
Chapter 27 Liberty, Bell, Stolen. Pennsylvania's Fiber Optic Scam and the Muni Future.

The state song:

Tyranny decried,
'Til the bell of independence
filled the countryside.

Chorus:

Pennsylvania, Pennsylvania,
May your future be,
filled with honor everlasting
as your history.

You would think that in the Commonwealth where the Declaration of Independence was signed, the state regulators/fathers would be against tyranny of a monopoly trying to snooker, unfairly tax and harm its citizens.

Instead of the Liberty Bell ringing in the Keystone state, we now hear the sound of the Liberty-Bell-disconnect and the Bell, in this case, is Verizon.

And yet, out of the ashes of injustice there is a shining glimmer of municipality hope. The City of Philadelphia may have a telecom torch burning, while the rest of the state should simmer with discontent.

This last case study of Volume One ends with a tawdry tale of one of the most blatant failed fiber optic deployments. But it is also the tale of the City of Philadelphia, who fought off Bell-backed state legislation that blocks all other Pennsylvania municipalities from offering competing broadband, Internet, phone and Wifi services, (with some caveats). Ironically, this law and others erased many of Verizon's commitments for true, 45 Mbps broadband, even though it was the phone company who didn't deliver. And while some of the state's Public Utility Commissioners stood up to Verizon for their promised commitments, they were outvoted and the commitments watered down.

Besides leading us into the Municipality wiring and Wifing issues, which we will pick up again in Volume II, we have a lot of data about how badly Verizon screwed the state's customers.

We've written extensively about Pennsylvania's bait-and-switch. At the end of 2003, we estimated customers paid \$1135 per household — a total of \$3.9 billion. That number is low.

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

However, we'll rely on other analysts who have also investigated the fiber optic deployment issue.

The Promise: Fiber at 45 Mbps

It is one of the clearest cases of fiber optic fraud, bilking the public of over \$4 billion, with the help of a paid-off legislature, questionable acts by the Public Utility Commission, and the clearest state laws about the commitments and timelines.

But the real harm isn't simply the money. The state simply collapsed at defending the public interest. America would have been Number One in broadband had this state and others simply held the phone companies accountable. If the Bell companies are to be believed, this broadband would have grown the US economy \$500 billion annually, with Pennsylvania receiving its portion of the benefits. Instead, it is a case of unchecked market power, fraud and collusion that has gone unpunished. And we are 16th in the world in broadband because of it.

The Commitments

In 1994, Verizon Pennsylvania (then Pennsylvania Bell a subsidiary of Bell Atlantic) was granted the deregulation of state laws that essentially gave the Bell company financial incentives to rewire the state with fiber optics for broadband services.⁴¹⁵

"In view of Bell's *commitment to providing 45 Mbps* for digital video transmission both upstream and downstream, we look forward to Bell's providing this two-way digital video transmission at 45 Mbps."

"Verizon PA has committed to making 20% of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by end of year 1998; **50% by 2004**; and 100% by 2015."

"In order to meet this commitment, Bell plans to deploy a broadband network using *fiber optic* or other comparable technology that is capable of supporting services requiring bandwidth of at least 45 megabits per second or its equivalent."

"It is apparent that *DSL, as it currently exists today, (March 2002), is unable to provide the broadband availability of 45 Mbps both upstream* and downstream that the Company voluntarily committed to and the Commission approved in 1995."

What is being promised is the replacement of the older copper wiring with a new, fiber optic service that had speeds of 45 Mbps in both directions. This is 50-100 times the current ADSL service, which goes over the 100-year-old copper wiring and is a mostly one-way product. The agreement also requires Verizon-PA to wire rural, suburban, as well as urban areas — 20% by 1998, 50% by 2004. And this service is fiber optics directly into the home and office, not somewhere in the network. Today, there are no homes with this wiring or that delivers the speed.

And you would think that these were 'rock-hard commitments'. On March 28, 2002, the Pennsylvania Public Utility Commission rejected Verizon Pennsylvania's compliance with the state alternative regulation plan, stating that the Bell company had not satisfied its legal obligations to supply broadband services at 45 Mbps.⁴¹⁶

"this Commission has a legal obligation to reject Verizon PA's 2000 Update and require it to submit a new update specifying its plans to satisfy its legal obligation to provide a modernized network with broadband capability of at least 45 Mbps upstream and downstream, to be available within five days from the customer request date."

Let me restate this with another quote. The Commission made it clear that the networks were to be fiber optic-based and could do speeds of 45 Mbps in both directions. More importantly, it

wasn't some wire in the middle of the network but a direct link to customers' homes, offices or schools.⁴¹⁷

"When the Commission accepted Bell's proposal, *that proposal became binding on the Company*. Any modifications or *deviations from a 45 Mbps two way interactive network* must be approved by this agency, since such would constitute a modification to the June 28, 1994 Opinion and Order which ruled on the Company's original Petition and Plan.

"In this second filing, Bell reiterates its intentions to design a broadband network that meets both current and anticipated future demand for transportation of voice, video and data throughout its service area. *The system is a hybrid of coaxial cable and fiber optics*. Coaxial cable will run *from a subscriber's home, office, factory, or educational system*."

To sum up: By 2004, 50% of the state was to be rewired with a fiber optic cable to customers' homes or offices, capable of speeds of 45 Mbps in both directions, and delivered within 5 days. It was to reach rural, suburban and urban households equally. THIS WAS NOT DSL, which goes over the old copper wiring.

Let's go back to the beginning of this tale.

The Pitch

In order to get this agreement, the Bell companies had to get state legislators as well as the Public Utility Commission to agree. So, as with other states, Verizon (Bell Atlantic) made thousands of public statements, from press releases and statements made in the press, to even a large Deloitte & Touche study, Opportunity Pennsylvania. Presented to the Public Utility Commission, Bell Atlantic-PA would rewire Pennsylvania, with a fiber optic wire that would replace the old copper wiring.

So there is no doubt, we've included the following list — just a small portion of the stories that surrounded the Bell Atlantic fiber plans of Pennsylvania.

- **PA Senate OKs Fiber Optics Bill**, Philadelphia Daily News, June 24, 1993
- **PA Legislature Compromises on Fiber Optics Bill. The Measure Calls for the State to Be Wired by 2015.** Philadelphia Inquirer, June 25, 1993,
- **Bell Clears A Hurdle in Quest to Offer Video. A Judge Overturned Part of a Federal Law. Now Bell Atlantic Will Try Offering Video Services Regionwide.** Philadelphia Daily News, July 28, 1993
- **A Fiber Field of Dreams. The Switch in the Way Phone Signals Are Sent Promises Not Only Faster Transmission, but also Bright New Ideas for Using the Technology** Philadelphia Inquirer, June 2, 1993
- **Phone Bill Goes to House. The Pa. Measure Would Limit Rate Increases and Require a Fiber Optic Network by 2015.** Philadelphia Inquirer, May 24, 1993
- **Working Together to Build a Highway for Information. A Fiber Optic Network Could Move 25 Trillion Bits of Information a Second. Today's Rate? 100 Million Bits.** Philadelphia Inquirer, January 18, 1993

The Deal and the Law

In 1993, the Pennsylvania state legislature created a new series of regulations added to the existing Public Utility Code, which essentially created a law to accelerate broadband deployment in the state.

"(1) Maintain universal telecommunications service at affordable rates while encouraging the accelerated deployment of a universally available, state-of-the-art, interactive, public-switched broadband telecommunications network in rural, suburban and urban areas, including deployment of broadband facilities in or adjacent to the public rights-of-way abutting public schools, including the administrative offices supporting public schools; industrial parks; and health care facilities, as defined in the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act."⁴¹⁸

Known as "Chapter 30", these regulations also lay out the basic requirements for the distribution to be both rural and urban areas.

"(2) Each local exchange telecommunications company shall reasonably balance deployment of its broadband network between rural, urban and suburban areas within its service territory."⁴¹⁹

In exchange for this broadband plan, the Bell would petition and receive deregulation, herein called "alternative form of regulation".

"(A) PETITION: When a local exchange telecommunications company seeks to be regulated under an alternative form of regulation, it shall submit to the commission a petition requesting the alternative form of regulation. In the petition, the company shall submit its proposal and supporting data for an alternative form of regulation."⁴²⁰

The law goes into details about how the regulation is applied. This is how Verizon characterizes their plan. It essentially states that the prices for services are "capped", meaning that the prices have been frozen, but that the regulator no longer examines the profits as they were able to do under the older form of regulation — 'rate of return', which required the Bell to give money back if the profits went too high.

"The plan provides for a pure price cap plan with no sharing of earnings with customers and replaces rate base, rate of return regulation. Competitive services, including toll, directory advertising, billing services, Centrex service, paging, speed calling, repeat calling, and HiCap (high capacity private line) and business services provided to larger customers are price deregulated. All noncompetitive services are price regulated."

Also, this law defined some services as competitive, such as "Directory Advertising", which means that the Bell could charge what it wanted to. Directory Services are the Yellow Pages and Directory Assistance, and on average, the Bell companies have a 50+% profit margin on these services, making it one of the most profitable in America.

We've gone into this regulatory model in our previous sections. This was one of the earliest incarnations, which had direct language about the trade-off of new regulation and money for advanced networks deployment — with a timeframe and specs on what would be rolled out.

The Commitment to Roll Out Universal Networks Means ALL Customers, Including Rural Customers.

There are many state and federal senators and congressmen, regulators, and citizens concerned with the rural deployment of broadband and considering the Bells, they should be. The Pennsylvania law addressed rural concerns when it made rural customers' rights to be on the same par as urban and suburban customers. The law did not make any extra financial incentives necessary for universal access to broadband.

"Chapter 30 requires that a LEC make available its broadband network universally. Section 3002 defines universal broadband availability as 'access to broadband service by each bona fide telephone customer of a local exchange telecommunications company within five days after a request for broadband service is received by any telecommunications company'. *We also believe that, under Chapter 30, universal broadband availability excludes the notion of broadband services being offered at a level beyond the reasonable economic reach of the majority of a LEC's customers.*"⁴²¹

It should be noted that the Bell company understood that these rollouts may not be as profitable as if they were doing these purely from an economic model — they were getting compensated through higher rates to do both rural and urban areas. The phone companies were contractors, with common carrier and universal broadband commitments.

"Thus, Bell's deployment of broadband facilities will take place in locations where conventional economic, financial, business or plain engineering justifications for such deployment may not exist. In this respect, Bell may install broadband facilities and bear the associated variable and fixed costs of the investment without realizing any corresponding streams of revenues in return, especially if such broadband facilities are not going to initially serve significant demand quantities for telecommunications services. Thus, Bell may be called upon to bear the risk of such initially unproductive capital investments."⁴²²

This is NOT DSL— SPEED and Coverage Are the Issues.

It is clear that the Pennsylvania Commission realized that there was a bait-and-switch going on and that what was promised was a Ferrari on the Info Bahn and what the state was getting was a skateboard on a dirt road. Here's the Commissions' reasoning: DSL is too slow and doesn't even qualify for the definition of broadband nor does it replace Verizon's obligations.⁴²³

"In Verizon PA's 2000 Update, the Company also states that DSL is a broadband service consistent with its Network Modernization Plan (NMP). There are several reasons why we believe that Verizon PA's current DSL offering is not a broadband service consistent with its NMP.

"First, DSL, as Verizon PA currently provides it, is too slow to be considered a true broadband service as defined by Verizon PA in its original NMP. The industry generally considers 45 Mbps to be the minimum speed for broadband and in its NMP, Verizon PA committed to this higher bandwidth level as well.

"Second, DSL, as Verizon PA currently provides it, can only reach a speed of 1.5 Mbps, the slowest definition of broadband where the customer is located no further than 12,000 feet from the serving wire center. Only a limited number of Verizon PA's residential customers meet this criteria. Third, currently Verizon PA's ADSL can achieve 1.5 Mbps in only one direction, the downstream direction. In the upstream direction, it is limited to a maximum of 768 kbps (0.768 Mbps).

"To achieve speeds as fast, or faster, than DSL can currently provide, the wire lines from the serving wire centers to the customers must be replaced with either fiber optic conductors or coaxial cables, or a 'hybrid' combination of the two."

The Bell company also thought that ADSL was an inferior product. They were replacing the copper wiring so that the state would not lag behind others. They called ADSL an "interim solution" and defined it as **"the most bandwidth-limited section of the network"**. Here's an excerpt from the Commission on the topic.⁴²⁴

"It should be noted that the evidence the Company introduced in support of its NMP in 1994 established clearly that modernizing the network meant, among other things, replacing the existing copper distribution system with fiber. The Company's direct testimony asserted that its NMP was consistent with the 'moderate infrastructure acceleration scenario' described in the Commission's *Pennsylvania Telecommunications Infrastructure Study* released by Deloitte and Touche and DRI/McGraw Hill in 1993. Verizon PA placed the study into evidence in its rebuttal testimony. The study makes clear that one of the assumptions underlying all of the acceleration scenarios was deployment of a fiber distribution system. In fact, the study indicated that of all the technology changes needed for a broadband capable network, deployment of fiber in the feeder and distribution systems was the change that would lag behind the others if the Commonwealth did not adopt a strategy to accelerate deployment. The study described the copper distribution system as *the most bandwidth-limited section of the network*. Finally, it described ADSL technology as *a potential interim solution* to allow higher bandwidth services pending construction of a fiber distribution system."

This issue of speed is complicated. Back in 1993-1995, when broadband was discussed, the standard speed was 45 Mbps. For example, even Newton's Telecom Dictionary defines "Broadband" as a service with a speed of 45 Mbps.

"Bandwidth of 45 Mbps or greater is consistent with the definition of 'broadband' in *Newton's Telecom Dictionary* (17th Edition, February 2001) ('Broadband —A transmission facility providing bandwidth greater than 45 Mbps (T3). Broadband systems generally are fiber optic in nature.')." ⁴²⁵

The Original State Legislation vs Verizon's Commitments

NOTE: The original PA alternative legislation that we discuss was based on a minimum speed of 1.5 Mbps in both directions. However, Verizon committed to the higher speed with the Commission because Verizon's definition of broadband was 45 Mbps. They would have been hard pressed to change state laws for a speed that couldn't deliver high-quality video, which they

were pitching as the major reason for the upgrades. For example, the Opportunity New Jersey law, as we have previously outlined, had a speed of 45 Mbps as its “Broadband Digital Service”.

“Broadband Digital Service — Switching capabilities matched with transmission capabilities supporting data rates up to **45,000,000 bits per second** (45 Mbps) and higher, which enables services, for example, that will allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals.”

When Did the Bell Know It Wasn’t Going to be Able to Build the Network?

There is ample proof that Bell Atlantic/Verizon knew they weren’t going to build (or even could build) their plans as promised. The first sure sign of this was the fact that Bell Atlantic wrote the FCC stating they were pulling out, read 'reevaluating', some of their video dialtone plans. These statements were made against the backdrop of the Bell filing in Pennsylvania committing to the fiber optic plan. “214 applications” are the video dialtone filings.

The Pennsylvania Public Utility Commission wrote:

"Bell has taken recent action before the FCC which clearly brings into question whether the Company has a plan for accelerated modernization of its network. With respect to its video dialtone construction applications submitted to the FCC for its review and approval, the Company originally sought permission to construct a HFC network as the platform. However, the FCC applications were voluntarily suspended by the Company in May of this year. (1994) Yet, the direct nexus between the pending (video dialtone) 214 applications and the Company's NMP filed before this agency is not developed. The Company's official transmittal to the FCC stated that ‘In the months since the applications were filed, however, significant technological and other developments have occurred which caused us to reevaluate our plans. Until this reevaluation is completed, we request that you hold these applications in abeyance’." ⁴²⁶

"The Company's press release elaborated that 'The suspension is required because (video dialtone) 214 applications must specify the exact equipment used in building such networks. Bell Atlantic said as new technology becomes available, the company wants to build the most cost effective network'."

In a related story from the Boston Globe in April 1995, it is clear that the public was being told that broadband plans were being slowed in Philadelphia and Pittsburgh.

"It will take years before the technology becomes widespread, though, and the phone companies have been pushing back their timetables. Just this week, Bell Atlantic asked the federal government to withdraw its application to deliver fiber-coaxial — or so called broadband — services to as many as 3 million homes in Philadelphia, Pittsburgh and nearby centers. It said it wants to reconsider its technology strategy."⁴²⁷

However, one thing is clear — the PA Commission was firm that the proposal for 45 Mbps was a binding contract.⁴²⁸

"When the Commission accepted Bell's proposal, that proposal became binding on the Company. Any modifications or deviations from a 45 Mbps two way interactive network must be approved by this agency, since such would constitute a modification to the June 28, 1994 Opinion and Order which ruled on the Company's original Petition and Plan."

The Hype Continued Through 1996.

On July 15, 1996, Bell Atlantic cut a deal with Lucent for a six and a half year contract to deliver fiber optic services.⁴²⁹ The contract was dedicated to the promise of fiber optics to 12 million homes and small businesses, with Pittsburgh and Philadelphia, Pennsylvania as the starting points.

"The fiber-to-the-curb architecture that Bell Atlantic will build is the next step in the company's ongoing, aggressive network modernization program...."

"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."

Talk about a smokescreen. If they had just stopped discussing their broadband plans, imagine the expression on the faces of every executive at Disney, ABC, and others who were developing new products for these interactive networks. The Bell companies were spending about \$1 billion on TELE-TV and Americast, which also showed their commitment.

However, as we demonstrated in previous sections of this book, during the 1996-1997 period, Bell Atlantic effectively wrote-off whatever video upgrades they had been working on, which, it turns out, was chump change compared to what was promised.

Follow the Money: An Independent Version that Corroborates Our Findings.

We'd first like to present findings from a study and testimony that was done on the track record of the Pennsylvania plan by Economics and Technology (ETI), a highly respected research and consulting firm. The company created a report in 1998 on this topic, and presented updated information in testimony presented in September 2002.

The 1998 report titled "Broken Promises A Review of Bell Atlantic Pennsylvania's Performance Under Chapter 30", is a scathing, but accurate review of the Opportunity Pennsylvania plan. It clearly shows that the Bell company made excessive profits, failed to increase investment in the state's telecommunications network, did not meet its commitments for fiber optics in 1998, and "has actually extracted capital out of Pennsylvania for use elsewhere".⁴³⁰

"Having made its commitment and been granted its alternative regulation reward, Pennsylvania's largest local telephone company Bell Atlantic-Pennsylvania (BA-PA) has paid more attention to escaping from, rather than fulfilling, the terms of its promised upgrade. This study demonstrates that, despite strong financial performance and earnings growth in Pennsylvania, as well as a generous and flexible regulatory framework, BA-PA has failed to

increase investment in the state's telecommunications network and, in fact, has actually extracted capital out of Pennsylvania for use elsewhere. At the same time, BA-PA has been extremely successful in protecting its monopoly from competitive encroachment. Without the discipline of actual, effective competition, the incumbent has been permitted to charge excessive prices and earn excessive profits, while confronting no business incentive to undertake new investment in Pennsylvania. As we approach the end of 1998 a point by which BA-PA is supposed to have broadband available throughout 20% of its rural, urban and suburban areas there is no sign of any broadband service being offered to Pennsylvania's residential customers."

"As a result, and contrary to the PUC's expectations, Bell Atlantic's shareholders have been the real beneficiaries of the Alternative Regulation Plan."

To read this report go to <http://www.econtech.com> (registration required). One of the exhibits from this report shows that the "return on equity", a standard for measuring profitability, went from 13% in 1993, which is about average for a regulated monopoly, to more than double the amount, directly after the law was put into effect in 1994. For example, in 1995 and 1996 the return was a 139% increase from pre-alternative regulation returns.

Economics & Technology also showed that the Bell company was "Disinvesting" after the deal went through, meaning that the company was writing-off more than they were spending on construction.

According to testimony by ETI's president Dr. Lee Selywn at the Commonwealth of Pennsylvania Senate Communications and High Technology Committee meeting on "Chapter 30 and the Telecommunications Industry in Pennsylvania", September 10, 2002, Verizon made about \$4 billion from the changes in this state's deregulation.

"Verizon Pennsylvania has realized gains of \$4 billion as a direct result of Chapter 30 alternative regulation."

"Verizon PA's return on equity is significantly higher than it would be under rate of return regulation (nominally set at 15.15% ROE). Alternative regulation has been a windfall for Verizon." (about 30% from 1995-1999.)

Dr. Selywn estimated that:

“Excess earnings in real dollars — is \$1.7 billion dollars.”

Another point of contention was the removal of the highly profitable directory (including Yellow Pages) business from the calculations. According to Selwyn, the yellow page business in Pennsylvania was valued at \$2.6 billion dollars.

“In addition, during the adoption of its Chapter 30 regulatory regime, Bell Atlantic-Pennsylvania asked the PUC to classify its yellow pages directory business as competition, and shortly after receiving a PUC action on that request, Verizon transferred this valuable business asset out of the Pennsylvania company altogether and into a non-regulated Bell Atlantic affiliate operating entirely outside of the PUC’s jurisdiction ... worth approximately \$2.57 billion dollars.”

Our analysis not only confirms these findings but we believe that other monies are also at stake, including tax write-offs. To read the testimony in full see:

http://www.teletruth.org/docs/SelwynPA_BBND.pdf

There Are Other Sources with Similar Data.

In 2002, the Pennsylvania Consumer Advocate found that \$1.7 billion was overcharged as compared to what the rate of return would have allowed. Profits went from around 12% to 29.4% in 1999. Our own calculation for this period was \$2.1 billion, but we also removed various expenses that would not have been allowed under the original agreement, including the funding of DSL.

"In testimony recently presented to the PUC, our Office determined that Verizon PA’s return on equity — when estimated profits from Yellow Pages are included — was 24.26% in 2001, 26.19% in 2000, and 29.40% in 1999. In that proceeding, we compared those returns to an estimated fair rate of return of 12% on equity,

and concluded that Verizon PA had earned approximately \$1.7 billion in cumulative excess profits since 1994."

Teletruth's Analysis

Teletruth's statistics for Pennsylvania were based on the public annual and quarterly reports that Verizon Pennsylvania filed. The company stopped filing this data in March 2004.

"FORM 15 CERTIFICATION AND NOTICE OF TERMINATION OF REGISTRATION UNDER SECTION 12 (g) OF THE SECURITIES EXCHANGE ACT OF 1934 OR SUSPENSION OF DUTY TO FILE REPORTS UNDER SECTIONS 13 AND 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934".

Using the last available data, we found the deregulation plan cost the average PA household about \$1135 at the end of 2003, or \$3.9 billion. However, our statistics do NOT include the \$2.6 billion for Yellow Pages and directory services that was used in the Economics & Technology analysis, nor increases for 2004 or 2005.

This money was garnered, like the other state fights, when the phone companies were able to cut staff and construction, take massive write-offs, thus saving on taxes, and no longer have any limits on the profits.

In this case, we've done a full overcharging model, which will be represented in Volume II. The highlights are:

- **The Bell of PA's profits (return on equity)** since the alternative regulation plan had averaged 115% higher than before the changes in regulation.
- **Dividends** to Verizon since 1999 had risen 41%.
- **Massive cuts in staff.** From 1993 through 2003, over 43% of the staff were cut, from 15,140 in 1993 to 8,630 in 2003 — a drop of 6,510 employees. (Some of these changes can be attributed to Yellow Page and Directory spin-offs.)

- **Massive depreciation write-offs.** We estimate that \$1.5 billion was excessive tax write-offs of network equipment, the majority of which can be tracked directly to the promises to replace the copper wiring in the alternative regulation plans.
- **Construction has had massive cuts.** Starting in 2000, the company cut expenditures 62%. Construction in 2003 was only 12% of total revenue, as compared to 20-25% in the 1980's.

Cross-Subsidization of DSL

Was there a \$60 million dollar bait and switch that got Pennsylvania ratepayers to fund a competitive DSL product?

It seems clear that Verizon Pennsylvania did not get outside investment for their ADSL roll out but had used ratepayer funds that were supposed to be for high-speed fiber optic based services. According the Verizon Pennsylvania Annual Report for 2000, Verizon PA transferred an asset that was valued at \$60 million directly to the Verizon Advanced Data Inc.. — VADI.

"In December 2000, we transferred our advanced data assets, with a net book value of approximately \$60 million, for a 48.13% indirect ownership interest in Verizon Advanced Data Inc. (VADI). VADI is an affiliated company which provides new exchange access services. Our ownership interest has been reduced to 26.67% as the result of the issuance of additional stock by VADI. In connection with our investment, we record equity income/(losses)."

(Comically, Verizon's spokesperson and the voice of "Darth Vader", is James Earl Jones. VADI? VADAR?)

A common sense reading indicates that Pennsylvania Bell, which is almost solely funded through ratepayer services offered by the local Bell company, was able to charge customers to build this asset and then, when it was worth \$60 million, transferred it to the shareholders.

DSL is supposed to be a competitive service where the shareholders, not the monopoly customers, pay for the development and deployment.

Verizon Disagrees with Our Analysis

Of course, Verizon disagreed with our analysis and said so in a press release, February 2004.⁴³¹

“Teletruth, a New-York based organization whose mission is to unfairly smear former Bell companies like Verizon, today wrongly attacked Verizon Pennsylvania’s broadband deployment record once again in an "updated" filing with the Pennsylvania Public Utility Commission.

"Despite the well-documented and public record of Verizon Pennsylvania’s network modernization accomplishments, Teletruth refuses to acknowledge the facts. Instead, in a move reminiscent of the movie ‘Groundhog Day,’ this organization would have Verizon face over and over the same baseless allegations. These are essentially the same allegations the Pennsylvania Public Utility Commission (PUC) reviewed and rejected last fall.

"The truth is that Verizon Pennsylvania has consistently delivered on its promises to deploy a broadband network for its customers under Pennsylvania’s alternative regulation law, Chapter 30:

- Verizon Pennsylvania has invested more than \$8 billion and deployed nearly 1.2 million miles of fiber optics in its network over the past nine years while under alternative regulation.
- Broadband capability, at speeds from 1.5 megabits per second to 2.2 gigabits per second, is available to nearly 100 percent of the phone lines in Verizon Pennsylvania’s service area.
- DSL (digital subscriber line) service is available to nearly 70 percent of Verizon Pennsylvania’s total lines in the commonwealth.”

You will notice that Verizon claims that it has fulfilled its obligations with wiring placed somewhere within the middle of the network, that DSL is a replacement for the fiber-to-the-home deployments and that speeds up to 2.2 gigabits are available today. Verizon doesn’t say that the 45 Mbps service to the home is missing, or that the speeds quoted would require custom

wiring at large sums of money. In fact, Teletruth had multiple customers try to order the 45 Mbps services and nothing was available for home use.

Destruction of the Fiber Optic Services by the PUC and State

In a vote that should live in infamy, the Chairman of the Commission, Terrance Fitzpatrick, in his ‘dissent’, sums up how the promised speed of 45 Mbps went to 1.5 Mbps in one direction, customers be damned. We respect the Chairman’s attempts to make the phone companies accountable.⁴³² The other Commissioners, however, harmed the state and customers. No refunds, nothing.

“This matter involves a Petition filed by Verizon Pennsylvania, Inc. (‘Verizon’) to amend its Network Modernization Plan (‘NMP’). In its Petition, Verizon seeks to be released from its obligation to construct a broadband network capable of providing service at 45 megabits per second (‘Mbps’), both upstream and downstream, within five days of a customer’s request. Instead, Verizon seeks permission to provide broadband service at 1.5 Mbps downstream, and at slower speeds upstream, within five days of a customer’s request. Verizon also proposes to (1) provide 45 Mbps within ‘a commercially reasonable’ timeframe, estimated at 45 to 60 days; (2) meet certain interim targets prior to ubiquitous deployment by 2015; (3) construct fiber optic cable to all remote terminals by 2015; and (4) construct additional remote terminals so that no loop is longer than 12,000 feet by 2015.

“The majority adopts Verizon’s Petition, with the modification that Verizon be required to provide broadband service at 1.5 Mbps to 80% of its customers by 2010, as opposed to 70% as proposed by Verizon. I do not believe this decision is equitable to customers in light of the value to Verizon of being released from its prior obligation to build a network capable of providing 45 Mbps upstream and downstream within five days of a request. *Accordingly, I respectfully dissent.*”

In 2004, HB30, a new law banning municipalities from offering competitive services came into being.

As the *Washington Post* stated:⁴³³

“For the millions of people who cannot afford high-speed Internet access, some local officials think they've hit on the answer: Build government-owned networks to provide service at rates below what big telecommunications companies' charge.

“Telecoms Winning the WiFi War: The signal is clear: In the tug of war between Big Telecom and little governments, the powerful telecommunications lobby is winning, which could have major implications for how wireless Internet and other high-speed Internet service is doled out countrywide.

“The companies are lobbying furiously to block such plans, fearful that their businesses would be hurt. *Their efforts most recently paid off Tuesday night in Pennsylvania, where a new law bans local governments from creating their own networks* without first giving the primary local phone company the chance to provide service.”

Is this “honor everlasting”, as the state song decries? This law was heavily campaign-financed. According to data supplied by the Commonwealth of Pennsylvania, Campaign Finance Reporting web site⁴³⁴, in examining the sponsors of the bill, Teletruth found that 78% had been given money by Verizon, or one of Verizon's various PACs. Verizon, for example, gives money from its various groups, such as the “Good Government Club”, the “Verizon PA PAC”, “The Verizon PAC”, “Verizon”, “Verizon Communications”, “Verizon Pennsylvania Political Action Committee”, and “Verizon PA State PAC”. (We do not know if some of these are simply the database giving different names to the same organizations or that they are from different parts of the same corporation.)

And besides giving to separate state senators and congressmen, Verizon also gives under these multiple names to the House Republican Campaign Committee 2006, Huntingdon County Republican Committee, House Democratic Campaign Committee, Pennsylvanians for Effective

Government - Political Committee, Senate Republican Campaign Committee, Edward Rendell For Governor, and Philadelphia Republican City Committee were just some of the ones we found.

Birth of a Muni Wifi Service

At the same time, we have the birth of a plan by Philadelphia to create a citywide wireless service. See: <http://www.phila.gov/wireless/>

“Promote Open Metro-scale Wireless Connective Citywide,

“Wireless Philadelphia aims to strengthen the City's economy and transform Philadelphia's neighborhoods by providing wireless Internet access throughout the city. Wireless Philadelphia will work to create a digital infrastructure for open-air Internet access and to help citizens, businesses, schools, and community organizations make effective use of this technology to achieve their goals while providing a greater experience for visitors to the City.

“Wireless access is a transformative technology.

- It can provide affordable access to high-speed telecommunications to small, midsize and economically disadvantaged businesses helping to grow their business.
- It can help eliminate the digital divide that continues to widen as technology costs increase.
- It can make teacher, student and parent communication a reality.
- It can make university campus access available to non-resident students.”

Who will win? Welcome to Volume II