

New Networks Institute

Before the
National Telecommunications and Information Administration
Washington, D.C.

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In the Matter of)

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

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COMMENTS OF NEW NETWORKS INSTITUTE

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Questions:

- A. What should be the primary policy considerations in formulating broadband policy for the country?
- C: To what extent has the growth in competition for broadband and other services been slowed by the existing rates and rate structures for regulated telecommunications services?
 - The American public has already paid in excess of \$58 billion dollars for a fiber-optic network they never received. They are still paying for it in the form of excessive phone rates. The primary policy consideration should be to document this excess and either return it and/or make the Bells accountable for their statements. Then the country would be able to ascertain how best to plan its Digital Future.
- C: Please also address potential underlying causes of low subscribership rates, such as current economic conditions, price, cost-structure, impediments to the development of broadband content, or any other factor.
 - By 2001, over half of all American homes, offices, schools, libraries and hospitals should have been rewired with fiber-optics. The biggest impediment has been the Bells ignored their obligations and never deployed these networks. Instead, there has been a documented horror-story for the roll-out of an inferior product, ADSL, over the 100-year-old copper wiring. ADSL does not allow for most true-broadband services that include video.
- E. Do the interconnection, unbundling, and resale requirements of the Telecommunications Act of 1996 reduce incumbent local exchange carriers' (ILECs') incentives to invest in broadband facilities and services?
 - The Bells already received financial incentives for broadband and they never rolled out their networks. Instead, the question should be ---Why hasn't the FCC investigated the Bells blocked resale of DSL to ISPs, and the lack of enforcement that surrounds the issues of unbundling and interconnection.
- 4. What are the principal strengths and weaknesses of the FCC's total element long run incremental cost (TELRIC) methodology?
 - The Bells are still regulated monopolies, however their profits are 250% above the Business Week 500 --- Why hasn't the FCC examined this issue when dealing with the price of services to competitors --- "TELRIC"? Why hasn't the FCC taken out an annual report and compared it to proposed TELRIC discounts?
- B. (1) what criteria should be used to determine whether a facility or service has sufficient transmission capacity to be classified as "broadband;"
 - The definition of Broadband created in numerous states during the 1990's was a two way, service, capable of a speed of "45 MPS", that could support "full-motion-video". The FCC

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decided to make the definition of broadband 200K so as make it easier for the Bell companies to not be held accountable to the higher standard set in the states, and to show that the Telecom Act worked. It didn't and America lost a generation of broadband, and will most likely be left with an inferior set of standards that would bring growth and innovation.

- O. How has the Bell's Failed Deployment hurt America?
 - We believe that the entire Broadband and competitive market has been harmed, and this in turn has caused lack of choice, lack of quality services, lack of innovation and higher phone and broadband rates. The ISPs of America brought us the Internet and Web, not the Bells, and it is clear that killing off this entrepreneurial market segment will directly harm customers and our Digital Future.
 - More importantly, the Bells' failed deployment and competitor harm helped to cause the Tech Sector crash, as well as the entire US economic recession.
- P. In how many states is DSL being funded through public financed rates?
 - There are at least two states, Oregon and Louisiana, where the DSL rollout is being funded directly from regulated customers. This is not only anti-competitive but also cross-subsidization. However, over the last five years the majority of states have had some form of public financing to pay for broadband services--- it goes back to networks upgrades for the poster child of broadband --- ISDN.
- Q. Who is funding your response to these Comments?
 - Unlike many groups who in Washington that are funded to represent some phone company, such as the group APT, who is sponsored by the Bell companies, New Networks Institute is independently funded with the goal to protect the public interests.

The NTIA in its "Notice, Request for Comments on Deployment of Broadband Networks and Advanced Telecommunications [Docket No. 011109273-1273-01] poses a series of questions about the future of Broadband services in the United States. Unfortunately, the questions mostly deal with asking how the current regulatory environment is impacting the Bells, or how it is dis-incentivizing the broadband deployment.

None of these questions deals with six major facts:

- By 2001, over half of American households should have already had a fiber-optic wire into US homes, and most schools, libraries, hospitals and government agencies should have also been upgraded.
- Based on Bell promises, in the majority of states, laws were changed that 'deregulated' phone rates -- and customers paid an estimated \$58 billion in added phone rates for networks they never received. Therefore, ALL charges to ALL customers, both residential and business customers, as well as all competitors' fees, such as TELRIC, are inflated.

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- Competition is on life-support largely because of the Bells' mistreatment, and the FCC and states have not stepped in to fix these problems.
- The Bells are now some of the most profitable companies in America because of the failed broadband deployments and harm to competition.
- These Bells actions helped to create the Tech Sector crash and it has harmed the entire economy.
- No Regulator, not the FCC, the States, Congress, or the NTIA has examined these issues in detail, or enforced the laws.

New Networks Institute believes that allowing the Bells into any new services or giving them any new incentives is tantamount to rewarding the Bell monopolies for fraudulent behavior. . History clearly shows that the new incentives will in no way bring advanced networks sooner or cheaper.

If the NTIA is really concerned about the future of American telecommunications, it must take a clear, fresh look at the data -- and not use data supplied by the Bell companies, through it myriad of Bell funded reports, lobbying groups, and other spin doctors.

Instead, we are calling on the NTIA to request the FCC and/or the GAO to

- Initiate a "Broadband True-Up" which calculates how much money the Bells have already collected for broadband services it never delivered, including all subsidies, fees, universal service charges, etc.
- Investigate the lack of enforcement and treatment of competitors, including Internet Service Providers (ISPs) and CLECs.
- Conduct a "Total Phone Bill Analysis", which examines the current Bell profits from ALL local phone customers --- and compares the results to their Annual reports, before we consider the redoing of "TELRIC" and the prices to competitors.

NOTE: Instead of submitting thousands of pages in backup documentation, we have used web links for pertinent reports, studies and other materials.

I. Introduction and Summary

New Networks Institute ("NNI") was founded in 1992. Its mission is to explore - on an totally independent basis - the impact of the break-up of AT&T and the creation of the Regional Bells Operating Companies ("RBOCs") on telephone subscribers in general and on the deployment of new and advanced telecommunications networks. Since that time, the NNI has conducted extensive research on these topics. Titled "The Future of the Information Age," this seven-year analysis consists of over 1,900 pages in 14 volumes, with over 910 exhibits, two computer databases, and

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data from more than 2,000 consumer interviews, (conducted independently through Fairfield Research). The report series publishers include Phillips Business Information and Probe Research.

NNI's research is privately funded and totally independent, and is intended for distribution through the sales of the reports and databases. Nonetheless, it has direct bearing on some of the issues raised in the present inquiry. NNI is pleased to make the results of its research available in the context of this critical discussion. To see a bibliography, go to <http://www.newnetworks.com>

II. BROADBAND ISSUES:

A) Since 1998, New Networks Institute (NNI) has filed Comments in the Advanced Network, Section 706 (of the Telecom Act) broadband proceedings.

To read our previous Comments see: (Filed 1998)

http://www.newnetworks.com/NNI_FCC_9-98.txt

http://www.newnetworks.com/NRPM_98-147_NNI.txt

White Paper--- Analysis of the FCC 1999 Advanced Network Report

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

According to the FCC's most recent findings, only 4.3 million homes have broadband services that pass the simple test of providing speeds over 200K in both directions. These services are either offered through cable companies, or over the 100-year-old copper phone networks.

"About 4.3 million of the 7.1 million high-speed lines provided services at speeds of over 200 kilobits per second (kbps) in both directions."

NOTE: "ADSL", it Asymmetric DSL, meaning fast in only one direction, and therefore doesn't qualify as true broadband.

B) The Bells failed to deliver on their fiber-optic plans yet kept the money. In many states, Alternate Regulations were applied to give the phone companies more money to be used in new construction of a broadband network replacing their older copper wiring with fiber optics. These agreements were for 5 or more years --- thus extending from 1995 through the year 2000!

To date, America should have had over half of US customers using a fiber-optic line to their home and office. In many states, customers already paid for these services, and continue to do so in the form of higher phone rates. We estimate that over \$58 billion has been collected for services customers will never receive, including massive tax-write-offs.

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What Was Delivered to Date and What Customers Were Promised.

	Current Bell Rollout---Copper	Promised Bell Rollout --Fiber	Missing
Households	4 Million Households	51 Millions Households	93%
Speed	200K In Both Directions	45 MPS Both Directions	99%
Cost		\$58 Billion and Counting	

The New Jersey Ratepayer Advocate wrote in 1997 (4/97)

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

"Bell Atlantic-New Jersey (BA-NJ) has over-earned, underspent and inequitably deployed advanced telecommunications technology to business customers, while largely neglecting schools and libraries, low-income and residential ratepayers and consumers in Urban Enterprise Zones as well as urban and rural areas."

To see our documentation, see "**How the Bells Stole America's Digital Future**"
<http://www.netaction.org/broadband/bells/>

To read the New Jersey' Ratepayer Advocates' study about the states' fiber optic fiasco.
<http://www.rpa.state.nj.us/onj.htm>

To see a timeline of the failed deployment in California from the San Diego Tribune,

To read other information, go to:
<http://www.newnetworks.com/BroadbandandDSL.htm>

C) Rural and low income customers were also to be served: There are many regulators/congressmen who ponder "how do we get rural and low income areas wired" and there are numerous bills in Congress that would give the Bells more money to supply broadband to rural areas. However, in many states, monies were already collected to do just that. These services were never delivered, even though monies were collected. For example, the Verizon (BellAtlantic), Pennsylvania Bell Annual Report 1998 states:

"The Pennsylvania Plan requires deployment of a universal broadband network, which must be completed in phases: 20% by 1998... **Deployment must be reasonably balanced among urban, suburban and rural areas.**"

And the promises to rewire schools, libraries, etc. were also part of some state Alternate Regulation plans -----In Ohio ALL schools, hospitals, libraries should have been rewired.
Ohio Alternate Regulation Plan, September 20, 1994

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

D) The FCC' stated speed for broadband is "200K" in both directions The promises made by the Bells in their state regulations were that the service would deliver a speed of 45MPS in both directions--- That's 225 times faster than the 200K threshold.

The New Jersey Opportunity Plan (as well as Pennsylvania, Texas, etc.) defined Broadband as:

"Switching technologies matched with transmission capabilities than can support data rates up to 45,000,000 bits per second which enable services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals."

This is a far cry from the 200,000 (200K) that is currently the standard. The NTIA and the FCC should have been using the definition as agreed to in the 1990's--- instead of going two steps backward.

We would also like to note that the FCC's Advanced network reports were seriously flawed in that they did not include or even mention any of the information we have just presented.

E) We believe that the failure of the Bells to roll out the fiber optic networks caused the Tech Sector crash, and the current recession. To read our analysis of this, see:

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

Of course, there are those who have not done their homework and keep repeating that there was no tie to the failed Bell deployments and the current problems of companies, such as Lucent or Corning. They also state that the Bell never promised any fiber optic services. The Bell Atlantic press release, July 15, 1996 "BELL ATLANTIC SELECTS EQUIPMENT SUPPLIER FOR INITIAL SWITCHED BROADBAND NETWORK DEPLOYMENT" documents a 6 and a half-year contract with Lucent for "fiber to the curb" based on fiber optics.

"Later this year, Bell Atlantic will begin installing fiber-optic facilities and electronics to replace the predominantly copper cables between its telephone switching offices and customers. Fiber optics provides higher quality and more reliable telephone services at lower operating and maintenance costs. The company

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plans to add digital video broadcast capabilities to this "fiber-to-the-curb," switched broadband network by the third quarter of 1997, and broadband Internet access, data communications and interactive multimedia capabilities in late 1997 or early 1998. "Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year. The company plans to expand this Full Service Network deployment to other key markets over the next three years. Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks."

F) DSL is being funded directly from regulated customers Because the FCC has not examined the state regulatory issues, it has not attempted to block the anti-competitive, cross-subsidization behaviors where ratepayers in specific states, such as Louisiana and Oregon, are actually funding the non-regulated Bell DSL services. In these two states, (among others) the Bell companies have been able to change state laws to give the Bells more money --- money that pays for their DSL rollout.

This is obviously cross-subsidization because customers are funding competitive services --- services they may never want, need, or can't even get because of technical difficulties due to the Bell's aging networks.

G) In numerous states, the Bells may be collecting twice for wiring schools and libraries. It is a little known fact that many of the state Alternate Regulation plans, such as in Ohio and New Jersey, were designed to also fund the fiber-optic upgrading of schools and libraries. However, in some states, there is also Universal Service funds being collected that are also used for this purpose. We ask: exactly how much money is being collected from customers in the form of higher phone charges as well as new taxes and surcharges?

III. COMPETITOR ISSUES:

The questions the NTIA poses about competitive issues seems to neglect the reality. ---- The competitive DSL providers, CLECs and ISPs are on life-support and this is mainly caused by Bell business practices.

A) The FCC has continually neglected to fix the problems Internet Service Providers (ISPs) and Competitive Local Exchange Companies (CLECs) have that are caused by the Bell companies. These problems include predatory pricing, anti-competitive behavior and downright illegal acts.

How bad is it? Dave Robertson, president of the Texas ISP Association (TISPA) recounted his recent meeting with Chairman Powell and senior staffers at the FCC Enforcement Bureau.

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"The meeting was Tuesday May 8th. In a nutshell, all the "bad acts" submitted to them to date have resulted in exactly "ZERO" dollars in fines, and little delay in their 271 approvals for the Bells to jump into the long distance market. We asked for something blatant as handwriting on a wall as to the future of the complaint process as we are approaching it. We got it. WE SHOULD EXPECT NOTHING FROM THE INFORMAL COMPLAINT PROCESS. We should expect nothing from any complaints we have submitted to date.

"A couple of weeks ago we met with a senior person in the ENFORCEMENT BUREAU. After a one-hour meeting and receiving some heartfelt empathy for the plight of ISPs and the consumers who are being victimized by the illegal, anti-competitive behavior, I suggested that our best move might be to just jump out a window. He suggested we might want to consider throwing a chair out of the window first, so we wouldn't get cut on the glass as we jumped."

This lack of enforcement or attention to ISP and CLEC issues is not new. In our previous Comments, September 1998 ,we stated.

"Competitors are not receiving fair and equal access to advanced networks. Based on extensive interviews, NNI has found that the ILECs are stifling competition and delaying the deployment of advanced network services. Our findings support the complaints outlined in the NOI comments submitted by the ISP/C and other ISP groups. (CC 98-146)."

B) NNI's 3rd Nationwide ISP Survey results, released December 13th, 2001, reveals that these problems are so prevalent that if the FCC does not act to enforce the laws, there is a question of whether these 3000 independent ISPs will survive.

As one ISP stated:

"They have destroyed the competition by pricing, failure to cooperate (obey existing laws and regulations) and have solidified their advantages with advertising that should not be subsidized by my phone bill, and by legal efforts (including lobbying) that telephone users also pay for".

In fact, the NNI survey revealed that almost half of America's ISPs have either stopped offering or do not offer DSL because of Bell caused problems. To read the survey:

<http://www.newnetworks.com/prispsurvey2001.htm>

To read our summary report "The Bells Harmed Competition" See:

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

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To read some of the previous surveys, go to:

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

C) The Bells also made false and misleading statements about their own competitive plans. As we have documented, SBC Communications was supposed to have already been in three cities with competition by 2000, and over 30 cities nationwide by 2002. (St. Louis Post-Dispatch [2/5/99])

"SBC aims to expand to Boston, Miami, Seattle" "SBC Communications Inc., the No. 2 U.S. local phone company, said Thursday that Boston, Miami and Seattle will be the first three markets where it provides services as part of its plan to buy Ameritech Corp."

"SBC said in May that it will buy Ameritech, an acquisition currently valued at \$81.7 billion, and named 30 U.S. local markets the companies would enter outside of their home regions under their "national-local" strategy."

D) The FCC nor the states have fixed the predatory pricing and anti-competitive issues surrounding the DSL resale to Internet Providers--- The California Story: The situation in the US is that the Bell caused problems have brought the industry to a point of life-support. To read more about these problems, see the Comments and Complaints filed by the California ISP Association (CISPA)

<http://www.cispa.org/fl008.html>

Just the outline of some of the topics should give the reader a clear viewpoint that at every possible turn, the Bell company (BOC) is giving their own services preferential treatment, even though it is illegal to do so. It is also harming all competitive offerings

- BOCs Are Using Control of DSL Infrastructure to favor their 8 Affiliated ISPs
- BOC-affiliated ISPs Receive Preferential Pricing for DSL
- BOCs are Forcing ISPs to Accept Predatory DSL Contracts
- BOC ISPs Enjoy Superior Access to BOC Ordering and Billing Systems
- ISPs Suffer More from Inaccurate BOC Billing than do Affiliated ISPs
- Independent ISPs are Stonewalled by BOC Representatives
- BOCs are Using Their Still Existent Phone Monopoly to Promote Their Affiliated ISPs
- BOCs Are Changing their Network Architecture to Monopolize the Emerging Enhance Services Market
- BOCs are Preventing Customers from Switching to Competing ISPs

These problems are unfortunately, not unique to California, but are occurring across the United States and it has caused many companies to go out of business or stifled the industry's growth. To

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see our surveys on this topic or related issues see:

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

E) The "DSL Chain of Pain" harms customers, not just competitors. Besides these obvious violations to competitors, there is also the "**DSL Chain-Of-Pain**". When a customer orders a service from the competitive ISP, the customer, the ISP and the competitive local phone company are all at the mercy of the Bell companies. In our surveys in 2000, we found that 50% of all orders had problems, regardless of what the Bell companies presented as data to show that everything was OK.

Therefore, we believe that there continues to be a serious injustice to the American phone and broadband customer, not to mention the harm to competitors. It is clear that broadband services have not been rolled out in a timely or reasonable fashion, and this is harming all US phone and broadband customers.

While the Bell companies would like the American public to believe that they are "delivering on the Broadband promise" and while regulators have not examined all the facts and therefore do not investigate the issues, the Public is looking to our regulators to protect America's interests.

However, America, through the FCC's lack of action, will be a third rate telecom country, relegating our customers to an inferior product over a 100 year old copper network that can't even handle the simplest of services.

IV. TELRIC ISSUES:

The NTIA has also asked about the prices for services to competitors. Known as "TELRIC", . the prices for services/resale of the local phone networks to competitors are paramount for making competition work. Unfortunately the entire pricing model to competition has been skewed by the Bell companies ability to create a shell game with their profits.

A) The Bells are some of the most profitable companies in America.

How skewed is it? The chart below shows the Bell profits as compared to the Business Week's "Top 9 Companies", a comparison to the "Business Week 500" and a comparison to their utility brethren. It is clear that the Bells' profits from local services is so extensive that it makes these companies some of the richest (read most profitable) in America. ---- The Bells profits are 256% above the Business Week 500, and 212% above other utilities.

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Bell Company and Business Week 500 Revenues and Profits, 2000

*Source: Business Week, 2/26/01 Exhibit: NNI 200.
(in the millions)*

	% of Profits	Bell Comparison
Total Top 9	6%	170%
All Industries	4%	256%
Utilities	5%	212%
Bell Average	16%	

One has only to take out a Bell Annual report and examine the details to see that LOCAL SERVICE IS ONE OF THE MOST PROFITABLE BUSINESSES IN AMERICA. We emphasize this because the Bells' prices to competitors is not comparable to the actual profits. The Bell companies insist they 'lose money' on local service. It is through the manipulation of the data presented to public and the FCC that the Bells' profits are not properly analyzed.

This of course brings up another question -- How did the Bells become so profitable, if they are supposedly regulated monopolies? And how can they ask for more financial incentives? The data clearly shows that the Bells made these excess profits -- which are actually excess charges on phonebills, through their failed Broadband rollouts.

To read a full report on Bell profits see:
<http://newnetworks.com/Bellprofits2001.htm>

B) FCC Audits showed \$5 billion in "Vaporware"--- How much does the network really cost?
And then we come to another dark area --- How much are the phone networks really worth? The FCC's own audit of the Bell companies revealed that \$5 billion dollars of equipment was missing and an additional \$13 billion was unverifiable. The audit represented only 1/4 of the records to be investigated. Unfortunately, the FCC decided not to investigate its own audit and passed the responsibility to the state commissions.

If the cost of service is based on the costs of the networks, then we, the American public, still doesn't even know how much of the network is real and how much is 'Vaporware'?

To read our analysis of the FCC audit see:
<http://www.newnetworks.com/fccaudit.html>

NNI has recommended and continues to recommend that the FCC be required to do a "Total Phone-Bill Analysis", which would examine ALL of the Bell profits from all local customers and make sure that the data is also cross-referenced with Bell Annual reports. It should also continue on the

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audits to find out exactly how much the network costs are, instead of making up numbers with incomplete data.

V. What Should Happen Next?

If the NTIA is really concerned about the future of American Telecommunications, it must take a clear, fresh look at the data -- and not use data supplied by the Bell companies through its myriad of Bell funded reports, lobbying groups, and other spin doctors.

We have ended phase one of competition. It didn't work for most customers, especially the residential customer. The primary reason it didn't work is because there was no enforcement of the laws and prices to competitors are predatory. This blocks competitors from offering both phone as well as broadband services on a competitive basis.

Therefore,

Enforcement: The FCC and the states need to administer a serious, penalty oriented, data-based, fast process for customers and competitors to be reimbursed for the time lost and money spent. How bad is it today? The FCC's Complaint process called the "Rocket Docket" takes two+ years, and take \$50,000-\$100,000 in legal fees, and still does not work.

New Legislation: We have developed the "**Broadband Bill of Rights**" to address these customer issues, See: <http://www.newnetworks.com/broadbandbill.htm>
Another bill, HR1542, commonly known as "Tauzin-Dingell", will put the nail on the coffin of innovation and competition. It is being sponsored by two Bell-friendly Congressmen, Representatives Billy Tauzin and John Dingell, and it is nothing more than a bill driven by campaign financing to help the four large monopolies. History clearly shows that the Bells already received financial incentives to deliver broadband and they did nothing, essentially lying to the public --- and kept the extra money. We are not alone in our opposition to this bad proposed bill.

Make the Bells Accountable for Their Past Deeds. There has been virtually no accountability for the Bell companies' failed deployment plans --- virtually no penalties, fees, lower prices, even though there is clear documentation that the Bells have made over \$58 billion in extra phonebill charges and tax write-offs.. (We have also found a series of very serious violations that effect not only the price of service but also the costs to competitors. The Bell companies actually took massive deductions, \$21 billion dollars, stating that they were replacing the copper wiring to fiber-optics.) See: <http://www.newnetworks.com/irsrelease.html>

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"Broadband True-up" If nothing else, a **"Broadband True-up"** needs to occur --- one that accounts for:

- All monies collected to date in the name of broadband by state,
- All other monies collected in the name of the wiring of schools, libraries, government agencies, etc. --- this should include all state plans as well as the
- E-Rate, Universal Services, or additional state 'school-wiring' taxes and surcharges.
- The amount of money actually spent in that state for regulated and non-regulated construction. -- - I.e.; the amount customers paid vs the amount the phone company shareholders paid.
- All monies collected and paid for by the state for the DSL rollouts (some states are allowing the basic service rates to include the costs of rolling out DSL, which is illegal in that it allows the monopoly to fund the 'non-regulated' services through every phone customer.)
- The difference between the amount of money collected from ratepayers and what customers received for that money
- The changes to state and federal laws that gave the Bells extra monies for broadband should be redone in light of these findings.
- All of the taxes and applied to the extra phonebill charges.

The Pricing Shell Game Needs End. Prices To Competitors Need to be Fixed. The other part of the equation has to be an examination and reregulation of the current discount pricing structure of Bell services offered to competitors, from CLECs to ISPs. Filings in numerous states and testimony by virtually every large competitor to enter local services, from AT&T and MCI, to Covad and Rhythms have shown that the prices for voice service or resale of DSL are so high that competitors lose money on every order.

If there is a clear sign that competitors and customers are being handled properly and the laws are enforced, then the capital markets will reexamine these competitive companies and invest. This would then spur competitors to purchase more equipment, services, and the market sector would become more vibrant.

Total Phone Bill Analysis

The FCC and GAO should also ask --- how it is possible that the Bell companies are now some of the most profitable companies in America, yet they can also rig their books to show that local service is "not profitable".

Today, NO regulator examines the Bell companies for profits. They are now some of the most profitable in America, and these profits are way out of line with anything that could be declared 'Fair and Reasonable'. And in fact, no regulator even examines the Bell Annual Reports and compares it to TELRIC or any other charges. As we discussed, we believe that a great deal of this excess profits was created because the Bell companies lied to regulators and the public about their Broadband deployments.

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Therefore, the FCC and or the GAO should be required to examine: All profits from the local phone companies garnered from ALL customers. This would include ALL charges, including

- Basic service,
- FCC Subscriber Line Charges,
- Calling Features, including Call Waiting, Call Forwarding, Caller ID,
- Inside wire maintenance,
- All Bell collected monies under other long distance bills that are also revenue to the local phone monopolies, from Universal Service Charges to all taxes, and surcharges that are revenue or deferred taxes for the Bells.
- Directory Assistance and Directory--yellow page advertisements that appear on phonebills.

The GAO should also investigate the FCC's audits, and any other audits necessary to determine the actual costs of the phone networks.

Accountability needs to go even further than what was promised over the last decade. Is America going to be a third-rate technology country because the Bell companies have defended their copper wiring and are not bringing to America a fiber-based network that they paid for?

ADSL should not be America's Broadband Future: There are clear signs that the older-dial-up services are bursting at the seams with high-bandwidth needs. One has only to look at the "Napster" application, the use of web-cams, the downloadable movies, or having your own TV-like channel, to know that there's more out there than a slow-jerky-low-res. picture to our future. Joe Plotkin, director of DSL marketing for Bwaynet, talks frequently about 'the "Imagination Bottleneck". He says we won't know what the next major broadband application is until we have the technology in hand to dream.

Will ADSL be America's "finest hour" and we no longer get to dream of a fiber-optic future? Has it all been one big lie? Congress should step in and find out exactly what happened... and where do we go from here to make America a first rate concern, allowing our entrepreneurial companies to dream and not be tied down by a monopoly, defending their 20th century, seventy-five-year old wiring.