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1991

COMMITTEE MEETING

before

SENATE TRANSPORTATION AND PUBLIC UTILITIES COMMITTEE

SENATE BILL No. 3617

(Revises regulatory scheme for
telecommunications services)

December 10, 1991
10:00 a.m.
State Museum Auditorium
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Walter Rand, Chairman
Senator Thomas F. Cowan, Vice-Chairman
Senator Francis J. McManimon
Senator Leanna Brown
Senator Henry P. McNamara

ALSO PRESENT:

Peter R. Manoogian,
Aide, Senate Transportation and
Public Utilities Committee

* * * * *

Meeting Recorded and Transcribed by
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New Jersey State Legislature

**SENATE TRANSPORTATION
AND PUBLIC UTILITIES COMMITTEE**

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REVISED

COMMITTEE NOTICE

**TO: MEMBERS OF THE SENATE TRANSPORTATION AND PUBLIC
UTILITIES COMMITTEE**

FROM: SENATOR WALTER RAND, CHAIRMAN

SUBJECT: COMMITTEE MEETING - December 10, 1991

The Senate Transportation and Public Utilities Committee will hold a committee meeting on **Tuesday, December 10, 1991 at 10:00 a.m. in the State Museum Auditorium, West State Street, Trenton.** The purpose of the meeting is to receive testimony concerning S-3617, sponsored by Senator Menendez, which revises regulatory scheme for telecommunications services. Persons wishing to offer testimony are advised, however, that copies of a substitute bill draft will be available for distribution to the public on the afternoon of December 6 in room 331, Legislative Office Building, and they are requested to focus their testimony on the committee substitute draft. Although the exact text of the substitute has not yet been perfected, in general terms it provides for an alternative form of regulation of local exchange telecommunications carriers and for the deregulation of competitive services of both local exchange and long distance carriers.

The public may address comments and questions to Peter R. Manoogian, Committee Aide, or make bill status or scheduling inquiries to Kim Johnson, Secretary, at (609) 984-7381. Those persons presenting written testimony should provide 10 copies to the committee on the day of the meeting.

Issued 12/3/91

Revised 12/6/91 (Meeting Location changed to State Museum Auditorium)

DRAFT 1

WORKING DRAFT SUBSTITUTE FOR
SENATE, No. 3617

AN ACT concerning the regulation of telecommunications carriers and supplementing chapter 2 of Title 48 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares that it is the policy of the State to:

- a. Maintain universal telecommunications service at affordable rates;
- b. Ensure that customers pay only reasonable charges for telecommunications services;
- c. Ensure that rates for noncompetitive telecommunications services do not subsidize the competitive ventures of providers of telecommunications service;
- d. Provide diversity in the supply of telecommunications services and products in telecommunications markets throughout the State;
- e. Permit the board the authority to approve alternative forms of regulation in order to address changes in technology and the structure of the telecommunications industry; to modify the regulation of competitive services; and to promote economic development.

The Legislature further finds and declares that:

- a. In a competitive marketplace, traditional utility regulation is not necessary to protect the public interest and that competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation.
- b. Whether measured by the number of interexchange companies operating in New Jersey, the variety and number of services and/or competitive alternatives, or barriers to entry, the interexchange telecommunications marketplace in New Jersey is sufficiently competitive to relieve interexchange telecommunications carriers from traditional utility regulation.
- c. Permitting the competitive interexchange telecommunications marketplace to operate without traditional utility regulation will produce a wider selection of services at competitive market-based prices.

d. The board has found the interexchange telecommunications market place sufficiently competitive to relieve interexchange carriers from traditional utility regulation but found it lacked the authority to eliminate unnecessary regulatory constraints under the existing public utility statute.

e. It is in the public interest to relieve interexchange telecommunications carriers from traditional utility regulation.

2. As used in this act:

"Alternative form of regulation" means a form of regulation of telecommunications services other than traditional rate base, rate of return regulation to be determined by the board and shall include, but not be limited to, the use of an index, formula, price caps, or zone of rate freedom.

"Protected telephone services" means any of the following telecommunications services provided by a local exchange telecommunications company, unless the board determines, after notice and hearing, that any of these services is competitive or should no longer be a protected telephone service: telecommunications services provided to business or residential customers for the purpose of completing local calls; touch-tone service or similar service; access services other than those services that the board has previously found to be competitive; toll service provided by a local exchange telecommunications company; and the ordering, installation and restoration of these services.

"Board" means the Board of Regulatory Commissioners or its predecessor agency.

"Competitive service" means any telecommunications service previously determined by the board to be competitive or determined to be competitive pursuant to sections 4 or 5 of this act, or any telecommunications service not regulated by the board.

"Interexchange telecommunications carrier" means a carrier, other than a local exchange telecommunications company, authorized by the board to provide long-distance telecommunications services.

"LATA" means Local Access Transport Area as defined by the board in conformance with applicable federal law.

"Local exchange telecommunications company" means a carrier authorized by the board to provide local telecommunications services.

"Telecommunications service" means any telecommunications service which is subject to regulation by the board pursuant to Title 48 of the Revised Statutes.

3. a. A local exchange telecommunications company may petition the board to be regulated under an alternative form of regulation. The company shall submit its plan for an alternative form of regulation with its petition. The board shall review the plan and may approve the plan, or approve with modifications, if it finds, after notice and hearing, that the plan:

(1) will ensure the affordability of protected telephone services;

(2) will produce just and reasonable rates for telecommunications services;

(3) will not unduly or unreasonably prejudice or disadvantage a customer class or providers of competitive services;

(4) will reduce regulatory delay and costs;

(5) is in the public interest;

(6) will enhance economic development in the State while maintaining affordable rates; and

(7) contains a comprehensive program of service quality standards, with procedures for board monitoring and review.

b. Notwithstanding the provisions of R.S. 48:2-18, R.S. 48:2-21, R.S. 48:3-1.1 and section 31 of P.L. 1962, c. 198 (C. 48:2-21.2) or any other law to the contrary, in determining just and reasonable rates, the board may authorize a local exchange telecommunications company to set rates based on an alternative form of regulation.

c. No local exchange telecommunications company may use current revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize competitive services.

d. The board shall have the power to require such accounting and reporting systems from local exchange telecommunications companies as are necessary to allow a proper allocation of investments, costs or expenses for all telecommunications services subject to the jurisdiction of the board.

4. a. Notwithstanding the provisions of R.S. 48:2-18, R.S. 48:2-21, section 31 of P.L. 1962, c. 198 (C. 48:2-21.2), R.S. 48:3-1, or any other law to the contrary, the board shall not regulate, fix or prescribe the rates, tolls, charges, rate structures, terms and conditions of service, rate base, rate of return, and cost of service, of competitive services. The board may require the local exchange telecommunications company or interexchange telecommunications carrier to file and maintain tariffs for competitive telecommunications services.

b. The board is authorized to determine whether a telecommunications service is a competitive service. In making such a determination, the board shall develop standards of competitive service which, at a minimum, shall include evidence of ease of market entry; presence of other competitors; and the availability of like or substitute services.

c. The board may determine, by rule, order, or in accordance with the provisions of a plan filed pursuant to section 3 of this act, what reports are necessary to monitor the competitiveness of any telecommunications service.

d. The board shall have the authority to reclassify any telecommunications service that it has previously found to be competitive if, after notice and hearing, it determines that sufficient competition is no longer present, upon application of the criteria set forth in subsection b. of section 4 of this act. Upon such a reclassification, subsection a. of section 4 shall no longer apply and the board may determine such rates for that telecommunications service which it finds to be just and reasonable. The board, however, shall continue to monitor the telecommunications service and, whenever the Board shall find that the telecommunications service has again become sufficiently competitive pursuant to subsection b. of section 4 above, the board shall again apply the provisions of subsection a. of section 4 of this act.

5. a. For purposes of subsection a. of section 4 of this act, telecommunications services provided by interexchange telecommunications carriers are deemed to be competitive services.

b. Nothing in this act shall affect the board's authority to determine whether and under what terms and conditions it will permit interexchange telecommunications carriers to offer intraLATA services within the State.

c. The board may establish service quality standards for interexchange telecommunications carriers and nothing in this act shall limit the authority of the board to promulgate service quality standards for interexchange telecommunications carriers or to resolve complaints regarding the quality of interexchange telecommunications carrier service.

d. Nothing in the act shall limit the authority of the board to determine whether an interexchange telecommunications carrier should be extended the privilege of operating within this State.

6. This act shall take effect immediately

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SENATOR WALTER RAND (Chairman): Good morning, ladies and gentlemen. Today, the Senate Transportation and Public Utilities Committee will listen to comments on a draft bill -- S-3617. It is not the original bill. It is a Committee Substitute, which was an alternate draft -- and copies are available for everybody who doesn't have one -- a bill which would permit the Board of Regulatory Commissioners, formerly the Board of Public Utilities, to consider alternate means of regulating the local telephone companies.

Because of the great interest in this legislation, a large number of people have indicated that they wish to comment on the draft bill. Accordingly, I will allow each speaker to speak for five minutes. Now, those that come up in groups will be allocated extra time, and for the benefit of the Committee members and the public, I would like to announce that the Committee will go straight through lunch. There will be no lunch break as far as this Committee is concerned. Hopefully, we can have everybody testify before the end of the day. If you will keep your comments to the point and as brief as possible, we believe that we can entertain the 50 or so people that want to testify before this day is over.

We will begin proceedings with Senator Menendez.

S E N A T O R R O B E R T M E N E N D E Z: Yes, sir.

SENATOR RAND: Good morning.

SENATOR MENENDEZ: Good morning, Mr. Chairman and members of the Committee. May I?

SENATOR RAND: You can proceed.

SENATOR MENENDEZ: Thank you, Mr. Chairman and members of the Committee. I appreciate your calling--

SENATOR RAND: Oh, I'm sorry. Just one moment.

Senator McNamara, welcome. Did you have any comments? (negative response) I did not see you come in. I apologize.

Senator Menendez, you can continue.

SENATOR MENENDEZ: I appreciate your calling this important and uncontroversial bill before the Committee.

I came here to speak in support of S-3167, the working draft that you have before the Committee. And I come here to speak in support of creating jobs and nurturing economic opportunity. I come here today to speak in support of world-class educational and media medical resources opening up to people, regardless of wealth or accident of geography.

I've come here to speak in support of the facts of this legislation -- not the fantasy which a few special interests would have us believe -- and most of all, I come here to speak in support of the future. Whether we want it or not, the future bears down on us in unrelenting pace. The question is whether we'll put the future to work for us, or whether we'll let the future leave us in its wake.

I first became aware of the possibility of fiber-optic communication networks in a program -- where I have been working with a Washington-based firm who represents my community, in my other role as the Mayor of Union City -- a program called "Smart Cities." As the Mayor of Union City, New Jersey's most densely populated city per square mile in the nation, I'm consistently on the outlook for ways to increase our economic base without increasing congestion and density, and sacrificing the quality of life in our town.

The new information technologies, including fiber-optics, would allow New Jersey, in general and urban areas such as Union City in particular, to move to the front of the pack in competing for a piece of the 21st century economy. Fiber-optics provides places such as Union City with a chance for leading edge economic development and job creation, with few of the traditional drawbacks of the mad ratable chase we often go through as local officials.

As a matter of fact, as we debate property tax reform in New Jersey, the one issue we can all agree upon is that a

broader, healthier economic base for property taxes is the best cure for our different problems. If urban areas, such as the one I represent, as well as the suburban commercial sector, could develop a healthier ratable base, then the property tax burden would be more evenly -- more fairly distributed. The ultimate benefit would be that the property tax burden of individual homeowners would be lightened by the increased revenue base of a revitalized commercial environment.

The economic boon driven by an information based economy and the new and better jobs it would create will positively affect a wide range of revenue areas, including such arcane issues as the rate of tax collections. A healthier economy will mean more revenue, more equity, and no added burden to individual taxpayers, and this development can take place within the existing density patterns rather than creating more overdevelopment on our overburdened infrastructure.

This legislation can be a true and lasting property tax relief package. I think most people might not look at it that way, but that's one of the reasons I've agreed to sponsor it. Through an aggressive utilization of fiber-optics technology, we can be in a situation of true competitiveness in the new information future. We can create business and jobs that have a future -- a future which will make New Jersey's economy a national and world leader.

Imagine a room where classrooms in Jersey City can be linked in a seminar with classrooms all across America; where a doctor in Newark can confer with a colleague in California over two-way interactive video to come up with an accurate, fast diagnosis; where, if you are at home in Haddonfield, you can in fact, watch the local access show in Seattle. Fiber-optics can make it happen.

The raw material of the next century, Mr. Chairman, will not be coal or steel. It will be information. With this foundation legislation, New Jersey has a chance to be to

information what Japan is to consumer electronics or Saudi Arabia is to petroleum.

But everything I've told you, Mr. Chairman, in reality doesn't even come to fruition by virtue of this bill, because we've changed the bill from its original concept. Although this is one of the goals, we've changed the bill. So let me just take one minute to tell you what I believe this legislation does and does not do.

S-3617 first and foremost preserves all of the regulatory safeguards which have given New Jersey one of the lowest basic telephone rates in the United States. What this bill will do is give the Board of Regulatory Commissioners -- the former BPU -- the opportunity to create a modern, workable set of regulations to govern the emerging fiber-optic technology or for that fact, any other technology.

Consumers will be protected while private industry will be allowed to pursue a competitive economic future. The technology which the BRC regulates has changed dramatically since the last regulations were promulgated. Imagine if we left Motor Vehicle regulations untouched from the days when the Model T was still on the road? Consumers will come out ahead when the regulations and the state of the industry are in sync. Now while some vested interests fear fiber-optics technology as they jealously guard their turf, the fact of the matter is, fiber-optics can increase healthy economic competition and increase consumer choice and service.

The legislation will continue a mandate that New Jersey Bell, or for that fact, any other communications carrier must transport voice, video, and data services of all parties on equal terms. As long as we're talking about the future, I think that many of the parties who today oppose this legislation, might very well be in the technology -- might very well be those industries that can most benefit. The bill doesn't mandate an end to any business. It opens the

possibility of new businesses and jobs that can create the economic growth we so desperately need. The time is perfect for us to embrace the options -- the options -- this legislation creates. And options are a result of this bill -- not a specific demand for a particular technology which some may argue against; that was the original bill, even fiber-optics.

This bill has been redrafted to address the concerns of those who thought we had gone too far in promoting a single technological path. This bill is merely an enabling device. To call it anything more, in my opinion, is misleading. I would challenge the opponents of the legislation who will be coming before you, Mr. Chairman, and members of the Committee, to own up to their real motivation.

You know, I woke up this morning, Mr. Chairman, to my local paper, to read a front-page story, an editorial, and a letter to the editor from a cable TV company, all in one day. And this hasn't been unusual.

What I think is important, especially today in which we call for ethics in government -- when we call for disclosure -- that those people who come before the Committee-- There's nothing wrong to say that we have economic interests, and those interests will be disturbed if the Legislature passes this legislation. That's fine. That's maybe something for public policy debate. But let's say that. Let's be open and have the candor that we call upon our government officials to have. This Committee, I think, should inquire of that; to understand what really are the public policy arguments that are going on.

I don't begrudge cable television companies and media conglomerates the right to protect their turf. However, I believe that intellectual honesty demands that they reveal their true concerns; what are they? I have no doubt that economic rivals from Japan to Tennessee are already well down

this road. The risk is not to join them; the risk, Mr. Chairman, is to stand still. The information technologies, including fiber-optics, are a chance to bring the world's marketplace, the world's knowledge, and the world's economy to New Jersey. Delaying this opportunity to become a world leader in this critical technology would be as unwise as those who told the Wright brothers their wings would never fly, or telling Henry Ford we don't need a car; our horses will just do fine. The future doesn't wait, and neither should we.

I know that you're going to be conducting hearings, not voting on this legislation today, and I will attempt to be here for most of the day to listen to the arguments. I appreciate this opportunity to appear before you and the Committee.

Thank you.

SENATOR RAND: Thank you very much, Senator Menendez.

Are there any questions by the Committee?

SENATOR McNAMARA: Not at the moment.

SENATOR RAND: Senator Brown? (negative response)

Okay. Thank you very much.

The Honorable Ed Salmon, Chairman of the Board of Regulatory Commissioners. Do you have somebody with you?

E D W A R D H. S A L M O N, Ed.D.: Yes, sir, Mr. Chairman. I'd like to introduce to the Committee, Mr. Anthony Zarillo. He is the Chief Executive Director of the Board of Regulatory Commissioners. Before I begin my statement I would like to just say something on behalf of Mr. Zarillo. He has served State government over 30 years when it was the PUC, then the BPU, and now the BRC, and really is a treasure for this State when it comes to utility regulations. He has joined me today in case there might be any questions you would like to ask him.

Mr. Chairman and members of the Committee, first of all, we appreciate the opportunity to provide you with some

testimony in regards to the legislation which is before you. You have begun an important dialogue by holding this hearing today, and I am here to offer my insights as a regulator into the legislative process you are reviewing.

At the outset, I note this legislation does not -- and I emphasize does not -- raise the issues of telecommunications infrastructure or fiber-optics technology, and I do not intend to address these issues in my testimony today. Such discussions are premature. Issues of this type are best addressed by the Board in a formal structured way, and I do believe the public is best served by having them addressed in such a forum.

The body of regulators, of which I have the honor to be the presiding officer, was established 80 years ago. Over the ensuing decades, much has changed; both who we regulate and how we regulate has changed dramatically. Telecommunications, in particular, has emerged in a vastly different form. What this bill sets out to do is to give statutory recognition to this fact, and it does it in four ways:

- 1) Allowing the Board of Regulatory Commissioners to adopt an alternate form of regulation when it has been deemed to be in the public interest to have, in addition besides the traditional rate base/rate of return model,

- 2) Requiring the Board to examine the services now offered by the telecommunications industry, and develop criteria to clearly identify those which are competitive,

- 3) Defining "Protected Telephone Service,"

- 4) Acknowledging the competitive nature of long distance service, and relieving these interexchange carriers from traditional utility regulation where true competition exists.

New Jersey's regulatory policy has always recognized that when competition exists, it is more effective than any form of regulation in ensuring that consumers will receive the

best possible service at the lowest rates. The proposed legislation before this Committee represents no radical change from this policy.

This bill allows a local exchange telecommunication company to petition the Board to be regulated under an alternative form of regulation. The Board must review the applicants plan, and if after notice and hearing, finds that the applicant has met stringent criteria as set out in the legislation may adopt such regulation.

The permissive nature of the legislation and the requirements for full airing of the proposal are important protections for the public.

The Board is authorized to determine whether a telecommunications service is competitive. Criteria enumerated in the legislation includes evidence of ease of market entry, presence of other competitors and the availability of similar services, but leaves the Board empowered to add additional criteria, as necessary and appropriate.

The definition of "protected service" and the requirement that this basic service continue to be affordable is of paramount importance. In 1987, the Board adopted a Rate Stability Plan which set a cap on basic residential and business services which are noncompetitive. No future action in the regulatory sphere would interfere with continuing this kind of consumer protection, under the terms of the bill.

I want to emphasize that allowing for alternative forms of regulation does not translate into the abandonment of traditional rate base/rate of return regulation. The Board retains its ability to use that form of regulation when appropriate, but will gain an additional way to achieve its goal of assuring adequate service with fair pricing to consumers.

For more than six years, the Board has recognized consistently that the long distance marketplace is sufficiently

competitive to justify reduced rate regulation and has introduced flexibility in the regulation of interexchange carriers. In 1985, the Board adopted rules which reduced regulation of interexchange telecommunications carriers. These rules, the "Flexible Regulations," permitted price increases of up to 25% without the need for a rate proceeding before the Board. Even these rules, however, did not keep pace with the dynamically changing long distance marketplace. New rules were needed to allow the forces of competition to work -- to permit timely price changes, service restructures, and the introduction of new services. The Board, recognizing that the public interest was no longer served by traditional utility regulation in this evolving competitive market, proposed amendments to its flexible regulation rule in September 1990. However, an Attorney General's opinion advised the Board that it did not have the statutory authority to implement its proposed rules, and the Board withdrew its proposal in November of that year. With this bill, the Legislature is granting that statutory authority to the Board of Regulatory Commissioners.

I want to emphasize that with the adoption of this proposal, the Board will not abandon its regulatory oversight of intrastate operating telecommunications or interexchange carriers. The Board will continue to determine who is qualified to offer interexchange services in New Jersey, to regulate service standards, and resolve customer complaints regarding long distance service. Most importantly, the Board will continue to monitor the interexchange marketplace to insure that it continues to be competitive and is authorized to require such reports and other data from interexchange carriers as are necessary to make a meaningful analysis of market developments and to reregulate carriers if it finds that sufficient competition is not present.

I am confident that the Board is uniquely qualified to gather, develop, and analyze the data necessary to make this

determination and insure the intent of this legislative mandate. The Legislature has placed confidence in the Board in the passed, and with this legislation -- if passes -- will give additional confidences to the Board, and we assume that responsibility with a lot of concern and a lot of direction to make sure that confidence is well-placed.

In enacting this legislation, New Jersey is not unique. Regulators and legislators across the country have recognized the competitiveness of the interstate marketplace. Twenty six states, including Pennsylvania and most recently, Delaware, have now removed traditional rate of return regulation and granted long distance carriers full or substantial pricing and service structure flexibility. Virginia legislators require only that the Virginia Commission monitor the competitiveness of the marketplace. Iowa and Oregon have passed legislation eliminating utility regulations of interexchange carriers altogether.

The Board of Regulatory Commissioners has always held as its major telecommunications objective, the universal availability of affordable, high quality telecommunications service both intra and interstate. This policy has resulted in New Jersey's basic exchange rates being the lowest in the country. The Board remains committed to this policy and there is nothing in this legislation which impedes the Board's ability to continue this policy.

In addition, the Board is committed to ensuring that its policies and actions do not unfairly advantage one competitor over another. In fact, the Board is currently conducting an Open Network Architecture proceeding to ensure that information service providers have open and equal access to the public telephone network. Nothing in this legislation impedes the Board's ability to set such policy. In fact, the legislation contains specific guidelines in this area to ensure that the Board will remain vigilant in protecting the interest of all parties.

The current Rate Stability Plan is totally unaffected by enactment of this legislation. It will remain in full force and effect until such time as the Board decides to amend, modify, or take whatever action the Board determines is appropriate. Furthermore, should the Board decide to undertake any change or revision in this plan, it must be done in a complete open public hearing after notice to all interested parties, with full opportunity for any affected party to participate in those proceedings. The Board has always been committed to full protection of the rights of parties and by law, is bound by the tenets of due process.

Our State, New Jersey, has long prided itself as being on the cutting edge of new and inventive ideas and technologies. In fact, as I travel the country, New Jersey is looked on as a leader. Despite that fact, we now risk losing businesses to other states where the regulatory environment encourages and facilitates the introduction of technologically-advanced, consumer-focused telecommunications services.

Just recently I had the opportunity to attend a summit of Federal and State regulators. The FCC Chairman was there, and there were about 30 other chairmen of regulated commissions throughout the United States. One of the Commissioners, from Tennessee, stood up and pointed to this brochure, and was telling about the telecommunications industry that they are promoting in the state of Tennessee, and how it was going to produce thousands and thousands of new jobs; that really, this is where the job market of the future is. As he was opening the brochure that the Governor and the Cabinet members of Commerce were passing out, the center part of the brochure deals all with Tennessee telecommunications. I think that's where New Jersey has to be. We have to be in the center and the leader in promoting the telecommunications of the future and being able to have the opportunity and the tools necessary to create thousands and thousands of new jobs for New Jerseyans.

This legislation gives the Board the tools it needs to regulate in the '90s and into the 21st century. It ensures that we in New Jersey will continue to retain our position at the forefront of modern, state-of-the-art telecommunications. You have recognized that we cannot meet the challenges of 1991 in the same style as we did in 1911.

I want to thank you for inviting me here today and giving me the opportunity to voice my support and that of my two colleagues, Commissioner Jeremiah O'Connor and Commissioner Carmen Armenti, for this bill.

There were two suggested changes in the bill that I would like to give to the Committee on behalf of all three Commissioners. On page two of the bill, one of the recommended changes would be, as you go down the line, "Protected telephone services -- go down three more lines -- should no longer be a protected telephone service." We feel the sentence should start out: These include, but are not limited to.

SENATOR RAND: Commissioner, would you give that to Peter -- Dr. Manoogian, please? We would appreciate that.

CHAIRMAN SALMON: Okay.

SENATOR RAND: Any recommendations that you have, and certainly the Committee will discuss it--

CHAIRMAN SALMON: We will be happy to do that, Mr. Chairman, and I appreciate very much the opportunity to be here.

SENATOR RAND: Thank you very much.

Any questions?

SENATOR McNAMARA: I have just a comment. I guess the only comment that I have to make so far is obviously we're all here to hear all of the testimony. The thing that makes me nervous is everybody talking about how we have the lowest rates in the nation. It's like a reassurance that they may be going somewhere else. I promise to remain objective, but that gentle massage coming through from the first two speakers raises a little concern on my part.

Thank you, Mr. Chairman.

SENATOR RAND: Thank you. Any questions? Senator Cowan, Senator McManimon? Senator Brown? (negative response)

Mr. Zarillo, good morning.

A N T H O N Y J. Z A R I L L O: Good morning, Senator. Thank you very much for the opportunity to appear here. The question raised by Senator McNamara is a legitimate question and one of great concern to you all and to the Board. I want to just indicate to you that under the existing Rate Stabilization Plan -- which is in effect currently -- the proposed legislation, if enacted, will not modify change that plan at all. That plan requires that no changes in rates occur during the life of that plan unless there is some modification enacted by the Board. The Board cannot do it unilaterally, nor can the telephone company do it unilaterally. That can only be done after notice, public hearing, and opportunity to be heard by all interested parties to put whatever input they want into the process. So, I want to assure you, Senator, that--

SENATOR McNAMARA: But does this bill enable that to happen where that power does not exist at the moment?

MR. ZARILLO: I do not see anything in this legislation that will take that power away from the Board or abdicate it in any form, shape, or manner.

SENATOR RAND: Are you through, sir? (affirmative response) Thank you very much. Any questions from the Committee? (negative response) Commissioner, Mr. Zarillo, thank you very much.

The Honorable Wilfredo Caraballo, Public Advocate.
Good morning.

C O M M I S S I O N E R W I L F R E D O C A R A B A L L O:
Good morning, Senator Rand. Good morning, members of the Committee. As you are aware, the Public Advocate is statutorily mandated to look after the interests of the ratepayers of this State. It is in furtherance of this mandate that I am here today.

The bill before you has been introduced as a means of achieving many laudable goals. I share those goals. I am sure that the ratepayers share those goals. However, I question whether this bill furthers the intended goals. The ratepayers of this State have a right to expect that regulatory scrutiny will only be abandoned upon a clear showing that such scrutiny is no longer necessary as a protective device. This is especially true in light of the present economic times. There has not been any evidence of this kind.

The deregulation of New Jersey Bell's competitive services is not essential to building a fiber-optic network. Deregulation and the implementation of new technologies are two separate and distinct issues. Let us not be seduced by the allure of the development of such an advanced technological infrastructure. Any diminution in the level of regulatory scrutiny should be done only after a complete analysis of the current Rate Stability Plan and the potential impact of future proposals.

The ratepayers of this State will be deprived of a valuable property right without compensation should this bill pass in its present form. Historically, the ratepayers in this State have been able to share in the profit from the Yellow Pages. This is simply a recognition of the fact that the fruits of profit for New Jersey Bell have been plucked from the tree that is the ratepayer. Basic services, a monopoly, have given rise to other highly profitable services. I cannot imagine that anyone would want to eliminate New Jersey Bell's incentive to make money. New Jersey Bell has been a good citizen of this State, and we want it to live long and prosper. The ratepayer, however, is entitled to share in that prosperity.

What are the ratepayers getting in return for deregulation? At this point -- nothing. This bill should not go beyond the enabling language which permits a local exchange

telecommunications company to petition the Board to be regulated under alternative forms of regulation. The company must submit a plan which must meet safeguards for the ratepayer. If the company wants deregulation, then the plan can and should provide for deregulation. This plan would, in effect, be the payment for deregulation. Should not the plan be scrutinized and approved before it is decided that a sufficient price for deregulation has been paid?

The conclusion that a service is competitive has profound consequences, both for regulatory oversight and treatment of revenues. Rather than codifying the status quo as provided by this bill, a finding of competitiveness should be required after a full administrative review by the BRC for each and every service, notwithstanding its present designation. Such a review is necessary and in the public interest. The present categorizations have been in place with one minor exception. It says New Jersey Bell's current Rate Stability Plan was established in 1987. These designations must be reviewed as a result of significant changes in the telecommunications market since that time. It must also be recognized that a service, once facing competition, may no longer do so and be eligible to be reclassified as noncompetitive.

There is built into this bill a provision for reclassification. This provision, however, is a loser. Since the bill codifies the status quo, the burden of persuasion on the issue of reclassification falls on the party seeking the reclassification. Why should the ratepayers have to sustain this burden if the ratepayer wishes to challenge a service as being noncompetitive? Periodic reviews with the burden of proving competitiveness falling on the utility are the best way to protect the ratepayers' proprietary interest.

De facto deregulation of interexchange carrier services are just as problematic as maintaining the status quo

on competitiveness. Deregulation of interexchange carrier services should not take place without subjecting those companies to the same exacting standards and review just proposed for local exchange services. Such proceedings could be initiated on an expedited basis by the BRC.

On behalf of the ratepayers, I would urge that the Legislature include language which spells out a role for the Division of Rate Counsel in the implementation of this legislation. There should be no doubt about our authority to bill for work done in furtherance of this legislation. As you know, Rate Counsel is self-sustaining and receives no direct appropriations from the State for its utility work.

Finally, it was reported in Sunday's Star-Ledger that New Jersey Bell's rate of return is presently 17% when the company is viewed as a single entity. I daresay other utilities would love to have that high a rate of return. This is being accomplished under the present regulatory framework. Is there truly a need to abandon regulatory scrutiny? Investing in technology and keeping rates low are goals that we support. They can be accomplished under the present regulatory framework.

Thank you.

SENATOR RAND: Are there any questions ladies and gentlemen? (negative response)

Public Advocate, thank you very much.

The Honorable George Zoffinger, Commissioner of Commerce and Economic Development. Good morning.

G E O R G E R. Z O F F I N G E R: Thank you, Mr. Chairman. I guess it should be noted that I'm no longer the Commissioner of Commerce as of Friday. That was my last day.

SENATOR RAND: Okay. Today is Tuesday, so we're still all right.

MR. ZOFFINGER: I'm sorry?

SENATOR RAND: Today is Tuesday, so we're still all right. Was it last Friday, or this Friday?

MR. ZOFFINGER: No, last Friday. Last Friday. I'm a has-been, sir.

SENATOR RAND: Oh, then we could put you on the bottom of the list. (laughter)

MR. ZOFFINGER: That's right. Once you're gone, you're gone, right? Well, now that I'm here can I hold onto this podium and--

SENATOR RAND: We recognize your past contributions.

MR. ZOFFINGER: Thank you, Senator.

Mr. Chairman and members of the Committee, I'm here to strongly urge passage of the Senate Substitute Bill for S-3617. By opening the door to an accelerated state-of-the-art communications technology program, this bill represents an important first step toward moving New Jersey into the 21st century.

Fiber-optic technology will be the basis for many new information services over the next two decades. And because it will take years to install this type of communications network, we must now act if we are to retain our position as a leader in high technology advancements.

I regard New Jersey Bell's "Opportunity New Jersey Plan" as a clear expression of confidence in our State economy and in our ability to foster business growth and economic expansion in New Jersey.

I have confidence in New Jersey Bell because of their long history of investment and service to our State.

Rates for telephone service have not increased since 1985 and monthly residential service rates are the lowest of any Bell company in the country. I can tell you that when we talk to businesses about relocating in New Jersey, that was an important selling point for the Commerce Department. And I noticed that the Board of Regulatory Commissioners reported last week that New Jersey Bell is earning a return of 9.6% on their regulated services which is well below the 12.9% permitted by law.

I also have confidence in the legislation because it requires affordable rates: By authorizing the Board of Regulatory Commissioners to determine reasonable rates for these services, and by providing for substantive regulatory supervision.

This \$1 billion investment will help stimulate the State's economy, create jobs, and, at once strengthen our appeal to all types of industries. In fact, communications technology is one of the most important criteria for businesses considering a move to our State.

And the benefits of a fiber-optics network are not limited to high tech firms. While the number of manufacturing jobs has declined over the past decade in our State, the industry remains a vital part of our State's economy -- with over 12,000 firms employing some 550,000 workers. The ability to rapidly access and transport information is certain to improve productivity, lower costs, and help these companies remain viable.

But most importantly, a fiber-optics network will also address the needs of small companies. Ninety-eight percent of New Jersey businesses employ fewer than 100 workers, and those companies employ about 80% of our work force. So, in New Jersey, small business really is big business, and by providing the same communications capabilities available to large corporations -- to make swift management decisions, establish efficient operations, and better meet the needs of their customers -- we'll strengthen our own ability to compete and grow. Ultimately, high capacity fiber-optics will reduce the cost of providing services, resulting in lower rates to customers.

In March, I joined Governor Florio in calling together hundreds of representatives from the business community to ask for their help in developing a blueprint for economic growth. And members of the conference asked us to consider carefully

the importance of a state-of-the-art telecommunications network to our business climate.

Our ability to compete in the future depends on how quickly and decisively we move to implement this proposal because services available through fiber-optic technology will determine the ability of individual companies to compete with one another.

Recognizing this, other states are already moving ahead. In Kentucky, they're reexamining their telecommunications infrastructure, and in Minnesota, they've launched an effort to modernize their communications network. In Wyoming they've invested \$60 million in a digital fiber-optic network. And the list goes on: In California, in Connecticut, and in Massachusetts, they're making important investments now. Today, there is a program underway known as "FYI Tennessee" -- a 10-year master plan for the development of a new and expanded telecommunications infrastructure. By the end of 1993, fiber-optic cable will connect all but the very smallest of Tennessee's local telephone offices -- greatly expanding the capacity and reliability of their network for voice, data, and video transmissions.

By the end of 1995, 60% of Tennessee's telephones will have access to a new "Integrated Services Digital Network" -- the ISDN -- with the capacity to use a single telephone line for voice, data, and facsimile transmissions, all at the same time.

By 1998, ISDN services will be available throughout all of Tennessee, and they are already using this network as part of an aggressive campaign to attract business relocations from across the country to their state.

As opportunities for economic growth and expansion continue to shift toward information services and technology, the quality of our communications infrastructure will determine this State's ability to attract and retain businesses and jobs.

I urge you to support this measure. I also have brought with me some information on "FYI Tennessee" if you haven't had it available, and some other things for your perusal.

Thank you.

SENATOR RAND: You can give that to Dr. Manoogian. We appreciate that.

Are there any questions, ladies and gentlemen?
(negative response)

Mr. Zoffinger, we wish you well and we thank you for your service to the State. And we would still put you up and not at the bottom.

MR. ZOFFINGER: At least somewhere near the top, huh?
Thanks. Thank you.

SENATOR RAND: Mr. Alfred Koeppe, Vice President, Public Affairs, New Jersey Bell Telephone Company. Good morning.

A L F R E D C. K O E P P E: Good morning, Senator. Thank you for the opportunity to appear today to address the Committee on this bill. It is obvious to me that the Committee staff has worked very hard to incorporate the concerns and recognize the issues that have been expressed over the last six months in relationship to Bill No. 3617. I appreciate those efforts.

Both bills update the existing 1911 statutory law currently governing telecommunications, and recognize the changes in technology and competition that have occurred over the last 80 years. But this bill differs from S-3617, I believe, in certain fundamental respects, and they are favorable. Where S-3617 specifically endorsed the development of fiber-optic technology, this bill endorses no specific technology. I think that is in recognition of concerns expressed that there are other technologies available for telecommunications and, though we believe, as a telephone company, that fiber-optic technology is the key to our future

for this State, we are prepared to submit those beliefs and those convictions to open hearings, and this bill requires open hearings.

Where 3617 provided the Board with explicit regulatory guidelines, this bill empowers the Board to determine appropriate regulation upon a clear showing that such action will enhance the public interest and contribute to economic development in this State, while maintaining low, affordable rates. That is important, and it is timely.

Where 3617 was silent on the need for full public hearings and public scrutiny, this bill explicitly recognizes the appropriateness of both. And where 3617 made no provision for the Board to reclassify and fully re-regulate competitive services, this bill explicitly recognizes that responsibility. That is important.

I think it is also important to note that this legislation does not increase prices. In fact, the legislation mandates affordable rates, and further requires that any change from existing regulation be made only after a hearing and after interested parties are heard. Conducting public hearings and making a determination of whether the plan is in the public interest, is a fundamental piece of this legislation. It empowers the Board to hear and make that decision.

New Jersey Bell's position has been public for some time now and it is very clear. We believe -- and we are not alone in this belief -- that a modern telecommunications network available to the entire State -- a public network -- will support existing businesses, attract new businesses from other states and nations, and provide significant health care and educational opportunities. We believe we can modernize New Jersey's public telephone network faster and at a lower customer price than any telecommunications company in the world, and we are willing to have that conviction tested in the open hearings contemplated by this legislation.

We also believe that we can build this network while freezing our prices. Rates have not increased since 1985 on our basic services -- basic regulated services. We anticipate to continue that freeze, that cap, until 1995. Between 1996 and 1999, any increases would be strictly monitored to a fraction of the CPI, and no more than a quarter -- 25 cents -- a month in any given year on basic residential service. That service, as I mentioned before, is already the lowest in the nation. We believe we can do that because we are willing to put our shareholders' capital on the table to accelerate a planned investment in this State by over \$1 billion over the next eight years, at a time when New Jersey needs that investment.

This is a good plan. I believe it makes good sense, and this legislation makes good sense for New Jersey. It meets the present; it prepares for the future. It continues traditional regulatory safeguards, yet is flexible in allowing the Board to construct regulatory change to meet the technologies and competition of the future. It encourages cooperation between New Jersey's public and private sectors to achieve shared goals, and this incentive to work together is important to all of us. We have seen that in the debate over the last six months. While today we have concerns expressed, I am sure, from adversaries, we have also heard constructive comments and efforts to work together. That is important, and we will see more of that before the BPU.

New Jersey Bell and Bell Atlantic intend to be part of New Jersey's telecommunications future. We have been so for the last 80 years. The ability to build, enhance, and maintain complex networks is the very heart of our business. We have confidence that we can take advantage of the opportunities presented by technology. We are eager to put our plan before the Board of Public Utilities -- the Board of Regulatory Commissioners. Now obviously, some will disagree with the

manner in which we pursue these goals and the details. I would ask them to state their interests and their vision for this State. Ours is plain. We wish to enhance this network to bring these services to New Jersey's providers and to its customers, and we wish to do it quickly, and I believe this legislation facilitates that.

Thank you.

SENATOR RAND: Any questions, ladies and gentlemen?
Senator Brown?

SENATOR BROWN: I am curious. Do you see the largest growth taking place in the commercial or the residential market?

MR. KOEPPE: Our largest growth, Senator, in terms of development of the network? Well, you know, as a common carrier, as a public network, the growth obligation we have is to serve both the private and public sectors, the commercial as well as the residential. That is why I think initiatives that are legislative and regulatory initiatives that encourage the growth of a public network serve both sides of our business and residential communities. That is important. I see it as a progression that actually enhances both segments.

SENATOR BROWN: Right.

SENATOR McNAMARA: You really didn't answer the question.

MR. KOEPPE: You have to help me.

SENATOR BROWN: All of that is true, but do you envision a larger growth coming from demands from--

MR. KOEPPE: Oh, absolutely.

SENATOR BROWN: --the consumer in his or her home, or in his or her workplace?

MR. KOEPPE: Okay, I understand better what you're saying. I think what we will see early on is growth more in the business sector and in the education and health care providers' sectors of the economy. Then, ultimately, as services become more commonplace in those areas, we will see

technological services become more common in the home. I think that is the normal progression. As a matter of fact, I think network development over the next years -- the next eight years, the next 15 to 20 years -- will see that kind of growth take place earlier in the-- The usage will take place earlier and quicker in the industrial areas of the State. Then obviously, as residential customers become more familiar with the use of technology in their workplace, in their schools, or in other areas, they then will use it in the homes as well. But it will be available -- I mistook availability for usage -- for all.

SENATOR RAND: Mr. Koeppe, thank you very much. Oh, pardon me, just one moment. Senator Cowan?

SENATOR COWAN: Mr. Koeppe, in relation to the fiber optics that now exist within our State, particularly coming in through Staten Island and up into Hudson County, is the telephone company involved with that at all?

MR. KOEPPE: Senator, that is a private network that has been constructed by an outside carrier. A private network can provide technology in this State to businesses, and they do. They customarily-- Some are called "cherry-picking" -- "cherry-pick businesses," large businesses, and serve them over fiber optics.

Now, we compete with them over our public network and, Senator, as you know, we have a very aggressive fiber optic digital switch network in Jersey City and along the Hudson County waterfront. That particular endeavor is sponsored by a Long Island firm, Teleport. They offer their services to business customers in Hudson County, in competition today with New Jersey Bell and the other long distance carriers to some extent, in the State.

SENATOR COWAN: Is that totally private?

MR. KOEPPE: Yes, a private network.

SENATOR COWAN: The Port Authority is--

MR. KOEPPE: I believe they were associated with the Port Authority at one time, but no longer, Senator.

SENATOR COWAN: And you are in competition with them?

MR. KOEPPE: We find that they customarily serve our business customers. Frankly, that is their niche market. They are looking to serve business customers using high technology, in an effort to cherry pick those customers. Now, they don't serve residential customers. They just look for the business customers.

SENATOR RAND: Thank you very much, Mr. Koeppe.

MR. KOEPPE: Thank you.

SENATOR RAND: Mr. Newhouse, General Manager of The Star-Ledger, Mr. Bilotti, Publisher, The Trenton Times, Janet Krause, Publisher, Ocean County Observer, and Ed Mack, General Manager, Hunterdon County Democrat. If you will all come up, we will give you ample time to speak. Good morning.

M A R K N E W H O U S E: Good morning. Senator Rand and honorable Senators: My name is Mark Newhouse, and I am Vice President and General Manager of The Star-Ledger in Newark. I serve as Chairman of the Government Affairs Committee of the New Jersey Press Association, and I appear before you to represent the views of the newspapers of this State.

The New Jersey Press Association has a membership including all 21 daily newspapers and over 120 weekly newspapers in New Jersey. Up until last Friday, the newspapers of New Jersey had a number of serious concerns about the proposed bill -- S-3617 -- which are the subject of this hearing today. Those concerns were based on two quite different areas: First, about the fairness of the rate-making philosophy embodied in the New Jersey plan, which apparently has been endorsed by the BRC and by the administration. And secondly, about the provisions of the bill which give the BRC wide latitude in allowing New Jersey Bell to enter new competitive areas of business, subject only to minimal

oversight with regard to the nature of these businesses and to pricing.

S-3617 was introduced in July, and has been the subject of intense debate since that time over these and related questions. Now, at the last minute, the eleventh hour, we are confronted with a wholesale rewriting of this important bill, despite the fact that exactly one week ago, representatives from New Jersey newspapers had a meeting with the Chairman of this Committee in his office in Camden. He was not able, at that time, to discuss the nature of the changes in this rewritten draft bill, since it was still in the process of being worked on. None of the interested parties represented here, including members of this Committee, representatives of New Jersey Bell, New Jersey newspapers, and others have had any opportunity to read the bill and begin to evaluate its significance, until late in the day on Friday, December 6.

New Jersey newspapers previously were concerned about the undue haste with which it appears this important and complex legislation was being handled. Those fears are now redoubled. With the short notice between the releasing of the rewritten bill and this hearing, we submit to you that it is impossible for these hearings to be meaningful. We do not believe that members of this Committee, New Jersey Bell representatives, New Jersey newspapers, or anyone else has had sufficient time to consider the wholesale changes that have been made. A cursory comparison between the old and new bills indicates that the entire thrust of the legislation has been changed, and that a number of important areas of debate have been made vaguer in the new bill. But it is unfair to the people of this State and any interested group to ask for reasoned analysis and substantive comment with such little opportunity to seriously examine what these changes mean.

Gentlemen and ladies, this is not a Democratic bill, nor is it a Republican bill. There is no necessity, and much

danger, in the unreasoned and unreasonable blind rush to complete action on this important matter in the lame duck session. The costs to New Jerseyans -- \$1 billion or more -- could be enormous. The issues involved are complex. The outcome of this telecommunications policy will affect the economy of New Jersey and the budgets of New Jerseyans for many years to come.

Two Sundays ago, The Star-Ledger ran an editorial on this subject entitled, "What's the Hurry?" In last Sunday's Star-Ledger, James Cullen, President of New Jersey Bell, responded to that editorial in a letter which concluded by asking the contrary question: "Why Wait?" Why wait? Because the issues are too important and the costs are too high to rush into a big mistake. The costs and benefits of the fiber-optic plan need to be fully debated, and that cannot be done between now and the end of this legislative session.

Thank you.

SENATOR RAND: Any questions, ladies and gentlemen?
Senator Brown?

SENATOR BROWN: I have a question. I appreciate very much your interest in coming down here. Obviously, like most of us, we start our day, you know, reading the newspaper. I have to finish up being a couch potato. But my question is: How do you envision this new technology working? For example, your classified section is very effective. Okay? So, under this new technology, do I have two options then; I can either get the hard print classified -- such and such a job is wanted somewhere -- and I can also, you know, press a button on my screen and find out from your same source of information that such and such a job is available?

MR. NEWHOUSE: That is a very good question, Senator. That is exactly the kind of question that I wish I knew the answer to so that I could tell you what I think about this bill. The only applications we have heard about from New

Jersey Bell are for hospitals and education. I don't see anything in the bill about a network to connect hospitals or schools. I do not know who would be offering such classified advertising, and that is one of the things we are very concerned about. The next speaker we have will address that more precisely.

SENATOR RAND: Anybody else? (no response) Thank you very much, Mr. Newhouse.

MR. NEWHOUSE: Thank you.

SENATOR RAND: Mr. Bilotti, good morning.

R I C H A R D B I L O T T I: Good morning, Senator Rand.

Mr. Chairman, Committee members: I am Richard Bilotti, Publisher of The Times of Trenton. I am also here in my capacity as a member of the New Jersey Press Association's Government Affairs Committee.

In the debate over this fiber-optic enabling legislation, New Jersey Bell has criticized some of those commenting on it, including members of the New Jersey Press Association. The President of New Jersey Bell has pointed out that newspapers in New Jersey fear the competition that a fiber network could provide to their classified advertising. New Jersey Bell would like you to believe that newspaper publishers are fat and happy monopoly businessmen trying to protect their franchises.

Well, the part about concern for the newspaper business may be accurate, but the fat and happy part is not on the mark. I would like to give you some of my own perspective on this matter. When I started out in the newspaper business, I worked for The Star-Ledger. At that time, people used to joke that The Star-Ledger was the number three newspaper in a two-newspaper town. We had strong competition in those days, a big, powerful newspaper called The Newark Evening News, which dominated the State. The Newark Evening News is no longer in business.

After I left New Jersey, I worked for a time as an editor at The Plain Dealer in Cleveland, Ohio. At that time, we also had a competitor across town called The Cleveland Press. The Cleveland Press is no longer in business.

I returned to New Jersey in the late '70s as publisher of The Gloucester County Times. When I arrived, The Times was one of four papers sold in Gloucester County, The Philadelphia Inquirer, The Camden Courier, and The Philadelphia Bulletin being the other three. When I moved on to Trenton in the mid-'80s, there were only three papers left. The Philadelphia Bulletin had folded.

In the last five years, three dailies in this State have ceased publication, in Dover, in Red Bank, and in Union City. And The Elizabeth Journal has stated that it intends to close its doors less than a month from now, unless a buyer can be found. Yesterday I read of the demise of yet another big city newspaper in Dallas.

The point I am trying to make is that newspapers are already fighting it out in an intensely competitive environment. We not only have competition from each other -- and those of you who buy newspapers in Trenton know very well what competition is -- but we also face competition from radio, broadcast television, cable television, magazines, and direct mail, among many others. Many of you may not realize that an average of 80% of newspapers' revenues come from advertising, not from the 25 cents that you plunk down to buy a copy. And it is this intense competition for advertising which determines which newspapers will survive, and which will die.

Many of the newspapers I have mentioned had very healthy circulations when they went out of business, but circulation is not the entire name of this game. So, when New Jersey Bell says we are worried about competition for advertising dollars, they are correct, but we already have lots of competition. What we don't need is unfair competition from

a ratepayer-subsidized monopoly with guaranteed rates of return. We are very concerned about the interplay between New Jersey Bell's regulated and unregulated businesses; how they will work and how they will put newspapers at a disadvantage.

As my colleagues have stated, the rewrite of the bill appears to change the intent of the legislation in these areas, but we have not had time to assess whether these changes truly address the problems that concern us. I would urge the members of this Committee not to be stampeded into a quick approval of legislation that could have a serious economic impact on many businesses in this State. If this idea really does make sense and is good for the people of the State, it certainly will still make sense in January, February, or March. We simply need more time to make sure that the protections are adequate. New Jersey, its people, and its businesses deserve no less.

Thank you very much.

SENATOR RAND: Any questions, ladies and gentlemen?
(no response) Mr. Bilotti, thank you very much.

MR. BILOTTI: Thank you, Senator.

SENATOR RAND: Janet Krause. Good morning.

J A N E T K R A U S E: Good morning. Mr. Chairman, members of the Committee: My name is Janet Krause. I am Publisher of the Ocean County Observer, which is a daily newspaper in Toms River. I also publish two weekly newspapers in Ocean County, the Point Pleasant Leader in Point Pleasant Beach, and the Ocean County Reporter.

I appear before you today to speak as much to the legislative process as to the bill which is the subject of this hearing. It is my firm belief that legislation enacted quickly more often than not results in laws which prove to be either unworkable or detrimental to the needs of our residents. I fear that such will be the case if this bill, which has such significant ramifications both to the New Jersey Bell ratepayers, as well as to New Jersey's future, is acted upon

hastily. Therefore, I urge you to deliberate the merits of this legislation in a thorough and thoughtful manner, so as to make sure that the brunt of the cost of installing this system and network does not fall squarely on the backs of the residential customer, who will probably never use the system.

We also need assurances that the system is not outdated before it is completely installed. There are many experts who believe that the system will prove to be quickly obsolete, and other technologies are available perhaps.

Moreover, we are all dealing today with a bill which is far different from the initial submission, and which we have only had since Friday to understand. I believe the Committee joins me in being at a loss to speak definitively as to the merits of this bill, which contains so many obscure passages and creates a whole new system of Board of Regulatory Commissioner review. For example, how will the alternative form of regulation work? There appear to be no guidelines contained within this legislation, and the absence of such is a major concern to me. Who will pay for this \$1 billion or more network to be installed? I have heard figures as high as \$3 billion. Clearly, this is a pass along to the ratepayers and, in effect, it becomes a tax.

Again, the language is very vague, but section 3.c. would seem to indicate that only current revenues earned from noncompetitive services could be used for competitive services. This would indicate also then that future revenues from noncompetitive telephone services could be used for the fiber-optic network. In other words, the ratepayers are to pay for these services, which they will most likely never utilize. What is and what is not considered to be a competitive service is, again, vague, and is, again, left up to regulators, and not the Legislature to decide.

I am sure that those more knowledgeable of utilities and the rate review process may better understand what the

effect of this legislation will be, but many themselves have questions about obscure and very loosely defined provisions. Let's give this legislation the full airing it deserves, and ignore this artificial time constraint that New Jersey Bell is imposing on this Legislature. If this is a nonpartisan issue -- and by the list of sponsors it would be so indicated -- then there doesn't seem a need, to me, to railroad it through in this lame duck session. The people of the State deserve to have full knowledge of what this legislation does, and the legislative process demands it.

I thank you.

SENATOR RAND: Any questions, ladies and gentlemen?
Senator McNamara?

SENATOR McNAMARA: Just a comment. I have to say, after listening to the last three, the criticisms are very, very valid. We received the bill on Friday also.

SENATOR RAND: Anybody over there? (no response)
Thank you very much, Ms. Krause.

Mr. Mack, General Manager, Hunterdon County Democrat.
With that word, you get special attention.

E D M A C K: You may find yourself in the wrong territory.

SENATOR RAND: Well, that may very well be, but I have to inject some humor into the process. Otherwise, it would get too serious--

MR. MACK: That's right.

SENATOR RAND: --and it is serious business.

MR. MACK: It is. Well, good morning, Mr. Chairman and members of the Committee. I appreciate the opportunity to testify on this very important and far-reaching legislation.

I am the President and General Manager of the Hunterdon County Democrat, a large weekly newspaper serving more than 100,000 residents in the western part of our State. I am proud to say that the newspaper is observing its 166th year of service to the people of Hunterdon by providing information vital to their interests.

I join my colleagues in expressing concern about the legislation before you today, because as a lifelong reporter, editor, and now business executive of an information service company, I deplore a monopoly and firmly believe that no company should have a monopoly on the dissemination of information.

We have just come through an era where monopoly power over information gave hundreds of millions of people a distorted view of the world about them, and we don't want to create a situation in New Jersey and the United States that would begin the destruction of one of our most important marketplaces -- the marketplace of ideas. How could this occur, you may ask?

The phone company owns exclusively the fiber-optic blinds and attendant technology. No other provider of information, whether it be newspapers, magazines, or the like, could effectively compete with such power. In the absence of powerful competition, New Jersey Bell would be able to sell news, advertisements, and other information services at whatever price the traffic would bear.

I have to express my doubts, too, about the strength of the Board of Regulatory Commissioners in its ability to deal with the resources of a \$12 billion giant and its research and lobbying capabilities. It is a frightening prospect to me that a single company, a single monopoly, could control what may become the most powerful delivery system for the dissemination of information to our society. Freedom of the press is a concept we all hold dear, and any effort which diminishes our ability to have complete and comprehensive access to the news should be abandoned immediately.

Should fiber-optic technology be abandoned, or its installation delayed? Of course not. What we in New Jersey should do is await the response of Congress to vital aspects of this issue. As we speak, legislation is pending in Washington

which would define the ground rules under which Bell could offer information services. The Legislature in New Jersey, not the BRC, should adopt the necessary safeguards in many of these areas.

Meanwhile, New Jersey Bell can continue installation of its fiber-optic network. They have already said they are determined to put fiber out there anyway. Please do that, but place the burden for the creation of the system on the stockholder and not the ratepayer, and be sure that the information services are carefully protected.

Thank you.

SENATOR RAND: Thank you very much. Are there any questions, ladies and gentlemen, for Mr. Mack? Senator Brown?

SENATOR BROWN: Just to move my own individual thinking along, if you would indulge me, please-- I am a little confused now, because obviously we have an infrastructure that allows us to dial and talk to one another, and nobody, you know, edits what I say when I call from my car phone to whomever I am calling to, or whatever. I may be way out to lunch, but it seems to me that the legislation we are considering here today is the basic network that provides the vehicle through which all sources of information can be disseminated. Whether it comes from the Hunterdon Democrat, or whether it comes from Suburban Cable, that is where the competition is going to be. I am just wondering whether this is correct.

MR. MACK: We are not clear-- Once again, we are dealing with a bill that -- with most of us -- has left us in the same kind of wonderland that some people here are in. It is very difficult to determine what all this really comes down to, but we want to make sure that we are making our point. And the Congress is working hard on the very important issue of information provision by the--

SENATOR BROWN: Well, being a firm supporter of newspapers, let me tell you that as a legislator, there is nothing more important I do than sending a hard piece of copy to my constituents. You know, I can't do that from anything -- from my TV screen. But as we look for new options and ways to disseminate news, I would hope that this would work out so that there could be more opportunities, rather than less opportunities for the fourth estate. But I am not clear either.

MR. MACK: So would we. I cannot give you a further answer.

SENATOR RAND: Thank you very much. Let me assure you, ladies and gentlemen, your concerns and your points are well noted. We thank you for your testimony.

Mr. Ginty and Mr. Hyland. May I pay my respects to the former Attorney General? Good morning.

W I L L I A M F. H Y L A N D, ESQ.: Good morning, Senators -- my former Senator, my present Senator.

SENATOR RAND: You've got them all wrapped up, haven't you?

MR. HYLAND: Yes. Well, somebody said that because of the kind of testimony I am giving today -- it essentially comes out of my background as what we called President, in those days, of the Public Utilities Commission, for seven or eight years in the 1960s -- that I was a bridge to the past, which sounds very poetic, and even romantic. Then I reminded this person of the kind of shape the bridges of this State are in, so I would rather think of myself as merely someone who is reminding this Committee, and others, of the fact that regulation in this State, and throughout the country, is an evolving concept.

SENATOR RAND: I'm glad you said that. I thought you were referring to my age.

MR. HYLAND: When I started to practice law in Camden County, Senator, we were dealing essentially with the Public

Utilities scheme that was promulgated during the administration of Woodrow Wilson in this State as Governor, when it was recognized by the Legislature that services that were essentially monopolistic in character needed to be regulated by government so that the quality of service would be maintained and that service would be provided to the public at affordable prices.

That scheme, that regulatory pattern, stayed intact, essentially, in this State, and in most other states in the country, until the early '60s, when changes in technology and economics, the way we do business, the way we live, made it essential for the regulatory pattern of the past to be reviewed. I was on the Commission in the beginning of 1961. When I came there, I found already underway an extensive review of the records of the Public Utilities Act. We spent an enormous amount of time over the next several years considering the changes in life-style and in business and so on, before finally coming to this Legislature with a rather extensive revision that was adopted in 1964. It modernized the Public Utilities statutes, if you will.

From time to time since then, changes have been made, but I don't think we have kept up, in New Jersey, with the changes in the regulatory framework that have been made in other parts of the country and come about because of the fact that there is a notion that government should not be as deeply involved as it has been in the past, in many areas of our lives, and that many of the services that the public was provided with initially from companies that had a monopoly and were protected in that monopoly -- that those services instead today were being provided by a myriad of companies -- competitors. That certainly is true in the telecommunications field.

The divestiture of the Bell system a few years ago was designed, in part, to open the doors to competition, and it

surely has. In watching our television screens and seeing how intensely these companies like MCI, Sprint, AT&T, and others compete for business, we have to recognize that great segments of this telecommunications phenomenon that we are experiencing in this country and elsewhere are intensely competitive. And as you hear from all of the different interests that are represented here today, it is quite clear that there is a great deal more competition than there was in the past, and so it becomes our obligation -- as legislators, as regulators, as lawyers, or whatever our work assignments happen to be -- to look at what we are doing and to attempt to decide whether we have kept up with the needs of the public.

I don't think it is correct for the press, for example, in this one particular area, to say, "Let's not be in a rush. Let's take our time." In my experience as a former government person, they were always after us: "Why haven't you done this? Why hasn't this been done?" But instead, where their self-interest is involved, we are told, "There is no need to hurry. We should look in a much more reflective fashion at what is being done."

That wasn't the way things were handled in other jurisdictions that we have fallen behind in terms of the character of our regulation today. I read in this morning's newspapers that there may be some question about what this Legislature can accomplish in the next several weeks before it changes so profoundly. That is still no reason why this Committee, in the exercise of its responsibility, should not be looking seriously at questions like this and collecting information that will be useful to you and to others in this Legislature and in the Legislature that takes office early in 1992.

I think in my own case I would find it very difficult, as someone who has been in regulation for many years, to support this bill if I thought it was going to undercut the

principles of utility regulation. But what I'm saying is, competition is much more efficient, much more in the public interest where it exists, or where it can be developed, and it is an anachronism for us to continue to regulate segments of our utility services that are being provided on a competitive basis today, instead of in the monopolistic fashion that they were provided in the past.

I think, contrary to some of the remarks that have been made here today, that the Public Utilities Commission, or the Board of Regulatory Commissioners, as we now call it, is a very effective judge of competition and the health of companies and what the public's needs are. It is very difficult to write precise legislative standards that are not going to lock that Commission into positions that are not in the public interest.

Having been on the Board for eight years, having practiced in the utility area for many years, I have to say that while I don't always agree with what the Commission and its staff does, I do have confidence in the strength of our statutes and in the fashion in which those statutes and the regulations adopted under those statutes generally are carried out.

So I support, with enthusiasm, this updating, this modernization of our statutes. It continues the trend that has been in effect for as long as I have had any exposure to the utility area.

I am going to leave to my colleague, Jim Ginty, of AT&T, some of the more technical aspects of this. I have tried to eliminate from my written testimony -- which I will hand up to you -- those statements or concepts that I think have amply been covered by other speakers.

Thank you very much for your time and your attention.

SENATOR RAND: Thank you. Any questions, ladies and gentlemen? (no response) Mr. Hyland, thank you very much.

Mr. Ginty, good morning.

J A M E S B. G I N T Y: I think that is the first time Bill Hyland has left anything to me. He should be aware that I am not all that technical myself.

Senator Rand, Senators, I want to thank you very much for allowing me the opportunity to be here with you this morning to give AT&T's views with respect to this very important legislation.

Let me be clear: AT&T fully supports, in all aspects, the proposed legislation, the effect of which -- and nobody should for a moment doubt it -- will be to bring to New Jersey businesses and consumers the benefits of state-of-the-art telecommunications products and services. Now, what is standing in the way?

In large part -- major part -- and what we are here for today-- New Jersey now regulates my business -- the long distance business -- as well as the local exchange business under a regulatory scheme that was born in 1911. I don't think there is anybody in this room who can seriously argue that things in the telecommunications industry have not changed dramatically since that time. I mean, you can't even watch a football game today without it being interrupted by extensive advertising on behalf of telecommunications carriers.

We truly do live in the information age. Our customers, residents, and businesses alike rely increasingly on innovative telecommunications technologies barely imaginable a generation ago, or even a decade ago. In today's market, technology changes rapidly. If New Jersey's businesses and consumers are to be able to compete nationwide and around the globe, the telecommunications network must continually be upgraded to provide New Jersey residents and businesses with access to this technology in the innovative telecommunications products and services it makes possible.

Now, five years ago, the Board of Public Utilities recognized the need for flexibility in the competitive long

distance marketplace, and adopted rules permitting long distance carriers some flexibility in changing prices and in getting our services to the market quicker. These rules, however, proved inadequate in the Commission's own view because of the dynamic market that we now do business in.

Accordingly, during 1989 and 1990, after investigation and hearings, the Board proposed, on two occasions -- two separate occasions -- to further amend its rules for interexchange carriers.

Now I will depart here for a minute to mention that I heard this morning from the honorable Public Advocate that there is a need for hearings and investigation and proceedings. Senators, my company has been through four extensive and expensive investigations, hearings, and proceedings before the Board of Public Utilities, each time of which the outcome of that was that they recognized the competitiveness of the marketplace and the need to give the flexibility that is part of this bill today. That was stymied in the eleventh hour -- as was mentioned earlier by Dr. Salmon -- because of an Attorney General's opinion that they did not have the statutory authority to do so. That is why we are here today. I might also add that in those hearings, the Public Advocate appeared, as did other long distance companies and other interested parties.

Now, despite the overwhelming evidence of the competitiveness of the long distance market that came out of those proceedings, as I mentioned, the Board was stymied in 1990 by a ruling of the Attorney General that the Board lacked the statutory authority to adopt the proposed regulations. Thus, despite nearly two years of effort, extensive and costly investigation, and hearings, and the promulgation twice of proposed rules, the regulation of long distance carriers remains outdated and inconsistent with the long distance marketplace.

Although we have stood the test in the hearing process before the Committee, let me make clear that there can be no doubt of the fierce competition that exists in the long distance marketplace. Overwhelming evidence to that effect was presented, again, on numerous occasions to the BPU. Let me sum up that evidence for you today.

Prior to 1984, the divestiture of the Bell system, there were few choices for people when they wanted to make a long distance call. Today, nearly eight years later, the long distance marketplace is extremely competitive. AT&T's overall market share has declined from that of 90% in late '84 to about 65% in the second quarter of 1991. There were various submarkets within there and we do not have a majority share of that market.

New Jersey customers can choose from nine certified long distance companies in this State, and as many as 64 resellers offering an array of products and services. Let me mention that our competitors are not mom and pop operations. They are multimillion dollar companies. One company that I saw here today -- which I understand will testify -- ranks number nine on the list of the "Fortune 100" service companies. Its revenues have increased from 1984 at \$2 billion to last year, nearly \$8 billion. Just to give you some perspective on that, that company is larger, considerably larger, than ABC, CBS, the Marriott Corporation, and Hertz, which is of course headquartered in this State. These are not mom and pop operations. They are big, multibillion, multinational corporations, at this point.

I might add that on four occasions the issue has been presented to the Board as to should one differentiate between long distance carriers? On four occasions that issue was brought to the attention of the Board, and on four occasions the Board ruled that all long distance carriers should be regulated and treated in the same manner.

The bottom line to all of this, however, is that every citizen and business in New Jersey can choose its long distance carrier and can choose among services and billing options provided.

We are not asking you to do anything in this legislation that your colleagues throughout the country have not done. Approximately 20 states' legislators have enacted legislation of various types and forms that have resulted in the elimination or substantial modification of traditional regulation of long distance carriers. It is now time for New Jersey to act. There is no need to tell you that New Jersey is the home of AT&T. It is the home of the Bell Laboratories. It is the home of Bellcore. It is the home to at least one of our competitors. No state in the nation has a higher stake in the long distance business than New Jersey. It is simply time for New Jersey to live up to its obligation to address this very important issue, not only to my industry, but to this State as well.

Approval of the proposed legislation will permit the competitive marketplace to regulate competitive services. However, you should note that this bill does not relieve basic or noncompetitive services from full regulatory oversight.

Let me digress here a minute as well. There is nobody that has a greater stake in how New Jersey Bell is treated than does AT&T. We are New Jersey Bell's largest customer. Better than half of the revenues we collect we pay to New Jersey Bell for access to their network so we can get to their customers. No one has a larger stake in assuring that those costs which are protected services under the bill will remain reasonable. Secondly, no one more so than AT&T can look upon New Jersey Bell as a competitor. They are a competitor of ours today, and they will be a competitor more so of ours in the future.

We are confident, however, with the protections that are in this bill and how the Board of Regulatory Commissioners

will exercise the clear responsibilities that this bill gives-- We take a lot of satisfaction that those responsibilities will be exercised correctly.

I was running ahead of myself, because I think it is time-- I have been in this business now for 14 years and I have gone through the divestiture. I have seen company after company after company come up and try and protect their little segment of this business. The issue is too important. It is too important to us in the industry; it is too important to my company; it is too important to this State; it is too important for the nation to permit everybody to look at their little pieces.

AT&T is taking a risk in supporting this legislation, but it is a risk we have to take.

I think that generally concludes my remarks. I have appended to the testimony I have provided to you some suggested amendments to the Act, which are really in the nature of clarification.

SENATOR RAND: We will be cognizant of all the recommendations. We have a lot to go yet. We have some work sessions to do, and this Committee will be hearing all of the information that is put in, and will be considering all of the recommendations.

MR. GINTY: Very good.

SENATOR RAND: Are there any questions -- Senator Cowan, Senator Brown, Senator McNamara? (no response) Thank you very much, Mr. Ginty.

MR. GINTY: Thank you.

SENATOR RAND: Frank De Joy, Vice President of Suburban Cable Company, and Nancy Becker, Executive Director of New Jersey Cable TV Association. Good morning.

N A N C Y B E C K E R: Good morning, Mr. Chairman. I'm Nancy Becker. I serve as Executive Director of the New Jersey Cable Television Association. I have for the last 13 years. Our companies in New Jersey serve nearly 2 million homes.

I'm going to give Peter our testimony, and a handbook we've provided called, "Beyond the Bells and Whistles, the Future of Telecommunications in New Jersey." Frank De Joy, the President of the Cable Association, will give our testimony, and both of us will be available for questions.

F R A N K D e J O Y: Thank you.

Good morning. My name is Frank De Joy, and I am President of the New Jersey Cable Television Association. On behalf of the cable operators in New Jersey, I'd like to thank this Committee for the opportunity to present my testimony.

New Jersey Cable Television Association vigorously opposes Senate Bill No. 3617, a bill that would mandate sweeping deregulation of the telephone company. It would destroy the existing regulatory scheme governing utility regulation in rate making in New Jersey, and replace it with an inferior scheme that would bring about higher phone rates than necessary for consumers.

Before I discuss the bill and its damaging consequences, I must raise some more fundamental issues. For example, why is this legislation being proposed? Considering the devastating and long-term impact it would have, why is the bill receiving hasty consideration now, during the lame duck session? What is the phone company's goal in seeking to deregulate rates? Why can't that goal be accomplished within the existing law?

As drafted, this legislation would not prevent cross subsidization. The bill would permit phone companies to diversify into competitive and experimental businesses which would be funded by the phone ratepayers. The results would be predictable: Phone rates will increase more than necessary, and competition will diminish.

Any regulatory scheme permitted under this legislation would result in higher rates than necessary for practically all consumers. The bill guarantees higher rates by relieving the

Board of Regulatory Commissioners of the requirement to determine the reasonableness of telephone utility based on a base rate/rate of return basis. Nothing can constitutionally produce lower rates to consumers than the rate base/rate of return of approach. While it guarantees consumers the lowest possible rates, the rate base/rate of return approach allows the phone company to undertake responsible capital improvements, including rebuilding of its infrastructure. A constitutional requirement under the rate base/rate of return system is that utilities have the opportunity to earn a rate of return sufficient to attract the private capital necessary to meet its franchise obligations to the public. Therefore, abandonment of cost-based regulation is not needed to finance the construction of utility system upgrades such as end-to-end fiber optics. After all, the largest public or private undertaking in the history of New Jersey, the Hope Creek generating station, constructed at a total cost of over \$4 billion, was privately financed and completed by PSE&G, the largest utility in the State, under rate base/rate of return regulations.

While no statute now requires the BRC to use the rate base/rate of return approach, it has historically used this method, because rate base/rate of return is the only basis upon which minimum rates to ratepayers may be found. This method of analysis is the standard tool used in both the public and private sectors for investment decision making. The approach examines whether the economic and social benefits associated with a project exceed the additional costs borne by the ratepayers. With this analysis, the Board can determine whether projects are worthwhile or what portion of the project could be justified. Only in this way, can ratepayers be assured that their dollars are spent in an economically and socially responsible manner. By contrast, S-3617 offers the Board no criteria to use to determine the appropriate level of infrastructure investment or the appropriate level of rates.

What are "affordable rates" and "reasonable charges"? The bill is silent. The Board is given the authority to redefine affordability. If consumers can afford to pay their phone bills, is the phone company permitted a 20%, 30%, or even 40% rate of return?

The bill's consumer safeguards are little more than vague directives to the BRC to do the right thing. The consumer has no protection against deceptive pricing practices. Previously, the phone company asserted that its rates would be held at current levels. In fact, current rates were set right after divestiture, a period of great uncertainty and risk. The costs of providing telephone services have declined with time. Rates, therefore, should be going down, not staying the same. Regional Bell companies are overearning across the country. For example, this fall the Florida Public Service Commission unanimously voted to force Southern Bell to return nearly \$145 million in excess profits that it had overcharged its 4 million customers.

Legislation to deregulate phone rates has been proposed and defeated in other states including Colorado, Connecticut, Missouri, Illinois, and Wyoming. Under this legislation, the BRC would not be allowed to analyze overearnings generated from basic telephone service. This means the BRC could not look at existing basic telephone rates to determine whether the telephone company is making more money from those services than would be permitted under a rate base/rate of return methodology.

Other provisions of the proposed legislation present far-reaching and serious problems. Conspicuously missing from the bill are standards to prevent cross subsidization between regulated services, including basic telephone service and unregulated competitive services. Indeed, at the expense of the telephone ratepayer, the telephone company would be allowed to attribute many costs and expenses to basic telephone service

that should be attributed to competitive service. Ratepayers would be obligated to underwrite these costs.

To help avoid the cross subsidization, any legislation should include a provision to ensure that ratepayers and competitors are not harmed economically when the provider of a monopoly telecommunication service also provides a competitive telecommunication service.

As a telecommunications provider, we must concern ourselves with the BRC's disposition to review New Jersey Bell. Consider this: In April of 1991 several regulators from states in the Bell Atlantic region were concerned enough about the potential for abuse in transactions among Bell Atlantic affiliates to propose a regional task force to commission an audit of Bell Atlantic activities. Other regulators, however, including New Jersey's, were not so disposed. We understand now that the proposed audit was scuttled.

On the other hand, New Jersey Bell has worked to keep the cable television industry uninformed of its true profitability. The BRC released some summary information last Friday. That information showed that New Jersey Bell is making significantly higher returns than other utilities. In response to Bell's opposition, the BRC denied New Jersey Cable Television Association requests for information about the Rate Stability Plan. This is unfortunate. The more informed residents and legislators are about this legislation, the more they will discern where the true public interest lies.

Full disclosure of the facts will demonstrate that this legislation is not needed, is undesirable, and is not in the public interest. Obviously, New Jersey Bell prefers that all relevant facts not be disclosed. Consequently, the NJCTA is faced with filing a lawsuit for this information.

We also know that the BRC is concerned about cross subsidization between regulated services and unregulated competitive services in industries other than

telecommunications, although it ought to be concerned with Bell Atlantic. For example, the BRC is currently examining PSE&G's capital investments in nonutility businesses such as Maryland Savings Bank, and oil field interests in Argentina.

This legislation should create far greater opportunities for BRC concern. After all, New Jersey Bell is but one of 105 subsidiaries of Bell Atlantic. The other 104 subsidiaries include such activities as real estate interests in Argentina and elsewhere. And how are these investments being funded? If this bill is enacted, the BRC's fear of regulated industries plunging into unregulated activities could turn to terror.

And although the bill doesn't use the words, "fiber optics" in the bill, Bell has stated that it intends to file with the BRC a plan to build a fiber-optic network. We understand Bell is already employing 35 people, full time, at ratepayers' expense to work full time on that project, which includes \$1 million worth of advertising, also paid for by the ratepayers.

In fact, New Jersey Bell is already moving ahead with massive deployment of fiber throughout the State. The cable industry has discovered Bell installing fiber on telephone poles without the benefit of make ready procedures required for compliance with local and national safety codes, and outside of the existing regulatory framework. At several locations we have found cable television wires moved into spaces on the pole that violate the National Electric Safety Code. Unfairly, Bell's presumptive actions are creating safety violations for which the cable operators can be held responsible. New Jersey Bell is installing this fiber parallel to its existing copper wire. The fiber is connected, for the most part, to nothing.

Has New Jersey Bell declared itself to be deregulated without the benefit of legislative approval? It is funding this unauthorized activity at the expense of the uninformed

public. Have New Jersey residents already begun paying for a technology that most will never need and never use? It appears so. If this is an example of what the phone company will do with regulation, what can we expect without regulation?

If New Jersey Bell is permitted to maintain artificially high rates and build a fiber-optic highway, New Jersey would dangerously increase its reliance on a single telecommunications network. Consider the potential consequences of relying on a single telecommunications provider. On January 15, 1990, a software error caused switching problems to propagate throughout AT&T's network, blocking half of all of the attempted calls for several hours. On January 4, 1991, AT&T employees mistakenly severed a large fiber-optic cable in New Jersey. About 100,000 voice grade circuits in the Northeastern Corridor went dead for eight hours. In June and July of 1991, at least six separate outages occurred in Pacific Bell and Bell Atlantic switching offices. On September 17, 1991, a management error allowed backup batteries to run down at an AT&T switching office on Wall Street which caused four-and-one-half million blocked calls, half-a-million blocked international calls, and a loss of 80% of the FAA's telephone circuits in the area. Flights involving 85,000 passengers were disrupted.

Have these risk factors been considered in this legislation? According to Janice Obuchowski, Assistant Secretary of Commerce for Communication and Information, "Competition is the best incentive to reduce the potential for telecommunication network disasters."

There is also a real potential for major economic disaster. Should New Jersey Bell be permitted to build a fiber network at the ratepayers' expense? Since its inception, the cable television industry has been synonymous with technological advancement. Cable companies have widely deployed fiber technology for several years. There is nothing

magic about fiber optic. All of us have access to the same technology. I would invite any of you, as I already did Dr. Salmon, to visit my fiber facility and inspect our technology before you decide that we are lagging behind.

The use of fiber optics has now become routine. However, we use fiber where it makes economic sense. Allowing the phone company to deploy a fiber network where there is little or no consumer demand can lead to economic disaster second only to the savings and loan scandal.

It is important to stress that the New Jersey Cable Television Association does not oppose the deployment of advanced technology by New Jersey Bell. We are concerned that the telephone customer will be assessed an involuntary telecommunications tax, and be forced to contribute to the capital plant. This would enable New Jersey Bell to compete with all other information and entertainment providers, including the cable television companies. Cable TV companies are required to go into debt in equity markets to raise capital themselves.

To the extent that New Jersey Bell can demonstrate that its proposed deployment of advanced technology is used and useful for utility purposes and will benefit New Jersey's telephone ratepayers, existing law permits the deployment of capital. The only case in which the phone company needs relief is in the event it wishes to pass the cost of its capital deployment on to telephone customers and cannot justify that expenditure on the basis of need.

Last, but by no means least, the terms used in the legislation are ill defined. For example, what is the definition of "subsidization," or "universal telecommunication service," or "just and unreasonable rates"? What is the difference between "reasonable charges" and "affordable charges"? And there are other instances of confusing languages that we will ask later.

Before the Legislature acts, the BRC should complete the Experimental Rate Stability Plan, to which New Jersey Bell resolutely committed. After full hearings there should be the review, analysis, and reporting clearly contemplated by the BPU when it approved the Rate Stability Plan. Major changes in the ways telephone utilities are regulated should and must reflect extensive study and public discussion. Supporters of the legislation might be surprised to find that the ratepayers, or the taxpayers, would prefer to have telephone company overearnings refunded and not involuntarily used to underwrite controversial and speculative projects. We believe that the citizens of New Jersey and the municipal leaders in New Jersey will agree with the consumer groups and the industry representatives appearing today: The telephone company alone, would be the sole beneficiary of this legislation.

To sum up, changes proposed in S-3617 do not properly address the needs of the consumers. They are not needed to keep New Jersey competitive, and they are not in the public interest. S-3617, if enacted, would allow unfair cross subsidization, and worst of all, it would result in higher rates than necessary for the consumers. For these reasons, the New Jersey Cable Television Association vigorously opposes this legislation. Thank you.

SENATOR RAND: Mr. De Joy, thank you very much.

MR. De JOY: Thank you.

SENATOR RAND: Mr. Marciante, President of the New Jersey State AFL-CIO.

C H A R L E S H. M A R C I A N T E: Good morning, Mr. Chairman. The last few days I have seen more of you than I have of my family.

SENATOR RAND: Well, we like each other.

MR. MARCIANTE: And I'm hoping that after today, we'll see less of you.

But indeed, I am extremely pleased to be able to come before you and your Committee to discuss an issue of great importance. I know that this Committee has handled any number of issues of great importance to the State of New Jersey.

If you were to address the problem we have before us today and put it in the form that a newspaper reporter would normally do of, "who, what, why, where, and how," you would start off by saying, "Well, what's this all about? Who is it for?" And the issue today is New Jersey Bell Telephone; and who is New Jersey Bell Telephone? I'm not a great proponent, because I fight New Jersey Bell Telephone on many issues. But when the issue is right, the organization that I represent has stood up for the business community of this State, because when business does well in this State, the members whom I represent do well.

We have had the opportunity of working with New Jersey Bell Telephone for any number of years, too many for me to recall. We know them as a good employer, a tough employer, and one where our unions, in negotiating with them, do not have an easy time. But they are fair.

What is the subject that we are dealing with? Indeed, it's fiber optic, and it's not new. But I do know that the work that Bell Telephone in New Jersey is going to do will be done with wire that is 100% American made, and if that's wrong, then indeed, the legislation is wrong. And that they are going to use people from New Jersey -- workers from New Jersey, and indeed, our members from New Jersey -- and if that's wrong, then indeed, the legislation is wrong. And where are they going to do it? Right here in the State of New Jersey.

And what's it going to do? It's going to make New Jersey first in the nation. Is that important? Those of us who are familiar with the economics of New Jersey, and this country, and the world, know what competition is all about. Being first is not the wrong place to be. It's the right

place, and I think that this particular piece of legislation is the right piece of legislation.

I heard concern expressed -- and it was interesting to listen to Bill Hyland testify, because I recall his tenure on the Public Utility Commission, and it was, indeed, a bright period in the State of New Jersey. But I've listened to the concerns of some people about the regulation that will follow with this legislation, and I have to say that the-- I still call it the PUC, but there is a new name for it and I have to get used to it. I'm not yet. But certainly they have a reputation, and certainly a tenure of over 70--some years of regulating the industry of this State. And I have to say that they have done an excellent job.

It's good legislation; it makes good sense. It's good for the public. It's good for business. It's good for our unions, and it's good for New Jersey. I know of the legislation that this Committee has passed in past years, and I know of the very positive benefits that have come from it. This is that type of legislation, and I urge your favorable consideration from our organization on this matter. Thank you.

SENATOR RAND: Thank you very much, Mr. Marciante.

Stewart Personick, Assistant Vice President, Information Network, and Frank Herbert? Good morning. No, no. Good afternoon, we have passed the witching hour.

F R A N C I S X. H E R B E R T: Mr. Chairman, unlike Charlie Marciante, I'm never sick of seeing some of my old friends from the Senate.

I am Frank Herbert, Public Affairs Manager at Bellcore. Bellcore supports this bill, and we thought that some of you might have some questions about the technology. Here with me today is Dr. Stewart Personick of Bellcore. He is a world recognized expert on fiber-optic technology and its applications, who has been doing research in this field since 1970. Mr. Chairman, with your permission, I would like to yield the balance of my time to Dr. Personick.

SENATOR RAND: Doctor, if you could do us a favor of consolidating your testimony of 13 pages--

MR. HERBERT: He's already prepared for that, Mr. Chairman.

SENATOR RAND: I thank you very much. I want to get to some of the rest of the people as quickly as I can. Thank you, Doctor.

S T E W A R T D. P E R S O N I C K, Ph.D.: Senator Rand and members of the Committee: I appreciate your valuable time, and I'm not going to duplicate anything that is in my written testimony. I would ask that it be made a part of the record.

What I would like to do is to take a few moments to add some complementary perspective to what has been said by the others, rather than to duplicate what the others have said.

It's gratifying to me, as a technologist working in this field for so many years, to see the vision of what can be so widely held, in the public domain. So many others are now speaking of the benefits of advanced technology in education, in medicine, in allowing businesses to compete effectively in an increasingly competitive global economy. What is not gratifying to me, however, is the fact that the technology that we have created over the last several decades is not a monopoly of the people of New Jersey. This technology is well known and understood, as has been pointed out by others, to the Europeans, to the Japanese, and to many other powerful competitors in an increasingly competitive world.

While we speak, members of the European Economic Community are drawing closer together towards an open and powerful, unified economic system that, with the inclusion of Eastern Europe, may include over 800 million people. While we speak, the RACE Program funded at billions of dollars per year in Europe is promoting the deployment of an integrated, broad-band network that will provide the European economic community with the powerful communications technology with

which to develop and offer their products. While we speak, NTT in Japan is moving forward with plans to deploy a fiber-optic network -- an integrated broad-band network -- in Japan, to be fully deployed by the year 2015.

These are our competitors. These are the people with whom we will compete for jobs. And these are the people who are moving forward while we speak. I'd like to urge this Committee to take full advantage of the technology, not only to benefit our children and ourselves in continuing education, not only to benefit our children and ourselves in better access and easier access to medical care, not only to benefit all of the people of New Jersey in all of the ways pointed out in my report, but to be fully cognizant that it is basically a race against our competitors, and we cannot afford to delay the application of these technologies. Thank you.

SENATOR RAND: Are there any questions, ladies and gentlemen? (no response) Thank you very much, Doctor. We appreciate your testimony.

Donna Sorgi and Don Stewart?

H. DONALD STEWART: Good morning, Mr. Chairman.

SENATOR RAND: Good afternoon.

MR. STEWART: You're right. It is afternoon. I'm Don Stewart. I am the Legislative Agent for MCI here in New Jersey. I have with me Donna Sorgi, who is the Director of Regulatory and Governmental Affairs for MCI who would like to testify on behalf of MCI on this bill. I have the testimony which I would like to give to the Committee staff.

DONNA SORGI: Good afternoon.

SENATOR RAND: Good afternoon.

MS. SORGI: It's a pleasure to be here, Senator Rand, and other members of the Committee. I very much appreciate the opportunity to participate in what, I hope, is the beginning of a public process to address the rather sweeping change that is contained in the legislation that is now before you.

I would like to point out that MCI has a major stake in the way in which New Jersey Bell, as well as AT&T, are regulated. In terms of New Jersey Bell, we are their second largest long-distance customer. We pay them millions and millions of dollars a year in access charges. Close to 50 cents of every dollar of revenue that MCI earns is paid out to the Bell companies and other local exchange companies in the form of access charge payments, so that we can originate and complete calls to our long-distance customers.

Access services are just like basic local exchange services that residential and business customers must pay, in the sense that MCI, residential, and business local exchange customers only have one source for these services, and that is: New Jersey Bell, the local exchange company. To the extent New Jersey Bell is able to cross subsidize on monopoly rates, we pay a price, and so do residential and business local exchange customers. Consequently, we care very much how legislation is crafted in this area.

I would ask you as you consider this bill, to remember two things, and then ask yourself one question: Please remember that this bill is proposing sweeping change in the way telecommunications companies are regulated in New Jersey. Please also remember, that the rates paid by New Jersey Bell's monopoly customers are at stake in this legislation. And then please ask yourself the question, "What's the rush?"

We hope today is the first day of an open process that will extend as long as is necessary, and include all interested parties. I would like to point out to you that MCI has supported and been part of active coalitions in other states to develop good telecommunications legislation to give state regulatory commissions the kind of new authority they need. We concur that laws passed in 1911 need to be revisited. There has been a telecommunications revolution. We have been part of it. MCI is proud to have been part of leading the changes that

have occurred in this industry. We are a progressive company who knows how to sit down at the table with Bell operating companies, with consumers, and with other interexchange carriers, to develop excellent legislation.

As we speak, we are involved in such a coalition in Illinois, where we hope to produce first-class legislation that can pass in the 1992 legislative session. That legislation, we believe, will be consensus legislation, where all affected parties will have had adequate time to participate, have their voices heard, and have their position well represented in the legislation.

This consensus process takes more than a few weeks to develop. In fact, one of MCI's major frustrations has been that New Jersey Bell has not seemed particularly interested in our viewpoints on this legislation. Even though we are a huge customer of theirs, and even though we pay them millions and millions of dollars in access charges, they did not consult with us either before filing the bill, nor since the bill has been pending, despite their awareness that we had major concerns with the way the original bill was drafted. And we have continuing concerns with the bill currently before you, though we do acknowledge some improvements in the bill you are considering today.

We urge you to give New Jersey the same chance that other states are giving their citizens, which is to have first-class legislation in this area, to give the BRC the new authority it needs, but to make sure that basic local exchange ratepayers and other monopoly customers are properly protected. We are confident such legislation can be developed if adequate time is given, and if you resist urges of certain parties that you rush to judgment.

I have developed a very detailed statement outlining, as best we can, the bill that we saw last Friday. We have tried to be helpful to this Committee in giving you a very

detailed outline of what we think is good about the bill, and what we think is deficient. We've also proposed a series of amendments that we think are essential, if it is this Committee's intent to act on this current legislation.

We urge you not to act on this current legislation. We think the better course of action is to suspend action on this bill, urge all parties to come together -- perhaps with legislative staff as we have done in Michigan -- and let's get a really good bill for New Jersey that protects all interested parties, and gives the appropriate levels of authority.

To give you a very brief sense of our response to this bill let me say that we are heartened by the elimination of references to the infrastructure development. MCI is a proponent of cost-effective infrastructure development. We need a modern network. We need for the Bell operating companies to do infrastructure development, but we absolutely reject the notion that they need to be deregulated in order to have sufficient incentive to invest in the infrastructure. We are very pleased and commend Senator Menendez and others for dropping that very inappropriate linkage.

There are also some additional protections that seem to have been written into this bill, although there has been very little time for the additional protections to be thoughtfully considered, and we appreciate the fact that those changes are in this bill. But we do not believe the current legislation goes nearly far enough to protect those of us who are monopoly purchasers of services. For example, the bill has very inadequate notice and hearing requirements. Under the current provisions in the bill as we read it, we -- residential consumers, the Public Advocate, other interested parties -- would only have a right to come to the BRC and make statements -- public statements -- regarding our concerns. We think before New Jersey Bell is subject to an alternative form of regulation, or before any of their services are deregulated,

all parties ought to have the right to engage in a contested case, where we can put on evidence and other interested parties can put on evidence, so that the Board will have the fullest record possible before it decides what it feels it ought to do in this regard.

I'm trying to ignore that, but it's not that easy, is it? (witness refers to the sound of a door alarm) Are you still listening to me? (no response)

In any event, we believe, also, that the bill needs to give the BRC more than two choices if they choose to look at alternate forms of regulation or deregulating. They ought not to be constrained only to fully regulate a service, or to completely deregulate it. Legislation in other states has an interim category called, "transitionally competitive." We think it makes a lot of sense to consider that kind of a category for certain services and companies. That's just another example of a change we think ought to be crafted into the bill.

We believe there needs to be a clear presumption that services currently offered by monopoly companies, including New Jersey Bell, are still noncompetitive until New Jersey Bell can meet a high standard of proof to show that those services are competitive. We are greatly concerned about the potential for a monopoly company to also have deregulated services and to be able to cross subsidize against our rates, and against rates of local exchange ratepayers.

Finally, this bill seems to offer new assurances that New Jersey Bell will continue to retain its monopoly on toll calling within the LATAs. This is a position that the Board has required. There are competitors ready, willing, and able to get into the intraLATA toll market, but the Board of Regulatory Commissioners has determined that that kind of competition is not in the public interest. We respectfully disagree. We hope that in time we will be able to persuade the

regulators that just as in Pennsylvania, Delaware, Maryland, and West Virginia, intraLATA toll is good for the State and good for its economy. So, we are concerned about certain aspects of the bill that seem to affect our ability and the ability of other interexchange carriers to get into intraLATA competition.

Finally, and of great importance to MCI, and to New Jersey long-distance ratepayers, are the provisions in the bill that order the flash cut deregulation of AT&T. I heard AT&T's representatives represent to you that they believe the Board needs authority to order reduced levels of regulation for them and for other interexchange carriers. We concur. We believe the Board ought to be given those authorities. But what this bill does is, by its own terms, deregulates AT&T, so that the Board would no longer have any jurisdiction over the way AT&T competes in the marketplace of New Jersey. We don't oppose giving the BRC the authority to order further deregulation of AT&T, but it is not time to fully deregulate AT&T, and the BRC should not be bypassed by a legislative mandate. AT&T still has two times the market share of all its competitors combined. We may not be a mom and pop operation -- and we certainly are not a mom and pop operation -- but we have 15% of the marketplace, and AT&T has 65%. I would suggest to you that that level of market power, combined with its market power in key segments, including the 800 service provision and calling cards, are good reasons for regulatory oversight to still be maintained over AT&T.

I would point out to you that this bill would go much farther, in terms of AT&T regulation, than the FCC has gone, and we don't understand why New Jersey would see that it is in the public interest to risk the emerging competitive marketplace in long-distance services by acting in a more extreme way than the FCC. We therefore recommend that the bill be changed to give the BRC the power it needs to reduce

regulation of AT&T and other interexchange carriers, but it should require safeguards to accompany the reduced regulation of AT&T. These are not onerous safeguards, they are appropriate for the level of competition that currently exists. We want them to have to tariff all their rates, not to geographically deaverage their rates, and not to be permitted to engage in bundling of services, where they can act in anticompetitive ways.

We have tried hard to give you our best thinking since Friday on this bill. I've given you a two-page summary of what we consider essential amendments. I've given you a 12-page statement that details our concerns, much more than I am elaborating now. I would like to say to you that we are ready and willing to come to the table tomorrow, with interested parties in New Jersey, and to work with all due speed to produce a first-class piece of legislation for New Jersey. We do not believe the bill before you is that kind of legislation. We urge you not to act in haste in this most important area, but to bring all interested parties to the table, give a little bit of time to develop really good legislation in this area, and MCI would be delighted to be a constructive player in that process.

Thanks so much for your attention, and I would be happy to take any questions that you have?

SENATOR RAND: Thank you very much. We appreciate your testimony.

MS. SORGI: Thank you.

SENATOR COWAN: Our next witness will be John Maddox, from Public Service.

J O H N M A D D O X: Senator and members of the Committee: I'm John Maddox. I'm Vice President for Public Affairs for Public Service Electric and Gas Company. I and my company appreciate the opportunity to comment on S-3617 concerning telecommunications.

My remarks are going to be limited to the beneficial impact that passage of this proposed legislation will have on economic development and the business opportunities within the State. You may be aware that some of my responsibilities at PSE&G are economic development activities. I also serve as the President of the New Jersey Society for Environmental Economic Development, who has endorsed this legislation as well. I'm Chairman of the State's Economic Development Council. I do have some background in economic development work.

New Jersey has been relatively successful in attracting and relocating businesses to the State. Because of the many advantages the State offers -- location with leading transportation networks and good telecommunications services -- companies continue to move to New Jersey.

Increasingly, the State is becoming home to high tech businesses, research and development companies, and the back office operations of major banks and brokerage houses, many of which are information intensive and dependent on state-of-the-art telecommunication capabilities. Business dependence on telecommunication services will become more so in the future. As the international marketplace continues to expand, the movement of information will be as critical for business success as the movement of goods. The ability to manage business information effectively will be a competitive advantage for successful companies. That competitive advantage requires advanced telecommunications infrastructure. Companies will be looking to locate and expand in those states capable of providing such services. Telecommunications capabilities can help spur economic development and job growth, and are critical to New Jersey's competitive future.

PSE&G has been involved in promoting economic growth for many years. We work closely with companies locating facilities in the State, and know, firsthand, that excellent telecommunication services play an important role in attracting

business development. We worked personally with the Federal Reserve on Route 17 in East Rutherford, and I think, down Route 1, with Dow Jones, and The New York Times in Edison. We were directly involved in Merrill Lynch's locations throughout New Jersey, but particularly in Somerset County, where they have about 800,000 square feet of very intense telecommunications equipment.

We cannot envision what future telecommunications applications and advantages will become economic necessities. Who would have guessed 10 years ago that the growth of personal computers, data networks, fax machines, or mobile phones would have an impact on business, government, education, and individuals? But one thing is certain: There are firms currently working on products and services that will utilize the full potential of this technology. The future rewards will be available to those prepared for them. Passage of this proposed legislation will send a signal, we believe, to the business community, to other states, and the world, that New Jersey wants to be at the forefront in the application of telecommunications technology, bar no one.

Periodically, we read in newspapers, hear on the radio, and watch on TV, that the country is losing its technological edge and its ability to compete in a global marketplace. Passage of this bill, I think, will help assure that such statements are not applicable to New Jersey.

I might add in closing, that in view of the current economic conditions in the nation, but in New Jersey in particular, is faced with -- and they are severe, and I think we all realize that-- I served as the Director of the Governor's Economic Recovery Commission in 1975 and 1976, when we had unemployment rates in the order of magnitude of 14% or so. This recession we are in now, I think, is as severe as we had then. One of the frightening aspects of it is we don't see a way to work ourselves out of it, in this State or in the

region. I, for one, happen to believe that one way to work ourselves out of it is through public expenditures on infrastructure; roads and highways, in bridges, and wastewater treatment, and should the Opportunity New Jersey Plan of \$1 billion investment in the expansion of the telecommunications industry be coupled with that, I think that would go a long way to helping the economic climate in this State today, and in the near-term future. I think it's an opportunity to position this State for balanced and continued growth.

Thank you very much, Senators.

SENATOR COWAN: Thank you, John.

Next we'll be hearing from Jim Holcombe and Barbara Van Allen, from the AARP.

B A R B A R A V A N A L L E N: Good afternoon. Mr. Chairman and members of the Senate Transportation and Public Utilities Committee: My name is Barbara Van Allen. I am Chairman of the AARP New Jersey State Legislative Committee. I thank you for the opportunity to appear before you today. As spokesman for the American Association of Retired Persons, with a membership in the State of New Jersey of over 1.3 million, I am greatly concerned by the proposed bill, Senate Bill No. 3617.

We are concerned because communication is one of the basic needs of our society, and many of our Association are dependent on hard-earned life savings to meet those needs, needs that are subject to today's ever-increasing prices. Those among us who are homebound and handicapped are even more hard put to adjust to today's increasing costs.

The bill before us would do away completely with the present regulations that have been the bulwark for years to protect New Jersey residents from rising rates which, without such regulation, could go to a point that would deny those with low means access to the vital service of telecommunications. For local services, the bill offers an untested alternative form of regulation, to be proposed by a local exchange company

to the Board of Regulatory Commissioners, placing upon that Board the burden of determining what are just and reasonable rates. Incidentally, there are no definitions in that bill as to what just and reasonable rates are.

The bill makes a priori statement that this deregulation is in the best interests of the public. No persuasive argument has been made as to what is wrong with the present time-tested regulations or that the interests of the public will not best be served under existing law.

Let me point out, ladies and gentlemen, that we are dealing with problems that are highly technical and complicated both in the area of the state of the art of telecommunications and in the area of properly allocating costs so as to avoid cross subsidizing. And let me say further, with respect to costs, that cost accounting is not an exact science. Various accounting systems can be set up, each of which could yield a different result, even to the extent of showing a profit using one system, and a loss if another were used, and each system would be perfectly legitimate.

I say this not as a housewife. I am certified by the State of New Jersey as a key financial officer. When I read the sentence in this new revised bill, it jumped out at me; it hit me in the middle of my eyes. The bill places the Board of Regulatory Commissioners in the position of having to cope with highly technical and complicated problems that could, considering the scope of the services involved, inundate it with a maze of regulatory proposals. Instead of permitting the present flow of operations to continue, this bill proposes measures that could bog down the operations in increased regulatory procedures and red tape. In the opinion of the AARP, the bill is contrary to public interest.

We must remember that one of the basic principles of regulation in seeking to mirror the competitive marketplace is that consumer choice must be maximized. One of the most

important choices is whether or not to consume. Investments that impose costs on ratepayers in the name of providing services they do not want, or do not choose to consume, should not be made.

I have seen the reports of other states turning down similar attempts at deregulation. I have held meetings with those in this room who would have this bill pass. But from the heart, I keep coming away with the impression that the measures proposed are not right. As I have said, we are dealing with highly technical and complicated issues. Let me try to simplify this matter by setting up this analogy for you and for everyone in this room.

For just a moment, close your eyes and think about what I am saying. In the household of an old family is a trusted servant. In the library of the home is a safe containing valuables accumulated over a lifetime of hard work. One day the servant says to the owner, "Would you please leave the safe unlocked?" In answer to the owner's questions as to why he should do this, the servant says, "I think it is unnecessary to have the safe locked. I feel I could do my job much better if the safe were unlocked. I could polish your silver better. I'll even clean the windows. I'll even dust that corner in that one closet. But please leave the safe unlocked. Just trust me."

I leave the answer to you, ladies and gentlemen, and to the people here in this room, and I ask you to think about what you would answer to this. I need to put in one more sentence, and this is from the heart also. This is the way AARP operates. I think of this bill as the T.O.T. bill. I consider this the Trojan horse of telecommunications.

Thank you.

SENATOR COWAN: Thank you. Mr. James Holcombe?

J A M E S T. H O L C O M B E: Good afternoon.

SENATOR COWAN: Good afternoon, Mr. Holcombe.

MR. HOLCOMBE: My name is James Holcombe. I am a member of the Capital City Task Force of the New Jersey State Legislative Committee of AARP. Thank you for allowing me to testify on this bill today.

We have heard a lot of testimony pro and con, much of it contradictory. I would like to just reemphasize a few points that I feel should be important in your deliberations on this bill.

The substitute bill we are discussing was not available until last Friday. In the complex matter of deregulation, no one has had a sufficient time to completely assess the effect this could have, which certainly is going to be major. According to all reports, New Jersey Bell is very healthy. On that basis, why do they need deregulation to induce this new system?

The major consideration here, even though not embodied in the bill, is the construction of a fiber optics network. In stripping away all the fancy language, it looks as if the rate-paying public would be paying for it, one way or another.

Residential customers will not share in the benefits projected. Their rates would be frozen. True, there would be no increase in rates, but there would also not be any decrease, which could be possible if all earnings of New Jersey Bell were taken into account in the rate-setting procedure. Why shouldn't the consumer also benefit, since it is the cash from his payment of bills that would probably finance the project?

Since this proposal does not seem to be consumer beneficial, I must reiterate AARP's opposition to this bill. Personally, I feel that New Jersey Bell is already engaging in many activities that, in some ways, have scant relation to telephone service. If under "regulation" they can become a collection agency for private organizations -- e.g., on 900 numbers where charges can reach \$19.95 a minute -- to what extent could they range under "deregulation"?

Thank you for this opportunity to testify. Thank you very much.

SENATOR RAND: Thank you, Mr. Holcombe.

Robert Lennon, a retired employee of New Jersey Bell. Good afternoon, sir.

R O B E R T L E N N O N: Good afternoon, Senator. I very much thank you.

Mr. Chairman, members of this Committee: Thank you for allowing me to stand before you both as an individual and a citizen of the State, and a taxpayer, and also a former management employee of New Jersey Bell of some 34 years -- 35 years, excuse me. I am here to inform you and, hopefully, to alert you to some ongoing operating practices utilized by New Jersey Bell and Bell Atlantic which violate, in my opinion, existing telecommunications statutes, which flagrantly evade BPU, or your BRC standards and, indeed, contaminate the quality of service to the consumer, at the same time substantially inflating the cost to the rate base payer.

Several of the key service indicators for which the performance surveillance standards have been set by your BPU relate to telephone operator response time, along with administrative codes and standards for record keeping and reporting. New Jersey Bell established and maintains an ongoing secret, deceptive, and illegal practice which results in manipulated performance results, and therefore distorted, inaccurate, and untruthful results for the above reports to the BRC.

The operating practice I refer to is known as buy-back -- b-u-y - b-a-c-k -- buy-back. It is a deceitful management technique designed to control and manipulate data through the averaging of results that conceal or mask over actual occurrences of noncompliance with BPU standards. This achievement of deception is very expensive, extremely wasteful to the rate base payer. As stated, these manipulative and

dishonest practices violate the public trust placed in the company by consumer, rate base payers, employees, and stockholders.

How can we consider the concept of deregulation with the presence of such bold and deceptive behavior while under the watchful eye of regulatory boards? How can anyone evaluate the credibility of actual or estimated base line cost data, when millions of dollars -- and I stress, "millions of dollars" -- have been mismanaged on a recurring basis as acceptable operating expense related to such ongoing practices as buy-back?

You will be as astonished and disappointed as I was to learn that despite 24 attempts on my part to contact personnel at all levels of the Board of Regulatory Commissioners and the Public Advocate's Office during 1990 and 1991 relative to these matters, I have not found even one regulator or advocator who showed even the slightest interest or concern over documented facts or evidence of these deceitful acts.

I urge you, therefore, as guardians of public trust, to thoroughly examine all phases of New Jersey Bell and Bell Atlantic's existing performance results, the expense compilations, and the revenue allocations before any bold changes are made.

I thank you very much, Mr. Chairman, and your Committee, for allowing me this time.

SENATOR RAND: Thank you very much, sir.

Vince Trivelli, Communications Workers of America.
Good afternoon.

V I N C E N T T R I V E L L I: Good afternoon. Thank you, Mr. Chairman. I will try to be brief. I know you still have a lot of people on your list.

Let me just say, to make it very clear, we don't view this bill as a fiber-optic bill. We view it as a deregulation bill. The union is not concerned about fiber optics. We support the future of New Jersey. We are deeply concerned

about deregulating the telephone industry, and we are opposed to this bill.

Bell Atlantic is already installing fiber optics under the current regulatory scheme. They don't need these sorts of major changes in order to do it, and let me just be very brief.

First, we think it is bad for consumers. We think it is bad for consumers because under rate of return, when costs go down, rates go down. But under a price cap system, when costs go down, rates don't go down, but profits go up. That is what we have seen, and that is what will occur under this bill.

What we will also see is that in order for costs to go down, one of the ways they go down -- and we have seen this across the country in AT&T and in other states where this has happened -- is that they downsize and lay off workers. That is bad for our members. But it is also bad for the consumer, because then quality suffers. What happened at the airports in New York was AT&T, but it was a direct result of deregulation because there was not sufficient staff to deal with the problems that occurred, and then the system went down. So, the workers suffered and the consumers suffered.

We are also very concerned about the movement of the competitive services out of the rate base; concerned about this because those are the profitable centers. You move those out of the rate base, and what you are left with under the rate base are basic services, and therefore what you will have are consumers who will be footing the bill for this network, which business will mostly use and consumers will not, while all of the profitable centers will be taken out of the rate base.

We have many other reasons why we are opposed to this, but let me just say: This is a deregulation bill, not a fiber-optic bill. It is a bill that fundamentally changes how you structure and set the rates for telephoning in New Jersey. It is much too big an issue to deal with in six weeks of a lame duck, when we have Christmas and New Year's and breaks and all of that, and this is the first public hearing on this.

We would urge the Committee to continue to take testimony and to continue to show interest and be involved in this, but not to move the bill at this point in time. We think it is bad for consumers; we think it is bad for our workers; and we think it is bad for New Jersey.

Thank you, Senator.

SENATOR RAND: Are there any questions? (no response) Thank you, Mr. Trivelli.

Mr. Healy, New Jersey SEED, and Jim Morford, Executive Director of the New Jersey State Chamber of Commerce. Mr. Morford? (no response) Mr. Healy? (no response) Did they leave, or-- (indiscernible response from aide) Okay, we'll take the next witness, and then get back to them.

I hope I am pronouncing this correctly -- Mr. Makul, former Director of the Division of Rate Counsel, New Jersey Department of the Public Advocate. Did I pronounce that correctly, sir?

R A Y M O N D E. M A K U L, ESQ.: It's Makul. (corrects pronunciation)

SENATOR RAND: Makul. My apologies, sir.

MR. MAKUL: Chairman Rand and members of the Committee: Thank you for the opportunity to testify today. My name is Raymond Makul. I hold a bachelor of science degree in electrical engineering from the New Jersey Institute of Technology, a master's in business administration from Rutgers University, and a JD degree from Rutgers Newark Law School. I have been a lawyer for 15 years. During those 15 years, I have devoted my full professional time to the protection of both public and private consumer interests in matters before the New Jersey Board of Regulatory Commissioners and its predecessor agencies, and equivalent agencies in eight other states. I have been qualified as an expert witness on utility and energy pricing and policy issues in eight states. I have testified

before committees of the New Jersey Legislature on several other occasions over the last 12 or so years.

From November 1986 to early January 1990, I was the Director of the Division of Rate Counsel in the New Jersey Department of the Public Advocate. During this time, the present New Jersey Bell Revenue Stability Plan was developed through negotiation and settlement. In that settlement process, the Public Advocate's participation was equal to New Jersey Bell's. In fact, I signed the settlement on behalf of that Department. My interpretation, therefore, of which public policy goals the Revenue Stability Plan was intended to accomplish should be afforded equal consideration to any interpretations put forward by New Jersey Bell. I would like to make the following points:

1) New Jersey Bell claims great pride over its present rate levels. Those rate levels are a direct result of the careful application of the rate base/rate of return -- RB/ROR -- method, that New Jersey Bell now urges you to abandon for all time.

2) The legislation replaces the rate base/rate of return method with a price cap method set without regard to present cost levels or rate of return achieved. Neither price caps, nor any other method intended to reflect a legislative judgment of value of service to the consumer, can ever legally produce utility rates lower than would have been produced by RB/ROR. This is because the RB/ROR method defines the lowest constitutionally permissible utility rates, short of confiscation impermissible under the 14th Amendment. In fact, it's for this reason that decades ago we abandoned the 19th century practice of price cap regulation, and developed regulatory commissions that use the RB/ROR method as the primary guide in rate making.

3) The present New Jersey Bell rates were set in 1985, soon after the breakup of the Bell system, based on that

company's 1984 to 1985 costs. At that time, local telephone service providers, such as New Jersey Bell, faced great uncertainty and risk due to a lack of experience under a new and unfamiliar industry structure. However, there was also great opportunity for New Jersey Bell to reduce its cost through productivity gains and newly introduced competition in the telephone equipment market. This new competition was the direct result of severing the tie between AT&T's manufacturing arm -- Western Electric -- and the new regional local Bells, and, in addition, by prohibiting the new regional Bells from entering the equipment manufacturing business.

4) The 1987 Revenue Stability Plan was intended to partially shield ratepayers from the new uncertainties, while at the same time affording New Jersey Bell maximum incentives to lower its costs through productivity gains. However, the plan was to run for no more than six years. Then, rates could be reset to reflect current costs. Eventually, ratepayers would receive their reward for rate reduction forbearance for the 1987-1993 period.

5) Extending the 1987 Revenue Stability Plan beyond 1993 would be wrong. The risks and uncertainties New Jersey Bell faced in the mid-1980s are gone. Ratepayers have sacrificed the pass-through of productivity gains for five years under the Revenue Stability Plan. The public has held up its end of the bargain. Now is the time for ratepayers to receive their benefit: lower rates!

Freezing rates beyond 1993, at levels based on 1984-85 cost levels is an annual giveaway of hundreds of millions in ratepayer money that could be better used by our citizens, our private businesses, and our local and State governments to cut their costs of living, doing business in New Jersey, and providing government services to our citizens. New Jersey Bell should not be permitted to welsh on its Revenue Stability Plan bargain when the time finally comes for the ratepaying public to finally receive its economic payoff.

In summary, the 1987 Revenue Stability Plan was intended to provide New Jersey Bell with the maximum incentive possible to reduce its costs. There is no legitimate public policy reason for permitting that company a six-year holiday, paid for by New Jersey ratepayers, that it is now enjoying from cost-based regulation, if the cost reductions achieved are never passed through to the public in the form of lower rates. The Revenue Stability Plan can never be considered a public success until the productivity gains are passed on to consumers in lower rates. Please do not turn the Revenue Stability Plan into the "Revenue Stability Scam."

Turning your attention now to specific problems with S-3617 -- and some of this was mentioned earlier -- there are no clear or rational guidelines for setting rates for noncompetitive services. The only standards offered for economic analysis are that "protected telephone services" be affordable, and that rates be "just and reasonable." In addition, a legislative policy goal is that rates be "affordable" and "reasonable."

The term "just and reasonable" has been used in utility regulation for a century. It has long been interpreted as "just and reasonable" to both utility and consumer alike. The great body of law in this nation has interpreted this phrase to mean cost-based rates. For consumers it is rates as low as possible, consistent with meeting the 14th Amendment constitutional test I spoke of earlier. Given that the bill prohibits the use of the rate base/rate of return method, we are left with new and ambiguous concepts of "affordability" and "reasonable charges."

There is no guidance in this bill as to how "affordability" is to be measured. In general terms, whether or not something is affordable is a highly subjective and personal individual decision, based on one's disposable income and personal priorities. What is affordable to one person is

not affordable to another. Should one's phone rates be tied to one's individual income level? Should communities with high personal incomes be charged more than other, less affluent communities? Are lifeline rates mandated for poor people, who otherwise would not be able to afford service? These are questions which are all raised in this legislation, but they are not addressed.

How is "reasonableness" to be measured? If a phone company earns a 30% rate of return on monopoly services while other regulated monopoly utilities are earning only 10% on their monopoly services, are those rates reasonable? I don't think they are, but maybe somebody else thinks they would be.

I think the bill's anti cross subsidization provisions are ineffective and unworkable. Paragraph 4.c. deals with cross subsidization of competitive services by noncompetitive services. All it says is that no current revenues earned or expenses incurred in conjunction with noncompetitive services can be used to subsidize competitive services. This standard only focuses on direct and current expenses solely related to the services, and does not address the issues of common expenses, other noncurrent expenses such as depreciation, or the return on investment and interest on capital investment. In utility terminology, there is no accepted term called "current expenses," and the term is not defined in the bill. However, it would appear that such a term means out-of-pocket, or cash expenses, directly incurred in the provision of a specific service.

If that is the interpretation, then such items as depreciation and return on plant used in the provision of competitive services or noncompetitive services would not be considered to be "current expenses." The standard would permit a telephone company to allocate all costs related to infrastructure investment to noncompetitive services, while intensively using that same infrastructure to deliver its

competitive services. In other words, the bill would authorize "competitive services" a free ride on the fixed cost infrastructure paid for by noncompetitive service users. This is particularly inappropriate because the new services that the infrastructure upgrade would make possible are overwhelmingly competitive services.

The bill also says that current revenues from noncompetitive services cannot be used to subsidize competitive services. However, profit and revenue from noncompetitive services are not limited under this bill. Therefore, it is impossible to tell strictly from an analysis of noncompetitive revenues what that revenue is being used for. Is it being used to subsidize another service, or is it only profit to the telephone company? Subsidy of competitive service can only be detected if it is determined that competitive services are priced below their cost, while noncompetitive services are priced above cost.

Unfortunately, Paragraph 4.a. prohibits the Board from prescribing a cost of service method for competitive service. Thus, the ability of the Board to detect cross subsidization is frustrated, as the Board is stripped of its ability to compare competitive service revenues against competitive service costs. The bill prohibits the Board from making the very measurements it needs to determine whether competitive services are priced below cost.

The only way of finding out if competitive services are or are not subsidized is to determine whether such services are priced to recover their direct costs and a fair share of common infrastructure and expenses. To avoid subsidization, the bill should require that competitive services not be priced below cost. In addition, the cost of service method utilized by the Board to make that finding must assign a fair share of infrastructure-related book cost and depreciation to such services. The assignment of infrastructure costs should take

into account both the intensity of utilization, and the utilization of the infrastructure technological capability. This is the only way to assure that users of noncompetitive services are not being assigned excessive joint investment costs, thereby subsidizing below cost competitive services.

In determination of what services are "competitive," I think rate of return has to be taken into account. This is one thing that is not provided for in the bill. Achieved rate of return can be such a determinant. So-called competitive telephone services today produce rates of return on investment of 30% to hundreds of percent per year. Results of that magnitude can mean one or some combination of the following: Either the competitors are not viable, thereby rendering competition not viable; the fact that the telephone company is a monopoly gives it an advantage that other competitors cannot overcome; or accounting methods that have been used have underassigned investment and expenses to the competitive service, a classic case of cross subsidization.

Therefore, achieved rate of return should be a legislatively required "reality check" in determining whether a service is competitive, and as a check against cross subsidization by monopoly services.

The last point I have on the bill is, any indices, formulas, or other external guidelines used in connection with an alternate form of regulation must reflect costs reflected in the provision of telecommunications service, or other proxies for the cost of digital electronics-intensive goods and services to the public.

Under the present form of regulation, the Board could tie the cost of telephone services to the price of soybeans and pork bellies, or other proxies that have little or nothing to do with telephone service or the cost of providing telephone service. That wouldn't make any sense.

For indexed and formula-based prices to make any sense, the legislation should require that the indices and formulas be reflective of costs of providing service and the market prices of other goods and services incorporating similar technologies to those used by the telephone company. It should not be based on a general index, such as the Consumer Price Index. That Index includes changes in the cost of food, housing, and other such things of no relevance to the cost of providing telephone service, or its fair market value. However, changes in the cost of digital electronics, statewide labor costs, and things of that kind that are actually used by the telephone company, are relevant in any such determination.

Due process rights are sacrificed in this bill. This alternative plan, once adopted, has no sunset provisions. There is no provision for anyone other than a telephone company to file such a petition, or to request that a plan, once in place, be amended. I couldn't even find anything where the Board, itself, could reopen the issue under its own motion.

Although there is hearing and notice required, there is no provision guaranteeing intervention rights of interested and affected parties. We have had proceedings in this State involving telephones, but there has been no right to cross-examination. Given the fact that all interested and affected parties were denied intervention by the Board in the adoption of the Revenue Stability Plan, something should be in here to assure the rights of intervenors.

I also note that while noncompetitive services are subject to some form of proxy regulation, competitive service is subject to no price regulation. Therefore, the reclassification of a service from noncompetitive to competitive status can have significant impacts on users of such services. Yet, paragraph 4.b. allows the Board to make such determinations without notice or hearing to anyone.

In contrast, any reclassification of a service from competitive to noncompetitive can only occur after notice and hearing.

In closing, I sense there has been a lack of appreciation of what can happen under this legislation. For example, competitive services include, or could easily include, such fundamental services as coin pay phones. The bill both deregulates competitive service rates and eliminates terms and conditions of service. It is entirely consistent with the letter and philosophy of this legislation that if New Jersey Bell wishes to raise the cost of a pay phone on a local call to 50 cents, and at the same time eliminate pay phones from 75% of their present locations, it should be free to unilaterally do so, because there are other pay phone providers.

There is an old saying: "If it's not broke, don't fix it." New Jersey Bell is right when it says, "Our rates are now low." Rate base/rate of return regulation made those rates low. Under traditional regulation, when the Revenue Stability Plan expires in 1993, rates can be even lower. Timely new technology deployment is a smoke screen. When it was possible for direct dial service to replace operators, that happened. When touch tone became feasible, that happened. We got all kinds of advanced calling features now; we even have a few services we don't need, as well. When there is adequate demand for new services to be cost-effectively deployed, I am convinced that New Jersey Bell will deploy them under the existing regulatory scheme, without a need for a change.

Under rate base/rate of return regulation, when costs go up, rates go up, but when costs go down, so do rates. With the 1984 breakup of the Bell system and other incentives put into place at the State level, costs have gone down. Our rates can go down to follow them in 1993, when the Revenue Stability Plan expires, if the Legislature leaves well enough alone. Don't help New Jersey Bell welsh on its Revenue Stability Plan

bargain by passing this legislation. From a consumer perspective, the system is now not broke, nor it is broke from an investor perspective. Bell Atlantic shareholders have done quite well. As the existing system is not broke, please do not fix it.

If you have any questions, I will be pleased to handle them.

SENATOR RAND: Thank you very much, Mr. Makul.

Dr. Patricia Kravtin, Vice President and Senior Economist, Economics and Technology, Inc. Good afternoon.

P A T R I C I A D. K R A V T I N: Good afternoon. Mr. Chairman and other members of the Committee: My name is Patricia D. Kravtin. I am Vice President and Senior Economist at Economics and Technology, Inc., a Boston-based consulting firm specializing in telecommunications economics, policy, and regulation for almost 20 years. I, myself, have over 10 years experience as an expert in the area of telecommunications economics. My biography outlining my educational and professional experience is attached to my testimony.

ETI provides consulting services to a wide range of clients on telecommunication matters, including business, government, and residential users of telecommunication services, as well as regulators of telecommunications utilities. My testimony today is on behalf of the New Jersey Cable Television Association, and I would like to thank the Committee for the opportunity to present my testimony.

I have reviewed S-3617 both in its current version and its previous versions, and find that it remains a poorly thought-out piece of legislation. Previous versions of the bill directly promoted massive public expenditures on fiber infrastructure by the telephone company, and I view this as a public good model. However, they did not provide for any examination of the costs and benefits to ratepayers or the

value of the investment in the telecommunications infrastructure relative to other public infrastructure, and on this basis they were certainly not in the public interest.

Now, similarly, the current version of the bill, which emphasizes the deregulation of the telephone company services, as opposed to the infrastructure investment per se -- what I refer to as a private good model -- is not in the public interest either. While the general body of ratepayers will pay for the infrastructure investment through the rates they pay for their monopoly services, under the private good model embodied in the current version of the bill, only those few who opt to pay premium market charges will benefit from the new services made possible from the infrastructure investment.

The current version of S-3617, like previous versions, was not designed with ratepayer interests in mind. Ratepayers have been well served by rate base/rate of return regulation. Rates have been kept affordable and modernization of the network has occurred.

I note that one of the Senators raised the issue of accessing the classified sections of the newspaper. As a matter of fact, current technology makes that possible today.

Rate base/rate of return regulation, while certainly capable of improvement to adapt to a changing market and regulatory environment, is not in need of wholesale replacement. And if it is to be replaced, this bill, in particular, does a poor job in outlining the specific parameters of that replacement and in protecting ratepayers' interests.

I would like to talk for a minute about the two distinct views of the telecommunications network I alluded to a minute ago. This is a framework I developed in a paper for the National Regulatory Research Institute, which is the research arm for the National Association of Regulatory Utility Commissioners. I believe it provides a useful perspective on the flaws of this bill.

First, the public good model. It viewed the telecommunications network as a public resource, whose development should be funded by the community it serves. The model is motivated by the achievement of social objectives, like economic development, and relies upon the political process to make resource decisions. Regulators have the responsibility for making the socially correct consumption decisions. Infrastructure decisions are supply driven, often made independent of market conditions. But the key point is that under a public good model, the benefits of the new features and functions are to be provided to the general body of ratepayers who have funded that investment.

Now, the previous versions of S-3617 seemed to be going in the direction of the public good model, but without meeting the responsibility of ensuring that the basic ratepayers were able to utilize the new services that they had funded.

Now we look at the private good model, where the telecommunications network is privately owned, developed, and maintained by private risk capital and costs recovered through the sale of network services at market prices. The model relies upon the market mechanism to determine the value of new services or network functions, not the political process. Infrastructure decisions should be demand driven, based on indicated demand by the consumers and willingness to pay. The model is associated with the narrow frozen definition of basic services, and new and extra services are available only to those willing to pay specific fees for their use.

Now, this new version of S-3617 seems to be moving in the direction of a private good approach, particularly in terms of its emphasis on the market to set the rates for the new services made possible by the infrastructure. Unfortunately, the bill does not satisfy the conditions necessary for a private good model to be in the public interest either.

It is critical to the development of good policy that a particular model or network be chosen first, either a public type approach or a private type approach, and that each such approach be properly applied, with important threshold conditions being met. For example: Under a public good model, the modernization program must meet strict standards of cost-effectiveness and be guided by a specific set of network enhancement goals. The application of the public good model requires a vigorous regulatory structure in which the individual preferences of the consumers are revealed through an open and highly accessible public forum, and the relative cost-effectiveness of various investment programs subject to intense regulatory scrutiny.

I note that the earlier versions of this bill failed in addressing those special conditions.

Under the private good model, the new services must be fully compensatory, i.e., demonstrated to cover their costs, including the costs of technology, if that technology was required to provide those services. Business risks are to be absorbed by the shareholders or private beneficiaries, and not by the general body of ratepayers through the rates they pay as captive customers of monopoly services. We must determine that benefit externalities are insignificant, meaning that it is a private benefit we identify.

Now, application of the private good model does allow for a more relaxed regulatory structure, such as those contemplated by the bill, but only provided that the threshold conditions, such as assuring the compensatory nature of the service and assuring that ratepayers do not absorb the risk, can be satisfied. This bill is woefully inadequate on this point.

The bill still talks about encouraging economic development goals, which is very much a social issue, but then it proceeds to set up a structure to deregulate the rates for

the very new services made possible by the infrastructure investment, thereby potentially denying the basic ratepayer who has funded that infrastructure, for the benefit of those new services.

I would like to make a few final observations before I move on to the specific problems with this bill. I would like to address the contention that the U.S. is falling behind others in the area of infrastructure investment. My firm has done a lot of research on this matter. We have found that virtually every available indicator of the performance and usage of public telecommunications networks shows that the U.S. remains far ahead of its strategic competitor nations, and that includes Japan. If these nations were, in fact, spending more-- I note that once data we have reviewed has been corrected for accuracy and made to assure comparability with U.S. data, it shows that the other countries are simply trying to catch up to the U.S.

The special interest pleading by the LECs fails to consider the relative U.S. position in other economic sectors. For example: We should be much more concerned about falling behind in areas such as education that more structurally affect the success of our economy, but we don't hear any of that discussion in these forums.

The LECs are rapidly modernizing their networks. Unlike the situation in many other countries, in our country we have other carriers and equipment suppliers which contribute to the infrastructure development. So, when you take into account total U.S. expenditures per line, when you include these other suppliers, the expenditure far exceeds outlays by monopoly or PTOs -- telephone companies -- in other countries. Moreover, we have a more diversified base of service providers.

Much has been said of the Tennessee "For Your Information" program, and I would like to address that briefly. I have done a great deal of analysis of that program,

and I caution you about believing the hype you read in glossy public relations brochures. From an economic development standpoint and analysis, Tennessee's main attractiveness for jobs is due to its cheap supply of labor, favorable work rules, and low taxes. Don't fool yourself into believing it is the result of the adoption of a 10-year telecommunications infrastructure plan.

Moving away from the conceptual problems of the bill, I would like to address some of the specific key shortcomings that I have been able to identify in the short time I have had to review the current version.

First, the definition of "protected telephone services" is extremely limited, in that it does not include new services as well as existing services that are, in fact, provided on a monopoly basis by the telephone company. This is quite key when you consider that we are also discussing an infrastructure program that will result in new services. Those simply are not protected under this plan.

Second, the bill permits outright deregulation of "competitive services," without first establishing specific criteria or guidelines regarding the determination of what it represents: effective, sustainable competition on a service-specific or market-specific basis. Only effective, sustainable competition is going to result in the benefits of competition that have been alluded to. Without price constraining competition, you will have none of the benefits that come with competition. The factors identified in the bill that the Board should take into consideration in developing criteria for competition are vague and of a very limited nature. They do not reflect mainstream economic thinking on this subject, which deals with structural measures of market power, market share, demand elasticity. Those measures have been totally ignored in this bill, and I caution you on that point.

Third, the bill fails to provide adequate protection against cross subsidization. The mere statement in the bill that the telephone company may not cross subsidize is not a meaningful safeguard. The development of specific accounting, reporting, and, most importantly, cost allocation systems must be required and details worked out first prior to any deregulatory treatment.

Fourth, the bill fails to establish adequate hearing and notice processes. Again, while the bill has been amended to include that phrase, it does not develop what exactly it means by "adequate hearing and notice processes." As one who has worked in the regulatory arena for many years, that process can vary from having two weeks to prepare a statement to a full regulatory proceeding that meaningfully looks into the issues and permits cross-examination and other detailed review.

Fifth, the reclassification of a service from competitive to "protected" that is allowed in the bill, provides little real safeguard as well, because it comes after the damage has been done. You really cannot redo history on that point.

Sixth, the bill wants together the deregulation of AT&T with the deregulation of the local telephone company. The conditions differ. They warrant different legislative consideration. I note that the AT&T witness did not address any of the other aspects of the bill, of course. He spoke on just the one paragraph that related to his company and to his industry. That is a problem with this bill.

Seventh, the bill does not ensure that ratepayers receive the benefits of current and future cost savings realized by the telephone company in an environment of declining costs. Yes, rates may be low here, but rates should be going down because costs have been going down. Just to brag of staying at levels set in the early to mid-'80s really isn't saying very much for your consumers.

One of the key elements of any alternative regulatory plan must be to provide safeguards for consumers of rate reductions which they would have received under rate base/rate of return regulation and, again, this bill is silent on that point.

Finally, the bill does not address the issue of future rate rebalancing and how that might be implemented under an alternative form of regulation. Usage costs are going down in particular. Competitive pressures are beginning to emerge. This issue has not been addressed in New Jersey because of the Board's continued prohibition of intraLATA competition, but those issues will have to be addressed. When they are, it will be very difficult to do so once rate base/rate of return regulation has been removed. So it is an issue that New Jersey will have to face ahead as a State, and this bill would seriously hamper the ability to thoughtfully deal with that issue of intraLATA competition and the rate rebalancing, meaning the decrease in usage rates and the increase in access rates, which is going to have to occur when that rate rebalancing takes place.

I would like to conclude my testimony by offering some principles that should be part of any good piece of legislation, although I strongly believe these issues are too complex to be legislated.

First, reduced regulation of telephone service rates should be considered only upon an affirmative and demonstrative finding by the Board based upon quantitative and specific established criteria that the particular service in question is subject to effective, sustainable competition.

Second, measures of effective, sustainable competition must take into account existing price distortions which do not mirror the underlying economic conditions in a given market. The market must be capable of supporting competition in the absence of artificial incentives such as cross subsidies or the conditions that exist to permit resellers in the market.

I noticed that when one of the speakers was talking about competition, he noted the number of resellers in the market. That competition exists at the discretion of the telephone company. Resellers exist because of the margin between wholesale rates and retail rates, and if there is complete flexibility on the retail rates, they can certainly put a squeeze on the resellers and they will be out of business as fast as they got in.

Third, in cases where competition in service markets may be desirable, regulation should still be retained for dominant carriers and reduced and eliminated only for those proven to be nondominant.

Fourth, any service provided on a monopoly basis by the telephone company, new as well as existing services, should be subject to full regulatory oversight. They should not be allowed to be priced at what the market will bear, if they are truly operated and offered on a monopoly basis.

Fifth, proposals for new service offerings should be approved by the Board only upon an affirmative finding either that, one, the service is fully compensatory, that is, it is covering its cost, including an allocation of any investment costs that should be allocated to it; or two, it is treated as a public good service and included in basic service at no extra charge in recognition of the fact that ratepayers have funded the investment that made that service possible.

Sixth, telephone companies accepting partial or total deregulation must be prepared to forego continued regulatory protection of minimum revenue and earnings levels, and must furnish to the Board evidence of their financial ability to forego such protection under any alternative regulatory regime.

What we have seen over the past few years is that some of the telephone companies which have been most aggressive in seeking incentive regulation or reduced regulation, when things start going against them, when the revenue base starts going

down, and the economy starts declining, they come back in to the regulator and say, "We need more revenues. We need to amend our regulatory structure," and they ask for more money. This has happened in New York, where they had an incentive regulation scheme. They came in and said, "Oh, well, we're losing money due to a number of factors beyond our control, and we need additional revenues." That clearly went outside their incentive plan. It is something that legislation that allows deregulation, or partial deregulation, must take into account, so that ratepayers are protected and do not absorb all the risk of the new regulatory regime.

Finally, any departure from traditional rate base regulation, which has served ratepayers so well, must assure that telephone company investment service and pricing policies will truly be in the public interest.

S-3617 fails miserably in the context of these principles, and should be stopped in its tracks.

Thank you very much.

SENATOR RAND: Thank you very much. Mr. John Egan and Mr. Greg Liptak?

G R E G O R Y L I P T A K: Mr. Chairman, members of the Committee, good afternoon. My name is Greg Liptak. My industry colleague, Mr. Egan, will speak after I finish.

Thank you for permitting me to come from Colorado to testify on this important issue today. Parenthetically, Colorado got six inches of new snow again this last weekend. We have among the best snow in about 20 years, and we invite you all to come and see our great state.

SENATOR RAND: We'll send John Russo out there.
(laughter)

MR. LIPTAK: I am President of a company called Jones Space Link. We are the nation's largest cable television operator. We serve 1.6 million subscribers across the nation. Here in New Jersey, we operate the cable television system serving about 30,000 subscribers in the Turnersville area.

Today, however, I appear before you as President -- one of my additional jobs -- of Mind Extension University, the education network, America's fastest growing basic cable service. One of the key arguments proponents have floated in an effort to get you to approve the draft bill, concerns the alleged benefits to education which will be produced. I disagree with that position, and would like to make two brief points today:

Point number one concerns the contribution being made by the nation's cable television operators and cable operators in New Jersey to education. Two years ago, the cable industry agreed that one cable drop and free basic service would be offered to all public junior and senior high schools by December of 1992, and to all private schools -- consenting private schools -- by September of 1994.

Many cable operators are going far beyond that basic requirement. Operators are wiring classrooms, raising money to support distance education programs, etc. For example, in our cable system in Turnersville, as of yesterday, all 33 public elementary, and junior and senior high schools, public and private, have been wired, and cable service is available. In addition, two public high schools have now implemented distance learning technologies. Cable television programmers, through our Cable in the Classroom project are now providing video cassette recorders and monitors to all the schools.

I am pleased to report to you that nearly two-thirds of all public elementary and secondary schools in your great State have now received cable service, and we believe that a similar percentage exists for private schools in New Jersey.

Because of this aggressive program, I suggest to you that I do not believe that any new investment in hardware should be made to deliver education. Satellites, earth stations, and distribution systems are all in place and available. The cable industry, with a full video pipeline into

two million New Jersey households presents an efficient system that is already in place for the delivery of educational materials. Also, there are other transmission techniques -- ITFS, Instructional Television Fixed Service, low powered television, etc. -- which are available.

In my judgment, the cost of constructing a totally new redundant infrastructure for educational purposes is not only prohibitive, it is unnecessary. On the horizon, new technological developments hold great promise. My industry colleague, Mr. Egan, who is one of the nation's recognized experts in the implementation of fiber-optic technology, will report to you that by mid-decade -- by 1995 -- nearly 50% of all the neighborhoods in your State will have access to fiber optics through cable television.

Further, video compression technology will be brought to market over the next decade, and a major expansion of capacity will occur. This is the concept of combining six to eight television channels on one channel, and that is practical. In my judgment, the schools of the future will have access to several channels on cable systems, and will be able to offer a variety of distance education programs to your State.

My second point today concerns the funding of distance education. First of all, our network combines satellite and cable television to produce a nationwide electronic classroom without walls. We are the fastest growing network in America, currently serving 18 million cable and satellite dish households. By next year, we will have an additional three million subscribers. That means nearly 50 million Americans will have access to this lifelong learning resource for a community.

During the day we are currently offering many of the things that are being proposed to you here as a future development. We offer live, interactive, direct instructional material in advanced placement mathematics, science, foreign

languages, and student enrichment programs. Kids today -- and many in New Jersey are -- receiving credit from this television technique.

In addition to secondary instruction, our network offers graduate and undergraduate programs, including a complete MBA program. I am very proud to tell you that at an AT&T facility in the northern part of your State we have many MBA candidates. We are affiliated with 20 of the nation's major colleges and universities, including here in your State the New Jersey Institute of Technology, which is one of our major providers of computer instruction.

At any rate, I want to encourage you to help fund the ongoing program development for these networks. Money is needed to finance the development of programming at the local school level. Help the schools in your State, particularly the educationally and economically disadvantaged schools in both rural and urban settings, to pay the modest sums necessary to provide access to master teachers and distance learning techniques. Money, in my judgment, is not needed for a new infrastructure. You can refer to the major Federal government report on distance education called, "Linking for Learning." When you read that report, produced by the Office of Technology Assessment, the Congress' research arm, you will find that what is needed is emphasis on the programming, not on new infrastructures.

I know I speak on behalf of my colleagues in the cable television industry in the State of New Jersey when I say we are ready, willing, and we are able today to provide the infrastructure necessary to bring distance education into the classrooms of New Jersey.

Thank you very much.

SENATOR RAND: Thank you very much. Mr. Egan?

J O H N E G A N: Thank you. Mr. Chairman, members of the Committee: My name is John Egan. I appreciate the opportunity to speak with you today.

I have been in the telephone and cable television business for most of my career of 20 years as a supplier to both industries, and in 1989 founded a company by the name of Optical Networks International, whose function was to integrate fiber-optic technology into the cable television business.

I agree, as do most of the speakers today, that fiber-optic technology is an essential tool in keeping our country's multiple -- and I stress the word "multiple" -- communications infrastructures the finest in the world. However, I do not agree that this bill is necessary for fiber optics and fiber-optic equipment to reach its full potential in this country nor in this State.

The cable television industry, nationwide and in New Jersey, has embarked on a massive deployment of fiber optics. At current construction rates -- not future rates, but current construction rates -- the cable industry will deploy fiber optics into half of the neighborhoods in the United States by 1995. Of the 47 systems in New Jersey, well over half have either installed, begun to install, or have plans that have been approved to begin installing in the next two years fiber-optic systems.

We seek no relief, no subsidy. We are in an extremely uncertain regulatory climate, both on the Federal and local levels. We are in extremely difficult capital formation markets due to the deregulation of the banking industry. Why would we embark on such a seemingly risky adventure? The fact is, our customers vote with their entertainment and information dollars. They want more programming. They are demanding increasing programming, increasing diversity, increasing services. They want better service; they want better pictures; they want better reliability.

Fiber-optic technology, as adapted in the cable television business, makes all of that a reality. In addition to that, it is an effect -- a very cost-effective, inexpensive,

easy-to-maintain technology. It, in fact, allows us in cable television to expand our services, expand our reliability, and improve our capacity very, very cost-effectively.

Our business is driven by consumer demand, not by the technology itself. As speakers before have mentioned, we are not in the fiber business for fiber's sake. We are in the fiber business because it is a tool that we can use. We called our industry, 10 years ago before we came into New Jersey, the CATB -- community antenna television business. That is because our market was providing television to people who, without our help, could not otherwise get it in the hills of northwestern New Jersey or the hills of Pennsylvania, where broadcast television was not available.

In order to come into the suburban and urban markets in New Jersey, we had to develop new programming, in order to create that consumer demand. We spent billions of dollars doing just that, and in the '70s and '80s were able to have a consumer demand that allowed us to build the two-million subscriber network that we currently have in New Jersey.

In 1985, we changed the name of our industry, or referred to the name of our industry as the cable television industry, since we serve much more than the hills and mountains of Pennsylvania. By 1995, we will probably change the name of our industry to the fiber television industry. Our investment plan today to improve service and capacity for entertainment becomes the foundation for future services. We are at the forefront of new communication services. As Greg mentioned, video compression allows us to add thousands of new channels on to our television: HDTV and its vision, the distance learning, interactive TV. The FCC, in attempting to analyze personal communications networks, has given several dozen experimental licenses. The cable television industry is more than well represented in that, and I would encourage you to view the infrastructure in your State as not a single monopolistic one, but as a multiple, competitive, consumer driven industry.

Thank you.

SENATOR McNAMARA: Thank you. Mr. Bernard Hartnett?

B E R N A R D M. H A R T N E T T, JR., ESQ.: Thank you, Senator McNamara. My name is Bernard Hartnett. I retired a few months ago as the Vice President and General Counsel of New Jersey Bell, but I have had a great deal of involvement with the process of developing the approach to this legislation and many of the activities that preceded it.

I would just like to come back to the fundamental that all this bill does is to empower the Board of Regulatory Commissioners to deal with the increasing complexity of the telecommunications marketplace. It does not deregulate any company or any service. It does not, in any way, reduce the power and authority of the regulators to protect the interests of the public. In fact, it does quite the opposite. It enhances the power of the Board to deal with the many new issues that are coming before it which obviously could not have been anticipated in 1911, when the basic statute was developed.

Nearly all of the comments that I have listened to so far today that have been offered in opposition to this legislation fall into one of three categories: One, they relate to the original version of the bill, and therefore are basically irrelevant to the consideration that this Committee has before it now. Two, they seek to raise detailed type issues which are properly the concern of the expert agency, namely the BRC, and thus are premature. Obviously, legislation is not going to, and should not attempt to deal with every possible anticipated problem. That is why the Legislature created the Department of Regulated Commerce and the Department of Regulatory Commissioners: to delegate to them the function of the Legislature in putting the flesh on the bones of the legislation and dealing with that kind of detail.

The third category into which a number of these objections fall is one that I would simply label, "Don't let

this happen to me." The complaints of the newspaper people and the cable television people are simply routed in their desire to avoid, or delay, the entry of competition to their services. I think that was very clear. Their objections last week related to the content of the bill. Now they say that while the substitute bill may address many of those concerns, they have not had time to analyze it.

I submit, Senators, that it really doesn't take very much time. They have been looking at these issues for quite a while. They have been developing their positions for quite a while. They know exactly what the changes in the bill -- in the substitute bill achieve, and they can tell you in five minutes whether they address their concerns or they don't. So that cry is simply a delay, in hopes that maybe this problem will go away.

Now, the main thing that I wanted to address, however, is the comments of Mr. Makul, who asked you not to lose the benefits of the Rate Stability Plan. He envisions that this legislation would do that. That is simply not true. The Rate Stability Plan still has another year-and-a-half to go. I was the negotiator of that plan with the Office of the Public Advocate. I might add, it was principally with Mr. Makul's superior, Professor Slocum, who at that time was the Public Advocate, and who saw the wisdom of the plan in terms of the concept that underlies the plan.

Let me just take a minute to tell you what that concept is, and remains. The concept is that, over the last several years, as competition entered more and more into the telecommunications business, it became increasingly evident that New Jersey Bell was operating two very different kinds of businesses under the same roof; one an increasingly competitive business, and one with still the hallmarks of the old monopoly service. And you can't really make business decisions in one area wearing the other area's hat. You really had to separate

how you looked at business decisions that would be made in the competitive area from business decisions made in the old style monopoly area.

All this plan did simply was to separate, on an earnings review basis, how we would report those earnings on the competitive side versus the regulated side. In return for that kind of flexibility, the company agreed that it would not seek to increase rates on any of its tariff services for six years. We are wedded to that commitment. We made that, and we will stick by it.

When the plan that we have described in connection with our future intention is filed, assuming the adoption of this legislation, that plan must go before the Board in the same fashion, and perhaps in a greater detailed fashion, than the original plan did. It isn't just going to happen that we file a plan and it becomes automatically the plan. There will be public hearings. There will be an opportunity in those hearings to evaluate how effective the existing Stability Plan has been, and I can tell you, I think the evidence will clearly demonstrate that it has been a boon to the citizens of New Jersey. We have had stable rates for a long period of time, despite increases in many of the basic costs that drive our business.

In any event, those are issues that can, and should properly be dealt with by the regulatory agency. All this bill does is empower the Board to look at those issues with more tools at their command than the present law gives them. Now, I don't know why anybody should object to that.

The last comment I want to make really responds to the fear that was raised by the witnesses for the AARP. I might say parenthetically, I am a member of the AARP. Nobody in that organization ever asked me for my opinion about this legislation, so I am not sure who they really speak for. But that aside, the concerns that they raise are really unreal.

The basic services that we provide are currently subsidized by our competitive services; it is not the other way around. Those services-- The most basic one, the local exchange service, is priced below our costs. We have agreed that we will file a plan that will extend the present freeze on those rates through the year 1995, and thereafter the only increase that might occur would be limited to the maximum of 25 cents a month.

So, even if you assumed the worst, we are talking about a one dollar possible increase, and that doesn't happen automatically; a one dollar possible increase between now and the year 2000. I don't really think that anybody should get terribly concerned about that.

Finally, they raised the specter of, "Is this bill a Trojan horse? Are we being asked to just blindly put our trust in New Jersey Bell?" Well, let me say, New Jersey Bell is a very honorable company. I have spent 36 years of my life in the company, 17 as its Vice President and General Counsel, and it has always operated on the premise that we don't do anything that we would be embarrassed to read about on the front page of The Star-Ledger. We are not, as my old Irish ancestors would say, "a company blown in on the wind." We have deep roots in the community. We are here for the long pull. We have been here since the invention of the telephone, and we intend to stay and be an active player, as we have been in the social, political, economic, educational life of this State.

So if there is one company in this State that can honestly say, and with a straight face ask the Legislature, "Trust us," it is New Jersey Bell, and I would stand on that. But that is not necessary. The bill does not ask you to trust anybody. The bill has all of these safeguards built into it. The Legislature, as I said, is the ultimate safeguard. If the bill doesn't work, you always have the authority to change it. The BRC is your creature. You have the ability to direct it at

Analysis or Analyst? If the latter change in title

any time that it is not working the way we tell you we think it can and should work.

Finally, I would just urge that there is a reason to act quickly. I think you have all of the information before you that you need. I think the arguments on both sides have been very clearly presented, and I see no reason why this Committee should not vote favorably on the substitute bill before you.

Thank you very much.

SENATOR RAND: Thank you very much, Mr. Hartnett.

Mr. Ron Cross, Director, Regulatory Policy Analysis, Northern Telecom Incorporated?

J. RONALD CROSS: Thank you, Mr. Chairman and members of the Committee. I brought a written statement with me that I would like to distribute. Also, being from Tennessee, I brought 10 copies of the economic development brochure, so that each Committee member could have one.

In reviewing my written testimony you will find that it supports my oral testimony, but I do not plan to go through the written testimony per se. I will attempt to honor the Committee Chairman's direction of five minutes.

SENATOR RAND: Not too many people have, but it's okay. We will get everybody in before the day is over.

MR. CROSS: Thank you. We are, in Northern Telecom, a provider of technology to most of the telecommunications carriers in the State of New Jersey, as well as providing private systems to both private corporations and governments. So we get a view of both the end user and the carriers and what technologies are required in order to meet the users' demands. I want to focus primarily on technology and what we believe technology can do. We do note, in providing to these varied markets, that in private networks where business decisions are the constraining factor on whether they invest in the technology or not, they are much more technologically advanced

than regulated networks. Similarly, where competition has grown in regulated markets, those networks, as well, are much more technologically advanced.

I would like to talk a bit about why we believe that is so, what the technology does, and why we believe that regulatory reform is mandatory in the State of New Jersey. First of all, to put this technology in the hands of small locations of large business, in small businesses, which are an essential part of your economy, and this nation's economy; the residential user, why it will aid in attracting large business back to public networks, supporting and minimizing local rates for the general subscriber, and why it enables economic development and will give you a larger tax base from which to develop other opportunities within the State.

Most people have talked about fiber digital switching boardband. Let me attempt to give you a service vision of what we believe in Northern Telecom this enables over time. We see the telephone network today -- public networks primarily -- as providing voice communications over distance, in some cases limited low-speed data. We believe the technologies that are moving from our factories today are capable of providing concurrent communications in any form. In other words, you and I, across distance, can share visual images, expressions that are only communicated by other means -- hand expressions, facial expressions, whatever; video information, which can be conveyed sometimes in 10 minutes, where it would take a day to do it in an oral presentation; computer information that can be shared, design engineer sharing images, whatever; and high-speed data.

With appropriate volumes, that infrastructure, or the capabilities of deploying those services, can be provided as cost-effectively as the older technologies that you've got in your infrastructure, and most states have today.

Many people recognize that. A recent report issued by Bear Stearns, a noted analyst in Wall Street, indicated that in doing nothing, in short, in maintaining the status quo, in your State and other states, what was happening was, competitors were coming in particularly focusing on large business, on regulated competitors. They were using fiber-optic technology, which we and they recognized large business wants for quality of data transmission and, also, to ensure service responsiveness and lower costs, and we know ongoing operating costs are lower because of that technology. They were focusing on revenues that typically the local carrier had used with high margins to subsidize local service. Bear Stearns concluded that if the status quo was maintained, local rates would be forced up because the local carriers would not have the subsidies and, in fact, they had to deploy the newer technologies and get into a regulatory environment that was much more responsive to the marketplace.

The next thing I would like to focus on is Tennessee. I am a resident of Tennessee, as you noted. I do agree with previous comments that firms such as ours and others are investing and have invested in Tennessee because of the work ethic, because of the cost of labor, because of the cost of land, and because of the low tax rates. I also work closely with the State of Tennessee, as most of the firms located there do. Let me clarify what the views of the Economic Development Department in Tennessee are in such things as have been reflected in the brochure.

First of all, Tennessee understands that we are in a world economy. If you look at the many investors in Tennessee, many of them are Japanese. They want to compete for those markets. They recognize that in the past they have competed because of the points I have laid out. They recognize that Federal policy is moving toward a free trade zone that includes all of North America and, indeed, some have suggested parts of South America as well.

So Tennessee recognizes that its competitiveness in labor may be threatened by a move to a more global North American/South American alliance; in fact, free trade with Mexico. It recognizes that there are things that this new infrastructure can afford that are extremely attractive to businesses in the future. They include the ability to educate people; ongoing education, and all our corporations are coping with the very rapid rate of change today. They include lower health care costs. That 12% of GNP consumed by health care is, in fact, a tax on firms attempting to compete in global markets with other nations which do not have 12% of their GNP consumed by health costs.

It also recognizes that it provides the capability for a firm to reach into a state, employ somebody in the state, and not require that that employee move from that state to another state in order to work for a firm. The technology we are talking about would enable me, in Tennessee, to employ somebody in New Jersey, without me incurring the costs of moving the person to Tennessee and, as well, would be more attractive for the individual, as he would not have to move from where he had chosen to live.

It recognizes that they have a small window for this. It recognizes that other states are competing, and your State is perceived externally as a leading competitor with the possibility to, in fact, leapfrog Tennessee, as far as the communications infrastructure in the future.

If you choose not to, I will tell you there are people in economic development in the state who will literally wipe the sweat off their brow. It is an important factor. They know they only have a small window, hence the glossy brochures.

In my written testimony I have talked about education, health care, telecommuting, and other applications of the network. Let me say, in conclusion, that the network we are talking about here today simply isn't available anyplace else.

For instance, we are working with a number of states in the educational arena. We are developing networks that you will see in our testimony which provide true two-way, interactive, multimedia communications. That allows a teacher in K through 12 to observe the students at the far end and whether or not they are attentive, and pulling them into the discussion as appropriate. Academia has looked at that capability and said, "It is as efficient as having the teacher in the classroom."

So, some things that cannot be done other ways; that cannot be done with one-way communications-- I know of nowhere in the country today where I can call up from my home and talk, or participate in a class of my choosing anyplace in the nation in higher education. This network permits such capabilities. That is where it will evolve to. We think it is exciting, and we support the State's activities and leadership in such bills as this one before us.

Thank you.

SENATOR RAND: Thank you, Mr. Cross.

Mr. Robert Thompson, Vice President and General Manager, United Telephone Company of New Jersey. Good afternoon.

R O B E R T E. T H O M P S O N, III: Good afternoon, sir. My name is Bob Thompson, and I serve as Vice President and General Manager for United Telephone Company of New Jersey, headquartered in Clinton. I really do appreciate the opportunity to present my views on this issue.

United Telephone of New Jersey is the second largest telecommunications local carrier in the State. We have over 147,000 customers in five counties: Hunterdon, Sussex, Warren, Somerset, and Morris. We have 475 employees working in nine locations.

I would just like to tell you, Senator and Committee members, that I believe this legislative initiative provides a visionary opportunity for New Jersey's future. Its provisions

recognize the compelling need to enable the New Jersey Board of Regulatory Commissioners to consider alternative forms of regulation for an industry that has changed dramatically since the current rules were enacted. By considering and acting upon innovative plans submitted by local exchange telecommunications companies, the Board can pave the way for the rapid deployment of a statewide state-of-the-art telecommunications network that will provide this and future generations with a backbone information gateway. Through this gateway will pass an entire array of advanced services and information power that will help propel New Jersey into the information age.

In my written comments before you, I have focused on several key elements of the bills, we well as discussed the interrelationship between telecommunications technology deployment and economic development. I also discussed why I believe that the right time for this legislation is now. However, I believe these areas have been, and will be covered thoroughly by others in this proceedings, so for the purpose of my oral comments before the Committee this afternoon, and in the interest of time, I would like to say just a few words about why this legislation is so important for rural New Jersey, as Senator Menendez has already spoken to the value to urban centers.

As the great majority of United Telephone's customers, both in New Jersey and across the nation, are in suburban and rural areas, we are greatly concerned that the present and future needs of these customers are met. A considerable amount of debate on high technology telecommunications network deployment has been centered on two perceptions: One perception is that network modernization is necessary to keep large users on the public network, since such users already have competitive alternatives. Another perception is that the average residential or small business user, particularly those in suburban or rural areas, will not need the sophisticated network capabilities.

I would argue, however, that unless we actively seek to keep pace with, and create widespread availability of advancing information technologies, key participants in the future of our State's economy, namely consumers, people in businesses in small towns and rural areas, will be increasingly separated from the tools required to successfully participate in tomorrow's economy. Private networks, such as the network described in Senator Cowan's question to Mr. Koepe of New Jersey Bell earlier, metropolitan area networks, direct access to interexchange carriers, and other alternatives, may allow larger businesses and those in the population centers to take advantage of the new technology. But the rest of us may find ourselves relegated to second-class status in the information age, if the appropriate technology is not deployed to all parts of the State, via the public network.

From an economic development standpoint, suburban and rural areas stand to benefit from technology deployment, as service industries begin to look to the less populated regions of the State to locate their businesses. The availability of a high technology telecommunications system has increasingly become a significant factor in the site selection process. New Jersey's initiatives in this area will provide us with a competitive edge to attract and retain those information-intensive, service-oriented businesses, and the jobs that go with them. Conversely, if we fall behind other regions in terms of technology deployment, these same businesses will surely turn elsewhere.

Finally, building electronic highways throughout the State will provide benefits for more than just those who use them. Even if a citizen never travels on Interstate 78 or 287, he or she will benefit from the products, services, and economic development benefits these roads provide. Similarly, you won't have to have a personal computer in your home or be a computer enthusiast to benefit from the rapid deployment of

sophisticated electronic highways that will bring similar advantages in the information age.

The legislation under consideration by the Committee provides New Jersey regulators with the flexibility to carefully consider each plan brought before it. The Board must ensure that protected telephone services remain affordable; that rates are just and reasonable; that rates do not disadvantage a customer class; and that service quality standards be established and maintained.

The legislation also requires the Board to consider whether or not the plan will enhance economic development. I believe that rural New Jerseyans stand to benefit at least as much as those in our State's population centers from the progressive advancements in public policy supported by this bill.

I would like to thank you for the opportunity to comment this afternoon.

SENATOR RAND: Thank you very much, sir.

Arthur Cooper, President of ACTEL, Inc., and member of the Board of Trustees of the Independent Payphone Association of New Jersey.

A R T H U R C O O P E R: Good afternoon.

SENATOR RAND: Good afternoon.

MR. COOPER: Mr. Chairman, members of the Committee: My name is Arthur Cooper. I am President of ACTEL, a New Jersey corporation in the business of providing pay telephone services to the general public throughout the State. I am also a member of the Board of Trustees of the Independent Payphone Association of New Jersey, or IPANJ, representing approximately 7000 pay phones owned and operated by about 45 different businesses.

As President of a company that was born as a result of deregulation in 1984, you may assume that this bill should have my support. In fact, I am in support of deregulation on a

general basis. I truly believe that when deregulation is used to unleash the powerful forces of market competition, the result will be better products and services at lower cost to the consumer.

In fact, the organization I represent -- IPANJ -- supports the general principle of deregulation of competitive pay telecommunications services. Under a truly competitive and free market scenario in this segment of the telecommunications industry, improved services, innovation through technological development, and competitive price to the ratepaying consumer surely will be the result.

For reasons upon which I will elaborate, IPANJ generally supports Senate Bill No. 3617, but with certain specific and very important modifications. To explain our concerns, I must address some of the problems competitive pay phone providers have been experiencing. It is no secret that our industry has been the focus of great criticism and attack over the past two years by the press, consumers, and legislators alike. The charges made revolve around two basic issues:

- 1) The rates charged to the consumer, particularly for operator-assisted calls, including collect, credit card, and third-party billed calls. These rates have often been characterized as a consumer rip-off. We have even been referred to as "bandit phones."

- 2) Access to the operator service of the consumer's choice. The criticism is that the independent pay phone providers block access to many, if not all of the dominant carriers, such as AT&T, New Jersey Bell, MCI, and Sprint.

The fact is, the rates charged for operator-assisted calls, as just outlined, are higher, and access to operator services has been either restricted or prevented by the independent operators.

Let me tell you why: First, on rates, all independent pay phone operators must purchase certain essential services, including telephone lines, dial tone, local calls, and toll calls from New Jersey Bell. Similarly, the operator services we contract with must purchase certain essential services such as access to the local network from New Jersey Bell. The reason for this is that New Jersey Bell is the sole source and supplier of these and other essential services, while at the same time, New Jersey Bell is our sole competitor. We must buy the services we need from our major competitor. The implications of this peculiar situation can best be illustrated through a simple analogy:

Let's hypothesize a hamburger industry where McDonald's is the only provider of hamburgers. To promote competition in the hamburger industry, legislation is enacted allowing the formation of competing hamburger stands. However, these new owners of hamburger stands competing with McDonald's must purchase their hamburgers from McDonald's. Clearly, it would be impossible for the new competitors to compete with McDonald's on a price-to-consumer basis.

This hypothetical situation in the hamburger industry is exactly the situation we have faced from the birth of our industry in 1984. The result: Higher costs to the consumer, particularly for operator-assisted calls, generating complaints, frustration, and even anger.

Regarding access: The reason for the inability of the consumer to access the operator service of their choice due to blocking stems from two unresolved issues:

The high incidence of fraud by unscrupulous individuals who tap into telephone lines connected to public phones and dial access codes involving 800, 950, or 10XXX to reach international operators, at the same time concealing from that international operator identification as a call placed from a public pay phone.

The result: Completion of calls made on our telephone lines billed to the owner of the phone -- us. Please note that New Jersey Bell possesses technology that is used on the telephone lines of their public phones that identifies to the international operator the origination of a call by a pay phone. Why is this technology not made available to us from our sole supplier and our sole competitor?

One note on this issue: Despite the fact that this technology has not been made available to us at this point, we have made some progress on our front -- from the independent operators, that is; 800 and 950 access is now provided due to fraud prevention methods introduced within our own phones, but we still have fraud.

The second reason why access to the carrier of choice has been restricted, is that even while we provide access, primarily via 800 and 950, no revenue sharing is provided by any of the dominant carriers to the independent operators. We are the ones who, in fact, provide the access in the form of the pay phone itself. While we receive no compensation, New Jersey Bell receives access fees for these calls placed via the phones owned by independents. To clarify: Whether a consumer uses an independent pay phone or a public phone -- you know, via 800, 950, or 10XXX -- New Jersey Bell receives an access fee, and we receive nothing.

I would like you to just bear with me as I use one more analogy to illustrate this point: Let's assume we all went to Burger King for lunch today, and when we arrived called Domino's Pizza to order 20 pizzas to be delivered to us at Burger King. Then we spent the next hour at Burger King eating Domino's Pizzas, and leave without paying Burger King anything.

If you think this is unfair to Burger King, then you should understand how unfair it is to be left uncompensated when someone dials 950-1022, for instance, and uses my equipment for an hour, generating revenue for MCI and New Jersey Bell, and none for the independent operators.

How does everything I have just said bear on S-3617? Well, as I have said, the IPANJ provides public telephone service throughout the State. We purchase our own hardware and software, such as pay phones, enclosures, booths, and other accessories, but we must lease telephone lines and service from New Jersey Bell. Similarly, we must purchase local calls, toll calls, local directory information services, as well as any other services unique to carrying information over the New Jersey Bell network. The reason: New Jersey Bell is the sole provider of these services. In other words, we, the independent operators, have no choice but to deal with New Jersey Bell. Senators, the monopoly lives, and because of it, we have come under criticism for things we, too, would like to see changed.

With this in mind, I wish to provide the Committee with some insight as to how this clear monopolistic advantage is used unfairly, even recklessly, by New Jersey Bell to maintain unfair advantages in what is supposed to be a competitive marketplace. As I review these unfair practices individually, I will ask the Committee to please consider what the further damage will be if the proposed bill is enacted into law.

1) New Jersey Bell charges the independents monthly telephone line rates of \$22.49. The significance to that number is that it's clearly 80% higher than the retail business rate for the exact same service. We have received no response from New Jersey Bell to our complaints about this.

2) New Jersey Bell charges the independents the retail business rate for all calls placed from an independently operated public telephone. This is done in spite of the fact that the independents are clearly resellers of pay telephone services provided by New Jersey Bell, and that New Jersey Bell is our sole competitor and our sole source provider of the service.

3) New Jersey Bell charges the independents 20 cents for local directory information calls while providing this very same service to the general public at no charge.

4) New Jersey Bell receives access fees for calls placed via our phones to operators of the consumer's choice such as MCI and Sprint. This, I offer to the Committee, is just another free ride for the monopoly because they get revenue for access they don't even provide. I won't go any further into that, as I mentioned that earlier.

5) New Jersey Bell, on many occasions, has sought to flood public locations with pay phones. In other words, they have installed many more phones at a location than a site warrants. This makes it impossible for us to compete with New Jersey Bell.

6) New Jersey Bell has, progressively, over the past two years sought to contractually prohibit store owners and other proprietors from doing business with the independents.

In 1988 a typical site agreement with New Jersey Bell, signed by a store owner, would include a breach of contract clause that would give New Jersey Bell a right to recover commissions previously paid based on a long-term contract. In other words, if the store owner was receiving a 10% commission in return for a long-term contract that was subsequently breached, New Jersey Bell invoked its contractual right to recover the difference between the long-term percentage -- in this case 10% -- and the percentage paid on a regular month-to-month basis, typically 6%.

The independent companies -- the IPANJ -- rarely, if ever, quarreled with that particular practice. However, starting in 1989, New Jersey Bell started pursuing a most insidious strategy here. Rather than recover overpaid compensation as just described, New Jersey Bell started issuing contracts requiring the store owner to pay to New Jersey Bell a fee for the installation and removal of the pay telephone if

the phone was removed prior to the expiration of the contract; in other words, a penalty if they signed with a competitor.

The charge for the installation and removal of a New Jersey Bell phone has been increasingly prohibitive. In 1989, the New Jersey Bell contracts -- in very fine print I might add -- demanded a charge of \$300. Within a year this charge grew to \$500. Today, two years of time has elapsed and penalties are now up to \$900.

Please consider that the average store owner, who is being exacted of these penalties, receives less than \$30 per month from New Jersey Bell as incentive compensation. Charges of this kind can only have one effect, and that's to make the decision, by the store owner, to use a competitive service prohibitive. This is just another example of how New Jersey Bell has used its monopoly; unchecked, to control and further dominate the marketplace.

On that issue of penalty of removal, I'd just like to add that it costs my company \$50 approximately to remove a phone. That's a service that I'd be happy to offer to New Jersey Bell at a very, very nominal charge.

So far I have reviewed how New Jersey Bell uses its monopoly to control and dominate the public pay telephone market. However, while we are competitors, we are also customers of New Jersey Bell, and we're not treated as customers of any value either.

My company, ACTEL, owns and operates about 130 phones throughout the State. This means, I pay 130 line charges as well as local and toll charges on each phone. This also means that I received 130 individual phone bills throughout the course of any particular month. Despite numerous requests, New Jersey Bell does not provide a significant customer the simple ease and courtesy of monthly itemized billing. To extrapolate, New Jersey Bell sends many thousands of bills to our members rather than providing us the simple customer convenience of 40 or 45 individual master bills.

2) New Jersey Bell does not provide an account executive for my account. They do for other businesses that provide far less business for New Jersey Bell.

3) Telephone line installations are scheduled based on their ability to provide installations, not the customer/market need for those installations.

4) Telephone line repair service is not provided on Saturday or Sunday even though it is provided for other businesses and residences.

5) Customer Service, while reachable from a dedicated 800 line, is virtually always busy because too few lines are available to us.

Mr. Chairman, members of the Committee, clearly there can be one central reason for these unfair, unethical, perhaps even illegal business practices on the part of New Jersey Bell: the unchecked, unregulated abuse of monopolistic power by the sole source provider of intrastate telecommunication services, New Jersey Bell.

The effect of this proposed legislation will be to allow New Jersey Bell to conduct business in even more noncompetitive ways. New Jersey Bell will be free to do what it wishes with respect to providing pay telephone services to the public, which would be as it should if the competition was fair. However, we all know that the competition is not fair.

In addition to the independent operators, who suffers? Well, the public -- particularly the poor, because we the independents have responded to a real need for public pay telephone service in the urban poor neighborhoods of our cities. These are precisely the areas where New Jersey Bell does not install pay phones in anywhere near the relative numbers they do in safe areas. With us out of the way, New Jersey Bell can reassume their total dominance of the public telephone marketplace -- as if 90% share isn't already good enough -- and with this most unfortunate legislation would be

free to install pay phones only where they want to, charge whatever they want to, and service their phones only when they want to.

So, what are the answers? How can you create competition that is free and fair in the public telecommunications industry?

In the context of Senate Bill No. 3617, we offer the following modifications:

1) Section 3.c. must be modified to read, "No local exchange telecommunications company may subsidize, in any fashion, whether directly or indirectly, competitive services."

2) To insure accountability, the Coin Phone Division of New Jersey Bell must be reorganized into a separate, stand-alone subsidiary and profit center which must be subject to exactly the same charges and expenses for the noncompetitive products and services it would purchase from the parent company, as we are. There should be no monopolistic advantage that would favor the Coin Phone Division.

3) Section 4.a. is also quite troubling as it relates to our industry. While we compete for locations to offer services to the public, as already mentioned, the basic elements of those services we both offer are not competitive, such as dial tone, telephone lines, local calls, 411 information, intrastate calls, and line service.

Section 4.a., as we understand it, may well provide a convenient loophole for our rates to be discriminately higher than the monopoly, for New Jersey Bell would presumably argue that pay telephone service is competitive and that under Section 4.a. its cost of service would be subject to less regulation. This is absolutely unacceptable.

We also believe that Section 5 should be stricken in its entirety for the simple reason that it is totally inconsistent with the concept of deregulation and open market competition. To explain: How can New Jersey Bell be granted

the opportunity to petition for an alternate form of regulation that could include a great deal of rate freedom while interexchange carriers, deemed to be competitive services in this bill, are subject to continued regulation and approval procedures even to the level of basic approval to exist in the State?

Section 5 is totally unacceptable because it is purely protectionist to the monopoly in that it sets up a sophisticated obstacle course for potential competition to the local exchange carrier.

The business, anticompetitive, and anticonsumer practices of New Jersey Bell should be investigated. Measures should be established to prohibit the practices I mentioned earlier, such as location flooding, contractual exclusion, and the other harmful customer issues already outlined.

It should be made impossible for any sole source product or service that is offered by a monopoly to be left uncontrolled.

Methods should be implemented to act as incentives to foster competition for those services New Jersey Bell still has a stranglehold on. As a business and residential consumer I would love to have a choice of who will carry my traffic. I bet New Jersey Bell will have an account representative at my door early and often. Just look at what happened in the long-distance market. There is choice; there is service; there is competitive price; there are improved services. This must now occur on the local level. Certainly it took a little time to get there, and there was some confusion and uncertainty early on, but the benefits are certainly beginning to show.

None of these measures just described will have any meaning if the Committee, specifically, does not reject Senate Bill No. 3617 in its present form and make the necessary modifications precisely as outlined here. Therefore, please modify Senate Bill No. 3617 and move positively to new

initiatives that will bring better products and services to the consumers throughout our State.

Thank you for your time and attention.

SENATOR RAND: Mr. Cooper, thank you very much. Mr. Shoremount and Mr. Zimmerman? Is Mr. Shoremount or Mr. Zimmerman here? (no response) Mr. Atkinson, Senior Vice-President, or Scott Bonney, Director, Regulatory and External Affairs, Teleport Communications Group? Mr. Atkinson? (no response) Mr. Tievsky, Regulatory Attorney, Cable and Wireless Communications, Inc.? (no response) I'll call one more: Mr. Morford, Executive Director, New Jersey SEED? (affirmative response) We thought we lost you.

J A M E S C. M O R F O R D: Thank you, Mr. Chairman.

SENATOR RAND: Good afternoon.

MR. MORFORD: I apologize. I had a scheduled luncheon with some of Senator's Lautenberg's staff on some other issues, and I apologize for not being here when you called.

Indeed, I am Jim Morford, Vice-President of the State Chamber of Commerce, and that's the hat I'm wearing today. Bill Healey, my associate, hopefully will return in time. If not, the statement on behalf of New Jersey SEED will be submitted for the record.

Again, thank you, Mr. Chairman and members of the staff. The New Jersey State Chamber of Commerce is pleased to endorse Senate Bill No. 3617 in the working draft substitute form which is before the Committee today.

This legislation, as everyone knows, would permit the Board of Regulatory Commissioners to address changes in technology in a manner that would enable New Jersey to be more competitive in the rapidly changing world marketplace of telecommunications.

New Jersey no longer operates in a statewide or even regional economic universe. Indeed New Jersey, if it is to thrive, must be prepared to participate in a global economic

arena. To do so, companies like New Jersey Bell need the incentives necessary to deploy a modern, sophisticated telecommunications fiber-optic network to make it feasible for New Jersey to meet domestic and international competition. Telecommunications based industries drove much of New Jersey's growth in the '80s and are predicted to be the source of over 90% of new job generation in our State during the rest of the decade.

Advanced telecommunications serves an economy when many enterprises such as banking, brokerage, accounting, credit and communications services can operate throughout the world from a single location. The Chamber of Commerce wants that location to be New Jersey.

We understand New Jersey Bell is presently moving ahead with providing fiber-optic wiring for our State, but it is presently a 25- to 30-year project. S-3617 could facilitate an acceleration of that time frame, cutting it, perhaps, by as much as half. That would benefit New Jersey's economy by giving our State a competitive edge.

While some counsel go slow or don't even go at all philosophy for not only New Jersey but the nation, others are not obstructed by such negativism. Japan is moving full speed ahead with a state-of-the-art fiber-optic network. The emerging European Economic Community is expected to move in this same direction with all deliberate speed.

It is no small undertaking to rewire the entire State, replacing 56.3 million miles of copper wires with fiber-optic cable, but it is a vitally important one. Once completed, consumers will be provided with unprecedented access to information and entertainment services. But, of greatest importance in the view of the Chamber, it will stimulate economic development. We should be enthusiastic about the opportunity to make New Jersey, once again, an American pioneer. The State where one of our Chamber's founding

trustees, Thomas Edison, pioneered wondrous new technologies in the last century should become the first State to lead our nation into the new age of telecommunications.

The New Jersey Chamber of Commerce respectfully urges you to support and release S-3617. Thank you.

SENATOR RAND: Mr. Morford, thank you very much.

MR. MORFORD: I have copies of my statement, if you want them.

SENATOR RAND: In case we missed anybody, Mr. Atkinson and Mr. Tievsky? (no response) Joseph McLaughlin, Local No. 827, IBEW. Good afternoon, sir.

J O S E P H A. M c L A U G H L I N: Good afternoon. My name is Joe McLaughlin. I'm the President of Local No. 827, of the International Brotherhood of Electrical Workers. I've been an elected representative, representing people in both cable and telephone, for 25 years. My local union -- 827 -- represents 11,400 workers in the State of New Jersey in these industries that we are talking about today. I represent about 9000 people working for New Jersey Bell. I represent about 1000 for AT&T, and then another 1000 between telephone interconnect and cable TV.

The people that I represent are the nuts and bolts end of the business. We put the cable up. We fix it. We make it work. We give you the products and services that we all enjoy. I speak in support of A-5063 and Senate Bill No. 3617.

New Jersey Bell has demonstrated for many years its ability to provide the very best in telecommunications in New Jersey, to the government, to industry, and to the populace. The highly skilled and dedicated members of Local No. 827 have provided the labor to build and maintain the New Jersey telephone and data services that are an attraction to business today. With the enactment of these bills, my members stand ready to build a fiber-optic telecommunications system, the likes of which has only been dreamed of.

We live in New Jersey. We work in New Jersey. We school our children in New Jersey, and we spend our money in New Jersey. We feel that allowing a New Jersey company, with New Jersey employees, to provide Jerseyans with the absolute state-of-the-art in voice, data, video technology will provide work opportunities for ourselves, and in a peripheral sense for many many others.

I deal on a daily basis with cable companies headquartered out-of-state: Florida, Texas, Pennsylvania, and Colorado. Most of the cable industry is not unionized. For the most part substandard wages are paid, less than desirable medical benefits are delivered, and rarely any pension or retirement plans. We constantly read about the poor product and services being delivered to our homes, and we are all painfully aware of the exorbitant prices being demanded for cable. We have an opportunity with this legislation to deal with an in-house company to preserve quality jobs here at home, to generate state-of-the-art telecommunications that will put the State of New Jersey ahead of the rest of the world. We must not be deterred by naysayers. We must respectfully forge ahead.

Being Irish -- a bit of Irish privilege -- "A Bag of Tools," by R. L. Sharp: "Isn't it strange that princes and kings and clowns that caper in sawdust rings, and common people like you and me are builders for eternity? Each is given a bag of tools, a shapeless mass, and a book of rules, and each must make their life as flown, a stumbling block or a stepping stone." Thank you.

SENATOR RAND: Mr. McLaughlin, thank you very much. Mr. L. C. Mitchell from Deloitte & Touche.

L. C. M I T C H E L L: Good afternoon, Mr. Chairman and Committee members. My name is L. C. Mitchell. I am a Principal in the Management Consulting Division of Deloitte & Touche, which is one of the largest management consulting and accounting firms of its type in the country and in the world.

Over the past dozen years, I spent most of my professional career working with telecommunications service providers as well as regulatory agencies, wrestling with many of the issues that I believe you're trying to deal with in this legislation. I also had the privilege of serving as the overall Project Director for Deloitte & Touche, and conducting the New Jersey Telecommunications Infrastructure Study, a report that was released earlier this year, in the spring, which was commissioned by the Board of Public Utilities, the predecessor agency or entity to the New Jersey Board of Regulatory Commissioners. In that study, they asked us to look specifically at the role of telecommunications in New Jersey's future.

The purpose of my comments today is twofold: First I would like to, very briefly, -- I reiterate very briefly, in the interest of time-- Our collective study is 750 pages long and I won't take you through that blow by blow, but I think there are several conclusions in that study that are important for your consideration and debate as you wrestle with the various issues before the Committee and involved in this particular piece of legislation.

First, I think it is imperative that you recognize -- and I think from many of the comments that you've heard today -- that telecommunications is becoming an increasingly important element of competitive advantage in the world of business, trade, and commerce, both within the State, within this country, and worldwide.

Secondly, I think it's becoming abundantly clear that telecommunications can be and is being used today to improve both the quality and cost-effectiveness of educational instruction, health care services, and other activities within the public sector. I think, also, it's important to recognize that telecommunications is value added capability -- a value added aspect of improving the life of citizens in general and a positive contributor to the overall quality of life we all face.

Secondly, I would like to share with you, very briefly, a couple of comments about other initiatives in other parts of the country which I believe echo many of the same issues and concerns that the Committee is wrestling with today. Most important, I believe it's important to make note of two things:

One, the types of issues and concerns that are being raised here are very much in the mainstream of what are being considered in other jurisdictions and other states around the country. Also I think it's important, as I'll mention later in my testimony, that the State of New Jersey is uniquely positioned to go from being in the mainstream to leap to the forefront of advanced telecommunications technology deployment.

I believe the implementation of the regulatory policy decision made by the Legislature and as addressed by this Committee will play a critical role in the State's ability in the future to capitalize successfully on telecommunications as a strategic asset.

Very briefly, I would like to note the scope of the Telecommunications Infrastructure Study that we performed. It dealt specifically with the role of telecommunications in economic development. It looked specifically at the future demand for telecommunication services. Also, it evaluated potential opportunities to leverage telecommunications in public sector areas such as educational, instruction, and health care services.

We also looked at the trends in other regulatory jurisdictions regarding how they were addressing or planned to address telecommunication infrastructure deployment. And finally we look specifically at what the financial implications or ramifications would be of accelerating telecommunications technology deployment within the State of New Jersey.

In the interest of time, again, I'm only going to address a couple of items out of the study. First, as you've

heard from many other speakers today, I believe the role of telecommunications and economic development is increasing. It's increasing at a rapid rate and becoming much, much more important. Today it's recognized as one of the 10 most significant factors in business relocation decisions around the country.

However, in the State of New Jersey, for primary research that we did in conjunction with the study, telecommunications is one of the five most important factors of businesses that have made the decision to locate in New Jersey within the last couple of years. Only labor costs, the capabilities of the labor force, and access to major highways were ranked as more important. And that's among businesses that have moved to the State within the last couple of years, not people who are thinking about moving here in the year 2000 or beyond, but basically today's business environment.

Therefore, I believe it's important that it be recognized that a host of new factors and new issues must be recognized in business relocation decisions, and that any state economic development strategy, but especially one in New Jersey, has to take into consideration the critical role that telecommunications can play. Also, our study included discussions with dozens, in fact, actually hundreds of economic program managers in New Jersey as well as other parts of the country. Several major themes kept recurring in our discussions with these individuals who basically make their job attracting and retaining business.

First of all they all recognize that basically businesses, in general, are becoming much more information intensive and telecommunications dependent; clear ramifications for the need for telecommunications going forward.

Secondly, they are recognized that advance telecommunication network already provides an competitive edge in attracting and retaining business in states, and they fully

expect that that's going to be a more important factor in the future.

You've heard several rounds of statistics today with respect to how important telecommunications is to the future economic vitality of the State. Our own analysis indicates that 85% of the jobs that are expected to be created in New Jersey between now and the year 2000 will be in those sectors of the economy that are more telecommunication dependent and are focused on the services producing sectors of the economy.

Additionally, our analysis indicates that the State of New Jersey is more vulnerable to job creation, or I guess if you want to take the negative side of that issue, more vulnerable to the loss of jobs in the telecommunication industries or the services sector than are other states within the Mid-Atlantic and Northeastern region, and much more so than the country in general. These findings, I think, highlight the need for future economic development initiatives and telecommunications policies that support as well as recognize the unique requirements and attributes of the services-producing sectors of the economy and their telecommunications requirements.

Furthermore, a fundamental conclusion of the study is that the real engine of economic growth in the State as well as the nation over the last two decades has been in small businesses -- businesses with fewer than 100 employees. Thus, I think it will also be essential for public policy that serves as the foundation for economic development initiatives to foster an environment which promotes the success of small business as well as large business. Business enterprises in New Jersey with fewer than 100 employees account for more than half of the jobs that have been created in the State in the last two decades; that's jobs that have been created. As you've heard earlier today, they represent a substantially higher proportion of the aggregate workforce or aggregate jobs within the country or within the State, overall.

I think given the current trends in American business for organizational downsizing and increasing outsourcing of nonessential services, the trend in small business formation and the increasing importance of telecommunication capability to small business will increase even more in the future. Likewise, I think it's important to recognize that while small business competes with, it's also very complementary to large business especially in numerous niche markets. Today large businesses are making significant investments in internal telecommunication systems and information technology to improve their cost-effectiveness and their customer responsiveness.

Small businesses, which are spread throughout the State of New Jersey, are increasingly being expected to have these same capabilities if they are to serve as a supplier to large business. Without widespread availability of these capabilities to provide high-speed connectivity and services to all businesses within the State, small business in New Jersey will find itself in a major competitive disadvantage in the business marketplace in the 21st century.

Additionally, you've heard a lot about different elements of new demands -- new types of advanced telecommunications capabilities which may or could be provided in the future. Many will come in voice, data, and/or video format. One issue I think you should keep in mind is that the user demands for these more sophisticated and complex telecommunication services will drive the future network capabilities of all service providers: be they local exchange telephone companies, interexchange carriers, cable television providers, alternative access vendors, personal communication system networks, and/or others.

Several examples of these demand drivers that I think you should keep in mind, not individually but collectively, because they really paint the picture of what the future requirements will be for telecommunications capability, would read like this:

* The continued steep decline in the cost of computer capability. If you think back a little bit, we didn't have PCs more than about 10 to 11 years ago. The cost of one today with the same capabilities of one in the year 1980 are substantially lower, and the capacity is incredibly higher. That trend is expected to continue substantially over the next one to two decades.

* There's a substantial proliferation of computers in the workplace as well as the home. We, as a society, are becoming much more use to using them in both places; I don't know about at your house, but certainly at mine. When my kids play with a video game and the home computer, I think they are clearly being trained to be students of, what I call, the video society, which is not very far down the road.

* There's also been an explosion in video-based instruction within the educational arena. The question is not so much one of whether or not video-based instruction is acceptable, but it's an alternative means, which has got to be used to improve the effectiveness of overall educational quality.

* Also, I think if you look at the growth in the number of trials of using new technology in the health care sector: distance learning, imaging capabilities in many other industries -- this is not something that people are playing with. They're working very hard to look for new opportunities to utilize that technology to improve what they do, how they do it, and the cost efficiency of which it's delivered.

* I think, also, there's been an exponential growth in videoconferencing, and it's used as an accepted business practice in this country. That will continue to grow, and I think permeate even more into the home.

You've heard much more about other opportunities, I think, today for using telecommunications for telecommuting,

access to other public services, and a host of other applications or potentials down the road. One other issue I think to keep in mind is, these are basically perspectives today on how a technology which is not necessarily being widely deployed might be used in the future. If you spend much time talking with technologists in the arena of developing new computers or new computer applications, they have a whole host of things that they're looking at. The question is really how to explain to the populace how they might be used.

One of the issues with that is that you have to make it available for them, in my opinion, before they recognize the benefits that might emanate from that and how they might deploy it. Thus, I think one of the issues that is faced by this Committee is that the basic public policy issue is how best to develop a framework which provides incentives and not roadblocks to those service providers who are and will make infrastructure investments necessary to satisfy demands for advanced telecommunication services in the future.

I'd like to make a couple of quick comments about other initiatives and other jurisdictions. Many other states across the country are already embroiled in assessments of regulatory and legislative changes linked to network modernization and regulatory reform issues. Just to run through a quick list of examples: Georgia, Tennessee, Missouri, Maryland, Pennsylvania, Texas, Minnesota, Connecticut, Ohio, Michigan, Alabama, New York, Colorado, and Oregon. All are looking at very much similar -- same issues.

One particular issue I think that's important is to recognize that many of these states are the states that traditionally compete with New Jersey for business attraction, business retention, and high technology industries, specifically Maryland, Pennsylvania, and New York. The frequency, nature, and scope of these proceedings, I think, clearly highlights the timeliness of the consideration of these critical telecommunications policy issues by the Legislature.

Finally, I would like to make a couple of comments of what I believe telecommunications provides as a strategic opportunity for the State. The aggregate results of the Infrastructure Study we performed highlight the unique position of the State in establishing public policy initiatives for telecommunications in the 1990s and beyond. New Jersey is clearly poised to move to the forefront of telecommunications technology deployment for several reasons.

First: It's the most densely populated State in the country. Therefore, any investment dollar in telecommunications technology here will go further than it will in other area, simply because of that density.

Secondly. Significant investment was made in the State's telecommunications network in the 1980s; therefore, the incremental investment to move from where we are today to the state-of-the-art telecommunications network of the 21st century will be less than it will be in other areas of the country.

Third: Our own analysis indicates that the cost of accelerating telecommunications technology deployment is very nominal, and in many instances would approach something along the rate of inflation and or less, and for a variety of reasons.

One, the State already has the lowest basic exchange rates in the country, among former Bell operating companies. It has one of the lowest intraLATA toll rates in the country as well. It also has the second highest per capita income among states in the country.

Finally, the State has a very large imbedded base of users of telecommunication services that provides a very strong existing revenue base and significantly reduces the potential impact -- I would stress the word "potential" price impact -- of any accelerated technology deployment.

As a result of the favorable rate structure, demographic factors, broad revenue base, and current level of technology deployment, I believe significant acceleration of

telecommunications technology could be accomplished with very little impact on ratepayers. I might point out that I've had very limited opportunity to review the Opportunity New Jersey Plan, but I can tell you that the rate implications or the price implications from that particular proposal are significantly less than what was included in the conclusion we reached in conjunction with the Infrastructure Study that we performed for the Board of Regulatory Commissioners.

One other conclusion I'd like to make is particularly significant. When viewed in comparison with the prices that customers pay in other states today for today's telecommunications technology -- not the advanced capabilities; the information age -- New Jersey residents are very, very well positioned. They could have one of the most advanced telecommunications networks in the country and still maintain the State's position as one of the lowest cost providers of telecommunications services.

In conclusion, I think a significant and strategic opportunity exists in this State to advance the public agenda through the accelerated deployment of reasonably priced, widely available, advanced telecommunications network. Thank you.

SENATOR RAND: Thank you, Mr. Mitchell. Mr. Polakowski, Vice President of the Association of Independent Colleges and Universities.

R O B E R T J. P O L A K O W S K I: Thank you, Mr. Chairman. I'm Bob Polakowski, Vice President of the Association of Independent Colleges and Universities in New Jersey. On behalf of our 16 member institutions, I am speaking in support of New Jersey Bell's effort to bring about a fiber-optic network for all of New Jersey. We see the educational application of this system providing endless opportunities to bringing state-of-the-art technology and teaching to New Jersey college students.

The business community and Legislature have told us time and time again that we have to be more competitive as we prepare to educate our students for the year 2000 and beyond. At a time when money is tight and efforts to keep tuition down is becoming more and more difficult, a fiber-optic system will allow us to provide classroom instruction and other technology in a cost-effective manner.

Let me give you just one example: At Fairleigh Dickinson University, our largest private university, we've established higher education's first fully interactive fiber-based video network in New Jersey. FDU can conduct seminars, programs, and recitals at one campus, while there can be full participation by students and faculty on its other two campuses. With a fiber-optic system in place, visiting scholars teaching at our great research University -- Princeton -- and Stevens Institute of Technology can interact with faculty, students, and others throughout the State. This list can go on and on.

This bill is about New Jersey's future, and that future begins today with action on this bill. Our colleges and universities are ready to take on the challenge of providing the education our citizen expect and demand for the future. Your positive action on this legislation will help give us one more tool to meet that challenge. Thank you very much.

SENATOR RAND: Thank you very much, Mr. Polakowski. Mr. Joseph H. Weber, T.E.L.A. Group. Good afternoon, sir.

J O S E P H H. W E B E R: Good afternoon, Mr. Chairman. Thank you. I'm glad to be here to talk about this interesting and somewhat controversial subject. I'm a Consultant with the T.E.L.A. Group, which is a small consulting firm specializing in telecommunications technology and policy issues. I've been asked by New Jersey Bell to help them design the overall infrastructure plan -- the master plan -- for technology deployment, and I have filed some testimony here which

describes that plan. It discusses the relationship between technology of service capabilities, and describes how these various services will be rolled out during the next eight or ten years, if the legislation and the subsequent plan is approved.

However, in the interest of time, I'm not going to read this or go through this entire thing. I think it speaks for itself. My background is largely technical. I spent many years at Bell Labs and AT&T, in a number of planning assignments. I was the individual responsible for the master plan for the State of Tennessee, which was referred to earlier by a number of people here.

I think it might be of some interest to spend my few minutes remarking on some of the similarities, not only in the plan which was proposed in Tennessee and what's being proposed here but in the process we went through in Tennessee. I actually prepared that plan as a consultant, at that time, and I was a principal witness for the Commission in the public hearings we had on that very plan.

It's really kind of interesting to see the similarities in a number of areas. First of all, in the issues themselves, although no legislation was required in Tennessee because the statute that's in place in Tennessee gave the Board a lot more flexibility than the statute in place in New Jersey, nevertheless, there was a regulatory reform plan which was debated and adopted in conjunction with technology deployment, in which a number of advanced technologies, including fiber-optics, were to be deployed throughout the State over the next 10 years. The same issues came up.

We were talking about the network deployment. Interesting enough, it was the same interest groups which took essentially the same position. The program was supported by the carriers, the manufacturers, the Commission, and by user groups such as educators, hospitals, and so forth. It was

opposed by the cable TV interests, by the publishers, and the AARP, who was also in the act at that point.

The arguments were really very similar to some of the arguments that have been placed here. Although here we have the issue of regulation versus deregulation, which was not on the forefront, people were talking a great deal about why we should do this, and who should pay for it. There was the same kinds of misunderstandings about who really pays for these kinds of deployments. I noticed here there's been a lot of discussion of \$1 billion, which is presumably ratepayers' money, but, indeed, I think it's fairly clear if you study the plan that \$1 billion referred to is really investors' money. It's capital investment made by the shareholders of New Jersey Bell or Bell Atlantic.

A question which comes up is, how is this capital going to be recovered? I think the intent is that the principal source for us to recover the capital will be the long run increase in revenue due to the new services that are going to be rolled around. That, of course, leads to the question of whether it's appropriate to make these kinds of investments prior to the actual evolution of the demand for the service.

If we talk about, for example, video telephony, you say, "Well, people are not exactly crying for that service now." But I think it's been amply shown that when you have new services of a kind which people have never experienced it's very difficult for them to understand what they will use it for. Telecommunication service has the property that it can't be sold to one person or two. The more people who have it, or have the capability of obtaining it, the more valuable it is.

So, if there's a potential market of thousands of people, or millions of people, then a telecommunication service is more valuable. I think in this case what's more necessary is that we have to put this technology out there, put the network in place so that the service capabilities are

available, and once that happens, then the services begin to develop and people invent new ways of using them. I think we've seen that in things like facsimile service, 800 service, and the like.

The other thing I think which was important, which came out in previous areas, was the concept of who gets the service -- who uses it. I think a lot of the services which are incorporated and will be covered in this Opportunity New Jersey Plan are presently being designed and developed for large business customers, and are being installed by the large business customers outside of the general public network. I think if that trend is continued -- if the telephone network is not upgraded to handle these kinds of needs -- then what we'll find is a situation where a lot of the financial resources, and technical resources will be placed on providing large businesses with advanced services, and they will never really become available to the general public or to rural areas.

I think that's an important consideration. If we develop the common user network, then, indeed, it will be available to everybody. In Tennessee particularly, for example, one of the very strong constraints on that study was to make sure that these services were delivered to all 95 counties in the State of Tennessee, and they have some pretty rural places in Tennessee.

Just to sum up, I think that plan has been, indeed, adopted in Tennessee. The preliminary indications are, for some of the early services that are being developed, that the uses of these services -- which actually exist in New Jersey -- is mostly the caller identification service, which do exist in New Jersey, but were accelerated in Tennessee, where the use is far exceeding the expectations of the telephone company.

I think the situation at the moment is that the New Jersey network -- the New Jersey telecommunications structure -- remains well ahead, I think, of most other places;

certainly ahead of Tennessee. But I think it's also true that it will not remain ahead for very much longer unless a program such as Opportunity New Jersey is undertaken. Thank you.

SENATOR RAND: Mr. Weber, thank you very much. Dr. John Grieco, Superintendent of Bergen Technical Schools. Is Dr. Grieco here?

J O H N G R I E C O, Ed.D.: Yes.

SENATOR RAND: Did I pronounce that correctly?

DR. GRIECO: Yes, that's fine.

SENATOR RAND: Thank you. I wouldn't want to mispronounce it. (witness gives statement to Committee) Thank you, John.

SENATOR RAND: Good afternoon, sir.

DR. GRIECO: Good afternoon. I am John Grieco, Superintendent of the Bergen County Technical Schools, a public school district which has the distinction and honor of coordinating New Jersey's only fiber-optic educational network. I represent the school district, as well as the New Jersey School Boards Association.

I am not here to discuss or debate cost issues or the merits of the telephone company or cable television companies. I assume that the taxpayers of this State will be protected adequately by public utility regulations. I am here to hopefully have a conversation with you about education and telecommunications. I am also here to support the development of a central fiber-optic telecommunications backbone for New Jersey.

As a member of the educational community, and as a spokesperson on behalf of that community, I urge you to vote in support of legislation to speed the wide scale development of a fiber-optic-based communication system. The Wall Street Journal recently observed that the last great change in education happened in the 1920s. They removed the bolts from the desks so they could be put in circles. I suggest to you

that the second great revolution is the fiber-optic infrastructure. Such a system will substantially upgrade schools and the learning that takes place in these institutions. This change is imperative if we are to develop the economy of our State by providing a work force better prepared to address the needs of the global marketplace in which New Jersey business must participate.

Andrew Lippman, a communication expert at MIT, in October of this year, while speaking at the World Communications Conference in Switzerland, made the following statement: "In the U.S. we build our communications systems upside down, using airways for TV and wires for telephone, whereas it should be the other way around. The airways are better suited to types of communication that do not require a high level of quality, whereas wires -- for example, the fiber-optic lines -- are better suited to demanding use."

It may be argued that the time is not yet quite right for a fiber-optic-based communications system. Have sufficient critical educational and economic issues been identified to warrant a decision to improve and expand our communications infrastructure? This is an old question. Must we identify everything we will do with a new technology before we make a decision to move ahead? I say, "No." It is an impossible task, and no man or woman can presume omniscience in regard to all of the planning and creative development in the minds of others.

The infrastructure is a means, and not an end in itself. We must not focus too heavily on purely technical issues, as they are confusing to the average person. We must, however, focus on the fact that the fiber-optics communications technology fundamentally changes the concept and possibilities of access, quality, and productivity, because it erases or eliminates traditional barriers of time and distance. In education, a broadband telecommunications infrastructure can

also reduce barriers to student achievement, such as limited programs, insufficient teacher preparation and development, limited access to technology, and reduced financial and personnel resources.

Educators and business entrepreneurs live in a time that demands increased productivity and accountability and yet provides reduced resources. In such a climate, New Jerseyans should not permit their future economic well-being and the education of their children to be bound by telecommunications industry regulations that date back to 1911. To put the 1911 date into perspective, one only has to reflect that the personal computers of 1982 or 1983 vintage -- those wonderful new devices with 64K memory that dominated the marketplace some 60 years after the 1911 date in question -- have long since been donated to third world countries and replaced with much more sophisticated computer technology. Without an upgraded infrastructure, neither New Jersey business nor medicine nor education will be able to take advantage of the full potential of these new computers.

The correlation between education and economic development is evident. Businesses can only be as good as the people who create, develop, operate, and market them. New Jersey cannot afford to wait. Its business ventures often fall prey to those of more aggressive foreign firms. Its schools lag behind their full potential for effective public service and development of New Jersey's youth. We are now experiencing the ripple effect of these recessionary trends in New Jersey; trends which cause a sluggish economy and call into question our ability to compete in a global economy. It is a logical conclusion that New Jersey's youth may be the greatest resource and the greatest travesty of our State.

How can a central fiber-optic telecommunications infrastructure successfully develop the human resource of our youth? I will answer this critical question by example. In

1988, I, personally, contacted the five cable companies in Bergen County, asking them to provide the school districts in Bergen County with a two-way audio, two-way video communications system. The cable companies advised me that they had no fiber optics. We next turned to General Telephone and Electric and asked them to devise, in 1988, a mini telephone company. The cost from GT&E was, at best, prohibitive. We finally turned to New Jersey Bell and the Public Utilities Authority. We found to our surprise that New Jersey Bell had no fiber in the places where we needed it.

We worked very closely with New Jersey Bell, only to realize that the closest school to the hub school in Hackensack -- the closest school to Bergen Tech, Hackensack High School, within walking distance, was the most expensive place to put fiber-optic cable. In close coordination and cooperation with New Jersey Bell, we set up a five-year plan to put the county school district into a fiber-optic system. Bergen ITV began operation in September of 1990 with two schools on-line. By midyear, a total of 11 schools were on-line and sharing 13 courses daily. Now in its second year, Bergen ITV's classes total 27 and include 13 high schools and three colleges. In addition to regular classes, over 100 students, faculty, and community members each week participate in workshops, enrichment seminars, and teacher training programs -- much, much more than any single school could ever bring to its own students and teachers.

Next month, January, Apple Computer and New Jersey Bell, in a cooperative venture, will put computers through the fiber-optic line that now exists, and students will be able to create, from remote points, common things such as a newspaper. We call this the "new age." We call it "two-dimensional, telecommunicational digital copresence." A big term; a new experience.

Bergen County students are benefiting substantially from the open but limited corridors of interconnectivity. The schools are leading the way to bring public education for all to a level of excellence that exceeds what one school district's financial and human resources could ever provide for its own students. More links are needed to the colleges. We are presently working with the vocational/technical schools in northern New Jersey to link them up on the Bergen County switch. Research centers, libraries-- We have no infrastructure for fiber-optic cable to bring that about.

The Bergen ITV network is a catalyst for change. It brings people and schools together to share the best that they have. Then it gives them a forum to develop new and better educational methodologies made possible by this new avenue of cooperation and collaboration. In addition to collaboration for better teaching at local school districts, Bergen ITV has quickly strengthened secondary/postsecondary ties in a manner that is unprecedented in the State of New Jersey.

We aim for global interconnectivity and the blurring of institutional boundaries, but we are not yet the State of Maine, where 85% of the population can get any telecommunication information within a 15-minute drive from their home. We are not the State of Maine, where 1.5 million volumes in a library are accessible to every citizen in the state by just going to one of the telecommunications centers and advising them of the book, and they will receive it in the mail in approximately two days.

We in Bergen County believe we are at the forefront of educational innovation, reform, and improvement. We aim to maximize our effectiveness by relying on each other's strengths, instead of "reinventing the wheel" and duplicating others' efforts, and by pooling our financial and human resources to develop and improve programs. The economic climate and the future development of our State demand that we

restructure education and focus on greater productivity, accountability, student satisfaction, and achievement. Telecommunications provide the catalyst and the forum for that to take place.

New Jersey cannot afford to wait. I urge you to support and promote a communications development policy that will quickly propel education and business to a position of leadership in the nation and the world as we approach the year 2000.

A Soviet Union veteran U.S. political analyst said recently: "The facts shall make you free. The facts shall make you free." He referred to the western information technology which broke the isolation of the Soviet Union and powered an engine-driving, massive innovation.

The challenge this Committee faces is simple: The fiber-optic infrastructure gives access to the power of technology to all New Jerseyans, such that we will be limited only by the size of our ideas and the degree of our education. Will you give it to us?

Thank you.

SENATOR RAND: Thank you very much.

Mr. Thomas Lancaster, Cable Television Advisory Council, State of New Jersey.

T H O M A S L A N C A S T E R: Thank you, Senator.

SENATOR RAND: Good afternoon.

MR. LANCASTER: Good afternoon. My name is Tom Lancaster. I am a visiting media specialist at Stockton State College. I have been in the field of education for 20 years. The study of mass media examines the way people communicate from interpersonal communication to telecommunications. I am currently working with the colleges and universities in our State developing an interactive video and data network. However, I do not speak for my institution, but rather from the experience I have gained over the past 10 years. I am also

speaking as a member of the Cable Television Advisory Council, State of New Jersey.

The purpose of my testimony today is twofold: First, I would like to make you aware of some of my findings of the cable television industry and others who oppose this legislation. Second, I would like to offer my opinion of what this legislation could do for the citizens of New Jersey.

While at William Paterson College, I administered the Cable Access Project from 1985 to 1990. That project brought the study of cable television to our students and was extended to the municipalities of our State. At that time, nearly every municipality was experiencing the process of refranchising their cable television contracts. As you may know, though a franchise is written between the municipality and the cable operator, the State is the franchising authority. The legislation approved in 1972, which established this arrangement, also established the Office of Cable Television, a Division of the Board of Regulatory Commissioners. It was this legislation and the efforts of the Office of Cable Television which resulted in New Jersey being considered the most densely cabled State in the nation; 556 of the 567 municipalities in New Jersey have received Certificates of Approval.

The refranchising process has been a difficult time for the municipalities. Most franchise agreements were written 15 years ago, and most municipal officials were not in office at that time. The process is cumbersome, time-consuming, and generally frustrating for all concerned. The Cable Access Project also helped municipalities deal with this difficult issue.

We developed information packets regarding the process, held workshops, conducted surveys, and provided municipal assistance from inquiries. While engaged in this effort, we began to discover trends in cable television in our State:

1) Since the Cable Act of '84, mom and pop cable systems were purchased by larger multiple system operators with headquarters outside of New Jersey.

2) These ownership transfers did not require municipal approval.

3) Franchise agreements between municipalities and previous owners were not required to be carried forward to new ownership.

4) Under the Cable Act of '84, rates became deregulated on January 1, 1987 and were left to market demand. Cable rates have increased by approximately 70% since January 1, 1987, while the inflation rate over the same period has gone up only 22%.

5) In 1989, 47 of the 52 cable systems were controlled by out-of-state multiple system operators.

6) In 1989, we discovered that 80% of cable television in New Jersey was controlled by four multiple system operators. Since then, ownerships have been consolidated even further. As we speak, TCI, the nation's largest multiple system operator, has taken complete ownership of U. A. Columbia, and is partners to many systems throughout the State, corraling over 800,000 subscribers in the State of New Jersey, as well as partnerships in video stores and information networks.

7) Many cable channels offered by cable operators are owned by multiple system operators. You might wish to get a copy of the September issue of "Consumers Report."

8) The franchise fee charged to the cable operator for use of the municipal right-of-way is 2% of basic service revenue -- the lowest in the nation. The Federal cap is 5% of gross revenue and most cable television companies around the nation pay the higher rate. If the \$745 million that the New Jersey cable television industry earned in 1990 was subject to the full Federal assessment level, New Jersey municipalities

would earn \$31 million this year, instead of the \$8 million they currently receive.

9) Each time word comes from Congress of efforts to provide some regulation, this industry develops a strategy to dodge it. Recently a bill in Congress stated that basic service could be regulated. The cable television industry broke basic service into tiers, the most basic tier for broadcast signals. Remember when those networks were commercially sponsored and free to the public?

10) As rates continue to spiral upward, above the rate of inflation, families which can no longer afford cable service find themselves being denied access to information that they have begun to rely on. I am afraid we will create a two-culture society -- the informed and the uninformed.

11) There really isn't anything the consumer can do. The Legislature is heavily lobbied by the NJCTA. Remember all of those cards dumped on your desks? Pretty powerful when you have access into all of those homes. The NJCTA seems to be using scare tactics, stating that any effort to compete in their domain or require assessment will drive cable rates up.

Recently the Federal government has attempted to unravel this massive national monopoly. Obviously, regulation would simply be putting out fires. The marketplace should be the means for a competitive environment. The FCC recently released Docket No. 87-266 on October 24, 1991 stating, "We here propose to modify our rules to permit local telephone companies to provide video dial tone, thereby encouraging development of a competitive marketplace in the United States."

The United States Justice Department recently released a document on market power in the cable television industry. It found that the lack of competition for the cable television industry has resulted in the fact that, "At least 45% to 50% of the price increases since deregulation are due to market power." The average basic cable bill on January 1, 1987 was

\$11.23. Since then, under rate deregulation, it has grown to an average of \$18.90 as of April 1991. The difference is a \$7.67 per month increase, a 68% increase in just three-and-a-half years. My calculations show that because of the lack of competition in the cable television market in the State of New Jersey, the cable television consumer has paid an additional \$88 million this year.

The cable industry will retort and say that these increases are offsetting the cost to upgrade their cable plant, and because of the increased costs passed on from the channel providers. When you look at this closer you find that many of their cable upgrades are including telecommunications services via fiber optics for their "bells and whistles." When you look at who owns the cable television channels, many of the same multiple system operators are the owners; a cross subsidized monopoly with little regulation. Currently, several of the cable systems in this State are deploying their personal communications networks subsidized by the cable rates they charge. As we speak, their customers are getting seasons greetings of rate increases cross subsidizing these other ventures. Those personal communications networks do not fall under the franchise fee scheme either.

This bill will allow the development of a network which will introduce competition into this industry. Perhaps that is why the NJCTA is so opposed to this bill.

Why do the other supporters of the NJCTA position offer their support? New Jersey has the second largest population of senior citizens in the nation. My father, and I am sure some of your relatives, are AARP members. Is the AARP concerned about their cable rate increases, or their national organization's portfolio? In 1989, nearly 20% of their national organization's investment portfolio was in cable-related stocks. Shame on them. There is something going on here and a little light on the matter might help.

The Star-Ledger is owned by Newhouse. I might say that the information that comes to me about what is going on regarding this bill comes from the newspapers and cable television, so I read The Star-Ledger. What I started to see happening in The Star-Ledger provoked me to become a little bit more concerned about what is going on here.

The Star-Ledger is owned by Newhouse. Newhouse owns Vision Cable and Metrovision Cable, some 900,000 cable subscribers, of which 46,000 are in Bergen County. Does its readership know that? Those editorials-- They took the position, where they should have been more objective. Is that why The Star-Ledger has run three headline articles on this bill, two editorials, and a lengthy letter to the editor signed by the President of the NJCTA? All were in opposition to this bill. Did you also know that Newhouse owns Eastern Microwave, which is used by a cable channel owned by the operators of this State?

You know, Senators, I was listening to the radio in my car following Terry Anderson's release. He commented to another hostage that while in captivity, a journalist should not become the story. The Star-Ledger has become part of this story. They are concerned about losing readership and advertising dollars to the potential of the electronic newspapers. They cloak themselves in the guise of public interest, and choose not to disclose the fact that their parent company, Newhouse, is also involved in cable.

And, where has the Public Advocate's Office been while these rates continued to climb? They could have at least spoken up. They should have been working to protect the welfare of the 1.9 million cable consumers who continually receive annual rate increases. I think they remain silent because they have no method of being paid. Unless there is a mechanism for the Public Advocate to receive compensation from an assessment charged to the company they fight, they do not say a word. How are they protecting the public interest?

The full development of cable television has been achieved. I am a subscriber of cable television service. Unfortunately, I do not have much choice in who provides that service, and I do not think any of the 1.9 million cable subscribers in this State do either. But wouldn't you like to be able to choose from a variety of vendors? That is what the video dial tone network could offer; a plethora of entrepreneurs offering a wide variety of broad- and narrowcasted information available to every citizen in the State. Fiber optics offers our residents an opportunity to develop their telecommunications skills, making our work force more attractive to industrial development. Interactive video communications in the home will not only develop transferable technology skills which will benefit industry, but will also vastly expand the pool of eligible workers. At-home job opportunities will become a realistic alternative for the homebound and the handicapped.

The Office of Cable Television's charter is to foster cable television throughout the State. Clearly it has succeeded. Seventy percent of New Jersey households have cable, the largest percentage in the nation. This is no longer an emerging industry. This industry grossed nearly \$746 million in 1990. The State no longer needs to foster the development of this powerful industry. What is needed now is to open the marketplace to competition. Develop a telecommunications highway that will give us access to many information and program providers. We are at the dawn of a new telecommunications era. Listen to the people, not the special interests, and be on guard. Those that control the media have been using it for their own benefit. This democracy's vitality thrives on the free flow of information.

I hope you will make your decisions not on the influences of the power brokers, but what's best for the future of our State. I trust you will.

Thank you.

SENATOR RAND: Mr. Lancaster, thank you very much.

MR. LANCASTER: Thank you very much. I have copies of my statement here.

SENATOR RAND: Kathy McMichael?

UNIDENTIFIED SPEAKER FROM AUDIENCE: She is not here. (remainder of comment indiscernible; no microphone)

SENATOR RAND: Is there anyone we didn't call upon whose name we have? (affirmative response from audience) Would you please come up? We have a few more minutes.

J A N E F. K E L L Y, E S Q.: Senator, thank you very much. I am Jane Kelly. Good afternoon. I am Executive Director of the New Jersey Utilities Association, which, as you know, is the trade association for the State's investor-owned electric, gas, water, telecommunications, and sewerage public utilities.

Senator, you have heard comprehensive testimony regarding this legislation from New Jersey Bell, which is one of our member companies. As such, and since the hour is late, please allow me to concur in the comments you have already received from Mr. Koeppe and Mr. Hartnett, and to rest on the more extensive comments we have provided in written form to the Committee.

I would like to mention, though, Senator, that, in our view, this proposal presents a tremendous opportunity for New Jersey to position itself in the forefront of technological development, to promote competition for the benefit of our State's citizens, and to otherwise enhance economic growth and prosperity in our State.

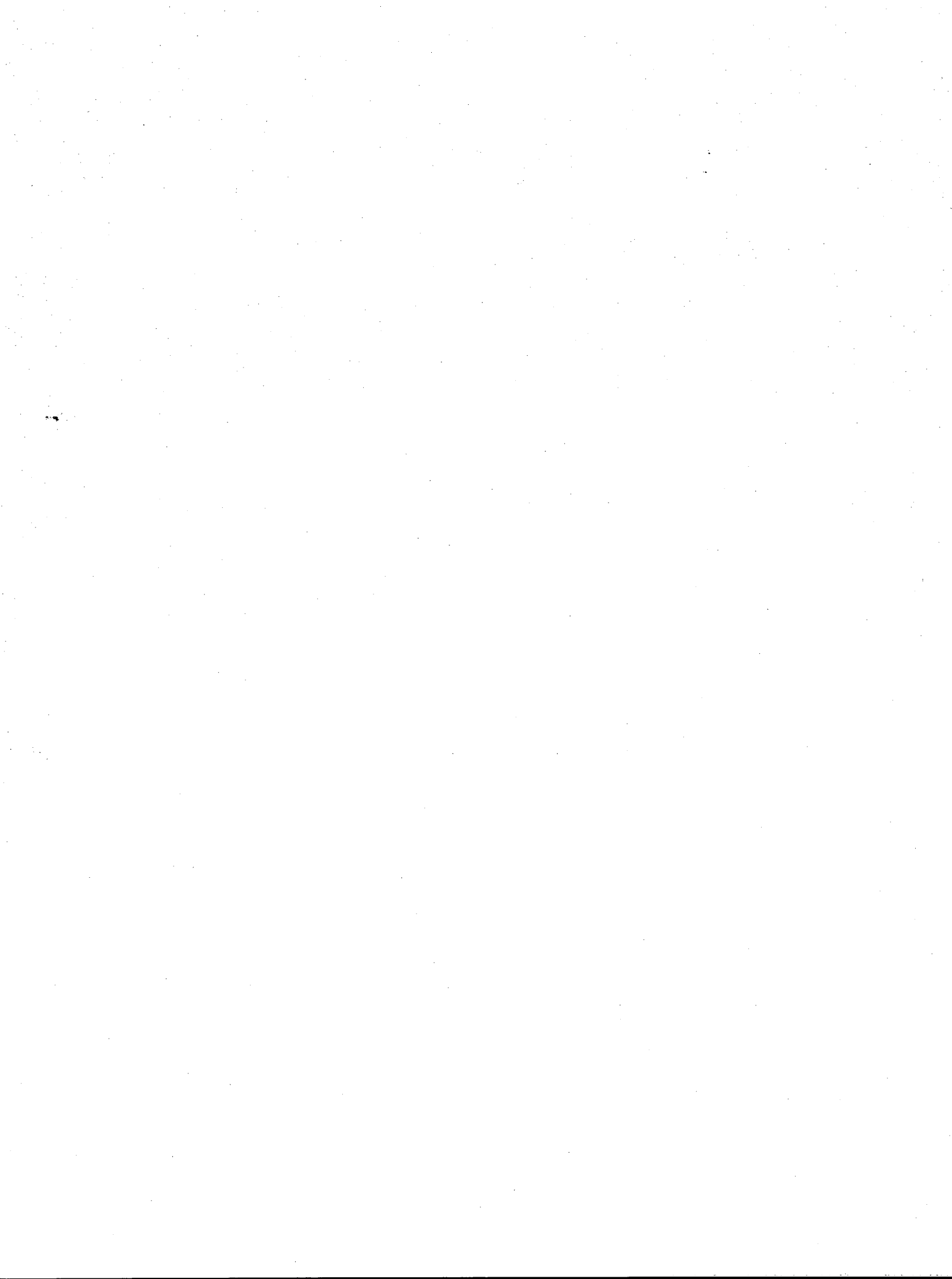
With that, I would just like to thank you for your attention, and answer any questions, if you might have any.

SENATOR RAND: Thank you very much. Is there anyone else? Last and final call? (no response)

Ladies and gentlemen, thank you very much for your interest and your attendance. This meeting is adjourned.

(MEETING CONCLUDED)

APPENDIX





State of New Jersey
Board of Regulatory Commissioners
Two Gateway Center
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Dr. Edward H. Salmon
Chairman

Tel. # 201-648-2013
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TESTIMONY OF THE HONORABLE EDWARD SALMON,
CHAIRMAN OF THE BOARD OF REGULATORY COMMISSIONERS

before the Senate Transportation and Public Utilities Committee
on a draft proposal for a Senate Committee Substitute for S3617

December 10, 1991

Thank you, Chairman Rand and members of the Committee for this opportunity to comment on a draft proposal for a Senate Committee Substitute for S3617. With me today is Anthony J. Zarillo, the Executive Officer of the Board.

You have begun an important dialogue by holding this hearing today, and I am here to offer my insights as a Regulator into the legislative proposal you are reviewing. At the outset I note this legislation does not raise the issues of telecommunications infrastructure or fiber optic technology, and I do not intend to address these issues in my testimony. Such discussions are premature. Issues of this type are best addressed by the Board in a formal, structured way, and I do believe the public is best served by having them addressed in such a forum.

The body of regulators, of which I have the honor to be the presiding officer, was established 80 years ago. Over the ensuing decades, much has changed -- both who we regulate and how we regulate them has changed dramatically. Telecommunications in particular has emerged in a vastly different form. What this bill sets out to do is to give statutory recognition to this fact. It does this by:

1. Allowing the Board of Regulatory Commissioners to adopt an alternate form of regulation (in addition to the traditional rate base/rate of return model) when it has been determined to be in the public interest;
2. Requiring the Board to examine the services now offered by the telecommunications industry, and develop criteria to clearly identify those which are competitive;
3. Defining "Protected telephone service"
4. Acknowledging the competitive nature of long distance service, and relieving these interexchange carriers from traditional utility regulation, where true competition exists.

New Jersey's regulatory policy has always recognized that, when competition exists, it is more effective than any form of regulation in ensuring that consumers will receive the best possible service at the lowest possible rates. The proposed legislation before this Committee represents no radical change from this policy.

This bill allows a local exchange telecommunications company to petition the Board to be regulated under an alternate form of regulation. The Board must review the applicants plan, and if after notice and hearing finds that the applicant has met stringent criteria as set out in the legislation may adopt such regulation.

The permissive nature of the legislation, and the requirements for full airing of the proposal, are important protections for the public.

The Board is authorized to determine whether a telecommunications service is competitive. Criteria enumerated in the legislation include evidence of ease of market entry, presence of other competitors and the availability of similar services, but leaves the Board empowered to add additional criteria as necessary and appropriate.

The definition of "protected service" and the requirement that this basic service continue to be affordable is of paramount importance. In 1987, the Board adopted a Rate Stability Plan which set a cap on basic residential and business services which are non competitive. No future action in the regulatory sphere would interfere with continuing this kind of consumer protection under the terms of this bill.

I want to emphasize that allowing for alternate forms of regulation does not translate into the abandonment of traditional rate base/rate of return regulation. The Board retains its ability to use that form of regulation when appropriate, but will gain an additional way to achieve its goal of assuring adequate service with fair pricing to consumers.

For more than 6 years, the Board has recognized consistently that the long distance marketplace is sufficiently competitive to justify reduced rate regulation and has introduced flexibility in the regulation of interexchange carriers. In 1985, the Board adopted rules which reduced regulation of interexchange telecommunications carriers. These rules, the "Flexible Regulations" permitted price increases of up to 25% without the need for a rate proceeding before the Board. Even these rules, however, did not keep pace with the dynamically changing long distance marketplace. New rules were needed to allow the forces of competition to work -- to permit timely price changes, service restructures, and the introduction of new services. The Board, recognizing that the public interest was no longer served by traditional utility regulation in this evolving competitive market, proposed amendments to its flexible regulation rule in September, 1990. However, an Attorney General's opinion advised the Board that it did not have the statutory authority to implement its proposed rules and the Board withdrew its proposal in November of that year. With this bill the legislature is granting that statutory authority to the Board.

I want to emphasize that with the adoption of this proposal, the Board will not abandon its regulatory oversight of intrastate operating telecommunications or interexchange carriers. The Board will continue to determine who is qualified to offer interexchange services in New Jersey and to regulate service standards and resolve customer complaints regarding long distance service. Most importantly, the Board will continue to monitor the interexchange marketplace to insure that it continues to be competitive and is

authorized to require such reports and other data from interexchange carriers as are necessary to make a meaningful analysis of market developments and to re-regulate carriers if it finds that sufficient competition is not present. I am confident that the Board is uniquely qualified to gather, develop and analyze the data necessary to make this determination and insure the intent of this legislative mandate. The Legislature has placed confidence in the Board in the past, and I can assure you that the Board takes its charge very seriously.

In enacting this legislation, New Jersey is not unique. Regulators and legislators across the country have recognized the competitiveness of the interstate marketplace. Twenty six states, including Pennsylvania and most recently, Delaware, have now removed traditional rate of return regulation and granted long distance carriers full or substantial pricing and service structure flexibility. Virginia legislators require only that the Virginia Commission monitor the competitiveness of the market. Iowa and Oregon have passed legislation eliminating utility regulation of interexchange carriers altogether.

The Board of Regulatory Commissioners has always held as its major telecommunications objective, the universal availability of affordable, high quality telecommunications service both intra and interstate. This policy has resulted in New Jersey's basic exchange rates being the lowest in the country. The Board remains committed to this policy and there is nothing in this legislation which impedes the Board's ability to continue this policy.

In addition, the Board is committed to ensuring that its policies and actions do not unfairly advantage one competitor over another. In fact, the Board is currently conducting an Open Network Architecture proceeding to ensure that information service providers have open and equal access to the public telephone network. Nothing in this legislation impedes the Board's ability to set such policy. In fact, the legislation contains specific guidelines in this area to ensure that the Board will remain vigilant in protecting the interest of all parties.

The current Rate Stability Plan is totally unaffected by enactment of this legislation. It will remain in full force and effect until such time as the Board decides to amend, modify or take whatever action the Board determines is appropriate. Furthermore, should the Board decide to undertake any change or revision in this plan, it must be done in a complete open public hearing after notice to all interested parties, with full opportunity for any affected party to participate in those proceedings. The Board has always been committed to full protection of the rights of parties and by law is bound by the tenets of due process.

New Jersey has long prided itself as a being on the cutting edge of new and inventive ideas and technologies. Despite that, we risk losing business to other states where the regulatory environment encourages and facilitates the introduction of technologically-advanced, customer-focused telecommunications services. This legislation gives the Board the tools it needs to regulate in the 1990's and beyond. It ensures that we in New Jersey will continue to retain our position at the forefront of modern,

state-of-the-art telecommunications. You have recognized that we cannot meet the challenges of 1991 in the same style as we did in 1911. I thank you for inviting me here today and giving me the opportunity to voice my support, and that of my two colleagues, Commissioner Jeremiah O'Connor and Commissioner Carmen Armenti for this bill.

TESTIMONY OF PUBLIC ADVOCATE, WILFREDO CARABALLO

Good Morning Mr. Chairman and members of the committee:

As you are aware, the Public Advocate is statutorily mandated to look after the interests of the ratepayers of this State. It is in furtherance of this mandate that I am here today.

The Bill before you has been introduced as a means of achieving many laudable goals. I share those goals. I am sure that the ratepayers share those goals. However, I question whether this Bill furthers the intended goals.

The ratepayers of this state have a right to expect that regulatory scrutiny will only be abandoned upon a clear showing that such scrutiny is no longer necessary as a protective device. This is especially true in light of the present economic times. There has not been any evidence of this kind.

The deregulation of New Jersey Bell's competitive services is not essential to building a fiber optic network. Deregulation and the implementation of new technologies are two separate and distinct issues. Let us not be seduced by the allure of the development of

such an advanced technological infrastructure. Any diminution in the level of regulatory scrutiny should be done only after a complete analysis of the current rate stability plan and the potential impact of future proposals.

The ratepayers of this state will be deprived of a valuable property right without compensation, should this Bill pass in its' present form. Historically, the ratepayers of this state have been able to share in the profits from the yellow pages. This is simply a recognition of the fact that the fruits of profit for NJ Bell have been plucked from the tree that is the ratepayer. Basic services, a monopoly, have given rise to other highly profitable services. I cannot imagine that anyone would want to eliminate NJ Bell's incentive to make money. NJ Bell has been a good citizen of this state and we want it to live long and prosper. The ratepayer is entitled to share in that prosperity.

What are the ratepayers getting in return for deregulation? At this point nothing. This Bill should not go beyond the enabling language which permits a local exchange telecommunications company to petition the board to be regulated under an alternative form of regulation. The company must submit a plan which must meet minimum safeguards for the ratepayer. If the company wants deregulation then the plan can provide for deregulation. This plan is in effect the payment for deregulation. Should not the plan be scrutinized and approved before it is decided that a sufficient price for

deregulation has been paid?

The conclusion that a service is competitive has profound consequences for regulatory oversight and treatment of revenues. Rather than codifying the status quo as provided by this Bill, a finding of competitiveness should be required after a full administrative review by the BRC for each and every service, notwithstanding its present designation. Such a review is necessary and in the public interest. The present categorizations have been in place, with one minor exception, since NJ Bell's current rate stability plan was established in 1987. These designations must be reviewed as a result of significant changes in the telecommunications market since that time. It must also be recognized that a service once facing competition may no longer do so, and be eligible to be reclassified as non-competitive.

There is built into this Bill a provision for reclassification. This provision is however, illusory. Since the Bill codifies the status quo, the burden of persuasion on the issue of reclassification falls on the party seeking the reclassification. Why should the ratepayer have to sustain this burden if the ratepayer wishes to challenge a service as being non-competitive? Periodic reviews, with the burden of proving competitiveness falling on the utility, are the best way to protect the ratepayers proprietary interests.

De facto deregulation of interexchange carrier services are just as problematic as maintaining the status quo on competitiveness. Deregulation of interexchange carrier services should not take place without subjecting those companies to the same exacting standards and review just proposed for local exchange services. Such proceedings could be initiated on an expedited basis by the BRC.

On behalf of the ratepayers, I would urge that the legislature include language which spells out a role for the Division of Rate Counsel in the implementation of this legislation. There should be no doubt about our authority to bill for work done in furtherance of this legislation. As you know, Rate Counsel is self sustaining and receives no direct appropriation from the state for its' utility work.

Finally, it was reported in Sundays's Star-Ledger that NJ Bell's rate of return is presently 17% when the company is viewed as a single entity. I dare say other utilities would love to have that high a rate of return. This is being accomplished under the present regulatory framework. Is there truly a need to abandon regulatory scrutiny? Investing in technology and keeping rates low are goals that we support. They can be accomplished under the present regulatory framework.

Thank You.

COMMISSIONER GEORGE R. ZOFFINGER
TESTIMONY IN SUPPORT OF SUBSTITUTE S-3617
SENATE TRANSPORTATION AND PUBLIC UTILITIES COMMITTEE
DECEMBER 10, 1991

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I STRONGLY URGE PASSAGE OF THE SENATE SUBSTITUTE BILL FOR S-3617. BY OPENING THE DOOR TO AN ACCELERATED STATE-OF-THE-ART COMMUNICATIONS TECHNOLOGY PROGRAM, THIS BILL REPRESENTS AN IMPORTANT FIRST STEP TOWARD MOVING NEW JERSEY INTO THE 21ST CENTURY.

FIBER-OPTIC TECHNOLOGY WILL BE THE BASIS FOR MANY NEW INFORMATION SERVICES OVER THE NEXT TWO DECADES. AND BECAUSE IT WILL TAKE YEARS TO INSTALL THIS TYPE OF COMMUNICATIONS NETWORK, WE MUST ACT NOW IF WE ARE TO RETAIN OUR POSITION AS A LEADER IN HIGH-TECHNOLOGY ADVANCEMENTS.

I REGARD NEW JERSEY BELL'S "OPPORTUNITY NEW JERSEY PLAN" AS A CLEAR EXPRESSION OF CONFIDENCE IN OUR STATE AND IN OUR ABILITY TO FOSTER BUSINESS GROWTH

AND ECONOMIC EXPANSION.

AND I HAVE CONFIDENCE IN NEW JERSEY BELL BECAUSE OF THEIR LONG HISTORY OF INVESTMENT AND SERVICE IN THIS STATE.

-RATES FOR TELEPHONE SERVICE HAVE NOT INCREASED SINCE 1985 AND MONTHLY RESIDENTIAL SERVICE RATES ARE THE LOWEST OF ANY BELL COMPANY IN THE COUNTRY;

-AND THE BOARD OF REGULATORY COMMISSIONERS REPORTED LAST WEEK THAT NEW JERSEY BELL IS EARNING A RETURN OF ABOUT NINE-POINT-SIX-PERCENT ON REGULATED SERVICES--WELL BELOW THE TWELVE-POINT-NINE-PERCENT PERMITTED BY LAW.

I ALSO HAVE CONFIDENCE IN THIS LEGISLATION BECAUSE IT REQUIRES AFFORDABLE RATES:

-BY AUTHORIZING THE BOARD OF REGULATORY COMMISSIONERS TO DETERMINE "REASONABLE RATES";

-AND BY PROVIDING FOR SUBSTANTIVE REGULATORY SUPERVISION.

THIS ONE-BILLION-DOLLAR INVESTMENT WILL HELP STIMULATE THE STATE'S ECONOMY, CREATE JOBS, AND, AT ONCE, STRENGTHEN OUR APPEAL TO ALL TYPES OF INDUSTRIES. IN FACT, COMMUNICATIONS TECHNOLOGY IS ONE OF THE MOST IMPORTANT CRITERIA FOR BUSINESSES CONSIDERING A MOVE. *to our state.*

AND THE BENEFITS OF A FIBER-OPTICS NETWORK ARE NOT LIMITED TO HIGH-TECH FIRMS.

WHILE THE NUMBER OF MANUFACTURING JOBS HAS DECLINED OVER THE PAST DECADE, THE INDUSTRY REMAINS A VITAL PART OF THE STATE'S ECONOMY--WITH OVER TWELVE-

THOUSAND FIRMS EMPLOYING SOME FIVE-HUNDRED-AND-FIFTY-THOUSAND WORKERS. THE ABILITY TO RAPIDLY ACCESS AND TRANSPORT INFORMATION IS CERTAIN TO IMPROVE PRODUCTIVITY, LOWER COSTS, AND HELP THESE COMPANIES REMAIN VIABLE.

BUT MOST IMPORTANTLY, A FIBER-OPTICS NETWORK WILL ALSO ADDRESS THE NEEDS OF SMALL COMPANIES.

NINETY-EIGHT PERCENT OF ALL NEW JERSEY BUSINESSES EMPLOY FEWER THAN ONE-HUNDRED WORKERS; AND THOSE COMPANIES EMPLOY ABOUT EIGHTY PERCENT OF OUR WORKFORCE. AND SO IN NEW JERSEY SMALL BUSINESS IS BIG BUSINESS, AND BY PROVIDING THE SAME COMMUNICATIONS CAPABILITIES AVAILABLE TO LARGE CORPORATIONS--TO MAKE SWIFT MANAGEMENT DECISIONS, ESTABLISH EFFICIENT OPERATIONS, AND BETTER MEET THE NEEDS OF THEIR CUSTOMERS--WE WILL STRENGTHEN OUR OWN ABILITY TO COMPETE AND TO GROW.

ULTIMATELY, HIGH-CAPACITY FIBER OPTICS WILL REDUCE THE COST OF PROVIDING SERVICES, RESULTING IN LOWER RATES TO CUSTOMERS.

IN MARCH, I JOINED GOVERNOR FLORIO IN CALLING TOGETHER HUNDREDS OF REPRESENTATIVES FROM THE BUSINESS COMMUNITY TO ASK FOR THEIR HELP IN DEVELOPING A BLUE-PRINT FOR ECONOMIC GROWTH. AND MEMBERS OF THE CONFERENCE ASKED US TO CONSIDER CAREFULLY THE IMPORTANCE OF A STATE-OF-THE-ART TELECOMMUNICATIONS NETWORK TO OUR BUSINESS CLIMATE.

OUR ABILITY TO COMPETE IN THE FUTURE DEPENDS ON HOW QUICKLY AND DECISIVELY WE MOVE TO IMPLEMENT THIS PROPOSAL--BECAUSE SERVICES AVAILABLE THROUGH FIBER-OPTIC TECHNOLOGY WILL DETERMINE THE ABILITY OF INDIVIDUAL COMPANIES TO COMPETE WITH ONE ANOTHER.

RECOGNIZING THIS, OTHER STATES ARE ALREADY MOVING AHEAD.

-IN KENTUCKY, THEY'RE RE-EXAMINING THEIR TELECOMMUNICATIONS INFRASTRUCTURE;

-AND IN MINNESOTA THEY'VE LAUNCHED AN EFFORT TO MODERNIZE THEIR COMMUNICATIONS NETWORK.

-IN WYOMING THEY'VE INVESTED SIXTY-MILLION DOLLARS IN A DIGITAL FIBER-OPTIC NETWORK.

-AND THE LIST GOES ON--IN CALIFORNIA, IN CONNECTICUT, AND IN MASSACHUSETTS, THEIR MAKING IMPORTANT INVESTMENTS NOW.

TODAY, THERE IS A PROGRAM UNDERWAY KNOWN AS "FYI TENNESSEE"--A TEN-YEAR MASTER PLAN FOR THE DEVELOPMENT OF A NEW AND EXPANDED TELECOMMUNICATIONS INFRASTRUCTURE.

-BY THE END OF 1993, FIBER OPTIC CABLE WILL CONNECT ALL BUT THE VERY SMALLEST OF TENNESSEE'S

LOCAL TELEPHONE OFFICES--GREATLY EXPANDING THE CAPACITY AND RELIABILITY OF THEIR NETWORK FOR VOICE, DATA, AND VIDEO TRANSMISSIONS.

-BY THE END OF 1995, SIXTY-PERCENT OF TENNESSEE'S TELEPHONES WILL HAVE ACCESS TO A NEW "INTEGRATED SERVICES DIGITAL NETWORK"--OR ISDN-- WITH THE CAPACITY TO USE A SINGLE TELEPHONE LINE FOR VOICE, DATA, AND FACSIMILE TRANSMISSIONS-- ALL AT THE SAME TIME.

-BY 1998, ISDN SERVICES WILL BE AVAILABLE THROUGHOUT ALL OF TENNESSEE, AND THEY ARE ALREADY USING THIS NETWORK AS PART OF AN AGGRESSIVE CAMPAIGN TO ATTRACT BUSINESS RELOCATIONS FROM AROUND THE COUNTRY.

AS OPPORTUNITIES FOR ECONOMIC GROWTH AND EXPANSION CONTINUE TO SHIFT TOWARD INFORMATION SERVICES AND TECHNOLOGY, THE QUALITY OF OUR COMMUNICATIONS INFRASTRUCTURE WILL DETERMINE THIS STATE'S ABILITY TO ATTRACT AND RETAIN BUSINESSES AND JOBS.

I URGE YOU TO SUPPORT THIS MEASURE.

STATEMENT OF
ALFRED C. KOEPPE - VICE PRESIDENT, PUBLIC AFFAIRS
NEW JERSEY BELL TELEPHONE COMPANY
BEFORE THE
NEW JERSEY SENATE TRANSPORTATION AND PUBLIC UTILITIES COMMITTEE
CONCERNING SENATE COMMITTEE SUBSTITUTE BILL NO. 3617

DECEMBER 10, 1991

My name is Al Koeppe and I am Vice President, Public Affairs for New Jersey Bell Telephone Company. I appreciate the opportunity to testify in support of this legislation.

In my opinion, it takes an important step toward assuring that New Jersey has the opportunity to shape its own future in this rapidly evolving information age --- precisely when such initiatives are most necessary.

Appropriately, the common thread, the source of our present strengths and future promise is technology. This legislation recognizes the significant potential for modern telecommunications technology to improve this State's economy and the quality of life of its citizens.

Importantly, it not only recognizes the opportunities and changes presented by technology --- but it also addresses the challenge facing regulators to adopt policies which will encourage progress, while maintaining the public interest benefits achieved to date in New Jersey. Today, New Jersey Bell's customers enjoy high quality service and the lowest residential basic service rates nationally among former Bell Operating Companies.

THE PUBLIC TELECOMMUNICATIONS NETWORK IS KEY TO NEW JERSEY'S
ECONOMIC GROWTH AND OVERALL QUALITY OF LIFE

New Jersey Bell's position is very clear. New Jersey should strive to incorporate the most advanced and cost effective technology available -- fiber optic as opposed to copper cable, digital instead of analog switching -- into its telecommunications network to meet the needs of New Jersey's citizens today and in the future. New Jersey Bell wants to accelerate enhancement of the public network so that New Jersey's citizens have access to quality of life enhancements such as telecommuting, home based education, health care, news, entertainment, shopping, travel and security services. We believe that we can modernize New Jersey's network faster and at a lower customer price than any telecommunications company in the world -- and we are willing to have that conviction tested in the open hearings contemplated in this legislation.

Today, New Jersey's sophisticated, intelligent communications network is the backbone of the State's economy and is essential to the quality of life for all New Jersey residents.

New Jersey Bell has not only maintained the public telephone network, but has modernized it to meet the public's demands. Now we face the challenge of upgrading the network so that it can deliver new information age technology. New information age services, offered by numerous providers, will bring New Jersey successfully into the 21st century, improve the economy, bring new jobs to the state, and improve the standard of living for everyone.

Through a digitally switched fiber optic network, everyone can have two-way access to voice, video, text, still images and other signals at the same time, producing a fundamental change in the way we communicate and share information.

New Jersey Bell believes that a sophisticated telecommunications network will stimulate job and income growth and will make New Jersey one of the most attractive locations for corporations and individuals. Telecommunications intensive information and services sectors have driven the State's economy in recent years and are predicted to increase in importance. More so than in other states, New Jersey's future economic health will depend on the well-being of companies associated with storing, processing and transporting information. The very recent decision of the Federal Reserve System to locate one of their three national data centers in East Rutherford is a perfect example of this -- telecommunications was a pivotal factor in their decision to locate in New Jersey.

New network capabilities would encourage program providers to develop and offer new services not available today, making the widest possible array of Information Age services available to the widest possible range of New Jersey's residents. As more services are offered and used by those accessing the network, we expect to see not only new services, but new jobs, new industries and new ways to work and live.

Some application areas are readily identifiable:

1. Health Care

House calls would no longer be a thing of the past, but part of our future. Local hospitals and medical care

centers would be able to quickly transmit high resolution CAT scans, Magnetic Resonance Imaging, and other test results to specialists anywhere in the state for timely evaluations. Interactive voice and video will connect hospitals, clinics, mobile medical units and patients, making possible a lifeline of consultative and diagnostic services from places far apart.

2. Education

Classrooms all over New Jersey would have no boundaries, and young minds no limits, when connected to each other and to the world through the network. Advanced placement courses, distance learning, resource sharing, parent-teacher conferences, in-service training programs, and "field trips" to remote locations will be accessible to all our children in schools throughout New Jersey.

Importantly, because this will be a public network -- not a private one -- it will be available to all. And, as a regulated common carrier, New Jersey Bell will be required by federal and state law to transport the voice, video and data services of all parties -- ourselves included -- on equal terms.

This means that cable TV companies, newspaper publishers, education and health care providers, and entrepreneurs of all kinds will be able to use the network as an open public marketplace to offer their services in competition with one another statewide or worldwide.

We know that providers are eager to serve the New Jersey market. New Jersey Bell and Bell Atlantic are approached almost

daily by potential partners, including members of the industries that oppose us most vocally. These companies, confident of their ability to offer services over this network, are anxious for its development.

New Jersey is not alone in its recognition of the importance of telecommunications. Tennessee, Missouri and Michigan have already undertaken extensive network modernization programs. For example, the Tennessee Public Service Commission and the telephone companies of the state have developed a 10-year Master Plan for the development of a new and expanded telecommunications infrastructure in Tennessee. Other states are not far behind.

New Jersey is uniquely situated to take the lead. New Jersey Bell customers enjoy the lowest basic rates of all Bell Operating Companies in the nation. The State is also the most densely populated in the nation, a situation that should result in the most economic rollout of technology in the nation.

The challenge for New Jersey's policymakers is to adopt plans that maintain a balance between affordable rates for essential telecommunications services and the accelerated development of a modern network.

THE OPPORTUNITY TO IMPLEMENT ALTERNATIVE REGULATION WILL ENABLE THE BOARD OF REGULATORY COMMISSIONERS (BOARD) TO MAINTAIN A BETTER BALANCE BETWEEN AFFORDABLE RATES FOR ESSENTIAL TELECOMMUNICATIONS SERVICES AND THE ACCELERATED DEVELOPMENT OF A MODERN NETWORK

Alternative regulation in the context of this legislation

provides the Board with the flexibility to custom-tailor regulation which it finds to be in the public interest.

It is well recognized that alternative forms of regulation hold the promise of streamlined regulatory proceedings. In the Federal arena, for example, the FCC has replaced the traditional rate base/rate of return price setting with a formula-based rate adjustment process. Under this process, rates are automatically adjusted to recognize changes in the GNP-PI. Thus, by applying a formula, there is no need for extensive rate case proceedings, and the objective criteria of an index provides all parties adequate and fair notice of how rates will be increased, decreased, or remain the same.

Alternative regulation also gives the Board the ability to enter into long term rate stability arrangements without the need for periodic rate cases. For example, during the period from 1975 through 1985, New Jersey Bell had seven rate cases. By contrast, under the experimental Rate Stability Plan, which this legislation would make a permanent part of the Board's available tools, there have been no rate cases or rate increases since 1985.

Finally, the predictability of an alternative form of regulation could provide the Company with the necessary confidence in its financial future to pursue long term investment. For example, New Jersey Bell's Opportunity New Jersey plan would call for the accelerated installation over the next eight years of about \$1B worth of fiber optic cable and advanced telecommunications equipment statewide.

There have been comments that alternative regulation is not necessary because New Jersey Bell could undertake the same economic development plan under the existing rate base/rate of return regulation. Unfortunately, these comments are not true. Rate base/rate of return regulation is backward looking. It requires the Company to first invest substantial sums in capital projects, and then file a rate case to recover the costs of these investments. The rate case would consider a myriad of issues and not focus on the economic investment. After lengthy hearings, rates would be set. Then, the Company would be required to make the next level of investment and undertake the same process. The process would involve many contentious proceedings, where many of the same issues which have previously been litigated will be re-litigated.

New Jersey Bell and its shareholders are prepared to incur the risks inherent in this investment without relying on rate increases to fund the investment. They are willing to underwrite this investment because Opportunity New Jersey also includes a forward looking proposal which will allow the Board and all parties participating in the hearing process to develop complementary technological and regulatory initiatives with a common long-term focus. This predictability will provide security to the Company, the regulator and the customer body.

The result of a long-term focus should be a decision which will permit the Company's management to rationally plan its future investment in New Jersey. Such regulatory flexibility is required in today's environment.

Under the "cost-plus" standards of rate base/rate of return regulation, the ability to fashion long term complementary plans is severely curtailed. As a result, business incentives for long term investment decisions do not exist, and it is unlikely that such investments would be made. Opportunity New Jersey is illustrative of how alternative regulation can foster long term planning and investment -- and create the certainty to bring about significant investment without burdening ratepayers.

Thus, the lesson here is that providing the Board with the ability to employ alternative regulation -- after public notice and hearing and after regulatory review -- can only increase the potential for prudent decision making. It is an administrative tool.

THIS LEGISLATION RECOGNIZES THAT TELECOMMUNICATIONS REGULATION SHOULD KEEP PACE WITH THE INDUSTRY IT SERVES

The telecommunications industry today in New Jersey, and across the nation, is dramatically different from the telephone industry in 1911 when the Act currently governing telecommunications in New Jersey was enacted. Federal regulatory and court decisions have opened formerly protected products and services to competition. Technology, which is driving these reforms, is causing entire industries to merge, such as the computer and communications industries. However, telecommunications services regulated under the 1911 statute continue to include highly competitive services like New Jersey Bell's Centrex service, which competes with PBX vendors -- who

are not regulated -- from all around the globe, including Nippon Electric, Siemens and numerous others. The long distance industry, which is characterized by competition between AT&T, MCI and many others, also demonstrates this phenomenon.

The problem here is that, because the 1911 statute regulates providers of services rather than the services themselves, the advent of competition for some services has created inconsistencies in the regulatory system.

The Board has recognized the presence of competition and has reacted as progressively as it can under current law. On July 1, 1987, the then New Jersey Board of Public Utilities formally recognized that the presence of competition created a justification for distinguishing among a telephone company's services and for treating them on a "stand alone" basis. One of the important concerns was to enable New Jersey Bell to compete effectively in the competitive marketplace. The Board had already provided a number of tools to address competition among New Jersey Bell's competitive services. For example, it had never regulated directory advertising prices and billing and collection rates were detariffed. Nevertheless, the Board recognized that a problem remained in combining the two businesses together, i.e., that as long as New Jersey Bell was regulated as one business rather than two, New Jersey Bell's decisions in the highly competitive marketplace could be influenced by regulatory concerns rather than competitive considerations. In bifurcating the Company, the Board recognized that the marketplace was a better "regulator" for the Company's competitive services. A free enterprise model was created under

which, New Jersey Bell's marketplace performance would determine its success or failure. If it performed well it would earn well if it performed poorly, the financial consequences of failure would be borne by its shareholders.

As part of the "test" to determine whether New Jersey Bell could establish a "stand-alone" non-competitive business, the Company agreed to forego its right to seek increases in non-competitive rates for up to six years. As consideration for New Jersey Bell's surrender of this right, the Board intended that New Jersey Bell have incentives to improve its earnings on its non-competitive services, which account for about 95% of New Jersey Bell's assets. Accordingly, the Board adopted a market cost of equity capital of 12.9% for the Company's non-competitive services which was higher than the earned return at that time (approximately 8%). New Jersey Bell was provided the opportunity to achieve this market return level only through increased management efficiencies, new technology, the introduction of new services, and other productivity improvements -- not through rate increases. As a consequence, New Jersey Bell could not and has not raised the rates for its non-competitive services since 1987 -- rates which were set in 1985.

Earnings under the Rate Stability Plan (RSP) are achieved in a fundamentally different way than pre-1987. They must be the result of increased operational efficiency or more active new product introduction. This very fundamental difference is good for the entire State of New Jersey. It is the primary reason New Jersey Bell's continued growth in earnings is indicative of prudent management direction, better customer service, and a

strong marketplace focus. These are the precise results which the RSP had hoped to foster.

The Company's ability to maintain capped rates for all its non-competitive services, in spite of increasing costs, reflects both the level of commitment and the degree of effort undertaken by New Jersey Bell in striving to maintain two healthy stand-alone business segments. The Company has remained financially healthy and has avoided layoffs and other unpopular measures even when faced with a weakened State economy and heavy competition for its profitable markets and services.

The success of the RSP has led to some "Monday Morning Quarterbacking". Specifically, critics have charged that the plan is not a success because cost decreases due to improvements in technology should have led to lower rates. In addition, they argue that the successful earnings by New Jersey Bell's competitive services indicates that they were never really competitive to begin with. As discussed below, both claims are false.

First, critics of the RSP claim that the costs incurred to provide "plain old telephone service" are similar to expenses for the provision of the "digital electronics intensive products and services." These expenses, they maintain, are decreasing, and the entire telephone business is like a "Big Computer".

This is not true.

What is true however, is that aggressive cost management and constant pressure to increase business efficiency have had tangible effects in most areas of New Jersey Bell's business:

- . Employees per 10,000 access lines have decreased from 43.8 to 37.69;
- . Total revenues per 10,000 access lines have increased from \$6M to 6.36M.

Productivity measures like these highlight the continuing effort to drive costs down in the business. However, New Jersey Bell's total expense per 10,000 access lines has increased from \$4.07 in 1987, to \$4.91 in 1990. In addition, New Jersey Bell's costs are all increasing in several important expense categories:

- . Overall, New Jersey Bell's expenditures between 1988 and 1990, 10.4%, grew at twice the rate of the business, 4.7%, as measured by the growth of access lines. Salary, wages and benefits, the single largest component of these expenses, also rose at a level of 39%;
- . Labor intensive customer operations expense like Operator Call Completion and Directory Assistance grew at 19.1%, more quickly than access lines from 1988 to 1990;
- . The price of technological sophistication is reflected in central office software expense increases of 13.8% between 1988 - 1990;
- . Reflecting the economic recession, uncollectible revenue rose 150% between 1988 and 1990.
- . The Consumer Price Index has itself increased about 24% since May, 1985.

The expense category that supports the "big computer" theory is limited to plant specific operations expense -- a direct result of an 8.1% decrease in central office switching expense

between 1988 and 1990. Central office switch expenses comprise only 5.45% of New Jersey Bell's overall expenses. The remainder of expenses, heavily dependent on labor, health care, etc., has increased at a level of 11.7%.

The lesson here is that the "big computer" theory has limited validity, and its application to the entire matrix of Company expenses is incorrect. While accelerated technology has kept costs decreasing, technology deployment carries with it other expenses, many of which are increasing.

These expenses -- including technicians who will actually install the technology, trainers who will teach the new methods, software adapted to the advanced hardware and, especially, increased depreciation to recognize the accelerating pace of technology obsolescence -- are all increasing.

Second, critics are fond of pointing to the Company's earned return on investment of over 100% on its competitive services as an indicator that these services are not competitive. The return on investment for competitive services is approximately the same as it was in 1988 (the first full year of the plan). Also, it is important to recognize that Directory Advertising comprises over 95% of the Company's competitive service revenues, and a return on investment test for that service is an inappropriate measure of its profitability.

This was highlighted in 1987, when the Board required separate financial statements for the two segments of the Company's business. It soon became apparent that when you have a product or service that is asset lean, and rich in sweat equity, like directory advertising, return on investment is a meaningless

reference. As a matter of fact, directory advertising earns a capital investment return of well over 100%.

There is little capital investment in this business because in 1984, New Jersey Bell looked at the equity investment involved in Directory Advertising -- the paper mills, printing presses, etc. The Company made a business decision that New Jersey Bell would pay the vendor costs and would sell -- not make -- the product.

Since New Jersey Bell's printing operation is performed by outside vendors, the Company's equity investment is small. A great deal of "sweat equity," however -- i.e., salesmanship, certainly is invested. That is why more representative measurements such as return to sales are often used in this industry as a measure of profitability.

To look at the return on investment of directory advertising is like looking at the return on investment of the classified advertising operation of a newspaper without examining the printing, publishing, and overhead costs associated with the entire operation.

The reason New Jersey Bell has maintained profitable growth is clear. The Company has embraced a culture of "competitive efficiency" and has aggressively introduced new technology, which in turn has enabled the accelerated introduction of new services. Since the beginning of the RSP, thirty-nine new products and services have been introduced by New Jersey Bell. Of interest, while New Jersey Bell's competitive services currently are earning at approximately the same level as they were in 1988 (the first full year of the plan), the Company's non-competitive

services are earning at approximately 11%, up from 8% but well below the earnings cap. As discussed, the lesson here is that with proper incentives, a company can enjoy profitable growth without increasing rates and maintaining exceptionally high service quality levels by being efficient and introducing new services.

In spite of these criticisms, the RSP has served as a sturdy springboard for the future. This legislation follows the intent of the Board's RSP decision of 1987. For those services where the Board decides that competition exists, the Company would be free to compete. For those services where competition does not exist and where regulatory oversight is required, regulation would continue. Even though the legislation deregulates the rates for competitive services and removes them from earning surveillance, the Board still would retain significant jurisdiction over these services.

First, the legislation specifically permits the Board to monitor the competitiveness of services and to re-regulate them if they are no longer competitive. Thus, even with respect to rate regulation, the Board can reassert its jurisdiction. This element of the legislation is important in light of recent experiences in other regulated industries, such as the cable television industry, where competition was anticipated and rate regulation was eliminated at the state level without the ability to re-regulate. In that industry, rates can and do increase at the will of the provider without regulatory oversight. And, because there is no "re-regulation" provision at the state level included in the governing law, those who are closest to the

marketplace, such as the Board, have no straightforward mechanism for redress.

Second, the legislation makes it clear that the Board is empowered to ensure that no cross-subsidization occurs and that the Board can require reports, audits, and proceedings that it deems necessary to ensure that ratepayers will not pay for New Jersey Bell's competitive ventures.

Third, the legislation also provides that, even with respect to competitive ventures, the Board shall have the power to monitor the quality of service and take any steps necessary to maintain the high level service New Jersey Bell provides today.

Fourth, the legislation clearly spells out the Board's obligation to ensure that New Jersey Bell's competitors are not disadvantaged by the way in which New Jersey Bell offers a service, or any services on which a competitive service is based. Competitors and New Jersey Bell would provide these services under the same terms and conditions.

Finally, the legislation does not affect the Board's current authority to investigate complaints concerning any service, including a competitive service; audit a local exchange telecommunications company's books; or to examine a company's relations with its affiliates.

In sum, contrary to the claims of some critics, the legislation does not completely remove New Jersey Bell's competitive services from Board scrutiny. The legislation simply permits the Company to offer its competitive services in the same way as any other competitor. The legislation mandates,

however, that the Board continue to be vigilant with respect to these services and has given the Board all the tools it needs to monitor them.

Importantly, the RSP would continue unaltered by this legislation, and New Jersey Bell's capped rates would continue until the Plan's expiration in 1993, or until a new plan incorporating additional regulatory safeguards, supersedes it.

**THIS LEGISLATION MAINTAINS TRADITIONAL REGULATORY SAFEGUARDS --
AND EXPLICITLY RECOGNIZES THE CONCERNS OF OTHERS**

Importantly, this legislation would continue the Board's ongoing obligation to ensure that basic telephone service rates are affordable.

Also, the legislation specifically addresses concerns of several interested parties --- among them, potential competitors and consumer groups. Their concerns have centered on rate protection, cross-subsidy safeguards and equal competition among competitors.

First, ratepayers are protected because this legislation requires that the Board's approval of any form of alternative regulation continue traditional public interest benefits -- affordability of basic telephone services --- just and reasonable rates --- service quality standards --- and comprehensive monitoring, review and reporting requirements.

Second, cross-subsidy is directly disallowed in Section 3.C, which states "that no local exchange company may use non-competitive revenues or expenses to subsidize competitive

services". In addition, any alternative form of regulation approved by the Board must be based on a finding that it will not disadvantage any customer class. The Board also has full authority to require the accounting and reporting systems necessary to assure proper cost allocation.

Third, this legislation would encourage, not inhibit, competition among providers of telecommunications services. As an element of a plan for alternative regulation, an advanced telecommunications network would make it possible for numerous providers to offer an array of new services more quickly. The network would be available to all service providers, which could include cable TV companies and newspaper publishers, on equal terms and conditions.

Pursuant to the legislation, and as identified previously, any alternative form of regulation approved by the Board must be based on a finding that it will not disadvantage any customer class. The Board thus has both the authority and responsibility to establish policy that will prevent local exchange company discrimination in the provision of network services to competitors and in the use of customer records.

Fourth, the opportunity for public input is maintained. Specifically, the Board must issue notice and hold hearings before approving any form of alternate regulation or reclassification of services found to be competitive.

Fifth, the debate regarding the need for telecommunications infrastructure development and the need for advanced services would be before the Board. The legislation does not address the merits of infrastructure development, but enables the Board to

exercise the authority to consider alternative forms of regulation after notice and hearing so long as they will enhance economic development in the State while maintaining affordable rates.

Sixth, only services found to be competitive would be deregulated. This legislation does not deregulate the companies, but only their services which are determined by the Board to be competitive. For competitive services, the legislation sets minimum standards such as presence of competitors, ease of market entry, and availability of substitute services for determining competition. The Board retains the authority to reclassify services when market conditions warrant change and to require reports surveilling the relevant marketplace.

By explicitly addressing these concerns, this legislation builds a solid foundation for an effective balance between competition and regulation. The Board is afforded an opportunity to fully utilize its expertise and broaden its authority to address changes in technology and competition. In fulfilling that role, the Board also is charged with safeguarding the rights of consumers and industry members.

In short, through this legislation, the Board, as an active telecommunications policymaker, is given a clear charge to balance the opportunities and protections inherent in the legislation -- to the advantage of the State's consumers.

NEW JERSEY BELL PLANS TO FILE AN ECONOMIC DEVELOPMENT PLAN IN ACCORD WITH THIS LEGISLATION

Should this legislation be enacted, New Jersey Bell will submit to the Board its plan for accelerating the development of a public network without parallel in the world. It will put forth this plan for public hearing and for public scrutiny.

The plan would freeze prices on the Company's basic regulated services through 1995. From 1996 through 1999, any price increases would be limited to a fraction of the Consumer Price Index. Moreover, during this 1996-'99 period, New Jersey Bell would not increase its monthly basic residential telephone rate by more than twenty five cents in any one year. The Company's rates have not increased since 1985, and New Jersey Bell's customers will continue to enjoy prices that are among the lowest in the country through the end of the decade.

Bell Atlantic, New Jersey Bell's parent company, is prepared to underwrite this investment because of its commitment to the early deployment of advanced technology in its network, and because it recognizes that the network is a vital part of New Jersey's economic infrastructure. The corporation also is confident that service providers will develop new services and seek the opportunity to utilize the network to provide them.

New Jersey Bell's Opportunity New Jersey plan would encourage efficiency and network investment while ensuring rate stability and other consumer benefits. Under the plan, the Board would continue to monitor the Company's return on equity for its regulated services, just as it does today. Should the Board find

that the Company's earnings exceed the authorized return, rates could be decreased. The plan would require New Jersey Bell to continue to provide quarterly service quality and financial monitoring reports on its regulated services, as it has done since the early 1970s. Each year the Company also would be required to provide new technology deployment reports to the Board, detailing the progress of the new telecommunications infrastructure.

All of this is contingent upon the Board's approval after public debate. It is reasonable to expect that there will be modifications to this plan. That is the way it should be.

CONCLUSION

This legislation makes sense for New Jersey. It meets the present and prepares for the future -- it is prudent in its continuation of traditional regulatory safeguards, yet flexible in allowing regulatory change to meet the realities of technology and competition. It encourages cooperation among New Jersey's public and private sectors to achieve shared goals -- and this incentive to work together is important to all of us.

New Jersey Bell and Bell Atlantic intend to be part of New Jersey's telecommunications future. The ability to build, enhance, and maintain complex networks is the very heart of our business. We have confidence that we can take advantage of the opportunities presented by technology, and we look forward to building a sophisticated network which will serve all of New Jersey's citizens into the Twenty-first Century.

Obviously, some will disagree with the means by which we pursue this vision. But as they criticize our goals here and the

means we pursue to attain them, I would ask that they clearly state their interests and their vision for New Jersey.

For our part, we intend to work hard with our competitors and with our regulators to forge solutions which will benefit everyone. This legislation provides the opportunity and creates the forum for such cooperation.

TESTIMONY OF WILLIAM F. HYLAND

BEFORE THE

SENATE TRANSPORTATION

AND UTILITIES COMMITTEE

TRENTON, NEW JERSEY

DECEMBER 10, 1991

My name is William F. Hyland and I'm a partner at Riker, Danzig, Scherer, Hyland & Perretti in Morristown. Our firm represents AT&T in New Jersey for regulatory matters, and we have, in the past, represented New Jersey Bell Telephone Company. My testimony today, however, is as a former President of the New Jersey Board of Public Utilities ("Board") and as a member and Speaker of the General Assembly. I also served as Attorney General of New Jersey from 1974 to 1978, and as a Commissioner of the New Jersey Sports and Exposition Authority from 1974 until 1984 and as its Chairman from 1978 to 1982. I want to thank the Committee for permitting me to testify in support of the proposed legislation, Senate Bill 3617.

As a past President of the Board and a former legislator, I strongly urge the Legislature to enact this bill which will permit the regulation of telephone utilities to reflect and promote the profound changes taking place in that industry. If enacted, Senate Bill 3617 will accomplish two things: It will recognize that today's competitive interexchange markets are far different than the monopoly utility services the Legislature began regulating

in 1911 and it will permit that competitive marketplace to operate. For local exchange carriers, the legislation will encourage investment in the telecommunications network and will stimulate economic development. Together, these will make it possible for the State's consumers to enjoy the benefits of innovative new technology and services.

The current regulatory scheme for public utilities was enacted in 1911, some 80 years ago. The telecommunications world was a very different place than it is today. Consider this: in 1911, while the telephone had been in commercial use for nearly 30 years, there were only approximately 8 million telephones, business and residence, in use in the United States. Fewer than 30% of all American households had a telephone. Long distance underground cables had been placed in operation between New York and Newark, New Jersey only 9 years before, in 1902; between New York and Philadelphia in 1906, and between New York and Washington in 1912. Transcontinental telephone service was not yet available.

Initially, telephone service was provided by many small telephone companies. As the larger telephone companies began to acquire the smaller, far-flung companies, however, the need for public regulation began to be recognized. Because effective competition did not exist in the marketplace, public regulation was needed to protect consumers. It is widely recognized, however, that regulation is an inefficient substitute for a competitive marketplace. Where effective competition exists, public regulation is not a viable alternative. In a competitive market, traditional

regulation constrains price changes, new service offerings and the introduction of new technology. No matter how competent the regulator or how good the regulation, they are imperfect substitutes for competitive forces. Where competition exists, the public interest calls for the elimination of traditional utility regulation in favor of the regulation provided by competitive market forces. This is so because, in a competitive market, services providers must "jockey" for customers; as a consequence prices move towards underlying economic costs, and telecommunications providers have the incentive to research, develop and implement innovative telecommunications technology and services.

The world has changed dramatically since New Jersey's public utilities statute was enacted. Like you, I am amazed at the technology "explosion" and the variety and breadth of information services offered. Today, more than 93% of all American households have telephones. Americans have in use approximately 180 million telephones, comprising some 40% of the world's phones. In a single year, over 300 billion domestic conversations are carried by telephone utilities. Who would have imagined just a generation ago that innovations such as fax machines, automatic banking and credit services, telephone computer services and other voice/data and voice/record services would transform the telecommunications industry into an "Information Industry" and forever alter our lives? Today, available technology permits voice, data and video images to be carried rapidly and simultaneously over the telecommunications network. Structural changes and market forces

have resulted in a proliferation of competitors in the inter-exchange telecommunications marketplace and in a revolutionary restructuring of the industry. The evidence is overwhelming that competition by and among interexchange telecommunications companies as well as in the products and services they offer is not only viable but vigorous.

Other states have recognized that earlier statutes, based on the regulation of telecommunications as a monopoly, are not well-adapted for public regulation of a changed and more competitive industry. While many states have modified or enacted enabling legislation to permit the competitive interexchange marketplace to operate to bring to the residents of those states the benefits of the new technology, New Jersey has lagged behind. As a result, telecommunications consumers in other states enjoy new technologies and services sooner than we enjoy them in New Jersey.

It is time for New Jersey to revise its 80 year old statutory scheme of utility regulation. First, if New Jersey is to remain competitive with other states and other countries as a site for information age businesses, telecommunications carriers must be encouraged to offer innovative technology and services in New Jersey as they become available. Second, if the full benefits of the competitive interexchange telecommunications marketplace are to be brought to New Jersey consumers, outmoded, traditional forms of utility regulation must be changed. Last year, following extensive hearings, the New Jersey Board of Public Utilities recognized the need for regulatory change for competitive interexchange carriers

but felt constrained by the public utilities statute currently in force. Such change is vital to New Jersey if the State is to continue to attract business and industry, and if New Jersey consumers are to keep pace with the rest of the nation, and the world, into the Twenty-first Century.

By enacting Senate Bill 3617, you will allow the forces of competition to work in the interexchange marketplace and will also enable the New Jersey Board of Regulatory Commissioners to relax traditional regulation, where appropriate, as an incentive to local exchange carriers to provide innovative technologies, products and services, and to promote economic development in the State. Enacting this legislation will enable New Jersey consumers, residence and business alike, to enjoy the benefits offered by the newly emerging Information Industry.

TESTIMONY OF JAMES B. GINTY
AT&T VICE PRESIDENT
PENNSYLVANIA, NEW JERSEY, AND DELAWARE
BEFORE THE SENATE TRANSPORTATION
AND UTILITIES COMMITTEE

TRENTON, NEW JERSEY

DECEMBER 10, 1991

I would like to thank Senator Rand and the Senate Transportation and Public Utilities Committee for inviting me to share with the Committee AT&T's views supporting this important legislation.

AT&T fully supports the proposed legislation, Senate Bill 3617, the effect of which will be to bring to New Jersey consumers the benefits of state-of-the art telecommunications products and services. The proposed legislation changes New Jersey's regulatory scheme for telecommunications services in two ways.

First, for local exchange companies, such as New Jersey Bell Telephone Company and United Telephone Company, the legislation will permit the Board of Regulatory Commissioners ("BRC") new flexibility in determining rates for certain local exchange company services as an incentive to local exchange companies to develop and offer new and innovative telecommunications products, services and technologies. Making these technological enhancements available in New Jersey will promote economic development in the State and will enable public

and private organizations, and individuals, to participate fully in the technological advances which have been made in the telecommunications industry over the past several years. These enhancements will both attract new businesses to the State and enable existing New Jersey enterprises to participate fully in the advances of the Information Age.

Second, the legislation will relieve competitive interexchange carriers' services from regulatory restraints, thus permitting the marketplace to establish competitive rates and charges for telecommunications services offered by AT&T, MCI Telecommunications Company, US Sprint and the many other interexchange carriers offering services in New Jersey. Competitive services offered by local exchange carriers are similarly relieved of rate regulation. This regulatory reform will encourage and facilitate the introduction of technologically advanced telecommunications services demanded by today's telecommunications consumers, and will promote and encourage the use of these services by New Jersey business and industry.

In New Jersey, telecommunications companies currently are regulated under a regulatory scheme born in 1911. Yet much has happened since that scheme was first enacted. Today, we live in the "Information Age." Our customers - residences and businesses alike - rely increasingly on innovative telecommunications technology barely imagined a generation or even a decade ago. In today's telecommunications market, technology changes rapidly. If New Jersey businesses and consumers are to be able to compete

nationwide and around the globe, the telecommunications network must be continually upgraded to provide New Jersey residents with access to this technology and the innovative telecommunications products and services it makes possible.

Traditional regulation of utility prices in New Jersey - rate base/rate of return regulation - was designed as a surrogate for competition and to constrain prices in a monopoly environment where no market forces exist. Basic economic theory makes clear, however, that such regulation is an imperfect substitute for the workings of a vigorous competitive marketplace. In a competitive environment, market forces are far more efficient at determining prices, productivity and innovation than is traditional utility regulation. In such a competitive environment, cost of service or rate of return regulation is not only superfluous but contrary to the public interest. It is time-consuming, costly and ineffective. It inhibits desirable price changes and discourages the introduction of innovative services.

Five years ago, the Board of Public Utilities recognized the need for flexibility in the competitive interexchange telecommunications marketplace and adopted new rules permitting interexchange carriers some flexibility in changing prices. These rules soon proved inadequate in this dynamic market. Accordingly, during 1989 and 1990, after investigation and hearings, the Board proposed, on two occasions, to further amend its rules for interexchange carriers, recognizing that:

"[T]raditional forms of utility regulation are a substitute for competitive markets and may be detrimental, burdensome and contrary to the public interest in markets where viable competition exists."

Despite the overwhelming evidence of the competitiveness of the interexchange telecommunications market, however, efforts by the Board to adopt a more flexible approach to the regulation of interexchange carriers were stymied, in 1990, by a ruling of the Attorney General that the Board lacked the statutory authority to adopt the proposed regulations. Thus, despite nearly two years of effort, extensive investigation and hearings, and the promulgation twice of proposed rules, the regulation of interexchange carriers remains outdated and inconsistent with the competitive long distance marketplace.

There can be no doubt that fierce competition exists in the interexchange telecommunications marketplace. Overwhelming evidence to that effect has been presented to the Board of Public Utilities. Prior to the 1984 divestiture of the Bell System, there were few choices. Today, nearly eight years later, the interexchange market is extremely competitive. AT&T's overall market share has declined from 90% in late 1984 to about 65% in the second quarter of 1991. New Jersey customers can choose from 9 certified interexchange carriers and as many as 64 resellers offering an array of products and services. Every citizen and business in New Jersey can choose from a variety of interexchange telecommunications services and billing options.

Regulators and legislators across the country have recognized the vitality and effectiveness of this competition. Twenty-seven states have now removed rate of return regulation for interexchange carriers granting full or substantial pricing and service structure flexibility. Approximately 20 states have enacted legislation resulting in the elimination or substantial modification of traditional regulation of long distance carriers. In Illinois, Idaho, Nebraska, Minnesota and Virginia, for example, long distance companies enjoy full pricing flexibility and are no longer subject to traditional economic regulation. In those states, business and residential consumers enjoy the benefits of relaxed regulation such as early introduction of new and innovative services and pricing plans.

Approval of Senate Bill 3617 will permit the competitive marketplace to regulate fully competitive services. Legislators should note that this Bill does not relieve basic or non-competitive services from full regulatory oversight. For example, nothing in this legislation will alter existing regulations (N.J.A.C. 14:1-6.15; 14:11-7.1) regarding the introduction of new services by local exchange telephone companies. Under the Act, only those local exchange services determined by the BRC to be competitive and those services offered by interexchange carriers, which already operate in a competitive environment, will be relieved from price regulation. Monopoly, or basic telephone services, defined as "protected telephone services" in section 2 of the Bill, will continue to be subject to rate of return regulation

or such alternative form of regulation as the BRC finds to be appropriate. Reduced regulatory oversight of competitive services will allow for more efficient functioning of the competitive marketplace. Providers of competitive telecommunications services will be compelled to provide consumers with the highest possible quality at competitive prices. Moreover, the BRC will continue to monitor the competitiveness of the telecommunications marketplace.

If the BRC finds a local exchange service to be no longer competitive, it is authorized to reclassify the service and regulate it accordingly. If the Board finds that the interexchange telecommunications market is no longer sufficiently competitive, the Board may determine rates for interexchange services as it finds to be just and reasonable.

Further, all providers of telecommunication services will continue to be subject to a full range of the BRC's regulatory procedures and methods. Nothing in this legislation limits the authority of the BRC to determine whether a telecommunications carrier should be extended the privilege of operating within this State, nor does the Bill limit the authority of the BRC to promulgate service quality standards for services offered by telecommunications carriers or to resolve complaints regarding the quality of service.

The Bill does not remove rate base/rate of return regulation for basic services; the purpose of the legislation is to enable the BRC to consider alternative methods to traditional utility regulation, where appropriate. A local exchange carrier

must develop, and the BRC must approve, an alternative plan of regulation before the more flexible regulatory approach is implemented. AT&T is confident that the BRC will exercise its jurisdiction to require an appropriate plan, and that the BRC's approval process will insure the participation of all interested parties, including the Public Advocate, Division of Rate Counsel, and will adequately protect users of monopoly services.

In sum, the telecommunications regulatory structure born in New Jersey in 1911 is no longer appropriate for today's telecommunications industry. Current law inhibits the investment and innovation necessary to ensure that New Jersey residents and businesses will share in the benefits of the Information Age. The time is now to modify the regulation of telecommunications in New Jersey and encourage economic development. Any further delay will sacrifice this State's opportunities for growth and vitality.

AT&T has reviewed the Working Draft substitute for S. 3617 and would like to suggest modifications to two sections to make them consistent with the remaining provisions of the Bill. First, Section 4 c. should be revised to reflect the focus of the legislation on the competitive marketplace in which interexchange carriers compete, as compared to individual competitive services of local exchange companies. And second, it is not clear from Section 4 d. of the Working Draft whether the BRC's authority to reregulate is intended to apply to interexchange carriers at all, or what regulatory standards the BRC should apply in determining just and reasonable prices in the event of such action. I have attached to

this testimony proposed revisions to those sections addressing these issues, making it clear that the BRC's jurisdiction to reregulate extends to interexchange as well as local exchange companies.

Substitute the following for Sections 4c and 4d:

c. The Board may determine, by rule, order, or in accordance with the provisions of a plan filed pursuant to section 3 of this act, what reports are necessary to monitor the competitiveness of the interexchange telecommunications marketplace or the competitiveness of any telecommunications service provided by a local exchange telecommunications company.

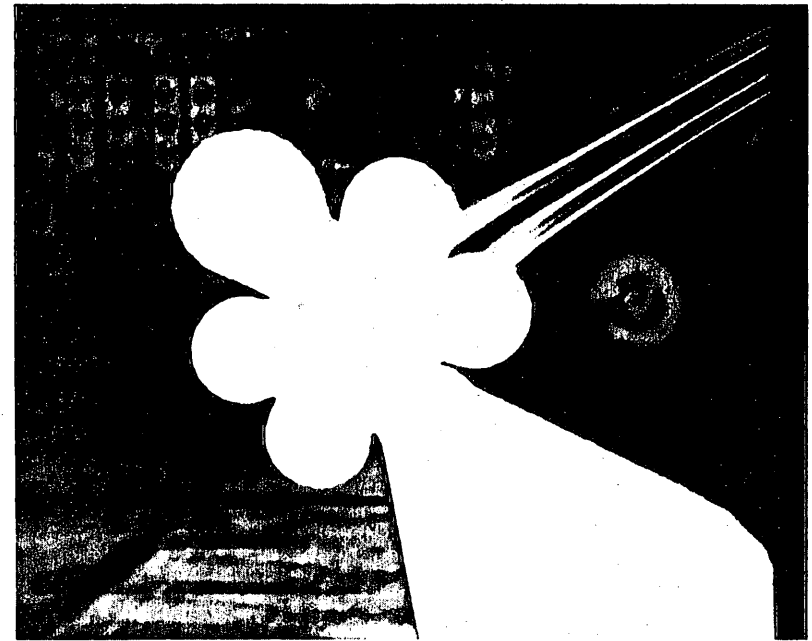
d. If the Board finds, after notice and hearing, and upon application of the criteria set forth in section 4(b) of this act, that (i) the interexchange telecommunications marketplace is no longer sufficiently competitive, or (ii) any telecommunications service provided by a local exchange telecommunications company previously found by the Board to be competitive is no longer sufficiently competitive, section 4(a) shall no longer be applicable to the affected marketplace or service and the Board may determine such rates as it finds to be just and reasonable. In making such determination, the Board shall have the authority to apply an alternative form of regulation. In such event, however, the Board shall continue to monitor the competitiveness of the interexchange telecommunications marketplace or the particular telecommunications service and, whenever the Board shall find that it has again become sufficiently competitive pursuant to section 4(b) above, the Board shall again apply the provisions of section

4(a) of this act.

BEYOND THE BELLS & WHISTLES

The Future of Telecommunications in New Jersey

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STRANDS OF FIBER OPTIC GLASS



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PREFACE

New Jersey's telephone companies are currently engaged in a sophisticated, well-funded legislative and regulatory lobbying effort to gain entry into the video and information service business.

Both the Cable Communications Policy Act of 1984 and the Modification of Final Judgement of the AT&T divestiture case before federal district court judge Harold Greene prohibit telephone ownership of transmission and content. The phone company, impatient with these prohibitions, has financed a public information campaign to convince policy-makers otherwise.

In fact, the three local phone companies in New Jersey recently spent over a million dollars to fund a "telecommunications infrastructure study" conducted by Deloitte & Touche (D&T). That study concludes that "a significant strategic opportunity exists to advance the public agenda in New Jersey through accelerated deployment of a reasonably priced advanced telecommunications network..."

Why are the telephone companies spending so much time and money trying to convince the public, state and federal regulators, members of Congress and state legislators about this "opportunity?" What does the phone company really want?

The purpose of this factbook is to present the facts about the recently commissioned New Jersey telecommunications infrastructure study and to discuss the potential hazards of allowing one entity to provide for all future telecommunications needs of New Jersey's consumers and businesses.

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SUMMARY

In 1990, the New Jersey Board of Public Utilities commissioned Deloitte & Touche (D&T) to conduct a review of the New Jersey telecommunications infrastructure. The study was funded almost entirely by New Jersey Bell. (United Telephone and Warwick Telephone, the only other local exchange carriers in New Jersey, paid a very small but proportionate share of the cost).

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The ostensible objective of the study was to assess the current telecommunications network, identify opportunities to improve educational and health care services and evaluate the implications of speeding up investment in the telecommunications infrastructure. While the study purported to examine the entire telecommunications infrastructure of the State, a major segment of telecommunications providers in New Jersey was excluded.

The conclusions of the study attempt to justify the acceleration of rates of depreciation for existing telephone plant and institute a "rea-

sonably" priced rate increase to finance the building of a new and unnecessary telecommunications network.

In an era when many Americans feel threatened by international economic competition, especially from Japan, the promise that the phone company can restore our competitive edge in the dawning Information Age is appealing. These promises appeal not only to public officials, but also to citizens who are looking for security in an ever-changing economic environment. The idea of a fiber optic telecommunications system has deep appeal for technocrats, computer buffs and the post-war baby boomers who cut their teeth on high tech consumer products.

Why do the telephone companies want fiber? They'll say it's essential to provide all of the wonderful services of the Information Age. With one wire to the home, the phone company could provide all the tele-

"Our current combined infrastructure is good and getting better. This includes satellite, cable, private networks and telephone companies."

Mark Cooper, Consumer Federation of America

communications a consumer would ever want or need—telephone, television, burglar alarms, home shopping, even remote control of electronic equipment.

New Jersey Bell warns that if is denied new regulatory incentives to build a fiber network, New Jersey will fall hopelessly behind in an extremely competitive national and international marketplace.

What the Deloitte & Touche study does not tell us is more revealing. New Jersey Bell can build a fiber network today under existing law. There is a hitch, though. The phone company must justify its exorbitant cost by demonstrating how it will improve telephone service. To recover that cost through telephone rates, the phone company must show that the fiber plant is "used and useful" for the provision of utility services.

Nearly all of the wondrous services cited by New Jersey Bell in the study can be provided today over the existing copper wire infrastructure. Everything, that is, except full motion video services—better known as television programming.

It is simply inconceivable that the phone company will spend more than a billion dollars of ratepayer revenues to construct a new state-of-the-art fiber network for the transmission of voice and data communications only.

Clearly, the study is a thinly disguised attempt to justify the consumer subsidization of a phone-company controlled telecommunications infrastructure that would trans-

mit not only voice, but also data and video communications. If permitted to accelerate rates of depreciation, the phone company will use excess ratepayer revenues generated to finance this highly speculative venture.

Indeed, why should deployment of new technologies be at any cost to telephone utility ratepayers? The risk for new investment should be borne by the company and its shareholders, not by the consumer.

Furthermore, deployment of new technologies and related services should be market driven. Consumers are not demanding the gold-plated "whistles and bells" that New Jersey Bell seeks to use as a justification for their investment. However, if the recommendations of the infrastructure study are adopted, telephone customers will pay for the phone company's pie-in-the-sky services for which there is neither current demand nor need.

For the vast majority of users, the current copper wire infrastructure meets the immediate and short term needs. It is, for practical purposes, state-of-the-art.

The Consumer Federation of America (CFA), has accurately recognized the phone companies' attempts to force-feed consumers fiber-to-the-home. In a recent analysis on the development of Information Age services, CFA stated:

The prospect of accelerated deployment of fiber poses a serious problem for consumers. The economic uncertainties surrounding the deployment of fiber-to-the-home are so great that its consideration is probably premature by half a decade or more.

Expanding the Information Age for the 1990s: A Pragmatic Consumer Analysis, Consumer Federation of America and American Association of Retired Persons, January, 1990, pg. 70.

CFA concludes:

The stakes are huge. The dollar cost of the acceleration of fiber deployment is certain to be far larger than a number of other recent telecommunications decisions which have stimulated conflict in recent years. It dwarfs the imposition of the federal subscriber line charge, which consumers vigorously opposed.

Expanding the Information Age for the 1990s: A Pragmatic Consumer Analysis, Consumer Federa-

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tion of America and American Association of Retired Persons, January, 1990, pg. 70.

Once fiber technology is deployed, New Jersey Bell says, demand will materialize to increase revenues and social benefits will flow to all ratepayers, even though one cannot identify the demand or quantity of benefits in advance. This is the same reasoning used by commercial and residential builders in the late 1980's. Their faulty claims eventually contributed to the savings and loan crisis and a deepening national recession.

The phone company wants accelerated depreciation and rates of return in advance with no credible projections of revenues from these new services. The consumer will bear the burden in this situation, with little reward. The benefits, if any, will accrue to the shareholder.

Public interest groups like the Consumer Federation of America (CFA) and the American Association of Retired Persons (AARP) have expressed their concern about this.

They state:

It is clear...that if the acceleration of fiber is allowed, there will be large rate increases in the early years. Why should ratepayers bear this burden and how can they be made whole? If they are promised lower rates in the future, very careful accounting would have to be made of which expenses were incurred for which purposes...

Expanding the Information Age for the 1990s: A Pragmatic Consumer Analysis, Consumer Federation of America and American Association of Retired Persons, January, 1990, pg. 80.

In fact, as we pointed out, accelerated deployment of the new technologies proposed and discussed in the Deloitte & Touche study are not necessary to provide the vast bulk of services discussed in the study.

Even worse, if the recommendations of the study are adopted, potential diversity among telecommunications providers in New Jersey will be eliminated before it is ever allowed to develop.

The study effectively picks one winner—the telephone company—to provide all voice, data and television services. The results of this scenario are predictable: **higher phone bills and less competi-**

tion. This serves the interest of only one entity: the local phone company.

It is a ridiculous assertion that one entity can and will provide for all future telecommunications needs of New Jersey consumers and businesses. Cable television, and other telecommunication providers, currently provide New Jersey residents with a wide array of services sought by the consumer.

In the past decade, the cable television industry has grown immensely. Coupled with the industry's expansion is a continuing commitment to improve and invest in programming, provide access to the latest technology and ensure the highest quality service to customers.

The cable industry has revolutionized the delivery of news and information. A recent example of this phenomenon is CNN's coverage of the Persian Gulf War. During that time, CNN was the most widely viewed and widely respected newscast in the world. Citizens, politicians, military planners, and even Saddam Hussein relied on cable's ability to provide instant coverage of the events in the middle east.

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As a maturing industry, cable television is on the cutting edge of the latest telecommunication technology. Many New Jersey cable operators already use fiber optic technology to supplement and enhance existing coaxial cable—but *only where it makes economic sense*. Fiber upgrades are carefully planned to provide cable customers better picture quality and serve as the conduit for the technologies of the future.

New Jersey *should* plan for its future telecommunications needs. It makes sense. Prudent upgrades to plant and equipment should be approved, where practical. However, policy makers should act responsibly and consider all options available. *This has not occurred.*

The conclusions and recommendations of the infrastructure study are incomplete. The authors of the study themselves recognize this critical deficiency (*New Jersey Telecommunications Infrastructure Study, Executive Summary*, pg. 16).

In light of the study's incompleteness, NJCTA implores policy makers to reject New Jersey Bell's conclusions and consider the **entire** telecommuni-

cations industry when contemplating and planning for the needs of New Jersey consumers and businesses.

“Telco entry [into television] may radically alter the manner in which information is delivered in this society. We should spend some time asking questions — and weighing answers — before rushing to judgment. Our current mix of technologies — print, over-the-air-television, cable, cassettes — guarantees a decentralization of control over the delivery of information into the American home. Most projections are that telco entry into this business will result in a ‘one wire’ environment, and that ultimately all information in and out of our homes will be transmitted over this telephone company facility.”

U.S. Representative John Dingell (D-MI)

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THE PHONE COMPANY'S HIDDEN AGENDA

The Cable Communications Policy Act of 1984 and the Modification of Final Judgment of the AT&T divestiture ban telephone companies from providing video programming. The issue is **not** whether the telephone company can construct and lease facilities to others to transmit video programming — they already do in some places.

The Modification of Final Judgment governing the breakup of AT&T prohibits telephone company involvement in content, not in building transmission facilities.

For example, in Washington, D.C. Bell Atlantic's C&P telephone company leases transport facilities to the locally franchised cable company. Independent telephone companies like GTE, Contel and Sugar Land can own and operate cable systems outside their local telephone service areas. Current law also permits the country's rural telephone companies to provide cable service in certain cases. In fact, almost 400 permits

have been granted to rural phone companies to provide cable television service within their local telephone service areas.

What federal law does prohibit is the ownership of cable television systems by telephone companies in areas where they also provide local telephone service (except in rural areas).

Both Congress and the Courts have recognized that the phone company would have the power to eliminate diversity and competition if it was permitted to provide both the transmission and content of information.

The telephone company, impatient with these prohibitions, wants

relief from legal and statutory provisions which prohibit entry into the video and information services lines

“There remains a substantial possibility that the Bell operating companies would use their monopoly power to impede competition if they entered restricted markets.”

Consumer Federation of America

of business. Therefore, it has spent millions of dollars to lobby Congress and to institute legal challenges in the courts to ease manufacturing restrictions and relax prohibitions against its entry into these separate lines of business.

In fact, New Jersey Bell has already persuaded key members of the New Jersey Legislature to sponsor legislation that relaxes regulation of the phone company. In one fell

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swoop, the bills radically change the current regulatory and rate making scheme carefully developed over the last eighty years in New Jersey.

Specifically, the legislation seeks to create economic incentives for New Jersey Bell to construct a new infrastructure.

The bills apparently are based upon the incomplete conclusions of the Deloitte & Touche Infrastructure Study. Conspicuously missing from the legislation is the establishment of standards which would prevent cross subsidization.

The bills also fail to consider the cost-effectiveness of investments in the telecommunications infrastructure. For example, it may be more cost effective to advance New Jersey's educational goals to apply monies contemplated for infrastructure deployment directly to the development of educational institutions.

WHAT IS THE PHONE COMPANY'S MOTIVE?

Why are the phone companies in New Jersey so determined to install fiber optics to the home? The motive is solely an economic one. The telephone company is seeking to disguise excessive profits and build a justification for future rate increases.

"The phone company is asking legislators and others to suspend the economic rules. Frankly, we don't see the need."

Consumer Federation of America

DISGUISE OVEREARNINGS

Having built and paid-off the existing copper wire infrastructure, the cost of providing local telephone service today is actually declining. Recognizing this decline, regulators have ordered rate decreases over the past few years. According to a recent FCC report, utility commissions in the last two years have or-

dered telephone rate reductions of more than \$2 billion. In 1989 alone, the FCC ordered 22 states to reduce rates totaling more than \$838 million.

Many state public utility commissions have ordered rate reductions for basic phone service. California, Wisconsin, Washington, Louisiana, Rhode Island and Georgia have re-

quired the local exchange carriers to offer refunds to consumers.

In Georgia, a recent earnings investigation of South Central Bell's sister company, Southern Bell, resulted in a revenue reduction of \$108.7 million, although that amount was reduced to \$149 million as part of a settlement agreement reached between the Georgia Public Service Commission (PSC) and Southern Bell.

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In the Georgia PSC's original decision, half of the revenue decrease went to residential customers in the form of a credit on their bills (\$2.75 per month per access line), and the other half was set aside to fund the implementation of a county-wide calling plan.

In the state of Washington, a settlement of an excess earnings investigation of U.S. West resulted in a revenue reduction. The revenue decrease was used to lower exchange rates and to implement other rate design changes.

In Wisconsin, \$264 million in excess earnings were refunded to customers in the form of a one-time credit of approximately \$15.81. Similarly, in Rhode Island, excess earnings realized as part of an incentive regulation plan were refunded to customers in the form of a \$5.29 one-time credit per access line.

Rather than reduce rates for telephone customers, the phone company would prefer to inflate its expenses, thereby justifying its current rate structure. The two most convenient methods for this justification are accelerated depreciation and higher capital outlays.

Accelerated depreciation allows the phone company to achieve two goals. First, higher book expenses make profits appear lower. The company recovers its invested capital more quickly than originally planned. Second, replacement of capital investments can be justified sooner.

“To protect their excessive earnings and prevent regulators from reducing rates, the Bell companies have spent the last three years diversifying out of the monopoly phone business and seeking deregulation. By using their profits to expand into unregulated businesses and eliminating regulation of their most profitable telecommunications services, the regional holding companies hope to avert regulatory scrutiny that would lead to the type of rate reductions consumers deserve.”

Consumer Federation of America

JUSTIFY FURTHER INCREASES IN RATES

Telephone companies have a strong incentive to maximize their total investments. Most importantly, the removal of excess cash from the balance sheet enables them to avoid regulatory scrutiny of high earnings. If earnings are low, there is no reason for a rate reduction. There even may be justification for a rate increase. Because rate-of-return regulation is based upon expenses and investments, higher investments mean higher rates in the future.

Clearly, the uneconomical deployment of a new fiber network is New Jersey Bell's best opportunity to expend huge amounts of revenue on new capital investment. It is this economic imperative—the phone company's need to prematurely replace its network in order to prevent telephone rates from declining—that provides the phone company's strongest motive for wanting to overhaul the existing infrastructure.

CROSS OWNERSHIP: BANNED FOR GOOD REASON

Should the phone company be allowed to own both the wire into your home and what is carried over the wire?

New Jersey consumers have heard the phone companies brag about the wonderful new conveniences they could provide — if only they were freed from the laws and regulations that keep them from entering these businesses. However, both Congress and the courts have recognized that phone companies have the unique ability and incentive to discriminate against competitors, at the expense of the ratepayer and other competing businesses.

A consent decree, agreed to by the U.S. Department of Justice (DOJ) and AT&T in 1982, signifi-

cantly altered the structure of domestic telecommunications. This agreement is commonly referred to as the Modification of Final Judgment. The MFJ prohibits the seven Regional Bell Operating Companies (RBOCs) from both maintaining and controlling traffic content. In other words, they can own the wire, but not what is transmitted over it.

“As long as [Ma Bells] are the gatekeepers' of the local transmission facilities, it is imperative that First Amendment principles guide any consideration on lifting the ban on providing information services.”

National Association of Broadcasters

As a result, the local exchange carriers were banned from entering specific lines of businesses, including equipment manufacturing, long distance service and information service. As U.S. District Court Judge Harold Greene concluded, “The potential for use of the [phone] companies monopoly power to impede competition is enormous.”

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There are strong and compelling reasons for restrictions currently placed on the Bell Operating Companies. They did not appear at the whim of a congressman or judge. The Bell companies like to talk frequently about the future, but they avoid discussing the history of this issue.

As we go to press, Judge Greene has issued an order that lifts the Modification of Final Judgment on information services for the Bell Operating Companies. If the order is upheld, telephone companies would be allowed to provide the content of information services such as stock quotations, news, and classified advertisements.

There is compelling evidence that any changes to current law will lead to new anticompetitive abuses by telephone companies. If they are allowed into restricted businesses, competition may be cut-off with independent providers of information services.

THE BREAKUP OF THE BELLS: A HISTORY

More than eighty years ago, when the telephone industry was in its infancy, a small company called AT&T came up with a plan. Under the plan, AT&T would be the sole carrier of nationwide telephone service.

To accomplish that goal, AT&T began buying out local telephone companies. The telecommunications giant refused to interconnect companies that would not sell. Only the intervention of the U.S. government in 1919 stopped AT&T from becoming the sole owner and controller of the country's telephone system. The Bell system, however, managed to capture about 85 percent of the business nationwide.

In the late 1940s, AT&T saw another opportunity in the emerging field of computers. The company

tried to move quickly into computer research and production — using the potential limitless revenues from its telephone services. The goal was to become the single source for computers in the country.

Again, the U.S. government stepped in, this time by instituting an antitrust suit. The U.S. government was successful and stopped

“We share the view that the potential for anti-competitive behavior by Bell Companies remains a concern.”

United Press International

AT&T from dominating the computer field by requiring the company to enter into another consent decree.

In 1968, the Bell system again found itself the object of another antitrust lawsuit—this time because the company refused to allow consumers to hook up any telephone equipment not manufactured or provided by Bell. For years, AT&T claimed that other companies' equipment would destroy the local tele-

phone network. As we know now, that claim was false. Consumers today may purchase and use any telephone equipment they desire.

In 1974, the U.S. Justice Department filed yet another antitrust suit against the Bell system, claiming that the company had repeatedly used its bottleneck capabilities to discriminate against new competitors.

The goal of the settlement reached in January 1982 was to separate the competitive phone business from the local monopoly phone business. After 15 years of discovery and pretrial motions, the trial began in January, 1981.

The government presented nearly 100 witnesses and thousands of pages of documents. At the conclusion of the government's case, AT&T moved to dismiss the action. Ultimately, the Bell system agreed to divest itself of the local telephone companies to settle this litigation.

Today, AT&T is in the business of providing long distance telephone service, as are many other companies, such as Microtel, Sprint and

MCI. AT&T also manufactures telephone and other electronics equipment.

Local telephone service is now provided by seven regional Bell companies (along with about 1400 other smaller, independent companies). Those seven primary telephone providers, known as the "Baby Bells," include Bell Atlantic, which owns New Jersey Bell.

The local exchange carriers remain monopolies, with their rates of return regulated by state public utility commissions and boards. To retain the distinction between local monopoly and competitive phone businesses, the Baby Bells are specifically prohibited from engaging in the provision of information services, long distance service outside a specified region and the manufacturing of telecommunications equipment.

In other words, New Jersey Bell cannot be both the common carrier and compete with other companies that rely on the interconnection with the local bottleneck monopoly.

COMPETITION?

As history clearly demonstrates, the incentives for anticompetitive conduct are great. The questions raised by a "one-wire" scenario should cause alarm and be questioned by consumers, policy makers and regulators.

Although New Jersey Bell touts the benefit of "competition," it also makes clear its intent to create a "one wire" world. If the recommendations of the Deloitte & Touche study are implemented, the phone company could own and control the only source of information and entertainment into and out of every home in New Jersey!

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CROSS SUBSIDY: SHIFTING COSTS TO SUBSIDIZE DIVERSIFIED BUSINESS

New Jersey Bell receives guaranteed revenues from customers who must purchase phone service. Under regulations that have evolved over many years, the prices charged to captive ratepayers are a function of the underlying cost of providing service.

How are consumers to be protected against the phone company's use of its monopoly to fund entry into unregulated businesses?

Telephone companies have a strong enticement to assign the costs of other services they might offer to the regulated ratebase. In essence, the new venture is cross-subsidized from the guaranteed rate of return. Cross subsidy allows telephone companies to underprice efficient competitors, and to raise extra revenues from regulated phone service customers to make up the difference.

For example:

- In 1989, the FCC found that several Regional Bell Operating Companies (RBOCs) and GTE were improperly allocating the costs of providing inside wire maintenance (a competitive business) to regulated activities. As a result, the FCC disallowed over \$158 million in costs from being included in local phone rates.

- In 1990, an audit by the Wisconsin PUC staff found Ameritech improperly allocating over \$33 million in lobbying and other costs to telephone ratepayers. The company was using ratepayer monies to fund efforts to overturn Modified Final Judgment business restriction.

These examples demonstrate that

“The phone company doesn't have deep pockets — it has limitless pockets”

Community Antenna Television Association

- In 1990, NYNEX cross subsidized a subsidiary — Material Enterprises Company (MECO) — with \$118 million in ratepayer monies. MECO sold services to its sister NYNEX at inflated costs, and the telephone company passed the inflated costs onto the ratepayers. The FCC investigated the case and fined NYNEX \$1.4 million after an audit, and also ordered \$68 million in rate reductions.

cross-subsidies are not simply the result of one company's management approach. Because of the nature of rate of return regulation, the phone company can allocate costs of unregulated businesses to the regulated phone service customer base. The rate of return for those costs is **guaranteed**.

It is very difficult for regulators to keep up with these practices. Of course, the local exchange companies say this kind of cost shifting

does not occur. But given their history, and the powerful incentives, that promise is not reassuring.

While some argue that the government can prevent cost shifting with stiff accounting rules, it is also true that the General Accounting Office (GAO) recently concluded that *the FCC only has enough auditors to review each major phone company once every 16 years.*

DEEP POCKETS

The phone company possesses enormous economic power. The annual revenues of the seven Regional Bell Operating Companies (RBOCs) are \$77 billion, exceeding every media industry.

The total revenue of the *smallest* Bell Company, Southwestern Bell, was almost as much as the total 1988 combined revenues of the

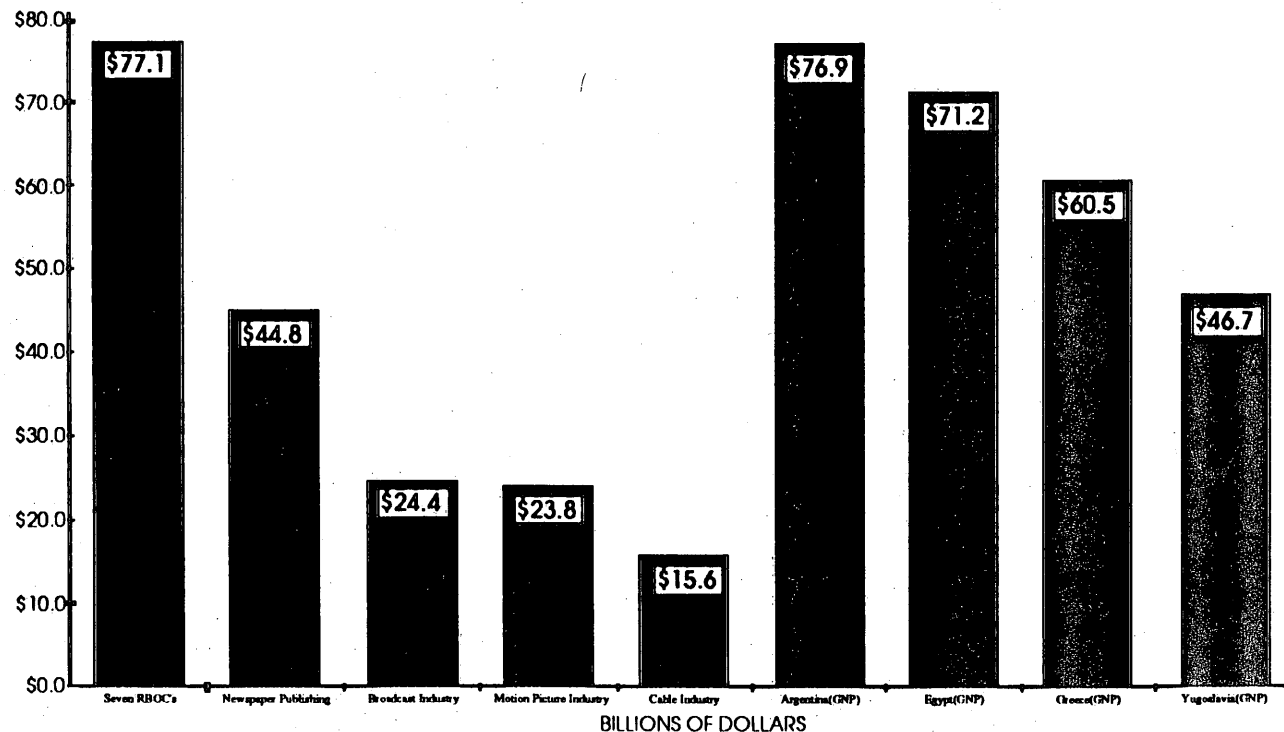
ABC, NBC and CBS television networks.

The so-called "Baby Bells" are among the largest businesses in the world. The seven Bell companies' combined total revenues exceeded the total Gross National of Product (GNP) of some major developed countries. For example, in 1985 the GNP of Austria is \$67.7 billion. The GNP of Taiwan for the same period was \$62.2 billion.

Given this power, the anticompetitive impact of leveraging their resources through cross-subsidies is overwhelming.

It's not simply that the Bell companies are big. They also have economic advantages with which other companies cannot compete. New Jersey Bell does not want to compete. It wants to take over.

71X



THE NEW JERSEY EXPERIENCE

Although the objectives of the Deloitte and Touche study express the need to "identify what would be required for the state's policy-makers to chart a new course for telecommunications regulatory policy," a major segment of New Jersey's telecommunications infrastructure is excluded from the study.

In fact, the study itself concludes that it is incomplete. An assessment of the current telecommunications network in the state, and an analysis of the future sources of demand for more advanced telecommunications services, would have included cable and other service providers operating fiber optic networks. While the study purports to be comprehensive, it uses an indefensible process — *it is simply a study of local telephone company infrastructure.*

The New Jersey Cable Television Association recommends gathering further information to make this study more comprehensive. By asking for input from those sectors not

"The [telephone company's] economics are not right, and the first beneficiaries of the socialization of costs would be those who are most able to pay — large corporations and upscale residential users. The biggest losers would be the average residential telephone user who does not want, or need, new [telephone] services, but will be forced to bear some of these costs."

The American Association of Retired Persons

included in the original study, New Jersey policy-makers will be better equipped to chart the future of our state's telecommunications regulatory policy.

72X

WHO PAYS FOR "BLUE SKY"?

Who will pay for the recommended improvements? The study says that "deployment of advanced telecommunications capabilities can be significantly accelerated at minimal cost relative to the intrastate revenue base of New Jersey's LECs." The validity of these conclusions is doubtful. And, why should there be any cost to today's telephone consumers?

OVERHAULING NEW JERSEY'S TELECOMMUNICATIONS INFRASTRUCTURE IS UNNECESSARY

The recommendations of the study — to encourage phone companies to move ahead with advanced telecommunications technology so consumers can receive more services — are invalid.

To assume that future network requirements include the development of fiber optic systems provided only by phone companies is premature.

In fact, the telephone industry has advanced a number of myths about the potential of fiber optic technology to justify their entry into the television business.

The phone companies claim if they were given the green light to install "fiber to the home" transmission systems, then they would be capable of bringing wonderful new services to consumers. This scenario, however, is at odds with technical and economic reality.

Many of the services outlined in the Deloitte & Touche study are already being provided by cable. Cable technology is capable of delivering many other services besides distributing programs to an audience. All of these services developed out of cable's enormous capacity to carry, simultaneously and selectively, a large volume of information.

The schedule for implementing fiber-to-the-home is based upon the pace of technology. Phone companies costs and technical difficulties are compounded when fiber is installed all the way to the home. Phone companies admit, based on field trials to date, that fiber-to-the-home is neither technically nor economically feasible now.

73X

CABLE IS ALREADY DOING IT!

Phone companies are not the only ones developing and using fiber optics. **Cable television companies already use fiber optics — where it makes technical and economic sense.** Cable operators do not need to replace their entire networks in order to bring customers the benefits of fiber.

Because they do not run expensive fiber to **every** home, cable operators are bringing the benefits of fiber optics to consumers at a much lower cost!

The existing telecommunications infrastructure currently provides consumers with the most reliable and versatile telephone system in the world offering diversity and consumer choice. It is foolish to think our economic future depends on re-wiring the nation.

CABLE TV PROVIDES VALUE

In the past decade, the cable television industry has grown tremendously. In New Jersey, 65-70% of TV households subscribe to cable television. That equates to 1,923,555 subscribers as of January 1, 1991.

With this growth is a continuing commitment by cable operators to improve programming and provide the highest quality service to subscribers.

On average, most NJ cable systems currently offer about 36 channels to subscribers. While the number of channels has increased, the cost per channel has actually gone **down**. For instance, in 1980, consumers paid 65 cents per channel per month for 12 channels. Today, the monthly cost is **just** 46 cents per channel for 36 channels.

For about the price of a newspaper, cable viewers are afforded 24 hour programming devoted to news, sports, weather, education, science and entertainment.

With the introduction and growth of 53 new pay and basic cable networks, cable operators have spent 842% **more** for programming than they did ten years ago. And, cable operators continue to increase their annual investments to improve equipment, upgrade plant and provide even more quality programming.

To help with that effort, Cable Labs, a research and development organization, was created in 1988 by the industry to explore the cost-effective use of fiber optics, high-definition television (HDTV) and other techniques for improved cable reception. It is cable's goal to shape the future of the home entertainment business and improve the way we receive information.

CABLE IN THE COMMUNITY

Cable television's commitment to public service is strong and continues to grow. By participating in local and global relief efforts, cable remains responsive to critical issues facing its communities and the world.

Comic Relief and Farm Aid are just two prime examples of the dedication cable has to its neighbors. Locally, cable operators have developed programs targeted at their communities special needs: Cable in the Classroom, crime watch programs, scholarships and other fundraising and volunteerism projects.

Giving something back to the community isn't just a slogan — it's a way of life for most cable television operators.

In small towns and large cities, cable systems have helped promote a sense of community pride by providing coverage of local events: high school sports, parades, town meetings and forums, elections, arts programming and local news.

CABLE IN THE CLASSROOM

The cable industry is concerned about the quality of our children's education. Most cable systems in New Jersey now offer an invaluable tool to teachers for educating school children about the world we live in — access to quality educational programming for use in the classroom.

Cable in the Classroom assists teachers by providing a variety of high-quality programming without commercial interruption. Curriculum-based materials help support the programs, and copyright clearances allow teachers to use the programs on videotape without legal restrictions.

Best of all, there are no viewing requirements — teachers have total discretion in choosing and using programs. Free installation, information on educational programs and teacher workshops round-out the cable industry's commitment to education.

By working directly with school administrators and teachers, cable operators are helping teachers and students meet their needs and foster positive feelings about the learning experience.

CABLE'S UNIQUE APPROACH TO ENTERTAINMENT

Because of the way cable segments viewer audiences, cable is better able to address the special programming needs of viewers.

Black Entertainment Television is the nation's only network devoted to quality black programming. Lifetime addresses women's issues. Viewers can see live sessions of Congress on C-Span and C-Span II, or watch scientific or nature programming on the Discovery Channel. By providing a variety of programming, viewers can select the type of shows that appeal to them. Viewers have access to unique programming 24 hours-a-day.

75X

CABLE HAS REVOLUTIONIZED THE DELIVERY OF NEWS & INFORMATION

A recent example of cable's importance to the delivery of news and information is the Gulf War. CNN was named the most widely viewed and most widely respected newscast during the Gulf crisis.

Because of CNN's format, viewers can tune into events 24 hours a day everyday. No broadcast channel can deliver that.

CABLE TECHNOLOGY

As a maturing industry, cable technology is on the cutting edges. The deployment of fiber optics provides customers with the highest quality cable reception available, and state-of-the-art signal reliability.

Fiber optics, the telecommunications technology of the 21st century, has proven to be one of the most capable transmission systems available today. Fiber optics addresses the needs of today's communications, while providing virtually unlimited potential for the future.

The advantages of fiber optics include increased information handling capacity, low-loss of signal power, superior physical strength (despite its size and weight), and its relative immunity to electromagnetic or radio interference. Because fiber optic cable is inert, access is seldom needed for operation or maintenance. And, because fiber carries no electricity, it poses no danger to people, pets or other transmission systems.

Traditional transmission systems use copper wire, electrical signals and coaxial cable to transmit information. Fiber optics employs tiny lasers that transmit extraordinary amounts of information (hundreds of thousands times more than copper wire) in lightwaves over strands of glass *no thicker than human hair!*

Cable operators began building fiber optic systems in the late 1970's and have, over the past decade, established fiber optics networks as a reliable, cost-effective medium. Today, more than five million cable subscribers enjoy video entertainment delivered by fiber.

There are many advantages to fiber optics, but they don't come without a price — a price of almost twice the cost of traditional copper wire. That's why cable operators know it is important to install fiber optic networks only where they make sense.

Most cable systems are hybrids combining fiber optics and coaxial cable. The coaxial cable now servicing your home remains in place. Fiber upgrades replace only the main trunk and distribution lines, providing cable customers with the best television service possible today at the most economical cost.

The future of fiber optics technology holds many exciting possibilities. High definition television (HDTV), interactive education, video-on-demand programming are just a few of the services on the horizon.

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NOTES

77x



DECEMBER 10, 1991

STATEMENT ON S-3617

**FRANK DE JOY
PRESIDENT
NEW JERSEY CABLE TELEVISION ASSOCIATION**

GOOD MORNING. MY NAME IS FRANK DE JOY AND I AM PRESIDENT OF THE NEW JERSEY CABLE TELEVISION ASSOCIATION. ON BEHALF OF THE CABLE TELEVISION OPERATORS OF NEW JERSEY, I WOULD LIKE TO THANK THIS COMMITTEE FOR THE OPPORTUNITY TO PRESENT MY TESTIMONY.

NEW JERSEY CABLE TELEVISION ASSOCIATION VIGOROUSLY OPPOSES S-3617, A BILL THAT WOULD MANDATE SWEEPING DEREGULATION OF THE TELEPHONE COMPANY. IT WOULD DESTROY THE EXISTING REGULATORY SCHEME GOVERNING UTILITY REGULATION AND RATE-MAKING IN NEW JERSEY AND REPLACE IT WITH AN INFERIOR SCHEME THAT WOULD BRING ABOUT HIGHER PHONE RATES THAN NECESSARY FOR CONSUMERS.

BEFORE I DISCUSS THE BILL AND ITS DAMAGING CONSEQUENCES, I MUST RAISE MORE FUNDAMENTAL ISSUES. FOR EXAMPLE: WHY IS THIS LEGISLATION BEING PROPOSED? CONSIDERING THE DEVASTATING AND LONG-TERM IMPACT IT COULD HAVE, WHY IS THE BILL RECEIVING HASTY CONSIDERATION NOW, DURING THE LAME DUCK SESSION? WHAT IS THE PHONE COMPANY'S GOAL IN SEEKING TO DE-REGULATE RATES? WHY CAN'T THAT GOAL BE ACCOMPLISHED WITHIN THE EXISTING LAW?

AS DRAFTED, THIS LEGISLATION WILL NOT PREVENT CROSS-SUBSIDIZATION. THE BILL WOULD PERMIT PHONE COMPANIES TO DIVERSIFY INTO COMPETITIVE AND EXPERIMENTAL BUSINESSES, WHICH WOULD BE FUNDED BY TELEPHONE RATEPAYERS. THE RESULTS WOULD BE PREDICTABLE: PHONE RATES WILL INCREASE MORE THAN NECESSARY AND COMPETITION WILL DIMINISH.

ANY REGULATORY SCHEME PERMITTED UNDER THIS LEGISLATION WOULD RESULT IN HIGHER RATES THAN NECESSARY FOR PRACTICALLY ALL CONSUMERS. THE BILL GUARANTEES HIGHER RATES BY RELIEVING THE BOARD OF REGULATORY COMMISSIONERS (BRC) OF THE REQUIREMENT TO DETERMINE THE REASONABLENESS OF TELEPHONE UTILITY RATES ON A "RATE BASE/RATE OF RETURN" BASIS. NOTHING CAN CONSTITUTIONALLY PRODUCE LOWER RATES TO CONSUMERS THAN THE RATE BASE/RATE OF RETURN APPROACH.

WHILE IT GUARANTEES CONSUMERS THE LOWEST RATES POSSIBLE, THE RATE BASE/RATE OF RETURN (RB/ROR) APPROACH ALLOWS THE PHONE COMPANY TO UNDERTAKE RESPONSIBLE CAPITAL IMPROVEMENTS, INCLUDING RE-BUILDING ITS INFRASTRUCTURE. A CONSTITUTIONAL REQUIREMENT UNDER THE RB/ROR SYSTEM IS THAT UTILITIES HAVE THE OPPORTUNITY TO EARN A RATE OF RETURN SUFFICIENT TO ATTRACT THE PRIVATE CAPITAL NECESSARY TO MEET ITS FRANCHISE OBLIGATIONS TO THE PUBLIC. THEREFORE, ABANDONMENT OF COST-BASED REGULATION IS NOT NEEDED TO FINANCE THE CONSTRUCTION OF UTILITY SYSTEM UPGRADES, SUCH AS AN END-TO-END FIBER OPTIC

SYSTEM. AFTER ALL, THE LARGEST PUBLIC OR PRIVATE UNDERTAKING IN THE HISTORY OF NEW JERSEY -- THE HOPE CREEK GENERATING STATION CONSTRUCTED AT A TOTAL COST OF OVER \$4 BILLION -- WAS PRIVATELY FINANCED AND COMPLETED BY PSE&G, THE LARGEST UTILITY IN THE STATE, UNDER RB/ROR REGULATIONS.

WHILE NO STATUTE NOW REQUIRES THE BRC TO USE THE RB/ROR APPROACH, IT HAS HISTORICALLY USED THIS METHOD BECAUSE RB/ROR IS THE ONLY BASIS UPON WHICH MINIMUM RATES TO RATEPAYERS MAY BE FOUND. THIS METHOD OF ANALYSIS IS THE STANDARD TOOL USED IN BOTH THE PUBLIC AND PRIVATE SECTORS FOR INVESTMENT DECISION-MAKING. THE APPROACH EXAMINES WHETHER THE ECONOMIC AND SOCIAL BENEFITS ASSOCIATED WITH A PROJECT EXCEED THE ADDITIONAL COSTS BORNE BY RATEPAYERS. WITH THIS ANALYSIS, THE BOARD CAN DETERMINE WHETHER PROJECTS ARE WORTHWHILE, OR WHAT PORTION OF THE PROJECT COULD BE JUSTIFIED. ONLY IN THIS WAY CAN RATEPAYERS BE ASSURED THAT THEIR DOLLARS ARE SPENT IN AN ECONOMICALLY AND SOCIALLY RESPONSIBLE MANNER.

BY CONTRAST, S-3617 OFFERS THE BOARD NO CRITERIA TO USE TO DETERMINE THE APPROPRIATE LEVEL OF INFRASTRUCTURE INVESTMENT OR THE APPROPRIATE LEVEL OF RATES. WHAT ARE "AFFORDABLE" RATES AND "REASONABLE" CHARGES? THE BILL IS SILENT. THE BOARD IS GIVEN THE AUTHORITY TO RE-DEFINE AFFORDABILITY. IF CONSUMERS CAN AFFORD TO PAY THEIR PHONE BILLS, IS THE PHONE COMPANY PERMITTED A TWENTY, THIRTY OR EVEN FORTY PER-

CENT RATE-OF-RETURN?

THE BILL'S CONSUMER SAFEGUARDS ARE LITTLE MORE THAN VAGUE DIRECTIVES TO THE BRC TO "DO THE RIGHT THING." THE CONSUMER HAS NO PROTECTION AGAINST DECEPTIVE PRICING PRACTICES. PREVIOUSLY, THE PHONE COMPANY ASSERTED THAT ITS RATES WILL BE HELD AT CURRENT LEVELS. IN FACT, CURRENT RATES WERE SET RIGHT AFTER DIVESTITURE -- A PERIOD OF GREAT UNCERTAINTY AND RISK. THE COSTS OF PROVIDING TELEPHONE SERVICES HAVE DECLINED WITH TIME. RATES, THEREFORE, OUGHT TO BE GOING DOWN, NOT STAYING THE SAME!

REGIONAL BELL COMPANIES ARE OVEREARNING ACROSS THE COUNTRY. FOR EXAMPLE, THIS FALL, THE FLORIDA PUBLIC SERVICE COMMISSION UNANIMOUSLY VOTED TO FORCE SOUTHERN BELL TO RETURN NEARLY \$145 MILLION IN EXCESS PROFITS IT HAD OVERCHARGED TO ITS FOUR MILLION CUSTOMERS. LEGISLATION TO DE-REGULATE PHONE RATES HAS BEEN PROPOSED AND DEFEATED IN OTHER STATES INCLUDING COLORADO, CONNECTICUT, MISSOURI, ILLINOIS AND WYOMING.

UNDER THIS LEGISLATION, THE BRC WOULD NOT BE ALLOWED TO ANALYZE OVEREARNINGS GENERATED FROM BASIC TELEPHONE SERVICE. THIS MEANS THE BRC COULD NOT LOOK AT EXISTING BASIC TELEPHONE RATES TO DETERMINE WHETHER THE TELEPHONE COMPANY IS MAKING MORE MONEY FROM THOSE SERVICES THAN WOULD BE PERMITTED UNDER A RATE BASE/RATE OF RETURN METHODOLOGY.

OTHER PROVISIONS OF THE PROPOSED LEGISLATION PRESENT

FAR-REACHING AND SERIOUS PROBLEMS. CONSPICUOUSLY MISSING FROM THE BILL ARE STANDARDS TO PREVENT CROSS-SUBSIDIZATION BETWEEN REGULATED SERVICES (INCLUDING BASIC TELEPHONE SERVICE) AND UNREGULATED COMPETITIVE SERVICES. INDEED--AT THE EXPENSE OF THE TELEPHONE RATEPAYER--THE TELEPHONE COMPANY WOULD BE ALLOWED TO ATTRIBUTE MANY COSTS AND EXPENSES TO BASIC TELEPHONE SERVICE THAT SHOULD BE ATTRIBUTED TO COMPETITIVE SERVICES. RATEPAYERS WOULD BE OBLIGATED TO UNDERWRITE THESE COSTS.

TO HELP AVOID THE POTENTIAL FOR CROSS-SUBSIDIZATION, ANY LEGISLATION SHOULD INCLUDE A PROVISION TO ENSURE THAT RATEPAYERS AND COMPETITORS ARE NOT HARMED ECONOMICALLY WHEN A PROVIDER OF A MONOPOLY TELECOMMUNICATIONS SERVICE ALSO PROVIDES A COMPETITIVE TELECOMMUNICATIONS SERVICE.

AS A TELECOMMUNICATIONS PROVIDER, WE MUST CONCERN OURSELVES WITH THE BRC'S DISPOSITION TO REVIEW NEW JERSEY BELL. CONSIDER THIS: IN APRIL, 1991, SEVERAL REGULATORS FROM STATES IN THE BELL ATLANTIC REGION WERE CONCERNED ENOUGH ABOUT THE POTENTIAL FOR ABUSE IN TRANSACTIONS AMONG BELL ATLANTIC AFFILIATES TO PROPOSE A REGIONAL TASK FORCE TO COMMISSION AN AUDIT OF BELL ATLANTIC ACTIVITIES. OTHER REGULATORS, HOWEVER, -- INCLUDING NEW JERSEY'S -- WERE NOT SO DISPOSED. WE UNDERSTAND THAT THE PROPOSED AUDIT WAS SCUTTLED.

ON THE OTHER HAND, NJ BELL HAS WORKED TO KEEP THE CABLE

TV INDUSTRY UNINFORMED OF ITS TRUE PROFITABILITY. THE BRC RELEASED SOME SUMMARY INFORMATION LAST FRIDAY. THAT INFORMATION SHOWED THAT NJ BELL IS MAKING SIGNIFICANTLY HIGHER RETURNS THAN OTHER UTILITIES.

IN RESPONSE TO BELL'S OPPOSITION, THE BRC DENIED NJCTA REQUESTS FOR INFORMATION ABOUT THE RATE STABILITY PLAN. THIS IS UNFORTUNATE. THE MORE INFORMED RESIDENTS AND LEGISLATORS ARE ABOUT THIS LEGISLATION, THE MORE THEY WILL DISCERN WHERE THE TRUE PUBLIC INTEREST LIES. FULL DISCLOSURE OF THE FACTS WILL DEMONSTRATE THAT THE LEGISLATION IS NOT NEEDED, IS UNDESIRABLE AND IS NOT IN THE PUBLIC INTEREST. OBVIOUSLY, NEW JERSEY BELL PREFERS THAT ALL RELEVANT FACTS NOT BE DISCLOSED. CONSEQUENTLY, THE NJCTA IS FACED WITH FILING A LAWSUIT FOR THIS INFORMATION.

WE ALSO KNOW THAT THE BRC IS CONCERNED ABOUT CROSS-SUBSIDIZATION BETWEEN REGULATED SERVICES AND UNREGULATED COMPETITIVE SERVICES IN INDUSTRIES OTHER THAN TELECOMMUNICATIONS, ALTHOUGH IT OUGHT TO BE CONCERNED WITH BELL ATLANTIC. FOR EXAMPLE, THE BRC IS CURRENTLY EXAMINING PSE&G'S CAPITAL INVESTMENTS IN NON-UTILITY BUSINESSES SUCH AS A MARYLAND SAVINGS BANK AND OIL FIELD INTERESTS IN ARGENTINA.

THIS LEGISLATION SHOULD CREATE FAR GREATER OPPORTUNITIES FOR BRC CONCERN. AFTER ALL, NEW JERSEY BELL IS BUT ONE OF 105 SUBSIDIARIES OF BELL ATLANTIC. THE OTHER 104 SUBSIDIARIES

INCLUDE SUCH ACTIVITIES AS REAL ESTATE INTERESTS IN ARGENTINA AND ELSEWHERE! IF THIS BILL IS ENACTED, THE BRC'S FEAR OF REGULATED INDUSTRIES PLUNGING INTO UNREGULATED ACTIVITIES, SHOULD TURN TO TERROR.

AND ALTHOUGH THE BILL DOESN'T USE THE WORDS "FIBER-OPTICS," BELL HAS STATED THAT IT INTENDS TO FILE WITH THE BRC A PLAN TO BUILD A FIBER OPTIC NETWORK. WE UNDERSTAND BELL IS ALREADY EMPLOYING THIRTY PEOPLE FULL-TIME, AT RATE-PAYER EXPENSE, TO WORK FULL-TIME ON THAT PROJECT, WHICH INCLUDES A MILLION DOLLARS WORTH OF ADVERTISING, ALSO PAID FOR BY RATE-PAYERS.

IN FACT, NEW JERSEY BELL IS ALREADY MOVING AHEAD WITH A MASSIVE DEPLOYMENT OF FIBER THROUGHOUT THE STATE. THE CABLE INDUSTRY HAS DISCOVERED BELL INSTALLING FIBER ON TELEPHONE POLES WITHOUT THE BENEFIT OF THE MAKE-READY PROCEDURES REQUIRED FOR COMPLIANCE WITH LOCAL AND NATIONAL SAFETY CODES AND OUTSIDE OF THE EXISTING REGULATORY FRAMEWORK. AT SEVERAL LOCATIONS, WE HAVE FOUND CABLE TELEVISION WIRES MOVED INTO SPACES ON THE POLES THAT VIOLATE THE NATIONAL ELECTRIC SAFETY CODE. UNFAIRLY, BELL'S PRESUMPTIVE ACTIONS ARE CREATING SAFETY VIOLATIONS FOR WHICH CABLE OPERATORS ARE BEING HELD RESPONSIBLE.

NEW JERSEY BELL IS INSTALLING THIS FIBER PARALLEL TO ITS EXISTING COPPER WIRE. THE FIBER IS CONNECTED TO NOTHING! HAS

NEW JERSEY BELL DECLARED ITSELF DE-REGULATED, WITHOUT THE BENEFIT OF LEGISLATIVE APPROVAL? IS IT FUNDING THIS UNAUTHORIZED ACTIVITY AT THE EXPENSE OF THE UNINFORMED PUBLIC? HAVE NEW JERSEY RESIDENTS ALREADY BEGUN PAYING FOR A TECHNOLOGY THAT MOST WILL NEVER NEED AND NEVER USE? IT APPEARS SO!

IF NJ BELL IS PERMITTED TO MAINTAIN ARTIFICIALLY HIGH RATES AND BUILD A FIBER OPTIC HIGHWAY, NEW JERSEY WOULD DANGEROUSLY INCREASE ITS RELIANCE ON A SINGLE TELECOMMUNICATIONS NETWORK. CONSIDER THE CONSEQUENCES OF RELYING ON A SINGLE TELECOMMUNICATIONS PROVIDER:

ON JANUARY 15, 1990, A SOFTWARE ERROR CAUSED SWITCHING PROBLEMS TO PROPAGATE THROUGHOUT AT&T'S NETWORK, BLOCKING HALF OF ALL ATTEMPTED CALLS FOR SEVERAL HOURS; ON JANUARY 4, 1991, AT&T EMPLOYEES MISTAKENLY SEVERED A LIVE FIBER OPTIC CABLE IN NEW JERSEY. ABOUT 100,000 VOICE GRADE CIRCUITS IN THE NORTHEASTERN CORRIDOR WENT DEAD FOR EIGHT HOURS; IN JUNE AND JULY, 1991, AT LEAST SIX SEPARATE OUTAGES OCCURRED IN PACIFIC BELL AND BELL ATLANTIC SWITCHING OFFICES; ON SEPTEMBER 17, 1991, A MANAGEMENT ERROR ALLOWED BACK-UP BATTERIES TO RUN DOWN AT AN AT&T SWITCHING OFFICE IN WALL STREET, WHICH CAUSED FOUR AND ONE-HALF BLOCKED DOMESTIC CALLS, HALF A MILLION BLOCKED INTERNATIONAL CALLS, AND THE LOSS OF 80 PERCENT OF THE FEDERAL AVIATION ADMINISTRATION'S TELEPHONE CIRCUITS IN THE AREA. FLIGHTS INVOLVING ABOUT 85,000 PASSENGERS WERE DIS-

RUPTED.

ACCORDING TO JANICE OBUCHOWSKI, ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATION AND INFORMATION, COMPETITION IS THE BEST INCENTIVE TO REDUCE THE POTENTIAL FOR TELECOMMUNICATIONS NETWORK DISASTERS.

THERE IS ALSO REAL POTENTIAL FOR MAJOR ECONOMIC DISASTER, SHOULD NJ BELL BE PERMITTED TO BUILD A FIBER NETWORK AT RATEPAYER EXPENSE. SINCE ITS INCEPTION, THE CABLE TV INDUSTRY HAS BEEN SYNONYMOUS WITH TECHNOLOGICAL ADVANCEMENT. CABLE COMPANIES HAVE WIDELY DEPLOYED FIBER TECHNOLOGY FOR SEVERAL YEARS. HOWEVER, WE USE FIBER WHERE IT MAKES ECONOMIC SENSE. ALLOWING THE PHONE COMPANY TO DEPLOY A FIBER NETWORK WHERE THERE IS LITTLE OR NO CONSUMER DEMAND CAN LEAD TO ECONOMIC DISASTER SECOND ONLY TO THE SAVINGS AND LOAN SCANDAL.

IT IS IMPORTANT TO STRESS THAT THE NJCTA DOES NOT OPPOSE THE DEPLOYMENT OF ADVANCED TECHNOLOGY BY NJ BELL. WE ARE CONCERNED THAT THE TELEPHONE CUSTOMER WILL BE ASSESSED AN INVOLUNTARY TELECOMMUNICATIONS TAX AND BE FORCED TO CONTRIBUTE TO THE CAPITAL PLANT. THIS WOULD ENABLE NJ BELL TO COMPETE WITH ALL OTHER INFORMATION AND ENTERTAINMENT PROVIDERS INCLUDING CABLE TV COMPANIES. CABLE TV COMPANIES ARE REQUIRED TO GO INTO DEBT AND EQUITY MARKETS TO RAISE CAPITAL THEMSELVES.

TO THE EXTENT THAT NJ BELL CAN DEMONSTRATE THAT ITS PROPOSED DEPLOYMENT OF ADVANCED TECHNOLOGY IS USED AND USEFUL

FOR UTILITY PURPOSES, AND WILL BENEFIT NEW JERSEY'S TELEPHONE RATEPAYERS, EXISTING LAW PERMITS THE DEPLOYMENT OF CAPITAL. THE ONLY CASE IN WHICH THE PHONE COMPANY NEEDS RELIEF IS IN THE EVENT IT WISHES TO PASS THE COSTS OF ITS CAPITAL DEPLOYMENT ONTO TELEPHONE CUSTOMERS AND CANNOT JUSTIFY THAT EXPENDITURE ON THE BASIS OF NEED.

LAST, BUT BY NO MEANS LEAST, THE TERMS USED IN THE LEGISLATION ARE ILL-DEFINED. FOR EXAMPLE: WHAT IS THE DEFINITION OF "SUBSIDIZATION"? OR "UNIVERSAL TELECOMMUNICATIONS SERVICE" OR "JUST AND REASONABLE RATES"? WHAT IS THE DIFFERENCE BETWEEN "REASONABLE CHARGES" AND "AFFORDABLE RATES"? IF THERE IS NO DIFFERENCE BETWEEN "REASONABLE CHARGES" AND "AFFORDABLE RATES", WHY NOT USE ONE CONSISTENT TERM? IS THE LIST OF "PROTECTED PHONE SERVICES" IN PARAGRAPH 2, PAGE 2 EXCLUSIVE? HOW CAN A "COMPETITIVE SERVICE" MEAN "ANY TELECOMMUNICATIONS SERVICE PREVIOUSLY DETERMINED BY THE BOARD TO BE COMPETITIVE OR DETERMINED TO BE COMPETITIVE PURSUANT TO SECTIONS 4 OR 5 OF THIS ACT, OR ANY TELECOMMUNICATIONS SERVICE NOT REGULATED BY THE BOARD."? WHAT PRECISELY IS THE "PROPER ALLOCATION OF INVESTMENTS" (PARAGRAPH 3 [D])? OTHER INSTANCES OF CONFUSING LANGUAGE PERVADE THIS LEGISLATION.

BEFORE THE LEGISLATURE ACTS, THE BRC SHOULD COMPLETE THE EXPERIMENTAL RATE STABILITY PLAN, TO WHICH NJ BELL RESOLUTELY COMMITTED. AFTER FULL HEARING, THERE SHOULD FOLLOW THE RE-

VIEW, ANALYSIS AND REPORTING CLEARLY CONTEMPLATED BY THE BPU WHEN IT APPROVED THE RATE STABILITY PLAN. MAJOR CHANGES IN THE WAY TELEPHONE UTILITIES ARE REGULATED SHOULD AND MUST REFLECT EXTENSIVE STUDY AND PUBLIC DISCUSSION.

SUPPORTERS OF THIS LEGISLATION MIGHT BE SURPRISED TO FIND THAT RATEPAYERS WOULD PREFER TO HAVE TELEPHONE COMPANY OVEREARNINGS REFUNDED AND NOT USED INVOLUNTARILY TO UNDERWRITE CONTROVERSIAL AND SPECULATIVE PROJECTS. WE BELIEVE THAT THE CITIZENS OF NEW JERSEY AND MUNICIPAL LEADERS WILL AGREE WITH THE CONSUMER GROUPS AND INDUSTRY REPRESENTATIVES APPEARING TODAY: THE TELEPHONE COMPANY ALONE WOULD BE THE BENEFICIARY OF THIS LEGISLATION!

TO SUM UP: CHANGES PROPOSED IN S-3617 DO NOT PROPERLY ADDRESS THE NEEDS OF CONSUMERS; THEY ARE NOT NEEDED TO KEEP NEW JERSEY COMPETITIVE; AND THEY ARE NOT IN THE PUBLIC INTEREST. S-3617, IF ENACTED, WOULD ALLOW UNFAIR CROSS-SUBSIDIZATION. WORST OF ALL, IT WOULD RESULT IN HIGHER RATES THAN NECESSARY FOR CONSUMERS. FOR THESE REASONS, THE NEW JERSEY CABLE TELEVISION ASSOCIATION VIGOROUSLY OPPOSES THIS LEGISLATION.

89X

STATEMENT OF STEWART D. PERSONICK,
ASSISTANT VICE PRESIDENT, INFORMATION NETWORKING RESEARCH,
BELLCORE,
CONCERNING S-3617
BEFORE THE
NEW JERSEY SENATE TRANSPORTATION AND PUBLIC UTILITIES COMMITTEE
DECEMBER 10, 1991

My name is Stu Personick. I am Assistant Vice President, Information Networking Research, at Bell Communications Research Inc. (Bellcore) in Morristown, New Jersey. This statement is provided to express Bellcore's strong support for Assembly Bill 5063 and Senate Bill 3617, which will truly bring the information age to New Jersey and its citizens. The technologies I am about to describe can revolutionize how we live our lives and conduct our everyday affairs. They will create significant opportunities for more affordable and higher-quality health care, expanded educational opportunities, improved business products and services, and wider and easier access to information for individuals as well as businesses, all as a result of making advanced telecommunications technologies available.

The eight thousand people who make up Bellcore — all but a hundred or so working in New Jersey — have been leaders in creating the enabling technologies and demonstrating the applications that are already making the information age a reality. Our work prior to 1984 and in the seven years since the divestiture of the Bell System has provided the technical foundation for this realization. Bellcore continues to be in the forefront of telecommunications research, systems engineering, and software development.

Communications and computing, separately and especially in combination, offer compelling new applications that can change the way we live. Information more and more often takes digital electronic form, in which it can easily traverse telecommunications networks. The new applications that are becoming possible promise many positive effects on people's lives through more accessible and higher-quality education, wider and easier

access to information, increased business productivity, and new kinds of social interactions that reduce the need to travel. They will save money in many ways, and they will have social and environmental benefits.

Many information-age technologies are being deployed today in private networks. The greatest challenge is to put in place the regulatory framework and the telecommunications infrastructure that will bring these applications, in the form of public-network services, to all of the people and businesses in New Jersey — to give all telecommunications users equal access to information and to communication with others anywhere in the world in the rich mixtures of voice, data, graphics, and video media that bring that information to life.

What lies ahead is as comprehensive and important a change as what followed the development of a more efficient transportation infrastructure — canals, railroads, highways, and bigger, faster, more efficient vehicles of many types — and the first telecommunications networks of telegraph and telephone in the late 19th and early 20th centuries. Adding to the importance of building a new telecommunications infrastructure, people are already using information in many of the ways promised by the information age, although these uses are usually limited to the reach of local-area networks, often within single buildings. The pace at which such narrow uses are growing fuels anticipation and demand for expanding them.

People and businesses need ways to manage information and share it with each other. For a hundred years, universal telephone service was the primary goal for the telecommunications industry; by the 1970s it had been met throughout the United States. Over the last two decades, however, the needs of people and businesses for communications and access to information have expanded, and the public telephone network that was developed over the course of a century is straining to satisfy those needs.

Rather than wait for the development of public networks that can meet modern business needs, many large firms have purchased the necessary technology for their private use. But even with a large private investment, a business cannot reach all of its suppliers, distributors, and customers without a capable public network. Smaller firms also need access to sophisticated services, and their needs can be met only through an advanced public telecommunications infrastructure. Already, General Motors requires all of its suppliers to

have capabilities for electronic data interchange — exchange of electronic forms over telecommunications networks rather than paper forms by mail — or they just don't get contracts.

Large and small businesses and residential users want access on demand to high-quality, multimedia information services in the form of data, images, and video as well as voice. Among other changes, the network must evolve more quickly to an infrastructure on which new capabilities and functions that respond to new customer needs can be deployed quickly and cost-effectively.

The technology exists here in New Jersey to implement advanced communications services today, and many applications have been demonstrated in experiments and early deployments. This state has shown national leadership in coupling economical telephone service with a regulatory climate that supports continued investment and technological development of the public networks. Today we are offered an opportunity, through accelerated investment, to further develop our telephone networks into information networks that can deliver multimedia services universally — to all individuals as well as businesses and institutions of all sizes — and maximize the state's technological strength. Widespread deployment of fiber optics is essential, as are advanced technologies for switching and more powerful computing to store and process the data needed to carry and route users' information.

There are models for the commitment it will take to build this infrastructure sooner rather than later: Nippon Telegraph and Telephone has committed resources to build a network of fiber-optic cable to every home in Japan by 2015. The European Community is also committed to improving the telecommunications infrastructures of its member countries by deploying such technologies as digital switching, fiber optics, integrated services digital networks, wireless networks, and intelligent networks. The attached article by Charles Kao is a compelling example of how a major commercial center is upgrading its infrastructure to strengthen its commercial prowess. The investments Hong Kong has made to develop its telecommunications environment are aimed at maintaining that small entity's leadership in world commerce. As various countries and areas make their moves, any group of businesses that hopes to compete *must* have access to similar capabilities.

Any issue of any business publication contains abundant evidence of the tight profit margins in today's competitive global economy. Just a few percentage points of advantage or disadvantage make the difference between winners and losers. That's the kind of difference that can be made by modest advances in customer service, or by new efficiencies in processing orders, manufacturing, and billing. And the need to maintain that narrow margin of competitiveness applies to states as much as it does to businesses.

Consider what happened to airline reservations when manual systems were replaced, less than ten years ago, by national information networks to which not just the airlines but travel agents and their customers gain access to know exactly what seats are available at any moment, on what flights and at what prices. Imagine the position of New Jersey travel agencies if the state lacked the public telecommunications infrastructure that would allow them to connect to the national system.

At Bellcore, I am responsible for research to understand emerging applications of telecommunications, to understand what communications capabilities will be needed to support those applications, and to help New Jersey Bell and the other telecommunications companies affiliated with Bellcore's owners* to plan their future networks so that they are consistent with those emerging needs. Accordingly, I would like to focus this testimony on several illustrations of what life might be like in our state with a telecommunications network built on advanced technology:

In health care —

* *An internist at a clinic in Whiting is troubled by the report on a patient's angiogram. She arranges a video teleconference with a leading cardiologist on the staff of the Robert Wood Johnson-University Hospital in New Brunswick. Dr. Carrera remarks how well her respected colleague looks and then shows him the angiogram series. Together, the doctors review the high-resolution images of what appears to be an angiogram in progress, except that, since the images are stored as digital data, the viewers can zoom in on or freeze certain portions and use electronic pens to select and highlight features.*

* Bellcore is a research consortium owned by Bell Atlantic, NYNEX, Ameritech, Southwestern Bell Corporation, BellSouth, Pacific Bell, and U S WEST.

They identify the most telling segments and send them to the medical center's supercomputer which, within a few seconds, builds a model of the patient's changing condition and returns a new sequence of high-resolution images. The doctors review the computer's model along with a video record of the patient's last surgery. After a fifteen-minute consultation, they agree on a new direction for treatment of this patient.

In addition to savings in the most expensive element of medical care — physicians' time — this kind of efficient use of communications, computer, data-storage, and display technologies would raise the quality of care outside of major medical centers and offer new tools to physicians for better understanding of medical conditions and the consequences of various forms of treatment.

In education —

* *An especially talented teacher who is also one of the world's top experts in Japanese language, history, and culture presides over a seminar. The three students of advanced Japanese sitting with him at Teaneck High School, well aware that they are extremely fortunate to have this chance, are also aware that they would not have it if they weren't able to share it with 23 others through New Jersey's distance-learning network.*

"Mr. Nakamura," interjects a student from Maple Shade, "could you give us your opinion of the recent Kabuki-style performances of Western classical literature?" The professor turns to the wall-sized screen in Teaneck from which the student spoke and gives a brief opinion. "I disagree," says a voice from another screen at the other side of the room. "It mocks Kabuki to paste it onto those stories. Each tradition should remain its own." Nakamura gently chides this second student, in Phillipsburg, for his rigidity and then scans around all of the screens. "What do others think of this interesting question?"

A lively debate is suspended briefly when one of the students offers a video clip of one of the performances in question. All of the seminar participants watch attentively on their own screens, and then they continue the discussion in Japanese under Nakamura's smiling direction.

The technologies for interactive distance learning are applicable to many kinds of instruction at and between many levels. A magnet high school that focused on training students toward allied medical careers could be part of a network that included the

statewide university system and leading hospitals. Through such a network, students in Camden could take seminars with leading professionals in nursing, rehabilitation therapies, emergency care, nutrition, dental hygiene, diagnostic technologies, and other medical arts — wherever those experts are. The students could also work with actual diagnostic and laboratory records and data without traveling to the hospitals or imposing on the time of caregivers. Many kinds of self-paced instruction are possible in which high-resolution images can be manipulated by students, the invisible can be visualized, and past actions can be reviewed.

In return, the school and the students — also gaining practical experience in their intended careers — could provide a window into their community for the state's most advanced medical facilities and personnel and thereby contribute to improving public health. The school could be a gauge for unmet health needs in its city and a focus for outreach and public education programs offered directly over the communications network by leaders throughout the state in such important areas as prenatal care, maternal and infant health care, education against substance abuse, nutrition awareness, physical fitness, and mental health.

For general video communication —

Video arraignment of criminal suspects can eliminate the costs and dangers of moving prisoners to where the judges are. Businesses are already using video conferencing to save travel costs, increase productivity, and better utilize their human resources. And video visiting could add a new dimension to staying in touch with grandparents or with children away from home for college or military service.

In business applications —

* *"I've been in real estate for 30 years, but the biggest changes have been in the last five — yeah, since just after the slump in '90 and '91! Boy, that would have been a lot less costly if we'd had this video listing database." Jack Haggerty is musing to a colleague as he waits to help a young couple reviewing listings from their home in Vineland. They need to be settled here in Morristown before the start of school, and they're on their second session of video browsing.*

When the Martins first called a couple of days ago, Jack selected properties from the area's multiple-listings database to match their needs, wishes, and budget while they watched video presentations about the area supplied by the Chamber of Commerce, the Historical Society, the Board of Education, and the Welcome Wagon. They glanced over 25 or more listings that day, and eight of the houses interested them enough that now they're taking video tours of the houses, listening to information about some that are historic, reviewing construction details.

"Hi, Jerry, Lynn. See anything you want to pursue? Ah, great, there they are on my screen, right next to your faces. Down to three, huh? OK, one of those is mine, and I can call the other two agents. When would you like to come up to see them? And don't forget, we'll save everything you've seen so far in a file so you can go back and look closer at them too if you want to later. Sure, I'll be glad to send the plans for the one on Maple Street to your architect. Do you have her number?"

While the Martins leave for a dinner party in Vineland, Jack checks the personal numbers of the other two realtors and calls without wondering whether to find them at home, in their offices, or out showing properties — they both keep their pocket phones handy.

With a tour of the three properties set up and a message that includes a map to Morristown left in the Martins' multimedia mailbox, Jack returns to his musings: "Yeah, I spend a lot less time to close each sale now. And it seems to be easier on the customers too — they see more houses more closely with less investment of time, so they can know every detail of the few houses that most interest them. Across the state, it probably even saves energy and air pollution from the travel."

Using advanced telecommunications networks, business customers looking for plant sites or office facilities could similarly save time and money by inspecting larger numbers of properties by video before making visits to a selected few. Architects and designers could inexpensively model their proposals and share them interactively with customers, making changes instantly, before the first shovelful of earth is turned or the first step taken toward retooling an assembly line.

* *An account representative for an advertising agency could show a client a proposed new print ad in electronic form by calling the file from the agency's database — in the agency's offices or the client's, on a laptop computer in a restaurant halfway between the two, or in a video conference for which no one had to leave the office. Wherever they viewed the ad, they could manipulate it easily, changing copy or colors, adding or deleting graphic elements stored elsewhere in the agency's*

database, moving elements around. The finished ad could then be sent to magazine publishers as an ultra-high-resolution electronic file.

* An importer in Elizabeth could call a supplier in Hong Kong to see the low-cost tableware he wants to offer to a nationwide chain of discount stores. From the supplier's database, the importer could manipulate views of the merchandise to see it from every angle, and he could use a light pen or other interface device to annotate the views, marking features he wanted changed as he discussed them with the supplier: "See the handles on the cups there? They have to be bigger for American everyday dishes. And these colors just won't fly here. Yeah, putting more pink in the petals does the trick. How soon can you have those changes in production? My customer's annual home sale is in January, and I think they could do very well with these."

For access to information —

* It's 6:15 in the evening. Jill Markham arrives home in Blairstown from a long work day and greets her husband. In the family room, she turns on the home computer and communications center, with its wall-sized, advanced-television screen, slips out her briefcase computer, presses a button, and settles into an armchair while the two computers silently compare their files and exchange updates to her schedule that have been entered on either machine during the day.

Then the big screen displays a list of multimedia news and feature articles in several categories that Jill has chosen over the recent months. Jill reaches for the remote controller and touches a button to review world news headlines. Another touch of a button lets her read, see, and hear more detailed reports on two stories that particularly interest her, and then Jill checks the New Jersey news. She saves the detailed report on the school budget for later and moves on to her favorite topic, gardening.

The menu of articles includes a photo of a gorgeous bed of plants and the title "A new variety of hardy pea." Jill excitedly presses the button to select that article. Along with the text, it includes animated sequences and full-motion video with voiceovers, music, and sound effects, as well as still images and slide series, and Jill selects from these elements as they interest her.

An animated graph that compares the growing season of the new pea to those of other varieties is interrupted by Jill's seven-year-old son, and Jill presses the "pause" button on her remote controller. When the boy scampers off, just a couple of buttons take Jill back to the beginning of the

animated sequence. Over dinner, the whole family looks at some travel articles and discusses plans for their vacation at the Jersey shore.

When the capabilities we associate with a TV are linked to those we associate with a computer and this new appliance is connected to an advanced public telecommunications network, custom-selected multimedia articles and advertisements can offer people at almost every socioeconomic level unprecedented access to information. In addition to entertainment and news, such an information appliance could offer interactive, visual instruction for other products and services. For example, an article on an advanced camera might take a prospective or new user through realistic scenarios that demonstrate focusing, lighting, and color composition.

Professional and trade publications could be offered too, including viewer-controllable video demonstrations of new methods and techniques. Customers could select from live-action retail catalogs. Travel agencies and airlines could not only make reservations but show customers their destinations, including their hotels. Witnesses to crimes could review mug shots in much shorter time and with much less distress in their own homes, especially if the photos they reviewed were preselected from a database to match general characteristics identified by the witnesses.

Realization of the potential represented by these few, selected illustrations depends on the deployment of a new kind of telecommunications infrastructure. This is already happening in some pockets of technological and commercial advancement, and it can happen in New Jersey.

The attached issues of Bellcore's EXCHANGE magazine contain a number of articles that describe advanced telecommunications services, the network infrastructures that will be needed to support them, and the investment and regulatory environment that can build such infrastructures. The services include

- * rapid browsing through large quantities of information in various media — images, text, sound, and animated or video sequences
- * video teleconferencing with life-sized images and natural sound that create an illusion of sharing a room with people miles away

- a personalized information source that selects multimedia news, features, and other information to match each user's stated and demonstrated interests
- operator services that can find just the piece of data needed to answer a customer's query within vast collections of information
- personal communications using low-power digital radio and pocket-sized, wireless telephones.

All of the people of New Jersey can have the benefits of these telecommunications services and their related applications. That will happen, though, only if the state has an advanced telecommunications infrastructure — an *information* network — in place. The enabling environment supported by A-5063/S-3617 is essential if this infrastructure is to emerge. On this kind of foundation, the state can continue to be a formidable national and international competitor for businesses and jobs and a preferred location in which to live and work.

The following articles from recent issues of Bellcore's EXCHANGE magazine are particularly recommended as further descriptions of the services promised by the information age, the infrastructure needed to provide those services, and the practical possibility of making the information age happen.

When "information" comes of age . . . Research in multimedia services, September/October 1988, pages 6-11. The low data rates of existing telephone networks restrict information services to text and require carefully directed searches for specific information. A telecommunications infrastructure that could move more data faster could allow users to browse quickly through larger quantities of all kinds of information and find just what they need in a more natural and comfortable manner. Three experimental services demonstrate the possibilities: video browsing to select easily from among a number of possibilities, a movie browser in which the user follows logical connections among many kinds of artists and the movies they have made, and telesophy, which offers a uniform user interface to a number of different and distributed collections of information.

PROFILE VideoWindow teleconferencing, March/April 1989, pages 24-27. To explore the possibilities of information networking, Bellcore built a prototype teleconferencing system designed as a natural environment for meetings of minds. Full-motion video images are exchanged between two meeting rooms and displayed at life size on screens set into the walls. Participants have the sense of being in adjoining rooms linked by an open window, and natural-sounding audio communication using four separate signals and speakers completes the illusion. Further features have been added to the VideoWindow system since this article appeared, and the experimental deployment has been extended to span more than 50 miles between Bellcore facilities in Morristown and Red Bank.

Customized Information Delivery — New dimensions in news, March/April 1991, pages 4-10. Using a combination of emerging technologies, Bellcore has investigated the requirements and network demands of a service to provide up-to-the-minute audiovisual information packaged expressly for each individual user. Facets of the service include

creating multimedia information packages, transporting them over information networks, and delivering them to users.

New concepts in operator services, September/October 1991, pages 2-7. The services that operators provide to telephone customers are, more than anything else in the telecommunications network, dependent on vast stores of information, and finding just the bit needed to help a customer can be difficult. But an innovative database architecture that steadily "pumps" data through the network so that operators and others can select what they need promises new services and new efficiency for old ones.

A more personal kind of communication, September/October 1991, pages 18-23. The longstanding dream of wireless, personalized communications services could be realized very soon, using low-power digital radio technology. Meeting different needs but the same kind of generalized interests as today's cellular communications and cordless telephones, personal communications services would allow people to make and receive their calls on pocket-sized, wireless telephones anywhere within a corporate or university campus, medical complex, shopping area, or city. And when wireless services are based on an intelligent, information-networking infrastructure, those users can even enjoy sophisticated calling services just as they do on wired-down phones in their homes and offices.

The ripening of video communications, September/October 1991, pages 24-28. People are more than ready to add sight to sound in their telephone communications. And it's not farfetched anymore, as standardized methods for digital coding and compression of video signals are being adopted by worldwide bodies and implemented by manufacturers of equipment for customers to use. It does, however, need telecommunications networks built on infrastructures with enough capacity to carry the video signals.

NORTH STAR Information networking, May/June 1990, pages 2-8. Gary J. Handler, as vice president of Bellcore's Network Planning area, describes a target view of the evolving telecommunications network. Bellcore has defined this target as "Information networking."

Its unifying goal is to provide information to people anytime, anywhere, in any volume, and in any form. The network will provide management, presentation, and transport services for access to information on demand.

NORTH STAR Calling for cooperation, November/December 1990, pages 4-11. Irwin Dorros, Bellcore's executive vice president for Technical Services, examines the world of telecommunications — services, business, and regulation — as it has developed so far and calls for a new kind of cooperation among all stakeholders in the industry to bring the information age to fruition.

NORTH STAR Hong Kong: A window on the future, November/December 1990, pages 12-17. Charles K. Kao, a world-renowned pioneer in fiber optics, describes the regulatory and technological environment for telecommunications that has developed in his native city and how these advances serve the needs of Hong Kong's bustling commercial community. He also projects into the next stage of development and comments on the possibilities for similar achievements in other places.

SUMMARY OF MCI'S RECOMMENDED AMENDMENTS
TO S.3617

MCI recommends suspending consideration of S.3617 and initiating a process where all interested parties work together to develop legislation in this area. If that recommendation is not accepted, then the following are changes to S.3617 that MCI believes are necessary.

REGARDING NEW BRC POWER TO ORDER ALTERNATIVE REGULATORY PLANS

- Notice and hearing requirements for alternative regulatory plans (Section 3.a.) should be changed by deleting the sentence beginning with "The Board..." and substituting the following: "The Board shall, after notice to all interested parties, conduct a hearing with respect to the plan, which hearing shall be conducted as a contested case pursuant to the 'Administrative Procedures Act,' P.L. 1968, c.410 (C. 52:14B-1 et seq.), and may thereafter approve the plan, or approve the plan with modifications, if it finds that the plan:..."
- In Section 3.a., add two addition findings to the list of findings necessary to approve an alternative regulatory plan, as follows:
 - "(8) specifically identifies how ratepayers will benefit from any efficiency gains, cost savings arising out of the regulatory change, and improvements in productivity due to technological change or new incentives;
- Amend the definition of "protected telephone service" to delete references to intraLATA toll services provided by New Jersey Bell;
- Under the legislative findings (Section 1), add to Section 1.b., after the word "reasonable", the words "and nondiscriminatory"

REGARDING NEW BRC POWERS TO DEREGULATE NEW JERSEY BELL

- Substitute for the term "competitive service" the following terms: "effectively competitive service" which shall refer to services that the Board decides fully satisfies the expanded criteria for determining whether a service is competitive; and "transitionally competitive" which shall refer to services that the Board decides do not fully satisfy ALL criteria, but that can be offered under reduced regulation, including rate banding and shorter notice periods.
- The same notice and hearing provisions recommended under the Alternative Regulatory Plans section above should be included in the process for determining the competitiveness of services.
- The criteria in Section 4.b. for determining the level of competitiveness of a service should be deleted. The criteria should include, but not be limited to the following:

"(1) the existence of economic, technological or other barriers to market entry or exit;
(2) the number and size of alternative providers of products and services;
(3) the extent to which products and services are available from alternative providers in the relevant geographic area;
(4) the ability of alternative providers to make functionally equivalent or substitute products or services readily available at competitive rates, terms and conditions;
(5) Other factors of market power, which may include market share, growth in market share, the existence of captive customers, provision of bottleneck facilities, and the affiliation of providers of products and services."

- Add a subsection to Section 4 stating that new or existing services of monopoly providers are presumed to be noncompetitive with the burden of proof on the party seeking to change that status.
- Add a subsection to Section 4 specifying that competitive services of a carrier which provides both competitive and noncompetitive services be offered pursuant to the following competitive safeguards: structural separations, unbundling of rate elements, and mandatory imputation of the price of the noncompetitive service used in providing the competitive service.

REGARDING COMPLETE DEREGULATION OF AT&T, WITHOUT BRC REVIEW

- Add subsection to Section 5 allow the Board to regulate interexchange carriers by a process other than rate base, rate of return regulation.
- Delete Section 5.a. which declares that interexchange services are presumed to be competitive.
- Add a subsection to Section 5 specifying the safeguards which would accompany reduced regulation of AT&T: prohibition of geographic deaveraging, mandatory tariffing of existing rates, prohibition of special contract arrangements outside tariffed rates, and full review of cost basis of new services before setting the tariff.
- In the legislative findings section for interexchange carriers (last half of Section 1), change "traditional utility regulation" to "traditional rate base, rate of return regulation" where that term appears in each subsection.

TESTIMONY OF RAYMOND E. MAKUL

REGARDING

SENATE BILL 3617

BEFORE

the SENATE TRANSPORTATION AND PUBLIC UTILITIES COMMITTEE

SENATOR WALTER RAND, CHAIRMAN

December 10, 1991

Prepared under sponsorship of the NJ Cable Television Association

105X

Chairman Rand and members of the Committee, thank you for the opportunity to testify today. My name is Raymond Makul. I hold a Bachelor of Science Degree in Electrical Engineering from the New Jersey Institute of Technology, a Masters in Business Administration from Rutgers University, and a JD Degree from Rutgers Newark Law School. I have been a lawyer for fifteen years. During those fifteen years, I have devoted my full professional time to the protection of both public and private consumer interests in matters before the New Jersey Board of Regulatory Commissioners and its predecessor agencies, and equivalent agencies in eight other states. I have been qualified as an expert witness on utility and energy pricing and policy issues eight states. I have testified before committees of the New Jersey Legislature on several other occasions over the last 12 or so years.

From November 1986 to early January 1990, I was the Director of the Division of Rate Counsel in the NJ Department of the Public Advocate. During this time, the present New Jersey Bell "Revenue Stability Plan" was developed through negotiation and settlement. In that settlement process, the Public Advocate's participation was equal to New Jersey Bell's. In fact, I signed the settlement on behalf of the Public Advocate. My interpretation, therefore, of which public policy goals the Revenue Stability Plan was intended to accomplish should be afforded equal consideration to any interpretations put forward by New Jersey Bell. The points I wish to make are as follows:

1. New Jersey Bell claims great pride over its present rate levels.

Those rate levels are a direct result of the careful application of the Rate Base/Rate of Return (RB/ROR) method, that NJ Bell now urges

you to abandon for all time.

1. The proposed legislation replaces the rate base/rate of return (RB/ROR) method of setting rates with a legislative price cap method set without regard to present cost levels or rates of return achieved. Neither price caps, nor any other method intended to reflect a legislative judgement of value of service to the consumer, can ever legally produce utility rates lower than would have been produced by RB/ROR. This is because the RB/ROR method defines the lowest constitutionally permissible utility rates, short of confiscation impermissible under the 14th Amendment. In fact, it's for this reason that decades ago we abandoned the 19th century practice of price cap regulation, and developed regulatory commissions that use the RB/ROR method as the primary guide in rate making.

3. The present NJ Bell rates were set in 1985, soon after the breakup of the Bell system, based on 1984 to 1985 costs. At this time, local telephone service providers, such as NJ Bell, faced great uncertainty and risk, due to a lack of experience under a new and unfamiliar industry structure. However, there was also great opportunity for NJ Bell to reduce its cost through productivity gains and newly introduced competition in the telephone equipment market. This new competition was the direct result of severing the tie between AT&T's manufacturing arm and the new regional local Bells, and, in addition, by prohibiting the new regional Bells from entering the equipment manufacturing business.

4. The 1987 "Revenue Stability Plan" was intended to partially shield ratepayers from the new uncertainties, while at the same time affording NJ Bell maximum incentive to lower its costs through productivity gains. However, the plan was to run for no more than six years. Then, rates could be reset to reflect current costs. Eventually, ratepayers would receive their reward for rate reduction forbearance for the 1987-1993 period .

5. Extending the 1987 Revenue Stability Plan beyond 1993 would be wrong. The risks and uncertainties NJ Bell faced in the mid 1980's are gone. Ratepayers have sacrificed the pass through of productivity gains for five years under the Revenue Stability Plan. The public has held up its end of the bargain. Now is the time for ratepayers to receive their benefit: lower rates!

Freezing rates beyond 1993, at levels based on 1984-85 cost levels is an annual giveaway of hundreds of millions in ratepayer money that could be better used by our citizens, our private businesses, and our local and state governments to cut their costs of living, doing business in New Jersey, and providing government services to our citizens. NJ Bell should not be permitted to welch on its Revenue Stability Plan bargain when the time finally comes for the ratepaying public to finally receive its economic payoff.

In summary, the 1987 "Revenue Stability Plan" was intended to provide NJ Bell with the maximum incentive possible to reduce its costs. There is no legitimate public policy reason for permitting that company a six year holiday, paid for by New Jersey ratepayers, that it is now enjoying from

cost based rate reductions, if the cost reductions are never passed through to the public in the form of lower rates. The Revenue Stability Plan can never be considered a public success until the productivity gains are passed on to consumers in lower rates. Please do not turn the "Revenue Stability Plan" into the "Revenue Stability Scam".

Turning your attention now to specific problems with S-3617

1. The bill provides no clear or rational guidelines for setting rates for noncompetitive services.

The only standards offered for economic analysis are that "protected telephone services" be affordable, and that rates be "just and reasonable". In addition, a legislative policy goal is that rates be "affordable" and "reasonable".

The term "just and reasonable" has been used in utility ratemaking for a century. It has long been interpreted as "just and reasonable" to utility and consumer alike. The great body of law in this nation has interpreted this phrase to mean rates that allow a utility to recover prudently incurred costs and a fair return on the value of the property employed in the business. For consumers, it has meant rates as low as possible, consistent with the utility achieving a fair return on the value of its property. In other words, "just and reasonable" rates has meant cost based rates, consistent with RB/ROR guidelines. Given that the bill prohibits the use of that method, we are left with new and ambiguous concepts of "affordability" and "reasonable charges".

There is no guidance in this bill as to how "affordability" is to be measured. In general terms, whether or not something is affordable is a highly subjective and personal individual decision, based on one's disposable income and personal priorities. What is affordable to one person is not affordable to another. Should one's phone rates be tied to one's individual income level? Should communities with high personal incomes be charged more than other, less affluent communities? Are lifeline rates mandated for poor people?

How is "reasonableness" to be measured? If a phone company earns a 30% rate of return on monopoly services while other, regulated monopoly utilities are earning only 10% on their monopoly services, are telephone rates "reasonable?" Is it "reasonable" for monopoly rates to remain stable if the monopoly's cost of providing service is declining?

2. The bill's anti-cross subsidization provision is ineffective and unworkable.

Paragraph 4c deals with cross subsidization of competitive services by noncompetitive services. All it says is that no current revenues earned or expenses incurred in conjunction with noncompetitive services can be used to subsidize competitive services. This standard only focuses on direct and current expenses solely related to services, and does not address the issue of common expenses, other noncurrent expenses such as depreciation, or the return and interest on capital investment. In utility terminology, there is no accepted term called "current expenses", and the term is not defined in the bill. However, it would appear that such a term means out of pocket, or cash expenses, directly incurred in

the provision of a specific service. Therefore, such items as depreciation and return on plant used in the provision of service would not be considered to be "current expenses". This standard would permit a telephone company to allocate all costs related to infrastructure investment to non-competitive services, while intensively using that same infrastructure to deliver its competitive services. In other words, the bill would authorize "competitive services" a free ride on the fixed cost infrastructure paid for by non-competitive service users. This is particularly inappropriate because the new services that an infrastructure upgrade would make possible are overwhelmingly competitive services.

The bill also says that current revenues from noncompetitive services cannot be used to subsidize competitive services. However, profit and revenue from noncompetitive service is not limited under this bill. Therefore, it is impossible to tell, by just looking at revenues and expenses from noncompetitive services, whether that revenue is being used to subsidize another service, or merely being used to provide profit to the utility. Subsidy of competitive service can only be detected if it is determined that competitive services are priced below their cost of service while noncompetitive services are priced above their cost of service.

Paragraph 4a prohibits the Board from prescribing a cost of service method for competitive services. Thus, the ability of the Board to detect cross subsidization is frustrated as the Board is stripped of its ability to compare competitive service revenues against competitive service costs. The bill prohibits the Board from making the very measurements it needs to determine whether competitive services are priced below cost.

The only way of finding out if competitive services are or are not subsidized is to determine whether such services are priced to recover their direct costs and a fair share of common infrastructure and expenses. To avoid subsidization, the bill should require that competitive services not be priced below cost. In addition, the cost of service method utilized by the Board to make that finding must assign a fair share of infrastructure related book cost and depreciation to such services. The assignment of infrastructure costs should take into account both the intensity of utilization, and the utilization of the infrastructure technological capability. This is the only way to assure that users of noncompetitive services are not being assigned excessive joint investment costs, thereby subsidizing below cost competitive services.

3. The determination of what services are "competitive" must take rate of return into account.

The definition presently only takes into account ease of market entry, presence of competitors, and availability of like or substitute services. In a truly competitive market, a single seller cannot achieve rates of return totally out of line with the market risk. The opportunities to earn such high returns would attract new vendors, thereby lowering prices.

Achieved rate of return must be a determinant of whether the market for a particular service is competitive. There are so called "competitive" telephone services that produce returns on investment of 30% to hundreds of percent per year. Results of that magnitude mean one of

the following:

- a. The competitors are not viable, thereby rendering competition not viable;
- b. The fact that the telephone company is a monopoly gives it an advantage that other competitors cannot overcome; and/or
- c. Accounting methods have underassigned investment and expenses to the competitive service, a classic case of cross subsidization.

Therefore, achieved rate of return should be a legislatively required "reality check" in determining whether a service is competitive, and as a check against cross subsidization by monopoly services.

4. Any indices, formulas, or other external guidelines used in connection with an alternate form of regulation must reflect cost associated with the provision of telecommunications service, or proxies for cost of digital electronics intensive goods and services to the public.

Under the bill's present definition of alternate forms of regulation, the Board could tie the cost of telephone service to the price of soybeans and pork bellies, or other proxies that have little or nothing to do with telephone service, or the cost of providing telephone service. That would make no sense at all.

For indexed and formula based prices to make any sense, the legislation should require that the indices and formulas be reflective of costs of providing service and the market prices of other goods and services incorporating technologies similar to those used by the telephone

industry, that are sold to the public in the unregulated sector, It should not be based on a general index, such as the consumer price index. That index includes changes in the cost of food, residential housing, and other such things of no relevance to the cost of providing telephone service, or its fair market value. However, changes in the cost of digital electronics, statewide labor costs, and the like, are relevant in any determination of the relevant cost, and fair value, of telephone service. There are indices prepared and published that track such industry specific costs over time.

4. Due process and procedural rights of interested third parties and the public are not sufficiently established or protected under the bill.

Paragraph 3a permits local telephone companies, and only local telephone companies, to petition the Board for an alternative form of regulation. The alternative form of regulation, once adopted, remains in effect indefinitely, without sunset provisions. There is no provision for anyone other than a telephone company to file such a petition, or to request that an alternative plan, once in place, be suspended or amended. Indeed, it appears that even the Board, on its own motion, cannot change the plan once it is adopted, unless a telephone company itself files for the changes.

Although hearing and notice is required, there is no provision guaranteeing intervention rights of interested and affected parties. Given the fact that all interested and affected parties were denied intervention by the Board in the adoption of the Revenue Stability Plan, this legislation should address the rights of affected parties to

participate in the contemplated hearings. Although the Public Advocate, under its own statute, has jurisdiction to intervene in any matter before the Board, actual intervention is often limited by that office's ability to make utility assessments for its participation in a proceeding. As this would not be a rate proceeding per se, Public Advocate funding should be addressed.

I also note that while noncompetitive services are subject to some form of proxy regulation, competitive services are subject to no price regulation by the Board. Therefore, the reclassification of a service from noncompetitive to competitive status can have a significant impact on users of such services. Yet, paragraph 4b allows the Board to make such determinations without notice to anyone or hearing.

In contrast, any reclassification of a service from competitive to noncompetitive can only occur after notice and hearing, and requires continuous monitoring by the Board to ascertain whether the service will again become competitive. Whenever the Board finds that the service is again competitive, it must change the classification back to competitive. There is no hearing requirement.

I note that once a service is found to be competitive, there is no requirement on the Board to monitor the service to see if it remains competitive, but if the Board should find a service to be noncompetitive after it has once been competitive, continuous monitoring is necessary. Given the reality of finite Board resources, this creates a real bias in favor of telephone companies.

In closing, I sense that there has been a lack of appreciation of what can happen under this legislation. For example, competitive services include, or could easily include, such fundamental services as coin pay phones. This bill both deregulates competitive service rates, and eliminates terms and conditions of service. It is entirely consistent with the letter and philosophy of this legislation that if NJ Bell wishes to raise the cost of a pay phone local call to 50 cents or more, and to eliminate payphones from 75 percent of their present locations, it should be free to unilaterally do so. That is but an example.

There is an old saying. "If its not broke, don't fix it". New Jersey Bell is right when it says our rates are now low. Rate Base, Rate of Return regulation made those rates low. Under traditional regulation, when the Revenue Stability Plan expires in 1993, rates can be even lower. Timely new technology deployment is a smokescreen issue. When it was possible for direct dial service to replace operators, it happened. When Touch Tone became feasible, we got the service. We got all kinds of advanced calling features and capabilities under the present form of regulation. We even got a few services we didn't need as well! When there is adequate demand for new services to be cost effectively deployed, I am convinced NJ Bell will deploy the services without the need for any change of regulation.

Under rate base rate of return regulation, when costs go up, rates go up. But when costs go down, rates go down. With the 1984 break up of the Bell system and other incentives put into place at the state level, costs have gone down. Our rates can go down in 1993, when the Revenue Stability Plan ends, if the Legislature leaves well enough alone. Don't help NJ

Bell welch on its Revenue Stability Plan bargain by passing this legislation. From a consumer perspective, the system is not broke. Nor is it broke from an investor perspective. Bell Atlantic shareholders have done quite well. As the existing system is not broke, please don't fix it

**Summary of Testimony
of**

Patricia D. Kravtin

**Vice President and Senior Economist
Economics and Technology, Inc.
Boston, Massachusetts**

**before the
New Jersey Senate
Transportation and Public Utilities Committee
Concerning S-3617**

December 10, 1991

The current version of Senate Bill S-3617 removes one set of problems relative to previous versions, but replaces them with others of equal concern.

- Previous "infrastructure" bills which mandated social programs to fund investment in New Jersey Bell's network infrastructure were not in the public interest.
- Current "deregulation" bill ignores public good aspects of network entirely and fails to satisfy threshold criteria of a private good model of the network.
- Like previous versions of this bill, the current "deregulation" bill is not designed with ratepayers' interests in mind.

There are two distinct views of the telecommunications network.¹

"Public good" model: The telecommunications network is a public resource whose development should be funded by the community.

- The model is motivated by the achievement of social objectives, and relies upon the political process to make resource decisions.
- Regulators have responsibility for making "socially correct" collective consumption decisions.
- Infrastructure decisions are supply-driven, often made independently of market conditions.
- The benefits of new features and functions are to be provided to the general body of ratepayers who have funded the investment.

"Private good" model: The telecommunications network is privately-owned and is to be developed and maintained by private risk capital, with costs recovered through the sale of network services at market prices.

- The model is motivated by individual consumption decisions and relies upon the market mechanism to determine the value of new services or network functions.
- Infrastructure decisions are demand-driven.
- The model is associated with a narrow, largely-frozen regulatory definition of "basic" telecommunications services. New or extra services are available only to those willing to pay specific fees for their use.

¹See, A Public Good/Private Good Framework for Identifying POTS Objectives for the Public Switched Network, by Patricia D. Kravtin, Lee L. Selwyn, and Paul Keller, The National Regulatory Research Institute, October 1991.

A particular model or view of the network should be chosen and properly applied, with the following threshold conditions met:

- Under the Public Good model, modernization programs must meet strict standards of cost-effectiveness and be guided by a specific set of network enhancement goals.
- Under the Private Good model, new services must be fully compensatory, business risks are to be absorbed by shareholders or private beneficiaries rather than by the general body of ratepayers through the rates they pay for monopoly services, and benefit externalities must be insignificant.
- Application of the Public Good model requires a rigorous regulatory structure in which:
 - (1) individual preferences are revealed through an open and highly-accessible public forum; and
 - (2) the relative cost-effectiveness of varying investment programs is subject to intense regulatory scrutiny.
- Application of the Private Good model allows for a more relaxed regulatory structure (e.g., incentive regulation), provided that the threshold conditions identified above can be satisfied.

Under a public good model, it is simply insufficient to rationalize large-scale investment programs in terms of international competitiveness, economic development, educational needs, or other broad policy objectives:

- Virtually every available indicator of the performance and usage of public telecommunications networks shows that the US remains far ahead of its strategic competitor nations.
- If these nations were in fact spending more (which data once corrected for accuracy and comparability suggests is not the case), they would simply be trying to catch up to the US.
- The special interest pleading by the LECs fails to consider the relative US position in other economic sectors.
- LECS are rapidly modernizing their networks. Unlike the situation in many other countries, other carriers and equipment suppliers are also contributing to the infrastructure, so that total US expenditures per line far exceed current outlays by monopoly PTOs in other countries.

The current version of Senate Bill S-3617 has several key shortcomings. These include:

- The definition of "protected telephone services" is extremely limited in that it does not include new services as well as existing services provided on a monopoly basis by the telephone company. (Ref: Sec. 2)
- The bill permits outright deregulation of "competitive services" without establishing specific criteria or guidelines regarding the determination of effective, sustainable competition on a service-specific (or market-specific) basis. Factors identified in the bill are vague and limited in nature and do not reflect mainstream economic thinking on this subject. (Ref: Sec. 4b)
- The bill fails to provide adequate protection against cross-subsidization. The mere statement that the telephone company may not cross-subsidize is not a meaningful safeguard. The development of specific accounting, reporting, and cost allocation systems must be required. (Ref: Sec. 3c-d)
- Re-classification of a service from competitive to "protected" after damage has occurred provides little real safeguard to consumers. (Ref: Sec. 4d)
- The bill does not ensure that ratepayers receive the benefits of current and future cost savings realized by the telephone company in an environment of declining costs.
- The bill does not address the issue of future rate rebalancing and how that might be implemented under an alternative form of regulation.

Any legislation which seeks to restructure the regulation of telecommunications services in New Jersey should, at a minimum, incorporate the following principles:

- Reduced regulation of telephone service rates should be considered only upon an affirmative finding by the board, based upon quantitative evidence and established criteria, that the service in question is subject to effective, sustainable competition.
- Measures of effective, sustainable competition must take into account existing pecuniary price distortions, which do not mirror the underlying economic conditions in a given market segment. The market must be capable of supporting competition in the absence of artificial incentives, such as cross-subsidies.
- In cases where limited competition in service markets is desirable, regulation should be retained for dominant carriers, and reduced or eliminated only for non-dominant carriers such as those that serve specialized or niche markets.
- Any service provided on a monopoly basis by the telephone company (new as well as existing) should be subject to full regulatory oversight.
- Proposals for new service offerings should be approved by the board only upon an affirmative finding that the service is compensatory.
- Telephone companies accepting partial or total deregulation must be prepared to forego continued regulatory protection of minimum revenue and earnings levels, and must furnish to the board evidence of their financial ability to forego such protection under any alternative regulatory regime.
- Any departure from traditional rate base regulation must assure that telephone company investment, service, and pricing policies will be in the public interest.

PATRICIA D. KRAVTIN

Patricia D. Kravtin is Vice President and Senior Economist at ETI. Ms. Kravtin did graduate study in the Ph.D. program in Economics at the Massachusetts Institute of Technology, where she was a National Science Foundation Fellow. Her fields of study have included Industrial Organization, Government Regulation of Industry, and Urban and Regional Economics. While at M.I.T., Ms. Kravtin performed research for the Sloan School of Management and the Joint Center for Urban Studies of M.I.T. and Harvard. Her own empirical work has centered on multiproduct industries and has included econometric estimation of multiproduct cost functions and measurement of product-specific economies of scale and economies of joint production.

While in Washington, D.C., Ms. Kravtin gained valuable insight into the regulatory process performing research and policy analysis at the United States Department of Commerce, the Securities and Exchange Commission, and the Private Radio Bureau of the Federal Communications Commission.

Since joining ETI in 1982, Ms. Kravtin has been actively involved in telecommunications regulatory proceedings in over twenty state jurisdictions and has frequently testified as an expert witness before regulatory commissions. Ms. Kravtin has testified before the Rhode Island Public Utilities Commission, the Maine Public Utilities Commission, the Florida Public Service Commission, the New York Public Service Commission, the Louisiana Public Service Commission, the Minnesota Public Utilities Commission, the Mississippi Public Service Commission, the Arizona Corporation Commission, the Kentucky Public Service Commission, the Delaware Public Service Commission, the Georgia Public Service Commission, and the Tennessee Public Service Commission.

Ms. Kravtin's assignments have involved the analysis of both rate design and revenue requirements issues. She has performed analyses of various cost methodologies used by telephone companies to determine costs and set rates, and econometric demand models used to develop estimates of repression and stimulation of demand as a result of price changes. She has conducted numerous analyses of the costs and benefits of local measured service. Ms. Kravtin has also been involved in the analysis of issues relating to telephone company modernization expenditures and plant utilization, and is author of "The U S Telecommunications Infrastructure and Economic Development," presented at the 18th Annual Telecommunications Policy Research Conference, Airlie, Virginia (October 1990), and co-author of "A Public Good/Private Good Framework for Identifying POTS Objectives for the Public Switched Network" (October 1991) and "Telecommunications Modernization: Who Pays?," reports prepared for the National Regulatory Research Institute (September 1988). Ms. Kravtin has presented testimony on the subject of infrastructure/plant modernization before the Ohio General Assembly Senate Select Committee on Telecommunications Infrastructure and Technology.

In addition, Ms. Kravtin has been actively involved in the analysis of issues relating specifically to industry structure, BOC market power and MFJ restrictions, regulatory reform, competition, and deregulation in the telecommunications industry at both the state and federal level. She has co-authored numerous papers and reports pertaining to these issues. These include the following:

"Economic and Policy Considerations Supporting Continued Regulation of AT&T," submitted in FCC CC Docket No. 83-1147, June 1984;

"Long-Run Regulation of AT&T: A Key Element of a Competitive Telecommunications Policy," *Telematics*, August 1984;

"BOC Market Power and MFJ Restrictions: A Critical Analysis of the 'Competitive Market' Assumption," submitted to the Department of Justice, July 1986;

"Regulation and Technological Change: Assessment of the Nature and Extent of Competition From A Natural Industry Structure Perspective and Implications for Regulatory Policy Options," prepared for the State of New York in collaboration with the City of New York, February 1987;

"Market Structure and Competition in the Michigan Telecommunications Industry," prepared for the Michigan Divestiture Research Fund Board, April 1988;

"Industry Structure and Competition in Telecommunications Markets: An Empirical Analysis", presented at the Seventh International Conference of the International Telecommunications Society at MIT, July 1988; and

"The Sustainability of Competition in Light of New Technologies," presented at the Twentieth Annual Williamsburg Conference of the Institute of Public Utilities, Williamsburg, Virginia, December 1988.

Ms. Kravtin attended George Washington University on an Honor Scholarship where she received a B.A. with Distinction in Economics. She was elected to Phi Beta Kappa and Omicron Delta Epsilon in recognition of high scholastic achievement in the field of Economics. Ms. Kravtin is a member of the American Economic Association.

**Statement of
J. Ronald Cross - Director, Regulatory Policy Analysis
Northern Telecom Incorporated
Nashville, Tennessee
Concerning Working Draft Substitute for Bill 3617
Before the
New Jersey Senate Transportation and Public Utilities Committee**

December 10, 1991

**Northern Telecom Inc.
200 Athens Way
Nashville, Tennessee 37228**

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My name is Ron Cross, and I am Director, Regulatory Policy Analysis for Northern Telecom Inc. headquartered in Nashville, Tennessee. I appreciate the opportunity to comment on behalf of Northern Telecom on the New Jersey State Senate Committee Working Draft Substitute for Bill No. 3617.

Northern Telecom Inc. is the second largest telecommunications manufacturer in the United States and a subsidiary of Northern Telecom Limited, the third largest in the world. The company supplies telecommunications equipment and systems to almost all telecommunications service providers in the State of New Jersey as well as businesses, universities, local, state and federal governments, the telecommunications industry, and other institutions worldwide. Northern Telecom has 22,000 employees in the United States and globally has sold or on order the equivalent of more than 75 million lines of fully digital switching and transmission systems--more than any company in the world.

Clearly, those that have participated in bringing this legislation forward understand the significant changes occurring in telecommunications technologies capabilities, the far reaching effects that deployment of these capabilities can have on both the economic development within the State and the quality of life it affords its citizens, and the essential need for regulatory reform. This reform will assure universal service at reasonable rates while allowing consumers access to new services from a variety of sources. As a supplier of telecommunications technologies that enable new services, Northern Telecom would like to focus on the technologies, their capabilities, and its experiences in deployment of service applications to satisfy social and business needs. We will also touch briefly on activities in other states who are also recognizing the role of telecommunications in economic development.

If society's developing need for communications services requiring increased bandwidth and network intelligence is to be met, Northern Telecom believes network infrastructures within the State must be based on architectures which:

- support a range of bandwidth from POTS to broadband on demand, and which serve locations throughout communities and rural areas to deliver high speed image and data transfer. This advanced infrastructure must ultimately include all residences and provide for full motion switched video;

- integrate switching capabilities into the networks that will manage interactive information sessions comprised of both "live" and stored information resources;
- enable concurrent information sessions requiring simultaneous communications utilizing two or more forms of media;
- incorporate technologies for robustness and self-healing to prevent switching and transmission element failures and disruptions from affecting end users; and
- ensure a modular, seamless evolution path that encourages the efficient introduction of new capabilities without the need to "rewire" New Jersey on a continuous basis.

Our belief is that small users--conditioned by the monopoly heritage of public networks--have accepted the limitations of today's limited-bandwidth environment. These small users are resigned to make do with available capabilities and service offerings. As a result, when pressing needs have forced a search for alternatives, they have adopted solutions that work around the public networks. Once the limitations of today's network capabilities are eliminated, we are confident that smaller users will demonstrate a latent demand for higher bandwidth service and multimedia interactivity similar to that already demonstrated by larger users with private network alternatives. Hence, we believe new network infrastructures must support not only large private users, but as well, small locations of large business, small business and residential subscribers alike.

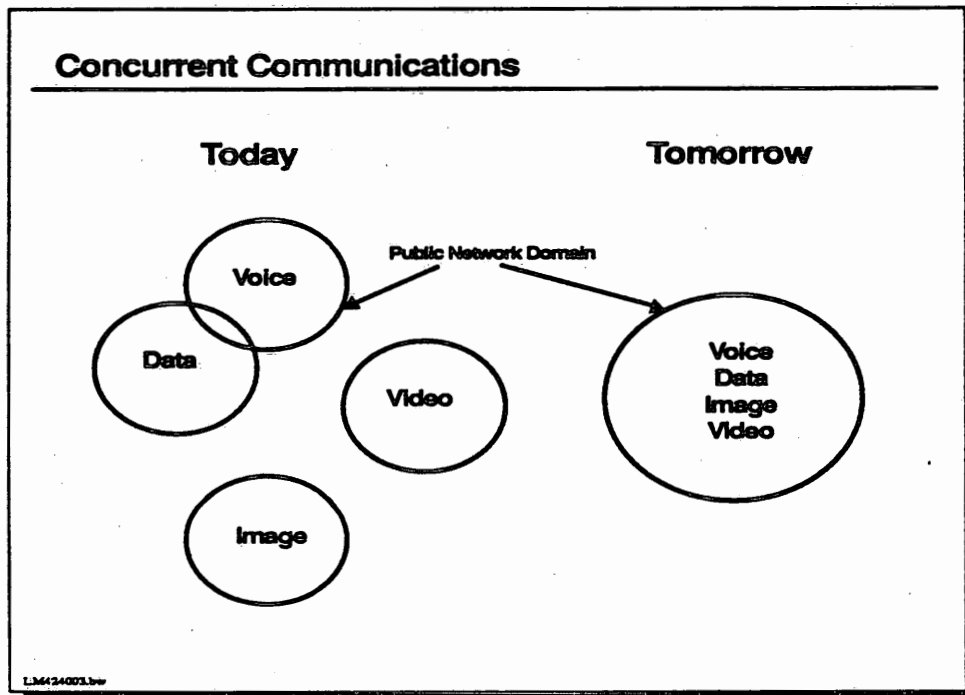
In supporting this legislation, we have chosen to address three issues:

- What technology has to offer
- Why it is appropriate to invest in the technology and services now
- What impact technology and services will have on the State of New Jersey and its citizens

What Technology Has to Offer

People think by analog and make intuitive links. They are able to recognize extremely complex patterns and trends. They usually receive information concurrently in many forms (e.g., speech, text, and image) and at high volume. Until recently, however, telecommunications has limited people's ability to utilize their full "information processing" capabilities except through face-to-face encounters. Recent advances in microcomputers have given individuals creative tools to access and process information in many forms.

Figure 1

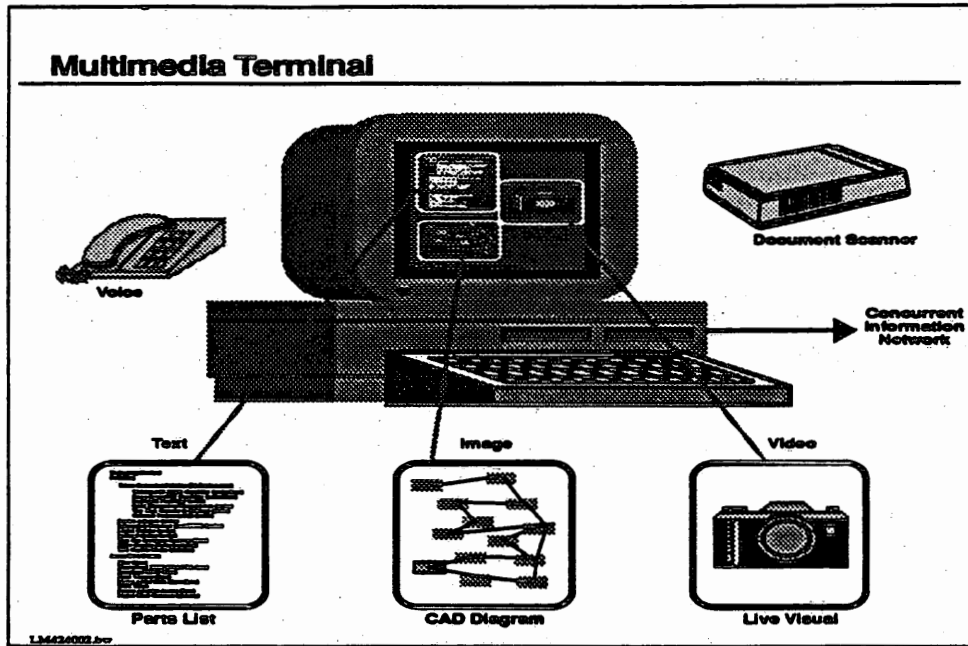


Traditionally, the public network has supported only one-on-one voice conversations, slow-speed interactions between people and databases (e.g., up to 9600 bps), and high speed "machine-to-machine" information transfers over leased lines (Figure 1). As a result, the network has limited the pace of creative interaction among people and between people and computers not located in the same building. Northern Telecom believes that public networks will evolve to support voice, data, image, and video on command, permitting communications across distances in any form.

Desktop computer capability has evolved with reductions in technology cost coupled with increased functional capabilities. These improvements include increased desktop data storage, higher resolution video, color, increased processing power, improved audio, windows permitting more than one function to be performed simultaneously, and full motion graphics. Emerging multimedia terminals (Figure 2) permit simultaneous output of audio, text, graphics, image, and video. In recent months, there has been a significant increase in the number of announcements of computer hardware and software products incorporating these capabilities from IBM, Apple, PictureTel, Intel and others.

Frequently these devices are networked from the desktop within business campuses and between major locations of large businesses using bandwidths as high as 100 Mbs. Smaller locations of large businesses, small businesses supporting the large businesses, and telecommuters are handicapped today because of lack of an effective public network infrastructure.

Figure 2



The number of these desktop computers is approaching the number of telephones on information workers desktops and are increasingly being deployed in the residence for work at home and telecommuting applications. In the future, for more general residential applications, this traditional computer functionality may well appear physically in the form of today's television or a flat screen on the wall, but incorporating two way interactive capability, computer processing power and improved video resolution. It is interesting to note that this evolution to multimedia communications capability in the home has already begun.

Figure 3

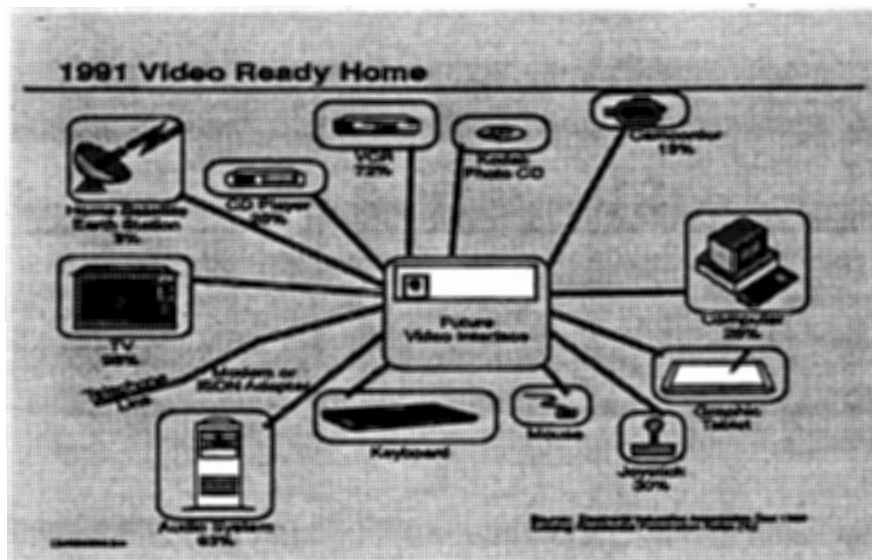


Figure 3 outlines the residential penetration rates in December, 1990 for various components capable of being integrated into the concurrent communications system (information appliance) for the home. Sony Corporation has recently announced an interface unit capable of tying these devices together. Many components portrayed in this figure did not exist ten years ago and penetration rates have grown rapidly. For example, camcorders were in 13% of the residences at the end of 1990 and this is projected to grow by 4% this year. For these components to be used to communicate in a concurrent fashion effectively over distance, however, a new public network infrastructure is needed. Modernization of the existing infrastructure will take many years.

For public network applications, fiber technology is rapidly emerging as the technology of economic choice for all applications including POTS. This can be confirmed by the almost exclusive use by carriers in interoffice intraLATA and interLATA applications, and rapidly accelerating deployment in feeder plant. In the CATV industry, much coax has been replaced with fiber in recent years. Most major businesses are moving in the direction of purchase of fiber based services in major metropolitan areas where such services are available. Immediate benefits to business include:

- **Extremely high grade of service quality due to the low error rate of fiber systems.**
- **A reduction in the operating costs of the service provider for all services inclusive of narrowband specials, this in turn implies more attractive tariffs on a long term basis.**
- **Speed of service provisioning, a key issue with most business user communities.**
- **A continuation and proliferation of the tariff advantages to the end user for T1 and T3 private lines through the cost effectiveness and flexibility of fiber systems to provide these data and wideband services.**
- **Ability to support emerging service needs that are wideband in nature such as LAN interconnections and conference video. Implied in this ability is that fiber systems are far more cost effective for wideband services than the old copper plant. For example, Northern Telecom believes that T1 services can soon be provisioned on fiber systems as cost effectively as some narrowband services are today.**

Fiber is more cost effective than copper pair or coax today for most feeder applications for all current telephone services including POTS. Fiber is close to being cost effective for POTS in the distribution plant and will be cost effective for most applications within the next two years. When residential or business ISDN and/or general data and/or image and/or video services are added the fiber advantage is significant. This derives from lower operating and service provisioning costs as well as lower first capital costs. These make the economic choice for fiber conclusive in most applications. Fiber is therefore, the technology of choice for new builds and rehabilitations. A significant issue is, however, the rate of replacement of the existing copper plant. Once deployed ubiquitously, the public networks could provide the following:

- A broad range of two-way voice, data, and image services, including:
 - Concurrent digital communications combining voice, data image and video
 - All narrowband digital special services (data to 64 Kb/s, etc.)
 - All wideband digital services (7 X 64 Kb/s, T1, T3, LAN connection)
 - Digital video (1.5 Mb/s, 45 Mb/s, HDTV)
 - Analog video (analog technology such as AMVSB, FDM, etc.)

- An unlimited number of video program sources accessed on a common carrier, open network architecture basis, with one or more of those services being provided by the local exchange carrier, interexchange carrier, and/or cable operators including the incumbent franchise holder, and many others supported by new information service providers

- One or more "traditional" cable television systems up to an aggregate bandwidth in the order of 100 channels, which could be operated by any service provider including the incumbent franchise holder or their carrier.

Many of the above mentioned services are have never been available before now. They include: concurrent communications, access to educational courses from the home, video based Yellow Pages and home shopping, interactive entertainment and highly focused (rather than broadcast type) video programs.

Why it is appropriate to invest in the technology and services now

It is likely already obvious from our exploration of what technology has to offer, some of the reasons as to why the State of New Jersey should embark on building an advanced telecommunications infrastructure now. These reasons include:

- The power of concurrent communications. Multimedia terminals when effectively networked and connected to data sources:
 - Enhance individual's productivity
 - Enhance the knowledge of workers making decisions
 - Speed movement of information between workers and within organizations

- Remove distance as a barrier in work group participation
 - Compensate for differences in time zones of geographically dispersed international corporations
 - Make specialized skills available as a resource regardless of geographic location
 - Assemble teams to address problems rather than the more traditional one on one communication
 - Enhance more traditional analog voice communications with powerful information tools including full motion graphics
 - Speed the process of preparation and dissemination of information
- A ubiquitous public network infrastructures take a considerable time to deploy and in the last 10 years powerful terminal equipment has been placed in both homes and businesses that is capable of exploiting the new communications capabilities. Connection needs of the early 21st century will be dependent on network improvements made during the 1990s.
 - A broadband capable infrastructure is the technology of economic choice for new builds and rehabilitations
 - Large private businesses, interexchange carriers, alternative local transport carriers, and CATV operators (all who base the selection of technology on business goals and economic benefit rather than regulatory guidelines) are already deploying the technologies.
 - The benefits that will accrue to the State in the areas of improved education, health care, and telecommuting as will be discussed in the section below.

Many states, as well as other countries, are in various stages of developing plans to or are deploying the new telecommunication technologies and services. Tennessee, where I reside, is an excellent example. The Tennessee Public Service Commission has developed "FYI Tennessee," a ten year master plan for the development of new and expanded telecommunications infrastructures in all 95 Tennessee counties. Recognized by many as the most aggressive plan by any state in the implementation stage, it includes:

- By the end of 1993, fiber optic cable connecting all but the very smallest central offices in the state, greatly expanding the capacity and reliability of the network for voice, data and video. A study completed prior to adoption of the plan indicated that many businesses desired fiber optic based services now because of the improved transmission quality for data.
- Common channel signaling technology and intelligent network services available to all counties by the end of 1993.
- By 1995, access to ISDN by 60% of Tennessee's telephones. By 1998, ISDN service capabilities will be available statewide. Switched broadband capabilities will be available in urban counties beginning in 1995, in suburban counties beginning in 1997 and in rural counties starting in 1999. By the year 2000, broadband is expected to achieve a 10% penetration in urban areas, 5% in the suburbs, and 2% in rural areas.

The recommended master plan was released last year and enacted into law earlier in 1991. The Tennessee Department of Economic and Community Development has increased significantly the use of its telecommunications plan as a lever to attract business investment to the State. In the first nine months of 1991, 157 projects representing a capital investment of almost \$1.1 billion and job opportunities for slightly over 10,000 people have been announced in the corporate headquarters, manufacturing, distribution, and warehousing segments alone. These projects represent investments by both domestic and foreign organizations.

What Impact Technology and Services Will Have on the State of New Jersey and its Citizens

An advanced telecommunications infrastructure will have far reaching impacts on large businesses, small businesses and residential subscribers alike. Full benefits will not likely be recognized until the technology is familiar, commonplace, well understood and widely available.

In 1990, The Hudson Institute published a report on competitiveness and telecommunications: *America's Economic Future: The House to House Digital Fiber Optic Network*. They pointed out that, "Infrastructures, if they are wisely chosen, create economic opportunities. A digital network based on high-capacity fiber optic technology is the way enormous amounts of goods and services are going to be delivered and used and even produced in coming decades." They also observed, "This new kind of communications network is not just another evolution of technology--unless we would classify the telephone or the assembly line or the computer as 'just' another evolution."

For the purposes of these comments, I will address briefly three specific areas:

- Education
- Health Care
- Telecommuting

Education

A number of factors are driving changes in our educational system that are dependent on an improved telecommunications infrastructure. They include:

- Computer literate as opposed to textbook literate students.
- A dramatic acceleration in both the absolute volume of knowledge that exists and the rate at which it changes. This results in the need, at increasingly lower grades, to teach the skills of information research and creation of new knowledge rather than past approaches of teaching the knowledge itself.
- The increasing amount of information that resides in electronic form (in many cases, video material).
- A significant shortage of teachers, particularly ones possessing math, science, and physics skills.
- An accelerating competition between nations and domestically between states, for a share of what increasingly is a world marketplace.

- The recognition that firms judge proximity to education as an increasingly important influence in site location decision making.
- A growing migration to a national economy based on service and information jobs that require higher educational skill levels.
- Agreement by planners, economists, and business executives that improved education offers the best opportunity for enhancing a state's competitive positioning in economic development.

We estimate there to be some 109 million people involved in education in greater than 98 million locations nationally. K through 12 involves 56 million people alone.

Dr. Stanley Pogrow surveyed all available research on the effectiveness of computers for enhancing learning on behalf of the American Education Research Association. He concluded that real time, two-way instruction between a teacher and students in a remote site is as effective as a teacher in front of a classroom. In Northern Telecom's study of the use of fiber optic based two-way interactive educational infrastructures we have found the following applications:

- Teaching specific skills where not available or scarce at the geographic site where they are needed.
- Keeping rural schools opened that otherwise have to be closed.
- Math, Science, Foreign Languages.
- Expanded educational opportunities for rural environments where there is insufficient enrollment to justify hiring specific skills.
- Dialogue between various parts of the country (ultimately extending to the world) preparing students for tomorrow's worldwide markets.

- Supporting survival of unique cultures (e.g., North American Indians living on reservations) by making outside courses available to them.
- Continuing education for instructors.
- Facilitating adult learning, availability of college and evening courses enabling continuous life long learning in the community.
- Access to education by handicapped and home bound individuals.

Northern Telecom has participated in several fiber optic based distance learning projects; for example, in Mississippi Northern Telecom partnered with the State of Mississippi. South Central Bell, IBM, Apple Computer Inc., and ADC Telecommunications Inc. to establish a network called "Mississippi 2000." The network demonstrates how barriers to a superior education, such as distance or limited resources, can be overcome by using today's telecommunications and computing technology. Students in four Mississippi's secondary schools are learning valuable skills that would otherwise be unavailable to them in classes taught via fiber optic based interactive distances learning. In addition to secondary school classes, the electronic classrooms will also be used for in-service teacher training, adult literacy courses, specialized industry training, and/or any basic courses not currently offered by the participating schools.

The network serves secondary schools in Clarksdale, Corinth, Philadelphia, and West Point. The Mississippi School for Math and Science in Columbus also participates by providing instructors for some of the courses. Classes currently being taught via the network include German, creative writing, statistics and probability, oral communications, and computer applications. Technology used in the network allow an instructor located at any of the four participating secondary schools, Mississippi State University in Starkville, Mississippi University for Women in Columbus, or the Mississippi Educational Television Network studio in Jackson, to simultaneously conduct a class in each of the four secondary schools. Each school has an electronic classroom equipped with transmitting and receiving equipment, and personal computers with advanced educational software are linked via a local area network. The

system allows interactive audio, video, and data communications between teachers and students at each school. Teachers and students at the different locations are able to see and hear each other at the same time.

Use of a public switched network to provide this full motion, two way, switched broadband service has permitted the sharing of facilities with other applications, lowering the cost of any one application.

Health Care

In 1987, Northern Telecom began an intensive evaluation of the health care industry with the goal of identifying medical applications which could benefit from the infusion of the new communications technologies. A key result of this evaluation showed that the health care industry was quite information intensive and that quality of care relied primarily on the availability of appropriate information and access to a wide variety of specialists. We found that one-third of all hospital labor costs were spent processing information. Health care costs which exceed 12% of the US GNP are effectively a tax on businesses attempting to compete in which is an increasingly world market. A significant number of applications have been identified including:

- Prevention and early diagnosis. Chronic illnesses, such as AIDS, cancer, and schizophrenia have put an increasing demand on consumers and practitioners alike to keep up to date on warning signs, new treatment procedures, new drugs, side effects and other types of information. Our experience with distance learning suggests that the same techniques and services will improve the quality and the accessibility of existing health education programs, both for the health professionals, but more importantly, for consumers themselves.
- A statewide network of cancer clinics, where patients are treated in their local community. Local physicians consult with specialists located in the metropolitan research or teaching hospitals. Patients do not have to delay treatment or travel excessive distances for access to scarce medical specialists.

- A physician whose patient has just relocated from a distant community can have access to all previous films and associated reports via centralized archiving. The patient does not need to repeat exams, the physician can refer with the original diagnostic radiologist, and the patient receives better treatment.
- A medical student or researcher can access a variety of case records and track particular patient histories from central archives. Researchers can evaluate the effects of certain treatments over time for a variety of patients.
- Radiologists can service a series of hospitals and clinics, because all films and exams can be obtained by the radiologist independent of his location. Eventually radiologists can service emergency cases on a 24 hours basis and even diagnose and consult from home.
- Insurance companies are able to access medical images and in conjunction with patient file information make quicker decisions about acceptable treatment programs.

Telecommuting

Northern Telecom recently participated in partnership with a number of local exchange carriers in funding a multi-client study completed by A. D. Little on the social benefits of telecommuting. The study concluded that on a national basis, telecommuting has the potential to contribute positively to the US GNP by saving some \$23 Billion annually. Benefits include improved productivity, reduced energy consumption and pollution, and reduced need to invest in enhancing other public infrastructures such as roads, bridges, and airports. In addition, the study estimated that some 1 Billion hours of leisure time would be gained by citizens each year.

Subsequently, the Computer and Communications Industry Association has embarked on a study to analyze the impacts to the industry of an improved telecommunications infrastructure. Although, final results are not available, the study has identified that:

- In all corporations where telecommuting has been implemented, improvements in productivity and reduced business costs have been achieved.
- Economic and emerging business structures will drive corporations to accelerate the application of telecommuting. By early in the next decade, telecommuting will be a normal way of conducting business.
- Concurrent communications (voice, data, image and video) will permit effective communications in a manner normally achieved today only by commuting to a central place of work.

Conclusion

In this submission, Northern Telecom has chosen to focus primarily on the infrastructure, its capabilities, and the services it can support. We recognize that the State must look to private businesses, and specifically, their stockholders to invest in, and build the infrastructure. Accordingly, we view this legislation, recognizing the need for modifications in regulation, as essential to the future of New Jersey's telecommunications infrastructure.

This modern infrastructure will:

- Specifically benefit small locations of large business, small business and residential subscribers while providing alternatives to private networks for larger locations of big business.
- Provide improvements in quality of life through improved education and health care, increased leisure time, improved economic competitiveness both nationally and internationally, and increased freedom to live in any part of the state, rural or urban, commuting electronically to work.
- Stimulate the formation of new business providing new services over a modern infrastructure, as well as providing tools to improve the efficiencies of existing businesses.

Northern Telecom will be more than pleased to support the State's activity in any way as it advances to implement this important legislation. Thank you.

**Statement of Robert E. Thompson, III
Vice President and General Manager
United Telephone Company of New Jersey, Inc.
Before the
New Jersey Senate Transportation and Public Utilities Committee
Concerning the Committee Substitute Draft Bill on the
Regulation of Telecommunications Carriers
in the State of New Jersey**

My name is Bob Thompson, and I serve as Vice President and General Manager for United Telephone Company of New Jersey, Inc., headquartered in Clinton. I sincerely appreciate the opportunity to provide my comments in support of the draft legislation before the Committee.

United Telephone of New Jersey is the second largest local exchange telecommunications company in the state. We serve over 147,000 customer access lines in Hunterdon, Sussex, Warren, Somerset and Morris Counties, with 475 employees working out of nine locations throughout our franchised area. United Telephone of New Jersey is part of the nationwide United Telephone System, which serves over 4 million customers in 17 states, and whose parent company, United Telecommunications, Inc., holds a majority interest in the interexchange telecommunications carrier, US Sprint.

I believe that this legislative initiative provides a visionary opportunity for New Jersey's future. Its provisions recognize the compelling need to enable the New Jersey Board of Regulatory Commissioners to consider alternative forms of regulation for an industry that has changed dramatically since the current rules were enacted. By considering and acting upon innovative plans, submitted by local exchange telecommunications companies, the Board can pave the way for the rapid deployment of a statewide state-of-the-art telecommunications network that will provide this and future generations with a backbone information gateway. Through this gateway will pass an entire array of advanced services and information power that will help propel New Jersey into the Information Age.

States across the nation are already changing telecommunications rules and regulations that have existed since the turn of the century. Regulators and legislators alike are concluding that the public can best be served by re-evaluating monopoly-based regulations in favor of new rules which allow fair competition to flourish and which promote the introduction of a wide array of new products and services. This draft legislation proposes an innovative solution that will both promote economic efficiency and protect consumer welfare.

In the comments that follow, I will focus on several key elements of the bills, as well as discuss the interrelationship between telecommunications technology deployment and economic development, particularly with regard to the more rural areas of the state. I will also address why I believe the right time for this action is now.

THE LEGISLATION RECOGNIZES THAT RATE BASE, RATE OF RETURN REGULATION MAY NO LONGER BE THE APPROPRIATE REGULATORY MECHANISM TO FOSTER CURRENT GOALS.

The first section of this draft legislation recognizes the dramatic changes which have taken place in both telecommunications service provisioning and telecommunications technology.

The Board of Regulatory Commissioners has the responsibility to regulate the state's telecommunications companies. Rate base, rate of return regulation, the form of regulation traditionally used to regulate the state's local exchange telephone companies, only indirectly provides economic incentives to invest in new technologies, and increase operational efficiency. Historically, telecommunications regulations have been directed toward a goal of ensuring universal availability of telephone service for all residents and businesses. In New Jersey, that goal has been effectively achieved, with over 96% of the state's residences, and virtually all of its businesses, subscribing to basic telephone service at some of the lowest rates in the country.

The legislation under consideration allows the Board to determine an appropriate regulatory mechanism based on its overall evaluation of a plan proposed by a local exchange telecommunications company that both ensures the affordability of protected telephone services and enhances economic development for the state. Further, it allows telephone companies to compete on a more equal basis with their unregulated competitors by removing from regulation those services deemed competitive by the Board. This will allow market conditions and natural competition to work to the advantage of the consumer. It should be noted that the legislation is appropriately specific to include in this "competitive services" category only those services for which like substitutes are readily and widely available.

Under the terms of this proposed legislation, each local exchange telecommunications company will have a vehicle to offer its own plan for consideration by the Board. The bills provide the flexibility for each company to develop a plan that focuses on the individual needs of each company and its customers. Any plan submitted must adhere to specific criteria, spelled out in the legislation, which both promotes economic development and produces just and reasonable rates for telecommunications services. Absent the flexibility provided by the proposed legislation, the Board's options are limited with respect to its ability to adopt innovative regulatory methodologies.

**AS NEW JERSEY'S ECONOMIC BASE SHIFTS, PUBLIC POLICY INITIATIVES
MUST MEET THE CHALLENGES OF THE FUTURE HEAD-ON**

This legislation recognizes the dramatic changes that have taken place with regard to both telecommunications technology and the economic profile of our state. As the New Jersey economy continues to shift from a strong manufacturing-based to more of a service-based economy, the need for an efficient infrastructure to move the product of that economy will intensify. Just as the development of an efficient system of highways, roads and bridges was necessary to effectively serve the needs of a manufacturing economy, so too will the building of a ubiquitous network of electronic highways be critical to serve the needs of the emerging information-based economy.

The undeniable link between the availability of a feature-rich public switched telecommunications network, and New Jersey's future economic growth and development, provides ample incentive to pursue public policy that fosters the building of that network. Now, as the demand for advanced telecommunications services intensifies, the original goals of telecommunications regulation must be expanded to include provisions to ensure both universal availability of basic services at affordable rates, and the universal availability of a telephone network fit for the new demands of the future.

One further analogy relates the building of tomorrow's electronic highways to yesterday's building of asphalt and concrete highway infrastructures, although there is a fundamental difference between the two. The highways, roads and bridges so necessary to support our previously predominant economy were built with public funds. However, we are relying on private enterprise to invest in the infrastructure of tomorrow's economy. Therefore, it is critical that a regulatory structure be in place to incent the development of the feature-rich electronic highways of the future. The proposed New Jersey legislation will allow the Board to do just that.

**THE NETWORK OF THE FUTURE WILL ULTIMATELY BE BUILT. THE CRITICAL
ISSUE IS TIMING.**

Although it is difficult to foretell the course of network services evolution with the high degree of specificity traditionally demanded, it is certain that our society's emerging need for increased bandwidth and network intelligence will ultimately be met. Fiber optic technology, now primarily deployed only in interoffice facilities, will ultimately be extended to the user.

A central theme of this proposed legislation is that a local exchange telecommunications company may petition the Board to be regulated under an alternative form of regulation. It is likely that any plan proposed would contain a provision to provide economic incentives for the local exchange telecommunications company to invest capital toward building the network of the future. Without these incentives, the network of the future will be built gradually, based on depreciation schedules and life expectancies of existing plant and facilities - not based on the current and future needs of the network's users.

Building the network of the future will take many years to complete. Today, virtually all of United Telephone of New Jersey's customers are served by state-of-the-art digital switching systems, capable of direct interconnection with fiber optic technology. However, there is virtually no fiber optic cable deployment in the distribution plant; that is, the facilities that connect the customer to the network.

Although the personal computer has only been a part of the home and office environment for the last ten or so years, advances in this technology, not to mention digital audio and video technology, make clear the need for an effective way to move this information. Full motion video images in particular require far more information than text or data applications, and therefore require a higher bandwidth to carry information between users. To take advantage of this emerging and rapidly advancing technology in the early 21st century, we must begin to build the network of the future now.

A further reason to act now is to ensure that large users stay on the public network, thus helping keep unit costs down for all users, large and small. Delaying deployment will frustrate large users into abandoning the public network in favor of competing alternatives that can provide the services they seek, leaving fewer users on the less-advanced public network to pay a concomitantly higher unit cost.

THE AVAILABILITY OF A STATEWIDE, LOW-COST, HIGH BANDWIDTH NETWORK WILL BENEFIT THOSE NEW JERSEANS IN SUBURBAN AND RURAL COMMUNITIES, AS WELL AS THOSE IN THE POPULATION CENTERS.

As the great majority of United Telephone's customers, both in New Jersey, and across the nation, are in suburban and rural areas, we are greatly concerned that the present and future needs of these customers are met.

A considerable amount of debate on high technology telecommunications infrastructure deployment has been centered on two perceptions. One perception is that network modernization is necessary to keep large users on the public network, since such users already have competitive alternatives. Another perception is that the average residential or small business user, particularly those in suburban and rural areas, will not need the sophisticated network capabilities.

I would argue, however, that unless we actively seek to keep pace with and create widespread availability of advancing information technologies, key participants in the future of our state's economy - namely, consumers, people and businesses in small towns and rural areas - will be increasingly separated from the tools required to successfully participate in tomorrow's economy. Private networks, metropolitan area networks and direct access to interexchange carriers and other alternatives may allow larger businesses and those in the population centers to take advantage of the new technology. But the rest of us may find ourselves relegated to second class status in the Information Age if the appropriate technology is not deployed to all parts of the state via the public network.

From an economic development standpoint, suburban and rural areas stand to benefit from technology deployment as service industries begin to look to the less populated regions of the state to locate their businesses. The availability of a high technology telecommunications system has increasingly become a significant factor in the site selection process. New Jersey's initiatives in this area will provide us with a competitive edge to attract and retain these information-intensive service-oriented businesses and the jobs that go with them. Conversely, if we fall behind other regions in terms of technology deployment, these same businesses will surely turn elsewhere.

Finally, building the electronic highways throughout the state will provide benefits for more than just those who use them. Even if a citizen never travels on Interstate 78 or 287, he or she benefits from the products, services and economic development benefits these roads provide. Similarly, you won't have to have a personal computer in your home or be a computer "enthusiast" to benefit from the rapid deployment of sophisticated electronic highways that will bring similar advantages in the Information Age.

There are other advantages to suburban and rural residents; specifically, advancements in the areas of health care, education and telecommuting. Whereas today's suburban and rural residents are often isolated from large medical complexes, located in the population centers, broadband technology can be used in a variety of ways to take distance out of the health care equation, thereby making top quality health care available to all citizens regardless of their location. Patients could be treated at centers in their local communities, by "big-city" physicians who would have full access to their medical records (text and graphics) as well as be able to personally interact with local health care providers and their patients via full motion video and audio images, to enhance diagnostics.

Another application in search of the technology is the field of distance learning. Of critical importance to suburban and rural school systems, distance learning allows students in the smallest of school districts to share in the advantages of a full curriculum, while school administrators are able to control costs by "sharing" teachers. United Telephone has been consulting with two Hunterdon County school districts, proposing a video teleconferencing solution, in response to their

need to bring their students the courses they want at a cost the school districts, with their limited resources, can afford.

Finally, many rural residents can be spared the cost and inconvenience of the daily commute on a regular or even full time basis by telecommuting. A widely available broadband network will allow tomorrow's office worker to communicate as effectively from home, through voice, data, image and video processing, as he or she can only do today by driving to work. The environmental and quality of life benefits of this application are self-evident.

ENLIGHTENED REGULATION WILL ENABLE NEW JERSEY'S LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES TO SPEED THE DELIVERY OF TECHNOLOGY TO THE MARKETPLACE AND HELP NEW JERSEY KEEP ITS COMPETITIVE EDGE IN THE INFORMATION AGE.

Rate base, rate of return regulation, a system designed to achieve universal service, has worked remarkably well. That bold objective has now largely been achieved. However, monopoly provision of telecommunications services in neither is appropriate nor likely for the future. Users of network services want the freedom to choose from the diverse range of alternatives that now exist to meet their needs. Now, in order to achieve the continuing central objectives of regulation, efficiency and equity, new methods and approaches which recognize today's social and market realities must be found.

The proposed legislation provides New Jersey regulators with the flexibility to carefully consider each plan brought before it. The Board must ensure that protected telephone services remain affordable, that rates are just and reasonable, that rates do not disadvantage a customer class, and that service quality standards be established and maintained. The legislation also requires the Board to consider whether or not the plan will enhance economic development.

New Jersey has several natural strategic advantages over other states in the race to the Information Age. It is conveniently located between two of the top five business hubs in the nation. Its coastal location puts it on the doorstep of the European community and the business opportunities it provides with Europe 1992 and the democratization of the former communist block countries. It is already the home for some of the most technologically advanced research, development and engineering concerns in the world. And, our basic telephone rates are among the nation's lowest.

By enabling the Board to consider alternative forms of regulation that will encourage the state's local exchange telecommunications companies to invest in New Jersey, this legislation will help ensure that the network of the future will be available statewide and will be of a quality fit for a global economy. I sincerely appreciate the opportunity to comment, on behalf of United Telephone of New Jersey, on this very significant piece of legislation.

Robert E. Thompson, III
December 10, 1991

**Prepared Comments
of
Mr. L. C. "Mitch" Mitchell
Principal, Management Consulting
Deloitte & Touche**

**New Jersey Legislature
Public Hearings on Bill S-3617**

December 10, 1991

**Prepared Comments
of
Mr. L. C. "Mitch" Mitchell
Principal, Management Consulting
Deloitte & Touche**

Good Morning. My name is L. C. "Mitch" Mitchell, and I am a principal in the Management Consulting Division of Deloitte & Touche, one of the largest management consulting and accounting firms in the country. Over the past dozen years, I have performed numerous management consulting assignments for telecommunications service providers and state regulatory authorities. I also had the privilege of serving as the overall project director for the New Jersey Telecommunications Infrastructure Study which was performed by Deloitte & Touche. As Chairman Salmon mentioned earlier, the Telecommunications Infrastructure Study was commissioned by the New Jersey Board of Regulatory Commissioners, which asked us to look at the role of telecommunications in New Jersey's future.

The purpose of my comments this morning is twofold:

- First, I would like to very briefly share with you some of the findings, conclusions, and implications from the New Jersey Telecommunications Infrastructure Study. It is important that the findings and implications of the infrastructure study be considered in the policy debate regarding modifications to the regulatory framework in New Jersey:
 - Telecommunications is becoming an increasingly important element of competitive advantage in the world of business, commerce, and trade.
 - Telecommunications can be, and is, used to improve both the quality and cost-effectiveness of service delivery in the public sector.
 - Telecommunications is becoming a "value added" capability for the citizenry in general and is a positive contributor to the quality of life for the people of the state.

- Second, I would like to share with this committee information on various initiatives in other states, as well as the federal level, which affirm the strategic importance of telecommunications infrastructure. The issues under consideration and the types of initiatives being addressed in this proceeding are being evaluated in numerous areas around the country. Thus, New Jersey is very much in the "mainstream" in its consideration of new or

alternative regulatory models regarding the development of an advanced telecommunications infrastructure in the state.

Furthermore, for reasons I will address later in my comments, I believe New Jersey is uniquely positioned to move to the forefront in telecommunications technology deployment. The implementation of the regulatory policy decisions made by the legislature plays a critical role in the state's ability to capitalize successfully on telecommunications as a strategic asset in the future.

The Telecommunications Infrastructure Study addressed a variety of issues ranging from:

- The role of telecommunications in economic development
- Future demand for advanced telecommunications services
- Potential opportunities to leverage telecommunications in areas such as educational instruction and health care services
- Trends in regulatory policy regarding infrastructure investment
- The financial implications of accelerating telecommunications technology deployment

In the interest of time and because I believe other witnesses will echo my conclusions in many of these areas, I will limit my comments to only a few of the areas addressed in the study.

TELECOMMUNICATIONS IN ECONOMIC DEVELOPMENT

First, our analysis of the role of telecommunications in economic development, business attraction, and business retention indicates that the availability of telecommunications services is one of the ten most important considerations in business location decisions around the country. However, in New Jersey, the availability of telecommunications services is one of the five most important factors in the decision-making process for businesses which moved to New Jersey in the last couple of years. Only labor costs, skill sets, and major highway access were considered more important factors in the business relocation process. These statistics demonstrate that there are a host of new factors and issues important to business location decisions and that any state economic development strategy, but especially New Jersey's, must include consideration of the role that telecommunications plays.

Additionally, our study included discussions with dozens of economic program managers in New Jersey and across the country. Major recurring themes which emerged from these discussions included:

- The substantial majority of economic development program managers indicated that businesses are becoming much more information-intensive and telecommunications-dependent.
- The overwhelming majority noted that an advanced telecommunications network already provides a competitive edge in attracting or retaining business in the state - this factor is expected to increase in importance in the future.

How important is telecommunications to the future economic vitality of the state? Our analysis indicates that 85% of the jobs that are expected to be created in New Jersey will be in the services-producing sectors of the economy, such as financial services, insurance, real estate, and trading - all sectors of the economy which are recognized as telecommunications-dependent. Our analysis also indicates that the state of New Jersey is much more vulnerable to job formation in telecommunications-intensive industries than other areas of the country. These findings highlight the need for future economic development initiatives and telecommunications policies that support the unique requirements and attributes of the services-producing sectors of the economy.

Furthermore, a fundamental conclusion of the study is that small business has been the real "engine" of economic growth in New Jersey as well as that of the nation. Thus, it will be essential for public policies which serve as the foundation for economic development initiatives to foster an environment which promotes the success of small business as well as large business. Business enterprises in New Jersey with fewer than 100 employees have been responsible for the majority of new jobs in the state in the last two decades. Given the current trends in American business for organizational downsizing and outsourcing of nonessential services, the trend in small business formation and growth is expected to continue.

Small business competes with, but is also very complementary to, large business, especially in numerous niche markets. Additionally, large businesses are making significant investments in internal communications systems and information technology to improve their cost-effectiveness and customer responsiveness; small businesses, which are spread throughout the state, are increasingly being expected to have these same capabilities to serve as a supplier to large businesses. Without widespread availability of the advanced telecommunications capability required to provide high-speed connectivity to all business in the state, small businesses in New Jersey will find themselves at a major competitive disadvantage in the business marketplace of the twenty-first century.

FUTURE DEMAND FOR ADVANCED TELECOMMUNICATIONS CAPABILITIES

The future demand for more advanced telecommunications capabilities is in many ways independent of the providers of telecommunications services, whether they be in voice, data, or video format. User demands for more sophisticated and complex telecommunications services will "drive" the network capabilities of local exchange telephone companies, interexchange carriers, cable television providers, alternative access vendors, etc. Examples of such demand "drivers" include but certainly are not limited to:

- The continued steep decline in the cost of computer processing capabilities
- The proliferation of computers in the work place as well as in the home
- The rapid growth in the implementation of local area networks, which allow computers to be linked in networks with communications transport speeds which significantly exceed the capabilities of today's public switched networks
- The explosion in video-based instruction and acceptance of distance learning in the education sector
- The growth in the number of trials of applications of imaging technology in the health care industry as well as other industry sectors
- The exponential growth in videoconferencing as an accepted practice in U.S. business
- The American public's insatiable appetite for video entertainment as measured by the success of the cable television industry, the video game industry, and the video rental industries
- The growth in the number and viability of alternative access vendors providing fiber optic-based, high-capacity telecommunications services for business, including those in New Jersey
- The continued evolution of multimedia applications which integrate voice, data, and video telecommunications technologies
- Continued interest in leveraging telecommunications to enhance quality-of-life factors:
 - Economic development and business retention
 - Telecommuting
 - Access to public services

One trend is undeniable: the telecommunications network of the 1990s and beyond will be required to deliver advanced capabilities to meet the increased demands of all users as information and video technology permeate both the work place and the home. While today's network meets today's needs, tomorrow's needs include two-way interactive video, high-resolution imaging, and high-speed data transport on a broad scale. Thus, the basic public policy issue is how best to develop a framework which provides incentives, not roadblocks, to service providers to make the infrastructure investments necessary to satisfy demands for advanced telecommunications.

OTHER INITIATIVES RELATED TO TELECOMMUNICATIONS INFRASTRUCTURES

As I noted earlier, many other states across the country are embroiled in assessments of regulatory/legislative changes linked to network modernization and regulatory reform. Examples include:

- Georgia
- Tennessee
- Missouri
- Maryland
- Pennsylvania
- Texas
- Minnesota
- Connecticut
- Ohio
- Michigan
- Alabama
- New York
- Colorado
- Oregon

The frequency, nature, and scope of these proceedings in other states highlight the timeliness of the consideration of these critical telecommunications policy issues by the New Jersey legislature.

TELECOMMUNICATIONS - A STRATEGIC OPPORTUNITY FOR NEW JERSEY

The aggregate results of the infrastructure study highlight the unique position of New Jersey in establishing public policy initiatives for telecommunications in the 1990s. New Jersey is poised to move to the forefront of telecommunications technology deployment for several reasons:

- New Jersey is the most densely populated state in the country. This density makes it possible to get more for a dollar of investment in telecommunications technology than in other areas.
- Significant investment was made in the state's telecommunications network in the 1980s; therefore, the incremental investment to deploy a state-of-the-art telecommunications network is less than in other areas.

□ The cost of accelerating telecommunications deployment is very nominal:

- New Jersey already has the lowest rates in the country for basic exchange services.
- The state has a large imbedded base of telecommunications services and a strong revenue base, which significantly reduces the price impact of accelerated technology deployment.
- New Jersey has the second highest per capita income in the country.

As a result of the favorable rate structure, demographic factors, broad revenue base, and current level of technology deployment, significant acceleration of telecommunications technology could be accomplished in the state with very limited impact on ratepayers. This conclusion is particularly significant when viewed in comparison to the prices that customers pay in other states today for existing technology, not the advanced network of the "Information Age." Effectively, New Jersey residents could have one of the most advanced telecommunications networks in the country and maintain the state's position as one of the lowest-cost providers of telecommunications services.

In conclusion, a significant strategic opportunity exists to advance the public agenda in New Jersey through the accelerated deployment of a reasonably priced, advanced telecommunications network in the state.

Thank you.

Statement of
Joseph H. Weber of the T.E.L.A. Group
Before The
New Jersey Senate Transportation and Public Utilities
Committee

December 10, 1991

My name is Joseph Weber. I am a partner in a consulting firm called the T.E.L.A. Group and I have been retained by New Jersey Bell to direct the preparation of an accelerated technology deployment plan. I have a wealth of experience in this area, having spent many years in senior network planning positions at AT&T and Bell Labs. I was for a number of years Director of Network Services Planning at Bell Labs, and later Director of Network Architecture Planning at AT&T Communications. Recently, I prepared a telecommunications master plan for the State of Tennessee. This study was sponsored by the Tennessee Public Service Commission, and the recommendations were adopted by that commission.

Summary of the Accelerated Technology Deployment Plan

If the legislation which is the subject of this hearing is approved, Bell Atlantic and New Jersey Bell have indicated that they will invest additional capital into the New Jersey network in the amount of approximately one billion dollars between now and the year 2000 to make a wide variety of new digital services available to the people of New Jersey.

This plan, which is associated with a rate stability plan, will encompass the acceleration of the deployment of digital switching systems and fiber optic transmission systems throughout the network. Such deployments will allow new digital telecommunications services to be made widely

Joseph H. Weber

available to all the people of New Jersey as quickly as possible once technical feasibility has been established.

Digital technology has been in use in telephony for a number of years, but digital services remain the province of special networks for particular (usually large) users. The proposed technology deployment plan adapts these technologies that are coming on stream in any event, accelerates their introduction and organizes them to provide a breathtaking variety of new service opportunities.

The technologies are rapidly taking shape, the market demand is beginning to develop, and the financial resources can be made available. Other states and countries are making plans for extensive new service capabilities, and New Jersey is well positioned to do the same, to its advantage.

It might be useful at this point to explain how the telecommunications network evolved to its present state, and why it is currently so well positioned to support a bold move into the future.

The Digital Revolution and Telecommunications - Voice, Data and Pictures.

It is a commonplace that an electrical signal in digital form does not distinguish among voice, data and pictures. They all become a stream of ones and zeros.

It is also well understood that digital systems have been in use in the telephone network for many years, and that their scope of application is expanding rapidly.

What is not so well understood is that the range of application of such systems has not been uniform, and that

the full benefits of digital technology cannot be realized until the network can support full end-to-end digital connectivity. It is only in this last case that economical, ubiquitous voice, video and data services can be provided.

Digital systems were first deployed in the local trunking portion of the network, beginning in the 1960's. In the 1970's digital toll switching began to be deployed, and the 1980's saw the first substantial deployment of long distance digital transmission systems. All of these transitions are now essentially complete, and New Jersey's network is 100% digital in these areas.

Local digital switching systems began to be placed in service in the early 1980's, and almost half of New Jersey Bell's access lines are now served by digital switches. These switches are currently configured to carry voice traffic, but the manufacturers are planning to make them capable of switching digital signals at ever increasing rates, starting with narrowband digital services in 1992.

The part of the network which has benefitted least from the digital revolution so far is the so-called loop plant - the line between the customer's premises and the central office. This "last mile" is, of course critical to any communications capability to be provided, and accounts for about one third of New Jersey Bell's plant investment. Currently, virtually all of these lines are carried on copper wires, although a small fraction of them utilize digital transmission systems for part of the distance from the central office. However, as will be discussed below, these copper wires can in many cases be arranged to carry digital signals, allowing the evolution of digital services proposed by New Jersey Bell to proceed in an orderly and economical fashion. Ultimately, however, if true broadband services are to be provided, these copper wires must be

replaced with optical fiber. It is worth noting that, although the optical fiber program is the part of the program which has received the most public attention, it is only a part, albeit the most significant and expensive part, of a comprehensive evolution of digital service capabilities.

As currently configured, therefore, New Jersey Bell can carry only voiceband services over its switched network. Furthermore, under normal circumstances the digital facilities which will be added during the next decade will not be arranged to provide ubiquitous end-to-end digital services. Yet for a relatively modest incremental cost, a whole host of non-voice switched digital services can be provided within the next few years. This is a unique and special opportunity. The infrastructure that is currently being provided is very close to supporting these new services - all that is required is a small push.

The specific new services which the network can support depends on the data rate required to transmit the information. The accelerated deployment plan envisaged by New Jersey Bell builds on existing and currently planned digital facilities, tailoring network augmentations to the systems and locations needed to provide ubiquitous end-to-end digital connectivity at ever increasing data rates over the next decade. In most cases, these augmentations would be made in any event in the ordinary course of business, but the accelerated plan focuses them in a way that brings the opportunity to provide new digital services on stream much sooner than would otherwise be the case.

The proposed accelerated technology deployments are timed to build on these evolving capabilities. If these deployments were made earlier, they would not support any new services. If done later, New Jersey users will be deprived of the

Joseph H. Weber

benefits of these technological capabilities, and large customers may be driven to provide their own networks, to the detriment of the public.

Service on Demand

The service concept underlying the proposed technology deployments is that of "service on demand." This approach to service provision, which has been practiced by telephone companies in the United States for many decades, involves installing common network equipment ahead of particular demands, so that service can be provided quickly upon request. Traditionally, this has meant that central office switching systems, interoffice trunk equipment, and subscriber cables running past residences and businesses are routinely installed as communities develop, while individual lines to specific customers are installed when service is ordered, ordinarily on a day or two's notice.

The proposed accelerated plans follow the same approach. So, for example, the optical fiber systems will be carried close enough to the customer's premises so that the "drop" between the pole or pedestal and the premises can be added when service is ordered in a matter of hours. Similarly, equipment needed to support digital services in the central office which is dedicated to a single line will be plugged in as needed, rather than installed on lines where the service has not been ordered. The modest costs of these installations will be included in the prices of the new services. This approach assures that customers can have service when that want it, but requires no wasteful installation of unneeded equipment.

New Services and Technical Standards.

a. Basic Rate ISDN (144,000 bits per second)

The current voice network can only carry voiceband traffic, which includes voice, Group III facsimile (the protocol under which the current generation of facsimile machines operates), and data reliably up to about 9,600 bits per second. However, much work has been done in establishing a digital service standard called the Integrated Services Digital Network, or ISDN, which defines the protocols for transmitting digital signals up to 144,000 bits per second. This service capability can serve as a vehicle for such services as video teleconferencing, Group IV (high speed) facsimile and high speed computer communications. The technical serving arrangements involve digital trunking (which is already in place), properly equipped digital switches, and loops without loading coils (less than 18,000 feet of copper, or utilizing digital loop carrier systems.) The first availability of a standard basic rate ISDN protocol for local switches is in 1992, and basic rate ISDN will be the first digital service capability to be made available under New Jersey Bell's accelerated deployment plan.

If this plan is implemented, it will involve additional expenditures starting in 1992 to accelerate the replacement of analog switches, equip existing digital switches for ISDN capability, and begin to move long loops onto fiber based digital loop carrier systems. Under this plan, 75% of the users in New Jersey will have access to ISDN service by 1994, and 100% by 1998.

This seven year deployment period is likely to well match the evolution of terminal equipment and customer understanding of the capabilities of the service. Large

users have already begun to develop their own custom networks to provide many of these services, and delay in public network deployments will only accelerate this trend, thus depriving the public network of needed revenues. The service capability will ultimately be made available in the network in any event, but if this "optimum" deployment rate is not achieved, the loss of high end users will cause the service to be more costly for those remaining.

b. Wideband Digital (Primary Rate ISDN or switched 1,500,000 Bits per Second)

The next digital service capability to be standardized for local switches is called Primary Rate ISDN, which will allow switched 1,500,000 bit services to be provided. This capability, which will support video telephony, high speed data services such as Switched Multimegabit Data Service (SMDS) and Frame Relay, certain distance learning applications and the like, will first be made available in local switches 1994, as will the technology to carry such signals on most copper loops, and New Jersey Bell plans to begin deployment at that time. This capability requires only that the digital switches be upgraded, and loops longer than 12,000 feet be transferred to fiber based digital carrier systems. In this case, 75% of New Jersey Bell's customers will have access to this service capability by 1996, with full capability by 1998, a deployment period comparable to that planned for narrowband digital services.

The need to deploy this service rapidly is at least as compelling as that for Basic Rate ISDN. Indeed, Primary Rate ISDN is already being offered by some interexchange carriers, SMDS and Frame Relay standards are rapidly evolving, and large users are preparing to build their own networks. This is a clear case for preemption by the public

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network, which, if it can be accomplished, will benefit everyone in the long run.

c. Broadband Digital (45,000,000 bits per second and up)

This service capability is the most expensive, least understood, and furthest out in time. It also has the greatest capability for a multiplicity of services including CATV, High Definition Television (HDTV), video applications requiring high definition such as telemedicine, and very high speed computer communications.

This service capability requires that digital switches be equipped with broadband switching capability (not yet developed) and the copper wires in the local loops be replaced with fiber all the way or close to the customers' premises. The proposed plan calls for deployment of fiber in this portion of the loop plant to start in 1992, with rapid expansion starting in 1996 and full deployment anticipated by 2010.

Our current view is that, as in all the earlier deployments, the optimum strategy is to begin to deploy these technologies as soon as they are reliably and economically available - both to provide the benefits of these services to everyone in New Jersey at the earliest opportunity, and to discourage the growth of dedicated systems by large users, which will inevitably drain the public network of needed financial support.

Summary and Conclusion

The people of New Jersey and New Jersey Bell have before them a unique opportunity - an opportunity to quickly move into the forefront in telecommunications services among the

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states of the nation and the nations of the world. If the opportunity is embraced, it will form a powerful basis for economic development, improved education and health care, and a better quality of life for the people of New Jersey.

The plan proposed by New Jersey Bell contemplates making available a steadily increasing set of service capabilities as technologies and markets evolve. This approach not only will provide the citizens of New Jersey with the most advanced capabilities as soon as possible, but also is a sound business strategy, since revenues from the earlier services will help defray the costs of introducing the later services.

New Jersey Bell is proposing a prudent, orderly program of ever expanding digital service capabilities, culminating in an all-fiber, all-digital network which can support virtually any telecommunications service that can be conceived of. It is an exciting prospect. Let us take the first step.

STATEMENT OF
JANE F. KELLY - EXECUTIVE DIRECTOR
NEW JERSEY UTILITIES ASSOCIATION
BEFORE THE
NEW JERSEY SENATE TRANSPORTATION AND PUBLIC UTILITIES COMMITTEE
CONCERNING SENATE COMMITTEE SUBSTITUTE BILL NO. 3617

DECEMBER 10, 1991

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I AM JANE KELLY, EXECUTIVE DIRECTOR OF NEW JERSEY UTILITIES ASSOCIATION. THE NJUA, AS YOU KNOW, IS THE TRADE ASSOCIATION FOR THE STATE'S INVESTOR-OWNED ELECTRIC, GAS, WATER, TELECOMMUNICATIONS AND SEWERAGE PUBLIC UTILITIES. WE VERY MUCH APPRECIATE THE OPPORTUNITY TO ADDRESS YOU TODAY RELATIVE TO SENATE BILL NO. 3617.

YOU HAVE HEARD COMPREHENSIVE TESTIMONY REGARDING THIS LEGISLATION FROM NEW JERSEY BELL, ONE OF OUR MEMBER COMPANIES. AS SUCH, AND IN THE INTEREST OF BREVITY WE WOULD EXPRESS OUR CONCURRENCE IN THE COMMENTS PROVIDED AND SIMPLY SHARE WITH YOU OUR VIEWS AS TO

THE MOST SIGNIFICANT BENEFITS OF THIS PROPOSAL.

FIRST, WE WOULD ASK THAT THE COMMITTEE CONSIDER THE POSITIVE IMPACT THAT THIS LEGISLATION WILL HAVE TOWARDS PROMOTING ECONOMIC DEVELOPMENT AND CREATING NEW JOBS IN OUR STATE. AT THE SAME TIME, THIS PROPOSAL WOULD INCREASE THE STATE'S TAX REVENUES AND GENERATE NEW PERSONAL INCOME FOR NEW JERSEY'S CITIZENS.

WE WOULD EMPHASIZE, AS HAS BEEN PREVIOUSLY DISCUSSED, THAT THE ADVANCED NETWORK FACILITATED BY THIS LEGISLATION WILL BE ESTABLISHED WITHOUT ANY INCREASE IN CUSTOMER RATES FOR THE NEXT SEVERAL YEARS.

THIS LEGISLATION WOULD ENABLE THE STATE BOARD OF REGULATORY COMMISSIONERS TO AUTHORIZE ALTERNATIVE FORMS OF REGULATION FOR TELECOMMUNICATIONS COMPANIES. THESE ALTERNATIVE PROCEDURES WOULD POTENTIALLY REDUCE THE DELAY AND COST WHICH OCCUR DURING THE REGULATORY PROCESS AND, AT THE SAME TIME, BENEFIT CONSUMERS BY MAINTAINING REASONABLE RATES AND CHARGES FOR TELECOMMUNICATIONS SERVICES.

WE WOULD STRESS THAT THIS LEGISLATION DOES NOT REQUIRE THAT THE BOARD EMPLOY ALTERNATIVE FORMS OF REGULATION BUT RATHER ALLOWS IT TO CONSIDER DOING SO. PROCEDURAL SAFEGUARDS SUCH AS NOTICE AND HEARING WOULD ALWAYS PRECEDE BOARD ACTION AND PROTECTIONS FOR PARTICULAR CUSTOMER CLASSES AND QUALITY STANDARDS ARE MAINTAINED.

IT IS OUR VIEW THAT THIS PROPOSAL PRESENTS A TREMENDOUS OPPORTUNITY FOR NEW JERSEY TO POSITION ITSELF IN THE FOREFRONT OF TECHNOLOGICAL DEVELOPMENT, TO PROMOTE COMPETITION FOR THE BENEFIT OF OUR STATE'S CITIZENS AND TO OTHERWISE ENHANCE ECONOMIC GROWTH AND PROSPERITY IN OUR STATE.

I THANK YOU FOR YOUR ATTENTION AND FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY.



Society for Environmental,
Economic Development

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Statement of the
New Jersey Society for Environmental Economic Development
(NJ SEED)
Senate Transportation and Communications Committee
December 10, 1991

Senator Rand, and members of the committee, it is my pleasure to appear before you this morning on behalf of the New Jersey Society for Environmental Economic Development. Our organization stands in support of Senate Bill S-3617, which would revise the regulatory framework for telecommunications services.

More importantly, this legislation would provide the structure necessary to allow development of a fiber-optic telecommunications network throughout the state of New Jersey.

The strategy of this legislation and the results that we feel will accrue from stand at the heart of the charter of our organization, which is to balance the needs of economic development and environmental protection. Our labor and business coalition has been active in promoting this message since our formation back in 1973.

Our state has long been a telecommunications leader, dating from the fledgling stages of this technology. NJ SEED feels it is vitally important to our state's future economic development to continue this leadership, and completion of fiber optic infrastructure will insure this leadership is continued.

NJ SEED also views this legislation as important in influencing the future decisions of businesses seeking to locate in our state. The benefits of a fiber optic network are well documented, in terms of the telecommunications services that could be provided. If New Jersey (as we

sincerely hope) becomes the first state in the nation to have a total fiber optic network statewide, NJ SEED views such a development as a "win-win" situation for our state. This issue is at the center of the future development of our economy and the future development of jobs for the next generation of New Jerseyans, many of whom will look to the telecommunications and information field for their employment.

NJ SEED believes that our economy will now start to rebound. In the near future, we believe companies again will seek to expand. However, as the decade of the 1980's proved, the majority of that expansion was not in large corporation. Indeed, it primarily came from the start-up of new small firms. These firms and other entrepreneurs have relied to an even greater degree on telecommunications technology. Development of a fiber optic network would be an additional benefit to the future development of small business in the Garden State.

In just a few weeks, we'll be just eight years from the year 2000. It is time we take this "next step" in the development of our future telecommunications technology.

As you consider this legislation, we ask you to think about the many benefits that have accrued to the state of New Jersey because of our leadership in telecommunications and the transferral and sharing of information. To insure our ability to compete both nationally and internationally with our global neighbors who are already developing fiber optic technology, we urge you and your colleagues in the Legislature to pass S-3617.

On behalf of the business and labor members of NJ SEED, thank you for the opportunity to present this testimony.

WRH
12/91



