merger Close Plus 36 Months or, Report Date Plus 60 Days, 6/30/03**
> Spend at least $500 Million or provide service to at least 250,000 customer lines on out of region entry. Pay 150% of shortfall if goal not met."

**Out-of-Territory Competitive Entry?**

- "Within 36 months from merger closing, Bell Atlantic/GTE will spend a minimum of $500 million to provide competitive local service, including traditional local telecommunications services and advanced services, outside of its service areas or will provide competitive local service to at least 250,000 out-of-region customer lines.
- Bell Atlantic/GTE is liable for voluntary incentive payments up to $750 million dollars if it does not satisfy either of these out-of-region competition commitments.
- This condition will ensure that residential consumers and business customers outside of Bell Atlantic/GTE's region benefit from increased facilities-based competitive service."

However, the FCC had a different view because anything that Verizon submitted turned into fulfillment of their obligations.

**Northpoint – A Sad Story**

Northpoint was a promising competitive company that was offering DSL services. Verizon stated it would buy Northpoint and would give the company a large investment. Verizon did put in a smaller amount then was required. Then, while Northpoint stopped selling, waiting for its new owner, Verizon pulled out of the deal and the company was forced into bankruptcy and folded, leaving customers and shareholders stranded.

Verizon convinced the FCC to allow their investment in the company to be used as part of the $500 million, even though there would never be customers. This, of course, never helped the "public interest".

For a full history of the Northpoint nightmare from the shareholders' point of view see: http://www.stockskill.net/ (Available as of this writing, September 2005)

The summary can best be described in this excerpt of an article from CLEC.com (now defunct), which quotes ALTS, an association representing CLECs.[244]

> "ALTS SAYS VERIZON IS LIKE PARENT-KILLING CHILD The Association for Local Telecommunications Services today declared its shock at the FCC's recent determination to count an investment from New York City-based Verizon Communications in now bankrupt data CLEC NorthPoint Communications towards Verizon's obligation to compete out of region, as stipulated by the Bell-Atlantic/GTE merger. Verizon deposited $150 million in NorthPoint, but then withdrew its offer to purchase the firm, which ALTS claims drove NorthPoint into bankruptcy. 'Verizon fabricated a patently absurd argument in its merger obligations to avoid having to compete out-of-region, and the FCC bought it', said Jonathan Askin, general counsel for ALTS. 'Even if Verizon has satisfied some absurdist literal reading of its merger commitment, it has certainly violated any reasonable interpretation of the spirit of that commitment and has made a mockery of the FCC process and the bargain that Verizon struck.' NorthPoint eventually sold its assets to New York City-based AT&T, so Verizon has never used any of NorthPoint's assets to compete out of region. 'Like the child who killed her parents and sought mercy from the judge because she's an orphan, Verizon wants to be rewarded for killing off its competitor', Askin claimed."

To add insult to injury, Verizon also wrote off their investment, taking a deduction on their taxes, which lowered their tax requirements.

Verizon 2001 10K[245]

> "Other charges and special items recorded during 2000 included the write-off of our investment in NorthPoint Communications Corp. (NorthPoint) of $155 million ($153 million after-tax, or $.06 per diluted share) as a result of the deterioration in NorthPoint's business, operations and financial condition."

**Verizon Mergers' Perks for Top 6 Executives Exceeds the Money Spent on Local Phone Competition.[246]**

The top six Verizon executives (including the former Chairman of GTE) received stock options and other perks in a three-year period that are estimated at $425 million to $1 billion, not to mention a combined salary of $195 million. (1999-2001) This largess included tens of millions for each executive from the GTE-Verizon merger.[247]

**Suing to Block Competitors from Using the Networks? — Talk about Talking Out of Both Sides of Their Mouths.**

Verizon, SBC and the other Bells took a series of state and federal law suits to block competitors from reselling and using the customer-funded networks. The claim was that these competitors were using the networks "below cost".

> "Today, competitors are eroding our core business by purchasing our local service from us at government controlled, below-cost rates."[248]

In another release, even the title shouts the SBC's position: "SBC Calls Unbundling Rules and UNE-Platform Devastating. Regulations that Impede Investment and Undermine Facilities-Based Competition Must Be Modified," July 17, 2002.[249]

> "Calling the UNE-Platform policy 'devastating,' SBC Communications Inc. today urged the FCC to abolish regulations that force incumbent local exchange carriers (ILECs) to sell portions of their telecommunications facilities that are available from other sources to competitors at bargain prices and to use the so-called UNE-P to cherry-pick only the most profitable customers without investing any capital and without deploying any facilities or networks."

If this is true, then why didn't these Bell competitors go into each other's markets and use these below-cost networks to make a killing? Collusion? What's worse, SBC and Verizon both claimed

they would use the discount plans for competitors to compete in out-of-region markets, known as "Resale and "UNE-P" — the same services that they successfully sued over.

This is one of the reasons AT&T and MCI are up for sale. The entire basis for entering local phone service competition was predicated on the availability of UNE-P and resale. These companies lost billions and were closed out of being able to offer a competitive product to the average customer.

We will discuss these new, proposed mergers in future sections.

**Geography and Competition**

But there is one other item in all of this — geography and competition. Wireline phone competition is easier to do once you own switches and facilities and it would be easy for Bell Atlantic to have competed with NYNEX in, say, New York City. Why? The “tri-state area” — New York City, Northern New Jersey, and Connecticut. Because of their proximity, these areas have overlapping media footprints, meaning that the same radio and TV stations that broadcast to New York City also reach areas of New Jersey, such as Newark and Hoboken.

Similarly, GTE has locations in Pennsylvania that are contiguous to Bell Atlantic’s Pennsylvania holdings. It would have been a no-brainer to go into the other market for local phone service at virtually any time.

Or more poignant, SBC and Ameritech or any combination of Bells that have contiguous territories could have rolled out some switches at any time and started to compete. Competition for local service is just that — Local.

The companies, when they sold their case to regulators, knew they should be competing with each other and had considered it seriously, though nothing was done. In fact, in the case of the NYNEX-Bell Atlantic merger, the state Attorney General’s Office found proof that Bell Atlantic was not telling the whole truth about their competitive yearnings.

The New York State Attorney General’s Office asked the New York State Public Service Commission to stop the merger between NYNEX and Bell Atlantic because of untruthful statements. According to the ***Wall Street Journal***, February 6, 1997:[250]

> "Attorney General Dennis Vacco said in the brief (to the PSC) that evidence obtained during his office's investigation indicated that Bell Atlantic had

> 'considered' entering the New York City market as a competitor to NYNEX. ***That conclusion directly contradicted repeated assertions by Bell Atlantic to federal and state regulators that it never intended to enter the New York market."***

**Was the BA-NYNEX Merger a "Merger of Equals"? The Buy, Not Merge, Secret**

NYNEX and Bell Atlantic promoted their merger as a "merger of equals", but instead, Bell Atlantic purchased NYNEX, just like SBC purchased Pac Bell. And NYNEX shareholders got only 77¢ on the dollar — so much for equals.[251]

> "On July 2, 1996, NYNEX and Bell Atlantic Corporation ("Bell Atlantic") executed an amendment to their definitive merger agreement (the "Merger"), effecting a technical change in the transaction structure of ***the merger of equals*** announced on April 22, 1996. As amended, the agreement provides that a newly formed subsidiary of Bell Atlantic will merge with and into NYNEX, thereby making NYNEX a wholly owned subsidiary of Bell Atlantic. There is no change in the fundamental elements of the proposed Merger. The exchange ratio for shares is restated to reflect the difference in the transaction***. Each NYNEX shareholder will receive 0.768 shares of Bell Atlantic common stock in exchange for one share of NYNEX common stock."***

The reason for this purchase agreement is simple. This tactic side-stepped required congressional hearings and approval, as well as placed limits on the states' regulatory involvement.

**AT&T, MCI, and the Consequences of Sibling Marriages**

It is now clear that what has recently transpired, the eating of AT&T and MCI by SBC and Verizon have confirmed our worst fears — that the premature entrance into long distance by the utilities, allowed them to eat the long distance companies who were driven out of the market by the removal of the right to buy the network components at wholesale prices. Ironically, it was the creation of the wholesale market and the opening of the networks that would allow the Bell companies to enter the long distance markets prematurely.

However, the consequence is that we now have, as reporter and author Leslie Cauley put it, a Bell East and a Bell West. The problem is that we also allowed these companies to divvy up the two largest Internet backbones with the purchases of AT&T and MCI, who can therefore each have their own fiefdom and could seriously block other companies to use their Internet backbones, which is essential for all remaining competitors.

We will come back to this issue in Volume II. However, it should be abundantly clear that the mergers of SBC and Verizon were harmful and not a benefit to the public interest and fiber optic deployments.

## Chapter 19 Follow the Money: The Regulations.

The Communications Act of 1934, the original congressional act that regulated telecommunications, specifically stated that services were supposed to be both universal as well as reasonably priced.[252]

> "The purpose of this Act is for regulating interstate and foreign commerce in communication by wire and radio so as to make it available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communications service with adequate ***facilities at reasonable charges."***

Also, the act specifically gives the FCC the right to investigate any overcharging or unreasonable increases.[253]

> "Section 47 U.S.C. 215 The Commission shall report to Congress … any undue or unreasonable increase in charges or in the maintenance of undue or unreasonable charges."

Continuing, the Telecommunications Act of 1996 clearly states that prices should be "just, reasonable, and affordable".[254]

> "CONSUMER PROTECTION — The Commission and the States should ensure that universal service is available at rates that ***are just, reasonable, and affordable."***

Opportunity New Jersey's final decision also uses the term "reasonable" throughout the Order.[255]

> "In the New Jersey Telecommunication Act of 1992, the Legislature declared that it is the policy of the State to, among other things '***ensure that customers pay only reasonable charges for local exchange telecommunications service'.*** To this end the Act permits the board to approve a plan for an alternative form of

> regulation if it finds that the plan, among other things ***'will produce just and reasonable rate for telecommunications services'."***

Let's set the base of our analysis. We're not going into a long discussion of the regulatory environment, state regulation, or even a lesson in economics, but a simple as possible explanation.

We will present the evidence to our jury to build the case.

- When a state granted "deregulation" and the phone company was given more money and other perks for building the fiber optic network, what exactly was the horse-trade?
- How much money are we talking about and what are the factors we need to consider?

The best data is the data supplied by the companies themselves, as well as other experts besides the author.

**To Summarize:** In order to get more money to build the networks, the companies requested changes in state regulation. There are differences state by state, but the general trend was to go from a "rate of return" regulation, which examines the companies profits for most, if not all services, to "alternative", "incentive", or "price cap" regulation, which essentially took away controls on the profits a company could make.

**Rate of Return — A Horse-trade from the Start[256]**

The concept of the rate of return model is simple. A telephone company's revenues are X, their operating expenses are Y, and so, in the simplest sense, a rate of return model should examine:

**X — (minus) Y = Profit**

Unfortunately, like everything else in telecommunications, the caveats and variety of how each state applied this model was completely different — what they examine, what the Bells could include as expenses, and even which services contribute to the regulated pool of funds to calculate the rate-of return, were all up for grabs.

Rate of return models traditionally accounted for most revenue paid to the local telephone company, since most services were regulated. This included all local service charges, such as basic service, installation, toll calls, directory assistance, and even Touchtone service. In 1980, even the wire in the home and the telephone handset were part of the rate of return calculation.

However, the treatment of each charge has gone through major changes and how an item was accounted for in the rate base had great variability. Even the simplest of service, such as Touchtone, was treated differently by each state and each state's regulatory model.

**Redefining the Term "Basic Service" through Deregulation: The Original Sin.**

In 1980, local phone service was simple. Known as "POTS", "Plain Old Telephone Service", in most states local phone service was a "bundle" of services which included unlimited local calling (known as "Flat rate" service), unlimited Directory Assistance (411), the phone rental, and the wire in the home was maintained by the phone company — and everything cost $8-$10 a month.

Starting in 1982, as preparation for the break-up of AT&T on January 1,1984, everything started to become ala carte, "deregulated", another term for raising the rates for every service. By 1987, just 6 years later, every charge had gone up 100-400%, and every charge was now ala carte. There was also a host of other changes. For example, many states removed flat rate service for the more expensive measured service, while the number of free local directory assistance (DA) calls was dropped and each DA call cost more. Worse yet, the FCC added a new charge, known as the "Subscriber Line Charge" or "FCC Line Charge", which is now capped at $6.50 a month and is rumored to be climbing to $10.00 a month in 2006. And this doesn't take into account the 20+% taxes being applied to this charge, which makes a total of $94 a year in extra costs.

And the overall changes based on national averages? Though each state has a different price and regulation for every telephone charge, the overall telephone bill charges went up an average of 275% (from 1983-1996), but each line-item went up varying amounts. The next exhibit highlights the basic findings.[257]

**Exhibit 36**

**Nationwide Telephone Charge Increases 1983-1996,**

***Sources: NNI's "Telephone Charges in America," updated 1997, 2005***

| | |
|---|---|
| Installation Fees | 956% |
| Directory Assistance | 1800% |
| Inside Wiring | 375% |
| Telephone Rental | 437% |
| FCC Subscriber Line Charge | $78.00 a year |
| (taxes vary by state) | $16.00 Taxes on FCC |
| FCC Second Line Charge | $94. Annual |

To demonstrate just had bad deregulation can be, take my Aunt Ethel's rotary telephone. It came with local service and was installed in 1966, cost $22 to manufacture, and was written off, (depreciated), in 1983. The price of the phone rental went from $1.30, counting tax, in 1980, to $4.95 a month, not counting other "hidden" expenses, such as the "Investment Recovery Charge". From 1982 through1997, the phone companies had made $1,119.00 — local phone companies $217 per phone (plus tax), and $902 per phone for AT&T — 5100% profit! This was based on phone bills, not FCC data on phone charges, which continues to be flawed in multiple ways. There was a Class Action suit pertaining to phone rental, which has been settled.

Deregulation impacted a number of other services, such as inside wire maintenance, where the companies could essentially charge what they want for the service. They argue that these services are "competitive", though we never found other companies that rented phones or maintained the wires for customers.

These are but a few of the phone bill problems. See the "Unauthorized Bio of the Baby Bells" for a more complete history of telephone charges in America.

However, by 2005, the costs for local service have gotten outrageous and in New York City, it has now increased over 400% from 1980. Don't believe us? Here's a link to Aunt Ethel's phone bills, supplemented by later bills for 2005.[258]

See: http://www.newnetworks.com/20th%20Anniversary%20Examination.htm

**Horse-Trade Philosophy of Regulation, but still a Monopoly in the 1980's**

Rate of return guaranteed the Bells a specific return on equity — profit — and this amount had some variables based on which service was being examined. But in a lot of ways, the price of each service was a virtual-construct, created, not by what it cost to run the network or the actual cost of a service, but by hundreds of calculations, Public Interest needs, etc..

It was a horse-trade from start to finish. How much they should charge for a directory call, how many free calls came with basic service, and even charging for Touchtone service, were all thrown into a basket, and stirred.

Some states also examined some of the deregulated items, such as inside wiring, some did not.

However, remember, the concept was to make sure that these companies, which were still monopolies that maintained essential infrastructure, had a guaranteed income. They were a "utility", and could simply ask a state commission to raise its rates when it needed more.

There are those that argue that they are still a monopoly on the wireline service, still have control of essential infrastructure, and that deregulation has raised rates and hampered growth. With the collapse of AT&T and MCI and the other competitors being thrown off the networks, this argument gains more credence every day. (NOTE: Some states still have rate of return regulation on some service items.)

**Allowable RBOC Spending on Advertising, Contributions and Dues**

In examining advertising expenditures as part of the 1980's rate of return models, we find that each state applied different laws and reasoning to what they would and would not allow under this category. While the words ***reasonable*** and ***limits*** appear everywhere, telephone companies could charge ratepayers for the advertising they did.[259]

The National Association of Regulatory Utility Commissioners, (NARUC), conducted annual surveys. Their1994-1995 study found that almost 50% of the states allow for most types of advertising, from goodwill to sales promotions.[260]

**Exhibit 37**
**Allowable Advertising Expenses by PUCs, 1995**

| | |
|---|---|
| 100% | Advertising |
| 92% | Special-service ads |
| 50% | Institutional advertising |
| 42% | Goodwill advertising |
| 52% | Sales-promotion expenses |

***Source: NARUC, 1995, NNI 1995***

On the topic of contributions and dues we find, once again, that many different types of expenses were allowable, with trade and professional dues leading the list. NARUC's 1994–1995 survey asked: ***"In the cost of service, does the agency allow contributions/dues payments to these types of organizations?"*** The exhibit on the next page summarizes the findings.[261]

Though few states allowed for all charges, 30% allowed telephone companies to include charitable contributions as a deductible item, 16% allowed religious contributions, 54% allowed economic development, while 20% allowed state/local fund-raising drives.

While some states such as Florida, Indiana, or Maine allowed for very few specific contributions and dues, others such as Massachusetts or Mississippi allowed for most charges, albeit on a case-by-case basis.

**Exhibit 38**

**States' Rate of Return Policies on Contributions and Dues**

| | |
|---|---|
| 16% | Religious |
| 30% | Charitable |
| 40% | Educational |
| 20% | Patriotic |
| 0% | Political |
| 8% | Fraternal |
| 54% | Economic Development |
| 50% | Service |
| 92% | Trade |
| 86% | Professional |
| 26% | Promotional |
| 20% | State/local fund-raising drives |

***Source: NARUC, 1994-1995 and New Networks Institute, 1995***

And loading advertising costs happened in all states. For example, according to the New York Citizens Utility Board, New York Telephone charged $24 million to ratepayers for changing the name of New York Telephone to NYNEX.[262] Considering every Bell has changed their name multiple times, we estimate that customers paid over $3 billion for the privilege of renaming the utility. For example, New York Telephone became NYNEX, which became Bell Atlantic, which became Verizon.

## Chapter 20 Alternative Regulations: The I-Way Sleight of Hand

Almost at birth, the Baby Bells pitched a series of new regulations, called “alternative” or “price cap” or “incentive” regulation to the Public Utility Commissions. By 1997, the Bells had convinced almost every state regulator to grant some form of alternative regulation.

From the telephone company perspective, alternative regulation has been the buzzword for giving incentives to the telephone company to give new technology to the masses sooner. For example, Ohio Bell, in its alternative regulation proposal in 1993, Advantage Ohio, stated:[263]

> "The purpose of alternative regulation is to maintain responsible prices and high-quality service for telephone customers ***while providing incentives for telephone companies to deploy advanced telecommunications throughout the state.*** The purpose of alternative regulation is to address the state's public policy goals:
>
> - "ensure the availability of adequate basic local exchange service to citizens throughout the state,
> - "maintain just and reasonable rates, rentals, toll, and charges for public telecommunications service,
> - "encourage innovation in the telecommunications industry,
> - "promote diversity and options in the supply of telecommunications services."

Also, alternative regulation was supposed to help the local phone companies compete with "unregulated competitors". According to Robert Harris Berkeley, in testimony for Indiana's alternative regulation case, Opportunity Indiana, regulation is used so that companies can be more flexible in pricing, and that this increases the companies' incentive to reduce costs, known as productivity gains, and stimulates competition:[264]

> "Although each state has adopted a somewhat different form of alternative regulation, they have certain important features in common. They are more flexible in enabling LECs to compete with unregulated competitors; they incorporate adjustment or indexing factors that are more adaptive to changing economic conditions than traditional rate of return regulation; they eliminate strict

> ‘cost-plus’ features of rate of return regulation to increase the company's incentive to reduce costs; they tend to stimulate competition and they promote efficiency, innovation, service quality and customer responsiveness."

These three reasons, flexibility to deal with unregulated competitors, building infrastructure, and productivity gains, drove almost all state plans. Ironically, when these comments were made and the alternative regulations were being implemented, there was virtually no competition for most services. The Telecom Act of 1996, which opened the local networks to competition, had not yet been created. Productivity gains were simply another way of saying give the phone companies more profits by staff cuts and speeding up the network writeoffs.

## The Pitch for ISDN — Alternative Regulation, Round 1

Note: Please see the “Coda” for the sad story of ISDN, “It Still Does Nothing”.

The early alternative regulation plans of the 1980’s were basically created as a trial plan, with specific “sunshine”, expiration dates of 3 to 5 years. These simplistic plans were usually pitched as "incentive plans", where the company could garner more profits if they would guarantee a modernization of the plant, usually from analog to digital switches, as well as try for "productivity gains", where the local company becomes more efficient, but the real overarching theme was that new technology wonderland was just a deregulation away.

The technology that Southwestern Bell was selling for its alternative regulation in the 1980’s was fiber optics and ISDN. In 1986, Southwestern Bell stated that ISDN would "revolutionize day- to-day communications".

Southwestern Bell, **1986** Annual Report[265]

> "At the forefront of new technology is ISDN. Scheduled for commercial **availability in 1988**, ***ISDN will revolutionize day-to-day communications*** by allowing simultaneous transmission of voice, data and images over a single telephone line."

And by 1988**,** Zane E Barnes, then Southwestern Bells' Chairman and CEO, stated:[266]

> "Southwestern Bell company, the subsidiary that provides telephone network service, ***is bringing high tech home to millions of people***.
>
> "In 1988, Southwestern Bell telephone company tested new services that ultimately could bring the Information Age to everyone in the company's five-state area. One of the links will be fiber optic cable which has more capabilities than standard telephone line.
>
> "Our regional telephone operation continues in leadership in development of Integrated Services Digital Network (ISDN). With more than 17,000 lines under contract, we're the nation's number one producer of this advanced technology capable of simultaneously transmitting voice, data, video services over the telephone line."

It is ironic that according to the FCC, Southwestern Bell's total ISDN lines in 1995 was only 38,000, with Texas having 32,000, approximately 85% of the total.[267]

And these early plans were a form of “incentive” regulation. Telefuture 2000, the plan for Missouri, froze local service rates, and required a $180 million investment in advanced technology. This five year plan was approved October 1989.[268]

**Exhibit 39**
**Southwestern Bell's TeleFuture 2000, 1989**

- Freeze on the rates for local telephone service
- Local exchange prices would be tied to the Consumer Price index
- An investment of $180 million **in advanced technology for its customers.**

***Source: Southwestern Bell Telephone Company 10-K, 1991***

**Isn't a "Freeze on Rates for Local Service" a Good Thing and "Customer Friendly"?**

Before we move on, we need to explain that it does sound good for customers to have their rates frozen — they won't go up at least. But herein lies the problem — rates should continually go down because the costs of offering service continue to drop. In our next section "Follow the Money", we present a 20-year analysis of employees, construction budgets, and write-offs of the networks. What happened was that in order to have "productivity gains", there have been massive cuts in staff and construction. If the two largest expenses have been dropping, "freezing rates" makes the company more profits.

**TeleKansas**

**TeleKansas** was another five-year incentive plan and was approved by the Kansas Corporation Commission in February 1990. This plan also froze rates, reduced some rates, required network upgrades, but also allowed for flexible pricing for some, not all "discretionary" products.[269]

**Exhibit 40**
**Southwestern Bell's TeleKansas, 1989**

- Freeze basic local rates for five years.
- A reduction of other annual rates approximately $22 million.
- A network modernization plan at an estimated cost of $160 million.
- A flexible pricing for a specific list of discretionary services.

***Source: Southwestern Bell Telephone Company 10-K, 1991***

However, there were caveats. Under both these plans, the companies' profits still had a schedule of earnings based on the return on equity. Make too much money and you give some back.[270]

> "The Missouri Public Service Commission requires that certain ratemaking adjustments be made to the telephone company's reported earnings in order to compute earning subject to sharing."

The next exhibit highlights the schedule of earnings.[271] Anything under 14.1% return on equity was the phone company's profit. From 14.1% to 14.5% the company shared the revenues with the customers on a 60%-40% split, from 14% to 17% the company split it 50%-50%, and anything over 17% was supposed to be returned to the customer.

**Exhibit 41**

**Southwestern Bell's TeleFuture 2000 Return On Equity Splits, 1989**

| | |
|---|---|
| Return on Equity | 14.1% to 14.5 shared 60% with customer |
| Return on Equity | 14% - 17% shared 50-50 |
| Return on Equity | anything above 17% returned to customer |

***Source: Southwestern Bell Telephone Company 10-K, 1991***

We will come back to a discussion of the lack of ISDN rollouts later.

## Chapter 21 Fiber Optic Scandal Alternative Regulation, Round 2

The series of alternative regulation plans before the 1990's were dress rehearsals for the "Opportunity" plans. Like our case study, "Opportunity New Jersey", these plans were much more grandiose, and focused more on the Info Bahn, a full, multimedia fiber optic future, not the relatively low tech, ISDN. In fact, the Opportunity plans were created by Deloitte & Touche, which were million dollar studies to prove that fiber optics was the wave of the future. The plan in New Jersey was so successful that other states used similar studies. There was an "Opportunity Pennsylvania", "Advantage Ohio", "Opportunity Indiana", "Advantage Illinois", and maybe even more states had this or other similar consulting studies.

The promises for this round of regulation were much more pronounced. For example, Advantage Ohio stated that regulatory changes would benefit jobs, education, and healthcare.[272]

> "What does Ohio stand to benefit from regulatory reform and a broadband telephone network?
>
> **"Creation of Jobs:** Ohio's strongest performers in business growth and job creation are in telecommunications-intensive industries. According to a Case Western Reserve University study completed in 1991, these industries generated 250,000 jobs for Ohio during 1980 to 1987 and are expected to generate 88% (497,000) of Ohio's new jobs by the year 2000.
>
> **"Education:** New telecommunications technology has the potential to produce quantum leaps in providing high-quality education for all students throughout Ohio. The broadband network could transport two-way interactive video and link all of Ohio's primary and secondary schools. Distance-learning applications would support teachers, benefit students, and provide more equitable education by carrying universal and special educational programs to every school, including those that are economically disadvantaged in both urban and distant rural areas.
>
> **"Health Care:** Telecommunications technology holds great promise for delivering health-care services to the public. A broadband network would free

> health care providers and patients from the confines of buildings separated by time and distance. A broadband network would be capable of transmitting high-resolution, full-color, full-motion video images that would facilitate improvements in medical diagnostics, X-ray lithography, and medical training. For example, surgeons at the Cleveland Clinic could guide a surgical procedure at a hospital in Ironton. Such technology could be used to produce high-quality health care while containing health-care costs."

The companies didn't want surveillance of any revenues or profits except one line-item, “basic service”. This meant that every other service the company offered would be considered “competitive”. Earlier plans still required profit monitoring and had forms for revenue-sharing when profits exceeded specific limits.

Indiana Bell's proposal put it succinctly. According to Testimony by Norman L. Cubellis, Vice President-Regulatory and External Affairs, Indiana Bell Telephone Company:[273]

> "Indiana Bell now presents Opportunity Indiana, a progressive plan which is designed to protect the price of Basic Local service through a rate stability index, provide equal freedom to Indiana Bell to respond to competitive actions and as a consequence of reform eliminate the outmoded and costly rate of return regulatory process. ***In response to approval of the total package of these forward looking initiatives by this Commission, Indiana Bell commits to accelerate and increase its infrastructure investment, thereby accelerating the benefits of technology to its customer."***

Another way of saying this, emphasized below, is that in exchange for the removal of rate of return regulation, “Basic service” prices and carrier access would be stable, and everything else would be priced at "market prices", meaning whatever the company deemed they could get away with.[274]

> "As a result of this proposal (Opportunity Indiana), rate base/rate of return regulation would be replaced by price regulation for Basic local service and Carrier Access services.[275]

> ***"Market prices would apply to the balance of the Company's services. The Commission would decline its jurisdiction and allow the marketplace to determine the prices of these services which are already competitive in nature."***

We want to re-emphasize one crucial point — the company would commit funds to build the I-Way.[276]

> "Finally. the Opportunity Indiana Plan recognizes the need for Indiana Bell to provide a high level of new investment to achieve and maintain a state-of-the-art telecommunication infrastructure."

Many of the other Ameritech states, Illinois and Michigan, for example, had similar packages, though each state had different wording and investment amounts. According to Ameritech's 1993 Investor Handbook, by 1993, both Michigan and Illinois had plans that freed Ameritech from earning limits and required a commitment of construction.[277]

**Exhibit 42**
**Alternative Regulation in Illinois, Ameritech, 1993**

- No limit on earnings or depreciation.
- Basic service (residence access lines capped for three years, then indexed to inflation, productivity, and service quality.)
- Competing services not included.
- $3 billion investment commitment.
- Currently authorized 13.1% on equity.

***Source: Ameritech's 1993 Investor Handbook***

**Exhibit 43**
**Alternative Regulation in Michigan, Ameritech, 1993**

- No limit on earnings or depreciation.
- Basic service (residence/business access lines and local usage) expedited rate adjustments subject to inflation and productivity factors.
- Toll rates capped at 12/31/91 level.
- Prices of other competitive services not regulated.
- $2 billion investment commitment 1993–1995.

***Source: Ameritech's 1993 Investor Handbook***

These plans say — no limit on the money they can make, no limit on what they can write-off; (depreciate), basic service could increase with inflation, toll rates would remain 'price capped', and "competitive" services, which is a buzz word for anything including all calling features, including Call Waiting, Call Forwarding, and Caller ID, could be priced at whatever they want, and all of the profits would be theirs. They would also have to spend $2 billion on new infrastructure, but, as we will explain, this number could include all of the money they already were spending, with some small increases.

With the pitch in place and the wonderous promises being made the Opportunity plans and state regulations went forward. The companies worked hard for these changes in state and federal legislation that gave the companies more money, called marketplace realities.

NYNEX 1995 10K[278]

> "We worked hard for this legislation, and so did many of you. Thanks for your letters and calls to Congress in support of telecommunications reform. You helped make a difference in a tough legislative battle.
>
> "The new market freedoms spelled out in the national legislation complement the state regulatory breakthroughs we've already achieved. With 'incentive regulation' plans approved in New York, Massachusetts and Maine, we've brought the regulation of more than 95 percent of our telecommunications operations into line with marketplace realities. These plans provide the right

> framework for growth — and provide an incentive to operate more efficiently. In fact, NYNEX already is using its new pricing flexibility to introduce a number of popular optional calling plans for business and residence customers."

Ameritech would write the equivalent ***— "We're free to charge what we want and keep it. Customers beware."*** In 1994, Ameritech's Investment Alert stated that the company no longer had any regulatory controls by the states in terms of earnings.[279]

> "Ameritech has led the industry in achieving regulation that removes regulatory earnings caps…. All of Ameritech's intrastate operations are off of return-on-asset regulation resulting in freedom from regulatory caps on earnings and no earnings sharing."

By 1995, Ameritech Investor Alert, January 1995, would add:[280]

> ***"Federal and state regulators no longer limit the company's profits."***

## Chapter 22 Show Me the Money

**Dear Juror,**

So far we have tried to demonstrate that:

a) In many states, a fiber optic wire was supposed to be connected to your current home.
b) State laws were rewritten to give the phone companies more money in exchange for these new networks.
c) The state deregulated laws allowed the phone companies to keep the profits from most services, including competitive features such as Call Waiting, as well as take large write-offs on their current networks and other perks.
d) The laws allowed the phone companies to cut staff and take other 'productivity gains', that lowered the cost of offering service and thus created more profits.
e) The equipment couldn't be built at the time.

Since the networks were never delivered, how much money was collected? This is a very complicated issue, but we will try to make it simple:

- **$206 billion is our estimate of the gain from the I-Way promises,**
- **$2,000.00 or more for every household.** (We are being conservative.)
- **There's an additional $80 billion in missing equipment that should have been investigated.**

**Really Short Summary**

For those of you who don't want to read most of the details, here are the basics. The phone companies' revenues have more than doubled since 1984. Their profits have and continue to be better than most American corporations, when you compare them to Business Week's "Industry" or "Utilities" categories.

However, during the 1990's, their profits went through the roof, when the regulations were stripped away that controlled their profits. They cut staff 65%, they cut construction about

the same, and they took major write-offs of the equipment. Also, by dumb luck, they were deregulated when the Internet hit and everyone wanted a second line or more features.

Here are more of the details, but still a summary. In Volume II we go into the details with chapters on each topic.

**"Math for Artists" Version of Overcharging**

We will try to give you a glimpse of how this calculation was derived, but it is so complicated that the rest of this chapter will be a summary of the data, followed by a 'slide show' of the basic materials. Volume II contains the "Municipality Defense Package", which has as its base, a full 20-year description of the Bells revenues, profits, etc., as well as a more detailed description of our calculations.

**10,000 Caveats.** In doing this analysis we are using the phone companies' information as supplied in annual and quarterly reports, data from Business Week's Annual "Scoreboard", as well as Census data. The problems are that this information rarely matches up. I won't bore you with the details. For example, a Bell Atlantic annual report for 1994 and another for 1995 can have different amounts for 'capital expenditures', for the same year. It goes on and on.[281]

**Bells Revenues, Profits, Construction and Employees**

Overall, the Bells have grown substantially. In 1984, the Bells (with GTE) made $72 billion in revenues and in 2004 $165 billion, a 128% increase. Revenues are the money a company receives from the sale of a product, service or asset. This includes ALL revenues, including everything from local phone service to wireless to DSL and Bell long distance.

And while there are plenty of companies with faster growth rates, when you are dealing with $72 billion as a starting point, doubling is serious growth.

**Comparing Bell Growth to Census Data**. In our analysis of growth, one important indicator of growth for a utility would be comparing it to the growth in the number of households and the population. Based on Census data, from 1984-2002, the number of households increased only 28%. If we compare revenue to the growth in households, we find that revenue increased 357% more than households. Well come back to this in a bit.

**Staff and New Construction**

The real cash came from the massive cuts in major expenses: staff and new construction.

**Bell Staffing.** From the investor side of examining this information, they would say that cutting staff is a "productivity gain", which is a euphenism for more profits to the shareholders. From the customer side of the equation, the staffing issue comes down to how many people are working to make sure that phone service doesn't go down, or what hours the company will operate its customer service centers or do repairs.

While revenue went up 128%, the number of workers from the 1984 level has continued to drop. There are 30% fewer employees today. In 1984 there were 680,653 employees, as compared to 477,600 in 2004. There have been larger deductions in staff at the local phone companies than at the corporate headquarters or other non-local company areas, such as DSL long distance, and wireless.[282] If the employees tracked with revenue there would be 1,292,461 staffers.

A different way of looking at staffing is to compare it to the revenue — Staffing levels are at 35% of the original Bell levels when compared to revenue.

**Major Cost Savings:** All this has direct savings to the company. According to NYNEX (3rdQ1996), the elimination of 16,200 staff during a restructuring would save $1.7 billion annually. This equates to potential staff cuts savings of $21.3 billion a year in industry expenses.

Staff cuts also bring up two important issues. First, we live in a 24-hour-7-day-a-week world and yet customer service throughout the Bell system is still the equivalent of 8AM-6PM, Mondays through Fridays. Some phone companies don't have live-operator customer service on Saturdays. No Bell we found had Sunday service.

Second, if the staff has been cut so dramatically, why haven't prices fallen based on these savings? (Now do you see why price caps are a license to print money?)

**New Construction, the Other Major Category of Expense**

In 1984, the phone companies were essentially local phone companies, yearning to be like AT&T. The construction budgets for these companies was about 24% of the revenue, about $18 billion. This money was used specifically for the continuing upgrade of the networks from

analog to digital technology. The differences are too technical to go into but, digital technology should be thought of as a Touchtone phone, as compared to the older-rotary telephone, where there were actual clicks being made as the dial moved around. (I know that anyone under 20 has no concept of this, unless they visited grandma or saw it in a movie.)

Construction could be anything from wiring the streets to changing network switches or building the Information Superhighway. The Bells have increased the fiber optics in the networks continuously; that is a fact, though virtually none of it ever left the networks and connected to homes.

But more importantly to this discussion of expenses, in 2004, the Bell companies only spent $17 billion on wireline services; a drop of about 60% as compared to the percentage of revenue from 1984.

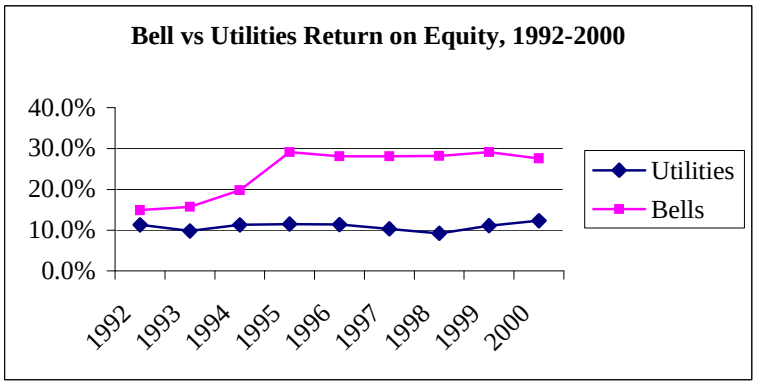
Once again, this number doesn't tell the full story. In 1984, virtually all of the money was being used for network improvements. By 2004, the construction budgets in the annual reports had become garbage pail statistics for upgrades for long distance, DSL, or other services. It no longer ties to the money being used for the local phone customers.

**$92.6 Billion Is Missing from Construction Budgets.** The decrease in expenditures as a percentage of revenues was quite large. Had the companies continued their capital expenditures, in 2004 the companies would have spent $27.8 billion. Had the phone companies' expenditures matched revenue, the companies would have spent an additional $92.6 billion over the last decade.

We will come back to construction budget issues in Volume II.

**The I-Way Years: Profits Go Through the Roof.**

It is said that a picture is worth a thousand words. Here's a few billion.



This chart shows the specific impacts of the Bell companies return on equity as compared to the Business Week "Utilities", from 1992 through 2000. It is not simply of growth, but of hyper-growth. If you examine the graph closely it shows that around 1992 and 1993, the Business Week Utilities and the Bell companies earnings were somewhat in sync, although the Bell companies were making more profits, they were still tracking. (This increase was from the ISDN regulatory environment and the Bell companies ability to plead poverty and convince regulators they needed some more cash.)

More importantly, notice that between 1993 and 1995 it shoots up like an economic rocket and stays there. It goes from about 14.9% in 1992 to 29.1% in 1995 and stays around there for the next five years. While the Utilities remain at about 10.9%, from 1993-2000, the Bells' return on equity was 188% higher than the Utilities.

Not bad huh? Besides the continuous cuts in staff and construction, there were a number of items that we need to highlight.

**Internet Hypergrowth**

Anyone who remembers the history of the Internet knows that around 1995 the world was suddenly Internet crazy. Now, there were plenty of people online before the Internet took off, somewhere between 10-20 million users, depending on which data source you believe.[283] The users were not all on the Web or Internet however, but used walled-in services, such as America Online, Compuserve or Prodigy. There were also a large number of universities using the Internet/web, but it varied by school.

However, by dumb luck, the timing for deregulation couldn't have been better for the telcos. There was a massive increase in telephone services being purchased, fueled by the Internet's growth, starting in 1995. Many of the services were now deregulated and the Bells local service became a cash-engine. First, there were those who wanted a second line for their Internet service and fax machine, as well as all of the Calling Features, which were finally being rolled out. They were originally supposed to be rolled out in the mid-1980's, but AT&T was broken up and it took until the 1990's to actually show up in most locations. And let's not forget the boomers' kids, who all needed to have their own phone lines. (NOTE: Wireless phone service was too expensive to give to the kids in the mid-1990's.)

The other major growth came from entrepreneurs that offered Internet services, such as Internet Service Providers (ISPs), Competitive Local Exchange Companies (CLECs), as well as corporations adding Internet to their current telecommunications mix.

BellSouth stated that 1996 was a banner year, spurred on by the addition of new lines, especially for work-at-home, fax machines and children's numbers.[284]

> "Capping a year of record customer growth, BellSouth Corporation became the first telecommunications company to grow by more than one million access lines in a single year.
>
> "New retail distribution channels and marketing promotions of phone lines for Internet access, work-at-home, fax machines and children's numbers spurred record fourth quarter sales of 82,000 additional residential lines."

As discussed in previous sections, what happens with one Bell is most assuredly happening with all other Bells. For example, Southwestern Bell's 1996 Summary stated that additional lines went up 14% in 1996 alone, almost 1/3 of all new lines added.[285]

> "Southwestern Bell added 732,000 access lines during 1996, compared with 611,000 during 1995, for a total of 15.0 million access lines at the end of the year. Additional line penetration increased to 14.5 percent, reflecting the sale of 214,000 additional lines during the year."

Meanwhile, Bell Atlantic stated that additional lines in their region grew 24 percent, accounting for 2.1 million lines.[286]

> "Total additional lines in service grew almost 24 percent during 1996, approximately 2.1 million. "

**Massive Growth in Calling Features**

But it has been calling features, such as Call Waiting, Call Forwarding, Caller ID and Voicemail that had all been big revenue winners.

For example, Bell Atlantic stated that sales of 'Value-Added" products, like Caller ID had all jumped in revenues. According to Bell Atlantic:[287]

- "Revenues from Home Voice Mail (formerly Answer Call) and central-office-based services such as Caller ID, Return Call and Call Waiting were up more than 23 percent compared with 1995.
- Caller ID revenues nearly doubled as subscribers grew to about 2.3 million.
- Revenues from Return Call, in some markets now featuring a voice-recorded readout of the calling party's number, jumped more than 40 percent, with a 50 percent increase in activations in the business markets."

BellSouth's 1996 Summary states that calling features "surpassed $1 billion" in revenues in 1996, with over 29 million features sold.[288]

> "Sales of BellSouth's calling features and convenience services, such as Caller ID, Call Waiting and MemoryCall® service voice messaging, continued to grow rapidly. With more than 29 million features currently activated, revenues from these services surpassed $1 billion for the first time in 1996."

NOTE: BellSouth had 22 million lines and 29 million features currently activated, which meant that on the average, each line had 1.3 calling features in 1996, a fact that we will address later in profitability models.

Meanwhile, Ameritech showed an almost 25% increase in calling features in 1996.[289]

> "23.5% annual growth in sales of call management services such as Caller ID, Call Waiting and voice messaging."

We estimate that calling features alone made over $9 billion in revenues for 1996.[290]

**Deregulated Calling Features**

The next exhibit highlights findings from a Florida Public Service Commission report comparing the actual cost to offer various calling features to the price paid by subscribers. The Florida Commission found the profit margin on BellSouth's Call Waiting feature to be 48,680%. Caller ID, which cost the customer $7.50 per month, had a 3,264% profit margin.[291]

**Exhibit 44**
**Revenue, Expense & Profit Margin for Selected BellSouth Calling Features, 1999**

| | Price | Cost | Profit | Percentage |
|---|---|---|---|---|
| Call Waiting | $4.00 | $0.0082 | $3.99 | 48,680% |
| Call Forwarding | $4.00 | $0.0362 | $3.96 | 10,950% |
| Caller ID | $7.50 | $0.2230 | $7.28 | 3,263% |

**The Rate of Return vs Deregulation Applied to Calling Features**

Yes, it seems too simple. The phone company doesn't roll out what was promised. Instead, other companies start selling Internet services, and many customers decide to get a second line, or buy more services, such as calling features. As we show in Volume II, the phone companies never showed up to offer Internet Services in the 1990's with any gusto. They were not even in the Top 10 Providers according to various sources for the year 2000. Nope, dumb luck timing for the Bells. They got deregulation and profited from others selling the Internet using the phone networks.

Now, in the case of the rate of return vs deregulation, if the company had not gotten the changes in state laws that deregulated calling features, as the number of customers increased, the phone companies would have had to return billions of dollars, since, the cost per customer would continue to fall. Also, if the company was under rate of return and the cost of these services were examined, it would mean that the company would have had to lower the prices to probably $1-$2 per feature, if that. They, of course, argue that there are other costs associated with calling features.

The ironic note on this is — the reason calling features are so profitable is because the networks were upgraded, paid for by customers in every instance, and these new network switches had almost all of the calling features built in, as part of the design. That's right, a calling feature allows someone to manipulate a call — forward it, interrupt the call to hear another call, see who is calling — all using Touchtone signaling. Calling features also make the network more efficient and companies more money. For example, completing a call, "call completion", makes more money for the company under measured service pricing because paying per-minute and completing the call leads to more billable minutes. Thus, it is not simply that customers were overcharged, but that customers paid for the development and implementation of the service, which also saved the companies more money.

**Other Areas of High Profit**

There are hundreds of items we could discuss that added to the Bells' profits during the I-Way years. One of them is Yellow Pages and Directory Services. Since time and memorial, the phone companies have published the telephone directories and then placed them in every home, office, hotel room and airport in America. And while most people don't think about it, the directory was one of the few ways you could find, say, a plumber or other services ***— Let your fingers do the walking.***

Other services over the last decade have tried to get rid of directory, but it's still published and highly profitable. In 1999, it had profit margins around 50% which would make any corporate executive sit up and notice. Corporate America is pleased with 5%-15% profit margins.

**Exhibit 45**
**Profit Margins for Directory Publishing in 1999**

| Company | Operating Income Margin |
|---|---:|
| Bell Atlantic (Verizon) | 52.7% |
| US West | 52.9% |
| SBC | 45.4% |

***Source: 4th Q1999 SEC filings.***

One of the items people don't know is that because the phone companies had the monopoly, it was able to keep advertising rates at ridiculously low levels — almost every advertiser felt it was an essential part of their ad mix, especially small businesses. These inflated prices were used, in many states, to help subsidize local phone service. In many states, the phone company also was allowed to use the phone bill as the method of billing businesses, and was included in the expense formulas for local phone service.

According to a joint report issued in 1990 by Public Communications Associates and the Michigan State University Department of Telecommunications, the treatment of telephone Yellow and White page revenues and expenses varied based on the state.[292]

> "Some states, such as Iowa and North Dakota, permit agency consideration of directory revenue and expenses associated with the sale of classified advertising or listing by a telecommunications firm in determining rates, while Missouri prohibits agency Yellow Pages jurisdiction unless it finds these directory revenues are being associated with telecommunication revenues by way of direct or indirect subsidy."

The entire directory area has had impacts on the customers' phone rates, since customers may have also been paying for the electronic versions to be developed as an added expense. In 1992, NARUC's Committee on Finance & Technology started a series of audits of Pacific Telesis's regulated and non-regulated business activities. A report of their findings and conclusions was released in August 1994. In dealing with Yellow Pages it found that the price had increased 250% since 1984 and Pac Bell used the ratepayers as the funders, to the tune of $1 billion for the development of their electronic directory services.

> "The price of Directory advertising has increased 250% since 1984."

> **"Electronic Yellow Pages:** There has been no compensation for the ratepayers' multi-million dollars risk. Pacific Telesis' Electronic Publishing ventures have been removed to a newly formed company that is not part of the Pacific Bell Corporate structure, another step away from the reaches of the regulatory agency. ***Pacific Telesis' electronic publishing ventures have been cross-subsidized by the ratepayers, estimated at $1billion dollars."***

We bring this up because in many states Directory was a direct part of the deregulation plan. For example, in Pennsylvania, according to Economics & Technology's testimony to the Pennsylvania Utility Commission during an examination of the Bell of Pennsylvania's alternative regulation plan, the consulting firm found that directory spin-off cost customers $2.57 billion.

**Need More Money? Raise Rates**

In Pennsylvania, when the Public Service Commission determined that Directory was 'competitive', they simply did not take into account that small businesses depended on Directory as a major connection with their customers — or potential customers.

Here's the simple proof that there was no competitive force that lowered the Bell companies' rates: In virtually every year Verizon was able to raise its prices or saw growth in the Directory print product and was able to cut expenses — and all of these profits were at one time part of the regulated monopoly and contributed to the costs of service.

> **"Bell Atlantic 1995 Annual Report:** Growth in directory publishing revenues was principally due to ***higher rates charged*** for these services."[293]
>
> **"Bell Atlantic 1996 Annual Report:** The increase in directory publishing revenues was due to **higher rates charged** for directory services."[294]
>
> **"1999 Bell Atlantic Annual Report**: Operating revenues from our Directory segment improved by $74 million or 3.3% in 1999 and $49 million or 2.2% in 1998, principally as a result of ***increased pricing*** for certain directory services."[295]
>
> **"2001 Verizon Annual Report:** Operating revenues from our Information Services segment increased $169 million, or 4.1%, in 2001. The 2001 revenue increase was due primarily to growth in directory advertising revenues and extension revenues."
>
> "Operating revenues from our Information Services segment improved by $58 million, or 1.4%, in 2000. The 2000 revenue increases were primarily generated

> by growth in print directory advertising revenue and expansion of our Internet directory service, SuperPages.com(R)."[296]

We also need to point out that Directory is also getting less expensive to offer because of staff cuts, the Bell mergers, etc..

**Massive Network Write-Offs: Depreciation = FREE CASH?**

One of the most profitable areas for the phone companies has been an accounting slight of hand using excessive 'depreciation'.

For a non-accountant, depreciation rates are hard to understand, mainly because it serves as both an expense, as well as cash the company can spend.

**How Depreciation Works:**

Let's say you buy a computer. The computer has a 'life' expectancy of its usefulness. And let's say you spent $1000. The IRS requires that instead of taking the deduction in one lump sum, the deduction is "amortized", meaning that the deduction is spread out over the life expectancy. If a computer lasts 4 years, then the deduction per year is $250 a year.

Now, in each year, if you are a business, you can take this as a 'tax-deduction', meaning that it lowers your state and federal taxes.

Using the same model, a telecommunications firm buys a network switch (which is in essence a large computer) and assigns a life expectancy of 20 years. That network switch is then written off a portion of the cost each year. When you spend billions of dollars a year, you write-off billions of dollars a year. It is way more complicated than this model, but you get an idea. We explain it in detail in Volume II.

Depreciation was always part of the rate of return models because it added expense, increasing phone rates, generated more cash, balanced against the depreciation for tax purposes.

However, billions of dollars are being overcharged using this basic accounting principle. For example, in 1992 Consumer Federation of America (CFA) stated that the Bells claimed $3 billion annually in excessive depreciation fees, up from a billion in 1986.[297]

> "In 1986 CFA estimated excessive rates resulting from accelerated depreciation of approximately $1 billion per year. Assuming that depreciation rates should have remained constant after divestiture, we estimate current excessive depreciation expenses of $3 billion per year. "

Under the changes in alternative regulations, (and some federal changes in the 1980's), the companies were free to write-off as much as they desired.

**133% More Depreciation than New Construction in 2004 —** In 1984, depreciation was $11.7 billion, construction was $18 billion and the ratio of write-offs to construction was 65%. By 2004, depreciation was $22.6 billion, construction was $16.7 billion and so the companies wrote off 133% more than they put into the network.

**Only 11% of the New Construction Has Not Been Written-Off —** In comparing "new construction" budgets to depreciation write-offs, of the $473 billion spent on new construction, only $51 billion has not been written off to date. Please note that while this spending sounds large, the Bells made $2.3 trillion, andnew construction only represented about 20% of the total for two decades.

If the depreciation rate remained in the same proportion to new construction, an additional $111 billion has been written off, not counting special items.

We also need to point out that a one-time $25 billion deduction was directly related to the fiber alternative regulation plans. New Networks Institute filed a complaint with the IRS over these deductions since they were to replace the copper wiring with fiber optic wiring, and they were writing off the copper wiring in anticipation of that network upgrade.

Before we explain our model for overcharging, we need to debunk a few myths about the Bell companies profits and business.

**Those Poor Bells? Aren't They Losing Lines and Being Harmed by Competition? — FUHGEDDABOUDIT.**

We have all heard that the phone companies have been harmed in the last five years from competition and that they needed even more regulations to get rid of those pesky competitors. And it worked. By 2005, the two largest competitors, AT&T and MCI were sold to these poor

Bells and most of the other competitors have been prohibited from using the networks to offer DSL or competitive local phone service.

**Profit Margins Were 155% Higher than Business Week "Industry" and "Utilities" during 2000-2004 —**That's right. Almost all companies were hit by the economic recession (caused by the Bells' failed deployments, in part), and yet, if you compare the Business Week's "Industry" to the Bell companies, the "Industry" had an average of 5.4% profit margins, "Utilities" had a 4.5% return, while the Bell companies averaged 12.5% — that's 132% higher profit margins than the other industry players, 177% higher than the other utilities.

**Phone Lines Are Dropping and We're Losing Customers…. Yawn.**

**121% above "US Household" Growth**. **—** In our 20-year analysis, one thing stands out — in the period of 1984-2002, the number of households increased 28%, while the Bell companies lines increased 62%, — 121% above household growth. Bells overall growth rates were 2.6% annually, from 1984-2002, while the growth in households for the same period was 1.4%.

**Internet Hypergrowth and Rebalancing: Bell's Falling Lines?** During the period from 1993-1999, the Internet Years when the Internet Service Providers brought America to the Web, the Bells had phenomenal growth. There was a 5.6% annual growth rate, about 300% above household growth. There was 41% growth overall, adding about 45 million lines. And the irony is that the phone companies, in killing off competition, harmed the growth in lines because these same competitors bought millions of lines and got millions of customers to purchase second lines.

If the Bells simply kept the slower but steady growth from 1984 to 2004, they would still be ahead in the number of lines. Also, a lot of the loss of second lines were from customers getting rid of their second lines when they ordered DSL, which can go over the same-old-copper-wire used for voice calling.

Yes, there is wireless substitution, competition from cable companies for voice calling and DSL, and other factors. But the bottom line is that the growth of the 1990's couldn't be sustained and the phone companies killed off their largest asset, the independent ISPs and CLECs. Ironically, they were selling their services, but also delivering more lines.

**Overcharging**

**Overcharging, Part One**

Our estimate of $206 billion in overcharging is based on:

**$103 Billion in Excess Profits —** Using an average of "Utility" profit margins and return on equity, New Networks Institute contends that the Bell companies made excessive profits, mainly from the alternative regulation plans started in 1992-1995, and which continues today.

As previously stated, from 1992, when the alternative regulation plans were starting to be implemented, the Bell companies' return on equity went from a 14.9% return to a 29.1% return, a 9-year increase for the Bells of 126%. From 1993-2000, the returns were 188% above the other "Utilities". (Source, Business Week Scoreboards, 1992-2000.)[298]

**$ 78 Billion in Excessive Depreciation —** In 1992, Consumer Federation of America found that the Bells were overcharging approximately $3 billion annually because of excessive depreciation. Probe Research in 1993[299] claimed that a "completely misguided action by the FCC allowed for…a $13 billion of (excess) depreciation". In our previous examples we found $111 billion in excess depreciation if you compared the depreciation rates, as Consumer Federation had done, keeping the rates the same.[300]

Our current overcharging estimate is based on setting anything over 90% of new construction as being considered excessive, especially when they were tied to networks that were never delivered.

**Estimate $25-50 Billion — Cross Subsidization Overcharging for Long Distance, DSL and Wireless** – How much of the expenses used to calculate local phone rates were used to roll out the companies' long distance, DSL and wireless services? Think of this — when you pay a local phone bill, it is ONLY supposed to be for the service you use — the local phone service. When you get a bill, you actually pay a fee per month for that bill to be sent to you. In New York City, Verizon sends out a four-color brochure that was originally supposed to be for "consumer education", but is now a sales piece for DSL, wireless, long distance, packages, and even phones. The cost of that printing is also added to the cost of your local service and so, if a company gets free advertising on the insert or the phone bill, under rate of return, they would have had to pay

for at least the part of the printing, mailings, etc.. Is DSL and long distance paying its fair share for that advertising? Doubtful at best.

**$25 Billion in Cross-Subsidization —** At this time it is impossible to determine the full extent of the Bell's cross-subsidization of their other product lines. We estimate that over $25 billion has been used to roll out these products that were supposed to be used to rewire the territories with fiber-to-the-home.

**Overcharging Not included.**

- **$80 Billion in Missing Equipment —** In 1999 the FCC released a series of audits of the Bell companies' Continuing Property Records. It found $18.6 billion in missing or unverifiable equipment, about 22% of the equipment on the books. For example, the FCC wrote that 24% of Bell Atlantic's equipment either couldn't be matched with the FCC records, or the equipment simply wasn't there. And the records themselves had massive amounts of nonsense entries.[301]

> "Specifically, in our audit of a random sample of 1,152 line-items from Bell Atlantic's (CPR for Hard-wired) Equipment, we found that 24.1 percent of the records that we sampled contained substantial deficiencies and did not comply with the Commission's rules. Of these deficient records, 12.5 percent described equipment that could not be found by the auditors or by company representatives ("not found" equipment). The remaining 11.6 percent could not be verified with certainty because the equipment shown to the auditors could not be matched to the record in some important respect such as location or description."

Shockingly, this was only ¼ of the audits that were needed. Political pressures made the FCC drop the audits and turned them over to the state commissions. Based on extensive research on this topic, Teletruth believes that over $80 billion of missing equipment has been added to phone rates since 1984. This has also impacted the Bell's tax write-offs, as missing equipment has been included in the financial deductions. The phone companies have argued that the missing equipment is mute because they are under alternative regulation. We argue that they received

changes in the law based on false and misleading statements and the prices have been continuously inflated because of this missing equipment since 1984.

- **$40.5 Billion in "Special Items" —** We also found that $40.5 billion in "special item" tax deductions, not counting the various merger write-offs. And in the last three years, the phone companies have written off $17 billion more than they put into new construction.

- **NOT INCLUDED: $75 Billion from 1982-1992 —**. New Networks Institute's previous analysis on this topic, created in 1992-1993 for "10 Years Since Divestiture: The Future of the Information Age", found approximately $75 billion had been overcharged to customers from 1982-1992. This excess was caused by the Bells' pleading poverty and getting immediate, though totally unnecessary increases starting in 1984. This was also increased by outrageous deregulations of the wire in the home, the phone rental, and the addition of new surcharges, such as the FCC Line Charge, which was created to compensate the Bells for use of the local phone networks by the long distance companies, but ultimately paid for by the customers. More to the point, this fee, now capped at $6.50, was never properly audited by any regulator nor included in the overall states' audits for local phone service. To top it off, as we discuss, the first round of alternative regulations were dedicated to ISDN, the posterchild for badly deployed advanced networks. A large discussion of this can be found in "The Unauthorized Bio of the Baby Bells".

**Miscellaneous Overcharging**

This is only a smattering of the various ways the phone companies overcharged customers.

- **$10 Billion for Bellcore —** In the 1980's forward, there was a hidden charge on virtually every phone bill for BellCore, the former Bell research laboratories. Each Bell company was charged a certain amount and that money was then expensed by state. For example, in New York, for 1995, Bellcore expenses were $24 million. And instead of paying it, the company simply added it to the cost of service. This charge was about $1 billion a year, which comes to about $1 a month per household, $12 bucks a year, $120 bucks for 10 years. Worse, BellCore also had profits, which the phone companies kept instead of lowering the costs paid by customers.

You would think that when BellCore was sold off, the companies would have been required to remove the defacto BellCore Tax. New York State is the only state we know of that dropped the charge from the expenses.

- **$3 Billion Verizon, SBC, Qwest, Name Changes —** When New York Telephone decided to change its name to just NYNEX, the company was able to charge customers $25 million. When Verizon changed it name from Bell Atlantic, it cost over $500 million. We estimate, conservatively, that the name changes over the last decade cost over $3 billion.

**TOTAL OVERCHARGING**

We have concluded that $2000 per household is a low number that reflects the basics, though it requires a full audit for justification. For simplicity sake, we decided to simply use 100 million households with $206 billion for $2000 a household. However, this is way too simplistic. We could of course divide by the total number of business and residential lines, weight everything because businesses pay more for service than residential customers, etc.. However, the simple fact is that it is impossible to extract the exact numbers because the data provided by the phone companies and the FCC, which was given to this agency from the phone companies, can not be resolved, and a serious analysis still requires audits.

Also, as mentioned, we decided to use the low end numbers of overcharging as compared to the total, which would be $459 billion, an additional $253 billion we did not include.

**SPECIAL EXHIBIT**

| | Overcharge | Total |
|---|---|---|
| Excess Profits | $103 | $103 |
| Depreciation | $78 | $111 |
| Cross-Subsidization | $25 | $50 |
| 1984-1992 | | $75 |
| Special Items | | $40 |
| Missing Equipment | | $80 |
| Name Charge | | $3 |
| BellCore | | $10 |
| | $206 | $459 |
| Not Included | | $253 |

Here's just some of the caveats:

In 1996, before the mergers, the FCC had statistics for Bell numbers and all other local phone companies.[302] At that snapshot in time, there were 99,627,000 households, with 93% of those households having phone service, and the Bells had 78% of local phone lines — thus the Bell companies would have 72 million households. Dividing the $200 billion by that number would give us a total per household:

- **$2,800 Per Household**

By 1999, the Bell companies purchased GTE and SNET and using the Bell annual reports, we find that there were 170 million Bell lines, including SNET and GTE. GTE had 26 million lines in 1999 in 28 states. And in 1999, according to the US Census, there were 103 million households.

But here's the rub, using the FCC's statistics only shows 174 million total lines in the US. Thus, the statistics as they stand are all but meaningless, since the FCC's data and the Bell data are not at all in sync. It's like comparing oranges and orangutans.

If the Bells now have 90% of all households, we also have to deal with which services are in these calculations, since cable companies and others can have households, not counting customers without phone in their house because they can't afford or don't want service, or are only using wireless phone service.

- **$5,100 per household – counting total overcharging**

We could also do a much more accurate accounting by state, or by doing a year by year accounting for each Bell, but without proper audits that would still not reveal the exact amounts customers have paid the Bell companies.

**See the 20th Anniversary section of this book for more details and graphs.**

## Chapter 23 Case Study: Opportunity New Jersey—A Broadband Failure

New Jersey Ratepayer Advocate, April 1997

> "low income and residential customers have paid for the fiber optic lines every month but have not yet benefited."[303]

Opportunity New Jersey, the first of the "Opportunity" alternative regulation plans, turned out to be nothing more than an opportunity for Verizon (formerly Bell Atlantic) to make more money. Using this as a case study, we would like to demonstrate how the broken regulatory fabric and the massive Bell lobbying efforts, specifically Bell Atlantic, all worked in conjunction to overcharge customers without serious retribution from the state commission, the Advocate's Office, or even the state legislature.

Though we will return to all of these topics in other chapters, what happened in New Jersey pretty much sums up the process of regulation nationwide — a failure of the regulators to control Bell profits or monitor the Bells' technology deployment promises.

**What Happened to the Info Bahn in New Jersey?**

According to a brief filed by New Jersey's consumer advocate (Division of the Ratepayer Advocate) with the New Jersey Board of Regulatory Commissioners (BRC), NJ's state utility commission, on March 21, 1997:[304]

> "Bell Atlantic-New Jersey (BA-NJ) has over-earned, underspent and inequitably deployed advanced telecommunications technology to business customers, while largely neglecting schools and libraries, low-income and residential ratepayers and consumers in Urban Enterprise Zones as well as urban and rural areas."

To read the full report see: http://www.rpa.state.nj.us/onj.htm

So much for the promise of the Info Bahn. Before delving into the telecom muck and how the Bell has prospered by not fulfilling promises and thus overcharging customers, let's go back to

1991, when New Jersey Bell presented a new plan created by Deloitte & Touche to move New Jersey into the future.

**Background**

In March of 1991, the findings of a report written by Deloitte & Touche on behalf of New Jersey Bell were presented to politicians and government regulators, from the Governor on down. Dubbed "Opportunity New Jersey", it stated that New Jersey needed to implement "policies that encourage development of an advanced telecommunication infrastructure". In fact, the study stated that fiber optics was essential for New Jersey's future.[305]

> "(fiber optics is) essential for New Jersey to achieve the level of employment and job creation in that state",
> “advance the public agenda for excellence in education”,
> “improve quality of care and cost reduction in the healthcare industry.”

And this rhetoric was also repeated by the phone company. For example, Alfred C. Koepee, Vice President of New Jersey Bell, said the plan was New Jersey's future, building new networks to create jobs.[306]

> "You have a choice as a regulator. You can move into the future, or you can put through a 10-cent reduction in somebody's bill. It makes a lot of sense to build the new technology to create new jobs."

According to an article by Rick Linsk titled "All the Right Connections — New Jersey Bell and the Wiring of a Regulatory Bonanza," from The New Jersey Reporter, the entire series of events that led up to the passage of Opportunity New Jersey by the state legislature and endorsed by the state utility commission, was one of the most masterful lobbying jobs in the state's history. According to Rick Linsk:

> "Above all, though, credit goes to a combination of muscle and merit and to one of the savviest, most complete and aggressive lobbying efforts ever to accompany a public issue in New Jersey. For nearly a year, Bell missionaries had swarmed

> over the state spreading the gospel of fiber optics to doctors, teachers, labor leaders, the (Governor) Florio Administration and the Legislature. It is now clear, in retrospect, that the hard-sell worked so well, and the connections forged by top-flight influence-peddling ran so deep, that Bell had won long before the first vote was cast.
>
> "When the dust had settled, the Bell had spent $640,000 on lobbying, a huge sum by New Jersey standards. For comparisons sake, Bell spent $79,079 the year before." (Note: This figure does not include the Deloitte & Touche study.)

Others, such as Nancy Becker of the New Jersey Cable Association, believed that the Deloitte & Touche study, at a cost of $1.2 million, was nothing more than a lobbying document.[307]

> "It was basically a lobbying document with the imprimatur of the board (Utility board) on it. It was a million-dollar lobbying document."

According to Linsk, other critics made it clear that the Board of Regulatory Commissioners, (BRC), specifically Edward Salmon, Chairman, was perceived as "too tight" with the Bell company.[308]

> "Arthur Cooper, president of a pay-phone company that competes with the Bell: ‘This is my opinion, but if everybody in the room was blindfolded, and without being introduced if he (Salmon) read his testimony, they would have thought he was not from the BRC; they would've thought he was from Bell’."

In 1992, the Telecommunications Act of 1992 was passed by the state legislature, and in April of 1993, the New Jersey Board of Regulatory Commissioners officially implemented Opportunity New Jersey, with a few other closing alterations later.[309]

**Speed Mattered and Deployment Was Set.**

In 1993, the plan was **NOT** for DSL, which travels over the old, existing copper wiring, but for a new, rewired network and connections to the home and office with fiber optics.

On speed, the state commission Order quotes testimony given by Verizon (then New Jersey Bell). Broadband was 45 Mbps services (or higher) that was capable of “high definition video” in both directions, not the current DSL speed of less than 1 Mbps.[310]

> "Broadband Digital Service — Switching capabilities matched with transmission capabilities supporting data rates up to **45,000,000 bits per second** (45 Mbps) and higher, which enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals."

And the deployment schedule, as outlined in the next exhibit, was also part of the Order. According to the Order,[311] $1.5 billion was to be spent from 1992-1999. The “BAU” (“business as usual”) is the deployment schedule without the new plan being in place, while “ONJ” is what would be deployed if the plan went through. For example, the old plan would have “AIN” services starting in 1992 and 100% would be implemented by 2001. Under ONJ, the work would start in 1992 but be completed in 1998, saving three years.

More to the point, under the new plan, “Wideband Digital Service” would have a speed of 1.5 Mbps, and there would be 100% deployment by 2000, while the “Broadband Digital Service” would have speeds of 45 Mbps and would start in 1996 and be completed by 2010. Without the plan, “broadband” would be delivered by 2030.

**Exhibit 46**

**New Jersey Bell Advanced Network and Broadband Deployment Schedule, 1993**

| | **BAU** | | **ONJ** | |
|---|---|---|---|---|
| **Advanced Intelligent Network (AIN)** | 1992 | 2001 | 1992 | 1998 |
| Digital switching and signaling systems deployed to provide call routing and database access, which enables “follow me’ type services, that allows customers, for example, to program the public switched network to forward their calls automatically to different locations depending on the time of day. | | | | |
| **Narrowband Digital Service** | 1992 | Post 2001 | 1992 | 1998 |
| Switching technologies attached to support data rates up to **144,000 bits per second** which will enable customers who use any combination of work stations, personal computers or fax machines and telephones. | | | | |
| **Wideband Digital Service** | 1994 | Before 2030 | 1994 | 2000 |
| Switching capabilities matched with transmission capabilities supporting data rates up to **1,500,000 bits per second**, that will allow students, for example, to remotely access multimedia information, including video, from home or school | | | | |
| **Broadband Digital Service** | 1996 | 2030 | 1996 | 2010 |
| Switching capabilities matched with transmission capabilities supporting data rates up to **45,000,000 bits per second** (45 Mbps) and higher, which enables services, that will allow residential and business customers, for example, to receive high definition video and to send and receive interactive (i.e., two way) video signals." | | | | |

**384 Channels of Video: The Video Dialtone Commitments**

Around the same time that Bell Atlantic, New Jersey was pitching the state, Bell Atlantic also put in requests with the FCC to offer video dialtone services for Dover Township, New Jersey. Bell Atlantic committed to 384 channel of services.

> "The Commission's grant is conditioned on the requirement that any video dialtone service offered after January 3, 1995, have available 384 channels of capacity and that all video programmer- customers pay the tariffed rates filed with and approved by the FCC."[312]

And it is clear from Bell Atlantic's releases that this network was tied directly to Opportunity New Jersey with "all" of the customers getting interactive video "during the next several years". That's 1996-1997, not 2006-2007.

> "This video dialtone network is significant to New Jersey because it reaffirms the state's historic leadership in introducing new telecommunications technology that benefits consumers, the economy and quality of life. ***Under Bell Atlantic-New Jersey's Opportunity New Jersey plan, we will offer interactive video capability to all of our customers during the next several years***."[313]

The FCC materials clearly demonstrate that the plan was for new fiber-based networks, not simply a rehash of the old copper wiring.[314]

> "New Jersey Bell states that the video signal will travel over ***fiber optic cable to the curb*** and over coaxial cable from the curb to the home."

**"Common Carrier" Provisions Were Included to Make Sure the Networks Were Open to Competitors.**

The FCC's video dialtone decisions clearly laid out that these networks had "common carrier" provisions for use by competitive services. Common carrier means open to competitors for the public interest.[315]

> "In the Video Dialtone Order, released in August 1992, the Commission established the video dialtone regulatory framework. The Commission defined video dialtone as the provision of a basic common carrier platform to multiple video programmers on a non-discriminatory basis. A 'basic platform' is a common carriage transmission service that enables customers to gain access to video programming carried on that platform. If a local telephone company provides such a basic platform, it may also provide enhanced and unregulated services related to the provision of video programming."

The Commission also made sure that these networks would not be funded through customers or discriminate against competitors by the companies controlling the wires.[316]

> "The Commission granted the application subject to conditions that will help protect against improper cross-subsidization and discrimination by New Jersey Bell, and help ensure that sufficient video dialtone capacity is available for video programmer-customers."

The issue of keeping the networks open to competition was repeated page after page in the state Commission's decision. "Unbundling" means to make competitive services available by selling necessary components of the network for the use by a competitor.[317]

> "Staff submits that the unbundling provision must apply to all competitive services and not just a for new filings to make a service competitive…."

> "The Board 'FINDS' that it is essential that this Board encourage optimal use of the public switched networks, and that therefore NJ Bell shall be required to unbundle all noncompetitive service into service arrangements… so that competitors may market such services."

**The Outcome — Opportunity for the Bell**

According to the NJ Advocate, the original rate of return regulation was replaced by Opportunity New Jersey, an alternative regulation plan based primarily on the promise of "greatly accelerated

deployment of advanced technologies ... approximately $1.5 billion dollars above current expenditures”.[318]

> "The ONJ (Opportunity New Jersey) plan replaced traditional rate-base/rate of return regulation with an incentive ratemaking system in exchange for a commitment from BA-NJ to greatly accelerate deployment of advanced technologies in its communications network to the entire State by the year 2010 at ***an estimated additional capital expenditure of approximately $1.5 billion above 'business as usual' from 1992 through 1999***. Through the incentive of alternative regulation under the ONJ Plan, BA-NJ was given the financial flexibility to operate in the new competitive telecommunications market in exchange for commitments to upgrade the network in order to realize 'positive benefits' to the New Jersey economy."

In fact, according to the Advocate, the Bell company only spent $79 million, not the $1.5 billion promised.[319]

> "Although BA-NJ projected that it would expend approximately $1.5 billion in network investment above ‘business as usual’ by the end of 1999…. However, the Ratepayer Advocate has calculated that ***BA-NJ has spent a total of $79 million above ‘business as usual’ over these years."***(1992-1995)

More to the point, the actual dollars spent on construction dropped below normal levels from 1992-1995.[320]

> "BA-NJ can hardly be characterized as having made capital expenditures beyond 'business as usual' during the first three years of ONJ. (1992-1995) Indeed, in constant 1987 dollars, the company's capital expenditures have actually decreased."

How did Bell Atlantic prosper from the plan? By 1997, almost one billion dollars of excess profits and a return on equity almost twice what a regulated monopoly should be making was their reward.[321]

> "Since the time of the adoption of the ONJ Plan, BA-NJ has received enormous financial benefits, greatly in excess of the Company's original projections. The gains captured by BA-NJ, which probably would not have been achievable but for the Plan, as set forth immediately below, involve earnings, dividends, return on equity, cost of debt and additional benefits."

During this period: (1992-1995)

- "BA-NJ paid out an additional $954.8 million in dividends* over what was projected in 1992." (1992-1995)
- "The Company is earning a return on equity in excess of 21%, well above the average New Jersey State utility rate of return (11.25%) and substantially higher than any rate of return authorized by the Board in recent memory."
- "Net earnings have increased by $85 million, its cost of debt has declined substantially resulting in an annual savings of $22 million in interest expense."

NOTE: *Dividends, in this case, are the monies that New Jersey Bell paid to Bell Atlantic, the holding company.

**Oh-Oh, Another Billion Owed? What about the Massive Network Write-Offs?**

The Advocate found that Bell Atlantic-NJ dividends were excessive and that the return on equity had doubled, but there was another billion dollars of extra profits that they didn't include. It was accrued from a massive network write-off, based on a change in accounting, a change that was implemented because of Opportunity New Jersey.

"Depreciation" is a business accounting term that describes how a company writes off its construction expenses. We explain this issue in more detail in other sections and in Volume II. Essentially, by accelerating the write-offs, the Bell companies were able to garner billions in basically free cash, the cash being generated by a major savings in taxes. This cash was supposed to be used specifically to build the fiber optic highway, but virtually nothing was ever built.

More to the point of our story, in examining the 1994 Bell Atlantic-New Jersey Annual Report, we find that with the implementation of Opportunity New Jersey, the telephone company changed its accounting principles and took additional write-offs, adding over $1 billion in free money. This accounting change is called "FAS 71" for “Financial Accounting Standard 71”.[322]

**Exhibit 47**
**Bell Atlantic New Jersey, Write-Off Bonanza, 1994**
(In the millions)

| | |
|---|---|
| Increase in plant and equipment depreciation reserve | $946 |
| Other regulatory assets and liability elimination | $67 |
| Total | $1,013 |

***Source: New Jersey -Bell Atlantic Annual Report 1994***

This billion dollars was applied to income tax, and so the company showed the charges as a savings of $423 million in taxes and a charge of $589.7 million in extra cash.[323]

> "In connection with the decision to discontinue regulatory accounting principles under Statement No. 71, the Company recorded a noncash, ***after-tax extraordinary charge of $589.7 million, which is net of an income tax benefit of $423.2 million."***

And make no doubt about it. These savings were accrued because of Opportunity New Jersey.[324]

> "The Company's determination that it was no longer eligible for continued application of the accounting required by Statement No. 71. It was based on the belief that the convergence of competition, ***technological change (including the Company's technology deployment plans),*** actual and potential regulatory, legislative and judicial actions, and other factors are creating fully open and competitive markets."

**Other Analyses Demonstrates Verizon's Ability to Benefit from ONJ over Customers.**

The Advocate's report was not the only data to show that Verizon New Jersey had essentially gamed the regulatory system in order to make more money. A study done by Economics & Technology found many of the same issues — a failure to invest coupled with cuts in expenses and new profits, and the only opportunity was to New Jersey Bell, not the customers.[325]

> "The state's current regulation system, which was authorized by the New Jersey legislature in its 1992 ***Telecommunications Act***, offers Bell Atlantic-New Jersey, Inc. ("BA-NJ") expanded pricing flexibility and the opportunity for significantly increased earnings in exchange for a commitment by BA-NJ to substantially increase its level of investment in New Jersey's telecommunications infrastructure under the so-called "Opportunity New Jersey" (ONJ) Plan.
>
> "In the five years following the Board of Public Utilities' adoption of the ONJ Plan, BA-NJ has enjoyed major financial benefits even though it has not increased its investment as promised and has opposed competition at every turn. The increased pricing and earnings flexibility coupled with reduced investment and continued monopoly pricing practices has enabled BA-NJ's profits to soar under alternative regulation. Consumers clearly have suffered under the ONJ Plan from unnecessarily inflated prices for many services, and have received few benefits in the form of new services and increased competitive choices."

The report continues: "Since the adoption of the ONJ Plan in 1993:

- "BA-NJ's financial return on equity (ROE) jumped from 22% to almost 40%.
- "Rather than put those profits back into its telecommunications infrastructure, BA-NJ actually ***disinvested*** some $76-million between 1993 and 1995." ("Disinvestment" is to write-off more than you put into new construction.)
- "BA-NJ has paid increasing dividends to its parent holding company since 1993, and in fact, BA-NJ's dividend payments to Bell Atlantic Corp. are among the highest, on both a relative and an absolute basis, of any BA operating company.

- In 1997, BA-NJ provided a $559-million dividend to its parent — equating to approximately $93.17 per access line per year (or $7.76 per line per month). By way of comparison, BA NY's dividend was only $42.52 on a per-access line basis ($3.54 per line per month).”

**Verizon’s Own Data Shows the Company Is Involved in a Case of Deception.**

If the Ratepayer Advocate's information or the findings of Economics & Technology weren't damaging enough, it is clear that Verizon was able to simply say anything — the regulatory body had no interest in investigating the actual facts of Opportunity New Jersey.

But don’t take our word for this. Here’s Verizon’s own information as supplied by their own annual reports, which directly contradicts the materials presented about ONJ.

**Employees and Construction in New Jersey Is a Joke.**

According to the Bell Atlantic 1997 Infrastructure Deployment Report, the company had invested $3.3 billion and had hired 4,355 employees.[326]

> ***"ONJ and Access New Jersey, the company has invested $3.3 billion and hired 4,355 employees in New Jersey since the implementation of ONJ.”***

**Employees**

Basic analysis of this statement in 2005 clearly shows the company lied. From 1993 through 1997, there are only decreases in the number of employees, a loss of 2,500 jobs to be exact. While there were some increases during 1997 to 2000, by 2004 Verizon had cut 45% of the staff, from 15,000 in 1993 to 8,240 employees in 2003. The proof are the company’s own annual reports and the FCC’s last published report “Statistics of Telecommunications Carriers, 2004-2005”. This information is supplied by the phone companies to the FCC.[327]

**Exhibit 48**
**Verizon New Jersey Employees, 1993-2003**

| | 1993 | 1994 | 1996 | 1997 | 1999 | 2003 | **2004** | **%** |
|---|---|---|---|---|---|---|---|---|
| Employees | 15,000 | 14,500 | 12,100 | 12,500 | 13,000 | 8500 | **8,240** | **-45%** |

The next series of quotes just reinforces this exhibit with the actual quote.

New Jersey Bell 1993 Annual Report[328]

> "As of December 31, 1993, the Company employed ***approximately 15,000 persons,*** including employees of the centralized staff at NSI. This represents approximately a 1% decrease from the number of employees at December 31, 1992."

New Jersey Bell 1994 Annual Report[329]

> "As of December 31, 1994, the Company employed ***approximately 14,500 persons,*** including personnel managed by the centralized staff of NSI. This represents a decrease of approximately 5% from December 31, 1993."

New Jersey Bell 1996 Annual Report[330]

> "As of December 31, 1996, the Company had approximately ***12,100 employees***."

New Jersey Bell 1997 Annual Report[331]

> "As of December 31, 1997, the Company had approximately ***12,500 employees***.

New Jersey Bell 1999 Annual Report[332]

> "As of December 31, 1999, we had approximately ***13,000 employees***."

New Jersey Bell 2003 Annual Report[333]

> "As of December 31, 2003, we had approximately ***8,300 employees."***

But to show that Verizon is simply playing with the numbers, in its most recent phone bill insert, it now claims that there are "almost 15,000 employees."[334] Verizon is clearly attempting to mislead the public by combining its wireless services with its local phone service to prop up the employment numbers. The latest phone bill insert is at odds with a third set of numbers presented as testimony provided by Verizon at the NJBPU public hearing on January 5, 2005, when they claimed that Verizon had 12,000 employees.[335]

**Construction**

Verizon also claimed that it had been investing in networks. Their infrastructure report stated:[336]

> ***"Bell Atlantic has invested $3.3 billion in New Jersey in the five years since the plan was approved."***

More to the point, The most recent phone bill insert for November 2005 claims that weekly investment is $7.9 million a week or $411 million.[337]

> ***"Weekly investment in NJ $7.9 million."***

This is embarrassing on multiple levels. First, prior to ONJ, the company averaged $600 million a year. From 1993-1997, the ONJ years, the company's spending over what they were spending in 1991-1992, is only $392 million total — off by a factor of 10. Meanwhile, for 2003 and 2005, the company under-spent $345 million.

**Exhibit 49**
**New Construction by New Jersey Bell, 1991-2003**
(in the millions)

| | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 2003 | 2005 |
|---|---|---|---|---|---|---|---|---|---|
| New Construction | $609 | $596 | $590 | $629 | $604 | $772 | $787 | $444 | $411 |
| ONJ Spending | | | | $29 | $4 | $172 | $187 | -$156 | -$189 |
| Under Construction | $187 | $174 | $203 | $278 | $240 | $128 | $132 | $59 | |

However, if you examine the **'under construction'** numbers after ONJ was passed, the company dropped spending to BELOW what they were spending prior to ONJ — they never put the money in the ground. In 2003, the last published number, the company only spent $444 and only $59 million was for new 'in progress' construction. The 2005 statistics shows that new construction is at an all time low.

**Construction and Staff Cuts in Relationship to Increased Revenues.**

In examining the Bell companies' overall revenues from 1984-2004 for this book, we found that while revenues increased 128% since 1984, construction and staff in relationship to the increased revenues were down about 65%. Without full audits, it would be impossible to determine all of the revenues in New Jersey because we contend that a great deal of the current expenses are being 'cross-subsidized', meaning that DSL, long distance and other services are being funded out of the local phone business, such as the mailing for the "insert" in the bill. Under the current deregulation, the phone companies get to move the monies around and so the actual cuts in construction or staffing would have to be examined through the costs of just local phone service, and the revenues that are not being collected from the other subsidiaries.

**Profits Go Through the Roof When the Safeguards of Regulation Were Removed**.

As we demonstrated in previous sections, once there was no constraint on cutting staff, writing off the networks or construction, the companies became a cash machine, and New Jersey Bell was one of the greediest. The exhibit below shows that the Bell companies' return on equity went from 17.4% (still high for a utility) to 37.7% in 1997.

**Exhibit 50**
**New Jersey Bell Return on Equity, 1991-1997**

| | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | Growth |
|---|---|---|---|---|---|---|---|---|---|
| ROE | 17.5% | 21.0% | 21.7% | 22.9% | 29.3% | 31.8% | 30.6% | 37.7% | 115% |

With a national average of 10-12% for a utility as standard returns, these returns should have been decreased through rate reductions throughout the 1990's. Instead, the company was able to increase these obscene profits by 115%.

**Overcharging Estimate**

New Jersey, the first Opportunity plan, clearly shows just how much a company can get away with when no one is properly monitoring a monopoly provider.

**$5-$6 Billion in Overcharging** — Based on our current estimates of overcharging, we believe that New Jersey Bell got approximately $5 to $6 billion in excess profits since 1992, but this would require a full audit.

**$150 Billion Loss to the Economy** — We estimate that this state lost over $150 billion in economic growth, about $15 billion a year.

**Additional Billions in Missing Equipment Added to Phone Rates.** In 1999, the FCC released a series of reports which showed that about 20-25% of all equipment on the companies' books was either missing or 'unverifiable'. Nationwide, the FCC found $18.6 billion, but that only represented ¼ of the potential audits. During an interview[338] with a former Bell staffer who had worked on the books in New Jersey, it was clear that over1/3 of the equipment was missing at the time of divestiture in 1984. This is important in that the equipment in the network was used in the rate making process for ALL rate of return analyses. Thus, we contend that every charge in New Jersey was inflated and never properly adjusted.

Teletruth filed a complaint with the New Jersey commission and the IRS over these matters. The New Jersey Commission rejected our request for an investigation.[339]

**Updated Coda: FIOS FIASCO.**

NOTE: We have added an extended discussion in Coda 2 about FIOS and SBC's Lightspeed, including more comparisons with FIOS and the fulfillment of the state's commitments. Here's a summary of that information.

FIOS is Verizon's newest fiber optic fiasco and Verizon is now claiming that this "FIOS" is the fulfillment of the Opportunity New Jersey commitment to rewire the state — which is patently not true.

According to a letter from New Jersey League of Municipalities, Verizon is claiming that as long as they deliver fiber by 2010, they're in the clear. [340]

> "In 1993 the Board of Public Utilities (BPU) came to an agreement with Verizon, called Opportunity New Jersey, which obligates Verizon to upgrade its telephone network by 2010 to include broadband access throughout its service area. Verizon's installation of fiber optic cable is part of this telephone system upgrade and subject to BPU review for compliance with applicable laws governing the telephone system.
>
> "Verizon has assured us on several occasions that they intend to abide by all appropriate state and municipal processes, including franchising, if and when they officially seek to offer video service over their fiber optic network."

Verizon has also started to apply for franchise agreements to be allowed to offer cable services. According to an article in NorthJersey.com,[341] the company plans to roll out services, possibly by 2006.

> "Verizon said it will be ready to turn on TV service in 70 towns by year-end. If the franchise process begins on a town-by-town basis this summer, consumers won't see service until mid-2006."

**FIOS Is a Bait and Switch.**

**Exhibit 51**
**The Verizon ONJ Commitments vs FIOS**

| | **Promised to Customers** | **FIOS, 2006**[342] |
|---|---|---|
| First deployment of video | 1996 | A decade late, still doesn't work. |
| Households | 75% of the state | "0" — 45 Mbps services. |
| Speed, Bi-directional | 45 Mbps | Up to 30 Mbps/5 Mbps |
| Price | $40 bucks | $179.95 - $199.95 |
| Video | 384 channels | NOT AVAILABLE YET |
| | | (180 video and music) |
| Layout | All Areas Equally | Wealthy Areas Mainly |
| Open or Closed? | Open To ALL Competition | Closed to ALL Competition |

**A Few Essential Points Need to be Stressed:**

1) Under Opportunity New Jersey, over 75% of the state should have already been wired. Today, "0" households have been offered the services promised in 1993.

**Exhibit 52**
**ONJ's Broadband Digital Deployment vs without ONJ**

| | | 1993 | 1994 | 1995 | 1996 | 1997 | 2000 | Commitment |
|---|---|---|---|---|---|---|---|---|
| Without ONJ | acceleration(est.) | 0% | 0% | 0% | 1% | 1% | 9% | none |
| With ONJ | acceleration(act.) | n/a | n/a | 13% | 19% | 34% | 52% | 100% in 2010 |

***Source: Bell Atlantic's Infrastructure Report Summary for 1997.***[343]

In examining the information supplied by Bell Atlantic in their 1997 Infrastructure Report, the "Broadband Digital Service", capable of 45 Mbps, was supposed to be delivered continuously starting in 1995 when there was supposed to be 13% of the state wired and continuing to 34% by 1997. In examining the 2000 Report, we find that 52% of the state has this service!

2) FIOS is over a decade late – that's right, its debut was to be 1996, not 2006 in New Jersey.
3) FIOS is not even close to the speed promised in 1993. Today's FIOS is essentially a one-way service, with the upstream being 5 Mbps or less, and the downstream at a top speed of 30 Mbps.
4) FIOS Video Services are NOT available in New Jersey yet.
5) The ONJ Service promised 384 digital channels. FIOS has 180 video and music channels.
6) Price: FIOS 30 Mbps service cost $179-$199 a month, not $30-50. How is the FIOS price a 'consumer product'?
7) FIOS are Closed Networks. Customers funded an 'open to all competitors' network with 'common carrier' obligations. FIOS does not allow competitive services, video, etc.
8) Universal, Ubiquitous Service vs Verizon Pick and Choose. The original ONJ was to wire all communities, urban, suburban and rural equally, not just the richest communities.[344]

> "Bell Atlantic and its 17,651 employees in New Jersey are committed to deploying and using the most advanced technologies to ensure that ***all New Jerseyans will have the opportunity to enjoy the promise of the Information Age. BA-NJ's advanced services are available to customers in urban, suburban and rural communities."***

9) Customers were overcharged $2000.00 per household already for a service that they still can't get and may never be available in their neighborhood, if at all.

In fact, only two communities in America are even being offered Verizon's FIOS TV as of December 2005, Keller TX and Herndon VA, were "First Rollout in East", (November 21, 2005).[345]

> "The future of television arrives this week in this northern Virginia community, when Verizon unveils Verizon FiOS TV over its revolutionary fiber-optic network here.
>
> "Herndon is the second community to date in which Verizon is offering FiOS TV. The service debuted Sept. 22 in Keller, Texas, and customer sales there have been strong. Verizon plans to make FiOS TV available in the future in other communities in Virginia and across the company's service territory."

**Coda: The Outcome of Dover**

An article in ***The New York Times***, December 18, 1995, quoted Bell Atlantic, which stated that the price to deliver the "Wonderland" applications was about 17 times the original cost.[346]

> "Bell Atlantic revealed that it cost $17,000 per household to build and deliver a Full-Service network."

The project was dropped like a hot potato. By 2001, Telephony magazine wrote:[347]

> “Bell Atlantic, one of the earliest in the overbuilding game, gave up the ghost quickly, shuttering its Toms River, N.J., operation."

## Chapter 24 How Pac Bell and SBC Stole California's Digital Future.

In 1993, Pacific Bell laid out a massive Information Superhighway plan titled "California First". The company stated that they would be spending a whopping $16 billion to rewire the state with fiber optic technologies, replacing the old, in use, copper wiring. By the year 2000, the company would have 5 million homes rewired, 1.5 million by the end of 1996! According to Pacific Telesis's 1993 Annual Report:[348]

> "In November 1993, Pacific Bell ***announced a capital investment plan totaling $16 billion over the next seven years*** to upgrade core network infrastructure and to begin building California's 'Communications Superhighway'. This will be an integrated telecommunications, information and entertainment network providing advanced voice, data and video services. ***Using a combination of fiber optics and coaxial cable, Pacific Bell expects to provide broadband services to more than 1.5 million homes by the end of 1996, 5 million homes by the end of the decade."***

And what would be offered? — Tele-medicine, tele-learning, and "unlimited programming choices", to name a few services.[349]

- "telemedicine, linking medical specialists across time zones for review of x-rays and medical procedures;
- learning and education programs that connect universities and school districts, whether for information access, or teacher-student and class-to-class interaction;
- unlimited programming choices at flexible times for TV watchers and unprecedented public access for TV producers; and
- multi-media, virtual-reality computer games; and voice-activated home shopping from an infinite variety of vendors."

This wonderland would not just include regular cable or online services, but would also give customers between 70 cable channels and 150 to 300 digital channels, according to Pac Bell's

video dialtone application to the FCC for permission to deploy this fiber-upgraded system. According to the FCC: [350]

> "The Commission found that Pacific Bell's proposed platform, consisting of 70 analog channels and between 150 and 300 digital channels, would offer sufficient capacity to serve multiple programmers."

The speeds of these services would be incredibly fast, according to the Pacific Telesis 1994 Fact Book.[351] Fiber optics is a glass wire and has the capacity to deliver speeds about 100 times faster than current DSL, which still travels over the original copper wiring.

**Exhibit 53**
**Pac Bell's Consumer Broadband Hybrid Fiber/Coaxial Direction**
(* The speeds are not quite the equivalent to Mbps)

750-50 MHz Forward Direction (to the customer)
5-40 MHz Reverse Direction (from the customer)
***Source: the Pacific Telesis 1994 Fact Book***

But the main reason the FCC agreed to allow Pac Bell to build this new network was because Pac Bell would be bringing in competition in both cable (video) services, as well as new interactive digital services. [352]

> "The Commission found that Pacific's proposals will produce new investment in an advanced telecommunications infrastructure, bring additional competition in the distribution of video services, and give consumers in those areas additional choices in video programming and interactive digital services."

And who was going to pay for this fiber optic wonderland? According to Pac Bell, the expenses would fall to customers. [353]

> “Pacific Bell officials say the whole project will cost about $1,000 per household. While most of the cost will be covered by telephone rates, Pacific Bell officials were adamant that phone bills would not be increased. “

Pac Bell reiterated this numerous times. In another article, Pac Bell said the fiber upgrades would benefit customers so, of course, it would be paid for by ratepayers. [354]

> "Pacific Bell officials say most of the new network would be paid for by ratepayers because the upgrade would benefit phone customers by improving quality and reducing maintenance costs.”

There were, of course, numerous people who questioned the plan. Some complained that the Bell was creating a schism between the communities that would and would not be wired — the first signs of today’s Digital Divide.

> "While hailed by many state and local officials, Pacific Bell's plan has come under fire from Sen. Steve Peace, D-Chula Vista, because South Bay communities were not included in the phone company's initial upgrade program.[355]
>
> “Peace said his 720,000 constituents, who live south of Interstate 8, primarily in the South Bay, will be economically and educationally disadvantaged by the telephone company's initial deployment of the superhighway in more affluent communities to the north.[356]
>
> "'You're going to have two societies out there — one that's plugged in and one that's not plugged in', Peace said. 'Pacific Bell has carved out where the wealth is in the county, and it's going to give those communities a head start. The gap is going to get wider and we'll never catch up.’”

However, though there were doubters, Pac Bell decided to go forward, and in 1994, they would start replacing the older copper wiring with the newer fabled fiber optics — as one writer put it, “The Copper Age is over in California”.[357]

> "***The Copper Age is over in California.*** Hundreds of Pacific Bell technicians have begun yanking thousands of miles of twisted-pair copper telephone wire and replacing it with broadband fiber and coax. Lasers and light — that's the future for this Baby Bell's 10 million telephone customers, who will be among the first in the nation to ride on the information highway."

Also, it was clear from Pac Bell that this was not a test or trial, but full deployment. [358]

> "And there's one crucial difference between what is happening in the Golden State and interactive efforts elsewhere: In California, they're playing with real bullets.
>
> "While other RBOCs and cable companies continue to test market their broadband networks with subscribers***, Pacific Bell has launched into full-scale deployment***."

As we discuss in other sections, virtually every phone company had plans to roll out fiber optics in the states they controlled. From Bell Atlantic's 8.75 million households by 2000, or Ameritech's 6 million households by 2000, All of America was going to be rewired. As we now know, this was mostly fiber to the press release.

**Construction Begins.**

In May of 1994, four areas were included in the initial phases of construction:[359]

- The San Francisco Bay Area in Northern California
- The Los Angeles area
- Orange and Riverside counties
- The San Diego area

In a Los Angeles Times article, titled "Interactive TV Will Come to Valley in '94", specific neighborhoods were detailed:[360]

> “Areas of Canoga Park, Reseda, Sherman Oaks, Northridge, Van Nuys, Calabasas and Hidden Hills have been targeted for Pacific Bell's Los Angeles roll-out of a high-speed fiber optic network that will bring customers everything from phone and cable television services to movies-on-demand, video catalogue shopping and video research libraries."

Even the starting point, the Reseda area, was outlined by Pac Bell. [361]

> “The initial Valley beachhead will be part of the Reseda area, where 45,000 households will be wired with fiber optic cable next year. By 1996, when all the targeted Valley areas are connected, 250,000 homes in the Valley will be capable of receiving the new phone and video services.”

The next page is an actual copy of the deployment plan as stated in the Pacific Telesis “Fact Book”, from 1993. It outlines in no uncertain terms, the various parts of California that should be rewired — and when.

**Exhibit 54**

**Pacific Telesis' Consumer Broadband Deployment Schedule for California, 1996-2000.**

*Consumer Broadband Deployment Schedule*

Consumer Broadband

| Geography for 7-year deployment | Regional Areas where Pacific Bell will initially break ground | Cities within regional areas slated for initial deployment in the 1994-1996 time frame | Areas slated for deployment by 2000 |
|---|---|---|---|
| San Francisco Bay Area | Silicon Valley and San Jose | Campbell, Cupertino, Los Altos, Los Altos Hills, Milpitas, Mountain View, San Jose, Santa Clara, Saratoga, Sunnyvale | Peninsula, San Francisco, East Bay, Contra Costa |
| Los Angeles | San Fernando Valley/West LA | Parts of Los Angeles (Canoga Park, Reseda, Sherman Oaks), Calabasas, Hidden Hills, Inglewood | Most of greater Los Angeles area |
| San Diego | San Diego | Central San Diego, (and other parts of San Diego, including La Jolla, Linda Vista, Pacific Beach and Rancho Bernardo), Del Mar, Poway | Central and eastern San Diego areas |
| Orange County | Anaheim | Anaheim, Buena Park, Cypress, Garden Grove, Orange, Stanton, Villa Park | Orange County and western Riverside County |

14

**Other Promises: The Wiring of Schools**

Alongside these promised networks, Pac Bell made other claims that insured that even California's schools and libraries would be entering the future.[362]

> "Pacific Bell will spend $100 million during the next three years to hook up more than 7,400 schools, community colleges and libraries to computer and video networks, the company announced yesterday.
>
> “By the year 2000, phone company officials predicted, ***every classroom will be wired to handle voice, data and video telecommunications."***

In fact, Pac Bell would: [363]

> "install four digital lines, called ISDN, free in every public school, community college and public library in its service areas by end of 1996. Costs of installation and one year's usage would be waived.
>
> "Wire two rooms at each school and library for computers and video-conferencing and donate $5 million in seed money for wiring all classrooms."

Pac Bell said that they would be the ones footing the bill.[364]

> “Pacific Bell President Phil Quigley said telephone rates will not be affected by the company's program because the money is coming from the corporation's regular capital-spending budget.
>
> "in the same breath Pac Bell stated that it would 'ask the Public Utilities Commission to set special rates for educational access’.”

But the phone company didn’t have to worry. The Public Service Commission slapped everyone with the bill. [365]

> "The PUC is developing a $150 million-per-year grant program for schools, libraries and nonprofit groups to develop telecommunications programs, train personnel and buy equipment."

**Video Dialtone Promises**

As in every other state, the phone company also filed with the FCC to offer "video dialtone" services. By 1993, Pac Bell California filed for four locations with 1.3 million households in the initial wave of construction.

**Exhibit 55**
**Requested Video Dialtone Applications by Pacific Telesis for California, Filed 1993**

| Date | Telco | Location | Homes | Proposal |
|---|---|---|---|---|
| 12/20/93 | Pacific Bell | Orange Co. | 210,000 | permanent |
| 12/20/93 | Pacific Bell | So. San Francisco | 490,000 | permanent |
| 12/20/93 | Pacific Bell | Los Angeles | 360,000 | permanent |
| 12/20/93 | Pacific Bell | San Diego | 250,000 | permanent |
| | | | 1,310,000 | |

**Did Promises of the Highway Effect California Customer Phone Rates?**

As early as 1988, Pac Bell pushed hard to change state laws that would give them more money to build this wonderous wonderland, as well as roll out ISDN. Based on the Bell's continual assault in the press about how California needed this wonderland, laws were changed to give the Bells more money. The old "rate of return" (which capped the Bells profits, since they were still a monopoly) was replaced with a newer form known as "alternative regulations". Also, known as "price caps", the law capped the price of some services for a while, but not the profits. And considering that the costs to offer telephone service continually dropped, price caps just supplied more profits — i.e., extra billions of pennies, nickels, dimes, and quarters on customers' phonebills.[366] In short, Pac Bell received an additional $600 million.[367]

> "John Gueldner, Pacific Bell's vice president of regulatory affairs, said yesterday's decision on rates ‘gives Pacific Bell the funding we need to continue building the information superhighway’.
>
> "’With that $600 million, we'll be able to accelerate our investment in improving telecommunications in California’, said Gueldner.”

Another form of monies came in the numerous concessions that the Bell was able to get from the very anxious California cities and counties that wanted their fiber optic networks — ASAP. As the San Jose Deputy City Manager put it: [368]

> "'We want to get the on-ramps and off-ramps (to the systems) built as soon as possible.… We want it to be clear, from (city) staff to the city council, that San Jose is aggressively pursuing (the high-tech development)', said Greg Larson, deputy city manager."

Though each city and county had a long list of enticements, the major incentives offered were: (Note: It is not in the scope of this report to identify all of the agreements and their terms.)

- loosened regulations and fast-track permitting
- various fee waivers for prospective developers
- waivers for its enterprise zones
- waiver of candidate fees, charges for use of public right-of-ways

We will return to the topic of the financial impacts of these decisions later.

**A Dark Secret: The Technology Didn’t Work as Advertised.**

Unfortunately there was a very dark secret — the system couldn't be built. As discussed in other sections, the technology wasn’t available — not for the price that the companies had outlayed for each home, and there were even questions if it could be built for any sum. According to a report titled “The Information Superhighway: Get a Grip”, by New Networks Institute, 1994: [369]

> "Numerous speeches given at a conference titled 'Interactive Marketing', May 1994,[370] discussed the technological and manufacturing hurdles required to bring to the residential subscriber full-motion, interactive video services. The consensus was simple:

- The boxes required computer chips that were not yet being mass manufactured.
- The initial boxes would cost $2,000–$5,000 per unit, since they are, in reality, high-speed computers and not production models.
- The mass market manufacturing price would most likely wholesale for $1,200–$1,500 per unit.

> "In fact, in most of the interactive TV trials during 1994-1995, the price per set-top box was between $4,000-$5,000. The Time Warner trials in Orlando, originally scheduled for spring 1994 (and shut down in 1997) were delayed a year because even the prototypes were not fully operational and the boxes reportedly cost $5,000. In another trial by Viacom and AT&T in Castro Valley, that was also canceled, the cost was $4,000 per box. This $4000-$5000 box didn't take into account the network upgrades, or the digital switches and servers, which were believed to cost an additional $1,000 to $1,200 per subscriber."

And there were obvious signs that there were problems with the Info highway. For example, Bell Atlantic halted its video service plans in April of 1995.

**"**Bell Atlantic Halts Plan for Video Services", ***The New York Times***, April 26, 1995[371]

> "Bell Atlantic Corporation called an abrupt halt to its scramble into television yesterday. Saying it wanted to rethink its strategy for upgrading its telephone network, the company asked the Federal Communications Commission to suspend its application to offer video services to as many as three million telephone customers.…"

Meanwhile, an article in ***The New York Times***, December 18, 1995, stated that:

> "Bell Atlantic revealed that it cost $17,000 per household to build and deliver a Full-Service network." (in Toms River, New Jersey) [372]

The odds that Pac Bell was aware of this at the time this law was passed was high, since Bell Atlantic and US West (two other Bell companies) both started to close down some of their info highway plans months before, citing technical difficulties.

As we discuss elsewhere, statements made by both Verizon and SBC about their new fiber optic plans, including Verizon's FIOS and SBC's Lightspeed, also indicate that it wasn't until 2004 that they were once again discussing their new fiber optic deployments, both claiming that the plans to have fiber-to-the-home was a 'first', with no mention that these identical plans were first announced in 1993!

**Construction Expenditures for the Network Came from the Regulated Budget.**

More to the point, an examination of Pacific Bell's construction expenditures for the years in question clearly show that there weren't any major increases in network spending. The company spent more money on the telephone network in the mid-1980's.

**Exhibit 56**
**Pacific Telesis Construction & Capital Expenditures, 1984-1996**
***(In the billions)***

| 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| $2.1 | $2.3 | $2.2 | $2.2 | $1.6 | $1.9 | $2.1 | $1.7 | $1.8 | $1.9 | $1.7 | $2.1 | $1.8 |

***Source: Pacific Telesis Annual Reports, 1984-1996.***

From these statistics it is clear that Pac Bell's network upgrades for fiber most likely came directly from their normal annual spending, and most likely replaced the upgrades to the copper wiring plant — the same plant that handles DSL.

Also, simple math would dictate that if the company was spending $16 billion starting in 1994 for a total of seven years, then the 1994, 1995, and 1996 expenditures would have to be at least $2.3 billion a year above the normal average amount.

**The SBC-Pacific Bell Merger: The Hatchet Comes Down on California's Plans.**

While Pac Bell at least gave the appearance that it cared, although didn't fulfill any of these obligations, SBC simply pulled the plug on all of these plans. [373]

> "Pacific and Southwestern Video Curtailment/Purchase Commitments — SBC also announced in 1997 that it was scaling back its limited direct investment in video services in the areas also served by Pacific Bell Telephone Company (PacBell) and Southwestern Bell Telephone Company (SWBell). As a result of this curtailment, SBC halted construction on the Advanced Communications Network (ACN) in California. As part of an agreement with the ACN vendor, SBC paid the liabilities of the ACN trust that owned and financed ACN construction, incurred costs to shut down all construction previously conducted under the trust and received certain consideration from the vendor. In the second quarter of 1997, SBC recognized net expense of $553 ($346 net of tax) associated with these activities. During the third quarter of 1997, SBC recorded the corresponding short-term debt of $610 previously incurred by the ACN trust on its balance sheet.
>
> "Additionally, SBC curtailed certain other video-related activities including discontinuing its broadband network video trials in Richardson, Texas, and San Jose, California, substantially scaling back its involvement in the TELE-TV joint venture and withdrawing its operations in territory served by SWBell from the Americast venture. During 1999, SBC negotiated a settlement with its Americast partners related to the withdrawal. The settlement did not have a material impact on SBC's financial condition or results of operations. The collective impact of these decisions and actions by SBC resulted in a charge of $145 ($92 net of tax) in the second quarter of 1997."

To demonstrate the total irony of this move, SBC released a press release about Philip Quigley, Pac Bell's president, at the time of SBC-Pac Bell merger. It demonstrates how the hype continued, regardless of the reality. Even though Pacific Telesis stopped all of its major highway plans and never spent the money, the press release (April 1, 1997) stated that Quigley led Pac Tel's $16 billion broadband Info Bahn project. [374]

> "During Quigley's tenure, Quigley led PacTel's comprehensive ***$16 billion network redesign program, which involved construction of a broadband information superhighway."***

However, as the previous quotes demonstrate, not only did SBC do a wholesale cleanout of the advanced network plans, but, more importantly, Pac Bell never spent the $16 billion — not even a fraction of it. However, it seems they did write-off whatever was put into the ground. It also seems that customers never benefited from the network, or the write-offs. However, customers did pay for these fabled networks. In fact, some parts of California were wired — but never connected — a true highway to nowhere.

**Show me the Money**

If the networks weren't finished, where's all the money? In other sections of the book we outline our belief — overcharging comes to approximately $2000.00 per household. Without audits it is hard to tell exactly how much money was overcharged in the Pac Bell territories, but it is most likely close to the other phone companies.

**Changes in State Laws**

Pac Bell stated that the additional $600 million would be spent on the new networks. As Pac Bell stated the money was on an increasing scale from $100 million in 1996 to $300 million in 1998, accrued from changes in state laws. [375]

> "Pacific Bell said the PUC's productivity formula would have required refunds of $100 million in 1996, $200 million in 1997 and $300 million in 1998 — money that it needs to be competitive in the new marketplace."

However, Toward Utility Rate Normalization (TURN) said the refunds were higher and that over $1 billion was at stake. [376]

> "'The commission just handed Pacific Bell a billion-dollar Christmas gift', said Regina Costa, a telecommunications analyst for TURN."

This extra billion dollars is only a small part of the overcharging picture. The "Regulatory Audit of Pacific Bell for 1997, 1998, and 1999 by the California Public Utilities Commission",[377] just examined the "regulated intrastate revenues", found that the company made mistakes of $1.94 billion dollars and that in 1999, the amount of monies that should have been collected, had the law not been changed in 1999, would have been an additional $457 million.

> "The audit of financial results identified 67 corrections to Pacific Bell's regulated operating revenues, expenses and rate base. Audit corrections to bring financial results into compliance with CPUC requirements increased the regulated intrastate net operating income that Pacific Bell reported during the audit period by $1.94 billion. This translates into recommended customer refunds under NRF earnings sharing rules of $349 million for the years 1997 and 1998. NRF earnings sharing rules were suspended by the CPUC effective in 1999. Customer refunds for 1999 would have totaled $457 million if the sharing rules had been effective. Following are additional key findings and conclusions from the audit."

And these were simply corrections needed. They do not reflect how much money the phone company made from the changes in state law.

**Did Customers Illegally Fund ADSL in California?**

As we just discussed, what was promised to Californians was a fiber optic wire, not simply using the old copper wiring.

The difference is of course speed and services. The fiber optic future was of 45 Mbps and hundreds of channels. DSL is about 45-100 times slower. ADSL, which is "Asymmetric" DSL, is only fast in one direction.

However, the Audit of Pac Bell for the years 1997-1999 found that Pac Bell had $196 million dollars in expenses to develop ADSL and much, it not all of it, was charged to phone customers, which is known as "cross-subsidization".

According to the Audit.[378]

> "ADSL was introduced in 1998 but was not widely available until after the audit period. During the three year audit period Pacific Bell incurred net expenses of $196 million to develop ADSL service and placed substantial ADSL plant investment into rate base…. At the end of 1999, at about the time the service was ready to be widely marketed, Pacific Bell transferred ADSL to SBC Advanced Solutions, Inc.. As a result, regulated customers paid a substantial amount for ADSL's development, but never received the benefit of significant ADSL revenue."

We need to point out that there have been many fights, legal actions, etc.. over DSL in California, as well as on the Federal level. For example, the FCC ruled that DSL is an Interstate Information service and doesn't have to be to competitive Internet Providers. If customers funded these networks, then shouldn't they have remained open to competition? We will come back to this issue in Volume II.

**Cross-Subsidization of Other Expenses**

A customer is only supposed to be charged for local service when paying a local service bill. However, it seems that every phone company, including Pac Bell, has been able to move expenses to the phone company's regulated' side, thus raising the cost of local phone service for 'ratepayers..

The Pac Bell audit found a host of these improperly added expenses, which can add hundreds of millions of dollars or expenses, such as with ADSL. Here are some examples. In this case, SBC charge Pac Bell customer for their political and legislative lobbying costs.

> "We found other cross subsidies flowing from Pacific Bell's customers to SBC shareholders. Examples included parent company political and legislative

> influence costs and secondary cost allocations of parent company "management fees" charged to Pacific Bell's customer (above-the-line) accounts."

SBC extortion charges? SBC charged more money to California in the form of building the SBC Corporation.

> "Pacific Bell's operating expenses increased because of a substantial increase in corporate charges. Pacific Bell's corporate charges increased from less than $120 million in 1996, the year before the merger, to nearly $300 million in 1999. ***Most of the increase was due to new and higher cost levels billed by SBC's Texas-based corporate organization, which was added to the California-based PTG organization that existed prior to the merger.*** Pacific Bell's corporate charges continued to climb in 2000. This occurred in part because cost allocations from Management Services Inc., SBC's Texas-based parent organization, were layered on top of costs being charged by PTG's parent organization prior to the merger"

And there are loads of areas that are impacted. Here are 9 different items totaling $463 million. To sum up a few — the company incorrectly charged $38 million for local number portability, (the ability to take you phone number when you go to a competitive service), $49 million for local competition costs, $35 million for not adding the merger savings, etc. However, the author's personal favorite was $41 million for the "Shut down of an Advanced Communication Network that was never placed into service," — the fabled fiber optic deployment.

> "We identified and calculated nine audit corrections to operating expenses. These include 1) removing $138 million in local number portability (LNP) costs from intrastate operating expenses that the FCC explicitly ruled should be assigned directly to the interstate jurisdiction; 2) removing $49 million in local competition implementation costs that should have been deferred and amortized over the period of CPUC-authorized surcharge recovery that began in 2001; 3) reducing operating expense by $35 million to reflect the allocation of merger savings between ratepayers and shareholders ordered in the CPUC decision that approved the merger of SBC and Pacific Telesis; 4) removing $41 million in cost associated with the shut down of an Advanced Communications Network that was never

> placed into service; 5) reducing operating expenses by $44 million to correct Pacific Bell's accounting for a December 1999 software buy-out agreement; 6) removing $103 million of unsupported and unauditable litigation and regulatory accruals from operating expense; 7) reducing incentive compensation accruals by $29 million to reflect the actual payout levels for the 1997, 1998 and 1999 performance years; 8) reducing 1997 and 1998 operating expense by $42 million to remove the cost of settlements paid to contract billing customers for an increase in uncollectible amounts attributable to 1996 operations; and 9) increasing operating expense by $19 million to correct the classification of traffic bound for internet service providers for separations purposes. In total these nine corrections reduce audit period intrastate regulated operating expense by $463 million."

**An Additional $3.6 Billion in Tax Deductions Is Tied to Changes in State Law.**

In 1995, the company took a massive one-time deduction of $3.6 billion using the excuse that they were replacing the older copper wiring with the fiber optics, which, of course, did not happen. We discuss this deduction in our construction and depreciation analysis of the Bell companies, as every other Bell also took a similar deduction tied to the changes in state regulations for their broadband announcements.

(NOTE: In 1999, New Networks Institute filed a $3.6 billion Complaint against Pac Bell with the IRS, contending that the copper wiring was still in use and had not been removed. This saved the company over a billion dollars in Federal taxes.)

Without a full audit of the monies directly related to the changes in state law that were made for their fiber optic promises, it is impossible to tell the full extent of the costs to customers and the economy.

**Other Business Indicators**

Because of the mergers with SBC, the various write-offs, etc., it is impossible to go into complete detail about how the fiber optic promises played out in each state. But a few things are clear — in 1992, the company's overall return on equity, a standard business measure, was then 16.1% and went to 46% in 1996, an increase of 186%. And one of the reasons for this increase

was the massive staff cuts. There were 57,000 staffers in1992. By 1996 there were only 48,300 — a drop of 8,670, or 15%.

**Exhibit 57**
**Pacific Telesis Return on Equity, Staff, 1992-1996**

| | 1992 | 1994 | 1996 | |
|---|---|---|---|---|
| Return on equity | 16.1% | 22.0% | 46.0% | 186% |
| Staff | 57,023 | 51,590 | 48,330 | -15% |

Clearly, changes in regulation that allowed for massive staff cuts, and a lack of large increases to construction, as previously discussed, all added up to major increases in the companies' profits.

**Coda: So Much for California's Digital Future.**

There were some customers that did notice. The San Diego Tribune wrote what amounts to an obituary for the fabled highway. [379]

> "San Diegans continue to shake their heads in disbelief over the sudden cancellation of a project that promised to bring meaningful competition to the local cable market — and much more.
>
> "'It was a little disappointing to hear about all these marvelous things that they were going to provide us with, and then, with no communication with us, they just came through and started yanking (the new boxes) out again.' said Gordon Buck, a Clairemont resident. 'I'm just puzzled by it,' said Lou Quayle, another Clairemont resident. 'They had an army up here for almost three years.'"

More to the point, there's a network to nowhere sitting in various California neighborhoods. [380]

> "Late last year, the company quietly sent word out in the industry that it is willing to sell its cable operation in San Jose as well as its unfinished networks in San

> Diego, Los Angeles and Orange County – a total of 2,733 miles of fiber optic and coaxial cabling.
>
> "Since that announcement in June, Pac Bell has disconnected cable customers in San Jose and has spent months tromping through San Diego neighborhoods to disable household boxes and reconnect customers to the old copper phone network."

In fact, the fabulous Information Superhighway is now nothing more than another version of POTS — plain old telephone network. [381]

> "Pac Bell's video network here, begun in May 1994, had included more than 73,000 homes in Pacific Beach, Mission Beach, Clairemont, Mira Mesa and Scripps Ranch when it was canceled last year.
>
> "Although the network never carried video service, about 3,500 local customers in the beach areas had been receiving phone service over the high-tech network. To date, all but 946 phone customers here have been reconnected to copper wires."

The San Diego Tribune encapsulated the failed deployments in 1998 with a timeline titled "A plan that failed," highlighted on the next page.

**Exhibit 58**

**San Diego Tribunes' Year by Year: A Plan that Failed**

**(Summary of the Pac Bell Deployment of the Information Superhighway.)**

- November 1993 — Pacific Bell unveils plans to spend $16 billion over seven years to upgrade its California network to handle interactive services like home shopping and compete against cable companies with video channels and movies-on-demand.
- May 1994 — PacBell begins network construction in Pacific Beach and Mira Mesa in San Diego. Construction also begins in San Jose and in Orange and Los Angeles counties.
- October 1994 — City of San Diego considers proposal to require that Pacific Bell pay franchise fees and abide by other requirements imposed on cable companies if it gets into the video business.
- October 1994 — Pacific Telesis, Bell Atlantic Corp. and Nynex Corp. form TELE-TV, a joint venture to provide the companies with video programming, entertainment and information to sell to residents.
- January 1995 — PacBell and city of San Diego sign "landmark" agreement, with PacBell pledging to give the city 5 percent of gross revenues from voice, video and data services sold over new network. City agrees not to regulate PacBell as a cable company.
- April 1995 — PacBell buys Cross Country Wireless Inc. and announces plans to offer "wireless cable" service to 5 million-customer service area covering San Diego, Riverside, Los Angeles and Orange counties.
- September 1995 — PacBell slows network construction to save $1 billion in capital costs over five years for statewide project, but accelerates network construction in San Francisco.
- January 1996 — PacBell halts fiber/coaxial network construction in Los Angeles County. Network projects continue in San Diego, San Jose and Orange County (briefly).
- April 1996 — SBC Communications of Texas signs deal to buy Pacific Telesis.
- May 1996 — Network construction halted in Orange County.
- June 1996 — San Jose City Council awards PacBell a cable franchise, giving the company official standing as cable operator.
- September 1996 — PacBell begins selling video service in San Jose over its new network.
- April 1997 — SBC's purchase of Pacific Telesis becomes final.
- April 1997 — TELE-TV, jointly owned by Bell Atlantic Corp., Nynex Corp. and Pacific Telesis Group, cuts staff in half and abandons all joint video projects in favor of individual company efforts.
- May 1997 — PacBell launches 'wireless cable' service in Los Angeles and Orange counties.
- June 1997 — SBC abandons almost all attempts to compete with cable, announcing immediate ends to Pac Bell's video network project as well as a smaller test in Texas. The decision halts construction in San Diego and pulls the plug on 8,000 PacBell cable customers in San Jose. SBC writes off $500 million investment in both ventures.
- November 1997 — PacBell sends out requests for bids on various components of the partially built video network.

## Chapter 25 Texas' Infrastructure Act: A Vanishing Act?

Financial incentives to deploy advanced technologies were the universal theme with the Bell companies, but it was played out differently by state. Southwestern Bell, Texas, was one of the leaders in getting the politicians and regulators to grant their wishes and give them more money for promises of a digital future, with the obvious question — what did customers get out of it?

And Southwestern Bell had two distinct paths for their fiber optic dreams — one dedicated to the 'wonderland' model of 500 channels and the other directed at the government, schools, libraries and hospitals, and even prisons, SBC making the pitch had potential for the masses.

**The Tele-Everything Pitch**

Armed with over 100 lobbyists, [382] SBC held out a vision of the future of wonderous new fiber optic services for schools, hospitals and even prisons. Testimony by David Cole, President, Southwestern Bell Texas, stated:[383]

> "Perhaps the most exciting benefit is, of course, the tremendous potential of this package for our schools, hospitals and criminal justice organizations. Our distance learning, telemedicine and video arraignment pilot projects have demonstrated the incredible good that the infrastructure component of this bill (HR2128) can lead to for our local communications. There are several witnesses here today that will tell you first-hand what these market tests have meant. We stand ready to replicate these successes statewide."

Southwestern Bell stated that they would make a commitment to invest $1.1 billion for fiber optic technologies, if only there were changes in the current laws. According to Cole:[384]

> "Last month we joined with other members of the Texas Telephone association in making a major infrastructure announcement. In return for the change from profit to price regulation, we have committed to a four year program to invest up to $1.5 billion in Texas. Our portion will be $1.1 billion. That's money over and above

> our normal capital program. These would be funds earmarked for bringing digital switches to all our customers. And fiber optic technology would be brought to Texas classrooms, libraries and hospitals."

This fiber optic technology was to supply two-way interactive programming of "television quality", that had speeds of 45 Megabits per second — about 45 times the average ADSL service.[385]

> "company shall provide broadband digital service that is capable of providing transmission speeds of up **to *45 megabits per second or better*** for customer applications."

And what needed to be done was the removal of the rate of return regulations, which are regulations that limited the Bell's profits.[386]

> "Our message continues to be a simple one. Traditional Rate of return regulation no longer works in today's dynamic telecommunications business. Texas needs to establish a new system of regulation — one that allows regulators to oversee prices and quality of service instead of prices."

The state legislature went along with the Bell's desires. In a bill (HR 2128) which eerily sounds like the phone company's voice, the Legislature agreed that technological advancements would raise the standards of living for Texans.[387]

> "The legislature further finds that the technological advancements, advanced telecommunications infrastructure, and increased customer choices for telecommunications generated by a truly competitive market will raise the living standards of all Texans by enhancing economic development improving the delivery of education, health, and other public and private services and therefore play a critical role in Texas' economic future."

The legislation also agreed that Southwestern Bell needed to have new rules that would remove the former rate of return.[388]

> "Therefore to foster, encourage, and accelerate the continuing development and emergence of a competitive and advanced telecommunications environment and infrastructure, the legislature declares that new rules, policies, and principles be formulated and applied to protect the public interest."

Merrill Lynch's financial analysis of the law's incentives that Southwestern Bell got from regulators was a "thumbs up".[389]

> "We view the regulation in Texas as positive for SBC — perhaps the best regulatory plan in the country at the state level from the perspective of the local telco incumbant."

**The Techno Horse-Trade**

The basic idea presented by Southwestern Bell was to digitize Texas with fiber optics as well as wire all schools, hospitals, etc. with a fully interactive, two-way, 45 megabit service. As the Act states:[390]

> "INFRASTRUCTURE COMMITMENT TO CERTAIN ENTITIES. It is the intent of this section to establish a telecommunications infrastructure that interconnects public entities described in this section. The interconnection of these entities requires ubiquitous, broadband, digital services for voice, video, and data within the local serving area.
>
> "On customer request, the electing company shall provide broadband digital service that is capable of providing transmission speeds of up **to *45 megabits per second or better*** for customer applications and other customized or packaged network services (private network services) to an entity described in this section for their private and sole use except as provided in
>
> - educational institutions;.
> - libraries;

- nonprofit telemedicine centers of academic health centers, public or not-for-profit hospitals, or -licensed health care practitioners; public or not-for-profit hospitals;
- projects funded by the Telecommunications Infrastructure Fund described in this Act."

There was a host of other items that the phone company was required to do, such as upgrading the network switches to digital central offices. Also, The Telecommunications Infrastructure Fund was created through charges to all of the phone companies, including wireless companies, to give the various organizations funding to pay for any costs, including equipment, software, etc..

We will return to the deal and the outcome, but first the "Wonderland" pitch.

**"Southwestern Bell's Wonderland Pitch**

In reviewing the materials, it is obvious that Southwestern Bell's (now SBC) announcements on video dialtone/broadband services were more constrained than the other companies in the mid-1990's. However, Southwestern Bell was one of the first to discuss online services when it had touted ISDN back in 1986, almost two decades ago.

Southwestern Bell, **1986** Annual Report: [391]

> "At the forefront of new technology is ISDN. Scheduled for commercial availability in 1988, ISDN will revolutionize day-to-day communications by allowing simultaneous transmission of voice, data and images over a single telephone line.
>
> "With ISDN customers will have the potential to access videotex, telemetry, alarm services, sophisticated calling features, teleconferencing much more economically than they can today."

We bring this up because the company was positively destructive to the info highway projects in every state in the 1990's.

However, an SBC press release from 1996 revealed that SBC was pro-broadband. “GTE to join Disney, Ameritech, BellSouth and SBC in Home Entertainment partnership. Increases venture reach to 68 million access lines, 32 states,” July 7, 1996. [392]

> “SBC is building a traditional cable network in Richardson, Texas that will be in service in the fourth quarter of this year. It also is constructing a broadband network that will allow the company to offer cable and interactive services to up to 47,000 Dallas area households in 1996. SBC may provide video-on-demand — as well as a host of other interactive services such as home shopping, education programs, and interactive games — to those 47,000 households. SBC, which recently won court approval to provide video programming in its telephone subsidiary's five-state territory, is working with Microsoft, Lockheed and others to develop the delivery system.”

SBC also told the San Antonio Business Journal that Americast was about to purchase $1 billion worth of digital set top boxes:[393]

> “Americast — the television venture between locally based SBC Communications Inc. and four other companies — last week announced the purchase of $1 billion worth of high-tech boxes, referred to as digital set-top boxes.”

And the article surmised that, from this purchase, SBC was serious about video services and that they’d be coming out in 1997 or 1998.

> “SBC officials have been tight-lipped regarding their video plans. However, telecommunications analysts say they expect the San Antonio-based firm to begin offering some type of video services in its major markets in 1997 or 1998….'You should expect to see Southwestern Bell-branded entertainment products in the near future,' says SBC spokesman Bob Ferguson. 'We're very much committed to moving forward with plans to have video offerings for our customers.'"[394]

It seems it was all wishful thinking. According to ***Telephony*** magazine,[395] by the time of the SBC-Pacific Telesis merger in 1997, the company was pulling out of cable TV and Americast, the joint venture with Ameritech, BellSouth, and Disney.

As previously discussed, the company also wrote-off the Richardson, Texas, deployment along with the Pac Bell deployments in 1997. According to the 1999 Annual Report, SBC also shut down the video dialtone trials in Richardson Texas and San Jose, as well as scaled back the TELE-TV work.[396]

> "Additionally, SBC curtailed certain other video-related activities including discontinuing its broadband network video trials in Richardson, Texas, and San Jose, California, substantially scaling back its involvement in the TELE-TV joint venture and withdrawing its operations in territory served by SWBell from the Americast venture. During 1999, SBC negotiated a settlement with its Americast partners related to the withdrawal. The settlement did not have a material impact on SBC's financial condition or results of operations. The collective impact of these decisions and actions by SBC resulted in a charge of $145 million ($92 million net of tax) in the second quarter of 1997."

Notice how little money was actually in all of these transactions. There is no sign of any major fiber optic deployment expenditures.

**And the Horse Trade? The Removal of Regulations that Protected Customers**

In exchange for this fabulous digitized future, the phone company was able to remove the older rate of return regulation and replace it with "incentive regulation" (also called "price cap" or "price regulation"). This new regulation allowed specific items to become reclassified as "Discretionary", and therefore, the company's profits could reach as much as the market would allow. This list included virtually all of the calling features, including Call Waiting and Caller ID.[397]

**Exhibit 59**
**Discretionary Services, Southwestern Bell, Texas**
***(As of September 1, 1995)***

- In-state Toll services, where equal access (for competitors) is available
- Operator services
- Call Features including Call Waiting, Call Forwarding, and Caller ID

In short, many of the very profitable services would no longer be examined for profits, and Southwestern Bell would pocket the difference, instead of having to lower rates because of excessive profits.

In a report released by the Public Utility Commission of Texas[398] pertaining to the utilities earnings under this new regulation, for the year 1997 Southwestern Bell had $288 million of "Overearnings" as compared to the older rate of return regulation that examined profits. It came to $31 a line extra. Because of the incentive regulations, the phone company was not asked to return it (nor were the other years examined).

More to the point, if the 45-megabit system to schools and prisons does exist, then it is one of the best kept secrets. In numerous interviews, we have not found anything but various "trials". Also, the state auditor recently wrote a report condemning the Texas Telecommunications Infrastructure Fund agency. [399]

> "The Telecommunications Infrastructure Fund Board (Agency) may spend $1.5 billion without developing 'a world class telecommunications infrastructure that benefits all Texas' as charged by the 76 in the Legislature. The Agency has distributed approximately 25 percent ($382 million) of its fund without adequately identifying Texas' telecommunication needs, effectively collaborating with other agencies, or developing written procedures for its day-to-day operations. To provide a vital and sustainable infrastructure that connects the citizens of the State, the Agency will need to broaden its focus from funding basic connections to funding more of the advanced projects allowed by its enabling legislation."

## Chapter 26 Massachusetts' 330,000 Fiber Optic Lines that Never Showed Up. [400]

In 1999, New Networks Institute filed a complaint with the Massachusetts Department of Telecommunications and Energy (DTE) to investigate our claims that the promised fiber optic networks never showed up and that over a billion dollars of excess profits had accrued to NYNEX. We also complained that NYNEX should not be allowed to offer long distance service or any other service, until either the networks showed up or customers were made whole.

The next pages lays out our claims. Notice that this story is almost identical to virtually every other case study.

**SUMMARY**

In 1994, Bell Atlantic (then "NYNEX") proposed a plan to rewire the Commonwealth of Massachusetts with new fiber optic technology, replacing the older copper wiring. Bell Atlantic represented that, if implemented, residential subscribers would soon have access to up to 800 channels of new services, including video-conferencing, movies on-demand and other enhanced cable television and online services. Bell Atlantic proposed that this new fiber optic technology would replace the copper wiring already in place. According to Bell Atlantic, 330,000 residential consumers would have access to the new fiber optic network by 1995, at a cost of $500 million, and the rest of the Commonwealth would be connected subsequently.

Bell Atlantic proposed that they could only afford to make this considerable investment if the rate of return restrictions were relaxed at the state and federal level, in Massachusetts and elsewhere. Traditionally, rate of return restrictions capped Bell company profits at 10-12% annually. Instead, they proposed "alternative regulations" that would allow them to become vastly more profitable, and promised those profits would be used to fund the development of the new services. Bell Atlantic sought regulatory relief from the Massachusetts Department of Public

Utilities (now the Department of Telecommunications and Energy). They sought similar relief in every other state in which they were the incumbent local exchange carrier and from the Federal Communications Commission, on the basis of, substantially, the same promises to build a new network and offer new services.

The alternative regulations in Massachusetts went into effect in September 1995 and expired in 2001. In February 1995 the FCC granted Bell Atlantic's petition to offer "video-dialtone" services. In 1996, Congress passed the Telecommunications Act, based on a record that included various Bell company promises of advanced network deployment, including those made by Bell Atlantic.

As a result of the alternative regulations, we estimate that Bell Atlantic garnered over one billion dollars in increased profit above the rate of return in Massachusetts alone. But they never built the new network, or deployed the new services that were the rationale for the regulatory relief. In fact, just months after being granted relief as an incentive to invest in the Massachusetts infrastructure, Bell Atlantic abandoned plans to build and deploy the new network. NYNEX's 1996 Annual Report states: [401]

> "In February 1996, New England Telephone advised the FCC that it relinquished authorization to construct advanced video dialtone network facilities in portions of Massachusetts and Rhode Island."

**1. Bell Atlantic Misled Massachusetts Consumers and Regulators with Promises of Advanced Network Deployments for the Purpose of Removing Important Pro-Consumer Regulation.**

In statement after statement, before consumers, advocates, regulators and the press, employees and executives at the top echelon of New England Telephone made repeated and unambiguous representations that NYNEX would spend over $500 million to build the fiber optic network in Massachusetts, commencing in 1995.

On July 15, 1994, New England Telephone Chairman Paul O'Brien announced that NYNEX was:

> "putting its money behind its beliefs. We recently announced plans to build what is essentially a new … state-of-the-art broadband network … capable of providing video-on-demand and interactive information services."

O'Brien went on to promise that construction would begin late that year, 1994, in eastern Massachusetts. A few months later, the ***Patriot Ledger*** quoted NYNEX spokesman Kenneth Horne describing a very specific plan:

> "In Massachusetts, NYNEX plans to begin the new service in Somerville, Revere and Winthrop, then move to Brookline, Cambridge and neighborhoods in Boston, including Roxbury, Brighton, Beacon Hill and the Back Bay…."

In its testimony before the Department as it considered the alternative regulation plan, NYNEX agreed to "deploy a fiber-based broadband network, with initial deployment to approximately 330,000 access lines, by year-end 1995."

NYNEX made essentially the same promise to the FCC in 1994:[402]

> "On July 8, 1994, NYNEX filed two (Section 214) applications for authority to provide video dialtone service in certain areas of Massachusetts and Rhode Island. The application to provide video dialtone service in Massachusetts proposes a system that will pass approximately 334,000 homes and businesses."

NYNEX put forward a very specific technological definition of what it would offer if granted relief. As the FCC understood the NYNEX proposal:[403]

> "NYNEX proposes to deploy hybrid fiber optic and coaxial (HFC) broadband networks that will provide advanced voice, data, and video services, including interactive video entertainment, multimedia education and health care services. NYNEX's proposed video dialtone systems make available three types of service

> arrangements: analog broadcast, digital broadcast, and digital interactive service. Video programmers may deliver an 'analog, digital, or other agreed-upon signal' that NYNEX plans to modulate or encode as necessary. The allocation plan provides for the offering of 21 analog channels, all but one of which will be used for over-the-air broadcast programming services, and, depending on compression rates, between 400 an 800 digital channels."

NYNEX also spun a very compelling vision of the consumer benefits the new technology would allow: [404]

> "[T]he new technology would give Massachusetts residents access to a wide range of information and entertainment services. Among the new types of services envisioned are improved cable television, home banking and shopping, civic and community-based forums and bulletin boards and new forms of interactive entertainment such as movies on demand.
>
> "Ultimately, the broadband network would help Massachusetts education institutions further expand interactive and distance learning opportunities for students of all ages. The health care industry would gain advanced communications capabilities to reduce costs and expand delivery of services, including remote diagnoses and other forms of telemedicine."

The rate of return doctrine that NYNEX sought so aggressively to replace protected consumers in important ways. It stipulated that as telecommunications became less expensive to provide, consumer prices would fall because telephone company profits would be capped at 11%. Had alternative regulation not been approved, consumers would have benefited from the economies of scale brought about by an increase in overall use of telecommunications and from the substantial investment in the copper plant, that, as ratepayers, we had underwritten over time. NYNEX, and the other "Baby Bells," presented an ambitious vision of the future — one that would require substantial investment in new technologies. Rather than lower rates, they proposed to freeze rates

for basic services at the 1995 level, and agreed to invest increased profits in the new network and services.

We estimate that between 1994 and 1999, Massachusetts' consumers paid over one billion dollars more for basic telecommunication services than they would have if alternative regulation had not been established. However, the exact amount requires an investigation and audit. And it is doubtful that NYNEX ever intended to build the new network.

**2. Once Regulatory Relief Was Granted Bell Atlantic Abruptly Discontinued Plans to Deploy Important New Technologies.**

The five-year effort by NYNEX to establish the regime of alternative regulation was mirrored by every other "Baby Bell" throughout the United States. It involved an intensive lobbying campaign, on the federal and state level, before lawmakers, local officials, regulators, consumer advocates and the press.

In early 1996, a few short months after NYNEX successfully prevailed upon the Department to grant their scheme of alternative regulation and just after the FCC granted their request to be able to offer new video-dialtone services, NYNEX abruptly cancelled all plans to deploy the new network. Indeed, NYNEX's 1996 Annual Report states:[405]

> "In February 1996, New England Telephone advised the FCC that it relinquished authorization to construct advanced video dialtone network facilities in portions of Massachusetts and Rhode Island."

NYNEX had gotten what it wanted — relief from the rate of return doctrine, and was raking in millions of dollars in excess profits paid for by Massachusetts ratepayers.

More than four years later, there were no fiber optic, full-motion-video-with-eight-hundred-channel services being offered in the region by Bell Atlantic or anyone else. The promise of digital delivery of hundreds of channels, at speeds one hundred times faster than current high-speed Internet services, made by NYNEX was broken and they have not, as yet, been held accountable. Currently new products are being offered via ADSL —- a service that is

deployed over the copper network — the original twisted pair of wires that was to be replaced by fiber to every home.

It was bad enough to find that NYNEX (now Bell Atlantic) promised its customers and regulators a bright future, enhanced by important new technologies that would vastly improve the ways we educate, edify and entertain ourselves, then simply changed its corporate mind. Because vast new profits were garnered, not by raising prices but by freezing prices at artificially high levels, perhaps Bell Atlantic thought no one would notice. State and federal regulators are notoriously over-burdened. But it is even more distressing to find that Bell Atlantic then ceased investing in and, in fact, wrote-off the copper network, upon which Massachusetts subscribers still rely, taking massive tax deductions in the process and making still more incremental profit.

### 3. **Bell Atlantic May Have Taken as Much as $800 Million in Improper Tax Deductions in Massachusetts**.

In 1995, NYNEX, the holding company which owned New York Telephone and New England Telephone, took a one-time tax deduction of $2.9 billion, claiming that new regulations in states, including Massachusetts, allowed it to write-off the copper network that it intended to replace with a new fiber optic one. The amount of the Massachusetts write-off is difficult to document precisely because tax returns are not public documents, but we estimate the total amount in Massachusetts to be $800 million. This calculation is based on similar deductions in New Jersey and Pennsylvania for the same item, and making adjustments to account for relative size. The New Jersey and Pennsylvania figures were provided in annual reports filed with the Security and Exchange Commission (SEC). We have not found a similar report for Massachusetts specifically, but the deduction was referred to in aggregate form by NYNEX.

Of course the wire was never replaced, making the write-offs premature at best. NYNEX explained the deductions this way.[406]

> "In the second quarter of 1995, NYNEX discontinued accounting for the operations of the telephone subsidiaries in accordance with the provisions of Statement No. 71. As a result, NYNEX recorded an extraordinary non-cash charge of $2.9 billion.

> "The operations of the telephone subsidiaries no longer met the criteria for application of Statement No. 71 due to a number of factors including: significant changes in regulation ***(achievement of price regulation rather than rate of return regulation in New York, Massachusetts and Maine, and ongoing efforts to achieve price regulation in the remaining jurisdictions); an intensifying level of competition; and the increasingly rapid pace of technological change***. Under Statement No. 71, NYNEX had accounted for the effects of rate actions by federal and state regulatory commissions by establishing certain regulatory assets and liabilities, including the depreciation of its telephone plant and equipment using asset lives approved by regulators and the deferral of certain costs and obligations based on approvals received from regulators. NYNEX had continually assessed its position and the recoverability of its telecommunications assets with respect to Statement No. 71."

In Massachusetts specifically, this deduction was on top of increasing the depreciation rates in general — more tax writeoffs equals more tax savings, equals more cash.[407]

> "NYNEX stated that it will require additional increases in its depreciation rates over the next few years of approximately $100 million. The Company attributes this to the planned expansion of its broadband network in Massachusetts, and the shorter economic lives of its plant resulting from these technological improvements."

In 1998, New Network Institute filed a $21 billion complaint with the Criminal Justice Division of the US Internal Revenue Service against NYNEX, Bell Atlantic, and the other Bell Holding companies, in each of the states in which they operated in 1995. The complaint (refiled with new information in October 1999) highlights how the Bells took substantial one-time deductions of the older copper plant, claiming that they were replacing it with fiber optics. However, since these networks were never replaced and are still in use, NNI contends that the IRS should investigate the $21 billion of improper deductions.

**4. Since Rate of Return Regulation Was Replaced by the Alternative Regulation, Bell Atlantic Profits Have Been Excessive and Generated at an Unreasonable Cost to the Telephone Subscribers and Consumers of the Commonwealth.**

Without speculating as to whether the Department would have granted Bell Atlantic a rate increase if they had simply asked for it outright, they managed to achieve the same objective as the cost of providing service to Massachusetts subscribers plummeted while rates to consumers remained frozen.

Although a Massachusetts annual report was unavailable, the FCC filings of both Bell Atlantic, the holding company, and New England Telephone make clear the impact of the alternative regulation plans. First, Bell Atlantic's overall profitability is clearly indicated in their second quarter 1999 report. The exhibit below shows that Bell Atlantic's return on equity was 33.4%, a 200% increase over the traditional 11% rate of return. Profit margins of 43% for Telecom Services and over 52% for Directory Services are unconscionable for a supposedly regulated monopoly.

**Exhibit 60**
**Bell Atlantic's Return on Equity and Profit Margins**
(Second quarter results for 1999)

| | |
|---|---|
| Bell Atlantic Return on Equity | 33.4% |
| Bell Atlantic Profit Margins for Telecom | 42.8% |
| Bell Atlantic's Profit Margins for Directory Services | 52.1% |

More specifically, the information provided to the FCC by the companies regarding annual earnings clearly showed that Bell Atlantic, and more specifically New England Telephone, greatly benefited from the alternative regulation. Dividends paid to Bell Atlantic doubled from $424 million in 1994 to a whopping $845 million in 1998. In addition, the Bells vastly increased their deductions based on the depreciation of the copper network garnering nearly $100 million more by 1998 throughout all of the New England Telephone states, including Massachusetts, Maine, Vermont, New Hampshire, and Rhode Island, all of which operate under some form of alternative regulation. Massachusetts accounts for approximately half of all New England Telephone subscriber lines.

**Exhibit 61**
**Bell Atlantic-New England Telephone Dividends, Depreciation, and Expenses, 1994 vs.1998[408]**

| | 1994 | 1998 | Change |
|---|---|---|---|
| Dividends paid to Bell Atlantic | $424 | $845 | Doubled |
| Depreciation expenses | $862 | $952 | Increased $100 million |

According to the Massachusetts' alternative regulation plan, depreciation expenses were supposed to be related to NYNEX's installation and deployment of the fiber optic network. As previously noted:[409]

> "NYNEX stated that it will require additional increases in its depreciation rates over the next few years of approximately $100 million. The Company attributes this to the planned expansion of its broadband network in Massachusetts, and the shorter economic lives of its plant resulting from these technological improvements."

More to the point, the information provided clearly shows that NYNEX never spent the $500 million, as promised, to deploy the fiber. In fact, while revenues increased 15% from 1994 to 1998, expenses only increased 6 percent and income rose 56%.

**Exhibit 62**
**Bell Atlantic-New England Telephone Revenues, Expenses and Income, 1994-1999**

| (In $ billions) | 1994 | 1995 | 1996 | 1997 | 1998 | % increase |
|---|---|---|---|---|---|---|
| Total Revenues | $4.1 | $4.2 | $4.6 | $4.5 | $4.7 | 15% |
| Operating Expenses | $3.3 | $3.3 | $3.3 | $3.4 | $3.5 | 6% |
| | | | | | | |
| Operating Income | $790 | $905 | $1,299 | $1,096 | $1,230 | 56% |

It is important to note that while revenues rose, and expenses stayed the same, there was a continued and accelerated increase in profits, from $790 million to $1.23 billion — a 56% increase since 1994. In short, New England Telephone clearly benefited from alternative

regulations. Dividends doubled, depreciation rose almost $100 million, and "Net Operating Income" increased 56%. Meanwhile, expenses, including sales and marketing, customer service operations, and expenditures on the network plant, all decreased or increased only marginally.

These statistics also hide another major issue — did Bell Atlantic charge customers for the development of video services? According to testimony and comments from the Attorney General in the original alternative regulation case, NYNEX added an additional $7 million to the cost of customer services for the development of its proposed video service.[410]

> "The Attorney General asserts that NYNEX's video and broadband research and development ("R&D") activities are intended to allow it to deploy a cable television system at the expense of telephone customers.… Therefore, the Attorney General concludes that NYNEX's cost of service should be reduced by $6,635,000."

Meanwhile, the New England Cable Television Association ("NECTA") claimed that the overcharging of customers by added expenses was closer to $19 million.[411]

> "The Company's test year expenses concerning affiliate transactions are rife with costs relative to video transport, video-on-demand ('VOD'), and broadband applications that should be excluded from cost of service. NECTA maintains that NYNEX's cost of service should be reduced by at least $18,629,482."

Based on this data, we estimate that New England Telephone customers could have paid over $500 million in excess charges above previously regulated amounts for 1998 alone. This statistic is derived primarily from the depreciation increases and the excess dividends paid. Further, taking into account the current growth described in Bell Atlantic's 1999 second quarter report, we estimate that an additional $500 million in over-charges was likely.

For the five year period, we estimate that the subscribers served by New England Telephone will have been over-charged by as much as $1.3 billion. These estimates do not include the more than $800 million in depreciation taken by NYNEX in Massachusetts in 1995.

In consideration of these questionable tax deductions taken and in light of vast increases in New England Telephone dividends, we estimate that over $1 billion of additional charges to Massachusetts's subscribers warrants investigation. Our findings are based on raw data provided

by Bell Atlantic. NNI believes that a thorough audit of the company might find other questionable practices.

This pattern of Bell company excesses suggests that the Department has been unable or unwilling to monitor and regulate the ongoing commercial practices of Bell Atlantic and its corporate predecessor, NYNEX. These excesses take various forms, for example, Bell Atlantic still charges Massachusetts subscribers for Touchtone service (as of 1999), an “option” that costs nothing to make available. Ironically, Bell Atlantic seems to be caught between two worlds, one typified by the most advanced features imaginable, which they have charged us for but can’t deliver, and the other, where consumers are charged for the most basic tool of the information age — DTMF signaling, without any compelling rationale.

Furthermore, we believe Bell Atlantic probably never had any serious intention of deploying the new networks, and made the decision not to build the new networks before the Massachusetts alternative regulation plan even went into effect. According to press accounts, Bell Atlantic shifted focus to a wireless technology, supposedly capable of delivering the same advanced cable services to Massachusetts subscribers even before the fiber network could be installed.[412]

> “In recent weeks, three regional phone companies unwrapped plans to enter the cable-TV market sooner than expected, using simple transmission towers and fishbone-style rooftop receivers. While the technology may be as old as a Jack Benny punch line, the phone companies say it will enable them to offer customers an alternative to cable programming long before their exotic fiber optic networks are rolled out later in the decade.
>
> "'It gives customer choices sooner than what we would otherwise be able to accomplish with fiber,' says Jack Hoey, a spokesman in Boston for Nynex Corp., which last month teamed up with Bell Atlantic Corp. to invest up to $100 million in CAI Wireless Systems Inc. of Albany, N.Y….
>
> "It will take years before the [fiber optic] technology becomes widespread, though, and the phone companies have been pushing back their timetables. Just this week, Bell Atlantic asked the federal government to withdraw its application to deliver fiber-coaxial — or so called broadband — services to as many as 3 million homes

> in Philadelphia, Pittsburgh and nearby centers. It said it wants to reconsider its technology strategy."

The timing of the ***Globe*** report is significant. It indicates that in April 1995, a full five months before the alternative regulation plan was approved, Bell Atlantic probably knew they were not going to build the new network. Alternative regulation was approved in September 1995. Three months later, the same Bell Atlantic spokesperson explained that they changed their minds while wiring Somerville.[413]

> "'Since the work began in Somerville, however, wireless technology has emerged as a faster, more efficient way to get into more homes — at least for video,' Hoey said. Nynex plans to begin offering Multichannel Multipoint Distribution Service (MMDS), also known as 'wireless cable', to residential customers by the fourth quarter of 1996."

Would the Department have acceded to Bell Atlantic's alternative regulation scheme without the promise of the new network? Obviously we have no way of knowing for sure. We recognize that the Massachusetts regulation does not immediately link the Bell Atlantic deployment plan with the alternative regulation, but it is impossible to ignore the fact that for four years in every statement, filing, and press release related to this topic, Bell Atlantic made a verbal commitment to its customers and to regulators that they would deliver on their promise of a new network. There is absolutely no evidence that they made any substantial effort to inform the public when they changed their mind, or the reasoning for the change, and we believe Bell Atlantic had a good faith obligation to inform the public and, certainly the Department. We have not been able to locate documentation that Bell Atlantic did inform the Department, but if they did, we believe the Department had a moral, legal and fiduciary obligation to reconsider the alternative regulation plan. And, by the way, the CAI Wireless technology, the technology that was supposed to bring cable competition to the Commonwealth faster than the fiber optic Infobahn, never worked as advertised and was also abandoned.

These findings: the regulatory slight-of-hand — a billion dollars in possible overcharges; runaway profits and unprecedented dividends paid, along with the sheer complexity and pace of change of the telecommunications market — point to the unavoidable questions: Where were the regulators and how have they allowed this to continue?

**The Bell Atlantic-NYNEX Fiber Optic Hatchet and Con Job**

In our section on the Bell Atlantic NYNEX merger, it is clear that what happened in Massachusetts was nothing more than a con job. We could not find any evidence that the companies would be building the fiber optic services they were using as an excuse to change state laws. And the pattern of misleading the public using fiber optic dreams happened in virtually every Bell Atlantic state. We also know that as of 1997, after the merger and the passage of the Telecommunications Act of 1996, Bell Atlantic stopped all of its fiber plans by writing off whatever was left of video deployments.

Please see the other chapters for more details on this topic.

## Chapter 27 Liberty, Bell, Stolen. Pennsylvania's Fiber Optic Scam and the Muni Future.

***The state song:***

Tyranny decried,
'Til the bell of independence
filled the countryside.
Chorus:
Pennsylvania, Pennsylvania,
May your future be,
filled with honor everlasting
as your history.

You would think that in the Commonwealth where the Declaration of Independence was signed, the state regulators/fathers would be against tyranny of a monopoly trying to snooker, unfairly tax and harm its citizens.

Instead of the Liberty Bell ringing in the Keystone state, we now hear the sound of the Liberty-Bell-disconnect and the Bell, in this case, is Verizon.

And yet, out of the ashes of injustice there is a shining glimmer of municipality hope. The City of Philadelphia may have a telecom torch burning, while the rest of the state should simmer with discontent.

This last case study of Volume One ends with a tawdry tale of one of the most blatant failed fiber optic deployments. But it is also the tale of the City of Philadelphia, who fought off Bell-backed state legislation that blocks all other Pennsylvania municipalities from offering competing broadband, Internet, phone and Wifi services, (with some caveats). Ironically, this law and others erased many of Verizon's commitments for true, 45 Mbps broadband, even though it was the phone company who didn't deliver. And while some of the state's Public Utility Commissioners stood up to Verizon for their promised commitments, they were outvoted and the commitments watered down.

Besides leading us into the Municipality wiring and Wifiing issues, which we will pick up again in Volume II, we have a lot of data about how badly Verizon screwed the state's customers.

We've written extensively about Pennsylvania's bait-and-switch. At the end of 2003, we estimated customers paid $1135 per household — a total of $3.9 billion. That number is low.

See: http://www.teletruth.org/PennBroadbandfraud.html

However, we'll rely on other analysts who have also investigated the fiber optic deployment issue.

**The Promise: Fiber at 45 Mbps**

It is one of the clearest cases of fiber optic fraud, bilking the public of over $4 billion, with the help of a paid-off legislature, questionable acts by the Public Utility Commission, and the clearest state laws about the commitments and timelines.

But the real harm isn't simply the money. The state simply collapsed at defending the public interest. America would have been Number One in broadband had this state and others simply held the phone companies accountable. If the Bell companies are to be believed, this broadband would have grown the US economy $500 billion annually, with Pennsylvania receiving its portion of the benefits. Instead, it is a case of unchecked market power, fraud and collusion that has gone unpunished. And we are 16th in the world in broadband because of it.

**The Commitments**

In 1994, Verizon Pennsylvania (then Pennsylvania Bell a subsidiary of Bell Atlantic) was granted the deregulation of state laws that essentially gave the Bell company financial incentives to rewire the state with fiber optics for broadband services. [414]

> "In view of Bell's ***commitment to providing 45 Mbps*** for digital video transmission both upstream and downstream, we look forward to Bell's providing this two-way digital video transmission at 45 Mbps."

> "Verizon PA has committed to making 20% of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by end of year 1998; ***50% by 2004*;** and 100% by 2015."
>
> "In order to meet this commitment, Bell plans to deploy a broadband network using ***fiber optic*** or other comparable technology that is capable of supporting services requiring bandwidth of at least 45 megabits per second or its equivalent."
>
> "It is apparent that ***DSL, as it currently exists today, (March 2002), is unable to provide the broadband availability of 45 Mbps both upstream*** and downstream that the Company voluntarily committed to and the Commission approved in 1995."

What is being promised is the replacement of the older copper wiring with a new, fiber optic service that had speeds of 45 Mbps in both directions. This is 50-100 times the current ADSL service, which goes over the 100-year-old copper wiring and is a mostly one-way product. The agreement also requires Verizon-PA to wire rural, suburban, as well as urban areas — 20% by 1998, 50% by 2004. And this service is fiber optics directly into the home and office, not somewhere in the network. Today, there are no homes with this wiring or that delivers the speed.

And you would think that these were 'rock-hard commitments'. On March 28, 2002, the Pennsylvania Public Utility Commission rejected Verizon Pennsylvania's compliance with the state alternative regulation plan, stating that the Bell company had not satisfied its legal obligations to supply broadband services at 45 Mbps.[415]

> "this Commission has a legal obligation to reject Verizon PA's 2000 Update and require it to submit a new update specifying its plans to satisfy its legal obligation to provide a modernized network with broadband capability of at least 45 Mbps upstream and downstream, to be available within five days from the customer request date."

Let me restate this with another quote. The Commission made it clear that the networks were to be fiber optic-based and could do speeds of 45 Mbps in both directions. More importantly, it

wasn't some wire in the middle of the network but a direct link to customers' homes, offices or schools.[416]

> "When the Commission accepted Bell's proposal, ***that proposal became binding on the Company.*** Any modifications or ***deviations from a 45 Mbps two way interactive network*** must be approved by this agency, since such would constitute a modification to the June 28, 1994 Opinion and Order which ruled on the Company's original Petition and Plan.
>
> "In this second filing, Bell reiterates its intentions to design a broadband network that meets both current and anticipated future demand for transportation of voice, video and data throughout its service area***. The system is a hybrid of coaxial cable and fiber optics.*** Coaxial cable will run ***from a subscriber's home, office, factory, or educational system."***

To sum up: By 2004, 50% of the state was to be rewired with a fiber optic cable to customers' homes or offices, capable of speeds of 45 Mbps in both directions, and delivered within 5 days. It was to reach rural, suburban and urban households equally. THIS WAS NOT DSL, which goes over the old copper wiring.

Let's go back to the beginning of this tale.

**The Pitch**

In order to get this agreement, the Bell companies had to get state legislators as well as the Public Utility Commission to agree. So, as with other states, Verizon (Bell Atlantic) made thousands of public statements, from press releases and statements made in the press, to even a large Deloitte & Touche study, Opportunity Pennsylvania. Presented to the Public Utility Commission, Bell Atlantic-PA would rewire Pennsylvania, with a fiber optic wire that would replace the old copper wiring.

So there is no doubt, we've included the following list — just a small portion of the stories that surrounded the Bell Atlantic fiber plans of Pennsylvania.

- **PA Senate OKs Fiber Optics Bill**, Philadelphia Daily News, June 24, 1993
- **PA Legislature Compromises on Fiber Optics Bill. The Measure Calls for the State to Be Wired by 2015**. Philadelphia Inquirer, June 25, 1993,
- **Bell Clears A Hurdle in Quest to Offer Video. A Judge Overturned Part of a Federal Law. Now Bell Atlantic Will Try Offering Video Services Regionwide.** Philadelphia Daily News, July 28, 1993
- **A Fiber Field of Dreams. The Switch in the Way Phone Signals Are Sent Promises Not Only Faster Transmission, but also Bright New Ideas for Using the Technology** Philadelphia Inquirer, June 2, 1993
- **Phone Bill Goes to House. The Pa. Measure Would Limit Rate Increases and Require a Fiber Optic Network by 2015**. Philadelphia Inquirer, May 24, 1993
- **Working Together to Build a Highway for Information. A Fiber Optic Network Could Move 25 Trillion Bits of Information a Second. Today's Rate? 100 Million Bits.** Philadelphia Inquirer, January 18, 1993

**The Deal and the Law**

In 1993, the Pennsylvania state legislature created a new series of regulations added to the existing Public Utility Code, which essentially created a law to accelerate broadband deployment in the state.

> "(1) Maintain universal telecommunications service at affordable rates while encouraging the accelerated deployment of a universally available, state-of-the-art, interactive, public-switched broadband telecommunications network in rural, suburban and urban areas, including deployment of broadband facilities in or adjacent to the public rights-of-way abutting public schools, including the administrative offices supporting public schools; industrial parks; and health care facilities, as defined in the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act."[417]

Known as "Chapter 30", these regulations also lay out the basic requirements for the distribution to be both rural and urban areas.

> "(2) Each local exchange telecommunications company shall reasonably balance deployment of its broadband network between rural, urban and suburban areas within its service territory."[418]

In exchange for this broadband plan, the Bell would petition and receive deregulation, herein called "alternative form of regulation".

> "(A) PETITION: When a local exchange telecommunications company seeks to be regulated under an alternative form of regulation, it shall submit to the commission a petition requesting the alternative form of regulation. In the petition, the company shall submit its proposal and supporting data for an alternative form of regulation." [419]

The law goes into details about how the regulation is applied. This is how Verizon characterizes their plan. It essentially states that the prices for services are "capped", meaning that the prices have been frozen, but that the regulator no longer examines the profits as they were able to do under the older form of regulation — 'rate of return', which required the Bell to give money back if the profits went too high.

> "The plan provides for a pure price cap plan with no sharing of earnings with customers and replaces rate base, rate of return regulation. Competitive services, including toll, directory advertising, billing services, Centrex service, paging, speed calling, repeat calling, and HiCap (high capacity private line) and business services provided to larger customers are price deregulated. All noncompetitive services are price regulated."

Also, this law defined some services as competitive, such as "Directory Advertising", which means that the Bell could charge what it wanted to. Directory Services are the Yellow Pages and Directory Assistance, and on average, the Bell companies have a 50+% profit margin on these services, making it one of the most profitable in America.

We've gone into this regulatory model in our previous sections. This was one of the earliest incarnations, which had direct language about the trade-off of new regulation and money for advanced networks deployment — with a timeframe and specs on what would be rolled out.

**The Commitment to Roll Out Universal Networks Means ALL Customers, Including Rural Customers.**

There are many state and federal senators and congressmen, regulators, and citizens concerned with the rural deployment of broadband and considering the Bells, they should be. The Pennsylvania law addressed rural concerns when it made rural customers' rights to be on the same par as urban and suburban customers. The law did not make any extra financial incentives necessary for universal access to broadband.

> "Chapter 30 requires that a LEC make available its broadband network universally. Section 3002 defines universal broadband availability as 'access to broadband service by each bona fide telephone customer of a local exchange telecommunications company within five days after a request for broadband service is received by any telecommunications company'. ***We also believe that, under Chapter 30, universal broadband availability excludes the notion of broadband services being offered at a level beyond the reasonable economic reach of the majority of a LEC's customers."***[420]

It should be noted that the Bell company understood that these rollouts may not be as profitable as if they were doing these purely from an economic model — they were getting compensated through higher rates to do both rural and urban areas. The phone companies were contractors, with common carrier and universal broadband commitments.

> "Thus, Bell's deployment of broadband facilities will take place in locations where conventional economic, financial, business or plain engineering justifications for such deployment may not exist. In this respect, Bell may install broadband facilities and bear the associated variable and fixed costs of the investment without realizing any corresponding streams of revenues in return, especially if such broadband facilities are not going to initially serve significant demand quantities for telecommunications services. Thus, Bell may be called upon to bear the risk of such initially unproductive capital investments."[421]

**This is NOT DSL— SPEED and Coverage Are the Issues.**

It is clear that the Pennsylvania Commission realized that there was a bait-and-switch going on and that what was promised was a Ferrari on the Info Bahn and what the state was getting was a skateboard on a dirt road. Here's the Commissions' reasoning: DSL is too slow and doesn't even qualify for the definition of broadband nor does it replace Verizon's obligations. [422]

> "In Verizon PA's 2000 Update, the Company also states that DSL is a broadband service consistent with its Network Modernization Plan (NMP). There are several reasons why we believe that Verizon PA's current DSL offering is not a broadband service consistent with its NMP.
>
> "***First, DSL, as Verizon PA currently provides it, is too slow to be considered a true broadband service as defined by Verizon PA in its original NMP***. The industry generally considers 45 Mbps to be the minimum speed for broadband and in its NMP, Verizon PA committed to this higher bandwidth level as well.
>
> "Second, DSL, as Verizon PA currently provides it, can only reach a speed of 1.5 Mbps, the slowest definition of broadband where the customer is located no further than 12,000 feet from the serving wire center. Only a limited number of Verizon PA's residential customers meet this criteria. Third, currently Verizon PA's ADSL can achieve 1.5 Mbps in only one direction, the downstream direction. In the upstream direction, it is limited to a maximum of 768 kbps (0.768 Mbps).
>
> "To achieve speeds as fast, or faster, than DSL can currently provide, the wire lines from the serving wire centers to the customers must be replaced with either fiber optic conductors or coaxial cables, or a 'hybrid' combination of the two."

The Bell company also thought that ADSL was an inferior product. They were replacing the copper wiring so that the state would not lag behind others. They called ADSL an "interim solution" and defined it as **"the most bandwidth-limited section of the network".** Here's an excerpt from the Commission on the topic.[423]

> "It should be noted that the evidence the Company introduced in support of its NMP in 1994 established clearly that modernizing the network meant, among other things, replacing the existing copper distribution system with fiber. The Company's direct testimony asserted that its NMP was consistent with the 'moderate infrastructure acceleration scenario' described in the Commission's ***Pennsylvania Telecommunications Infrastructure Study*** released by Deloitte and Touche and DRI/McGraw Hill in 1993. Verizon PA placed the study into evidence in its rebuttal testimony. The study makes clear that one of the assumptions underlying all of the acceleration scenarios was deployment of a fiber distribution system. In fact, the study indicated that of all the technology changes needed for a broadband capable network, deployment of fiber in the feeder and distribution systems was the change that would lag behind the others if the Commonwealth did not adopt a strategy to accelerate deployment. The study described the copper distribution system ***as the most bandwidth-limited section of the network***. Finally, it described ADSL technology ***as a potential interim solution*** to allow higher bandwidth services pending construction of a fiber distribution system."

This issue of speed is complicated. Back in 1993-1995, when broadband was discussed, the standard speed was 45 Mbps. For example, even Newton's Telecom Dictionary defines "Broadband" as a service with a speed of 45 Mbps.

> "Bandwidth of 45 Mbps or greater is consistent with the definition of 'broadband' in ***Newton's Telecom Dictionary*** (17th Edition, February 2001) ('Broadband —A transmission facility providing bandwidth greater than 45 Mbps (T3). Broadband systems generally are fiber optic in nature.').".[424]

**The Original State Legislation vs Verizon's Commitments**

NOTE: The original PA alternative legislation that we discuss was based on a minimum speed of 1.5 Mbps in both directions. However, Verizon committed to the higher speed with the Commission because Verizon's definition of broadband was 45 Mbps. They would have been hard pressed to change state laws for a speed that couldn't deliver high-quality video, which they

were pitching as the major reason for the upgrades. For example, the Opportunity New Jersey law, as we have previously outlined, had a speed of 45 Mbps as its “Broadband Digital Service”.

> “Broadband Digital Service — Switching capabilities matched with transmission capabilities supporting data rates up to **45,000,000 bits per second** (45 Mbps) and higher, which enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals."

**When Did the Bell Know It Wasn't Going to be Able to Build the Network?**

There is ample proof that Bell Atlantic/Verizon knew they weren’t going to build (or even could build) their plans as promised. The first sure sign of this was the fact that Bell Atlantic wrote the FCC stating they were pulling out, read 'reevaluating', some of their video dialtone plans. These statements were made against the backdrop of the Bell filing in Pennsylvania committing to the fiber optic plan. “214 applications” are the video dialtone filings.

The Pennsylvania Public Utility Commission wrote:

> "Bell has taken recent action before the FCC which clearly brings into question whether the Company has a plan for accelerated modernization of its network. With respect to its video dialtone construction applications submitted to the FCC for its review and approval, the Company originally sought permission to construct a HFC network as the platform. However, the FCC applications were voluntarily suspended by the Company in May of this year. (1994) Yet, the direct nexus between the pending (video dialtone) 214 applications and the Company's NMP filed before this agency is not developed. The Company's official transmittal to the FCC stated that ‘In the months since the applications were filed, however, significant technological and other developments have occurred which caused us to reevaluate our plans. Until this reevaluation is completed, we request that you hold these applications in abeyance’." [425]

> "The Company's press release elaborated that ‘The suspension is required because (video dialtone) 214 applications must specify the exact equipment used in building such networks. Bell Atlantic said as new technology becomes available, the company wants to build the most cost effective network’."

In a related story from the Boston Globe in April 1995, it is clear that the public was being told that broadband plans were being slowed in Philadelphia and Pittsburgh.

> "It will take years before the technology becomes widespread, though, and the phone companies have been pushing back their timetables. Just this week, Bell Atlantic asked the federal government to withdraw its application to deliver fiber-coaxial — or so called broadband — services to as many as 3 million homes in Philadelphia, Pittsburgh and nearby centers. It said it wants to reconsider its technology strategy.” [426]

However, one thing is clear — the PA Commission was firm that the proposal for 45 Mbps was a binding contract.[427]

> "When the Commission accepted Bell's proposal, that proposal became binding on the Company. Any modifications or deviations from a 45 Mbps two way interactive network must be approved by this agency, since such would constitute a modification to the June 28, 1994 Opinion and Order which ruled on the Company's original Petition and Plan."

**The Hype Continued Through 1996.**

On July 15, 1996, Bell Atlantic cut a deal with Lucent for a six and a half year contract to deliver fiber optic services.[428] The contract was dedicated to the promise of fiber optics to 12 million homes and small businesses, with Pittsburgh and Philadelphia, Pennsylvania as the starting points.

> "The fiber-to-the-curb architecture that Bell Atlantic will build is the next step in the company's ongoing, aggressive network modernization program.…”

> "Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year. The company plans to expand this Full Service Network deployment to other key markets over the next three years. Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks."

Talk about a smokescreen. If they had just stopped discussing their broadband plans, imagine the expression on the faces of every executive at Disney, ABC, and others who were developing new products for these interactive networks. The Bell companies were spending about $1 billion on TELE-TV and Americast, which also showed their commitment.

However, as we demonstrated in previous sections of this book, during the 1996-1997 period, Bell Atlantic effectively wrote-off whatever video upgrades they had been working on, which, it turns out, was chump change compared to what was promised.

**Follow the Money: An Independent Version that Corroborates Our Findings.**

We'd first like to present findings from a study and testimony that was done on the track record of the Pennsylvania plan by Economics and Technology (ETI), a highly respected research and consulting firm. The company created a report in 1998 on this topic, and presented updated information in testimony presented in September 2002.

The 1998 report titled “Broken Promises A Review of Bell Atlantic Pennsylvania’s Performance Under Chapter 30”, is a scathing, but accurate review of the Opportunity Pennsylvania plan. It clearly shows that the Bell company made excessive profits, failed to increase investment in the state's telecommunications network, did not meet its commitments for fiber optics in 1998, and "has actually extracted capital out of Pennsylvania for use elsewhere".[429]

> "Having made its commitment and been granted its alternative regulation reward, Pennsylvania's largest local telephone company Bell Atlantic-Pennsylvania (BA-PA) has paid more attention to escaping from, rather than fulfilling, the terms of its promised upgrade. This study demonstrates that, despite strong financial performance and earnings growth in Pennsylvania, as well as a generous and flexible regulatory framework, BA-PA has failed to

> increase investment in the state's telecommunications network and, in fact, has actually extracted capital out of Pennsylvania for use elsewhere. At the same time, BA-PA has been extremely successful in protecting its monopoly from competitive encroachment. Without the discipline of actual, effective competition, the incumbent has been permitted to charge excessive prices and earn excessive profits, while confronting no business incentive to undertake new investment in Pennsylvania. As we approach the end of 1998 a point by which BA-PA is supposed to have broadband available throughout 20% of its rural, urban and suburban areas there is no sign of any broadband service being offered to Pennsylvania's residential customers."
>
> "As a result, and contrary to the PUC's expectations, Bell Atlantic's shareholders have been the real beneficiaries of the Alternative Regulation Plan."

To read this report go to http://www.econtech.com (registration required). One of the exhibits from this report shows that the “return on equity", a standard for measuring profitability, went from 13% in 1993, which is about average for a regulated monopoly, to more than double the amount, directly after the law was put into effect in 1994. For example, in 1995 and 1996 the return was a 139% increase from pre-alternative regulation returns.

Economics & Technology also showed that the Bell company was "Disinvesting" after the deal went through, meaning that the company was writing-off more than they were spending on construction.

According to testimony by ETI’s president Dr. Lee Selywn at the Commonwealth of Pennsylvania Senate Communications and High Technology Committee meeting on “Chapter 30 and the Telecommunications Industry in Pennsylvania”, September 10, 2002, Verizon made about $4 billion from the changes in this state’s deregulation.

> “Verizon Pennsylvania has realized gains of $4 billion as a direct result of Chapter 30 alternative regulation.”
>
> “Verizon PA’s return on equity is significantly higher than it would be under rate of return regulation (nominally set at 15.15% ROE). Alternative regulation has been a windfall for Verizon.” (about 30% from 1995-1999.)

Dr. Selywn estimated that:

> "Excess earnings in real dollars — is $1.7 billion dollars."

Another point of contention was the removal of the highly profitable directory (including Yellow Pages) business from the calculations. According to Selwyn, the yellow page business in Pennsylvania was valued at $2.6 billion dollars.

> "In addition, during the adoption of its Chapter 30 regulatory regime, Bell Atlantic-Pennsylvania asked the PUC to classify its yellow pages directory business as competition, and shortly after receiving a PUC action on that request, Verizon transferred this valuable business asset out of the Pennsylvania company altogether and into a non-regulated Bell Atlantic affiliate operating entirely outside of the PUC's jurisdiction … worth approximately $2.57 billion dollars."

Our analysis not only confirms these findings but we believe that other monies are also at stake, including tax write-offs. To read the testimony in full see:
http://www.teletruth.org/docs/SelwynPA_BBND.pdf

**There Are Other Sources with Similar Data.**

In 2002, the Pennsylvania Consumer Advocate found that $1.7 billion was overcharged as compared to what the rate of return would have allowed. Profits went from around 12% to 29.4% in 1999. Our own calculation for this period was $2.1 billion, but we also removed various expenses that would not have been allowed under the original agreement, including the funding of DSL.

> "In testimony recently presented to the PUC, our Office determined that Verizon PA's return on equity — when estimated profits from Yellow Pages are included – was 24.26% in 2001, 26.19% in 2000, and 29.40% in 1999. In that proceeding, we compared those returns to an estimated fair rate of return of 12% on equity,

> and concluded that Verizon PA had earned approximately $1.7 billion in cumulative excess profits since 1994."

**Teletruth's Analysis**

Teletruth's statistics for Pennsylvania were based on the public annual and quarterly reports that Verizon Pennsylvania filed. The company stopped filing this data in March 2004.

> "FORM 15 CERTIFICATION AND NOTICE OF TERMINATION OF REGISTRATION UNDER SECTION 12 (g) OF THE SECURITIES EXCHANGE ACT OF 1934 OR SUSPENSION OF DUTY TO FILE REPORTS UNDER SECTIONS 13 AND 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934".

Using the last available data, we found the deregulation plan cost the average PA household about $1135 at the end of 2003, or $3.9 billion. However, our statistics do NOT include the $2.6 billion for Yellow Pages and directory services that was used in the Economics & Technology analysis, nor increases for 2004 or 2005.

This money was garnered, like the other state fights, when the phone companies were able to cut staff and construction, take massive write-offs, thus saving on taxes, and no longer have any limits on the profits.

In this case, we've done a full overcharging model, which will be represented in Volume II. The highlights are:

- **The Bell of PA's profits (return on equity)** since the alternative regulation plan had averaged 115% higher than before the changes in regulation.
- **Dividends** to Verizon since 1999 had risen 41%.
- **Massive cuts in staff**. From 1993 through 2003, over 43% of the staff were cut, from 15,140 in 1993 to 8,630 in 2003 — a drop of 6,510 employees. (Some of these changes can be attributed to Yellow Page and Directory spin-offs.)

- **Massive depreciation write-offs**. We estimate that $1.5 billion was excessive tax write-offs of network equipment, the majority of which can be tracked directly to the promises to replace the copper wiring in the alternative regulation plans.
- **Construction has had massive cuts.** Starting in 2000, the company cut expenditures 62%. Construction in 2003 was only 12% of total revenue, as compared to 20-25% in the 1980's.

**Cross-Subsidization of DSL**

***Was there a $60 million dollar bait and switch that got Pennsylvania ratepayers to fund a competitive DSL product?***

It seems clear that Verizon Pennsylvania did not get outside investment for their ADSL roll out but had used ratepayer funds that were supposed to be for high-speed fiber optic based services. According the Verizon Pennsylvania Annual Report for 2000, Verizon PA transferred an asset that was valued at $60 million directly to the Verizon Advanced Data Inc.. — VADI.

> "In December 2000, we transferred our advanced data assets, with a net book value of approximately $60 million, for a 48.13% indirect ownership interest in Verizon Advanced Data Inc. (VADI). VADI is an affiliated company which provides new exchange access services. Our ownership interest has been reduced to 26.67% as the result of the issuance of additional stock by VADI. In connection with our investment, we record equity income/(losses)."

(Comically, Verizon's spokesperson and the voice of "Darth Vadar", is James Earl Jones. VADI? VADAR?)

A common sense reading indicates that Pennsylvania Bell, which is almost solely funded through ratepayer services offered by the local Bell company, was able to charge customers to build this asset and then, when it was worth $60 million, transferred it to the shareholders.

DSL is supposed to be a competitive service where the shareholders, not the monopoly customers, pay for the development and deployment.

**Verizon Disagrees with Our Analysis**

Of course, Verizon disagreed with our analysis and said so in a press release, February 2004.[430]

> "Teletruth, a New-York based organization whose mission is to unfairly smear former Bell companies like Verizon, today wrongly attacked Verizon Pennsylvania's broadband deployment record once again in an "updated" filing with the Pennsylvania Public Utility Commission.
>
> "Despite the well-documented and public record of Verizon Pennsylvania's network modernization accomplishments, Teletruth refuses to acknowledge the facts. Instead, in a move reminiscent of the movie 'Groundhog Day,' this organization would have Verizon face over and over the same baseless allegations. These are essentially the same allegations the Pennsylvania Public Utility Commission (PUC) reviewed and rejected last fall.
>
> "The truth is that Verizon Pennsylvania has consistently delivered on its promises to deploy a broadband network for its customers under Pennsylvania's alternative regulation law, Chapter 30:
>
> - Verizon Pennsylvania has invested more than $8 billion and deployed nearly 1.2 million miles of fiber optics in its network over the past nine years while under alternative regulation.
> - Broadband capability, at speeds from 1.5 megabits per second to 2.2 gigabits per second, is available to nearly 100 percent of the phone lines in Verizon Pennsylvania's service area.
> - DSL (digital subscriber line) service is available to nearly 70 percent of Verizon Pennsylvania's total lines in the commonwealth."

You will notice that Verizon claims that it has fulfilled its obligations with wiring placed somewhere within the middle of the network, that DSL is a replacement for the fiber-to-the-home deployments and that speeds up to 2.2 gigabits are available today. Verizon doesn't say that the 45 Mbps service to the home is missing, or that the speeds quoted would require custom

wiring at large sums of money. In fact, Teletruth had multiple customers try to order the 45 Mbps services and nothing was available for home use.

**Destruction of the Fiber Optic Services by the PUC and State**

In a vote that should live in infamy, the Chairman of the Commission, Terrance Fitzpatrick, in his 'dissent', sums up how the promised speed of 45 Mbps went to 1.5 Mbps in one direction, customers be damned. We respect the Chairman's attempts to make the phone companies accountable.[431] The other Commissioners, however, harmed the state and customers. No refunds, nothing.

> "This matter involves a Petition filed by Verizon Pennsylvania, Inc. ('Verizon') to amend its Network Modernization Plan ('NMP'). In its Petition, Verizon seeks to be released from its obligation to construct a broadband network capable of providing service at 45 megabits per second ('Mbps'), both upstream and downstream, within five days of a customer's request. Instead, Verizon seeks permission to provide broadband service at 1.5 Mbps downstream, and at slower speeds upstream, within five days of a customer's request. Verizon also proposes to (1) provide 45 Mbps within 'a commercially reasonable' timeframe, estimated at 45 to 60 days; (2) meet certain interim targets prior to ubiquitous deployment by 2015; (3) construct fiber optic cable to all remote terminals by 2015; and (4) construct additional remote terminals so that no loop is longer than 12,000 feet by 2015.
>
> "The majority adopts Verizon's Petition, with the modification that Verizon be required to provide broadband service at 1.5 Mbps to 80% of its customers by 2010, as opposed to 70% as proposed by Verizon. I do not believe this decision is equitable to customers in light of the value to Verizon of being released from its prior obligation to build a network capable of providing 45 Mbps upstream and downstream within five days of a request. ***Accordingly, I respectfully dissent."***

In 2004, HB30, a new law banning municipalities from offering competitive services came into being.

As the Washington Post stated:[432]

> "For the millions of people who cannot afford high-speed Internet access, some local officials think they've hit on the answer: Build government-owned networks to provide service at rates below what big telecommunications companies' charge.
>
> "Telecoms Winning the WiFi War: The signal is clear: In the tug of war between Big Telecom and little governments, the powerful telecommunications lobby is winning, which could have major implications for how wireless Internet and other high-speed Internet service is doled out countrywide.
>
> "The companies are lobbying furiously to block such plans, fearful that their businesses would be hurt***. Their efforts most recently paid off Tuesday night in Pennsylvania, where a new law bans local governments from creating their own networks*** without first giving the primary local phone company the chance to provide service."

Is this "honor everlasting", as the state song decries? This law was heavily campaign-financed. According to data supplied by the Commonwealth of Pennsylvania, Campaign Finance Reporting web site[433], in examining the sponsors of the bill, Teletruth found that 78% had been given money by Verizon, or one of Verizon's various PACs. Verizon, for example, gives money from its various groups, such as the "Good Government Club", the "Verizon PA PAC", "The Verizon PAC", "Verizon", "Verizon Communications", "Verizon Pennsylvania Political Action Committee", and "Verizon PA State PAC". (We do not know if some of these are simply the database giving different names to the same organizations or that they are from different parts of the same corporation.)

And besides giving to separate state senators and congressmen, Verizon also gives under these multiple names to the House Republican Campaign Committee 2006, Huntingdon County Republican Committee, House Democratic Campaign Committee, Pennsylvanians for Effective

Government - Political Committee, Senate Republican Campaign Committee, Edward Rendell For Governor, and Philadelphia Republican City Committee were just some of the ones we found.

**Birth of a Muni Wifi Service**

At the same time, we have the birth of a plan by Philadelphia to create a citywide wireless service. See: http://www.phila.gov/wireless/

> "Promote Open Metro-scale Wireless Connective Citywide,
>
> "Wireless Philadelphia aims to strengthen the City's economy and transform Philadelphia's neighborhoods by providing wireless Internet access throughout the city. Wireless Philadelphia will work to create a digital infrastructure for open-air Internet access and to help citizens, businesses, schools, and community organizations make effective use of this technology to achieve their goals while providing a greater experience for visitors to the City.
>
> "Wireless access is a transformative technology.
>
> - It can provide affordable access to high-speed telecommunications to small, midsize and economically disadvantaged businesses helping to grow their business.
> - It can help eliminate the digital divide that continues to widen as technology costs increase.
> - It can make teacher, student and parent communication a reality.
> - It can make university campus access available to non-resident students."

Who will win? Welcome to Volume II

## Chapter 28 20th Anniversary Data and Analysis Summary

The final section of the book is a 20-year analysis of the Bell companies' revenues, expenditures, including staffing and construction, and profits, from 1984 through 2004. This includes SBC, Verizon, Qwest, and BellSouth, and their merged-conquests. The year 2004 is the last complete set of Annual Reports and the starting point is 1984, the Bell companies' birth-date. This analysis also relies on the Business Week Scoreboard, 1990-2004, and US Census data.[434]

***Since 1984, the Combined Bell Companies:***

- 128% Bell Revenues Increased
- 121% More — Bell Phone Lines vs Household Growth
- 29.8% Drop in Overall Employees
- 65% Drop in Employees vs Revenue
- $21.3 Billion in Cost Savings Per Annum from Staff Cuts
- 60% Drop in Construction vs Revenue
- $92.6 Billion Missing from Construction Budgets
- 11% Of "New Construction" Has Not Been Written Off Since 1984
- $111 Billion of Excessive Depreciation?
- 188% Return on Equity above Other Utilities 1993-2000
- 155% Higher Profit Margins than Business Week "Industry" and Utilities, 2000-2004
- 59% Higher Return on Equity than the Business Week "Industry" During 2000-2004

**Overcharging: New Networks Institute Estimates**

- $206 Billion in Customer Overcharging
- $2,000+ Approximately Owed Per Household

**Comprised of:**

- $103 Billion for Excess Profits
- $78 Billion in Excessive Depreciation.
- $25-$50 Billion in Cross-Subsidization

**Other Items**

- $80 Billion in Missing Network Equipment
- $88 Billion from 1984-1992 (including $13 Billion for BellCore, Misc.)
- $40 Billion in "Special Items"

## GRAPHS

GRAPH 1 Overall Revenues of the Bell Companies, Including GTE
GRAPH 2 Revenues Compared to Employees
GRAPH 3 Revenues vs Construction
GRAPH 4 Construction as a Percentage of Revenue, 1984-2004
GRAPH 5 Bell Access Lines, 1984-2004
GRAPH 6 Bell Lines as Compared to Households
GRAPH 7 Depreciation Compared to New Construction
GRAPH 8 Bell Return on Equity
GRAPH 9 Ameritech, SBC Return on Equity and Average, 1984-1993
GRAPH 10 Bell Companies Compared to Business Week Industry and Utilizes, 2000-2004
GRAPH 11 Bell Profit Margins, 2000-2004
GRAPH 12 Bell Company Overcharging as Compared to Utilities
GRAPH 13 Excessive Depreciation Overcharging Included

## Executive Summary

***Since 1984, the Combined Bell Companies:***

**Revenues**

- **128% Increase in Revenue** — In 1984, the Bell companies had $72 billion in revenues, (the money the company received in sales, sale of an asset, etc.) mostly from local phone service. In 2004, the Bell companies revenues were $165 billion, about 128% increase. Meanwhile, revenues grew 52% from 1994 through 1999, the 'fiber optic failure' years.

**Employees**

- **29.8% Drop in Employees** — In 1984 there were 680,653 employees, as compared to 477,600 in 2004 — a drop of 29.8%. There have been larger deductions to staff at the local phone companies than at the corporate headquarters or other non-local company areas, from DSL and long distance to wireless.[435] If the employees tracked with revenue there would be 1,292,461 staffers.

- **$21.3 Billion in Cost Savings Per Annum from Staff Cuts**. According to NYNEX, (3rdQ1996), the elimination of 16,200 staff during restructuring would save $1.7 billion annually. This equates to potential staff cut savings of $21.3 billion a year in industry expenses.

- **Staffing Is at 35% of 1984 Levels in Terms of Revenue**. **— 65% of the Staff Are Doing 200% of the Revenue Intake.** Staffing levels are at 35% of the original Bell levels when compared to revenue.

**Construction**

- **Construction Down 60% Since 1984.** In 1984, the Bell companies spent $18 billion on new construction, approximately 24% of revenues. In 2004, the companies spent $17 billion, approximately 14.3% of revenues. — a 60% drop. The budgets in 1984 were

dedicated to upgrading the networks and new services, such as Call Waiting and Caller ID. The current new construction covers many other non-local phone company items, from DSL to long distance networks and equipment.

- **$92.6 Billion Missing from Construction Budgets.** The decrease in expenditures as a percentage of revenues was quite large. Had the companies continued their capital expenditures, in 2004 the companies would have spent $27.8 billion. Had the phone company's expenditures matched revenue, the companies would have spent an additional $92.6 billion.

**Bell Profits**

In comparing the Bell profits as compared to Business Week's Scoreboard "Industry" and "Utilities" (1992-2004)

- **Return On Equity 188% above Other Utilities 1993-2000** — From 1993, when the alternative regulation plans were starting to be implemented, the Bell companies' return on equity went from 14.9% to 29.1% return; a 9-year increase of 126%. However, it was 188% above the other Utilities. (Source: Business Week Scoreboards, 1993-2000)

- **From 1984 to 1992, the Bell Companies had Maintained a Steady Return on Equity** — On average the return for SBC was 13.2% and 15.3% for Ameritech, with the average 14.2%. Starting in 1992, there was a major increase to the earnings, created in a large part by the changes to state laws for fiber optic deployments.

**Bells' Poverty a Myth: Profits Were Still Excessive from 2000-2004**

- **Profit Margins Were 155% Higher than "Industry" and "Utilities" during 2000-2004** — Industry had an average of 5.4%, Utilities had a 4.5% return, while the Bell companies averaged 12.5%
  - 132% higher profit margins than the other Industry players
  - 177% higher than other Utilities.

- **The Return on Equity Was 56% Higher than the Business Week Scoreboard's "Industry" and "Utility" During 2000-2004** — The Industry had an average of 11.8%; the Utilities had a 10.6% return, while the Bell companies averaged 17.4% return on equity. Over the four years, the Bell's had:
  - 47% higher return on equity than the other industry players
  - 64% higher than the other utilities.

**Access Lines**

- **121% above "US Household Growth**" — In the period of 1984-2002, the number of households increased 28%, while the Bell companies increased lines 62% — 121% above household growth. Bells overall growth rates were 2.6% annually, from 1984-2002, while the growth in households for the same period was 1.4%

- **Internet Hypergrowth and Rebalancing the Bells' Falling Lines** — During the period from 1994-1999, the Bells had phenomenal growth. In 1993 through 1999, there was 5.6% annual growth rate, about 300% above household growth. There was 41% growth overall, adding an additional 44 million lines.

**Depreciation/Tax Write-offs**

- **133% More Depreciation than New Construction in 2004** — In 1984, depreciation was $11.7 billion, construction was $18 billion and the ratio of write-offs to construction was 65%. By 2004, depreciation was $22.6 billion, construction was $16.7 billion and so the companies wrote off 133% more than they put into the network.

- **Only 11% of the New Construction has Not Been Written Off** — In comparing new construction budgets to depreciation write-offs, of the $473 billion spent on new construction, only $51 billion had not been written off by 2004. Please note that while this spending sounds large, the Bells made $2.3 trillion, new construction only represented about 20% of the total overall.

- **$110.6 Billion of Excessive Depreciation**? An additional $111 billion has been written off if the relationship between depreciation and new construction remained the same. This figure does not count special items.

**Overcharging**

- **$206 Billion: Approximately $2,000+ a Household.**

- **$103 Billion for Excess Profits.** Using an average of "Utility" profit margins and return on equity, New Networks Institute contends that the Bell companies made excessive profits, mainly from the alternative regulation plans started in 1992-1995.

- **$78 Billion in Excessive Depreciation.** Depreciation levels were increased to the extent that the companies have been able to write-off more than they put into the ground in new construction. We've applied a higher cap, 90% of new construction, on depreciation which was removed due to the alternative regulation plans. Using a 'face' value examination, the total depreciation was $111 billion. We did NOT include $40 billion of "Special Items".

- **$25-$50 Billion in Cross-Subsidization**. (Using the low number.) From the information presented it is clear that the phone companies did not use the money from the alternative regulation plans to rewire America, but instead spent it on DSL, a service over the old copper wiring, long distance, and their wireless divisions. Without audits it is impossible to assign the actual costs to the customer, so we assigned the low number.

**$280 Billion Additional Overcharging Items Not Included:**

- **$80 Billion in Missing Network Equipment.** The FCC's audits of the Bell companies' continuing property records were dropped and no state has investigated the equipment in the networks and adjusted rates, even though the FCC found $18.6 billion in missing equipment, this represented only ¼ of the potential audits to be completed.

- **$40.5 Billion in "Special Items"** — Special depreciation items added $25.5 billion in deductions from 1993-1995, the 'fiber optic failure' years, and $15 billion in 2002-2003.

- **NOT INCLUDED: $75 Billion from 1982-1992** — New Networks Institute previous analysis on this topic, created in 1992-1993 for "10 Years Since Divestiture: The Future of the Information Age", found approximately $75 billion had been overcharged to customers from 1982-1992.

**Miscellaneous Overcharging**

- **$10 Billion for Bellcore** — BellCore, the Bell companies' research arm, had a billion-dollar budget and this expense was directly paid by customers. Bellcore also had $300-$500 million profits, which the phone companies kept. Bellcore was sold off and customers were never given any financial stake. More to the point, the charges continue today in most states, built into the phone rates.
- **$3 Billion Verizon, SBC, Qwest, Name Changes** — When New York Telephone decided to change its name to just NYNEX, the company was able to charge customers $25 million. When Verizon changed it name from Bell Atlantic, it cost over $1/2 billion. We estimate, conservatively, that the name changes over the last decade cost over $3 billion.

**TOTAL OVERCHARGING**

We have decided that $2000 per household is a low number that reflects the basics, though it requires a full audit for justification. However, if we were to use a more accurate household count:

- **$2,800 Per Household**

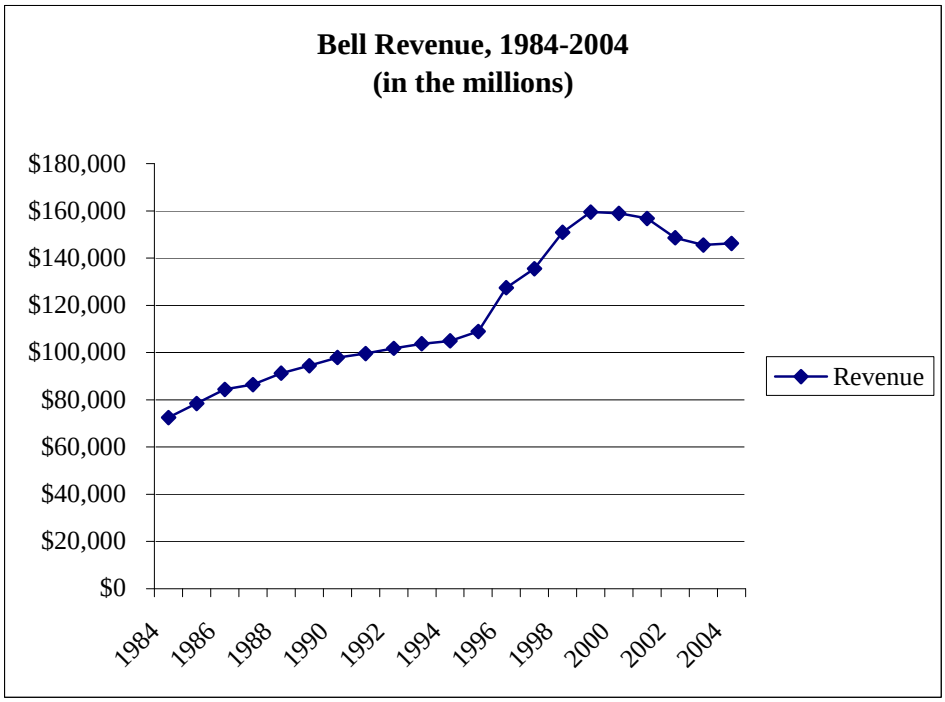
**With $459 Billion Total Overcharging**

- **$5,100 per household**

(See our previous sections on overcharging for details.)

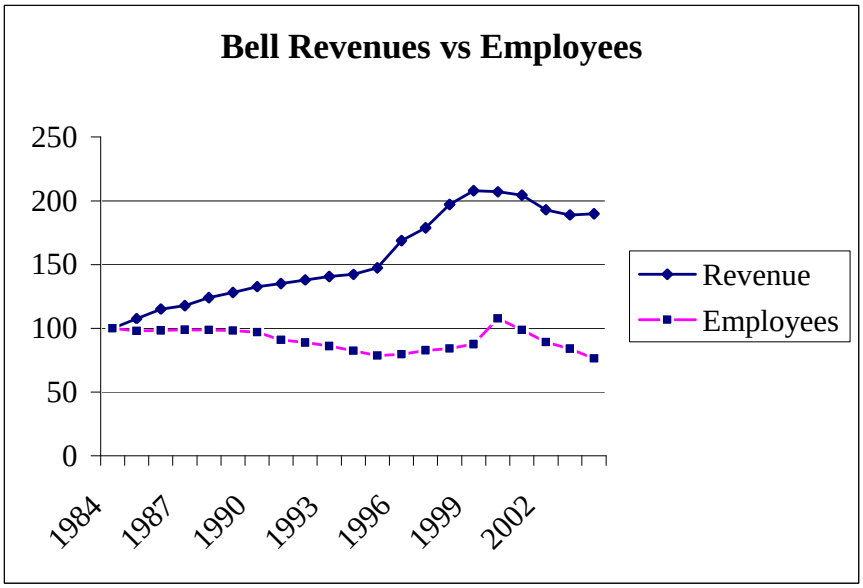
**GRAPH 1 Overall Revenues of the Bell Companies, Including GTE**

In 1984, the Bell companies had $72 billion in revenues, (the money the company received in sales, sale of an asset, etc.) mostly from local phone service. In 2004, the Bell companies revenues were $165 billion, about a 128% increase. Meanwhile, revenues grew 52% from 1994 through 1999. There has been growth since 2004, with multiple caveats.[436]



**2) Prices Should Have Plummeted**

**GRAPH 2: Revenues Compared to Employees**




The following chart shows the relationship between revenue and employees.[437] In 1984 there were 680,653 employees, as compared to 477,600 in 2004 — a drop of 29.8%. There have been larger deductions to staff at the local phone companies that at the corporate headquarters or other non-local company areas, from DSL and long distance to wireless.[438] If the employees tracked with revenue there would be 1,292,461 staffers.

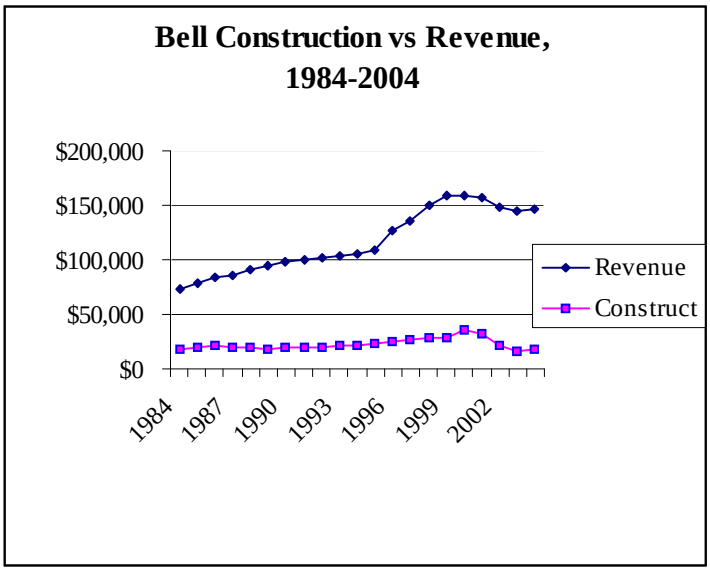
**Conclusion**

- **$21.3 Billion in Cost Savings Per Annum from Staff Cuts** — According to NYNEX, (3rdQ1996), the elimination of 16,200 staff during restructuring would save $1.7 billion annually — that would mean that the current total staff cuts save $21.3 billion a year in industry expenses.

- **65% of the Staff are Doing 200% of the Revenue Intake** — Staffing levels are at 35% of the original Bell companies in terms of revenue.

**Graph 3: Revenues vs Construction**

In 1984, the Bell companies spent $18 billion on new construction, approximately 24% of revenues. In 2004, the companies spent $17 billion, approximately 14.3% of revenues. — a 60% drop. The budgets in 1984 were dedicated to upgrading the networks and new services, such as Call Waiting and Caller ID. The current new construction covers many other non-local phone company items, from DSL to long distance networks and equipment.

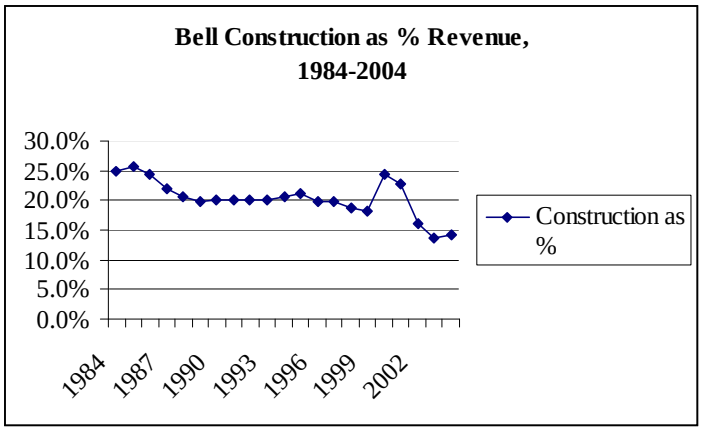



**Conclusions:**

- **$92.6 Billion Missing from Construction Budgets.** The decrease in expenditures as a percentage of revenues was quite large. Had the companies continued their capital expenditures, in 2004 the companies would have spent $27.8 billion. Instead, there has been a 39% decrease, representing only a 14.3% or revenues. Had the phone company's expenditures matched revenue, the companies would have spent an additional $92.6 billion.

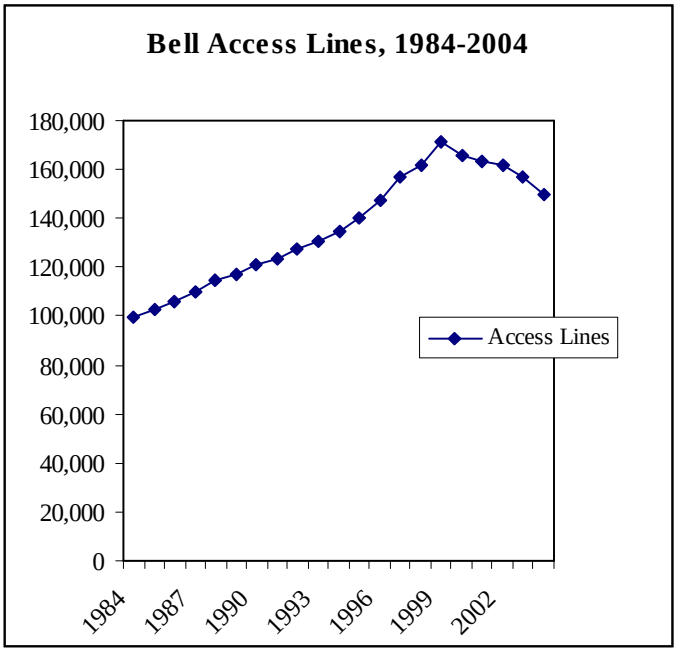
**GRAPH 4: Bell Construction as a Percentage of Revenue**

This graph shows the massive decrease in capital expenditures as compared to the revenue increases.



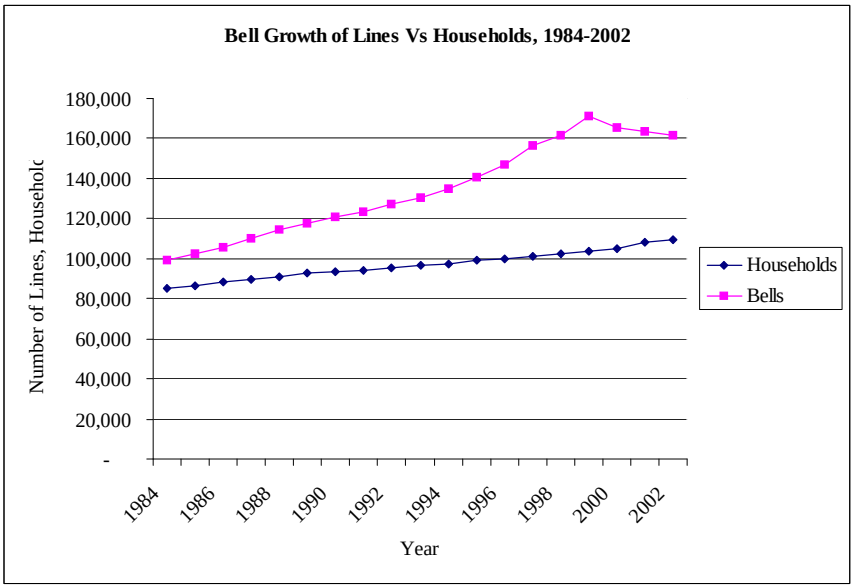

**GRAPH 5: Bell Access Lines, 1984-2004**

Since 1984, access lines went from 99.3 million to 151 million lines in 2004, with a high of 171 million in 1999.[439]



**GRAPH 6: Bell Lines as Compared to Households.**

According to the Census, through 2002, households in the US increased 28% since 1984, from 85.4 million to 109.3 million in 2002. Notice the "hypergrowth" of Bell lines to households.




**Bell Line Increases Are Attributed to Hypergrowth of the Internet.**

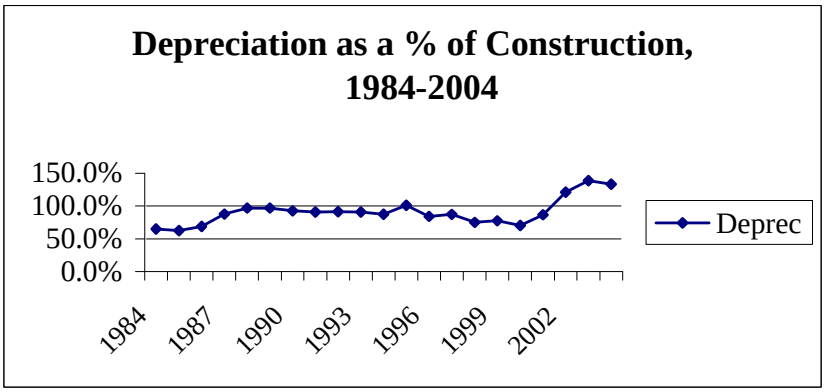
**Conclusion**: The Bell companies' growth in lines during the 1990's can be attributable to the Internet "hypergrowth" and a rebalancing of the lines, which was inevitable.

In the period of 1984-2002, the number of households increased 28%, while the Bell companies' lines increased 62%, 121% above household growth. If you examine the graph above, the Bells overall growth rates were 2.6% annually, from 1984-2002, while the growth in households for the same period was 1.4% During the period from 1994-1999, the Bells had phenomenal growth. In 1993 through 1999, there was 5.6% annual growth, about 300% above household growth. There was 41% growth overall, adding an additional 44 million lines.

**GRAPH 7 Depreciation Compared to New Construction**

Under the rate of return models, the depreciation write-offs of the network were somewhat controlled. By the 1990s, depreciation was sped up to write-off the networks faster, with the promise to rewire and upgrade. In 1984, depreciation was $11.7 billion, construction was $18 billion and the ratio of write-offs to construction was 65%. By 2004, depreciation was $22.6 billion, construction was $16.7 billion and so the company wrote off 133% more than they put into the network.

The graph shows the changes in depreciation as a percentage of "New Construction".

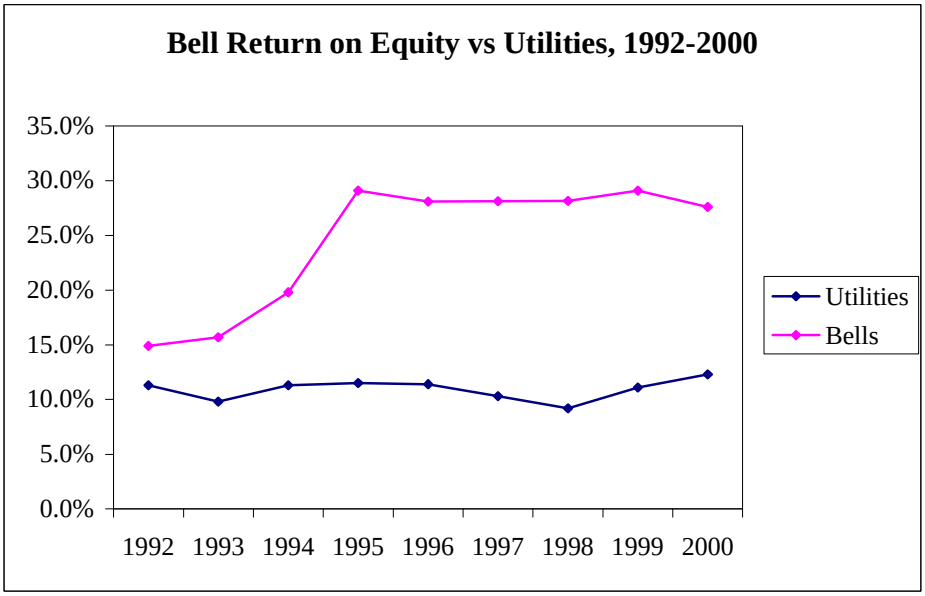



**Conclusions**

- **$110.6 Billion of Excessive Depreciation**? If depreciation remained with the same relationship to new construction, an additional $111 billion has been written off, not counting special items.
- **$40.5 Billion in Special items.** Special depreciation items added $25.5 billion in deductions from 1993-1995, and $15 billion in 2002-2003. (We did not add them to this chart.)
- **In comparing new construction budgets to depreciation write-offs,** of the $473 billion spent on new construction, only $51 billion has not been written off to date, representing only 11% that has not been written off. Please note that while this spending sounds large, the new construction budgets over the last 20 years only represented 20% of the entire amount collected, $2.3 trillion.

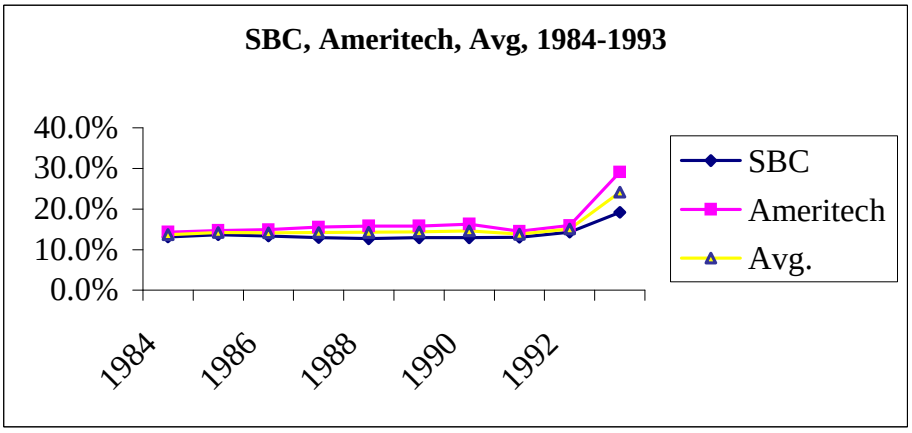
**GRAPH 8: Bell Return on Equity**

From 1992, when the alternative regulation plans were starting to be implemented, the Bell companies' return on equity went from a 14.9% return to a 29.1% return; this represents a 9-year increase of 126%, 188% above the other Utilities. (Source: Business Week Scoreboards, 1992-2000)



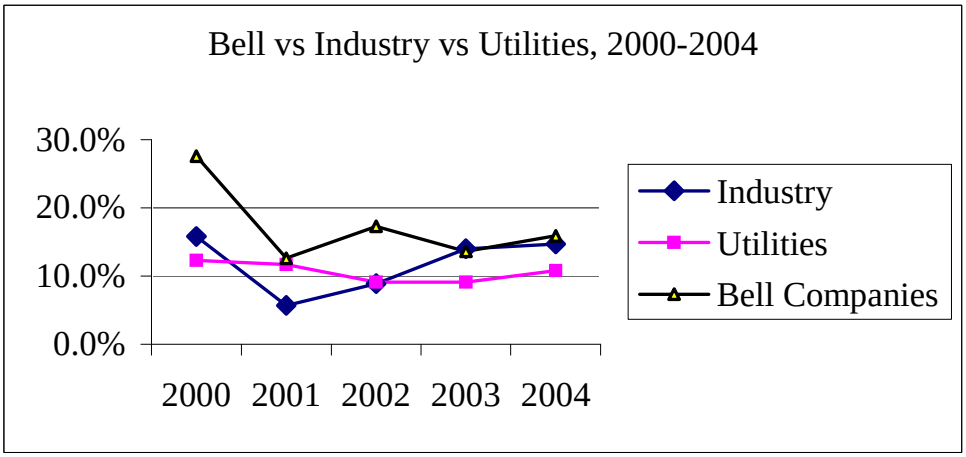
**GRAPH 9 Ameritech, SBC Return on Equity, and Average, 1984-1993**

Prior to 1992, the Bell companies had maintained a relatively steady return on equity. On average the return for SBC was 13.2%, Ameritech was 15.3%, and the average was 14.2% As you can see from the graph, starting in 1992, there was a major increase to the earnings, created in a large part by the changes to state laws for fiber optic deployments.



**GRAPH 10 Bells Compared to Business Week Industry and Utilities, 2000-2004**

The Bell companies have continually complained about the impacts of competition, however, as compared to the rest of the Business Week Scoreboard's Industry or Utilities, the Bell companies retained a higher return on equity, than the other companies. (Source, Business Week Scoreboards, 2000-2004.)



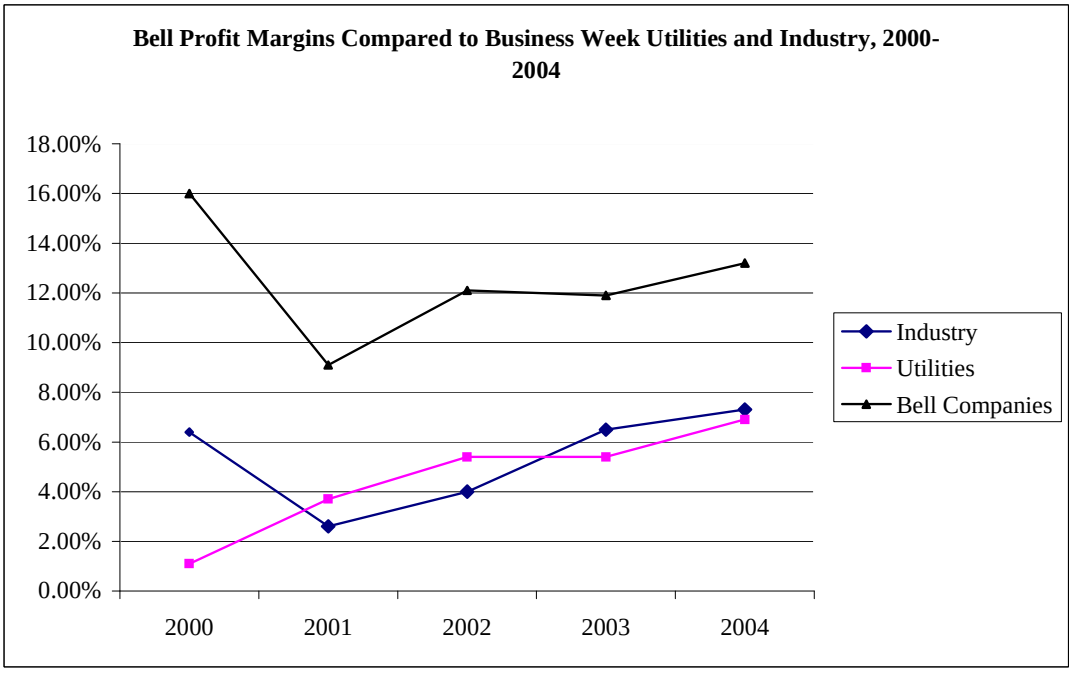

The Industry had an average of 11.8%; the Utilities had a 10.6% return, while the Bell companies averaged 17.4% return on equity. Combined, over the five years, the Bell's had:

- 56% above the Business Week industry and utilities.
- 47% higher return on equity than the other industry players.
- 64% higher than the other utilities.

**GRAPH 11: Bell Profit Margins, 2000-2004**

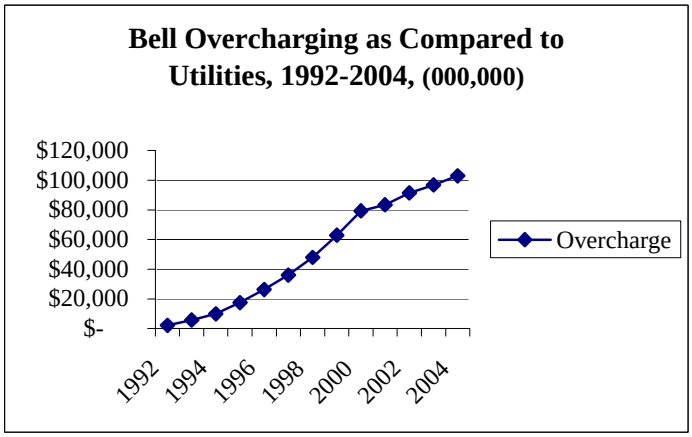
The Industry had an average of 5.4%; the Utilities had a 4.5% return, while the Bell companies averaged 12.5%

- 132% higher profit margins than the other Industry players.
- 177% higher than the other Utilities.



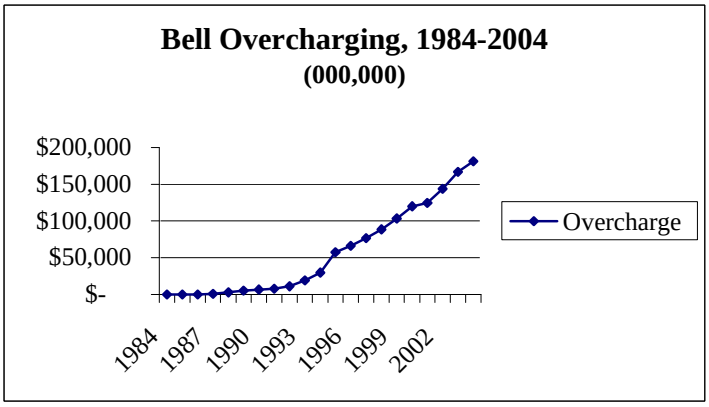
**GRAPH 12: Bell Company Overcharging, as Compared to Utilities.**

**$103 Billion in Excess Profits.** Using an average of "Utility" profit margins and return on equity, New Networks Institute contends that the Bell companies made excessive profits, mainly from the alternative regulation plans started in 1992-1995.




As previously stated, from 1992, when the alternative regulation plans were starting to be implemented, the Bell companies' return on equity went from 14.9% to 29.1%, a 9-year increase of 126%, and 188% above the other utilities from 1993-2000. (Source: Business Week Scoreboards, 1992-2000)[440]

**GRAPH 13: Excessive Depreciation Overcharging Included**



## CODA: ISDN — The Advanced Network Posterchild: "It Still Does Nothing".

This section is from “The Unauthorized Bio of the Baby Bells”[441]

Before we leave this tale of failed fiber deployments and what transpired since the mid-1990’s, we would be remiss if we didn’t tell you of another dark side to all of this — the first poster-child for the Information Age from the 1980’s — ISDN, "It Still Does Nothing". While one can fathom that the I-Way didn’t work, you would think that America would have learnt a lesson with ISDN, which raised rates and yet never was fully deployed.

**Non-Technical Definition: ISDN,** Integrated Service Digital Networks, is a digital access line that should give the customer more information, faster, over a single copper telephone line. An ISDN line should deliver 3-5 times more speed for Internet connections, or deliver larger graphics files faster.[442]The service can also be used as two separate telephone "channels" over one wire, meaning that the customer may have two telephone calls simultaneously, without bringing an additional second wire into the home.

**Technical Definition: See this endnote.[443]**

**The Promise**

ISDN was the originally promised technology for the first Information Superhighway, circa, the mid-1980's. In 1986, almost two decades ago, Southwestern Bell's Annual Report said ISDN would "revolutionize day-to-day communications".[444] Pacific Telesis promised that ISDN "will enable everyone with phone service to take part in the information revolution over fiber cable or the now-common single copper pair of wires".[445]

Sound familiar? Well for the next decade, ISDN had been little more than smoke and mirrors. It is the original ***failure to deliver on promises of new network enhancements.***

This lack of deployment should also trigger in the reader's mind the need for audits and investigations on a state and federal level. Why? Because state alternative regulations gave the Bells more profits to be used for ISDN technology deployment, which never occurred.

**ISDN — The First Information Superhighway — That Never Was.**

Using the Bell's own words, we want to make it clear that the Bells promised ISDN deployment in the 1980's and they even stated that it was available by the early 1990's. Let's go back almost 20 years. Here's some of the RBOCs on ISDN. Notice that the words "Information Superhighway" or “Broadband” can be almost substituted without missing a beat.

Southwestern Bell, **1986** Annual Report[446]

> "At the forefront of new technology is ISDN. Scheduled for commercial availability in 1988, ISDN will revolutionize day-to-day communications by allowing simultaneous transmission of voice, data and images over a single telephone line.
>
> "With ISDN customers will have the potential to access videotex, telemetry, alarm services, sophisticated calling features, teleconferencing much more economically than they can today. The company is responding to requests for ISDN services by custom-fitting its ESSX central office based communications services already in place."

Pacific Telesis **1987** Annual Report[447]

> "Pacific Telesis's Group's vision of the future is universal access to information — Thanks to ISDN.
>
> "In 1987 Pacific Bell began the first in a series of three tests, to be completed by 1988, of a new technology for ISDN. I'm not going to launch into a highly technical discussion of ISDN here, but I would like to point out why it's so important. Developing a universal, international standard ISDN will insure the compatibility of communications equipment which will enable everyone with phone service to take part in the information revolution over fiber cable or the now-common single copper pair of wires."

Pacific Telesis **1988** Annual Report[448]

> "To accommodate growing voice and data traffic we've nearly completed digitization of Pacific Bell's interoffice circuits. By testing and implementing advanced technologies like ISDN — which will allow customers to transmit digitized voice, text, video and graphics simultaneously over ordinary Pacific Bell lines — we're preparing California to compete in the 21st Century global economy."

Bell Atlantic's Annual Report **1990**[449]

> "Bell Atlantic's investment in new technology also includes deployment of Integrated Services Digital Network (ISDN) features. ISDN combines telephone and computer transmissions on a single line and makes creation of computer networks relatively simple and efficient. Users include major customers such as the John Hopkins Medical Institution in Baltimore and several federal agencies in and around Washington. Bell Atlantic has successfully tested ISDN for residential users, as well, in anticipation of the growing demand of home data services."

Ameritech **1991** Annual Report claimed it was available to “single line customers”.[450]

> "ISDN Speeds Information. 'The ISDN link multiplies, by more than 40, the speed with which information can be transmitted', says Illinois Bell's Bill Kallmyer, senior marketing operations manager. 'This results in higher productivity and lower on-line charges for consumers'. ***Kallmyer says ISDN is available to single-line customers as well as larger firms."***

And the promise of ISDN continued into the 1990's. For example, Pac Bell's "Education First" program was to spend $100 million in connecting all schools to the superhighway by 1996.[451]

> **"Pacific Bell Helps Bring Schools On-line.** As part of a continuing commitment to education in California, Pacific Bell has launched Education First, a $100

> million program to connect the state's schools to the communications superhighway. ***By the end of 1996, all of the nearly 7,400 public K-12 schools, libraries, and community colleges in Pacific Bell territory will have access to the company's Integrated Services Digital Network (ISDN),*** which enables simultaneous transmission of voice, data and video signal over a simple telephone line."

According to CNN in 1997[452], only 60% of California schools had computers and less than half were online.[453]

To demonstrate the disparity between these Bell quotes of bravura and the actual deployment, the next exhibit highlights a survey of the Bells by Interactive Age, July 1995, clearly showing that all of the Bells, with the exception of Pacific Telesis, never rolled out ISDN to residential customers. Meanwhile, Pacific Telesis only had 53,000 total ISDN lines installed at the end of 1995.[454]

**Exhibit 63**

**Regional Bell Residential ISDN Offerings, July, '95**

| | |
|---|---|
| Ameritech | Has only a trial running for ISDN Service |
| Bell Atlantic | Beginning residential trial |
| BellSouth | Has only a trial running |
| NYNEX | Has only a trial running |
| Pacific Telesis | Goal of 1 million lines by 1998 |
| SBC | Installing software in switches, few "Market probe |
| US West | Still installing software in switches |

***Source: Interactive Age, 95***

More to the point, there have been two pictures that are painted about ISDN deployment. One picture is supplied by the people who are selling ISDN and related products, while the other is represented by those who actually wanted to purchase it. This split-brain market representation has been going on for years.

In the following example, the first quote is taken directly from the NYNEX 1993 Annual Report. Here, NYNEX is discussing their wonderful new telecommunications services. This is

followed by the user perspective, highlighted by an article in ***The New York Times*** titled "The Information Future Out of Control: Hello, Anybody Home?" written by a NYNEX user, James Gleick, who helped start an online service called Pipeline, and is currently a well-known author. As you will see, the reality and the company's myth collide when customers actually try getting the advertised technology.

NYNEX 1993 Annual Report[455]

> "Private-line service as quick as a click: bandwidth where a business wants it, when a business wants it, as much as it wants, for as long as it wants. That's the value of NYNEX Enterprise Services, a set of new networking tools that bring unprecedented flexibility to private-line voice data and video systems."

From ***The New York Times*** article by James Gleick.[456]

> "I have visited the advanced telecommunication research laboratories and have seen what technology can bring, ISDN, which promises to turn ordinary phone lines into high-bandwidth carriers of pictures and videos. I've also visited the local telephone company and seen what technology can't bring. I've tried to order this very service. I have a 14-page, four-color brochure! 'NYNEX ISDN Primary Service. For more efficient voice, data, image and video.… Pipeline's [author's company] order has been floating about for months. Our sales representative says he wrote it up three times, and each time the system bounced it back. I have a phone number for an ISDN specialist inside NYNEX, but he doesn't seem to have voice mail. The Pipeline is not alone. The large, private on-line services, too, rely on more or less the same graying telephone technology, not ISDN."

After the article appeared, New Networks Institute contacted five other online providers, all located in New York City, and we found that none of the five companies could get adequate ISDN services. Two out of the five companies had filed complaints with the New York PSC, while the other three were transferring all business to Metropolitan Fiber (MFS), another NY local phone provider.[457]

**The Skinny On ISDN Rollout — Waiting for Godot, the Info Bahn, or Just Making More Money by Doing Nothing.**

The history of ISDN should be understood in relation to "telecom buzz", i.e., what's hot every two years or so. In the early/mid-1980's, ISDN was the next generation of telecommunications, to be rolled out as fast as possible. And though there was a great deal of handwaving, there is little proof that the Bells ever had any intentions for mass deployment in the mid-1980's.

By 1993, ISDN was all but forgotten. The fiber optic Information Superhighway, that nationwide, 500 channel, full-motion video network, was being touted as the new, bigger, better, next generation telephone network coming soon — and to a TV set too. This perceptual change was not something imagined. One has only to look at the number of articles on ISDN topics that disappeared in 1992, only to be supplanted by Info Highway topics.

For example, a Bell Atlantic sponsored study presented by the "National Economic Research Associates", pooh-poohed ISDN rollout. It suggested that industry groups such as the Electronic Frontier Foundation,[458]which were calling for ISDN deployment employed "old world" thinking, while broadband, fiber optics was "new world".

The Bell sponsored research stated:[459]

> "It would be unfortunate if the public policy focus were to be on implementing only ISDN rather than on taking the necessary steps to facilitate the transition to a broadband network. While it is important to use existing technology fully during the transition, the danger of the emphasis is that policymakers may take away from it a view of the ‘Old New World’, rather than the ‘New New World’ of Broadband."

By the summer of 1995 the "500 channel universe" was no longer the buzzword. The Internet had been proclaimed the new winner and ISDN, the telephone network that could make the Internet more successful, at least in the minds of the media, had once again been crowned as the next future, albeit, interim hot product.

However, massive staff cuts and lack of network upgrades caught the Bells' understaffed and unable to deliver the technology with any speed. In fact, based on interviews with Bell staffers, we now believe that staff cuts throughout the Bell system had been so severe that the

remaining staff made promises which they could not keep, either because of a lack of expertise, or simply because there weren't enough warm bodies to fulfill orders.

**And the Exact Promise? Mass Deployment at Cheap Prices.**

In February 1993, Ameritech's Russ Ruebensall, Marketing Operations, Data/ISDN Product, made a presentation to the Ohio Consumer Council and the Ohio Consumer Advocate outlining the Bell's ISDN deployment schedule. There was supposed to have been approximately 340,000 customer lines by 1992 (which did not exist according to the FCC and other statistics), while the company would have almost 2.5 million subscribers by 1996.[460]

**Exhibit 64**
**Ameritech ISDN Deployment, Customer Lines, 1993**

| 1992 | 1993 | 1994 | 1995 | 1996 |
|---|---|---|---|---|
| 339,000 | 1,278,000 | 1,925,000 | 2,318,000 | 2,447,000 |

Below is the FCC's statistics for ISDN deployment for 1994 and 1995, representing three RBOCs. According to the FCC, Ameritech only had a total of about 50,000 lines in 1995, about 2% of the projected amount, while Pacific Telesis had only 34,000, and SBC not much more than that.[461]

**Exhibit 65**
**ISDN Deployment for Specific RBOCs**
(For year ending December, 1995)

| | 1994 | 1995 |
|---|---|---|
| Ameritech | 41,744 | 48,622 |
| Pacific Telesis | 7,324 | 34,064 |
| Southwestern Bell | 1,595 | 34,628 |

***Sources: FCC, 1995, NNI 1995***

However, according to the FCC, some Southwestern Bell states, such as Kansas and Missouri had no single-line customers (known in the industry as "BRI") in 1994 or 1995.[462]

**Exhibit 66**
**FCC Statistics: ISDN Lines, Kansas and Missouri, 1994-1995**
(For year ending December, 1995)

| | 1994 | 1995 |
|---|---|---|
| Kansas | 0 | 0 |
| Missouri | 0 | 0 |

NOTE: The FCC ISDN information never matches any of the information supplied by telephone companies in their annual reports.

**The ISDN Reality, 1997-1998**

According to many in the new media industry, ISDN was still not a fully functional service by 1997-1998, a decade after its announced deployments. It was very expensive, it couldn't be easily delivered if the person lived 3 miles from a network switch, and some areas couldn't receive ISDN at all, including major parts of NYC. And horror stories of people trying to use it were legendary. An article by Al Perlman, a web/technology writer for ***Interactive Week***, titled "Fear and Loathing with ISDN" (October 6th, 1997), defined ISDN as "It Still Does Nothing". He summed up the various horror stories he had heard.[463]

> "The problems ran the gauntlet of bureaucratic foul-ups … inexperienced technicians, telephone personnel who never heard of ISDN, incompatibilities with ISDN lines of other carriers and on and on."

Perlman's own experience with ISDN service was that it never worked as advertised and the phone company "doesn't know when this will be fixed". As he put it, even after a decade, the telephone companies still didn't have the kinks worked out.[464]

> "I had heard all the horror stories but tried to defy the odds. I remember writing about ISDN for the first time in the mid-1980's. I'd had thought, by now, the telephone companies would have figured out a way to deal with this technology. But in my experience, No dice."

Ironically, in 1995, Kate Maddox, the senior editor of the now defunct ***Interactive Age***, called it "A Consumer Nightmare". (July 1995)[465]

> "Despite all the hoopla about advances in ISDN (just about every Regional Bell is touting it as the next frontier), I had heard horror stories about getting one hooked up and working in your home.... I wouldn't recommend ISDN for consumers unless they have plenty of time and their own private tech support team."

Ms. Maddox went on to say that it took "a veritable army of support technicians in four states", cost over $900 including hardware and telephone installation, none of the equipment worked with each other, and the entire package took over three months to be almost functional. In fact, Ms. Maddox had to put in a network "repeater" because she was more than 14,000 feet from the Central office — at an expense of an additional $21.50 a month.

Jerry Michalski, industry analyst and former Managing Editor of the respected Release 1.0 newsletter, said even the telecom resellers were telling their clients not to use ISDN. According to Michalski:[466]

> "Our system integrator talked us out if it. He said it wasn't dependable enough to use on a day-to-day basis. And we're located in the middle of Manhattan's Silicon Alley."

Others couldn't even get the service. Daniel Dern, former editor of Internet World and author of two books on the Internet (MC Graw Hill, Prentice Hall) stated:[467]

> "ISDN is a joke. After a bunch of calls they told me I couldn't get it because I lived over three miles from the central office. Worse, my friend in Boston got his installed and it keeps having problems. When he calls NYNEX they tell him that they don't offer anything called ISDN."

So what if ISDN was advertised in the mid-1980s as a technological wonder that would change the world.

## CODA 2: Verizon's FIOS FIASCO and SBC's Dim-Lightspeed: The Rise of the Crippled Networks: Enemies of Openness. The World Is Laughing at Us.

As we have just demonstrated over the last 300+ pages, by 2006, 86 million households should have been rewired with a fiber optic service, over 50 million by the year 2000. These services were to be capable of speeds of 45 Mbps in both directions that could handle 500+ channels of service, and cost around $40 bucks. This was supposed to be ubiquitous in urban, suburban and rural areas equally, as well as economically diverse areas. And these networks were completely open to all forms of competition.

We estimate that customers paid over $200 billion for these services in the form of higher phone rates and other tax perks — about $2000.00 per household.

Today, there are 0 Bell households with these capabilities, even though state laws were changed to give these companies more money.

And now, over a decade later, SBC and Verizon have announced new plans to fiberize their customers' homes. SBC calls their proposal Lightspeed and Verizon named their rollout FIOS.

### FIOS, Lightspeed and the Future

This chapter has been added to our tale because of the various issues surrounding Verizon's FIOS and SBC's Lightspeed in relationship to net neutrality, blocking VOIP, municipalities' plans for wiring and wifiing their communities, the Bells' current state and federal franchise requests, America's ability to be technologically competitive, increasing the digital divide, and the wrong-headedness of the current regulatory environment. Punchline: what we expect to happen next is not good. We will pick up these themes in Volume II.

In Korea or Japan today, 100 Mbps (bi-directional) services are standard and priced at less than America's ADSL services, which is in the kilobyte range. And now SBC and Verizon are making claims to be rolling out new fiber networks, if only they are able to once again get new financial and regulatory concessions.

Yet these networks are much slower and much more expensive than anything in Asia, aren't open to competition, will only be rolled out sporadically at best, if at all, and it will be on

their terms, even though customers paid for the development and implementation of high-speed fiber optic services over the last decade through excess phone rates.

More to the point, the Bell companies claim that they own the networks and that they can do what they want with them. According to Ed Whitacre of SBC:[468]

> "How do you think they're going to get to customers? Through a broadband pipe. Cable companies have them. We have them. Now what they would like to do is use my pipes free, but I ain't going to let them do that because we have spent this capital and we have to have a return on it. So there's going to have to be some mechanism for these people who use these pipes to pay for the portion they're using. Why should they be allowed to use my pipes?
>
> "The Internet can't be free in that sense, because we and the cable companies have made an investment and for a Google or Yahoo!, or Vonage or anybody to expect to use these pipes [for] free is nuts!"

That's right — there are no common carrier obligations and SBC will make the Internet a toll road or a closed road. Think of it this way — if Google offers an advertising-sponsored TV show or movie over my high-speed connection, why should Google or I pay the utility that supplies the broadband connection? Both Google and I are paying for the bandwidth use.

Verizon's Ivan Seidenberg in January 2006 has echoed this same closed-door, fee based view.[469]

> "There's no such thing as a free lunch on the Internet,' according to Verizon CEO Ivan Seidenberg, who said Thursday that providers of bandwidth-intensive Internet applications, including Google and Microsoft, should 'share the cost' of operating broadband networks."

Our take —if history is our guide, Fiasco and Dim-speed are a mirage. They were designed to pass the mergers of SBC-AT&T and Verizon-MCI, block VOIP and keep all other competitors out. As of January 2006, the cable part of this story, IPTV, still hasn't been rolled out by Verizon (it still doesn't work), SBC's Lightspeed still doesn't exist except in trials, the costs to each

household could be prohibitive, and in many cases, the companies are using extortion to get concessions — be nice to us or we will skip your neighborhood.

Are SBC, Verizon or BellSouth's plans what's best for America? Are these companies going to make America a leader in broadband, fix the digital divide, etc.? Fuhgeddaboudit.

Net Neutrality is at stake: This is not simply about getting 100 Mbps services like other countries while the Bells are delivering 5-30 Mbps at best. It is about who should control the future infrastructure. Should the Bell companies be allowed to close competitors off of customer-funded networks? Should they be allowed to block competitive services, such as Google or Ebay? Should they be allowed to block a customer from sending large files, own a personal server, or even block other video services?

And should they be allowed to dummy-down a fiber connection to control bandwidth? A fiber pipe can handle a gigabit of service. Let us remember that customers paid for a 45 Mbps service and that these networks were ALL open to all levels of competition and bi-directional, not asymmetrical.

Blocking Competitive Services Like VOIP: The Bells have already been able to throw off the Internet Service Providers (ISP) and Competitive Local Exchange Companies (CLECs) by getting rid of line-sharing and no longer having to sell parts of their networks at wholesale rates (UNE-P), which led to AT&T and MCI going up for sale. The next step is to get rid of Voice Over the Internet Protocol (VOIP), by giving their own services higher-quality bandwidth, or forcing the customer who buys the broadband connection to purchase local and long distance services as well.

Municipality Workaround Fights: Municipalities throughout the US now have to do workarounds because of the Bell companies' failure to deliver. The Bells paint the picture that the communities are competitors that need to be stopped or they hire a non-profit think-tank to explain why Wifi is a bad idea or…. The reality of missing fast networks is that communities who want to undo the harms from the failed deployments and deliver the services that their communities need have to work around the incumbent.

FIOS and Lightspeed are certainly not going to fix that.

The New Fiber Divide — We acknowledge that having the ability to get a faster speed is a good thing compared to the inferior DSL services. And so, there will be some communities that will get wired. Who's to decide this? Let us remember that the services, funded by customers, were supposed to be wired in rural, urban and suburban areas, in both rich and poor areas equally.

In short, here's our analysis of the FIOS and Lightspeed plans — a decade late and the wrong plan for America. They are crippled networks, the enemies of openness. They are too slow to compete worldwide and help America gain its role in broadband. But most importantly — it's not what customers paid for.

**Fiber Optic Broadband: Just to Refresh Those with Collective Amnesia**

As we proved, from 1993-1996, every phone company made promises state-by-state to rewire, fiberize America — about 50 million households by 2000, about 10 million by 1997. However, from 1996-2000, when the mergers of SBC-Southwestern Bell-Ameritech-Pac Bell and SNET occurred, at each juncture all fiber optic deployments were dropped once the ink was dry. Similarly, the Verizon-Bell Atlantic–NYNEX-GTE mergers were the death of all fiber optic services in every state they controlled.

26 states were harmed, their fiber optic deployments stopped, not including GTE's 28-state footprint. And yet, there's never been a serious investigation.

As we contend, ALL of these announcements were false and misleading, and were used to change state laws. And the promises, we can now show, were more about getting the Telecommunications Act of 1996 passed and to allow the Bell companies to enter long distance than they were about delivering services. How do we know that? Well, Verizon and SBC.

**FIASCO and Dim-Speed: Whom Do You Trust?**

**In 2004 Verizon decided to rewrite history.** Compare these series of quotes from Exhibit 2 — two from Verizon in May 2004, and two from Bell Atlantic, 1993 and 1996. How is it that Verizon is having an historic first in 2004 wiring a community, when it was supposed to have 8.75 million fiber homes by 2000?

Verizon's FIOS Announcement, May 19, 2004[470]

- "Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber-Optic Technology with Keller, Texas, Deployment. Verizon has begun installing in Keller a new technology known as fiber to the premises (FTTP), which uses fiber optic cable and optical electronics to directly link homes and businesses to Verizon's network. The fiber optic connections will replace traditional copper-wire links.... Although the use of fiber optic technology is common throughout the telecom industry, ***Verizon is the first company to begin using it to directly connect homes and businesses to the network on a widespread scale."***
- "'FTTP is moving from field trials and the lab to the real world, and it's happening in Keller first,' Verizon Network Services Group President Paul Lacouture said at a news conference with city officials here today… In short, we are building a new network that will make us the broadband leader in the 21st century… ***Overall, Verizon plans to pass about 1 million homes in parts of nine states with this new technology by the end of the year."***

The original fiber optic promises, Bell Atlantic, 1993-1996

- Bell Atlantic 1993 Annual Report[471] "First, we announced our intention to lead the country in the deployment of the information highway.… We will spend $11 billion over the next five years to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region.… We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets.... These investments will help establish Bell Atlantic as a world leader...."
- Bell Atlantic Press Release, July 1996 "The company plans to add digital video broadcast capabilities to this 'fiber-to-the-curb', switched broadband network by the third quarter of 1997… Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year… Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks."

And now you believe Verizon about FIOS?

And to complete the record at hand, here's what SBC said about Lightspeed. It would offer "next-generation television, data and voice services" and be "available to 18 million households by the end of 2007".

**SBC, November 11, 2004**[472]

> "SBC Communications Inc. (NYSE:SBC) today will provide operational and financial details on its plans to deploy fiber optics closer to customers and build an advanced, IP-based (Internet Protocol) network capable of delivering a rich array of integrated ***next-generation television, data and voice services*** substantially beyond what is available from today's telephone, cable or satellite TV providers.
>
> "In a conference call today, the company will say network lab and field trials are under way, ***network construction is scheduled to begin in the first quarter of 2005 and SBC's new IP-based network is expected to be available to 18 million households by the end of 2007. The launch of IP-based TV services over the new network is planned for the fourth quarter of 2005."***

As we pointed out, the SBC-Ameritech-SNET-Pac Bell merged companies should have spent $33.6 billion and have 12.5 million households wired by 2000.

However, the real issue is — who's paying for Lightspeed? According to SBC, whatever they build, the money is coming out of the budgets for local phone service.

> "SBC now expects that three-year deployment costs for Project Lightspeed will be approximately $4 billion, at the low end of its previously announced range of $4 billion to $6 billion. In addition, there will be customer-activation capital expenditures of approximately $1 billion spread over 2006 and 2007. ***Because a significant portion of capital expenditures for Project Lightspeed will replace and refocus ongoing spending for its current network, SBC expects incremental capital investment for this project to be relatively small."***

**Oops. Deployment Statements: Trust These Statements at Your Own Risk.**

Here's just a sample of "Oops", the changes in schedules that Lightspeed has gone through since 2004 and the changes in stated expenditures. So far, IPTV was to be released late 2005, is next a "controlled entry", and then a moveable feast to early 2007. Source: SBC.

- 3/11/04 — "IP TV launch expected, late 2005"
- 3/10/05 — "initial controlled market entry in late 2005 or early 2006".
- 10/18/05 — "introducing services enabled by the IMS platform in late 2006 or early 2007."

As of January 2006, SBC has rolled out a few homes in Texas.[473]

> "AT&T has quietly entered the TV market with the launch of its new Internet-based service in Texas….is offering the service to a limited number of customers in San Antonio, where the company is headquartered…. But in this initial release of the service, many of the features aren't available…."

**Capital Expenditures Are Chump Change**

Meanwhile, expenditures went from $5.5 billion for 2005; announced in 2004, to $4 billion for 2005, even though the company has had significant profits every quarter in 2005.

- 11/11/04 — "2005 overall capital expenditures —$5 billion to $5.5 billion"
- 8/19/05 — "SBC's $4 billion IPTV investment"

**Do the Math:**

The most pathetic part of these statistics is what happens when you start trying to make sense of them. In the quote, SBC stated it will spend $4 billion over 3 years — about $1.3 billion a year. If you remember our analysis of the Bells' overall expenditures, SBC's construction expenditures are down over 60% when compared to the increases in revenues. However, an additional $1.3 billion is essentially chump change when you are talking about a company worth

over $40+ billion in 2004. (This does not include Cingular's revenues, SBC and BellSouth's wireless venture, or the recent acquisition of AT&T.)

Simple math: 18 million households divided by $4 billion yields a sad fact — the actual expenditures are only $222 per-household, which is probably not even enough for the set top box in the house, much less the costs of rewiring homes and neighborhoods.

Still believe Lightspeed is real?

After reading the last three hundred pages, anyone want to place bets on when they will exclaim: '***Because of changes in the regulatory climate (or economic climate), we will be reexamining our video deployments.'***

**Why FIOS Is Ridiculous? Comparing the Pricing and Speed to the Rest of the World.**

America is 16th in the world in broadband because we don't have the speed, and we're being ripped off by the price. Let's suspend the belief that these networks may never show up. One has only to look at what is being promised — the price and the speed, to know we will never be Number 1 in broadband and technology with the Bells' current plans.

**FIOS Pricing Vs Korea and Japan.**

Here's what FIOS is currently offering — no video and pricing from $35 to $199 for an asymmetric service of 5-30 Mbps, top speed in one direction. (Source: Verizon's web site[474])

**Exhibit 67**
**Verizon FIOS Pricing, December 2005**

| | |
|---|---|
| Up to 5 Mbps/2 Mbps | $34.95 - $39.95 |
| Up to 15 Mbps/2 Mbps | $44.95 - $49.95 |
| Up to 30 Mbps/5 Mbps | $179.95 - $199.95 |

Let's compare how bad this pricing is with Korea's offering. NOTE: 1014 Won = $1 dollar. (Source: Korea Telecom's web site[475])

**Exhibit 68**
**Korean VDSL Pricing and Costs, December 2005**

| | | |
|---|---|---|
| Apartment Ntopia | 34,200 won | 100Mbps/100Mbps |
| VDSL | 39,900 won | 20Mbps/4Mbps |
| | 40,500 won | 50Mbps/4Mbps |
| Avg. | 38,200 won | 57 Mbps/36 Mbps |

If you live in an apartment that's been rewired, you can get 100 Mbps in both directions for $34. It's a bit higher for stand alone, with 50 Mbps down, 4 Mbps upstream for $40.

**Japan VDSL for House Residents**[476]

Here's the pricing for various Japanese services, as of February 2005.[477] We note that some of these services are not available in every section of town. However, imagine getting a 100 Mbps service for $40, which is about what most people pay for their ADSL over the old copper that can't even reach megabit speeds. This data is attributed to a spreadsheet prepared by Dirk van der Woude.

**Exhibit 69**
**Japan VDSL**
(As of 2/05)

| Service | Speed |
|---|---|
| BIGLOBE NTT East B-Flets VDSL (East Japan) | $52.77 100Mbps/100Mbps |
| NIFTY NTT West B-Flets VDSL (West Japan) | $48.56 100Mbps/100Mbps |
| BB. Excite NTT East B-Flets VDSL | $51.15 100Mbps/100Mbps |
| USEN broad-gate 01 LAN type: | $43.08 100Mbps/100Mbps |
| NIFTY TEPCO VDSL type | $38.59 100Mbps/100Mbps |
| NIFTY TEPCO E type | $33.21 100Mbps/100Mbps |
| KDDI Hikari Plus-Net DION (VDSL) | $35.00 100Mbps/ 35Mbps |
| USEN broad-gate 01 VDSL type | $25.47 100Mbps/ 50Mbps |
| Average | $41.00 100 Mbps/35-100 |

We need to stress one thing — neither Korea nor Japan has any services below a megabit, at least not advertised on the various web pages.

In comparing the cost per-megabit, the US is $6.63 as compared to $.34 to $.41 cents in Korea and Japan.

**Exhibit 70**
**Comparing FIOS to Korea and Japan for Broadband Price and Speed**

| | Price | Top Speed | Upstream | Cost per Meg |
|---|---|---|---|---|
| FIOS | $199. | 30 Mbps | 2-5 Mbps | $6.63 |
| Korea | $38 | 100 Mbps | 4-100 Mbps | $.34 |
| Japan | $41 | 100 Mbps | 35-100 Mbps | $.41 |

If you argue that some of these are government run, we argue that would be better than what we have today — a duopoly out of control with no constraints and no enforcement of contractual agreements. And if you argue that these are smaller geographic locations, then you seem to forget that each state had their own fiber deployment plans and there were 50 states, 50 plans. A state is smaller than these countries in terms of population. And remember that these costs were averaged over rural, urban and suburban distribution.

**The Verizon 100 Megabit Challenge? Another Cruel Joke.**

More to the point, America doesn't have 100 Mbps residential services being deployed by the Bell companies anywhere at these prices. Not in any city, etc.. It's not that it can't. Verizon told ***Barons*** in 2003 that it was getting ready for that speed.[478]

> "Verizon plans to start replacing its copper wires with fiber-optic lines that reach all the way to a customer's door — in the beginning of next year (2004)."
>
> "***'I talk about it with my engineers as 'The 100 Megabit Challenge'***, says Greg Evans, the vice president in charge of Verizon's access technologies. 'It puts this almost infinite capacity out there'."

Ironically, both Verizon and SBC in 2004 stated that they could offer the speed, but why would anyone need it?[479]

> "'I don't know why a customer would need 100-megabit speeds that transfer the Library of Congress in a second,' says SBC Chief Executive Edward E. Whitacre Jr. No. 3 telecom BellSouth Corp. is implementing a similar strategy to serve about 1.3 million homes by next year."
>
> "Verizon claims it could hike that speed to a sizzling 100 mbps networkwide — though it won't try until new applications demand it."

**IPTV Still Doesn't Work.**

Another fly in the ointment? As of December 2005, the IPTV service that should have passed a million homes by 2004 still didn't work as advertised.

> "Verizon's Elby: IPTV Could Take Years"[480]
> Verizon Communications Inc.'s Stuart Elby, vice president of network architecture and enterprise technology … had strong words for the IPTV crowd, saying that technology is not yet ready for deployment on a mass scale and likely won't be until late 2006 or 2007."

**How Much to Build?**

One of the more startling issues is the actual cost of putting together a fiber optic network from scratch. According to ***The Street.com***, it looks like it might cost $21,000 per-household, thus, never get built with any serious deployment.[481]

> "The company says it has about 12.4% penetration in markets where it has marketed the service for more than six months. Some analysts say that means about 100,000 Fios subscribers as of the end of September. Based on estimates and analysts' cost projections, Verizon will have spent $3.2 billion on Fios work

> over the past two years. And assuming the company has 150,000 subscribers by year-end, that would mean Verizon paid about $21,000 for each new customer."

We should put the costs into perspective. Verizon and SBC told ***Business Week*** in 2004 that Verizon's fiber deployments cost $800 per household in Keller Texas and SBC $300 dollars per household for their deployments. As we pointed out, the current expenditures for SBC indicate they're spending $222 per household, which is below even the low number quoted in 2004.[482]

> "Verizon has opted for an ambitious and costly plan — building fiber directly to the home at an estimated cost of $800 per household. On its all-fiber network in Keller, Texas…."
>
> "In contrast, SBC is taking the more cost-efficient option of extending fiber lines into neighborhoods — but not to individual homes. Cable operators take a similar approach, building fiber to neighborhoods and then connecting to homes using coaxial cable. SBC's strategy, which costs about $300 per household, uses a souped-up version of today's DSL technology to speed signals across copper wires in the final stretch, delivering data to the house at up to 25 mbps."

**A Closed Network: A Crippled Network**

If FIOS is a slower service than most of the other broadband nations offer, is expensive to build, and it still can't do IPTV, it is a questionable service at best. However, it is also crippled, closed to competitors, walled-in system.

Besides going through the list of what the service can't do, it is also clear that Verizon wants to control and limit what a custom can do, especially from accessing any competitive service.

**"Control, Type One"**

"Control, Type One" is on the customer side. We found that FIOS requires its own hardware, is the sole Internet Provider, doesn't allow a customer to host their own server (i.e., blocking file-sharing), can't use it for high-volume purposes, can limit "the number and/or size of email

messages that may be sent during a given time period, or the number of recipients of a particular email", and Verizon has sole discretion. They can even limit your bandwidth for Usenet Newsgroups.[483] (Source: Verizon's web site, December 2005)

- "The consumer offers do not permit customers to host any type of server, personal or commercial."
- "Can I use my DSL Modem, Router, or Cable Modem with my Verizon FiOS Internet Service? No. At this time you need to use the broadband routers provided by Verizon that have been approved to work specifically with Verizon FiOS Internet Service.
- "3.6.1 You may not resell the Broadband Service, use it for high volume purposes, or engage in similar activities that constitute resale (commercial or non-commercial), as determined solely by Verizon."
- "Email Service. Use of Verizon email service is subject to Verizon's email and anti-spam policies, including limitations on the number and/or size of email messages that may be sent during a given time period, or the number of recipients of a particular email.
- "3.8 Verizon also reserves the right in our sole discretion, with or without notice to you, to modify or restrict the bandwidth available to download content from our Usenet Newsgroup services. "

And Verizon is the sole decision-maker and they can shut you down when they feel like it.

> "12.3.3 Termination and/or Suspension by Verizon. If, in the sole discretion of Verizon: (a) you are in breach of any of the terms of this Agreement (including but not limited to) all policies regarding abuse and acceptable use of the Service)…."

We do not argue for the need to block spam or to charge for usage if it is used for serious commercial purposes (though that could be argued). However, when you enter the world of file-sharing with video services, where a video can be 300 megabits or more, can Verizon simply say — enough? In fact, Internet expert Joe Plotkin,[484] believes that this is one of the reasons Verizon has crippled the network to be asymmetric, so as to limit what you can do with the service.

**“Control Type II: The New Digital Divide: Who Gets the Service/**

As we will show, one of the problems with FIOS and Lightspeed is that there are no plans to be ubiquitous, they want to pick and choose who gets the service and who doesn’t. An Op-Ed from Rev. Mark McCleary is chairman of the National Black Church Initiative's Minister Alliance, outlined that with FIOS and Lightspeed, the “Digital divide widens even more”[485].
Friday, December 23, 2005

> “AT&T's proposal, for instance, is known as "Project Lightspeed." Months ago, its executives said that its bold new broadband service would be rolled out to 90 percent of its ‘high value’ customers but only 5 percent of ‘low value’ customers. Chaffing at what seemed to be an open admission of redlining, U.S. Rep. Ed Markey, whose subcommittee oversees telecom policy, accused the company of offering ‘Lightspeed for the well-off and 'snail-speed' for everyone else.’
>
> “In Markey's state of Massachusetts, Verizon has committed to bring its new FiOS broadband network to only 39 communities, bypassing nearly every major center of African Americans and Hispanics. All but one community resides above the state's median income and not a single neighborhood to be served has a majority African American or Hispanic population. If you pull out a map of the other states Verizon serves — such as New Jersey, New York, Virginia, Texas and Pennsylvania — its rollout plans are equally exclusionary. Middle-income and minority communities are mostly left in the cold.”

In our case study on New Jersey it is clear that this pick and choose philosophy puts the Bell companies in control of creating the have and the have nots.

**“Control, Type III”** is the control the phone companies have over the competitors ability to supply you with services. We will come back to this issue of control in a moment.

**Case Study: Examining Fiber Optic Promises and FIOS in New Jersey.**
(NOTE: See the chapter on New Jersey for more details.)

Verizon, in New Jersey, is claiming that FIOS is the fulfillment of their obligations under the state law known as "Opportunity New Jersey", even though it is a decade late.

We believe that FIOS is not only a decade late, but is a crippled product that does not fulfill various state obligations to deliver fiber optic broadband. We have already written about New Jersey's failed deployments. Let's summarize:

**Exhibit 71**
**The Verizon ONJ Commitments vs FIOS**

| | **Promised to Customers** | **FIOS, 2006**[486] |
|---|---|---|
| First deployment of video | 1996 | A decade late, still doesn't work. |
| Households | 75% of the state | "0" — 45 Mbps services. |
| Speed, Bi-directional | 45 Mbps | Up to 30 Mbps/5 Mbps |
| Price | $40 bucks | $179.95 - $199.95 |
| Video | 384 channels | NOT AVAILABLE YET |
| | | (180 video and music) |
| Layout | All Areas Equally | Wealthy Areas Mainly |
| Open or Closed? | Open To ALL Competition | Closed to ALL Competition |

In 1993, a new state law, Opportunity New Jersey (ONJ), was put into place. The phone companies promised to rewire the entire state by 2010 with fiber optic 45 Mbps services in two-directions.

Here's the actual deployment schedule, which shows that starting in 1996, 45 Mbps services were supposed to be deployed, and completed 100% by 2010.

http://www.newnetworks.com/OpportunityNewJerseyFiber.htm

In other Verizon documents we learn that this was a phased roll out. By 1996, with the acceleration of the ONJ plan, 19% of the state should have had access to their 45 Mbps service, 52% in 2000, etc..[487].

**Exhibit 72**
**Bell Atlantic, Opportunity NJ Broadband**
**(Up to 45 Mbps & Higher)**

| | 1996 | 1997 | 1998 | 1999 | 2000 | 2010 |
|---|---|---|---|---|---|---|
| w/o acceleration (est) | 1% | 1% | 3% | 9% | | |
| with acceleration (act) | 19% | 34% | 35% | 42% | 52% | 100% |

To add insult to injury, in 2003, the company claimed that 68% of the state could get broadband digital service.[488]

> "As of the end of last year, broadband digital service capability was available to 68% of Verizon NJ's lines."

Today, there are 0% 45 Mbps services. Based on the data, Verizon, New Jersey has submitted false and misleading documents to show that it is compliance with the state commitments.

Verizon promised to rewire the state if state laws were changed to give them more money. And it worked like a charm, as we documented. Customers paid for networks they never got. Verizon collected an estimated $2000 per household from customers for these services. State laws were changed in 1993

**The Fiber Fight in New Jersey and Verizon; Try Extortion First**

Verizon first tried extortion and that worked. That's right. Verizon "suspended" its fiber plans in the state in 2004 until the New Jersey Commission gave Verizon more money.[489]

> "Today's announcement comes about a year after the company suspended its fiber-to-the premises (FTTP) deployment plans for New Jersey because the

> regulatory environment in the state did not compare favorably with the other states competing for significant new investment.
>
> "In the past year, there have been signs that the overall investment climate in our state has been improving…Their willingness to listen and their encouragement have given us the confidence to proceed with building this communications network of the future."

**The Franchise Fights: New Jersey.**

And in 2006 there is a new fight. In order to offer cable services, the phone company must get a franchise that gives them the rights to build. Municipalities can also make some demands on the company, such as making sure that everyone within the franchise area gets served at a reasonable price, or that programming is open for the municipality/customers to use.

Instead of dealing with each county and municipality, the phone companies are trying three things: a) get a franchise for the entire state, b) get a franchise overall for all states through Congress or c) limit what they have to give and take.

This is the short version, obviously. However, in New Jersey, Verizon wants to be able to get a state-wide-franchise and pick and choose which communities it wants to enter.

**Where Will We Build? This Ain't Universal Service.**

According to the Bell sponsored New Jersey bill, S2912, Verizon is only planning on guaranteeing 60 municipalities in 3 years (with numerous caveats.) There are 566 municipalities in New Jersey; Verizon controls 526 of them. Thus, if Verizon got its franchise in 2006, the best scenario would have only 15% completed of the municipalities in the state, not 100%.

> "21. (New section) a. As part of any system-wide franchise issued by the board pursuant to P.L.1972, c.186 (C.48:5A-1 et seq.), a cable television company shall be required to: (1) begin providing cable television service on a commercial basis, within three years of issuance of the system-wide franchise, in the sixty municipalities having the greatest population density in the cable television

> company's service area. Such population density determination and rankings shall be based on….”

They can also make cable television available in other municipalities within six years, but with various caveats that could let them off the hook for future deployments. And they only have to provide 2 channels for public municipality use.

> “i. A commitment to provide to each municipality that is served by a cable television company, with two public, educational and governmental access channels.”

Let’s contrast this with the original Bell Atlantic, Dover deployment that was filed with the FCC as part of their video dialtone applications. The company claimed they would be required to have 384 channels.[490]

> “This system is capable of transmitting up to 384 digital channels, where a "channel" is defined as one full-motion video transmission path, consisting of a 6 Mbps circuit over which video information is digitally encoded in an MPEG2 format.”

And under the Dover plan, which was also directly tied to the company’s state Opportunity New Jersey laws, only 60 of these 384 channels would be provided by Bell Atlantic — everything else was wide open as ‘common carrier’ services.

> “Video dialtone is a common carrier transmission service, provided by local telephone companies, that enables end-users to gain access to video programming provided by multiple programmers”

FIOS doesn’t have 384 channels, and  it is not open, and therefore isn’t what customers paid for since 1993.

**Control Type III Open to Competition vs Closed Networks.**

Let's reinforce this issue of open-to competition issue — **Control Type III**. The New Jersey Opportunity Order clearly states that these networks were open to competition, just as the FCC video dialtone decision mandated. Even the NYNEX-Bell Atlantic merger conditions guaranteed that these new customer-funded networks would be open to competition.

And, as we previously discussed, in Opportunity New Jersey, the issue of keeping the networks open to competition was repeated page after page in the state commission decisions as well. "Unbundling" means to make competitive services available by selling necessary components of the network for the use by a competitor.[491]

> "Staff submits that the unbundling provision must apply to all competitive services and not just a for new filings to make a service competitive…."

> "The Board "FINDS" that it is essential that this Board encourage optimal use of the public switched networks, and that therefore NJ Bell shall be required to unbundle all noncompetitive service into service arrangements… so that competitors may market such services."

We make note of this because, as we will discuss, though Verizon is claiming that FIOS is the fulfillment of the Opportunity New Jersey plan, they will argue that it is allowed to be closed because of various FCC decisions over the last four years related to fiber optic deployments.

Our argument is simple: Customers funded the network under a state contract that required open networks. If FIOS is supposed to fulfill that agreement, does the FCC's decision in 2004 cancel the billions of dollars spent by customers in the state from 1993-2004?

To summarize the New Jersey Opportunity Commitments to FIOS.

**Promised in New Jersey:**

1. Verizon-New Jersey promised 45 Mbps, bi-directional, 384 channels, totally open to competition, and rolled out in urban, suburban and rural areas, including economically diverse areas.

2. Customers paid over $2000 for networks they have yet to receive.
3. There are no 45 Mbps service with 384 channels in 2006.
4. By 2010, the entire state should be rewired, through incremental increases starting in 1996.
5. The Bells rolled out an inferior product, DSL, over the old copper wiring, which did not require new laws and financial perks.
6. According to Verizon, 68% of the lines were capable of 45 Mbps by 2003!

**To Be Delivered?**

1. FIOS is planning a service with top speed is 30 Mbps in one direction, and cost $199.00, not a consumer product.
2. It still can't do the promised IPTV video, nor does it have 384 channels.
3. It is a walled in network, no competitors invited. They can also control the service speed, the emailing, file-sharing, and other activities.
4. The company's franchise proposal is only promising 60 communities in three years, 15% of the total to be completed.
5. It may cost $21,000 a home, thus it will never be rolled out fully.
6. Verizon, under the franchise agreement, will be allowed to essentially pick and choose the 85+% of the state that is not rewired.
7. Korea, for example, has 100 Mbps speeds in 2 directions for $34. FIOS can't come close in speed and cost $199.00. It will not make America Number 1 in broadband, much less the state of New Jersey.
8. Based on history, there are 0 guarantees that anything will happen or that the building of fiber based networks will continue past the signing of the contract and some commitments.

Let's look at the plan to block everyone else from using FIOS and Lightspeed.

**Blocking Everyone Else: The Last Four Years and Now Writing the Telecom Act — How Stupid.**

For those of you who don't follow telecommunications, there is currently a Bell-supported campaign to rewrite the Telecom Act of 1996. You would think it was broken. The truth is that the Telecom Act opened the networks to competition, including broadband competition. The FCC, under Michael Powell, simply erased any competitive opening.

And the parts you may not know is that FIOS and Lightspeed are considered “new builds” of fiber optic services, and after 4 years of terrible laws (2000-2004), the law of the land has been deflowered. It now says that these networks don’t have to be open to any competition!

What happened was that the regulators kept thinking that they worked for the phone companies instead of the public interest. And so, at every turn, the FCC was able to rewrite every competitive regulation for both local service and broadband, while giving the Bell companies every thing they wanted.

- The FCC’s decision blocks Internet Service Providers from using the customers phone line for DSL, known as “line sharing”.
- The FCC blocked competitors, including AT&T and MCI, from renting parts of the local phone networks (UNE-P). No wonder they were sold off.
- The FCC blocked ISPs from renting the cable networks.
- The FCC blocked anyone from using the new, upgraded, customer-funded fiber networks.

However, the FCC allowed the Bell companies to merge, even though each merger was based on the Bell companies competing with each other — which didn't happened. The FCC allowed the Bell companies to enter long distance, even though it blocked the competitors from using these networks. Ironically, opening the networks to competition was the lever to allow the Bell companies into long distance services.

The outcome — The Telecom Act was killed by the regulator who was supposed to bring competition. And when the FCC made these announcements starting in 2000 under Michael Powell, he signed the death warrant to these companies. Who's going to invest in a market that is about to be reregulated out of business?

So, FIOS and Lightspeed are NOT open to competition, at least according to the current regulation.

**Bad Bills Proposed in Congress.**

If the last four years of bad regulation wasn’t enough, the phone companies are now lobbying for passing new bills in Congress. Because this is a new session in Congress (January 2006), the various bills of 2005 could change or morph into newer, more problematic versions of the Bell-

backed legislation. However, the Bells' goals are to close down the rights of municipalities to offer competitive broadband, to allow the Bells to have nationwide (or statewide) cable franchises, and to give control to the Bell companies for any new services, while stopping anyone from using any upgraded networks. And while these bills will all couched in openness, competition, etc., they all will be nothing more than an attempt to close down whatever moves. As we have learned, the Devil's in the details as well as in the enforcement (or lack thereof) of the laws.

Even Microsoft, the 800-pound gorilla, has concerns that they will be regulated out of the digital future. Here's a piece of their recent congressional testimony.

> "Today's hearing moves us from the big picture to the critically important details: how proposed legislation would promote or impede broadband deployment and the continued growth of Internet content and services in America. In short, how can legislative levers be used to promote continued investment in Internet content and services and enhance consumer benefit from these tremendous IP services and products.
>
> "I will elaborate further but I have two overarching observations: First, the definitions in the bill could extend regulation to Internet services that have never been regulated before. Lest this Congress run the risk of impeding innovation by regulating new services, we suggest that the definitions need to be revisited. Second, the policy of "net neutrality" - or the Connectivity Principles as Microsoft prefers to call them -- has served consumers, content providers, and network operators exceedingly well over the past decade. These principles provide the certainty necessary for Internet companies to invest billions of dollars in new and innovative services and products which have added value to the underlying network… This policy is one of the fundamental reasons why the Internet has become what it is today. It does not need to be fixed. It only needs to be maintained in the broadband world."

The past and present proposed bills are sure to come up in 2006 as the Bells have more money than anyone else and thus can buy influence and attempt to block Microsoft, Google or Ebay from offering new services. Ebay has spent a few billion on Skype, a VOIP company, and

Google is currently planning to Wifi San Francisco to start, as well as video services. These bills could close down or limit those services.

Also, the Bell companies are lobbying to have new bills that give their own services preferential treatment. So, if you order a Skype, it might not sound as good as BellSouth's own service. ***Cnet,*** in December 2005, wrote:[492]

> "A bill expected early next year in the U.S. House of Representatives, coupled with recent comments made by executives from BellSouth and the newly merged AT&T and SBC Communications, has raised the prospect of a two-tiered Internet in which some services--especially video--would be favored over others.
>
> "No broadband provider has proposed to block certain Web sites. But they have said Yahoo, for instance, could pay a fee to have its search site load faster than Google. Other possibilities include restricting bandwidth-hogging file-swapping applications, or delivering their own video content faster than a similar service provided by rivals."

And these fights continue in 2006 in almost every state. Franchise agreements fights, like the one coming up in New Jersey, will happen throughout the US,. Blocking municipalities who want to offer broadband is a battleground now in states like Louisiana and will continue throughout the US. For example, a bill that passed in Pennsylvania in 2005 only let Philadelphia escape. All of the other munis in the state have to ask permission. As Broadband Reports put it, ***"Mr. Verizon, may we build a Wi-Fi network?"***[493]

FIOS and Lightspeed can decide who they block, what speed you get, what web sites get better or worse service —you don't decide, they do.

**The Rise of the Crippled Networks: Enemies of Openness.**

Conclusion — Do we really want to have companies who are only looking out for their own self interest to control America's digital highways? Do we want to trust those who have mislead the public, who have failed to deliver on their previous promises, who are planning to create toll roads and block other services and who are rolling out inferior services as compared to the rest of the world dictate America's digital future?

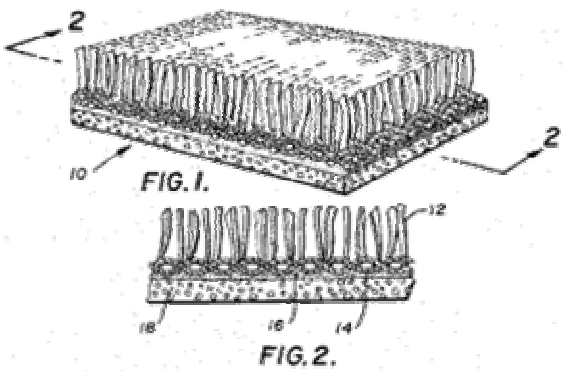
With FIOS and Lightspeed, America will not be number 1 in broadband. And forget the idea that these companies will deliver anything that will be universal service based.

Is this really what's best for America?

Welcome to Volume II: We Were Number 1 in the World Wide Web and Now We're 16th in Broadband. What Happened?

## Coda 3: Fake Consumer Groups, Biased Research, Lots of Lobbyists, Paid-Off Politicians: Behind the Broadband Curtain.

Astroturf diagram: [494]




As former FCC Chairman Kinnard stated in 2000:[495]

> "Regulatory capitalism is when companies invest in lawyers, lobbyists and politicians, instead of plant, people and customer service…. Regulatory capitalists would rather litigate than innovate."
>
> “It's always easier to prowl the halls of Congress than compete in the rough and tumble of the marketplace.”

This final chapter was added to highlight exactly how the regulators, customers and press are being deceived by the phone companies.

And I’m not being paranoid when I say that there is an underground network of political deceit in the telecom and broadband industry. It is made up of very well funded fake or co-opted consumer groups, research firms, think-tanks, lobbying groups, politicians and PR firms throughout the United States that are out to fool reporters, state legislatures, Congress, the public and the FCC that they represent the public interest.

Call it “skunkworks”, (the phone companies' black-ops groups) call it “astroturf” or “sock puppets”, this web of deception is designed to service the large corporate interests over your interests. They are here to take away your vote and wield undo influence — not in your favor.
And how does it impact our fiber optic tale of woe, broadband, the Internet, wireless, municipalities wiring and Wi-Fi-ing cities, the cost of phone service, VOIP, open access to content, or anything else related to your Digital Future?

This final chapter is a glimpse at Volume III: Fake Consumer Groups, Biased Research, Lots of Lobbyists, Paid-Off Politicians: The Politics of the Broadband.

Maybe you've always expected that this is the case. We have all heard stories, vague rumors. But in Washington DC it has been brought together as a devilish art form. It is the old 'wink-wink-nod-nod'. Everyone knows that most people are paid off, it's just a matter of degree. And no one wants to say anything — they’re doing it themselves.

Republicans or Democrats, it almost doesn’t matter who’s in power at the time. The phone companies back whichever horse will be able to be controlled and will vote to make these companies more money, less restrictions, less investigations.

**Why Is Deception so Effective?**

Imagine you’re an FCC Commissioner and during your day you have 20 meetings, 15 of which are from Hispanic and black groups, senior citizens, consumer groups, non-profit think-tanks with voluminous reports, senator and congressmen aides, hardware and software vendors, not to mention the phone companies. Then imagine full-page advertisements in every newspaper, messages on every TV and radio station, all touting what would be best for the phone companies — I mean America. How would you know who’s not real?

This is Deception 101 and when there’s an entire industry funding hundreds of millions of dollars for every message backing their position, all being spoken from compromised Hispanic, seniors or disabled groups, research firms and lobbyists — the other side is out-funded, out-flanked, out-researched, out-lawyered, out-media-messaged, out-lobbied and we, the public interest, lose.

Why has there never been a full investigation about the failed fiber optic deployments? Who in the media is going to stick out their neck when they receive massive amounts of

advertising dollars? In one interview on FOX News, when discussing Verizon's phone bill mistakes, the author was told ***"Don't mention Verizon. We can get sued."***

And who can afford to tell the other side of this story? Who has the resources to out-shout the phone companies? As Bill Kinnard stated, it ain't us. In talking about Voice Over the Internet:[496]

> "Regulatory capitalism always works best for companies that have the resources and know-how to play the regulatory game. And, trust me, it's never the newcomers. Most new industries — yours included — don't have the time or resources to spend money on oak paneled law firms and limousine lunches."

Let's be more specific and name names.

Let's start with the ringleader for the Bell companies — Sam Simon's Issue Dynamics. Many of the campaigns and groups that have been co-opted through and paid for by SBC, Verizon, BellSouth and the other phone and cable companies are coordinated by this firm. The list of groups include Alliance for Public Technology, (APT) TRAC, New Millennium Research Council, among other groups.

This group is also joined by a host of co-opted groups such as League of United Latin American Citizens (LULAC), and American Association of People with Disabilities (AAPD), the Gray Panthers, NAACP, the National Council of La Raza, the National Consumer League and others.

The examples show that these groups' influence extends into the halls of the FCC and state fights — This Cabal has done everything from helping to increasing phone rates, or the blocking the wifi-muni-deployments, to harming competition.

**Control of the FCC's Consumer Advisory Committee (CAC)**

In 2003-2004, Teletruth was a member of the FCC's Consumer Advisory Committee and we had a front row seat to see how the game is played. In the last session, 1/3 of the members were from the cable or phone or media industries or their associations. However, there were also six different groups tied to Sam Simon and Issue Dynamics. This helped to give the phone

companies control of the consumer interests at the FCC. It is the reason phone bills are unreadable, or competitors are being put out of business or sold off.

In March 2005, the FCC announced the new members of this Committee. It included:

- Alliance for Public Technology — Daniel Phythyon is Senior Vice President, Law and Policy at the United States Telecom Association ("USTA"), the phone companies primary lobbying association. APT is funded by Verizon, BellSouth and SBC. APT is run out of Issue Dynamics' offices. [497]
- Telecommunications Research and Action Center (TRAC) — Sam Simon is the founder of the group, which was designed to help the phone companies enter the long distance markets and harm competitors. The outcome, AT&T and MCI were sold to the phone companies. And again, this group is directly tied to Issue Dynamics.

> "During the year, TRAC purchased goods and services from an affiliated taxable organization named Issue Dynamics, Inc. provider management services as well as overhead costs for fees to TRAC."[498]

- Industry members included: National Association of Broadcasters, Sprint Corporation, Time Warner, T-Mobile, Verizon, Nextel Communications, Inc., Cellular Telecommunications and Internet Association, and Consumer Electronics Association.[499]

Teletruth filed a complaint about this issue and the committee was increased with more activists, but was still not a committee of consumers. The ***Washington Post*** wrote:[500]

> "You'd think when Chairman Michael Powell had a chance to appoint a Consumer Advisory Committee to act as something as a counterweight to industry lobbying, he wouldn't have handed more than a third of the 35 seats over to representatives from the likes of AT&T, BellSouth, the National Association of Broadcasters and the National Cable & Telecommunications Association."

**Conference with Federal Communications Bar Association, and Astroturf.**

This problem is pervasive and so deceptive that even legitimate organizations are sucked into this. By having reputable organizations become the pawns of these fakeries, the entire thing looks legit. For example, here's a conference for the 10th Anniversary of the Telecom Act of 1996, sponsored by Columbia, George Washington University and the Federal Communications Bar Association.

> "The Columbia Institute for Tele-Information, and the School of Public Policy and Public Administration at George Washington University and the Federal Communications Bar Association present "The Telecommunications Act of 1996:Ten Years Later"

Sounds like serious stuff until you examine the speakers and see that TRAC and APT are both speaking on behalf of consumers.[501]

- Dirck Hargraves, Secretary and Counsel for Telecommunication Research and Action Center (TRAC); General Counsel and Senior Consultant with Issue Dynamics, Inc.

  "Are You Better Off Today Than You Were Ten Years Ago? Residential Consumers and Telecommunications Reform "

- Dan Phythyon, Policy Director and General Counsel for the Alliance for Public Technology (APT); former Chief of FCC Wireless Communications Bureau

  "On the tenth anniversary of the 1996 Act, it's time to stop agonizing over why it hasn't worked as "intended" and move on to the process of enacting new legislation. Since that act will likely be outdated within a few years, too, let's also think about how we can make the process of legislating on telecom matters more palatable."

No mention of the Bell companies being the funder or the USTA or…

**Raising Local Phone Rates**

In 2000, the phone company coalition, known as the "CALLs Coalition", got over 40 consumer groups who agreed to raise the FCC Line Charge (also called “Subscriber Line Charge”, among other names), on every local phone bill in America — from a cap of $3.50 to $6.50. The FCC Line Charge is unmarked, direct revenue to the local phone companies, even though it is in the “Taxes and Surcharges” section of the phone bill.

Issue Dynamics helped to run a campaign to make consumer groups believe this increase was important and good for their constituents, claiming it would lower long phone rates. It didn't work for most Americans. Interestingly, almost all of the groups who signed onto this campaign received major funding from the phone companies. [502]

- “**The National Consumer League** website entitled ‘Understanding Your Phone Bill’. This website was developed by NCL with a grant by Verizon (then Bell Atlantic) and SBC (then Ameritech).

As the ***Corporate Crime Reporter*** stated:[503]

> “Over the past couple of years, Issue Dynamics played a pivotal role in turning the National Consumers League from a consumer group into a corporate front group. And last year, Sam Simon, Issue Dynamics' founder and president, was named chairman of the board of the National Consumers League.”

Other groups in the CALLs Cabal were:

- **Alliance for Public Technology (“APT”)** — APT is a nonprofit coalition of consumer and public interest groups and individuals, whose mission is ensuring equitable access to telecommunications technology to all sectors of our society. APT will include CALLS article in APT’s September newsletter and will post messages on its membership listserv.88
- **Consumer Action (“CA”)** — CA is a national nonprofit organization, specializing in providing information in many languages. CA is producing a new publication on reading phone bills funded by AT&T.

- **National Association for the Advancement of Colored People ("NAACP")** — NAACP is the nation's oldest and largest civil rights organization. CALLS members are coordinating with the NAACP for some telephone consumer education during their upcoming state conferences with local phone companies.
- **National Grange ("NG")** — NG is the nation's oldest (founded in 1867) national agricultural organization, with grassroots units established in 3,600 local communities in 37 states. They will include CALLS article in the member newsletter, and have already promoted their activities with members. They are interested in promoting the websites and brochure.
- **U.S. Hispanic Chamber of Commerce ("USHCC")** — USHCC represents more than 100,000 small Hispanic business owners. CALLS is working with USHCC on an article focusing on consumer education for small businesses, which will be distributed by USHCC to its local chapters later this fall."

Other groups backing this were NAACP, the National Hispanic Council on Aging and American Association of People with Disabilities, all on the APT board. All three got grants and donations from the Bell companies.

What should have happened? Well, as we pointed out in other sections, the FCC Line Charge was never properly audited for the actual cost related to this fee. And a lot of data suggests that this charge was being overcharged before the increased. It is also taxed Universal Service and other taxes and surcharges. Any consumer group worried about low-income families, or seniors or the disabled would surely want an accurate assessment of this charge. There are also those who will claim it helped to lower long distance phone rates. Once again, those people would be proven wrong based on Teletruth's extensive phone bill surveys.

These groups betrayed their constituents interests for having their group getting funding.

The FCC, in 2006, is currently proposing to raise this charge to $10.00 — and guess who they will listen to?

**Harm to Competition and Broadband**

Questionable or co-opted consumer groups have helped to give exclusive rights of the broadband networks to the phone companies — SBC and Verizon. For example**, "American's For the Digital Bridge"** in 2001, with APT, were supporters of the Bell broadband proposals that essentially harmed competitors. The group included:[504]

- World Institute on Disability, (Verizon's Foundation is a member and Simon is on the board), American Association of People With Disabilities, (got "major donations from both Verizon and the Verizon Foundation, and put a Verizon VP on its own board") and the National Association of the Deaf, a Sam Simon/Issue Dynamics' client.

Another campaign targeted MCI.

- Issue Dynamics got the Gray Panthers to go after MCI in a full page advertisement and staged fake rallies.[505] They also enlisted the United Church of Christ for other attacks. APT and the United Church of Christ work together on projects including the "Everett C. Parker Ethics in Telecommunications Lectures" (stop laughing.)

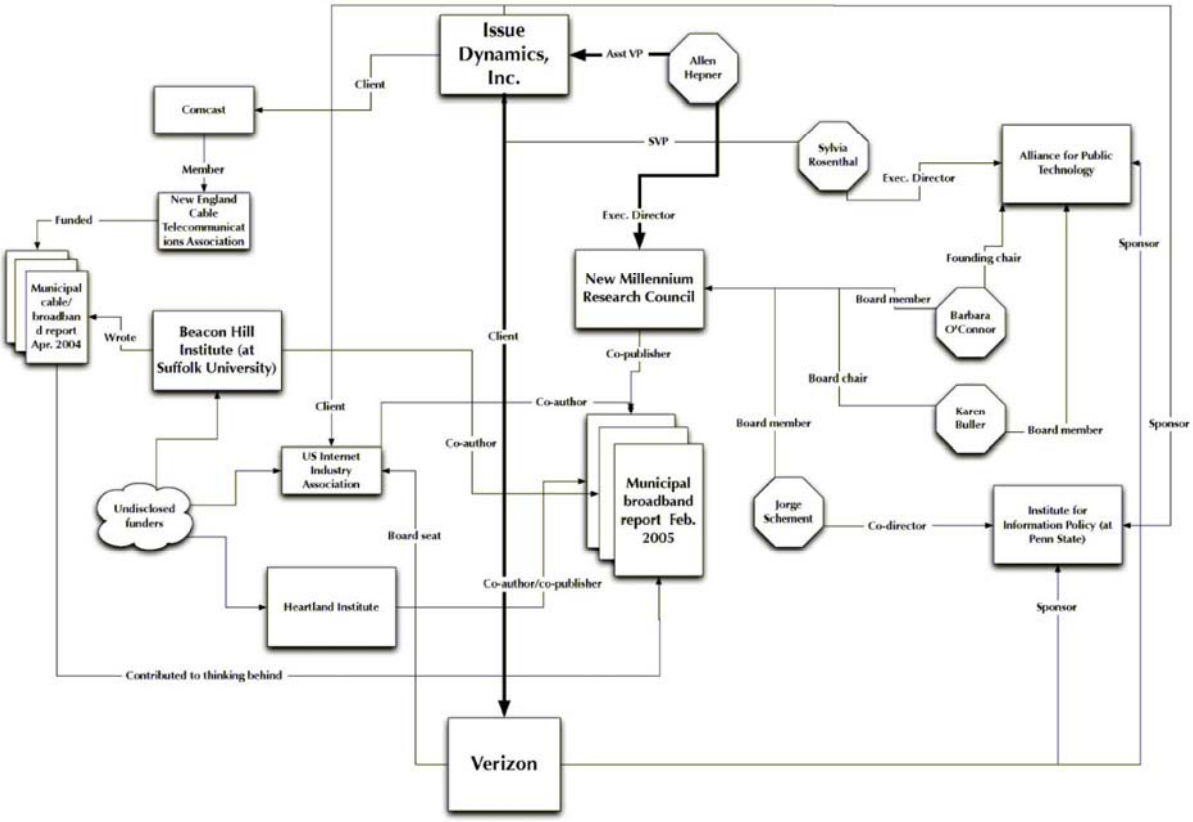
**Wi-Fi and Municipalities**

In 2005, Wi-Fi Networking News and others uncovered how Issue Dynamics, APT and the New Millennium Research Council (a project of Issue Dynamics) had issued reports bashing municipalities ability to offer broadband and Wi-Fi Internet services. This data is being used in multiple states throughout the US to make state legislatures vote against competition.

Wifi-Networking News charted some of the relationships among Verizon, Issue Dynamics, New Millennium Research Council, APT and others. To see this chart in more detail, as well as read various stories about the relationship among the players see:
http://wifinetnews.com/archives/004765.html

**Exhibit X**

Relationship of Various Groups in the Municipality Fights




**VOIP and Universal Service Fund (USF)**

APT has helped to create the "Keep USF FAIR Coalition", with full page adds in ***USA Today***, in February 2005. In 2004, APT created the VOIP Coalition (Voice over the Internet). Both are filled with a mixture of the same players and their positions are related to the phone companies' needs. For example, instead of demanding an investigation into the problem-ridden Universal Service Fund, this group wants what's fair for the phone companies — increase the USF. Groups signed onto these campaigns include: APT, American Association of People with Disabilities, National Hispanic Council on Aging, Telecommunications for the Deaf, TRAC, and World Institute on Disability.

How insidious does it get? According to the National Association of The Deaf (NAD), one of the KeepUSFFair members, The American Association of People with Disabilities (AAPD), American Foundation for the Blind (AFB), American Council of the Blind (ACB), National Association of the Deaf (NAD), Self Help for Hard of Hearing People (SHHH), TDI (formerly known as Telecommunications for the Deaf, Inc.), and World Institute on Disability (WID), all use a 'Primer' on essential telecommunications and broadband issues. It is funded by the Verizon Foundation.[506]

> "The Primer contains information that will help you to advocate effectively on Broadband, Peer to Peer Signing, Telecommunication Relay Services (TRS), Wireless, VOIP, Universal Service, and Unbundling."
>
> “This “Primer” is designed for advocates to use in working on these urgent issues. The NAD thanks the Verizon Foundation for its support in developing this Primer.”

Also, their broadband report is done in conjunction with New Millennium Research Council.

> “Broadband is very important for many Americans with disabilities. The case was made in a report, ‘Broadband and Americans with Disabilities’, that was issued by the National Association of the Deaf and, simultaneously, by the New Millennium Research Council.“

So, when someone asks about broadband, Peer to Peer Signing, Telecommunication Relay Services (TRS), Wireless, VOIP, Universal Service, and Unbundling, who are they going to quote? Do any of these groups even know what these issues are?

(A recent revisit shows “Sprint” as the sponsor of the NAD site, as compared to the other phone companies in 2005.)

**Researchers Who Are Directly Paid By the Phone Companies.**

The Bells have a great deal of non-profit think-tanks and research firms that create research they can use to disprove some theory or forward some position. For example, Progress and Freedom Foundation, the New Millennium Research Counsel, fellows from Brookings, etc. are all supported by the phone companies.

One recent study by the New Millennium Research Council, as well as members of the Issue Dynamics cabal, including the United States Internet Industry Association (USIIA), Beacon Hill Institute, The Heartland Institute, Institute for Policy Innovation (IPI), Competitive Enterprise Institute's (CEI) have all come out against municipalities offering wifi or broadband services. Just the name of the report should trigger that it's a Bell funded report, aimed to close down municipalities who want to offer Wifi services in underserved areas.

> 'Not In The Public Interest – The Myth of Municipal Wi-Fi Networks' Why Municipal Schemes to Provide Wi-Fi Broadband Service With Public Funds Are Ill-Advised", February 2005

And while all of these groups claim to be independent, non-partisan, or just 'great guys', there agenda is to get paid to trash the muni-deployments for the Bell companies who fund some/much/all of this campaign. (Without audits we can't make any claims that every group was paid by the Bell companies or their affiliates.) That's why one of the conclusions is the "negative impact on broadband competition"

> "The contributing experts identify several key concerns regarding these city-funded networks, including: (i) cost overruns that are unanticipated by the city and place the burden on taxpayers; (ii) the negative impact on broadband competition caused by municipal entry; and, (iii) questionable assertions regarding the 'build it and they will come' claim, since economic development is not perceived as a guaranteed result of municipal Wi-Fi deployment."[507]

However, it is the combination of Issue Dynamics and New Millennium Research Council that gets the results. First, the problem:[508]

> "IDI's client, a large economic think tank needed to expeditiously release their study on the economic effects of broadband services to the U.S. economy to the widest possible media audience. The report authors did not work directly with media outlets and wanted to generate maximum exposure. The authors were also interested in ensuring that the report was seen by key public policy influentials.

And then, using lots of money, Bell money, this think-tank report got noticed, which, of course, was about how broadband would help America if only the laws were changed for the Bell companies. It has TWO Democratic presidential candidates fooled, (or on the take), plus was in 20 key industry journals.

> "4. Results IDI was able to provide the client with immediate support to finalize the report, host an event and generate significant earned media. The tele-news event and study release generated earned media from over 20 key industry journals and general circulation newspapers, including one radio broadcast on National Public Radio. The study was also cited by two Democratic presidential candidates as a way to reenergize the U.S. economy."

The report was written by a third organization/think-tank/bell-funded group and had Issue Dynamics and NMRC helping out.

> 1. Case Study Focus Issue Dynamics worked with the New Millennium Research Council (NMRC) to provide support and exposure for release of a seminal economic study by an economic think tank. This included recruitment of academic and industry experts to provide commentary, and generating earned media pick-up in key national trade journals and major newspapers.

Progress and Freedom Foundation, who's major telecom and broadband funders have been the Bell companies, has been acting as proselytizer for their broadband deployments since the early 1990's. For example, in 1998 Progress & Freedom testified in front of the Senate, hawking the Bells companies' woeful-cries ***---"Oh, regulation is still too much of a burden for us to invest"***.[509] Note: this was after virtually every state had been granted alternative regulations and the Bells' overall profits were up 133% since 1992.

> "First, the FCC should expedite its consideration of the section 706 petitions that have been filed by a number of local exchange carriers. Removing the regulatory impediments that are slowing investment in and deployment of digital broadband networks is an urgent national need that demands immediate attention.

This group also proudly stated it was part of the Powell's' transition team, when he became chairman of the FCC.[510]

> "PFF President Jeff Eisenach and Director of Communications Policy Studies Randolph J. May have both been named to the Federal Communications Commission Advisory Committee for the Bush-Cheney Transition.
>
> "As members of the advisory committee, Eisenach and May will provide input on policy and institutional issues facing the Commission. Both Eisenach and May have written extensively on communications policy issues. On December 8, the Foundation released their co-edited book on FCC reform, "Communications Deregulation and FCC Reform: What Comes Next?"

What should bother the reader is that almost all of these think-tanks are non-profit groups who do not reveal their funding sources when their studies come out, or their direct relationship with the various Bell companies.

**CASE STUDY: Outing "Consumers for Cable Choice"**

We all want cable competition, right? Well, you would think that a group called "Consumers for Cable Choice" would be defending your rights and getting cable competition.

Sorry. They are a bell-front who is trying to get the Bell companies to be able to offer cable services without serious obligations that cable franchise agreements require. However, they don't make it easy to find out that they are funded by the Bell companies.

> "Our efforts to achieve our goal of competition in the cable television industry have been supported by telecommunications companies, including SBC (now AT&T) and Verizon, which seek to offer competitive video communications service. Our group members provide invaluable counsel and support as well."[511]

Unfortunately, they have the money and control of the agenda, and we don't. And if we are going to win, everyone reading this needs to come to grips with the deceptive side of the dark force.

First, the two principles are questionable as far as representing the public interest.

- Robert K. Johnson, C4CC President, is one of the people that ran AT&T's fake consumer group, "Voices for Choices." SBC bought AT&T and he has a new job.
- Jim Conran, C4CC Executive Director, is on the FCC Consumer Advisory Committee as some other group. — Why is the FCC not investigating this change?

As of this writing, Teletruth is filing a complaint to remove Conran and others from the FCC Consumer Advisory Committee.

Then we have the "Board Members" and "Coalition Members" [512]

- Board Members:
- http://www.consumers4choice.org/site/PageServer?pagename=boardmembers
- Coalition Members:
- http://www.consumers4choice.org/site/PageServer?pagename=members

**Lots of Bell-Funded Groups Who have Worked with Issue Dynamics and APT.**

We just discussed APT and Issue Dynamic's Bell funding and how they have created various campaigns. To reiterate, The Keep USF Fair Coalition wants to increase the Universal Service Fund that already adds 10% to long distance phone bills, and add it to VOIP. Worse, most of the groups were part of the "Calls Coalition", which raised the FCC Line Charge, which is on every local phone bill, from $3.50 to $6.50, and is unmarked revenue to the phone companies.

These campaigns had groups that were supposed to be representing Hispanics, blacks, senior and the disabled. How is raising rates helpful to these groups? And why haven't they joined in calling for an investigation into the USF and FCC Line Charge, which we consider to be unaudited phone companies subsidies?

However as we go through the Cable Choice members we find that many have been part of multiple APT and Issue Dynamics' campaigns including:

- The National Grange, (which is on the APT board)
- Consumers Alliance of the South East
- The League of United Latin American Citizens, (funded by Verizon and SBC),
- American Association of Business Persons with Disabilities
- American Corn Growers Association
- World Institute on Disabilities

And money galore. According to the Indiana Business Journal,[513] the group got at least $75,000 from Verizon, and also some money from SBC.

> "Johnson acknowledges that CCC received $75,000 from Verizon and an undisclosed amount from SBC."

While LULAC got over a million from SBC.[514]

> "Another group in CCC's orbit, the League of United Latin American Citizens, last year received a $1 million grant from San Antonio-based SBC."

And each state also looks like it gets $75,000 to start its own astroturf group.[515]

> "Verizon spokesmen Richard Young acknowledged that one of the most active groups lobbying for change, a non-profit organization called the New Jersey Consumers for Cable Choice, actually was created with $75,000 in 'seed money' from Verizon."

But if you want questionable, check out the other members.

- **Electric Consumers' Alliance**, is run by an attorney where Johnson worked.[516]

> "One of the groups, Electric Consumers' Alliance, lists its address as 135 N. Pennsylvania St. A phone call placed to the group was answered by an attorney at Bose McKinney — the law firm at 135 N. Pennsylvania St. where Johnson worked until a couple of years ago."

- The **California Congress for Seniors**,[517] is funded by SBC and Verizon, among others.
- The **California Small Business Associations'**[518] primary sponsor is SBC.
- **The Citizens for Regulatory Access** [519] was outed as a front group for the tobacco industry.

> "The group Bergland that represented, Citizens Against Regulatory Excess (C.A.R.E.), was a front group formed by the major tobacco companies to fight Prop. 10. They recruited Mr. Bergland, a figurehead in the Libertarian party, to head the group. The initial cost of creating and operating CARE was $2,320,000, and the cost was divvied up based on market share among the four principal member companies of the Tobacco Institute (R. J. Reynolds, Philip Morris, Brown & Williamson, and Lorillard)."

And it gets a bit stranger. At first we couldn't figure out why this list of members had a large number of farm interests. Then we found:

> "The Alliance for Rural Television (ART) is a coalition of national farm and rural organizations working together to: educate members of Congress and the Federal Communications Commission about the impact of the digital television transition on America's farm families, and empower its constituents to participate fully in the digital transition process to ensure they won't be left behind. Its members include the American Corn Growers Association, the National Farmers Organization, the National Farmers Union, the National Grange, the Soybean Producers of America and Women Involved in Farm Economics."

And why this is strange? Verizon nor SBC will ever roll out their fiber optic services in the rural areas. They are also a member of "Coalition for Smart Digital TV",[520] with the National Consumer League. Sam Simon of Issue Dynamics is currently the Chairman of the League.

That makes up a large part of the board.

**Controlling of the Agenda, Even if You Have No Reflection in the Mirror**.

If some of these groups are about as real as a $3 dollar bill, the problem is — They are being taken seriously and have the bucks and the ability to control the agenda.

The agenda in this case is the franchise fights, i.e., what the Bells want ***— Let the Bells go into any market to offer video services with no conditions to locations, services, etc.. Close down all municipalities while we're at it and shut down VOIP or any other services over the networks we deploy, and let's add new fees to Google or Ebay.***

It's Infrastructure held hostage, 101.

Consumers for Cable Choice is now working out of Indiana and is also in NJ, probably other cities.

And how they play the game?

In NJ Cable Choice did full color mailings and has a web site, which doesn't identify Verizon as its funding source, as of December 2005.

However, Cable Choice is also buying-off the common thought with putting out research from newly 'acquired' groups, and other researchers.

But their power is to overwhelm a meeting. For example, they controlled a panel at the recent annual meeting of the National Conference of State Legislatures (NCSL).

> "During its annual fall meeting last week in Chicago, members of the National Conference of State Legislatures (NCSL) got an earful from analysts and advocacy groups about the problems associated with local franchise authorities (LFAs) and the related issue of "high price" among cablecos dominating the video business.
>
> "In one of its public hearings during the annual session, the NCSL's Standing Committee on Communications Technology & Interstate Commerce heard about the ills of municipal governments handling franchise matters and complaints about cableco control from such groups as Institute for Policy Innovation (IPI), Consumers for Cable Choice (C4CC), the Alliance for Rural Television (ART, a C4CC member), the American Consumer Institute (ACI), the Phoenix Center for Advanced Legal and Economic Public Policy Studies and others."

In this case — All of these groups work for Cable Choice. The American Consumer Institute is a new creation. At its head is Steve Pociak, who is a former Bell company-economist. They also now use "the Phoenix Center", run by Larry Spivak, which used to actually be on the side of competition.

But it's way more insidious. Just Google the stories and see that even ***the New York Times*** improperly identifies the American Consumer Institute as an "independent" research firm. Steve Pociak is also "an affiliated expert for the New Millennium Research Council", the same group we previously discussed that is a creation of the Bell-funded lobbying/fake-grass-roots creator, "Issue Dynamics"

And these reports are also picked look legitimate. Here's two from Google finds:

- **"More and More Bang for More and More Bucks** - New York Times... than phone companies and Internet providers, said Steve Pociask, a researcher at the American Consumer Institute, an independent research group.[521]
- **"Stephen B** - He is an expert for the American Consumer Institute, an affiliated expert for the New Millennium Research Council, an adjunct scholar for the Competitive…."[522]

Then other fake/co-opted/Bell funded groups, such as and USTA, the Bells' chief lobbying group, or Pacific Research Institute, another member of the Cabal, will start quoting this information as if it was 'independent'. Also from Google:

- **United States Telecom Association**: US Telecom Testimony on Video... The American Consumer Institute released a paper this week that finds that – "due to their reliance on television services for their information and news.[523]
- **Pacific Research Institute Technology Policy:** Wanted: Government ...Because of regulatory barriers, it's been difficult for phone companies to enter the video market, and a new study by the American Consumer Institute shows...[524]

**The Dark Side is Very Powerful.**

Here's an interesting analysis by Larstan Business Reports.[525] It shows how our friend Robert Johnson simply flipped the message once he moved over to the Bells' side.

> **"Before:** "Competition left in the hands of a Bell monopoly is not competition at all…Through anti-competitive tactics, the Bells have succeeded in stifling competition and maintaining their stranglehold on telecom consumers across the country." – Robert K. Johnson, Consumer's Voice press release, March 22, 2001
>
> **"After:** "Companies that already have one franchise to operate networks should not be required to obtain a second franchise to offer video services. Telecommunications carriers already have the rights-of-way and franchises to reply and operate networks in each state where they are deploying their advanced networks." – posted on CCC web site.
>
> **"Explanation:** The first statement is a clear endorsement of strict regulation of the Bells; the second one is against Bell regulation.

"Ironically, the Bells already had criticized CCC chief Robert K. Johnson, for being the leader of a fake front group. Verizon outed Johnson as a paid AT&T advocate before the merger.

"Here are the words of a Verizon executive, in a newspaper letter to the editor, seeking to expose Johnson as a fraud. 'Consumers' Voice'… should really be named `AT&T's Voice.' At a recent National Conference of State Legislatures meeting, a representative from this group admitted that it is entirely supported by AT&T. Moreover, Consumers' Voice has no state chapters or affiliates. Johnson actually is an AT&T hired gun.'" – William R. Roberts, president, Verizon Maryland, Inc., Cumberland Times-News, August 22, 2002.

"During these years, Mr. Johnson pretended to be a consumer voice, but was really a paid lobbyist on behalf of a corporate sponsor.

"In support of federal competition rules adopted by the FCC for the telephone industry (before the Bells later killed them), the organization said: 'It's a great victory for consumers. Anything less would have been a catastrophe'." – Robert K. Johnson, quoted in the article, 'Local Callers Win Big,' NY Daily News, May 14, 2002.

"Now that the position of its corporate sponsor has shifted, so too has the organization's policy loyalties – although it continues to tell the world that it is a 'consumers' organization with a slight name change: 'Consumers for Cable Choice'. In actuality, it has become a Bell lobbyist, funding conferences, polls and publishing op-eds, supporting the Bell position that calls for special rules and exemptions to benefit only the Bells."

**Involuntary Joining of the NJ Franchise Campaign.**[526]

Even those who don't want to get involved with the franchise fight in New Jersey seem to be drawn into it. According to ***The Record***, an number of New Jersey residence had their identities used as part of the Bell franchise fight.

> "'I never wrote any letters to anyone about cable TV --- no e-mails, phone calls, nothing,' said Santomauro, a lawyer who practices in Hackensack. "And I never gave anyone permission to use my name. So why am I suddenly in the middle of this lobbying campaign?'
>
> "It turns out Santomauro and at least two other people, possibly many more, are unwitting recruits in an expensive public relations war between New Jersey's traditional cable television providers and phone companies, such as Verizon, which promise more channels, lower rates and a host of new video services via a fiber optic network that will soon blanket the state."

**Hope Springs Eternal.**

At the end of Volume One, I leave you with a hope… maybe there's a change in the wind. As of January 18, a New Jersey Assemblymen has called for an investigation into Cable Choice.[527]

> "New Jersey Assemblyman John Rooney issued the following statement in response to Verizon's too-cozy relationship with New Jersey Consumers for Cable Choice and their inappropriate bait and switch tactics:
>
> 'Today I request that the New Jersey Attorney General and the Board of Public Utilities launch a formal investigation into Verizon New Jersey's relationship with the so-called New Jersey Consumers for Cable Choice and whether Verizon has violated any laws with their inappropriate bait and switch tactics.'

**ENDNOTES**

1 "Shining Light on RBOCs' Business," Washington Technology, September 15, 1994; Vol. 9 No. 11 http://www.washingtontechnology.com/news/9_11/news/9152-1.html

2 "Cable Operators Take a Bruising," The New York Times, March 4, 1984 Late City Final Edition, Section 3, Page 1, Column 3

3 "A Merger of Giants: The Vision; A Phone-Cable Vehicle for the Data Superhighway," The New York Times, October 14, 1993

4 "SBC Communications to Detail Plans for New IP-Based Advanced Television, Data and Voice Network," November 11, 2004

5 Southwestern Bell 1986 Annual Report

6 See http://www.newnetworks.com or http://www.teletruth.org

7 Teletruth has filed multiple complaints about the FCC's data, especially pertaining to the FCC's advanced network, broadband report. http://www.teletruth.org/BadDataMakesBadLaws.html

8 See "Phone Bill Independence Report," Teletruth, 2004 http://www.teletruth.org/phonebillindependencereport.html

9 Analysis is based on phone bill data from New York City, 1980-2004, see above.

10 http://www.teletruth.org/docs/TeletruthNIA706Dataqualityact.pdf

11 "Broadband Statistics", June, 2005, OCED. http://www.oecd.org/document/16/0,2340,en_2649_34225_35526608_1_1_1_1,00.html#Graphs2005

12 How is the other information defined? The OCED examines the number of subscriptions based on population — i.e., broadband connections per 100 inhabitants, while the ITU is based on the percentage of consumers that are broadband subscribers.

13 "Broadband: The $500 Billion Boost to Slowing U.S. Economy," Primedia.com, July 17, 2001

14 "Headlines", DSL Prime, January 17, 2001

15 "Top U.S. ISPs by Subscriber: New User Growth," ISP Planet, May 10, 2001 http://www.isp-planet.com/research/rankings/usa_history_q12001.html

16 "Phone Giants Are Lobbying Hard to Block Towns' Wireless Plans as Cities Try to Build Networks, SBC and Other Companies Say It's Unfair Competition," Wall Street Journal, June 23, 2005

[17] Werblog, October 21, 2005 http://werbach.com/blog/archives/2005/10/kill_the_compet.html

[18] http://www.businessweek.com/@@n34h*IUQu7KtOwgA/magazine/content/05_45/b3958092. htm

[19] NYNEX 1993 Annual Report

[20] http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=85137

[21] Ameritech Investor Fact Book, March 1994

[22] "Tellabs Selected by BellSouth for Next-Generation Fiber to the Curb Broadband Network," press release BellSouth, Telllabs, June 1, 2005

[23] "The Info Highway: Bringing a Revolution in Entertainment, News and Communication: Coming Soon to Your TV Screen...," Time Magazine, April 12, 1993

[24] "Bell Laboratories Innovation in Telecommunications," 1925-1977, published 1979

[25] Policy Statement**,** FCC**,** Adopted: August 5, 2005, Released: September 23, 2005

[26] "Search for Tomorrow Highlights: A Conversation with Vice President Gore...," Graeme Browning, National Journal, March 20, 1993

[27] http://www.firstmonday.dk/issues/issue5_10/wiggins/, October 2000

[28] Speech at the National Press Club, 1993

[29] "South Korea: At the Forefront of the Internet Broadband Revolution," Epoch Times, September 18, 2005 http://www.theepochtimes.com/news/5-9-18/32426.html

[30] "New Jersey Telecommunications Infrastructure Study," 1991 Deloitte & Touche, for New Jersey Bell

[31] "CEO Summit Panel" at the "Electronic Media Summit," sponsored by the Academy of Arts & Sciences, November 11, 1994

[32] "The Cable Slayer Bell Atlantic CEO Ray Smith Explains Why Cable Is Dead," Cover Story, Wired Magazine, February, 1995

[33] "The Future of Telecommunications" conference presented by the National Press Club, Broadcast by C-Span, October 19, 1994

[34] "The Impact of Broadband Communications on the U.S. Economy and on Competitiveness," Economic Strategy Institute, 1993

[35] "New Age Media," Bear Stearns, 1993

[36] "Broadband: The $500 Billion Boost to Slowing U.S. Economy," Primedia.com, July 17, 2001

[37] "'True' Broadband Can Grow GDP," Atnewyork.com, Erin Joyce, August 28, 2002

[38] Floor of the Senate, Senator Pressler, debate for the Telecom Act of 1996

[39] Testimony from Lawton C. "Mitch" Mitchell, a partner at Deloitte & Touche, discussing their Opportunity Indiana study, part of "In the Matter of Petition Indiana Bell, Etc., Petition's Submission of Direct Prefiled Testimony and Exhibits," Indiana Regulatory Commission: Case No. 39705, June 21, 1993

[40] Ibid.

[41] Ibid.

[42] Ibid.

[43] Bernard Shaw, leading the "CEO Summit Panel" at the "Electronic Media Summit," sponsored by the Academy of Arts & Sciences, November 11, 1994

[44] Ray Smith, CEO Bell Atlantic, at the Electronic Media Summit, "CEO Summit Panel".

[45] Ibid.

[46] Pacific Bell's President, Philip Quigley, "CEO Summit Panel"

[47] Gerald Levin, Chairman of Time Warner, "CEO Summit Panel"

[48] BellSouth 1993 Annual Report, cover page

[49] "GTE to Join Disney, Ameritech, BellSouth and SBC in Home Entertainment Partnership. Increases Venture Reach to 68 Million Access Lines, 32 States," press release, July 7, 1996.

[50] "SBC set to expand in video market," San Antonio Business Journal, August 30, 1996, print edition

[51] Bell Atlantic 1994 Annual Report

[52] NYNEX 1995 Annual Report

[53] Ameritech 1985 Annual Report

[54] Ameritech Press Release, October 10th, 1996

[55] "Telco's in Interactive Services," Simba Research, 1996

[56] Taken from an add for computer programmers on monster.com.

[57] "Ovitz," Robert Slater, McGraw-Hill 1997

[58] Ibid.

[59] Ibid.

[60] Bell Atlantic 1996 Annual Report

[61] Simba Research, Bell annual reports

[62] "Re: Request for Comments on Deployment of Broadband Networks and Advanced

Telecommunications Services," Docket No. 011109273-1273-01, RIN 0660-XX13, The Walt Disney company letter to National Telecommunications and Information Administration, December 19, 2001

63 "Americast Exits the Programming Business," Lee Hall, Electronic Media, August 4,1997

64 "Going Down a New Road, then Back," The New York Times, August 28,1997

65 Ibid.

66 Investment amounts from annual reports and articles

67 "Telco trio pulls plug on TELE-TV venture," Variety, December 9, 1996

68 "The Romance and Wreck of TELE-TV," Wired Magazine, December 9, 1996

69 Ibid.

70 "Bells about to Toll on TELE-TV," Wired Magazine, Jan. 25, 1997

71 " SBC completes video pullout: System sale, Americast exit mark end of wireline cable efforts," Telephony, Oct 6, 1997

72 Business New Haven, April, 6, 1998 http://www.businessnewhaven.com/archive_index/archive_pages/2998_Business_New_Haven.html.

73 "Ameritech Signs 100th Cable Television Franchise Reaches Competitive Milestone in Less than Four Years," Ameritech Release, Apr 13, 1999

74 "BellSouth Video Dialtone Trial Application Granted" FCC, No. Cc-95-14, Common Carrier Action, February 7, 1995

75 Ameritech Investor Fact Book, March 1994

76 NYNEX 1993 Annual Report

77 US West 1993 Annual Report

78 Bell Atlantic 1993 Annual Report

79 Ibid.

80 Ibid.

81 Pacific Telesis 1994 Annual Report

82 "Ameritech Sets $4.4 Billion More for Video," New York Times, January 28, 1994, Late Edition - Final , Section D , Page 3 , Column 4

83 SNET 1993 Annual Report

84 "GTE Video Services: Past And Future," GTE press Release, January, 1996

85 "GTE to join Disney, Ameritech, BellSouth and SBC in Home Entertainment partnership,"

press release, July 7, 1996

[86] Ibid.

[87] "SBC set to expand in video market," San Antonio Business Journal, August 30, 1996, print edition

[88] "New England Telephone and Telegraph Company for Authority pursuant to Section 214 of the Communications Act of 1934, as amended, and Section 63.01 of the Commission's Rules, to construct, operate, and maintain facilities to provide video dialtone service to communities in Rhode Island and Massachusetts," FCC, W-P-C-6982, W-P-C-6983, Order and Authorization, Released: March 6, 1995

[89] NOTE: The numbers for BellSouth and SBC communications are averages of other five companies because they never officially released their roll-out plans in their annual reports, though, as we will see, BellSouth filed video dialtone applications at the FCC.

[90] Sources: Ameritech 1993 Annual Report, Bell Atlantic 1993 Annual Report, NYNEX 1993 Annual Report, Pacific Telesis 1994 Fact Book, US West 1993 Annual Report

[91] NOTE: GTE divided 7 million by 10 years. SNET, 500,000 by 1997

[92] The Telecommunications Act of 1996 changed the service to something called an "OVS", "Open Video System". More to the point, cable regulation and telephone regulation were based on similar but different statutes in the law, and so these changes were necessary for 'telecommunications' companies. There are also new plans in the works to change the laws once again, but at the time, video dialtone became the defacto standard the Bells would use to describe their video plans.

[93] "In the Matter of Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming," FCC, CS Docket No. 94-48, First Report Released: September 28, 1994

[94] Ibid.

[95] "Ameritech Operating Companies for Authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct, operate, own, and maintain advanced fiber optic facilities and equipment to provide video dialtone service within geographically defined areas in Illinois, Indiana, Michigan, Ohio, and Wisconsin," FCC, Order And Authorization, W-P-C-6926, W-P-C-6927, W-P-C-6928, W-P-C-6929, W-P-C-6930, Adopted: December 23, 1994 Released: January 4, 1995

[96] "BellSouth Video Dialtone Trial Application Granted" FCC, No.Cc-95-14, Common Carrier Action, February 7, 1995

[97] "New England Telephone And Telegraph Company For Authority pursuant to Section 214 of the Communications Act of 1934, as amended, and Section 63.01 of the Commission's Rules, to construct, operate, and maintain facilities to provide video dialtone service to communities in Rhode Island and Massachusetts," FCCW-P-C-6982, W-P-C-6983, Order And Authorization, Released: March 6, 1995

[98] Pacific Telesis 1994 Investor Fact Book

[99] "In the Matter of Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming," FCC, CS Docket No. 94-48, First Report Released: September 28, 1994

[100] "Pennsylvanians Benefit from Verizon's Broadband Telecommunications Network Investments Facts Disprove Group's Baseless Claims against Verizon," Verizon Press Release, February 2, 2004, http://www.newnetworks.com/Teletruthresponse2-2-04.htm

[101] http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=37942&PROACTIVE_ID=cecdcdc6cecfc7cacac5cecfcfcfc5cececcc8c7cec6ccc9cfc5cf

[102] ORDER Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation Under Chapter 30 P-00930715 2000 Biennial Update to Network Modernization Plan

[103] "Broadband Reality Check. The FCC Ignores America's Digital Divide," Free Press with Consumer Union and Consumer Federation of America, August 2005,

[104] Ibid.

[105] "Broadband" as defined by Newton's Telecom Dictionary, (17th Edition, February 2001)

[106] "Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation Under Chapter 30 2000 Biennial Update to Network Modernization Plan," P-00930715, Public Meeting held March 28, 2002

[107] http://www.newnetworks.com/alonefccrefute4.html

[108] http://www.broadband.gc.ca/pub/program/NBTF/recommendations.html#definitions

[109] "Bell Atlantic-Pennsylvania, Inc.'s Petition and Plan for Alternative Form of Regulation Under Chapter 30," Docket No. P-00930715, at 25 (Order entered July 18, 1995).

[110] "Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation

Under Chapter 30 2000 Biennial Update to Network Modernization Plan," P-00930715, Public Meeting held March 28, 2002

[111] "Ameritech Operating Companies For Authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct, operate, own, and maintain advanced fiber optic facilities and equipment to provide video dialtone service within geographically defined areas in Illinois, Indiana, Michigan, Ohio, and Wisconsin," FCC, Order And Authorization, W-P-C-6926, W-P-C-6927, W-P-C-6928, W-P-C-6929, W-P-C-6930, Adopted: December 23, 1994 Released: January 4, 1995

[112] "Notice of Intent to Establish an Open Video System, Bell Atlantic-New Jersey, Inc.". Filed with the FCC, October 29, 1996

[113] "BellSouth Video Dialtone Trial Application Granted," FCC, No. Cc-95-14,Common Carrier Action, February 7, 1995

[114] "New England Telephone And Telegraph Company For Authority pursuant to Section 214 of the Communications Act of 1934, as amended, and Section 63.01 of the Commission's Rules, to construct, operate, and maintain facilities to provide video dialtone service to communities in Rhode Island and Massachusetts," FCC, W-P-C-6982, W-P-C-6983, Order And Authorization, Released: March 6, 1995

[115] "In the Matter of Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming," FCC, CS Docket No. 94-48, First Report Released: September 28, 1994

[116] "In the Matter of The Bell Atlantic Telephone Companies Petition for Expedited Waiver of Part 69 of the Commission's Rules to Offer Video Dialtone Service in Dover Township, New Jersey," FCC, Order, Adopted: June 8, 1995, Released: June 9, 1995

[117] Ibid.

[118] "In the Matter of the Application of New Jersey Bell Telephone Company For Approval of Its Plan for an Alternative Regulation, Decision," State of New Jersey Board of Public Utilities, Docket Number T092030358, April 14, 1993, page 124

[119] Bell Atlantic 1997 10K

[120] The Telecommunications Act of 1996, as amended

[121] "Bell Atlantic and NYNEX Applaud Department of Justice Merger Decision," Bell Atlantic press release, April 24, 1997

[122] NYNEX 1993 Annual Report

[123] "Ameritech Expanding Fiber Optics to Residential Users," Chicago Tribunes, Sep 1, 1992, North Sports Final, C Edition, pg. 2

[124] "Ameritech's Fiber Plan," Chicago Tribune, Jan 27, 1994. pg. 31

[125] "Interactive TV Will Come to Valley in '94," November 16, 1993, Valley Edition, Business; Page 8

[126] PC Week, October 3, 1994

[127] "Ohio Alternative Regulation Plan," September 20, 1994

[128] "An ACT Relating to the Regulation of Telecommunications Utilities, Etc.," H.B. No. 2128, Texas, Effective September 1, 1995

[129] ORDER Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation Under Chapter 30 P-00930715 2000 Biennial Update to Network Modernization Plan

[130] Verizon's 7th Annual Infrastructure Report For The Year 2000.

[131] "FTTH Deployments Undergo Record Growth in 2005," The Rogers Report, October 19, 2005, Vol. 1, No.30

[132] News brief, ***The New York Times***, September 26, 1995

[133] "Bell Atlantic Delays Home Video Service," The Washington Post, April 26, 1995

[134] **"**Bell Atlantic Halts Plan for Video Services," The New York Times, April 26, 1995

[135] "Pac Tel Cuts $1 Billion Interactive Plan", New York Post, September 28, 1995

[136] "Interactive switched networks dumped in favor of plain digital," New Media Strategist, November 16, 1995.

[137] Interactive Week, August 26, 1996

[138] "Dwindling Expectations; Two Providers Reduced Expectations on Interactive TV," The New York Times, December 18, 1995

[139] "Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming," Second Annual Report, CS Docket No. 95-61, Released: December 11, 1995

[140] Ibid.

[141] "Dwindling Expectations; Two Providers Reduced Expectations on Interactive TV." The New York Times, December 18, 1995

[142] "Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber-Optic

Technology with Keller, Texas, Deployment; Announces Plans for Offering New Services," May 19, 2004

[143] Bell Atlantic 1993 Annual Report

[144] "SBC Communications to Detail Plans for New IP-Based Advanced Television, Data and Voice Network," November 11, 2004

[145] "IP-Based TV Will Revolutionize Entertainment Company Calls for 'Light-Touch' Regulatory Approach to Ensure Consumers Receive New Technology Quickly," SBC press release, April 20, 2005

[146] Obviously this is a very simplified version.

[147] "New Age Media," Bear Stearns, 1994

[148] "Interactive Marketing Conference," May 1994 (became part of Soft Bank Conferences by 1998.)

[149] http://www.newnetworks.com/FTCcomplaintSBCVerizon.htm

[150] SBC 1999 Annual Report

[151] SBC 2001 Annual Report

[152] SBC 1999 Annual Report

[153] Ibid.

[154] "The World Almanac and Books of Facts, 2004," World Almanac Books, 2004

[155] Pacific Telesis 1993 Annual Report

[156] "In the Matter of Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming," FCC, CS Docket No. 94-48, First Report Released: September 28, 1994

[157] SBC 1999 Annual Report

[158] Ibid.

[159] SNET 1993 Annual Report

[160] "Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming," FCC, Second Annual Report, CS Docket No. 95-61, FCC Released: December 11, 1995

[161] SBC 1999 Annual Report

[162] SBC 2000 Annual Report

[163] Ameritech Investor Fact Book, March 1994

[164] "Ameritech Operating Companies for Authority Pursuant to Section 214 of the Communications Act of 1934, as amended, to construct, operate, own, and maintain advanced fiber optic facilities and equipment to provide video dialtone service within geographically defined areas in Illinois, Indiana, Michigan, Ohio, and Wisconsin," FCC, Order And Authorization, W-P-C-6926, W-P-C-6927, W-P-C-6928, W-P-C-6929, W-P-C-6930, Adopted: December 23, 1994 Released: January 4, 1995

[165] Ibid.

[166] Ameritech 1993 Investor Fact Book

[167] Chicago Tribune, February 2, 1994. pg. 33

[168] Chicago Tribune, January 27, 1994. pg. 31

[169] Chicago Tribune, December 2, 1992. pg. 11

[170] Chicago Tribune, December 1, 1992. pg. 11

[171] Chicago Tribune, September 1, 1992, North Sports Final, C Edition, pg. 2

[172] This exhibit used Ameritech annual reports and Fact Books for the compilation.

[173] SBC 2000 Annual Report

[174] Ibid.

[175] "WOW, what a deal," Telephony, June 4, 2001

[176] "Ameritech Operating Companies for Authority Pursuant to Section 214 … Illinois, Indiana, Michigan, Ohio, and Wisconsin," FCC, Order And Authorization, W-P-C-6926, W-P-C-6927, W-P-C-6928, W-P-C-6929, W-P-C-6930, Adopted: December 23, 1994 Released: January 4, 1995

[177] "WOW, what a deal," Telephony, June 4, 2001

[178] Ibid.

[179] Ibid.

[180] FCC, CS Docket No. 98-102, December 1998

[181] Southwestern Bell 1986 Annual Report

[182] "GTE to Join Disney, Ameritech, BellSouth and SBC in Home Entertainment Partnership. Increases venture reach to 68 million access lines, 32 states". SBC press release July 7, 1996

[183] "SBC Set to Expand in Video Market Recent Americast Deal Signals Bell's Direction." Exclusive Reports, San Antonio Business Journal, August 30, 1996, print edition

[184] Ibid.

[185] "SBC completes video pullout: System sale, Americast exit mark end of wireline cable

efforts," Telephony, Oct 6, 1997

186 "SBC Communications to Detail Plans for new IP-Based Advanced Television, Data and Voice Network," November 11, 2004

187 SBC 2001 Annual Report

188 "Applications of Ameritech Corp., Transferor, and SBC Communications Inc.," CC Docket No. 98-141 Memorandum Opinion And Order, FCC Adopted: October 6, 1999 Released: October 8, 1999

189 "Applications of Ameritech Corp., Transferor, and SBC Communications Inc., CC Docket 98-141, July 24, 1998

190 http://www.x-changemag.com/articles/291feat1.html

191 The reporter's name will not be revealed.

192 "The Billionaire Shell Game," LJ Davis, Doubleday, October 1998

193 SBC 2001 Annual Report

194 "SBC Outlines Growth Plans for 2001; Company Reaffirms Commitment to Major Growth Strategies," SBC Press Release, December 19, 2000

195 SBC 2002 10K.

196 SBC 2003 10K

197 Bell Atlantic stated it would spend $11 billion, and GTE claimed they would be spending about $250 million for 4 markets in 1995. Their plan to deploy in 66 markets would yield $4.125 billion. NYNEX stated it was spending about ½ billion for their Massachusetts roll out alone. Obviously, other expenditures by NYNEX were made, though not announced publicly.

198 "Markets, Merger Partners Respond to Critics in Filing with FCC," December 23, 1998

199 "Verizon Awarded Second Video Franchise in California City Council Vote Opens the Door to Improved Competition for the Public, Delivers More Consumer Choice," Verizon Press Release, Sept. 7, 2005

200 Verizon 2001 Annual Report

201 Bell Atlantic 1999 10K

202 Bell Atlantic 1998 10K

203 Bell Atlantic 1999 10K

204 Ibid.

205 GTE 1999 Annual Report

[206] Ibid.

[207] This was derived from taking the Verizon number of lines and population as the standard.

[208] Verizon 2004 10K

[209] Verizon 2004 Annual Report

[210] Bell Atlantic 1993 Annual Report

[211] "In the Matter of the Application of New Jersey Bell Telephone Company for Approval of Its Plan for an Alternative Regulation," Decision Docket Number T092030358, April 14, 2003.

[212] :ORDER "Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation Under Chapter 30 P-00930715 2000 Biennial Update to Network Modernization Plan"

[213] Ibid.

[214] http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=37942&PROACTIVE_ID=cecdcdc6cecfc7cacac5cecfcfcfc5cececcc8c7cec6ccc9cfc5cf

[215] A Proprietary report that was given to the New York Public Service Commission by New York Telephone in 1992

[216] NYNEX 1993 Annual Report

[217] NYNEX 1995 10K

[218] Ibid.

[219] "New England Telephone And Telegraph Company For Authority pursuant to Section 214 of the Communications Act of 1934, as amended, and Section 63.01 of the Commission's Rules, to construct, operate, and maintain facilities to provide video dialtone service to communities in Rhode Island and Massachusetts," FCC, W-P-C-6982, W-P-C-6983, Order And Authorization, Released: March 6, 1995

[220] NYNEX 1995 10K

[221] FCC 95-50 Order and Authorization, released March 6, 1995

[222] Ibid.

[223] NYNEX press release April14, 1994

[224] "GTE Video Services: Past and Future," GTE press release, January, 1996

[225] Ibid.

[226] Ibid.

[227] "Critics Say New Jersey Phone Plan Shuns Poor." New York Times**,** April 17,1997, Section

B, Page 1

[228] "In the Matter of the Board's Inquiry into Bell Atlantic New Jersey's Progress and Compliance with Opportunity New Jersey, Its Network Modernization Program," State of New Jersey Board of Public Utilities, Docket No TX96100707, Division of the Ratepayer Advocate, March 21, 1997

[229] "Commonwealth of PA, State Communications and High Technology Committee, Hearing on Chapter 30 and the Telecommunications Industry in Pennsylvania," Testimony of Dr. Lee Selywn, President, Economics & Technology,. September 10, 2002

[230] Bell Atlantic 1998 Annual Report

[231] GTE 1999 Annual Report

[232] "Time Warner bids Americast goodbye a bit early," St. Petersburg Times, April 22, 2002

[233] "Bell posts its itinerary on information highway," Dec. 2, 1993, Baltimore Sun Page: 1A

[234] Separate statement of former FCC Commissioner Gloria Tristani pertaining to the GTE Bell Atlantic Merger, June 16, 2000

[235] "In the Matter of GTE Corporation Transferor and Bell Atlantic Corporation, Transferee for Consent to Transfer Control," FCC, October 2, 1998

[236] "GTE Corporation Transferee Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Sections 214 and 310," FCC, CC Docket No. 98-184, Memorandum Opinion and Order Adopted: June 16, 2000 Released: June 16, 2000

[237] Ibid.

[238] Ibid.

[239] According to the Testimony of Jeffrey Kissell, Vice president of National Marketing for GTE Business Development and Integration, a division of GTE Service Corporation, October 2, 1998

[240] "GTE Corporation Transferee Bell Atlantic Corporation for Consent to Transfer Control of Domestic and International Sections 214 and 310," FCC, CC Docket No. 98-184, Memorandum Opinion And Order Adopted: June 16, 2000 Released: June 16, 2000

[241] Ibid.

[242] Ibid.

[243] Ibid.

[244] Full Story: http://www.CLEC.com/index.asp?P=News.asp&c=2147461569 June 28, 2002

[245] Verizon 2001 10K

[246] http://www.newnetworks.com/prcompensation2002.htm

[247] "BellSouth, Qwest, Verizon and SBC Senior Management Compensation: A Primer In Corporate Greed," http://www.newnetworks.com/prcompensation2002.htm

[248] "SBC Reaction to the FCC's Vote on Local Phone Competition, Broadband Rules," SBC February 20, 2003

[249] "SBC Calls Unbundling Rules and UNE-Platform Devastating. Regulations that Impede Investment and Undermine Facilities-Based Competition Must Be Modified," SBC press release, July 17, 2002

[250] Wall Street Journal, February 6, 1997

[251] NYNEX 3rd Quarter 10-Q, 1996

[252] Telecommunications Act of 1934 is a law established by Congress.

[253] Ibid.

[254] Telecommunications Act of 1996

[255] "In the Matter of the Application of New Jersey Bell, Telephone Company for Approval of Its plan for an Alternative Form of Regulation," Decision and Order, Docket No:TO9203058, Amended, May 3, 1993

[256] Excerpted from "The Unauthorized Bio of the Baby Bells," New Networks Institute, 1999.

[257] This information was summarized in "Telephone Charges in America", published by Probe Research, 1993 and compared databases of information for all states, taken from phone bills as well as telephone directories. The information supplied in this book has been updated as of November, 1997.

[258] Aunt Ethel passed away in 2001.

[259] NARUC Blue Books, 1995. NNI aggregated the statistics from the NARUC surveys.

[260] Ibid.

[261] Ibid.

[262] New York Citizen's Utility Board, 1995

[263] Advantage Ohio, P.U.C.O. Case No.93-487-TP-ALT

[264] Robert Harris Berkeley testimony, Opportunity Indiana, part of "In the Matter of Petition Indiana Bell, Etc…. Petition's Submission of Direct Prefiled Testimony and Exhibits," Indiana Regulatory Commission: Case No. 39705, June 21, 1993

[265] Southwestern Bell 1986 Annual Report

[266] Southwestern Bell 1988 Annual Report

[267] "Statistics of Communications Common Carriers," FCC, 1995-1996

[268] Southwestern Bell Telephone Company 10-K, year ending December 31, 1991

[269] Ibid.

[270] Ibid.

[271] Ibid.

[272] Ohio Bell submitted as part of P.U.C.O. Case No.93-487-TP-ALT

[273] Testimony of Norman L. Cubellis, Vice president-Regulatory and External Affairs, Indiana Bell Telephone Company, "In the Matter of Petition Indiana Bell, Etc.... Petition's Submission of Direct Prefiled Testimony and Exhibits," Indiana Regulatory Commission: Case No. 39705, June, 21, 1993

[274] Ibid.

[275] Ibid.

[276] Ibid.

[277] Ameritech 1993 Investor Handbook

[278] NYNEX 1995 10K

[279] Ameritech Investor Alert 1994

[280] Ameritech Investor Alert, January 1995

[281] This approach is what we call a "top-down approach," which takes the Bell Holding company supplied aggregated data for a specific line item, such as "Local Service". This includes each state's phone company statistics, as well as lots of different regulated, deregulated, non-regulated products in each category, etc..

In short, our statistics are 'overview' numbers only. The phone companies' presented information would have to be 'audited' for their own authenticity, and we would have to have other data points that are not provided by the phone companies with any granularity.

The other approach is a "bottom-up approach". This would be to take the phone companies' subscriber information and use charges on phone bills to determine the various break outs of how much money was collected.

In previous iterations of developing this analysis for the "Unauthorized Bio of the Baby Bells" it was clear that they yield different results. Both methods would require audits of the phone companies' records to determine their accuracy.

[282] We have had to adjust this example. We did not add Cingular revenue for SBC nor did we include staffers for the Cingular division.

[283] In 1995, New Networks Institute published "Reality Check on Online Services", which found that the range of Internet subscribers from various market research firms and other sources went from 10 million to almost 40 million. However, we believed that the number was between 10-15 million.

[284] BellSouth 1996 Annual Report

[285] SBC Communications, 1996 Summary — from web site

[286] Bell Atlantic 4th Quarter, 1996 Summary — from web site

[287] Bell Atlantic 4th Quarter 1996 Summary — from web site

[288] BellSouth 1996 Annual Report

[289] Ameritech 1996 Annual Report Summary — from web site

[290] "Unauthorized Bio of the Baby Bells"

[291] "Report of the Florida Public Service Commission on the Relationships among the Costs and Charges Associated with Providing Basic Local Service, Intrastate Access and Other Service by the Local Exchange Companies in Compliance with Chapter 98-277, Section (2) 1 Laws of Florida," February 19, 1999

[292] "Joint Report with the Public Communications Associates and the Michigan State University Department of Telecommunications," 1990

[293] Bell Atlantic 1995 Annual Report

[294] Bell Atlantic 1996 Annual Report

[295] Bell Atlantic 1999 Annual Report

[296] Verizon 2001 Annual Report

[297] Consumer Federation of America (CFA)1992

[298] NOTE: This overcharging is above and beyond the $75 billion New Networks Institute documented from 1984-1992 in "Telephone Charges in America", Published by Probe Research in 1993, and "Regional Bell Earnings, Expenditures and Profits," marketed through Phillips Business Information, 1994

[299] "The End of Local Monopolies," Probe Research, 1992, page 66

[300] This is an incredibly complicated issue, which we address elsewhere. Various parts of the network are written off at different speeds, differing amounts, etc..

[301] To read more about the audits see: http://www.teletruth.org/auditupdate.html

[302] "Statistics of Common Carriers" for the year ending 1996, FCC

[303] "Critics Say New Jersey Phone Plan Shuns Poor," New York Times, April 17,1997

[304] "In the Matter of the Board's Inquiry into Bell Atlantic New Jersey's Progress and Compliance with Opportunity New Jersey, Its Network Modernization Program," State of New Jersey Board of Public Utilities, Docket No TX96100707, Division of the Ratepayer Advocate, March, 21, 1997

[305] "New Jersey Telecommunications Infrastructure Study," Deloitte & Touche, 1991

[306] "All the Right Connections — New Jersey Bell and the Wiring of a Regulatory Bonanza," Rick Linsk, The New Jersey Reporter, June, 24, 1992

[307] Ibid.

[308] Ibid.

[309] "In the Matter of the Application of New Jersey Bell Telephone Company for Approval of Its Plan for an Alternative Regulation," Decision Docket Number T092030358, April 14, 1993

[310] Ibid.

[311] Ibid.

[312] "First Commercial Offering of Video Dialtone Authorized for Dover Township NJ," FCC, Report No. CC-580, Common Carrier Action, July 6, 1994

[313] "FCC Advances Bell Atlantic Video Dialtone, Way Cleared for Nation's First Commercial Video Dialtone to Debut in Dover Township," N.J., Bell Atlantic, released: June 9, 1995

[314] "First Commercial Offering of Video Dialtone Authorized for Dover Township, NJ," Report No. CC-580, Common Carrier Action, July 6, 1994

[315] "In the Matter of The Bell Atlantic Telephone Companies Petition for Expedited Waiver of Part 69 of the Commission's Rules to Offer Video Dialtone Service in Dover Township, New Jersey," FCC, Order, Adopted: June 8, 1995, Released: June 9, 1995

[316] Ibid.

[317] In the Matter of the Application of New Jersey Bell Telephone Company for Approval of Its Plan for an Alternative Regulation, Decision," State of New Jersey Board of Public Utilities, Docket Number T092030358, April 14, 1993, page 124

[318] "In the Matter of the Board's Inquiry into Bell Atlantic New Jersey's Progress and Compliance with Opportunity New Jersey, Its Network Modernization Program," State of New Jersey Board of Public Utilities, Docket No TX96100707, Div. of the Ratepayer Advocate March, 21, 1997

[319] Ibid.

[320] Ibid.

[321] Ibid.

[322] Bell Atlantic-New Jersey 1994 Annual Report. Note that New Jersey Bell is also a public company and therefore had its own filing requirements. This has changed and as of 2004 there is no longer separate reporting requirements, it seems.

[323] "In the Matter of the Board's Inquiry into Bell Atlantic New Jersey's Progress and Compliance with Opportunity New Jersey, its Network Modernization Program," State of New Jersey Board of Public Utilities, Docket No TX96100707, Div. of the Ratepayer Advocate March, 21, 1997

[324] Ibid.

[325] "A New Opportunity: Cost Based Pricing of Bell-Atlantic New Jersey Access Services," Economics and Technology, March 1999.

[326] "Bell Atlantic 1997 Infrastructure Deployment Report Summary," from web site

[327] "Statistics of Common Carriers, 2004-2005", FCC, November 2005

[328] New Jersey Bell 1993 Annual Report

[329] New Jersey Bell 1994 Annual Report

[330] New Jersey Bell 1996 Annual Report

[331] New Jersey Bell 1997 Annual Report

[332] New Jersey Bell 1999 Annual Report

[333] New Jersey Bell 2003 Annual Report

[334] Phone bill insert, Verizon, New Jersey, November 2005.

[335] Information supplied by Tom Allibone, who attended the meeting.

[336] "Bell Atlantic 1997 Infrastructure Deployment Report Summary," from web site

[337] Phone bill insert, Verizon, New Jersey, November 2005.

[338] http://www.teletruth.org/TeletruthAuditExclusive.html

[339] Ibid.

[340] Letter from the New Jersey State League of Municipalities, April 29, 2005 http://www.njslom.org/ml042905f.html

[341] "Verizon's TV gamble hits bump," Northjersey.com, June 16, 2005

[342] Verizon web site, http://www22.verizon.com/FiOSforhome/channels/FiOS/root/package.aspx

[343] "Bell Atlantic 1997 Infrastructure Deployment Report Summary," from web site.

[344] Ibid.

[345] “Verizon to Launch FIOS TV in Herndon; First Rollout in East: New Digital Video Service Harnesses Speed and Capacity of Fiber-Based Broadband with Power of Broadcast to Offer Consumer Choice in TV,” Verizon Press Release: November 21, 2005

[346] “Dwindling Expectations; Two Providers Reduced Expectations on Interactive TV,” The New York Times, December 18, 1995

[347] “The WOW factor,” Telephony Online, Jul 16, 2001

[348] Pacific Telesis 1993 Annual Report

[349] Pac Bell Press Release December 21, 1993

[350] “Commission Authorizes Pacific Bell Video Dialtone Systems in California,” FCC press release, Report No. DC 95-40, Common Carrier Action, July 19, 1995

[351] Pacific Telesis 1994 Fact Book, page 13

[352] “Commission Authorizes Pacific Bell Video Dialtone Systems in California,” FCC press release, Report No. DC 95-40, Common Carrier Action, July 19, 1995

[353] San Diego Union Tribune, January 16, 1994, page I-1

[354] San Diego Union Tribune February 11, 1994, page C-1

[355] Ibid.

[356] San Diego Tribune, January 19, 1994, C-I

[357] PC Week , October 3, 1994 , No. 39, Vol. 11; Pg. A1

[358] Ibid.

[359] “Pipeline & Utilities Construction,” December 1, 1995, Pg. 21

[360] “Interactive TV Will Come to Valley in ’94,” November 16, 1993, Valley Edition, Business; Page 8

[361] Ibid.

[362] San Diego Union Tribune, February 15, 1994, page C-1

[363] Ibid.

[364] Ibid.

[365] Ibid.

[366] California had a number of changes to their regulations. According to Pac Bell’s 1995 Annual Report, “The CPUC adopted a new regulatory framework ("NRF"), which is a form of "price cap" regulation, for Pacific Bell in October 1989. In June 1994, the CPUC reduced Pacific Bell's benchmark rate of return from 13.0 percent to 11.5 percent. Earnings between

11.5 percent and 15.0 percent will be shared equally between Pacific Bell and its customers. Earnings above 15.0 percent will be shared 70.0 percent and 30.0 percent between Pacific Bell and its customers, respectively. Under "price cap" regulation, the CPUC requires Pacific Bell to submit an annual price cap filing to determine prices for categories of services for each new year. Price adjustments reflect the effects of any change in inflation less a productivity factor as well as adjustments for certain exogenous cost changes."

However, the specific change in question happened in December 1995. According to the 1995 Annual Report "In December 1995, the CPUC issued an order in Phase I of its second review of the NRF. The order suspended use of the "inflation minus productivity" component of the price cap formula for 1996 through 1998. This action freezes the price caps on most of Pacific Bell's regulated services for three years except for adjustments due to exogenous cost changes or price changes approved through the CPUC's application process." This one change gave $600 million to $1 billion in extra, tied directly to the broadband promises.

[367] Bloomberg Business News and Associated Press, December 21, 1995

[368] The Business Journal-San Jose November 1, 1993, Vol 11; No 29; Sec 1; pg 3

[369] "The Information Superhighway: Get a Grip," Published by New Networks Institute, 1994

[370] "Interactive Marketing Conference", Orlando Florida, May 11, 1994 (now part of Soft Bank Conferences as of 1999.)..

[371] **"**Bell Atlantic Halts Plan for Video Services," The New York Times, April 26, 1995

[372] "Dwindling Expectations; Two Providers Reduced Expectations on Interactive TV," Mark Landler, The New York Times, December 18, 1995

[373] SBC 1999 Annual Report

[374] SBC Press Release, April 1, 1997

[375] Bloomberg Business News and Associate Press, December 21, 1995

[376] Ibid.

[377] "The Regulatory Audit of Pacific Bell for 1997, 1998, and 1999," California Public Utilities Commission, 2002

[378] :"Regulatory Audit of Pacific Bell for the Years 1997, 1998, 1999". California Public Service Commission, 2002, Volume 1

[379] San Diego Tribune, February 1, 1998, page I-1

[380] Ibid.

[381] Ibid.

[382] "Bells Promise of Fiber optics Impresses Few," The Wall Street Journal, March 15, 1995

[383] Testimony of David Cole, Texas House State Affairs Committee Hearing, March 10, 1995.

[384] "A Letter from David Cole," President, Southwestern Bell Texas, 1995

[385] H.B. No. 2128, Texas, "AN ACT relating to the regulation of telecommunications utilities, etc.," effective September 1, 1995

[386] "A Letter From David Cole," President, Southwestern Bell Texas, 1995

[387] H.B. No. 2128, Texas, "AN ACT relating to the regulation of telecommunications utilities, etc.," effective September 1, 1995

[388] Ibid.

[389] Merrill Lynch, June 1, 1999

[390] H.B. No. 2128, Texas, "An ACT relating to the regulation of telecommunications utilities, etc." effective September 1, 1995

[391] Southwestern Bell 1986 Annual Report

[392] "GTE to Join Disney, Ameritech, BellSouth and SBC in Home Entertainment Partnership. Increases venture reach to 68 million access lines, 32 states". SBC press release July 7, 1996

[393] "SBC Set to Expand in Video Market Recent Americast Deal Signals Bell's Direction." Exclusive Reports, San Antonio Business Journal, August 30, 1996, print edition

[394] Ibid.

[395] "SBC completes video pullout: System sale, Americast exit mark end of wireline cable efforts," Telephony, Oct 6, 1997

[396] Ibid.

[397] Ibid.

[398] "Project Number 9418: Staff Evaluation of Earnings Reports for Calendar Year 1997," Public Service Commission of Texas November 10, 1998

[399] "An Audit Report on the Telecommunications Infrastructure Fund Board," February 2000, Office of the State Auditor, page 1

[400] "On the Need to Investigate Bell Atlantic's Failed Deployment of Advanced Networks and the Impacts on Customers and to Deny Bell Atlantic's Entry Into the Long Distance Marketplace at this Time," Complaint Filed by New Networks Institute and Peter Brennan, with the Massachusetts Department of Telecommunications and Energy Boston, Massachusetts, October 6th, 1999

[401] NYNEX 1996 Annual Report
[402] Order and Authorization, FCC 95-50, Released March 6, 1995
[403] Ibid.
[404] NYNEX Press Release: April 1, 1994
[405] NYNEX 1996 Annual Report
[406] NYNEX 1995 Annual Report
[407] Exh. NYNEX-9, 16-18
[408] "Statistics of Common Carriers", FCC: 1994, 1995, 1996, 1997, 1998
[409] Exh. NYNEX-9, at 16-18
[410] Massachusetts Attorney General Reply Brief at 69
[411] Alternative Regulation Order, 94-50
[412] Boston Globe, April 27, 1995
[413] Boston Herald, January 4, 1996
[414] ORDER Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation Under Chapter 30 P-00930715 2000 Biennial Update to Network Modernization Plan
[415] "Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation under Chapter 30 2000 Biennial Update to Network Modernization Plan P-00930715", Public Meeting Held March 28, 2002
[416] Ibid.
[417] Chapter 30, Pennsylvania Utility Code, 66 Pa.C.S. § 3001 (2001)
[418] Ibid.
[419] 66 Pa.C.S. § 3003 (2001)
[420] Public Meeting held March 28, 2002 "Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation under Chapter 30 2000 Biennial Update to Network Modernization Plan P-00930715"
[421] "Re: Bell Atlantic_- Pennsylvania, Inc.'s Petition and Plan for Alternative Form Regulation under Chapter 30; Pennsylvania, Inc." Docket No. P-00930715; P-00930715C001; P-00930715C002 , Pennsylvania Public Utility Commission , June 28, 1994
[422] "Bell Atlantic-Pennsylvania, Inc.'s Petition and Plan for Alternative Form of Regulation under Chapter 30," Docket No. P-00930715, at 25, Order, July 18, 1995

[423] "Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation Under Chapter 30 2000 Biennial Update to Network Modernization Plan," P-00930715, Public Meeting held March 28, 2002

[424] Ibid.

[425] Letter of April 25, 1995 from Edward D. Young III addressed to Kathleen Wallman, Chief FCC Common Carrier Bureau, File Nos. W-P-C 6912, W-P-C 6966

[426] "TV gets old twist; Via antenna, it's wireless cable," The Boston Globe, April 27, 1995, City Edition; Pg. 1

[427]

[428] "Bell Atlantic Selects Equipment Supplier for Initial Switched Broadband Network Deployment," Press Release July 15, 1996

[429] "Broken Promises a Review of Bell Atlantic Pennsylvania's Performance under Chapter 30," Economics and Technology, 1998

[430] "Pennsylvanians Benefit from Verizon's Broadband Telecommunications Network Investments. Facts Disprove Group's Baseless Claims against Verizon, " Verizon press Release, February 2, 2004

[431] "Dissenting Statement of Chairman Terrance J. Fitzpatrick," Form of Regulation under Chapter 30; 20000 Biennial Update to Network Modernization Plan (Amendment to NMP) Verizon Pennsylvania Inc. Petition and Plan for Alternative Form of Regulation under Chapter 30; 2000 Biennial Update to Network Modernization Plan (Petition For Reconsideration of May 15, 2002 Order) Docket Nos. P-00930715F0002, P-00930715

[432] "Fast Internet Service for the People, Telecoms Fight Plans for Public Networks," Washington Post, December 2, 2004; Page A01

[433] Commonwealth of Pennsylvania, Campaign Finance Reporting web site http://www.campaignfinance.state.pa.us/

[434] NOTE: There are hundreds of data caveats to this presentation for multiple reasons. One simple example is the fact that the Bell companies' annual reports can have different amounts for any line item, from revenues or expenses, for the same year when comparing a 1995 and 1996 annual report for the same company. Also, the data presented by the Bell companies are composites of multiple states and hundreds of companies, each with their own data caveats. The mergers-merged data also disrupts any idea of continuity in the accounting presentations.

[435] We have had to adjust this example. We did not add Cingular revenue for SBC nor did we include staffers for the Cingular division.

[436] Please note that Verizon includes its wireless division in the accounting of Verizon's overall revenues, as does BellSouth, which partners with SBC as their owners of Cingular, the wireless company. For example, Business Week Scorecard did not include SBC's Cingular revenue in its overall revenue numbers. This causes multiple problems in accounting. Since cellular and wireless have been part of the Bell companies overall revenues in most years, we have added the Cingular-SBC component for balance and accuracy.

[437] The relationship shows the percentage between the decline of employees compared to the rise of the revenue. The percentage between these two items is above an below the 100 basis point as the base, which mimics the growth rates (or declines.)

[438] In this example we have had to adjust. We did not add Cingular revenue for SBC nor did we include staffers for the cingular division.

[439] Note: We have added the wholesale lines into this equation because some of the Bell companies count them, such as SBC and BellSouth, while Verizon didn't in its total.

[440] NOTE: This overcharging is above and beyond the $75 billion New Networks Institute documented from 1984-1992 in "Telephone Charges in America," Published by Probe Research in 1993, and "Regional Bell Earnings, Expenditures and Profits," marketed through Phillips Business Information, 1994.

[441] http://www.newnetworks.com/downloadbook.html

[442] During the mid-1990's it was 128 Kbps, average speeds were 33kbps-56kbps.

[443] Technical DEFINITION — ISDN delivers two telephone "channels (i.e., telephone numbers/lines), as well as a data line. This configuration called "ISDN Basic Rate Interface", BRI, is also called 2B plus "D" (two voice channels plus a data channel.) These channels can be tied together to form one big channel, i.e., there's more bandwidth to use. Another version of ISDN called the "Primary Rate Interface", PRI, is the business version of the product offering. The PRI consists of 23 lines (B Channels) as well as one Data channel, with enhanced capabilities. This service is similar to a telephone company offering called "T1" which is a group of 24 lines sold as a package.

[444] Southwestern Bell 1986 Annual Report

[445] Pacific Telesis 1987 Annual Report

[446] Southwestern Bell 1986 Annual Report

[447] Pacific Telesis 1987 Annual Report
[448] Pacific Telesis 1988 Annual Report
[449] Bell Atlantic 1990 Annual Report
[450] Ameritech 1991 Annual Report
[451] Pacific Telesis First Quarter Report, March, 31, 1994
[452] CNN, August 17, 1997
[453] CNN broadcast, August 17, 1997
[454] Interactive Age, July 1995
[455] NYNEX 1993 Annual Report
[456] "The Information Future Out of Control: Hello, Anybody Home?" James Glieck, The New York Times, May, 1994
[457] Interviews included staff at Mindvox, Panix, Echo, Pseudo, and Digital Telemedia.
[458] "The Narrowband Step," The Electronic Frontier Foundation, 1992
[459] "ISDN and the Public Switched Network: Building an Open Platform," Henry M. Shooshan III, National Economic Research Associates, NERA, July 17, 1992
[460] "Ameritech's ISDN Presentation to the Ohio Consumer Counsel," by Russ Ruebensall, Marketing Operations, Data/ISDN Products, February 1993
[461] This analysis uses FCC ISDN data, by state, which was aggregated by RBOC. from "Statistics of Common Carriers," FCC, 1994-1995
[462] Ibid.
[463] "Fear and Loathing with ISDN," Al Perlman, Interactive Week, November 6, 1997
[464] Ibid.
[465] "A Consumer Nightmare" Kate Maddox, Interactive Age, July, 1995
[466] Interview of Jerry Michalski, October 10, 1997
[467] Interview with Daniel Dern, October 10, 1997
[468] "At SBC, It's All About 'Scale and Scope', Interview with SBC-AT&T CEO Edward Whitacre," Business Week, November 7, 2005 http://www.businessweek.com/@@n34h*IUQu7KtOwgA/magazine/content/05_45/b3958092.htm
[469] "Verizon Says Google, Microsoft Should Pay For Internet Apps", Techweb, January 05, 2006
[470] "Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber-Optic

Technology With Keller, Texas, Deployment; Announces Plans for Offering New Services," May 19, 2004

471 Bell Atlantic 1993 Annual Report

472 "SBC Communications to Detail Plans for new IP-Based Advanced Television, Data and Voice Network," November 11, 2004

473 "AT&T has quietly entered the TV market with the launch of its new Internet-based service in Texas,", ZDNet, January 6th, 2006

474 http://www22.verizon.com/FiOSforhome/channels/FiOS/root/package.aspx

475 http://www.kt.co.kr/kthome/eng/prod/index.jsp

476 http://ftthblog.blogs.com/ftth_blog/2005/02/broadband_prici.html

477 Ibid.

478 Baron's, March 24, 2003

479 "Cable vs. Fiber," Business Week, November 1, 2004 http://www.businessweek.com/magazine/content/04_44/b3906044_mz011.htm

480 "Verizon's Elby: IPTV Could Take Years", December 15, 2005

481 "Verizon Fans in the Dark on Fiber to Home," The Street.com, December 5, 2005

482 "Cable vs. Fiber," Business Week, November 1, 2004 http://www.businessweek.com/magazine/content/04_44/b3906044_mz011.htm

483 http://www22.verizon.com/FiOSForHome/channels/FiOS/root/faq.asp#features_q1 http://www.verizon.net/policies/vzcom/tos_popup.asp

484 Joe Plotkin interview, December 29, 2005

485 "Digital divide widens even more", Rev. Mark McCleary, Seattlepi.com, December 23, 2005

486 Verizon web site, December 2005 http://www22.verizon.com/FiOSforhome/channels/FiOS/root/package.aspx

487 Verizon's 7th Annual Infrastructure Report for the Year 2000.

488 Verizon's 10th Annual Infrastructure Report for the Year 2003.

489 "Verizon Brings FiOS to Consumers and Small Business in 24 New Jersey Communities" tvover.net, Wednesday, March 09, 2005

490 "In the Matter of The Bell Atlantic Telephone Companies Petition for Expedited Waiver of Part 69 of the Commission's Rules to Offer Video Dialtone Service in Dover Township," New Jersey, ORDER, Released: June 9, 1995

[491] "In the Matter of the Application of New Jersey Bell Telephone Company For Approval of its Plan for an Alternative Regulation, Decision," State of New Jersey Board of Public Utilities, Docket Number T092030358, April 14, 1993, page 124

[492] "Playing Favorites on the Net, Cnet", December 21, 2005 http://news.com.com/Playing+favorites+on+the+Net/2100-1028_3-6003281.html?tag=nefd.lede

[493] http://www.dslreports.com/shownews/70520

[494] Astroturf History", http://inventors.about.com/library/inventors/blastroturf.htm "James M. Faria and Robert T. Wright of Monsanto Industries co-invented Astroturf (U.S. patent #3332828). A patent for astroturf was filed on December 25, 1965 and issued by the USPTO on July 25, 1967."

[495] "Internet Telephony: America Is Waiting," Remarks By FCC Chairman William E. Kennard Before The Voice Over Net Conference, September 12, 2000 http://www.fcc.gov/Speeches/Kennard/2000/spwek019.html

[496] Ibid.

[497] http://www.newnetworks.com/skunkworksAPT.html

[498] Source: IRS non-profit submissions, 1999-2002

[499] http://www.fcc.gov/cgb/cac/

[500] Washington Post, December 8, 2004

[501] http://www.citi.columbia.edu/events/telecom10agenda.shtml

[502] "Report on Consumer Education by the Members of the Coalition for Affordable Local and Long Distance Service" ("Calls"), September 2000.

[503] "Gray Panthers Ads Targeting Worldcom Funded By IDI," Corporate Crime Reporter 22, June 2, 2003

[504] Http://Www.Americansforthedigitalbridge.Com/The_Supporters/The_Supporters.Html

[505] "Gray Panthers Ads Targeting Worldcom Funded By IDI," Corporate Crime Reporter, June 2, 2003

[506] http://www.nad.org/site/pp.asp?c=foINKQMBF&b=273994

[507] "Not In The Public Interest – The Myth of Municipal Wi-Fi Networks' Why Municipal Schemes to Provide Wi-Fi Broadband Service With Public Funds Are Ill-Advised." New Millennium Research Council, February 2005

[508] http://www.idi.net/proactive/newsroom/release.vtml?id=20355

[509] Testimony Of Jeffrey A. Eisenach, Ph.D., Before The Subcommittee On Communications Committee On Commerce, Science, And Transportation, United States Senate, April 22, 1998

[510] "Eisenach, May to Advise FCC Transition Group to Provide Policy Advice to Incoming Administration," Progress and Freedom Foundation, January 12, 2001

[511] http://www.consumers4choice.org/site/PageServer?pagename=About

[512] http://www.consumers4choice.org/site/PageServer?pagename=members.

[513] "Cable firms call foe a phony," Indiana Business Journal, November. 21-27, 2005

[514] Ibid.

[515] Consumers caught up in cable TV hostilities, The Record, January 03, 2006 http://www.tmcnet.com/usubmit/2006/jan/1260072.htm

[516] See Endnote 20.

[517] http://www.seniors.org/

[518] http://www.csba.com/

[519] http://www.smokefree.net/doc-alert/messages/247094.html

[520] http://www.smartdigitaltvtransition.com/?page=newsrelease_02102005

[521] www.nytimes.com/2006/01/07/business/07supersize.html?pagewanted=print

[522] www.telenomic.com/bio%202006.htm

[523] www.ustelecom.org/index.php?urh=PresTestimony_051019

[524] www.pacificresearch.org/press/opd/2005/opd_05-10-28sa.html

[525] "Records Indicate Bells Engaged in 'Astroturf' Lobbying, Creation of Faux Consumer Groups Designed to Influence Pending Legislation," Larstan Business Reports, Washington, DC – Nov. 2, 2005

[526] "Consumers caught up in cable TV hostilities," The Record, January 03, 2006 http://www.tmcnet.com/usubmit/2006/jan/1260072.htm

[527] "Assemblyman Rooney Calls For Investigation of Verizon's Relationship with Consumer Group and Company's Bait and Switch Tactics," Assembly Republican News, January 18, 2005