UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT

The Irregulators, New Networks Institute, Bruce A. Kushnick, Mark N. Cooper, Tom Allibone, Kenneth Levy, Fred Goldstein, and Charles W. Sherwood, Jr.,
Petitioners

Case No. 19-1085

Petition for Review of Order by the Federal Communications Commission

v.

Federal Communications Commission and United States of America,
Respondents

AFFIDAVIT OF BRUCE ALLAN KUSHNICK IN SUPPORT OF STANDING

1. My name is Bruce Allan Kushnick. I am one of the named Petitioners in the above captioned proceeding.

2. The purpose of this Affidavit is to provide evidence of standing to pursue the matter. I will provide some of the basic facts particular to my individual circumstances, but also rely on the presentations contained in the Affidavits of Fred Goldstein and Mark Cooper to explain why the basic facts I present below demonstrate that I and the other Petitioners have each suffered (1) injury-in-fact (2) traceable to the Freeze Order (3) that could be redressed by an order from this Court holding unlawful, vacating, enjoining, and/or setting aside the Freeze Order and remanding the matter to the FCC for further consideration and action.

3. My address is 185 Marine Ave, Apt 4E, Brooklyn, New York.

4. The Incumbent Local Exchange Carrier serving my residence and area is Verizon New York, the state telecommunications public utility which my family (and I used) since 1951 through May, 2012 at this address. In 2012, this service was also used for dial-up internet, which also included my email service through a New York based Internet Service Provider, Bway.net, which I had been using since 1997.

5. From 1951 through 2012 the residence used AT&T for long distance service.

6. I currently receive the following communications services:

   A. I receive telephone exchange and exchange access service from Spectrum, sometimes called Charter Spectrum, which is a trade name of Charter Communications. The service relies on "packet cable." The local exchange part is provided though Charter Fiberlink CCO, LLC and/or Time Warner Cable Information Services (New York) LLC – NY, OCN 532D. These two companies are CLEC affiliates of Charter Spectrum.

   B. I obtain broadband service from Spectrum. This service is provided over hybrid fiber coaxial cable. Cable companies, like IXCs and CMRS providers, extensively use ILEC-provided Business Data Services and sometimes higher capacity fiber based services for "backhaul" and for other purposes.

C. I obtain commercial mobile radio service (also known as “mobile wireless” or “cellular”) from Tracfone, which is a “mobile virtual network operator” or “MVNO.” Tracfone resells the services of several facilities-based wireless carriers. The company does not typically make any representation in their advertising, web site or their collateral materials who is the actual carrier. I do know that my telephone number is associated with an OCN held by AT&T Mobility and my device usually advises that it is authenticated on AT&T Mobility’s network, so it appears that my Tracfone service comes from AT&T Mobility. As part of my Tracfone service package I also receive commercial mobile data service for Internet access and other data services such as texting (SMS, MMS). These services are also supplied via a resale arrangement with AT&T Mobility

7. I have been a telecom analyst for 37 years. In 1985, I was a senior telecom analyst with International Data Corp (IDC) NY office, now IDC/Link. I established New Networks Institute (NNI) as a market research and consulting firm focusing on the new fiber optic networks that were part of the original Information Superhighway plan in 1992. New Networks Institute today acts as the Managing Director of the IRREGULATORS. SEE APPENDIX A: VITA OF BRUCE KUSHNICK.

The IRREGULATORS is an independent consortium of senior telecom experts, analysts, forensic auditors, and lawyers who are former staffers from the FCC, state advocate and Attorneys General Office, as telecom auditors and consultants. Members of the group have been working together, in different configurations, since 1999.[1] SEE APPENDIX B: FILINGS & BIBLIOGRAPHY, NNI, IRREGULATORS 1985-2019. These two consortia are not incorporated. They employ a “brand” I own as a useful moniker for our collaborative efforts in search of rational telecommunications policy.

8. Detailing the Case and How I and the Rest of the Country were harmed.

Underlying this case is what we contend is one of the largest telecommunications accounting scandals in American history. Basic local consumers have been forced to fund carrier activities costing billions of dollars, but did not receive the corresponding benefits. The funds were spirited away through accounting tricks, including separations, and used for purposes other than provision of basic wireline telephone exchange and exchange access service. The principal beneficiaries were the telephone companies’ affiliates or their unregulated activities, for the most part wireless service, telephone toll service, information service and video. The freeze to separations has locked in “category relationships” for cost distribution between jurisdictions that do not resemble the way telephone company plant is used, with the result that the intrastate jurisdiction in general and the “Local” category in particular is forced to support a significantly higher proportion of common costs, including corporate expenses and loop costs, than should be the case under any reasonable method of attributing costs based on relative and actual use. The ultimate result is that regulated captive local wireline local customer revenues cross-subsidize other, more competitive activities and services and especially the telephone companies’ less-regulated affiliated or deregulated operations. We contend that the current frozen separations has directly led to unjust, unreasonable and discriminatory rates under 47 U.S.C. §§201 and 202 and a violation of the cross-subsidy prohibition in 47 U.S.C. §254(k).

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[1] IRREGULATORS Bios: http://irregulators.org/who-we-are/.

The problem is nationwide in scope, and affects virtually every basic local ratepayer, whether served by a price-cap carrier or a rate of return carrier.

We have repeatedly advised the FCC of this ongoing issue, in several different proceedings, including this one. Our comments and reply comments in the case below expressly pointed them out and provided reams of data and analyses. The FCC agreed with some of our facts and conclusions, but ultimately dismissed all of our concerns and rejected our requests for relief.

9. There are three basic manifestations of the problem.

A. "Frozen" separations assigns a far higher amount of general and corporate expense to intrastate and local than should be the case. The actual relationships have significantly changed, in that there are significantly fewer local loops dedicated to basic service than there were in 2000, but separations still uses the 2000 relationships to assign general and corporate costs. This directly causes a significant mis- and over-allocation of general and corporate expenses to the intrastate and local category.

B. Loop "loss" and "missing loops." Goldstein Affidavit Paragraph 5.G. correctly observes there are many fewer basic local lines in service than were there in 2000 but Local still bears the same proportion of common expenses. This misalignment requires local to bear far more common costs than is appropriate. It leads to higher basic local rates and a higher interstate end user common line ("EUCL") revenue requirement, which is also a rate paid by consumers. It also causes some ILECs' carrier common line ("CCL") rate element to be higher than it should be. When consumers make long-distance calls to certain areas their IXC pays an inflated CCL and this cost is ultimately borne by consumers of toll services. The misallocation also contributes to higher universal service passthroughs borne by local ratepayers throughout the country.

C. The carriers complain about "line loss" but they do not want to fix the separations consequences of this loss. Although they do often report local line reduced counts, they fail to acknowledge that many of these lines do not actually disappear, but are instead repurposed for things like interstate BDS. We have been able to show that the carriers are not complying with the separations requirement that access lines dedicated to BDS or other interstate services be assigned to the interstate jurisdiction. In 2006, NASUCA, the National Association of State Regulatory Utility Consumer Advocates, detailed that the FCC had not enforced this 'direct assignment' requirement, and that there were already large misallocation of expenses. The FCC never investigated these claims, even though NASUCA repeatedly advised of this problem through comments in 80-286 and related proceedings. In fact, in 2010, NASUCA claimed that the customer overcharging was $2-$6 billion, and that it had repeatedly attempted to get the FCC to deal with these issues to no avail.[2]

D. Affiliate and unregulated activities. Frozen separations also allow the ILECs to use monopoly revenue to support their unregulated or less-regulated affiliates and operations. Verizon the ILEC, for example, extensively supplies network services and

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[2] Comments of the National Association of State Utility Consumer Advocates and the New Jersey Division of Rate Counsel, Jurisdictional Separations and Referral to the Federal-State Joint Board, Docket 80-286, April 19th, 2010. http://www.nasuca.org/nwp/wp-content/uploads/2014/01/NASUCA-NJ-SeparationsComments-4-19-10-FINAL.pdf.

facilities to its wireless, IXC, information service and video operations and affiliates, but these operations do not contribute a fair and nondiscriminatory share of the ILEC's direct or common network and operations costs. This has twin effects: consumers pay higher basic rates and competitors that do not enjoy a familial tie to an incumbent suffer competitive disadvantages because they pay higher prices for similar network services and facilities. But even so, none of these services actually pay what they should. Interstate BDS is directly subsidized by intrastate basic local due to current frozen separations rules and outcomes.

10. I will now provide a slightly more detailed summary of these basic facts and issues. I emphasize that our comments in the proceeding below set out a far more detailed analysis, so the Commission is surely aware of the problem. Indeed, Freeze Order ¶43 <u>agrees</u> there is a problem when it states that the Commission "share[s] NARUC's and the Irregulators' concern that those rules necessarily misallocate network costs."

A. The "freeze." The FCC has 'frozen' the cost accounting rules so that all of the different services that use the state-based telecommunications infrastructure will pay the same percentage of expense they did in the year 2000 – 19 years ago. The FCC has extended the freeze 8 times now, and the action below extends it for another 6 years—through 2024.

B. The FCC claims, however, that this is proceeding is only about incumbent phone companies that use the 'rate-of-return' regulatory framework, and not the 'price cap' companies like AT&T, Verizon and CenturyLink, the US major telecommunications utilities. Appendix 1 to the FCC's decision,[3] however, amended separations regulations that still expressly apply to price cap carriers and, by extension to state commissions that regulate price cap carriers for intrastate services. The best example is the one quoted in full by the *Freeze Order* on page 22. But many others still do as well. A short and non-exhaustive list includes 47 C.F.R. §§36.3(b), 36.123(a)(5), 36.124(c), 36.125(h), 36.126(b)(6), 36.141(c) and 36.154(g).

C. The FCC claims that many companies received enforcement forbearance from these separation rules, starting in 2008. It is true that price cap carriers have all been granted forbearance for interstate purposes, but that is not the end of the story or a sufficient excuse. States are still bound for intrastate purposes and use intrastate separated data for several purposes, including rate-setting. One would also think that the FCC would analyze and check-in on how price cap carriers have fared since then. More important the Commission should have investigated whether end user customers – both interstate and interstate – actually benefited from forbearance.

D. It turns out they have not. The Commission has not examined even the more limited financial data it required as a condition of forbearance. FCC Chairman Ajit Pai, in an interview with Re/code, was asked about his "weed-whacking" of various rules that

[3] Report And Order And Waiver, Jurisdictional Separations and Referral to the Federal-State Joint Board, CC Docket No. 80-286, FCC 18-182, Released: December 17, 2018 ("Freeze Order").

"hold back investment."[4] Chairman Pai responded that "the FCC hadn't relied on any of that paperwork in years" and he asked his staff, "When was the last time you looked at these reports?" They said, "Pretty much never."[5]

11. Test case - Verizon NY Financial Information. The IRREGULATORS and New Networks Institute have spent almost a decade documenting what has occurred. Our "test case" involved the Verizon New York annual financial reports that are required by the NY Public Service Commission. These reports are all based on the FCC's cost accounting and separations rules. New York still uses – and must use – separations for intrastate purposes even though Verizon is a "price cap" company and received forbearance from the FCC's separations rules for interstate purposes. The Verizon New York 2017 Annual Report lays out, in vivid, clear, concise detail, the impact of the separations freeze.

A. The most recent is Verizon NY's 2017 Annual Report, published in June 2018.[6] The Verizon New York 2018 Annual Report is supposed to be published on May 23rd, 2019.

B. Our research and reports helped to start an investigation of Verizon NY in 2015 with Communications Workers of America and Public Utility Law Project, PULP. The case was settled in July 2018.[7]

C. The parties were allowed to conduct discovery in the New York proceeding. These materials exposed:

i) The Verizon NY annual report and all of the financials and expenses are based on the FCC cost accounting and separations rules, despite the fact that Verizon obtained forbearance from them for interstate purposes.[8]

ii) The same cost information is also used by the NY Public Service Commission to determine whether rates are reasonable.

iii) Everything from the tax payments and the company's reported intrastate losses, and past local telephone rate increases that were allowed were all based on the FCC's supposedly forborne cost accounting and separations rules.

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[4] The Irregulators do not oppose investment in modern plant; to the contrary. Our problem is that basic local service is allocated much of the cost of new investment as a result of frozen separations but local ratepayers receive very little of the benefit since the investment is largely used for purposes other than basic local service.

[5] Full transcript: FCC Chairman Ajit Pai on Recode Decode, Re/Code Staff, VOX, May 5th, 2017 https://www.vox.com/2017/5/5/15560150/transcript-fcc-chairman-ajit-pai-net-neutrality-merger-recode-decode.

[6] Verizon New York, Inc. Annual Report of Telephone Corporations for the period ending DECEMBER 31, 2017, State of New York Public Service Commission, Published , June 2018 http://irregulators.org/wp-content/uploads/2019/04/VerizonnyAnnualreport2017.pdf.

[7]Case 16-C-0122 –Proceeding on Motion Of The Commission To Consider The Adequacy Of Verizon New York Inc.'s Retail Service Quality Processes and Programs, New York PSC, July 12th, 2018, http://irregulators.org/wp-content/uploads/2018/07/settlementagreementjul17.pdf.

[8] Case 16-C-0122 – Proceeding on Motion of the Commission to Consider the Adequacy of Verizon York Inc.'s Retail Service Quality Processes and Programs, Verizon Response to CWA Discovery Request 3-5 (Oct. 12, 2016), http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7B4A90C732-0AD7-44FE-A49C-D7C65C9F8762%7D.

iv) Verizon New York is a $5 billion dollar state utility and Local Service generated $1.1 billion in revenues, around 21.6%.

v) In 2000, Verizon New York Local Service was 65% of the revenues and it paid 65% of the expenses. By 2017, Local Service, which is mostly driven by the "intrastate cost" associated with basic copper-based phone lines, was 22% of the revenues. But "Local" was still paying the majority of all of the expenses – including the construction budgets for all of the "interstate" services, such as the fiber optic wires for FiOS or the wires to the cell sites for Verizon Wireless. At the same time, these other services are not paying market prices or properly developed private line/special access/BDS prices. The Verizon wireless affiliate is currently paying a fraction of the costs they impose on the Verizon ILEC for the services they obtain.

vi) Verizon NY Local Service paid $1.8 billion (61%) of total $3 billion in Corporate Operations expense[9] in 2017, but it only had $1.1 billion in revenues. This over allocation due to accounting mismatches makes Local Service appear unprofitable. The separations freeze based on year 2000 relationships assigned 65% of Corporate operations to Local Service and that never changed. At the same time, Business Data Services and FiOS, received 80% of the revenues in 2017 but were artificially assigned a fraction of this expense.[10] The reason is that use radically changed after 2000 but the category relationships were frozen and could not be adjusted to track what was really going on.

vii) Local Service paid 65% of the Corporate Operations Expense in 2000 because it was 65% of the revenues; in 2017 Local contributed only 21.6% of revenues but was still paying 61% of this Corporate expense.

viii) Verizon Local Service was charged $1.2 billion in construction and Maintenance, (plant and Non-specific Plant) yet the record shows Verizon was spending less than $100 a year for its copper-based networks.

ix) "Interstate" services paid a fraction of the Corporate Operations expenses, and less than Local Service in construction and maintenance. Nonregulated and Access services were profitable.

x) In 2017, Verizon New York reported a total of $2.5 billion in total company losses. It claimed $2.9 billion in losses due to local service, so it apparently obtained $400 million in profits from some other endeavor. These losses allowed Verizon to claim a $943 million tax benefit.

D. Allowing the FCC to extend this freeze for 6 more years, based on actual financial data from a state-based telecommunications utility that has relied on these rules, leads to unjust and unreasonable rates for local customers. As the Goldstein Affidavit explains in Paragraph 5.G. there are many fewer local lines in service than were there in 2000 but Local still bears the same proportion of common expenses. Local rates are assigned

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[9] Corporate Operations includes the cost of lawyers, executive pay, lobbying, and corporate jets, among other things.

[10] SEE: "Local Service, $1.8 Billion for Corporate May 8th, 2019, Medium, https://bit.ly/2YxbwFR.

expenses that belong elsewhere (and in particular interstate BDS) with the result that noncompetitive intrastate Local is being forced to unfairly subsidize interstate services and BDS in particular.

12. Inquiry in other states would yield results similar to those from Verizon New York.

A. New York was useful since it still requires a full annual accounting report from Verizon. We are not so fortunate in some other jurisdictions, including interstate. The FCC erased the paper trail on 2007 by eliminating the publicly available Statistics of Common Carriers. This useful report had been continually published since 1939 but it is no longer available.

B. The Verizon NY results would almost certainly match up with the other states if they were to obtain and use the same type and granular level of data. We do know that the FCC's accounting rules used by all of the state utilities in 2007 based on the last publicly available data. The FCC's ARMIS report for that year showed:

AT&T, Verizon &CenturyLink Corporate Operations Expense, by State, 2007
Source:FCC ARMIS REPORTS

	Total	Local	Access	Local	Access
AT&T-Illinois Bell	$248,908	$193,626	$55,283	78%	22%
AT&T- Kansas	$55,097	$39,030	$16,067	71%	29%
AT&T-Ohio Bell	$180,067	$136,166	$43,901	76%	24%
AT&T-Pacific Bell - California	$743,215	$559,141	$184,074	75%	25%
AT&T-Tennessee	$110,541	$81,025	$29,515	73%	27%
AT&T-Texas	$484,584	$348,590	$135,994	72%	28%
Centurylink-Qwest-Colorado	$131,869	$97,716	$34,153	74%	26%
Centurylink-Qwest-Oregon	$58,678	$41,835	$16,842	71%	29%
Verizon-California GTE	$258,859	$203,080	$55,780	78%	22%
Verizon Florida LLC	$162,990	$122,508	$40,482	75%	25%
Verizon-Maryland	$239,740	$173,268	$66,472	72%	28%
Verizon- Massachusetts	$326,090	$216,948	$109,142	67%	33%
Verizon New Jersey	$425,805	$303,828	$121,977	71%	29%
Verizon New York Telephone	$1,092,744	$740,543	$352,201	68%	32%
Verizon Pennsylvania	$422,168	$303,753	$118,415	72%	28%
Verizon Washington D.C.	$67,115	$43,884	$23,231	65%	35%
Total Percentage				**72%**	**28%**

C. We were able to corroborate that other states would yield similar outcomes through open records or discovery requests in two other Verizon states.

i) In Massachusetts, Verizon MA responses to a discovery request showed that the basic percentages of revenues and expenses aligned with our figures from

New York, including Corporate Operations Expense allocations and claims that Verizon MA was incurring losses on the intrastate side for basic local service.[11]

ii) Verizon New Jersey claimed it was losing over ½ billion annually and attributed the losses to Local Service.[12]

D. The pattern is evident. Reported massive "losses" in the intrastate jurisdiction in general and "Local" in particular are driven from a huge over-allocation of costs that do not properly belong in the local category, or even in the intrastate jurisdiction. This over-allocation is directly caused from current separations results, and it all flows from the long-standing "freeze" and untoward affiliate relations between Verizon the ILEC and its Wireless, IXC and information service operations. Local pays, but others – and especially other less-regulated Verizon affiliated entities and operations – benefit.[13]

13. Although we have repeatedly complained about the problem, including in the proceeding below, the FCC has assiduously avoided any examination of the past, current and prospective impact frozen separations rules have on the intrastate jurisdictions.[14] If they get any information they apparently don't read it so they can then profess ignorance. But the consequences in terms of investments used for broadband and the cross-subsidies occurring between Verizon's local, wireless, toll and information service operations are stark and not truly subject to debate. This misfit between the allocation of expenses and the state financial books has infected everything – especially the state utilities that are using price cap regulations.

14. The Freeze Order contends in several places that separations is "irrelevant" to all price cap carriers and many rate of return carriers. But this contention is belied in ¶18, which notes, in pertinent part, that "[s]tates also use separations results to determine the amount of intrastate universal service support and to calculate regulatory fees, and some states perform rate-of-return ratemaking using intrastate costs." The Commission is wrong about irrelevance but correct in its ultimate admission separations is still important and used in several states for intrastate purposes.

15. The National Regulatory Research Institute (NRRI) recently issued "State Universal Service Funds 2018: Updating the Numbers April 17, 2019.[15] This report shows that some states require traditional cost-of-service or other separations-based information for ratemaking or as part of the state USF program. For example New Mexico, New York, Oklahoma, and Texas require carriers to submit financial data to show the amount of high cost funding they require. New York carriers eligible to receive funding from the New York State Universal Service Fund (SUSF) must first seek to meet their revenue requirements through increases in their basic

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[11] SUMMARY REPORT: Verizon Massachusetts & Boston: Investigate the Wireless-Wireline Bait-n-Switch, January 2017 https://ecfsapi.fcc.gov/file/1041707743056/VerizonMAreportjan17.pdf.

[12] New Networks Institute OPRA Request with the NJ Board of Public Utilities; Verizon New Jersey Order to Show Cause in Alleged Failure to Comply with Opportunity New Jersey Commitments Docket No. TO12020155 https://www.nj.gov/bpu/pdf/telecopdfs/KucshnickB%20OPRA.pdf.

[13] Ibid.

[14] "WARNING: 30+ FCC Actions in One Year to Slice & Dice States' Rights & Consumer Protections", September, 26, 2018, Medium https://medium.com/@kushnickbruce/warning-30-fcc-actions-in-one-year-to-slice-dice-states-rights-consumer-protections-6fefa5dfaa7a.

[15] State Universal Service Funds 2018: Updating the Numbers, National Regulatory Research Institute, April 17, 2019 http://nrri.org/download/nrri-19-02-state-universal-service-funds-2018-updating-the-numbers/.

residential rates to the $23 per line state benchmark. Once they meet this benchmark, eligible carriers may file a standard rate case to determine the need for supplemental relief from the SUSF. In New Mexico, support is sometimes based on a showing of a "need" for funds to provide universal service.[16]

16. FCC created this mess and is either intentionally or inadvertently hiding the outcome. The FCC is entirely responsible. The problem was created through a series of prior proceedings dealing with cost accounting and separations. Those orders and actions are not subject to collateral attack or reversal in this case. But the FCC was directly confronted with the issues below and could and should have acted to prevent further harm in its disposition below by not extending the freeze and proceeding to secure new separations category relationships that more sensibly track relative use and cost.

17. It is plain that the FCC's preference for "market" outcomes based on assumed competition that does not exist in sufficient quantity or scale to force rational pricing is a complete failure. Further, despite all the forbearance and alternate regulation the price cap carriers are still subject to the Title II just and reasonable standard and they are still bound by the §254(k) prohibition on cross-subsidization. The simple fact is that the current separations outcomes inexorably lead to direct violations of §§201, 202 and 254(k).

18. The "burden" of doing the cost accounting rules is a fiction. Verizon New York is required to file annual accounting reports based on cost allocation and separations rules with the NY Public Service Commission. They do complain, and often request an extension based on burden and available resources.[17] But the burden is not that great; it is simply that Verizon has chosen to assign only 3 people to prepare and file reports in the reporting team, plus a manager for "300 reports annually in NY and other states." Verizon put $1.8 billion of Corporate Operations expenses into Local Service and yet it complains about employing 4 staffers to do these and other reports in other states. The real burden, it appears, is on basic local consumers.

Separations impact every consumer, because the separations rules directly or indirectly drive intrastate and interstate rates and have a material impact on competition. The FCC refuses to fully appreciate that there are still state-based telecommunications utilities and that they have been improperly funding the unregulated services, interstate services and telco affiliates.

Here are just some of the ways I was harmed, but how New York state and all customers overwhelming harms, based on a decade of investigation and telco-supplied evidence.

19. Direct Harms

A. Beginning in at least 2005 I and every other Verizon NY local user was overcharged for intrastate and basic local service.

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[16] Ibid, pp. 33 (Table 5), 35.

[17] Verizon Letter to NY PSC, Matter 10-01709 — "In the Matter of Telecommunication Company Filings of Financial Reports for Verizon New York Inc." January 18th, 2019 http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={FC10A7DE-EB70-41F9-A631-10CFF274CE39}.

B. Starting in 2005, Verizon NY had multiple rate increases based on "massive deployment of fiber optics" and claimed "losses" from basic local service.[18]

C. Verizon New York's basic local service went up 84%. The rate increases were artificial and should never have been assigned to Local Service because the funds were used to support plant and services dedicated to other purposes and endeavors. But these were only the increases for basic service. All other services, including 'calling features' or 'inside wire maintenance' had increases of 50-525%.

D. Using actual phone bills, we found that customers with service from 2005-2017 paid over $2,760.00 extra due directly to the rate increases established in 2005.

E. In 2012, I asked: Why did my current basic service local phone bill go up by more than $62.00 a month through repeated rate increases? I had basic local phone service, with a package of 'add-on' calling features, which included Call Waiting, Call Forwarding and Touchtone Service. I also had a 'legacy' inside wire charge. As an industry expert I knew that the calling package only had an internal cost of a few pennies, since 2000, and the inside wire had little or no operating costs as it had been put in the 1920s, never changed, and was fully depreciated.

F. While it took through 2018 to unravel the answer to these and other questions through the Verizon NY Annual Reports, we now can directly track these harms. They were all attributable to the FCC cost accounting and separations rules that are still used in Verizon New York.

G. I was harmed because the price of local service should have been in steep decline and I could have kept the land line. The overcharging above is only for the extra charged added to the customer bill for basic service when the state issued price increases based on "losses" or "massive deployment of fiber optics.

H. I was harmed because the state tax assessments I had to pay would have been less and state and city services lost tax revenues for economic growth. Verizon New York reported $2.9 billion in loss, but due to profits in other areas Verizon New York was able to claim $2.5 billion in losses for tax purposes. Verizon New York reported losses of over $2 billion (with a few caveats) each of the last 10 years. Their artificial losses reduced their tax contributions, and this required all other state citizens to make up the difference.

I. I was harmed because the other 'taxes, fees, and surcharges' were all increased due to these losses and rate increases. One has only to examine an actual telecommunications bill to see a host of made up fees, or taxes and surcharges that are tied to the retail services purchased by the end user.

J. I was harmed because I pay Universal Service Fund passthroughs, and the monies go to carriers that still use separations. Thus even though I am in a "price cap" area I am forced to support rate of return carriers throughout the country.

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[18] "Verizon Granted Residential Rate Increase", Number 09054/09-C-0327NY Public Service Commission press release, 6/18/09, https://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/Web/B849A020314983A3852575D900530827/$File/pr09054.pdf.

K. I was harmed by the underlying 'Business Data Services' networks being inflated with profits but these services contributed a fraction of the 'common costs'. These inflated profits are a direct result of the miss-allocation of expenses caused by the FCC separations rules.

L. No competitive alternatives to Verizon. In 2012, the Verizon New York state-based utility local phone service stopped working. I and my family had used the same service since 1966. When I called Verizon customer service (using a pay phone), I was told that I should switch to FiOS, which had recently been installed in my building. When I asked if I could use my then-current Internet Service Provider, a small, independent ISP called Bway.net, I was told no: my only choice was Verizon Online. The so-called replacement of the existing state utility services blocked my ability to use Verizon's competitors for other services like Internet.

M. I was harmed because all cell service providers that are not Verizon pay more than Verizon for the same service. The financial reports discussed above show that Verizon's wireless affiliate pays a fraction of what Sprint does to use the same network services; moreover, the AT&T payments to Verizon New York also appeared to be questionable.[19] Verizon controls the majority of the critical infrastructure, and through cross-subsidies from basic local service it also manipulates and discriminates charges to its wireless affiliate *vis-a-vis* other wireless providers.

N. This is a national problem because these harms flow directly from the FCC accounting and separations rules. From Verizon New Jersey to AT&T California,[20] since 2004, Local rates have gone up by 120+%, largely based on claims of "losses" (calculated using separated costs).

20. **The next generation of the telco strategy - 5G Vaporware.** "5G" is the newest iteration of the telcos' continuing strategy to fleece local ratepayers and obtain undue competitive advantage. Verizon and all the other telcos, including price cap and rate of return carriers, intend to continue and accelerate "investment" in fiber and other high-bandwidth transmission that it will charge to Local but use for something else. This time it is "5G." Small cell 5G will use the same fiber networks that are currently used mostly for unregulated endeavors like FiOS,[21] but even more will be required because the "small cell" architecture requires more transceivers that must have broadband for backhaul. The cycle will repeat and the harms will compound if the freeze continues because the costs Verizon incurs to support its wireless operations will be mostly allocated to "local" under separations rules. Local will be artificially burdened with even more costs, and the accounting will show even higher losses even though local would in fact turn a profit if proper allocations were employed.

[19] "It's All Interconnected" published by Public Utility Law Project, PULP, 2014.

[20] "Californians Paid Billions Extra: The State Assembly Should Investigate AT&T's Cross-Subsidies", Huffington Post, August 23, 2017, https://www.huffpost.com/entry/californians-paid-billions-extra-the-state-assembly_b_599d26bee4b0b87d38cbe637.

[21] "Part 2: Verizon Wireless Bait & Switch: What Verizon Tells Investors But Has Been Hiding from the Public", October 3rd, 2018, Medium, https://medium.com/@kushnickbruce/part-2-verizon-wireless-bait-switch-what-verizon-tells-investors-but-has-been-hiding-from-the-ba4e25139ade.

21. **End the harm and prevent even more harm.** If these cross-subsidies are ended intrastate and local rates would no longer be required to subsidize other services. Local rates could be reduced, costs would better align with the services that incur those costs, and society would benefit because incentives, risks and returns would begin to match. The only way to do that is by ending the freeze. If the freeze is not ended then local ratepayers will continue to be burdened far beyond what is appropriate and the burden will be even further increased due to new costs to support 5G that will be inappropriately charged to local.

22. This concludes my Affidavit, but as noted above I am also relying on the Affidavits of Mark N. Cooper and Fred Goldstein for the purpose of explaining why the particular facts described above demonstrate standing.

Bruce Allan Kushnick

SUBSCRIBED AND SWORN TO BEFORE ME this 20th day of May, 2019, to certify which, witness my hand and official seal.

MICHAEL SENZ
Notary Public - State of New York
No. 01SE6114952
Qualified in New York County
My Comm. Expires Aug. 30, 2020

[Seal]

Notary Public in and for New York State, County of New York

APPENDIX A

Bruce A. Kushnick, New Networks Institute

VITA

- **Education:**

Mannes School of Music, with Dan Marek, 1979-1980

Harvard University, Graduate School of Psychology, 1977-1978

Massachusetts Institute of Technology, Special Graduate Student in Interdisciplinary Sciences, 1977-1978, (Part of the Division for the Study and Research in Education, now part of the Media Lab.) Worked with Marvin Minsky, MIT AI Labs creating music with artificial intelligence

Master Class in Musical Theatre, (under Lehman Engel) Broadcast Music Inc. (BMI) 1976-1980

School of Contemporary Music 1976-1977

Harvard University Summer School, 1975-1976

Boston Architectural Center, 1975, 1976

Boston University, 1975, Special Graduate Class, School of Music Education

Sergeant School of Nursing, Boston U, 1975

Massachusetts Institute of Technology, 1975, Linguistics & Music Seminars, with Noam Chomsky and Leonard Bernstein.

Brandeis University 1973-1976, Bachelor of Arts, Magna Cum Laude, (Music Composition, Minor in Psychoacoustics.)

Massachusetts Institute of Technology, Research Laboratories in Electronics, (RLE) 1971-1973. Attended classes on acoustics with Amar Bose

Berklee College of Music, 1971-1972

University of Massachusetts, Computer Programming, 1971

Boston Experimental Electronic Projects ,1971

Brooklyn Academy of Music, 1971

Staten Island Community College, 1970-1971

Brooklyn Technical High School, 1966-1970

- **Experience**

Executive Director, Founder, New Networks Institute (NNI), 1992-

Managing Director, IRREGULATORS, 2015-

Chairman, Founding Member, Teletruth 2002-2014 (Dormant)

President, Co-founder, Strategic Telemedia, 1986-1993

Senior Telecom Analyst, Link Resources, a Division of IDC, 1985-1987

Founding member, The Audiotext Group, (now Kelsey/BIA), 1986-1992

Independent Telecom Analyst, National TeleVoice, (NTV) 1982-1986

Recording Artist, CBS/John Hammond Music, 1981-1982

- **Columnist, Broadband & Telecommunication Expert**

Medium, 2018-

Huffington Post, blogger, 2012 -2018

Harvard Nieman Foundation for Journalism's Watchdog Project, 2006-2012

Alternet, with David Rosen, 2010-2014

- **New Networks Institute (NNI)**

New Networks Institute was founded in 1992 to examine how the break-up of AT&T and the creation of the Regional Bell Operating Companies (now AT&T, Verizon, and CenturyLink), impacted America's communications and customers. NNI published a series of books and reports on various related topics. A bibliography is available at http://www.newnetworks.com/biblio.html

- **IRREGULATORS**

Established in 2015. IRREGULATORS is an independent consortium of telecommunications analysts, experts, forensic auditors and lawyers, some of whom held senior positions at the FCC, Consumer advocate and state Attorney General Offices. The IRREGULATORS gather information, present studies and participate in state and federal regulatory proceedings to expand user knowledge and advance consumer interests.

IRREGULATOR Team: http://irregulators.org/who-we-are/

- **Teletruth & New Networks Primary Activities, 2002-2009**

Founded in 2002, Teletruth has been an independent, advocacy group, and working with New Networks, has filed state and federal comments and complaints with the FCC, IRS, SEC, helped to develop class action suits, made Data Quality Act filings at the FCC and performed hundreds of phone audits, recovering millions of dollars for small businesses and consumers.

Class Action suit settlement against Verizon, NJ for inoperative circuits, based on phone data collected through Teletruth audits. October 2006

In 2004 and 2008, Teletruth received grants from the California Consumer Protection Fund to work with UCAN, to study phone, broadband, Internet, wireless charges.

Member, FCC Consumer Advisory Committee (2003-2004).

Class Action suit settlement against Verizon, NJ for missing small business discounts, based on phone data collected through Teletruth audits. July 2004

Proposed Congressional bill — "The Broadband Bill of Rights". 2001-2002 (with Congressmen Nadler)

Created Roundtable for Small Telecom Businesses with Small Business Administration's Office of Advocacy, 2002

Filed the first Data Quality Act complaints with the FCC over phone bill charges, broadband, small business competition, wireless spectrum issues 1994-2010.

- **Books and Major Reports**

New Report Series: "The Digital Divide by Design" 2018-

New Report Series: "Fixing Telecommunications" 2015-2018

$400 Billion Broadband Scandal & Free the Net, 2015

$200 Billion Broadband Scandal, 2005

Dirty, Little, Secret Lives of Phone Bills, 2003

Regional Bell (RBOC) Revenues, Expenditures and Profits, 2002

Bell Executive Compensation, 2002

Bell Write-offs and Foreign Investment Losses 2002

The Unauthorized Bio of the Baby Bells & Info-Scandal, 1998

Inter-NOT: Online Statistics Reality Check, November 1996

Inter-NOT: The Terrible Twos: Online Industry's Learning Curve, February 1997.

Telephone Bill Databases, California, 2004, 2008 — Wireless, Wireline, Broadband, Internet.

- **With Probe Research**

"10 Years Since Divestiture: The Future of the Information Age.", consists of 14 volumes, with two computerized databases. 1,900 pages, 875 exhibits. Highlights:

The Information Super-Highway: Get A Grip, 1995

Regional Bell Earnings, Expenditures & Profits, 1994

Telephone Charges in America, 1980-1993, two volumes, computer database

Consumer Attitudes Toward Telephone & Cable Services, two volumes, 1993

New Network Services, 500, 600 and *100, published 1992

- **Computer Databases: (Computer Programmer, Designer)**

Telephone Charges in America, 1980-1992 — All charges, All states.

Consumer Attitudes Toward Telephone & Cable Services, 1000 Consumer Interviews, with Fairfield Research, 1993

Telecom Turf Wars, 1995, 1000 Consumer Interviews, with Fairfield Research.

- **NNI's Research Reports were Marketed by:**

Probe Research, Inc. 1992-1996

Fairfield Research, Inc. 1994-1995

Phillips Business Information, Inc. 1994-1996

- **President, Strategic Telemedia, 1988-1993**

As President of Strategic Telemedia, 1985-1992, (originally National TeleVoice) the primary consulting activities included strategic planning, competitive analysis, and new business opportunities using interactive telecommunications. Selected clients: American Express, AT&T, Citibank, Consumer Union, Donnelly Directory, Nippon, MCI, Ogilvy & Mather, Pacific Bell, BellSouth, Sprint, Weather Channel, Westwood One (NBC and Mutual Radio). Specific projects included:

> Acted as principal consultant and creator in the rollout of the first “NII”, 3-digit number service, “511” (like “311”) in America, with Cox Newspapers, 1992.
>
> Acted as principal consultant to Sprint to create a new division for Telemedia services, including competitive and strategic analysis, product planning and implementation, sales and marketing. 1988-1991 (Estimated revenues were $250 million in 1990.).
>
> Worked with The Weather Channel to implement a series of telephone related services, including 800 and 900 Weather. 900-WEATHER, Recipient of the Golden Phone Award, 1992. Work included product planning, media roll out, selection of vendors, down side risk analysis and co-marketing opportunities. 1991-1992.
>
> Worked with American Express, Checks Division, to develop other lines of business in telecommunications related areas. Project included the exploration of new service offerings, including a telephone calling card, as well as creating an independent telecommunications network. 1990-1991.
>
> Helped create a division for Audiotex and Telemedia services for Westwood One’s NBC and Mutual Radio Networks, including vendor selections, financial and program planning, including the creation of a premier telephone sports program. Campaign assistance included Burger King, Levi’s Jeans, Yoko Ono.
>
> Worked with Donnelly Directory in the analysis of technology and marketing for the first national Talking Yellow Pages service, 1986.

- **As President of Strategic Telemedia, Co-authored first Published Reports on:**

Automatic Number Identification, (Caller ID) 1986-92

“700, 800, 900: The Intelligent Networks”, 1987-1992

Telephone as Media: Telemedia, 1987-91

Automated Service Bureau & Telemarketing Service Agencies -1991

- **Strategic Telemedia’s Research Reports were Marketed by:**

The Audiotex Group, 1988-1992

Jupiter Communications, 1987-1990

- **Other Business Activities:**

Invented a ‘500’ Caller Paid network, using the 500 Area Code, 1990. (Rolled out by AT&T.) Example: 500 555-1212.

Telecom Director for “Prime Time to End Hunger”, part of Bush Administration’s “1,000 Points of Light”, 1990.

Created first industry forums for Billing Services involving all RBOCs and IXCs, 1989-90

Founding member of the National Association of Information Services, NAIS (1990) renamed, “Interactive Services Association”, (ISA)

Created “Continuous Information Service” for Link Resources 1986-1987

Created first report about emerging voice technology markets. Link Resources, 1985-86

Founding member, The Audiotex Group, 1986, now “The Kelsey Group/BIA”

- **Coined the Terms:**

“Telemedia”, “Interactive Voice”, “Intelligent 800”, “500 Caller-Paid”

Predicted or Influenced:

> Predicted companies would incorporate voice technology and add ‘press one of this, press two for that” as their phone interface, 1981
>
> Predicted the addition of new technologies to the networks, combined with the divestiture of AT&T, would create an explosion of new networks, as well as new applications, from online services to intelligent 800 services, 1982.
>
> Predicted Caller ID, Calling features and voicemail would become important phone services and new revenues for the phone companies, 1985
>
> Sprint used NNI’s data to create the Candice Bergen add “Do you know what you’re paying for long distance per minute?” 1992
>
> Predicted flat rate pricing for residential long distance, 1990.
>
> Predicted 900 services would rise… and then fall, 1986…1990
>
> Predicted the Bells would never deploy advanced networks as promised, 1992

- **Press Interviews, 1987-2014, includes the following:**

Featured in the Emmy-nominated “Bill Moyers In America”, “The Net at Risk”, 2006 Featured in Pulitzer Prize winder David Cay Johnston, “The Fine Print”, 2012

New York Times, Business Week, Wall Street Journal, USA Today, Forbes, Washington Post, Chicago Tribune, L.A. Times, Advertising Age, DM News, CNN, Baltimore Sun, Interactive Age, Interactive Week, CNBC, Bloomberg, Inside Washington, Washington Times, Communications Week, Ad Week, Network World, Telecommunications Mag, Outlook on AT&T, Boston Globe, Communications. Daily, Associated Press, Newsbytes, Telephone Week, Philadelphia Inquirer, ISP Planet, Broadband Reports, Computerworld, ABC News-New York, Fox News-New York, Miami Herald, PhillyNews, the Bergen Record, Ars Technica, Forbes, among others.

- **Other Activities:**

“Touchtone”, optioned by, Warner Brothers, Wolper Productions., 1995-1999

“Touchtone” a novel, 1994

“Destiny”, a novel, 1993

“Kushnick at Carnegie”, Original compositions, Weil Recital Hall at Carnegie Hall, 1990

Recording Artist, with No Laughing, CBS/John Hammond Music, 1982

Opera “Ephiphanies” with Richard Kostelanetz, 1982

“Bruce Kushnick, A Retrospective”, Carnegie Recital Hall, original compositions, 1980, accompanied by Robert Koff, founding member, Julliard Sting Quartet.

- **Highlights of Speaking Engagements and Events, 1989-93**

Asian Direct Marketing Symposium 93, Keynote Speaker, Telemedia, (May, 1993)- Hong Kong

Infotext 93, The Creation of Area Codes *100, 500, and 600, and 3-Digit Dialing (January, 1993)

Press Conference, National Press Bldg. 10 Years Since Divestiture: The Future of the Info Age, (July, 1992)

Audiotex in Scandinavia, 92 Automated Services & Telephone Networks in US, (March, 1992)-Copenhagen

Infotext 92, Buying and Selling an Information Service, (January, 1992)

National Database Conference, Databases and New Telecommunications Options, (December, 1991)

American Telemarketing Association, Using New Telecom Options, Annual Conference, (October, 1991)

World Telemedia, Keynote Address, The Growth of Telemedia, (October 1991)-London

Direct Marketing Association, Database Marketing and Telecom Options., (February, 1991)

Telemedia 90, Tutorial Overview on 800 and 900 Service, (November, 1990)

Information Industry Liaison Committee, Automatic Number Identification Applications, (October, 1990)

Intertainment, Growth of 900 and 800 for Entertainment, (October, 1990)

Retrospective At Carnegie Recital Hall, The Music of Bruce Kushnick, (October, 1990)

Society of Telecom. Consultants, Automatic Number Identification Applications, (May, 1990)

Voice 90, The Telemedia Perspective, (March 1990)

Telecom Publishing , Audiotex Potential, Keynote Address, (February, 1990)

- **Strategic Telemedia Industry Forums**

Forum I First Industry Forum for Long Distance cos. on issues of 900, September, 1989

Forum II Brought together the Long distance carriers and the Regional Bells (RBOC) to discuss Billing and Collections for 900 and enhanced services, March, 1990

Forum III Long Distance co. and RBOCs meet Public Utility Commissioners, June 1990

APPENDIX B

Research, Analysis & Data; State & FCC Filings

- Partial list: 2014-2018
- Reports, Research, Data and Legal & Regulatory Actions, 1998-2015
- FCC Filings and Complaints, 1999-2013
- Data Quality Act Filings, 1994-2011

Reports, research, legal and regulatory Actions, 1985-1999

- The Future of the Information Age, with Probe Research, 1992-1999
- Seminal Research Reports of the Interactive Age, with International Data Corp (IDC)-Link Resources and Strategic Telemedia, 1985-1993

New Networks Institute & the IRREGULATORS filed in over 35 separate FCC proceedings and created "Fixing Telecom" series and the Digital Divide by Design series.

FILINGS RELATED to Docket 80-286 & the Big Freeze

- FILING: Comments filed in "The Big Freeze" Docket 80-286 and FCC 18-99 - FURTHER NOTICE OF PROPOSED RULEMAKING
- FILED WITH COMMENTS: REPORT 1: Did AT&T, Verizon, CenturyLink & the FCC Intentionally Create the Digital Divide?
- FILED AS REPLY COMMENTS: REPORT 2: Verizon New York 2017 Annual Report: An Analysis of Cross-Subsidies and Customer Overcharging DESCRIPTION: This report, based on the Annual Report shows that there is a utility and that it is hemorrhaging money because of the FCC.
- FILED AS COMMENTS: REPORT 3: Bell Access Line Accounting Manipulation 1984-2018 Description: Verizon, AT&T, CenturyLink, and their association, USTelecom, with the help of the FCC, have manipulated the basic accounting of access lines, and have removed or hidden 80% of all lines, including all Business Data Services, (special access) DSL, competitor lines, FiOS, U-Verse, all of the wires to the cell sites or WiFi hot spots, alarm circuits, and this has been done to reinforce a claim that the utility networks are unprofitable.
- **Report:** Solving Net Neutrality: We Found a Fatal Structural Flaw in Every FCC Proceeding", February 26th, 2018

Partial List of the Proceedings We Filed In:

- ***Net Neutrality Internet Order*** *–Restoring Internet Freedom WC 17-108*
- ***Section 706*** *—Inquiry Concerning Deployment of Advanced Telecom Capability to All Americans in a Reasonable and Timely Fashion, GN 17-199*
- ***Shut off the Copper Proceedings*** *—Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking – WC Docket No. 17-84*
    - *Technology Transitions, GN Docket No. 13-5;*

- *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353*

- ***Wireless Replacement of Wired Services*** Wireless Infrastructure NPRM Notice of Proposed Rulemaking–*WT Docket Nos. 17-79 and 15-180*
- ***FCC Cost Accounting Rules*** *Review of Part 32 Uniform System of Accounts Docket 14-130*
  - *Jurisdictional Separations and Referral to the Federal-State Joint Board CC Docket No. 80-286*
- ***Business Data Services (Special Access) –in*** *Internet Protocol Environment, Docket No.16-143;*
  - *Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25;*
  - *AT&T Petition for Rulemaking to Reform Regulation of ILEC Rates for Interstate Special Access Services, RM-10593.*
  - *Investigation of Certain Price Cap Local Exchange Carrier Business Data Service Tariff Pricing Plans Environment WC Docket No. 15-247*

The Details

Shut off the Copper Proceeding Filings

- *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking – WC Docket No. 17-84*
- *Technology Transitions, GN Docket No. 13-5;*
- *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353*
- *Also filed in FCC WTB 17-79, GN 17-83, GN 13-5, WC 12-353, CC 80-286*
  - Reply Comment 1 were filed on July 18th, 2017
  - Appendix, The Book of Broken Promises
  - Report 8: Full Report: Verizon New York 2016 Annual Report Analyzed.
  - Report 5: The Hartman Memorandum proves that the FCC's own cost allocation rules created massive financial cross subsidies between and among the state-based wired utilities, and the companies' other lines of business, such as special access, or the wireless service.
  - Report 6:The History & Rules of Setting Phone Rates in America —The FCC's 'Big Freeze' details that the FCC has set basic cost accounting expenses to based on the year 2000 and the FCC has never audited or investigated the impacts for 18 years.

Internet Order

- **The Book of Broken Promises: $400 Billion Broadband Scandal and Free the Net** is an encyclopedic collection of state-based Fiber optic deployments. It has been filing in multiple FCC proceedings in 2017, including *Restoring Internet Freedom WC 17-108*

Internet Order: Verizon's Use of Title II vs FCC of Title II's Harms

- **NNI have filed a Petition for the FCC to investigate** whether Verizon has committed perjury as Verizon has failed to disclose to the FCC, courts or public that their entire financial investments are based on Title II; filed Jan 13th, 2015.
- **Verizon has responded with a letter** denying our claims, filed, Jan 20th, 2015
- **New Networks Institute & Teletruth Response to Verizon**, Feb 23rd, 2015
- **Verizon: Show Us the Money PART I: Verizon's FiOS, Fiber Optic Investments, and Title I. –** Part 1: supplement original Petition for Investigation.
- Letter to the FCC, Comments: Open Internet proceeding. RE: Verizon's Fiber Optic Networks are "Title II" — here's What the FCC Should Do. DOCKET: Open Internet Proceeding, (GN No.14-28)
- Comments First: FCC Open Internet Proceeding **"Title Shopping: Solving Net Neutrality Requires Investigations" , July 14th, 2014**
- Comment Second: Verizon's FiOS Fiber to the Premise (FTTP) Networks are Already Title II in Massachusetts, Maryland, Florida, New Jersey, District of Columbia, Pennsylvania, New York

Section 706 and Related Filings

- Comment1, Comment 2 *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, Section 706 Inquiry GN 17-199*
- **NNI: 20 Years of Section 706 and related inquiry filings—**New Networks and our previous iteration, Teletruth and current affiliate IRREGULATORS have filed over 20 times over the last 20 years in Section 706
- http://newnetworks.com/20yearssection706/
- **Part II: Facts Missing from the FCC's Section 706 Broadband Reports**
- **NNI First Section 706 Inquiry**, 1998.

Business Data Services: Consumer Federation of America (CFA) New Networks Institute (NNI) Filings

- *Business Data Services in Internet Protocol Environment*, Docket No.16-143;
- *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25;
- *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593.
- *Investigation of Certain Price Cap Local Exchange Carrier Business Data Service Tariff Pricing Plans Environment WC Docket No. 15-247*

  - Hartman Memorandum letter describing the FCC's distorted cost accounting rules and the harms of the unexamined cross-subsidies. November 4, 2015
  - Report 5: The Hartman Memorandum
  - Report 6:The History & Rules of Setting Phone Rates in America

Joint Press Release: Consumer Federation of America and NNI

- The Manipulation of the Financial Accounting & Special Access

- Fact Sheet Highlights

"BUSINESS DATA SERVICE MARKET PLAGUED BY ILLEGAL COST ALLOCATIONS, OVERCHARGES AND EXCESS PROFITS. Consumer Federation of America and New Networks data show deeply anti-competitive, anti-consumer practices.

- Joint Comments Filed On June 28th, 2016 New Networks Institute and Consumer Federation filed Joint Comments in the FCC's Business Data Services Proceeding
- Consumer Federation Ex Parte Meeting with the FCC, September 12th 2016
- Reply Comments Filed, August 5th, 2016

REPORTS: Fixing Telecom Series

In December, 2015, we released the first two reports in a new series, "Fixing Telecom" a project that started seven years ago. They are based on mostly public, but unexamined, information, the findings impacts all wireline and wireless phone, broadband, Internet and even cable TV/video services in America.

REPORTS:

- Report 1: Executive Summary: Verizon's Manipulated Financial Accounting & the FCC's Big "Freeze"
- Report 2: Full Data Report
- Report 3: SPECIAL REPORT How Municipalities and the States can Fund Fiber Optic Wireline and Wireless Broadband Networks.
- REPORT 4: Data Report Proving Verizon's Wireline Networks Diverted Capex for Wireless Deployments Instead of Wiring Municipalities, and Charged Local Phone Customers for It.
- Report 5: The Hartman Memorandum proves that the FCC's own cost allocation rules created massive financial cross subsidies between and among the state-based wired utilities, and the companies' other lines of business, such as special access, or the wireless service.
- Report 6:The History & Rules of Setting Phone Rates in America —The FCC's 'Big Freeze' details that the FCC has set basic cost accounting expenses to based on the year 2000 and the FCC has never audited or investigated the impacts for 18 years.
- Report 7: SUMMARY REPORT: Verizon Massachusetts & Boston: Investigate the Wireless-Wireline Bait-n-Switch, January 17th, 2017
- Report 8: Full Report: Verizon NY 2016 Annual Report Analyzed, June 2017.

FILINGS:

- Letter to the FCC for an Investigation of Cross Subsidies as detailed in the Hartman Memorandum

On December 16th, 2015, we filed the first reports in 31 separate FCC proceedings.

- FCC Filings: Cover Letter, December 16th, 2015
- FCC List of Proceedings

FCC Comments: Joint Board & FCC Cost Accounting Rules.

We filed comments and refreshed the record in CC 80-186, WC 14-139, CC 80-286, CC 96-45, CC 97-21, WC 05-25, WC 10-90, WC 12-353, GN 13-5, GN 15-191, WC RM-11358

On May 24th, 2017 the IRREGULATORS filed comments with the FCC and the Federal-State Joint Board. They asked:

- Re: Federal-State Joint Board on Jurisdictional Separations Seeks to Refresh Record on Issues Related to Jurisdictional Separations, FCC 17J-1
- Re: Federal-State Joint Board on Separations Seeks Comment on Referral for Recommendations of Rule Changes to Part 36 as a Result of Commission Revisions to Part 32 Accounting Rules, FCC 17J-2

- **On May 15th, 2017** the FCC denied our call for audits of the FCC's accounting rules and granted itself an extension, even though the FCC froze the way expenses were assigned to the different lines of business — but always having 'local service pay the majority of costs.
- **On April 17th, 2017,** the IRREGULATORS filed comments with the FCC calling for the Agency to do audits and investigations of the FCC's "Big Freeze". The FCC's accounting rules were 'frozen' 16 years ago and they have created massive financial cross-subsidies, making local phone customers pay the majority of expenses for all services, from wireless to Broadband Data Services (BDS).

This is important because it documents that the FCC can not create new public policies without accurate financial data,

"We refresh this record, again, with 'Fixing Telecom', a report series done as an independent voice, without corporate or political financing, because sometimes the Public should come first."

- Report 5: The Hartman Memorandum
- Report 6:The History & Rules of Setting Phone Rates in America— The FCC's 'Big Freeze' & Cross Subsidies
- Report1: Executive Summary: Verizon's Manipulated Financial Accounting & the FCC's Big "Freeze"
- Report 2: Full Data Report
- Report 3: SPECIAL REPORT: How Municipalities and the States can Fund Fiber Optic Wireline and Wireless Broadband Networks.
- REPORT 4: Data Report Proving Verizon's Wireline Networks Diverted Capex for Wireless Deployments Instead of Wiring Municipalities, and Charged Local Phone Customers for It.

FILINGS:

- Letter to the FCC for an Investigation of Cross Subsidies as detailed in the Hartman Memorandum
- FCC Filings: Cover Letter. On December 16th, 2015, we filed the first reports in 31 separate FCC proceedings
- List of Proceedings: FCC List of FCC Proceedings in which reports were filed
- Joint Filings with Consumer Federation of America in the Special Access, (Business Data Services) proceeding

IRREGULATORS' RESEARCH & ANALYSIS USED IN INVESTIGATION AND SETTLEMENT VERIZON NY, Filed August 8th, 2017

- **COMMENT 1:** Overview and bibliography
- **COMMENT 2:** : Verizon NY in Multi-Billion Dollar Settlement Tangle, Underway in NY State. (Originally published in Huffington Post as summary).
- **COMMENT 3:** **Full Report:** Follow the Money: Verizon NY 2016 Annual Report Financial Analysis and Implications

Verizon State Based Reports and Analysis

- **2012**"Verizon's State-Based Financial Issues & Tax Losses: The Destruction of America's Telecommunications Utilities" where we called for an investigation of Verizon's financials and the cross-subsidies of its affiliate companies.
- **2013**Verizon Wireless and the Other Verizon Affiliate Companies Are Harming Verizon New York's (The State-based Utility) Customers & the State.
- **2013**Investigation of Verizon Wireline and Wireless Companies Business Relations by the New York State Commission — COMMENTS filed by Common Cause–NY, Consumer Union, CWA and the Fire Island Association Call for a Data from New Networks research reports.
- **2014**"It's All Interconnected" published by Public Utility Law Project, PULP, with David Bergmann, Esq.
- **Full Report:** Follow the Money: Verizon NY 2016 Annual Report Financial Analysis and Implications
- Note: Current Investigation of Verizon New York's business practices.