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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**DATA QUALITY ACT CHALLENGE**

In the Matter of

Re: Request for Correction of Information:  
Petition to Investigate and Correct All Advanced Network Broadband Reports and  
Analyses, Pursuant to the Federal Data Quality Act

**Infrastructure Held Hostage**

**NOTE:** This filing is being done in conjunction with other related documents:

- Regulatory Flexibility Act/Triennial Review (01-338 unbundling) Comments,
- Data Quality Act Challenge pertaining to FCC's Triennial Review Data.

By

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## Infrastructure Held Hostage

### INTRODUCTION:

Since 1998, the FCC has been required under Section 706 of the Telecommunications Act of 1996 to investigate the status of broadband (advanced services) and whether it is being deployed in a “reasonable and timely” manner.<sup>2</sup> Also, Section 706 was designed to encourage the roll out of broadband through various forms of regulation (or forbearance) and promote competition.<sup>3</sup>

With the recent release of the FCC’s 4<sup>th</sup> report on September 9<sup>th</sup>, 2004, it is now clear that the FCC has simply whitewashed the facts, leaving out key data points throughout the entire process — and has delivered to Congress and the American public a distorted picture of broadband deployment, and has harmed the entire economy through its lack of diligence to present major issues. For example, the report never demonstrates that customers in most states have already paid for fiber-based broadband network deployments they never received. Another series of facts totally missing is the role of the Internet Service Provider (ISP) provider and competitive Data-CLEC in the history of the Internet and broadband deployments — or the harm the FCC’s own policies have had on putting thousands of these companies out of business, thus impacting broadband deployments.

This rewrite of the data has had severe consequences to the entire deployment of broadband, as well as the economy.

With the FCC’s draconian plans for the Triennial Review, and the lack of inclusion of the ISP and CLEC in any broadband report, much less left out of the entire process at the FCC, the FCC is currently pursuing a policy of putting the remaining companies out of business by destroying the basic tenets of the Telecom Act which promised to bring competition.

In short, bad data has led to bad, harmful policies that have cost the American public in a myriad of ways with less choice, dummed-down broadband, and economic harms. Is it any wonder that America placed 11<sup>th</sup> in broadband deployment in 2004.

It’s time for the FCC to come clean, and present the truth about broadband in America — or the lack thereof.

Teletruth petitions the Federal Communications Commission (FCC) to redo sections of every broadband report presented to the public since 1998 in relationship to Section 706 of the Telecom Act, and to correct flaws in both the data and the analysis of broadband deployment in the United States.



This challenge under Federal Data Quality Act is based on TeleTruth's conclusions that seriously flawed, unduly selective and biased statistical analysis has been presented to Congress, regulators, and the public. It has distorted ALL public policies in the United States toward broadband deployment, as well as harmed the entire financial health of the economy.

Therefore, Teletruth believes that the FCC's data and analysis fails the Federal Data Quality Act's basic tenets of quality, transparency, utility, reliability, objectivity, integrity, reproducibility, among other problems.

As we will demonstrate, the data and conclusions in the FCC's Advanced Network broadband reports starting in 1998 have continuously failed to include the state obligations made by the Bell companies to deploy fiber-based broadband services in exchange for massive financial incentives, tax write-offs and other perks. The FCC has continuously ignored and did not include thousands of documents, including the majority of state Alternate Regulation plans (including all data, testimony, orders, opinions, related media coverage, etc.) that were dedicated to broadband or the billions of dollars per state where customers have already been charged for fiber-optic networks that were never delivered. In fact, to suit its own political needs, the FCC even dummed down the definition of broadband to show that deployment was continuing at a "reasonable and timely" pace when it does not have the authority to support that claim.

For example, by 2004, ½ of Pennsylvania customers should have been rewired with fiber-optic based broadband that could deliver speeds of 45mbps in both directions in rural, urban and suburban locations. None of it exists today, yet customers in the state paid an estimated \$4 billion dollar in excess phone rates and other financial perks. And almost every state in the Union had state plans that were never mentioned by the FCC. In fact, many of these deployment plans extended into the 21<sup>st</sup> century. Pennsylvania extended to 2015.

Next, the FCC also never bothered to explain why the definition in 1994 of broadband at 45mps, then the standard, was changed to a mere 200kbps — 224 times slower.

The fact that there was virtually no accountability or enforcement of these previous agreements should also have been included as essential data, because as we move forward, these same monopolies, who control the wires, are now asking and receiving even more financial incentives.

History has been slapped in the face in order to put on a smiling face to the public.

To make matters worse, the FCC's broadband report has completely eliminated the role of the Internet Service Provider, ISP, in the story of broadband and has done nothing to focus on how the Bell companies have harmed the ISPs ability to offer DSL. To add



insult to injury, the FCC has not sought to examine its own regulatory harm imposed on the obligation in Section 706 to “promote competition in the local telecommunications market.”

One has only to do a scan of these reports using a word search to see that the entire history of broadband and the Internet is missing any mentions of “ISP” or “Internet Service Provider. (Comically, the most common fit for “isp” was the word “disparity”.) And while the FCC may try to promote “WISPS”, wireless ISPs, as the next generation, the FCC had the obligation to explain how its policies has helped to put some 6000 companies out of business. Its current policies have continually blocked access to the networks over the last 4 years, through everything from lack of enforcement of the law to predatory pricing by the incumbents to block ISPs from offering their own services.

What is even more striking about the broadband plans outlined and the ISP issues is that in 1994 there was essentially no wireline local residential competition the “CAPs”, (now called CLECs) didn’t touch the home. The Bells themselves were still limited in their ability to offer ISP-type services. In fact, there was a clear understanding that the Bells were going to provide only raw bandwidth, on a common carrier basis; the cable to the home, especially since it was being paid for by customers, would thus have to allow anybody and everybody to be reachable on it, or to subscribe to it. So ISPs, which were just beginning to gel, would ride on the fiber-optic superhighway. The Bells didn’t even have their own ISP services yet; the Internet was still foreign to them.

And The Telecom Act of 1996 didn't define unbundling in terms of "wire already in the ground" at the time of the Act's passage" or in terms of "technology already widely deployed at the time of the Act's passage"; the Fiber promises were still on the table, and competition at the local-telecom level was laid on top of it. Nobody yelled loudly that the Act would end Fiber to the home! Nobody said that the Act would end common carrier obligations.

So, all of the money collected would be for open networks, and the ISPs had a rightful place to offer services.

Teletruth’s record on this data-failing of the FCC has been well documented with multiple filings, comments, complaints and petitions since 1998 — all ignored by the FCC, even though we presented sound primary data from numerous sources.

**Appendix A** is a bibliography and links to Teletruth, New Networks Institute and other important related documents.



## **What's Missing: Thousands Of Documents That Tell A Different Story.**

By 2000, virtually half of American households should have been enjoying a fiber-optic-to-the-home broadband connection at speeds of over 45mps in both directions. The Bell companies (and GTE) promised regulators and the public that they would start to rewire a state if they were given new financial incentives, known as “price caps”. We estimate that over \$120 billion dollars has been collected since 1993 in the form of excess phone rates, tax write-offs and other perks – and virtually none of these services were delivered.

By the time of the first FCC 706 Report initiative in 1998, the majority of states were supposed to have already been rewired, since they were collecting the extra profits from increased rates. In most states, new broadband alternate regulations were implemented during the 1993-1995 timeframe and last for 3-15 years. The FCC mentioned none of this or in any report, even though there are literally thousands of documents that tell this story — we just reported the findings, we didn't create them.

For example, in 1997, the New Jersey Ratepayer Advocate released a report on the status of fiber-optic based broadband commitments. The Advocate stated: (see bibliography)

“...low income and residential customers have paid for the fiber-optic lines every month but have not yet benefited.”

The report states

“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.”

Though neither reasonable or timely, the FCC's 1998 Advanced Network report, (and all others) do not mention this or any state deployments, especially whether these deployments were being done on a “reasonable or timely” basis. And clear proof that the phone companies weren't deploying services as advertised can be found in hundreds of documents. This also brought into the question whether “price cap” regulation, where the companies received financial incentives for network upgrades —i.e.; higher phone rates and tax-write-offs for fiber upgrades — was effective or working. The New Jersey Ratepayer Advocates report clearly indicated that price caps had a benefit — mainly for the phone companies, and not the customers or new network construction.



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By ignoring the reality of what was promised, what it cost customers, and what was actually delivered by the Bell companies, the FCC in one fell swoop has been able to rewrite history and turn America into a 3<sup>rd</sup> rate broadband-ready country. Instead of planning for a fiber-optic future, the country was told that inferior products over 100 year old copper networks were to be our future. And by NOT including valuable data, (not to mention a severe lack of enforcement), the FCC harmed our economy and even helped to cause the Telecom Crash and ensuing problems with the economy.

In short, it is “Infrastructure Held Hostage”. By not holding these large corporations accountable for the deployments of fiber-based HDTV-video-grade-broadband, and allowing these companies to essentially wipe out competitors through lack of enforcement, what we have are a group of oligopolies that control the future and will deliver inferior, 3<sup>rd</sup> rate products at high prices. And because of the distorted vision of the future and competition by the FCC, we find that the FCC is regulating competition out of business, and has put innovation on the back seat to corporate profits—all through faulty data.

Faster web pages over 100 year old copper wiring is not true-broadband. We were promised a Ferrari on the Info-Bahn, and we’ve ended up with a skate board on a dirt road – and the FCC’s data just covers over this bait-and-switch.

### **The Impact on the Triennial Review: Bad Data Will Equal Bad Laws.**

The current Triennial Review orders and opinions that have been written have been based totally on missing data and therefore the FCC has agreed to items that severely harms the public interest. And it will get worse with the current proposed plans to raise customer rates, eliminate competitors’ use the customer-funded networks for DSL-Line Sharing, as well as give exclusive rights to private companies for any new fiber-optic based services

In fact, the Bell companies are threatening to not deploy these new networks unless the FCC complies with giving these companies new financial perks. — Here’s a recent article that appeared in Reuters.

“SBC TIES BROADBAND BUILD TO FCC SHARING RULES  
We will build it, if we can own it. That’s the message from SBC, the second-largest U.S. telephone company, which has said it plans to spend \$4 billion to \$6 billion to run fiber-optic lines to neighborhoods and new homes over the next five years, offering video and high-speed data to half of the customers in its 13-state territory. SBC’s upgrade would allow it to provide customers with a connection speed of 25 megabits per second, enough for four video channels, voice service and fast Internet access. But the company says it needs to know if the FCC will force the company to share



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those lines with competitors. FCC Chairman Michael Powell is backing a proposal that would allow SBC and other dominant local carriers to share at most only a small voice line if they run fiber-optic connections within 500 feet to homes. A vote on the proposal will likely occur Oct. 14”<sup>4</sup>

We left the quote as whole because it is clear that the FCC is currently destroying competitors based on proposed promises to spend.... History tells us that these companies already received financial perks and pocketed their new found cash.

**DEAR FCC**—The FCC has not examined the record properly and history shows that these companies are playing the FCC for fools. Here are the facts – thousands upon thousands of documents, articles, filings, state orders and opinions that were neglected in making the current decisions. And history of the Bell companies deployments shows a “say anything” attitude to get rid of regulation. — **Bad Data equals harmful policies.**





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## Summary Violations of the Data Quality Act

The FCC's 706 Broadband reports violates the Data Quality Act's basic tenets of "objective", "utility", "reliable", "quality" information dissemination products, which includes both the data and the analysis and conclusions.

Specifically, the FCC has failed in presenting reliable, objective, quality data about:

- 1) The fiber-to-the-home broadband deployments that were standard in the majority of states back in 1990's. This is as opposed to inferior products, such as DSL, that only goes over the already existing copper networks. We request all references in ALL reports to be upgraded to detail what was the promised technologies to be deployed as stated in state law, and all other sources, including state alternate regulation plans, Annual Reports, statements to shareholders, the press and media.
- 2) The deployment of fiber-optic broadband that was supposed to be happening in the majority of states during 1998. We request all references in ALL reports to be upgraded to give the deployment schedules that were part of virtually every state law including whether these were rural, urban or suburban deployments or a combination thereof.
- 3) The FCC has failed in presenting reliable, objective, quality data about the deployment of network upgrades for schools and libraries, and many other non-residential, government agencies, We request all references in ALL reports to be upgraded to give the deployment schedules that were part of virtually every state law.
- 4) The speed of broadband that was standard in the majority of states back in 1992-2000, which was 45mps. This is as compared to the FCC's standard of 200K. We request all references in ALL reports to be upgraded to give what was the standard of 'broadband' as stated in state law, since the FCC reports neglected this information in previous reports.
- 5) The role of the customer as investor and the role of the Alternate Regulation as a method of funding broadband deployments. We request all references in ALL reports to be upgraded to examine there issues as stated in state law.
- 6) The role of the ISPs, both in the history of broadband but also in a situational analysis of their current important role and the harm being caused by bad regulatory policy and lack of enforcement. We request all references in ALL reports to be upgraded to examine these issues.

Therefore, all analyses should include this data and then question the issues of whether "reasonable and timely" deployments were true.



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## The Harms of Having Bad Data are Evident

If the FCC had actually collected and disseminated the proper data on the Bells' failed deployments, (as happened in virtually every state), on the harm to competitors, including ISPs, as well as the costs to customers, these facts would have been known by the public. We believe with accurate data and analysis, actions would have been taken that would have changed the course of events.

- The U.S. would never have settled on allowing the phone companies to control their digital future because it would have been shown that they had little interest in investing in the networks even when they got financial incentives—billions of dollars per state.
- The U.S. would have led the world in a fiber-based future, had the states held the companies accountable for their statements about fiber-optic based broadband deployments. — This could have saved the economy from collapsing, which was led by many of the fiber-optic and hardware companies preparing for fiber-based services that were never deployed.
- The U.S. would have questioned why our current inferior broadband products were still being offered over 100 year old copper networks.
- The U.S. would never have allowed the phone companies to harm competitors, such as ISPs and CLECs, who were bringing innovation.
- Customers would not have already paid approximately \$120 billion for networks they will never receive.
- The Triennial Review would not have closed the new networks to competitors because it would have been found that customers, not the Bell companies, were the major investors in the phone networks.
- \$500 billion is lost annually from the economy. The phone companies believe that a half billion dollars is lost every year the American public doesn't have true-broadband. Therefore, imagine what would have happened to the economy had these companies fulfilled their obligations.
- A generation of technology was lost. Because of the lack of deployment, America lost an entire generation of new technologies and services to spur growth in the economy.

The FCC's analysis of broadband has failed to deliver to the country an accurate assessment of broadband because it has used biased data and decided that the true history did not suit their own political needs. As we will demonstrate, each incorrect data point, missing data point and therefore distorted analysis should be corrected, to not only make the mistakes of the past revealed, but also to secure potential refunds as well as change the course of America's broadband future. Also, if customers, not the Bell companies, are proven to be the funders of the local phone networks, then keeping the networks "common carrier" (open to competitors) and the fair treatment of competitors will be essential next steps. It will also allow for regulators and the public to have a better



understanding how the Bell companies gamed the regulatory system and essentially harmed the economy and America's digital future for their own short term gain.

### **The Data Quality Act and This Complaint**

The FY 2001 Consolidated Appropriations Act (Public Law 106-554) contained a new piece of legislation, known as the Federal Data Quality Act. (Public Law 106-554 Section 515).

The Office of Management and Budget (OMB) was assigned the task of creating "Guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies"<sup>5</sup>. These guidelines were then to be used by the various agencies, including the FCC,<sup>6</sup> to create their own set of guidelines, which were released October 8, 2002.

As we will demonstrate, the FCC has failed in multiple ways to comply with this law.

### **A Short Discussion of the Data Quality Act's Tenets**

"...ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies"<sup>7</sup>.

There are a series of definitions that we would like to detail before we proceed with our findings.

### **Teletruth, NIA and Our Members are "Affected Persons" and We Seek a Correction in the Information and Analysis Supplied by The FCC.**

The OMB guidelines state:

"...agencies are to establish administrative mechanisms allowing affected persons to seek and obtain, where appropriate, correction of information disseminated by the agency that does not comply with the OMB or agency guidelines."

While the FCC guidelines states:

"*Affected persons* are people who may benefit from or be harmed by the dissemination or use of a specific information dissemination product."

Teletruth and its members, not to mention every US phone and broadband customer, are "affected persons" who have been harmed through the use of specific information



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products. Teletruth and our members separately, have been active participants at the FCC pertaining to phone bill and broadband issues. Besides being a member of the FCC Consumer Advisory Committee, therein demonstrating our standing, New Networks Institute, (NNI) a Teletruth board member, has been filing complaints, petitions, comments, etc. since 1993. NNI and other Teletruth members have been filing on broadband topics since 1998. See Appendix A for a list of our various filings.

### **Lack of Objective and Therefore Reliable Data**

It is clear from the 706 reports that all the FCC wanted to do with these reports was to prove that advanced network services were being deployed on a “reasonable and timely” manner, and to that extent the FCC has violated various laws.

Former Commissioner Gloria Tristani’s statement<sup>8</sup> clearly points out that the information in the first Report lacked enough detail to make the case that the deployment was “reasonable and timely” manner.

“In order to fulfill our obligation under Section 706, we need a full and accurate picture of the state of deployment of advanced telecommunications services. We need to know what advanced services are being offered and specifically where they are being deployed. As the Report acknowledges, for the most part we simply do not have that information. Instead, the Report largely relies on other types of evidence -- e.g., analogies, anecdotes and evidence of investment -- in order to conclude that deployment of advanced services appears reasonable and timely. While I appreciate the effort in the Report to compensate for the lack of direct evidence in the record, I write separately to underscore my belief that the lack of such evidence makes drawing any conclusions about the state of deployment a tentative and inexact undertaking.”

Unfortunately, none of the proceeding reports ever fixed the problems of the basic state-related issues pertaining the companies’ deployment of fiber, or the contributions of the customers.

One of the concerns in the second report, Tristani noted,<sup>9</sup> was that there was a problem with leaving market forces to serve rural and even inner cities with having advanced services.

“I am troubled about the factors and data that suggest certain populations – those living in rural areas, the U.S. territories, inner cites, and tribal areas, as well as low income consumers and minorities -- are at heightened risk of not having access to advanced services if left to market forces alone.”



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Had the FCC bothered to examine the record of state actions, they would have found that some states, such as Pennsylvania, had already mandated network upgrades for broadband that was supposed to reach urban, suburban and rural areas equally.

The Pennsylvania Public Utility Commission wrote:

"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."

Other states, including Texas, Ohio, New Jersey, California, were also committed to equality of deployments – paid for by customers through higher phone rates.

### **The FCC DQA Guidelines for a “Complaint” and What are “Data”.**

According to the FCC a “Complaint”:

“3. *Complaint* refers to a written communication to the Commission that includes enough information so that the Commission can readily determine the specific information dissemination product the complaining party believes needs correcting, how the complaining party is affected by the information dissemination product sought to be corrected, the sections of these guidelines or the OMB Guidelines the complaining party believes have not been followed, what resolution the complaining party would like, and how to get in contact with the comment writer.”

“Data” are defined as:

“4. *Data* are the basic or underlying elements of information. All information dissemination products covered by these guidelines are based upon data. Additionally, covered information dissemination products may contain analysis of the data and conclusions drawn from this analysis.”

Another important definition is “influential”.

“6. *Influential*, when used in the phrase “influential scientific, financial, or statistical information,” means that the Commission can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.”



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The OMB Guidelines also discuss ‘quality’, ‘utility’ and ‘objectivity’ and ‘integrity’.

“In the guidelines, OMB defines ‘‘quality’’ as the encompassing term, of which ‘‘utility,’’ ‘‘objectivity,’’ and ‘‘integrity’’ are the constituents. ‘‘Utility’’ refers to the usefulness of the information to the intended users. ‘‘Objectivity’’ focuses on whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance, is accurate, reliable, and unbiased. ‘‘Integrity’’ refers to security--the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.”

As we will show, the reports lack objectivity, utility and therefore lack quality.

The country has been given a distorted picture of the entire future of broadband, and as we will discuss, it has cost the public billions in higher fees, has allowed the US fall behind in a technological future, and has harmed the economy in numerous ways. This was accomplished with unreliable data and analysis that removed from view important facts and information that could have dramatically changed the entire broadband future of the US.

### **A Contradiction of Between the FCC Guidelines and OMB Guidelines.**

We believe the FCC guidelines are in error because they seem to preclude any filing that finds fault with the FCC to not be legally ‘enforceable’.

“4. This document provides guidance to Commission staff and informs the public of the Commission’s policies and procedures. These guidelines are not rules or regulations. They are not legally enforceable and do not create any legal rights or impose any legally binding requirements or obligations on the Commission or the public. Nothing in these guidelines affects any otherwise available judicial review of Commission action. Factors such as imminent threats to public health or homeland security, or statutory or court-ordered deadlines may cause these guidelines to be temporarily waived.”

There is nothing in the Data Quality Act or the OMB guidelines that refers to the FCC’s ability to ignore the law and decide what it feels is or is not ‘enforceable’.



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## Infrastructure Held Hostage.... Redo The Broadband Analysis

Our data is taken directly from primary sources. We have included a full bibliography of filings and related other missing data points. Note: There are thousands upon thousands of documents, state filings, comments, new articles, testimony in Congress at the FCC, etc. This is only a sample of what we have found and have been filing since 1998.

### 1) Reasonable and Timely Deployments — Not a Chance.

By 2000, approximately 44 million households should have been rewired with fiber-optics to the home. That's right — to the home. For example, the Pennsylvania Commission wrote about the schedule to have 20% of the state wired by 1998 to rural, urban, and suburban areas, 50% by 2004.

"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."

California was to have 6 million lines by 2000, Ameritech promised 6 million households by 2000, Bell Atlantic was supposed to have 8.75 million households by 2000. Though it varies by state law, Massachusetts was supposed to have 330,000 lines by 1995.

**The New Jersey Bell** plan called for 60 megabit services by 2004 and the entire state is supposed to be completely wired by 2010 with fiber-optic broadband. ("Opportunity NJ", 3/92)

- Wideband 95% by 1999
- Broadband 100% by 2010
- Fiber to the feeder 45% by 2000
- Fiber to the curb 30% by 2000

And of the actual deployment of broadband in the state of New Jersey, the Ratepayer Advocate stated in 1997 it certainly wasn't happening:

"...low income and residential customers have paid for the fiber-optic lines every month but have not yet benefited."

"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."

Timely and Reasonable? In the 1998 "Comments" period, we quoted some of this material, and it is clear the FCC didn't want to include it. Had the FCC done the right



thing, it would have looked at these two state's plans and noticed that 20% of the state of Pennsylvania should be wired in 1998 — did that happen? No. Was 30% of households rewired with fiber to the curb in New Jersey by 2000 going to happen? No. Also, notice that these state commitments were for decades, clearly running through the time the FCC reports were being created.

How bad does it get? This blow by blow of Pac Bell and SBC's California failed broadband network, was published in San Diego Tribune in Feb. 1998. It included state concessions, an Alternate Regulation plan (and more money). It was never covered in the FCC reports.

### **A Timeline of Pacific Bell's California First Plan: A Plan that Failed<sup>10</sup>**

- **November 1993:** Pacific Bell (PB) 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:** (NNI NOTE: by 2000, 6 million households.) 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:** PB and city of San Diego sign "landmark" agreement, with PB 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 PB 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.
- **NNI UPDATE: September 1995:** Alternate Regulation is granted to Pacific Bell.
- **Sept. 1995:** PB slows network construction to save \$1 billion in capital costs over five years for statewide project, but accelerates network construction in the SF Bay Area.
- **January 1996:** PB 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.





- **Sept. 1996:** PB 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:** PB 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 PB cable customers in San Jose. SBC writes off \$500 million investment in both ventures.
- **Nov. 1997:** PacBell sends out requests for bids on various components of the partially built video network.
- **NNI UPDATE: July 2001:** The California ISP Association files formal complaint about discriminatory behavior.

In summary, this information is totally missing from any of the FCC reports. Therefore, the FCC has failed in presenting reliable, utility, objective, quality data about the deployment of broadband that was supposed to be happening in the majority of states during 1998. We request all references in ALL reports to be upgraded to give the deployment schedules that were part of virtually every state law.

### **Schools and Libraries?**

Of course the FCC paints a picture that deployment of "broadband" is spreading rapidly in schools and libraries.

"The U.S. Department of Education publishes on an annual basis various statistics relating to Internet access in U.S. public schools and classrooms. Among other things, the most recent study documents the steady increase in number of schools with Internet access, and the number of instructional classrooms with Internet access.<sup>41</sup> For instance, in 2002, 99% of public schools had access to the Internet, compared to 14% in 1996.<sup>42</sup> Moreover, in 2002, 92% of public school classrooms had access to the Internet, compared to 14% in 1996. In 2002, 94% of public schools reported using broadband connections for Internet access, compared to 80% in 2000 and 85% in 2001.<sup>43</sup>

But here too, the word "broadband" can mean "anything faster than dialup". What was promised in many states in exchange for changes in state regulations was "fiber-optic" upgrades for schools, libraries, etc. For example, Ohio was supposed to have all high-



schools, colleges, universities, not to mention all hospitals, libraries and even jails and federal buildings fiber-optically upgraded.

Ohio Alternate Regulation Plan, September 20, 1994

"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..."

Once again, none of these broadband, two-way, fully interactive" services were ever deployed.

Are we supposed to be proud of getting inferior services at expensive prices?

The fact that no FCC broadband report has quoted the hundreds of state laws done from 1993-2000 on the fiber-optic upgrade promises to schools, libraries, etc. is also a serious Data Quality Act violation. Therefore, the FCC has failed in presenting reliable, objective, quality data about the deployment of network upgrades for schools and libraries and many other non-residential, government agencies, We request all references in ALL reports to be upgraded to give the deployment schedules that were part of virtually every state law.

### **Paying Twice for Broadband to Schools and Libraries?**

The implications of this are staggering. There is a Federal "Universal Service" fund now being levied on every local, long distance and wireless phone bill throughout the United States, adding 8.9% to every interstate service or charge. However, many states already had funds for broadband upgrades built into phone rates. Are customers paying twice or more for items that were not delivered but were funded?

To make matters more interesting, the Bell companies also received the most amount of money from the "Schools and Libraries" fund. In 2001 it was almost ½ billion dollars.

Are these companies getting paid twice, first from the excess in current rates from missing deployment, then from being the largest recipient of the USF Fund?



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**2) Fiber-To-The-Curb Was Promised. What We Are Now Talking About Is Faster Web Pages, Not New Applications.**

On Wednesday, May 19, 2004 9:53 AM, Verizon made an "Historic First":

*"Verizon, in Historic First, Begins Large-Scale Rollout of Advanced Fiber-Optic Technology With Keller, Texas, Deployment; Announces Plans for Offering New Services"*

"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. "This technology will transform our network and the products we will be able to offer to consumers and businesses. Once deployed, for example, the slowest broadband connection we'll offer customers will be three times as fast as broadband speeds commonly available today. In short, we are building a new network that will make us the broadband leader in the 21st century."

"Bob Ingalls, president of Verizon's Retail Marketing Group, said some of the new broadband access products will feature download speeds of 5 megabits per second, 15 megabits per second and 30 megabits per second.

With this statement, it is now clear that Verizon has continually lied to every state they do business in and had no plans to offer "fiber-optic" services or could not deliver before 2004.

How embarrassing does it get?

By 2000, Bell Atlantic had claimed it would have 8.75 million households rewired in its territory. Both NYNEX and GTE also had various plans for millions of lines.

Bell Atlantic Annual Report, 1993

"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 in what is clearly the high growth opportunity for the 1990's and beyond."



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For the sense of déjà vu, in 1996, Verizon cut a 6 and 1/2 year deal with Lucent (good through 2003) to build fiber-optic based equipment. (Bell Atlantic press release, July 1996)

"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.... 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."

In fact, according to the release, the entire Bell Atlantic region would be rewired.

"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."

Had the FCC explained to the public that networks that were supposed to be deployed in 1993-2000 were fiber based and not copper, and not 'high-speed', but true-broadband, would the country have been on a different track?

By not explaining this to the public in ANY of its broadband reports, the FCC has failed in presenting reliable, objective, quality data about the fiber-to-the-home broadband deployments that were standard in the majority of states back in 1990's. We request all references in ALL reports to be upgraded to give what was the promised technologies to be deployed as stated in state law, and all other sources, including Annual Reports, statements to shareholders, the press and media announcements, etc.

### **3) Broadband Speeds Were Defined In 1992-1995 As "45mbps In Both Directions" As The Minimal Speed.**

That's right. When the FCC decided that in order to show that the deployment of broadband was 'timely-and-reasonable', it lowered the standard of broadband speed to 200kbps. It also created a new term "high-speed", for anything else that was faster than a dial-up connection.

"Since 1999, the Commission has used the terms "advanced telecommunications capability" as "high-speed, switched, broadband telecommunications capability," but did not specify what speed should be



encompassed within these terms.<sup>10</sup> In the past, the Commission used the terms "advanced telecommunications capability" and "advanced services" to describe services and facilities with an upstream (customer-to-provider) and downstream (provider-to-customer) transmission speed of more than 200 kilobits per second (kbps).<sup>11</sup> The Commission also used the term "high-speed" to describe services and facilities with over 200 kbps capability in at least one direction. <sup>12</sup>"

We can make this claim because the FCC neglected to mention, in any of its reports, that the majority of states in the US had determined that broadband was a minimum of 45mbps and this was on the books in most states in 1998 when the FCC started their analysis.

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."

Therefore, the FCC has failed in presenting reliable, objective, quality data about the speed of broadband that was standard in the majority of states back in 1992-2000. We request all references in ALL reports to be upgraded to give what was the standard of 'broadband' as stated in state law.

Why? Because it is now clear that what happened was a 'bait-and-switch' – the promise of a fiber-optic world has now gone to a mostly 100 year old copper world. More importantly, had the companies been required to deliver the speeds they had contractual agreements to deliver, then today, over half of the US would already be rewired – at 45mps or faster.

Also, had the FCC bothered to even quote this material, everyone would have questioned whether the future was going to be web-pages or true-broadband. — It's clear that in redefining broadband and not explaining the other facts, the FCC made a serious educational mistake, but also allowed the companies to not be held accountable for true-broadband.

How would that have helped the economy grow, had there been a new, much faster collection of networks? Even today, we are just starting to understand the limitations of what the FCC has done to the country's broadband future through this single lowering of the bar. While the FCC has discussed how they came up with their analysis of 200kbps as standard, by NOT first discussing what was promised on the state level, and quoted the arguments of why the 45mbps was the standard, they did a serious disservice to the American public.



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#### 4) **The Customer as Investor — Follow the Money and State Alternate Regulations.**

##### **Did America need to spend \$120 billion dollars on copper wire deployments?**

The FCC new 706 NOI requests comments on how investment trends, including 'access to sufficient levels of capital to fund infrastructure build-out'.

“21. We seek comment on current investment trends and the extent to which they may reflect the availability of high-speed and advanced services. We seek comment on the relationship between the pace of investment, consumer demand, and general market expectations. We also seek comment on whether providers of high-speed and advanced services have access to sufficient levels of capital to fund infrastructure build-out and whether additional steps should be taken to accelerate deployment.”

As the Bells cry they need more financial incentives to invest in broadband, anyone who has read the various outcomes of the Bells' state alternate regulation bait-and-switch strategies should realize that the FCC totally ignored these issues for over the decade.

The FCC needs to investigate:

- a) What was promised in the state.
- b) The deployment schedules and status.
- c) The financial incentives the phone companies received.
- d) The total failure of the Bell companies to deliver on those promises with little, if any, request to refund the monies or lower rates.
- e) The customer financial contribution.
- f) The tax write-offs, incentives, and other perks

The scam was simple: In exchange for getting massive financial incentives, the phone companies made commitments to deploy broadband. Using large lobbying budgets and expensive customized market research reports, the phone companies were able change state laws from the older “rate-of-return” regulation, (that examined the company's profits), to Alternate Regulations, (known as “price caps”, or “incentive regulation”,) where the price of a service was capped for a few years, but the profits are not examined on most services. In this model, the phone companies were able to not only hide profits from regulators, but also could increase profit by cutting staff and construction budgets. They also received major tax write-offs. An estimated \$21 billion dollars was taken in a lump sum by the Bell companies from 1993-1995 for copper networks that were never replaced.



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In most states, this excess is still being charged to customers as a defacto “broadband tax”. As we documented in numerous states and presented to the FCC, the majority of Bells were able to gain billions in excess profits.

Our case study of Pennsylvania found that the phone company was able to garner over \$4 billion dollars in excess profits, tax incentives and other perks. Other analysts have also found similar customer overcharging.

Meanwhile, some states, such as the case in Louisiana and Oregon, allowed the phone companies to use the extra profits from rates to fund DSL service.

Not once did the FCC examine the entire price cap process, neither the revenues nor the profits nor how these changes in state laws made customers defacto investors.

While the Bells keep crying they need more money, it is ironic that the FCC never bothered to examine what they were making from unkept broadband promises. Even more amusing, since the FCC doesn't examine the Bells' profits, whenever the companies need more money they simply ask for state rate increases. The FCC never examines this data either. There is no tie-to investment, tie-to-deployment.

#### **Data Quality Violations: Follow the Money.**

The FCC has never examined the state broadband alternate regulations and how customers, not investors, have been funding the deployments of broadband. It is clear that the misguided Triennial Review, where the FCC gave the phone companies carte-blanche to own upgraded networks and close out competitors is a result of the lack of substantial data that was provided then ignored, or never examined. It is a bias of the worst kind because these policies are being set on incomplete and bad data.

Had the FCC taken into account, on a state by state basis, the contributions of the customers in virtually all Bell build outs of broadband, then it would have also been clear that these same networks would have remained “Common Carrier”, because the public, not the Bell companies, were the funders of essential, new fiber-based facilities.

Therefore, the FCC has failed in presenting reliable, objective, utility, quality data about the role of the customer as investor and the role of the alternate regulation and price caps as a method of funding broadband deployments. We request all references in ALL reports to be upgraded to examine this issue as stated in state law.



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## **Profits of the Bell Companies and Tracking Where They Lead?**

(We have addressed some of these issues in our companion comments filed as part of the Triennial Review Unbundling docket, 01-338.)

Related to this data quality challenge, there are some very important trend models of investments that the public needs to have included in this calculation.

First, the Bell profits from local phone service rose to new heights because of the various alternate regulation plans, inspired and put into place because of Bell promises to deploy new networks.

Second, the profits were not put back into the networks but were a) spent on overseas investments and losses, b) the creation of their long distance services, c) the creation of the wireless businesses, and d) excessive executive pay and perks.

In fact, the Bell companies cut employees-per-line 65% since 1984, while in the last four years they cut new wireline construction over 50%.

And while the Bells are complaining about opening their networks to competitors, the FCC has not done a full audit of the equipment in the networks to be able to know what the network actually costs. It is also forgotten that the Bells were allowed into long distance services in exchange for opening their networks. However, the Bells are continually able to request state increases in local phone service prices to offset any loss of large profits.

As part of this examination, the FCC has not in any way, examined the 'cross-subsidization' of local phone service rates that helped to fund various lines of business, including DSL, which were earmarked for new construction of a fiber-based services.

### **5) Harm to the ISPs and CLECs Because of Lack of Enforcement has been Horrendous. Lack of Data About the ISP's and CLECs' Contribution to the Deployment of Advanced Network Services has been Worse.**

How did most customers get on the Internet? Well, it wasn't the local telcos or the cable companies. It was the independent, entrepreneurial ISPs throughout the US. In 1998 it was estimated that over 7000 companies existed. Today, estimates are less than 1000 and worse, it is clear that the FCC's plans are to put them out of business completely.

It is ironic, that the FCC in the second report quotes numerous commentators that these small independent ISPs are a driving force in bringing broadband to the public.





20. Internet Service Providers. The ventures mentioned above include what could be referred to as facilities-based broadband ISPs (i.e., one company offering both Internet service and the broadband facility over which that service is accessed). There is a significant number of other ISPs who are pursuing non-facility based business plans, gaining access to their users over the facilities of third parties. **These ISPs, in the view of some, are a driving force in the deployment of broadband.(66)**  
**(Emphasis added)**

(66) A recent Cahners In-Stat Group Report reportedly indicates that ISPs are rushing to provide DSL service, that one-third of ISPs are *providing high-speed service based on DSL, and that ISPs are largely partnering with Regional BOCs in order to provide this service. ISP Rush To DSL "A Stampede," Report Says, CNNfn (Dec. 2, 1999) (visited Dec. 7, 1999)* <<http://www.cnnfn.com/news/technology/newsbytes/140201.html>>.

And yet, there is little, if any, mention of ISPs in the next FCC 706 report. Worse, because of numerous bad decisions, the FCC has not enforced laws that allow the ISPs to get wholesale DSL at a price that has any profit. The FCC has also sat on its hands while current laws block ISPs from selling so called "cable modem" service, i.e. Internet service.

The FCC's Triennial Review closes down line-sharing, which is the only way the ISP can offer DSL. Meanwhile, the ISPs and CLECs are not going to be allowed to use these new fiber-optic networks if they ever show up.

To top it off, Teletruth, New Networks Institute and others have filed numerous comments, petitions and complaints about the harm the Bells are doing to the ISPs during the ordering and installation of new services, and the FCC has been totally deaf to these complaints.

### **Data Quality Act Violations: Lack Of Objective And Reliable Data About ISPs, Their Role In Broadband and The Problems They Face.**

Of the Data Quality Act aspects, a report on broadband must include the entire collection of issues that was just highlighted, not just from Teletruth, but from all of the other contributors. And not only that, but the FCC current report forgets that the ISPs exist. One has only to do a search for the term "ISP" to see its relegated to footnotes.

In fact, the FCC's entire treatment of ISPs has been so embarrassing that the FCC's Triennial Review claims that the FCC rules only 'indirectly' impact ISPs. Putting them out of business by controlling every aspect of their environment is not indirect.



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As we point out in a related filing, the FCC decisions directly impact ISPs. We also show in another related Data Quality Act filing that the FCC in its most recent Triennial Review is using data from 1997 – something we complained about in 2002, since there are numerous more recent sources of data the FCC decided to ignore — and therefore distort the public’s view of ISPs.

Therefore, the FCC has failed in presenting reliable, objective, utility, reliable, quality data about the role of the ISPs both in the history of broadband but also in a situational analysis of their current important role, as well as the harm being caused by bad regulatory policy. We request all references in ALL reports to be upgraded to examine these issues.

And need we remind the FCC that they also have an obligation under Section 706 to determine negative impacts on deployment and to “promote competition”.

“If the Commission’s determination is negative, it shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.”

In other reports we have clearly shown that the FCC is at fault in the deterioration and bankruptcies of thousands of ISPs who were in business, but are closed out of broadband.

In fact, it is also clear that by the omission in every instance of the Internet Service Providers and their role in broadband, the FCC has also not only violated the basic tenets of the Data Quality Act, but also the Small Business Regulatory Flexibility Act, and even Section 257 of the Telecom Act, which required the elimination of barriers of entry for small telecom businesses.

**“SEC. 257. [47 U.S.C. 257] MARKET ENTRY BARRIERS PROCEEDING.**

(a) ELIMINATION OF BARRIERS.--Within 15 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete a proceeding for the purpose of identifying and eliminating, by regulations pursuant to its authority under this Act (other than this section), market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services.

(b) NATIONAL POLICY.--In carrying out subsection (a), the Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.



Ignoring the ISPs has been a series of multiple violations that extends throughout every FCC report and decision. It has given the public a warped view of the broadband and has helped to reshape public policy in harmful ways. And it needs to be addressed now.

Had the ISPs been allowed to offer DSL and cable modem services, which the FCC has continually helped to restrict, the innovation of America's broadband would have been enhanced, and the deployment of services would have been increased, since these firms handled the majority of dial-up customers and would have migrated their customers to broadband. Also, ISPs helped the Internet and broadband to be implemented in small business, since broadband by itself is not a stand alone product but can include web services, etc. Without the ISPs, small companies wanting to use these technologies will be put at a disadvantage because they will not have the kind of expertise or help that they get from the independent, customer-friendly ISPs.



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## APPENDIX A

### **Additional Information on Broadband and Competition Documents:**

New Networks Institute has been tracking the Regional Bell companies' broadband commitments since 1992. As the name suggests, we have been committed to the deployment of "new networks".

In 1994, with the publication of a research report, "The Information Superhighway: Get a Grip", we clearly demonstrated that the Bells could not deliver the networks they were promising to the public in 1994.

The rest of this document highlights the various reports, complaints, filings, comments, as well as independent research that has been done on this topic.

### **Documenting the Bells' Failed Deployments**

#### **The Bells Greatest Broadband Failures, 1991-2003**

<http://www.newnetworks.com/bellbroadbandfailures.html>

To start, here is a collection of statements made by the Bell companies about their deployments, as well as some findings by other independent sources.

#### **Summary Report: How the Bell Stole America's Digital Future**

<http://www.netaction.org/broadband/bells/>

This report, published in 2000 by NetAction, lays out the basics of the promises in key states — California, New Jersey, Ohio, Texas, and shows the promises and failed outcomes.

#### **The Unauthorized Bio of the Baby Bells, published, 1999.**

<http://www.newnetworks.com/downloadbook.html>

This detailed discussion of broadband Alternate Regulation plans gives a blow by blow of what happened to the proposed fiber optic based promises, originally known as the "information superhighway". A free download of book or the various sections is available.

### **FCC Comments and Complaints**

New Networks Institute and other members of Teletruth have previously filed numerous comments and complaints with the FCC on the Bells' failed deployments and the costs to customers.

#### **FCC Comments #1 — September 1998**



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Inquiry Concerning the Deployment of Advanced Telecommunications Capability CC Docket 98-146 to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996.

[http://www.newnetworks.com/NNI\\_FCC\\_9-98.txt](http://www.newnetworks.com/NNI_FCC_9-98.txt)

“NNI believes that the history of state-level incentive regulation plans shows that it would be unwise for the Commission to adopt any form of regulatory policy that gives the RBOCs regulatory benefits, such as relaxed regulation or lessened oversight, in exchange for the hope or promise that increased RBOC deployment of advanced network capabilities will be the result.”

**FCC Comments # 2 — September 1998**

Advanced Telecommunications Notice Of Proposed Rulemaking, FCC 98-188, CC Docket No. 98-147

[http://www.newnetworks.com/NRPM\\_98-147\\_NNI.txt](http://www.newnetworks.com/NRPM_98-147_NNI.txt)

“The FCC Should Not Grant The Bells Any New Financial Incentives And Should Investigate The Bells Failure To Deliver On Promised Advanced Networks Despite Previous Incentives. — Our record is clear. The FCC’s is broken.”

**FCC White Paper #3 — March 17<sup>th</sup>, 1999**

Baby Bell Expose Refutes FCC Advanced Network Report and Calls for an Investigation of "Info-Scandal".

<http://www.newnetworks.com/alonefccrefute4.html>

“As we will demonstrate, the FCC's Report is a white-washing, attempting to show that the Telecom Act worked and has delivered on its promises to give Americans new services. Unfortunately, the Report is filled with numerous serious flaw. ...However, there is an abundance of evidence the FCC has ignored or not considered —literally hundreds of documents that detail the failure of the Bells to deliver broadband to the public in a ‘timely and reasonable’ manner.”

**FCC Comments # 4 —September 24, 2001**

Inquiry Concerning the Deployment of Advanced, Telecommunications Capability CC Docket 98-146 to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996.

<http://www.newnetworks.com/nni706noi2001.htm>

**Questions Asked:**

- Is America really going to have the inferior ADSL product over the 100 year-old-copper wire as its broadband future?
- Did the American public pay in excess of \$58 billion dollars for a fiber-optic network they will never receive? And are they still paying for it in the form of excessive phonerates? (doesn't include tax write-offs.)



- Why hasn't the FCC investigated the issues of the Bells' failed broadband deployment?
- Why hasn't the FCC investigated and enforced the laws to protect competitors?

### **FCC Complaint –#5 February 19th, 2003**

How Much Money Did the Bell Companies Collect From Customers for Broadband Networks They Will Never Receive? <http://www.newnetworks.com/prpenncomplaint.htm>

Teletruth Files Complaint Against the FCC: The FCC's Broadband Analyses are Seriously Flawed and Calls for a "Broadband True-Up", Not a 'Customer Takings'." This Complaint outlines the fact that the FCC data on broadband is completely lacking all information about the state deployments.

### **FCC – Other Broadband Items Filed**

Petition -- #6 —Petition to FCC Over ISP and Customer Broadband Issues, May 2003

<http://www.newnetworks.com/PRISPPETITIONS.html>

This Petition, filed with the Texas ISP Association, outlines multiple problems created by the Bell companies currently facing the Internet Service Providers in supplying broadband. This includes DSL predatory pricing, and sub-standard customer services, among other issues.

**Analysis of FCC Triennial Review Decision, 2003**

<http://www.newnetworks.com/idiotsdelight.htm>

**Comment #7 — Comment on the FCC's Triennial Review to Block Competition,**

2003 <http://www.newnetworks.com/triennialfin.htm>

**Comments #8-13— 6 FCC Comments/Reply Comments over Broadband, 2002**

<http://www.newnetworks.com/teletruthrfacommments.html>

Teletruth filed: The FCC's Triennial Review is in violation of the Regulatory Flexibility Act's mandate to include small businesses in the decision making process. The Triennial Review helps to put Internet Providers out of business.

**Analysis of Internet Broadband— "Small Telecom Business Impact Study", 2002**

<http://www.newnetworks.com/smallbusinessimpactstudy.html>

**Other Broadband Filings and Activities:**

**Proposed Congressional Bill — "The Broadband Bill of Rights", 2001-2002**

<http://www.newnetworks.com/broadbandbill.htm>

In 2001, Teletruth worked with Congressmen Nadler to create a broadband bill to protect the rights of customers and small businesses who receive sub-standard customer services.



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**NTIA Comments**— December 19h, 2001

Notice, Request for Comments on Deployment of Broadband Networks and Advanced Telecommunications Docket No. 011109273-1273-01] RIN 0660-XX13

<http://newnetworks.com/FINALNTIAfiling.htm>

“New Networks Institute believes that allowing the Bells into any new services or giving them any new incentives is tantamount to rewarding the Bell monopolies for fraudulent behavior. . History clearly shows that the new incentives will in no way bring advanced networks sooner or cheaper....If the NTIA is really concerned about the future of American telecommunications, it must take a clear, fresh look at the data — and not use data supplied by the Bell companies, through it myriad of Bell funded reports, lobbying groups, and other spin doctors.”

**Overall Impacts on the Economy**

The Tell-The-Truth Broadband Challenge to Verizon vs "The Verizon 100 Megabit Challenge" May 28<sup>th</sup>, 2003

<http://www.newnetworks.com/tellthetruthverizon.htm>

This essay outlines how Verizon has failed to deliver broadband in multiple states and yet keeps telling everyone they should be trusted for their new deployments.

**SPECIAL REPORT:** The Bells Caused The Current Financial Recession: The Fiber-Optic Fiasco and America's Copper Dirt Road. August 2001

<http://www.newnetworks.com/fiberopitcfiasco.htm>

New Networks contends that the Bells failure to roll out it's fiber optic networks helped to cause the collapse of the Telecom markets and the economy, and killed an entire generation of innovation and growth, costing the US \$300-500 billion annually.

**State Filings and Info**

**Pennsylvania:** Filed January 12<sup>th</sup>, 2004

Updated Complaint Requesting An Investigation Into Fraud And Collusion — Verizon Couldn't Build The Fiber Optic Networks When They Signed The Commitments With The State A Decade Ago. Customers paid an estimated \$1135 per household for non-existent networks they will never receive.

<http://www.teletruth.org/PennBroadbandfraud.html>

“By the end of 2003, Teletruth estimates that every household in Pennsylvania has paid in excess of \$1,135.00 for a fiber optic service they will never get. Teletruth estimates that the total overcharging to be \$3.9 billion or more in excess profits, tax deductions, and other financial perks, including funding other business ventures through cross-subsidization.”



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**Liberty, Bell (Verizon) Stolen,**

<http://www.newnetworks.com/Libertybellstolen.htm>

An essay about the Pennsylvania broadband story.

**Pennsylvania Broadband Scam**

<http://www.teletruth.org/PennBroadbandfraud.html>

A collection of materials about Broadband in Pennsylvania.

**New York, Teletruth Presentation, December, 2002**

The Two Broadbands... How NYC Got Conned and What We Should Do for the City's Broadband and Economic Health,

<http://www.newnetworks.com/NYCspeechfin.htm>

Presentation to the New York City Council, December 10<sup>th</sup>, 2002. In this speech we point out that Verizon New York not only had plans for fiber-optic upgrades to customers' homes and offices, but that the price of service to competitors was based on 100% fiber optic upgrades as a given. These upgrades never happened and inflated all rates.

**Complaint** Filed NY state Attorney General -1999

Bell Atlantic is Using Predatory Pricing for DSL that is Designed to Eliminate Internet Service Providers.

<http://newnetworks.com/baadslscrewisp.htm>

This complaint outlines the predatory pricing Verizon charges the ISP resellers of DSL.

**Complaint** – Filed NY State Attorney General —1999

Request to Investigate Bell Atlantic's Sub-Standard Customer Services, Predatory Pricing, and Monopoly/Anti-Competitive Behavior to Internet Service Providers and Competitive Local Exchange Companies, Request to Help Customers and Internet Providers Receive Compensation for Bell Atlantic's Failures.

<http://newnetworks.com/nyispcomplaint.htm>

This complaint demonstrated that customers who use competitive companies for DSL were receiving sub-standard customer services.

**Massachusetts: Filed October 1999**

On the Need to Investigate Bell Atlantic's Failed Deployment of Advanced Networks and the Impacts on Customers.

<http://newnetworks.com/Masscomplaint.html>

In 1999, New Networks Institute et al filed a Complaint with the Massachusetts Department of Telecommunications and Energy (DTE) claiming that the Verizon failed to deliver to the state on its promises to deploy 330,000 fiber optic upgraded lines by 1995 and it cost customers over \$1 billion in excessive profits.





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## Other Important Sources of Data.

**New Jersey – Analysis of Ratepayer Advocate on Verizon’s failed broadband deployment and the costs to customers.**

Initial Brief of the Division of The Ratepayer Advocate Regarding Opportunity New Jersey 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, DOCKET NO. TX96100707, March, 1997

<http://www.rpa.state.nj.us/onj.htm>

This is a review of Verizon New Jersey’s compliance with the Alternate Regulations, where the Advocate demonstrates that through Alternate Regulation, the company made excessive profits, while not delivering fiber-optic services to customers. It is one of the only Advocate’s Offices to attempt to hold the phone company accountable for their lack of upgrades and excess profits.

### California:

“A Timeline of Pacific Bell's California Broadband Plans”, published by San Diego Union, Tribune, 1998 (updated by NNI)

<http://www.newnetworks.com/californiabroadband.html>

### Pennsylvania and New Jersey – Reports by Economics & Technology.

Economics and Technology, a respected market research and consulting firm, has written a number of reports on the Verizon’s failure to deploy advanced networks and the costs to customers. To read their reports go to <http://www.econtech.com> (registration required.)

### Pennsylvania Testimony, Lee Selywn, Economics & Technology,

<http://www.teletruth.org/docs/LLS%20PA%20Senate%20Testimony%20Sept%2010%202002.pdf>

"Verizon Pennsylvania has realized financial gains in excess of \$4-billion as a direct result of Chapter 30 'alternate regulation'."

### Other Bell Data: (to be updated, June 2004): A 20<sup>th</sup> Anniversary Examination.

- **BellSouth, Qwest, SBC and Verizon's Revenues, Expenditures and Profits.**
- "Executive Summary Report", 2002
- **Bell Executive Compensation: A Primer in Corporate Greed.**— "SPECIAL REPORT" — How much is too much? \$1-2 billion in Stock Options? 2002
- **Bell Write-offs and Foreign Investment Losses.** — "SPECIAL REPORT" — \$31 billion since 1999, 2002



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## ENDNOTES

<sup>1</sup> **Source:** "PacBell's video bid proving more costly," Elizabeth Douglass, San Diego Union Tribune, Feb. 1, 1998, Page I-1.

<sup>2</sup> Sec. 706. Advanced Telecommunications Incentives.

"...initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms)...In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.

<sup>3</sup> "The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment."

<sup>4</sup> <http://www.reuters.com/newsArticle.jhtml?type=internetNews&storyID=6431404>"

<sup>5</sup> Federal Register: September 28, 2001 (Volume 66, Number 189)] [Notices] [Page 49718-49725]

<sup>6</sup> Implementation of Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Pursuant to Section 515 of, Public Law No. 105-554, Information Quality Guidelines, Adopted: October 4, 2002 Released: October 8, 2002

<sup>7</sup> Federal Register: September 28, 2001 (Volume 66, Number 189)] [Notices] [Page 49718-49725]

<sup>8</sup> Separate Statement Of Commissioner Gloria Tristani In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, Etc., CC Docket 98-146

<sup>9</sup> Separate Statement of Commissioner Gloria Tristani  
Re: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996 (CC Docket No. 98-146)



<sup>10</sup> Source: "PacBell's video bid proving more costly," Elizabeth Douglass, San Diego Union Tribune, Feb. 1, 1998, Page I-1.