# 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."[304]

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:[305]

> "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.[306]

> "(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.[307]

> "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.[308]

> "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.[309]

> "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.[310]

**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.[311]

> "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,[312] $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.”[313]

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***."[314]

The FCC materials clearly demonstrate that the plan was for new fiber-based networks, not simply a rehash of the old copper wiring.[315]

> “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.[316]

> "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.[317]

> "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.[318]

> "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”.[319]

> "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.[320]

> "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.[321]

> "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.[322]

> "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”.[323]

**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.[324]

> "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.[325]

> "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.[326]

> "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.[327]

> ***"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.[328]

**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[329]

> "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[330]

> "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[331]

> "As of December 31, 1996, the Company had approximately ***12,100 employees***."

New Jersey Bell 1997 Annual Report[332]

> "As of December 31, 1997, the Company had approximately ***12,500 employees***.

New Jersey Bell 1999 Annual Report[333]

> "As of December 31, 1999, we had approximately ***13,000 employees***."

New Jersey Bell 2003 Annual Report[334]

"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.”[335] 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.[336]

**Construction**

Verizon also claimed that it had been investing in networks. Their infrastructure report stated:[337]

***"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.[338]

***"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[339] 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.[340]

**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. [341]

> "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,[342] 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**[343] |
|---|---|---|
| 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.*[344]

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.[345]

> "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).[346]

> "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.[347]

> "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:[348]

> "Bell Atlantic, one of the earliest in the overbuilding game, gave up the ghost quickly, shuttering its Toms River, N.J., operation."