

National Telecommunications and Information Administration,  
U.S. Department of Commerce  
Infrastructure Investment and Jobs Act Implementation

RE: NTIA Docket No. 220105–0002] RIN 0660–ZA33

ACTION: Notice, Request for Comment, February 4<sup>th</sup>, 2022

## **COMMENTS**

### **NEW NETWORKS INSTITUTE & THE IRREGULATORS**

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## COMMENTS:

- The NTIA, FCC, DOJ, Congress and America have been Punked by AT&T, Verizon, CenturyLink (now Lumen) -- the ‘Bell’ Companies -- and the Cablecos.
- The Government Must Stop Rewarding these Corporations that Act like a Cartel, since they created the Digital Divide and Overcharged America.
- These Corporations have perpetrated one of the largest accounting scandals in American history and the government has been complicit. This must stop now!

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“Moneyball”, is a movie starring Brad Pitt and Jonas Hall that exposed a secret in America’s most cherished game, baseball. It is a story of how the Oakland “A”, was able to win 20 games in one season, setting the all-time record, by removing the corrupted analysis and mathematics that had been used to build baseball teams.

“There is an epidemic failure within the game to understand what is really happening. This leaves people who run major league baseball team to misjudge their players to mismanage their teams---baseball is medieval; they are asking all of the wrong questions.”

The [NTIA has been tasked](#) with giving out over \$50 billion dollars in the name of broadband and closing the Digital Divide.

“With its new programs authorized by the Consolidated Appropriations Act of 2021 and the Infrastructure Investment and Jobs Act (IIJA), NTIA will oversee broadband funding efforts, providing more than \$50 billion to bring affordable, universal broadband to communities across America.”

Moreover, it is supposed to be coordinating state, local and tribal entities, interagencies and even the private sector.

**“Facilitate Interagency, State, Tribal, and Private Sector Coordination** OICG collaborates with stakeholders across federal agencies, states, tribes, and industry to work toward the collective goal of closing the digital divide. Through these efforts, OICG enhances coordination among federal and state broadband programs, provides support and expertise, and convenes leaders working to advance broadband in communities across the United States.”

**Unfortunately, there are structural flaws in every aspect of this.**

Where's the analysis of the state telecommunications public utilities broadband upgrade commitments, with the monies collected, or the fact that their financial books show massive cross-subsidies that created the Digital Divide? This is not a state issue but rather a federal issue combined as billions of dollars in cross-subsidies went to illegally fund interstate services, like wireless or the fiber used for FIOS to deliver broadband, but were instead charged to basic intrastate phone service customers.

The NTIA must grow up and actually work for the public and give the best advice possible to the White House on broadband and to close the Digital Divide. Thus, the NTIA and the FCC, and even the state utility commissions have all been misled to the point that we sit here giving out over \$100 billion in government subsidies that will mostly end up being given to the very few telecommunications and cable companies that created the Digital Divide. -- rewarding AT&T, Verizon and CenturyLink (now Lumen) -- the "Bell companies" that still control most of America's broadband infrastructure -- which is all part of state telecommunications public utilities-- and got away with it for decades.

That's right.

First, there are still state-based public telecommunications utilities; they are not just the copper wires but the fiber optic wires' as well.

Second, starting in the 1990's these state telecom utilities were supposed to be upgraded to fiber optics, and state laws were changed to fund these deployments, not just once, circa 1992-2000, known as the information superhighway, but also in 2004-2007, when Verizon announced FiOS and AT&T announced U-verse.

Third, by 2010, the construction budgets of the state utilities have been illegally transferred to wireless over the last decade, and this left the entire state territory to deteriorate-- causing the digital divide; the cablecos just went along for the ride.

Fourth, circa, 2000, Verizon and AT&T started to manipulate the accounting of expenses in the state utilities so that the major allocation of costs were put into one service category, the local phone service, while the other lines of business using these networks have gotten a free ride. Worse, billions in corporate operations expenses were added to the state utilities to make them appear unprofitable so they did NOT upgrade the rural areas with fiber, even though they had been paid to do so by the continuous rate increases.

In the end, they control the wires and infrastructure, they control the prices and who gets upgraded -- and they conned America; there was plenty of money to upgrade

America -- they manipulated the accounting-- cooked the books -- and you, the NTIA, FCC, Congress, et al were all played-- you bought the hype.

And this is not new. The government agencies, including the NTIA, failed to investigate our claims for 20 years.

What must happen next is to understand that the NTIA et al has been complicit in this massive accounting scandal and broadband failure.

- The Government must create an investigative enforcement unit to halt the AT&T et al. massive cross-subsidies still underway in 2022, -- Get the Money Back.
- There must be No spotty wireless or satellite broadband substitutes for universal, symmetrical wireline fiber to the premises infrastructure. Get the Money Back.
- **Not one cent should be given out to the incumbent phone and cable companies (or their subsidiaries or affiliates) until the audits are done and the cross-subsidies redirected to upgrade the state telecom utility.**

This [plan stops the \\$60-80 billion dollars](#) in customer overcharging annually and could save America taxpayers an estimated \$30-80 billion dollars in wasted government spending. Moreover, these new revenues should fund the entire US upgrade to fiber as well as lower rates, by bringing in competitive providers and choices.

The [NTIA claims](#) it is going to be using actual data to build tools for investment decisions.

“LEVERAGE DATA FOR DECISION MAKING Build tools to inform targeted investment decisions at the federal, state, and local levels Develop capabilities to deepen stakeholder understanding of the digital divide.”

We don't believe you. Our work is based on facts we've presented for 2 decades that have been ignored because of the power of what has become a cartel based on mergers to actually rewrite the history of broadband of America and hide multi-billion dollar utilities in plain sight -- with no audits or investigations, but with the outcome being the creation of the Digital Divide -- by design.

**We were right.**

20 years ago, literally, on [December 19<sup>th</sup>, 2001](#), New Networks Institute filed comments with the NTIA pertaining to the deployment of broadband, then called “advanced telecommunications”. We pointed out, based on research, that most of America had not been upgraded to fiber optics, even though America paid for these upgrades, state-after-state, of the state telecommunications utilities, such as now Verizon York or Rhode Island or AT&T California-- and this included the rural areas as well. We pointed out that none of the ‘commitments’ had been completed, and, in fact, we detailed that a Digital Divide was being created and quoted others, including the New Jersey ratepayer advocate.

The [New Jersey Ratepayer Advocate](#) was interviewed by the NY Times in 1997.

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

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

How much money did Verizon New Jersey, New York, Massachusetts, Maryland, and even Rhode Island charge customers, divert the funds to other lines of business and obtain tax benefits for the claims of replacing the existing copper wires with fiber optics?

Here's the rub. There were multiple waves of fiber optic commitments in states; this New Jersey commitment was to have 100% of the State upgraded with fiber by 2010 -- and it started in 1993. This was a decade before FiOS, which was announced in 2004. -- But, like the other states, Verizon started to do fiber to the home and stopped -- moving the construction budgets to wireless-- and leaving most rural areas unserved.

- [Full Case Study: Opportunity New Jersey: A Broadband Failure](#)

What we have are the Holding Company parents of the incumbent phone companies letting their state-based utility networks illegally deteriorate when they should have been upgraded -- over a thirty year period.

Moreover, our 2001 filing documented that there were plans by the incumbent telco providers to kill off the ISP competitors that had shown up since the Telecom Act of 1996, Ironically, The term “ISP” as used today did NOT refer to AT&T and Comcast but to the 9,500 small, independent Internet Service Providers that brought America to the Internet, which is also known as the World Wide Web (WWW).

We, in fact, filed [in 2006 with the NTIA](#) a full book documenting that there were state-by-state plans to do upgrades of the existing state utilities, that it was never done but customers were charged for it. Ironically, the book and our group (then called Teletruth) were featured on Bill Moyers' Emmy-Nominated PBS Special, the "[Net at Risk](#)", in 2006 and our segment was titled "The New Digital Divide", and it was the first major broadcast to discuss the rise of Net Neutrality.

But this is not simply about the history of how we got here but the abuses that must halt going forward.

We file these comments because the NTIA and the rest of the government 'are asking all of the wrong questions'.

How did we end up with large portions of America not being properly upgraded to fiber optics and why the price of America's broadband, [internet and wireless services are 5-20 times more expensive than Europe](#)? Or worse, America was promised a fiber optic future to all parts of America, and the companies have pulled a bait and switch claiming wireless, including 5G is a substitute -- when everyone knows it is not and these services still require a fiber optic wire for backhaul services.

At the core, this is the largest accounting scandal in American history -- and for some reason our government wants to reward these companies with more government subsidies for work they already got paid to do multiple times but never did.

But this is where the NTIA must act.

In June 2021, the Verizon New York 2020 financial Annual Report was released and the new 2021 Annual Report will be released in May 2022. Our new consortium, the IRREGULATORS, previously filed at the FCC and with various states. Based on a decade of research and using a decade of published annual reports, -- as well as examining the other states, we detailed that

- America is based on state telecommunications public utilities-- and
- These include the fiber optic wires of FIOS or what was used for U-Verse as part of this utility.
- There is a massive cross-subsidy scheme in place where the construction budgets to upgrade that state was diverted, illegally, to fund the wireless build outs.
- The corporate expenses were dumped into the utility to make it look unprofitable.

The [Verizon NY 2020 Annual Report, published June 2021](#), detailed how the entire telecommunications utility networks are being dismantled; that they have been made artificially unprofitable through a massive financial cross-subsidy scheme.

(The link goes to a summary article, as well as a report written by the Irregulars, as well as links to the actual Verizon NY 2020 Annual Report.) The Verizon NY Annual Report is based on using the “USOA” accounting formulas -- that are almost identical in every state-- i.e., Verizon NY, the largest state public telecommunications utility, filed an annual report with the NY Public Service Commission, and it is based on the FCC accounting rules that have become corrupted over time. And these exact same rules and formulas appear to be in use in every state major telecom public utility, from AT&T California to Verizon Pennsylvania.

verizon		Verizon New York 2020 Financial Annual Report Excerpt: Revenues, Expenses and Profits			
		Total (B)	Nonregulated (C)	Local Service (F)	Backhaul & BDS (G)
1)	Total Operating Revenues	\$ 3,920,536,065	\$ 1,103,831,282	\$ 1,034,529,443	\$ 1,782,175,341
	Operating Expenses				
2)	Construct & Maintainance	\$ 2,292,823,022	\$ 681,510,905	\$ 1,068,343,137	\$ 542,968,980
3)	Marketing	\$ 268,473,617	\$ 40,051,393	\$ 144,924,731	\$ 83,497,493
4)	Customer Operations	\$ 218,760,557	\$ 15,791,442	\$ 146,298,266	\$ 56,670,849
5)	Corporate Operations	\$ 1,373,212,407	\$ 139,569,189	\$ 832,918,318	\$ 400,724,899
6)	Total Operating Expenses	\$ 5,319,671,559	\$ 916,302,836	\$ 2,908,134,380	\$ 1,495,234,343
7)	Net Operating Revenues	\$ (1,399,135,494)	\$ 187,528,447	\$ (1,873,604,938)	\$ 286,940,997

This shows that the construction budgets were put mostly into the copper-based local phone service, and the corporate operations expenses were also put mostly into local service -- making it artificially unprofitable. How does \$833 million in Corporate Operations get put into Local Service, or that it is charged over \$1 billion in construction -- when there is no copper-based construction?

Most importantly, there is no institutional memory so America will continue to be captured by a few companies that have taken control over all communications in America--and now figured out how to get the government to reward them for not building out fiber optic networks to all areas of America.

In the end, the government may be well meaning and actually care about the Digital Divide, but it has failed to collect and examine fundamental data-- the billions in cross-subsidies that created the Digital Divide and made prices unaffordable for many.

To paraphrase: ‘There is an epidemic failure within the telecommunications, internet, broadband, Digital Divide world to understand what has been really happening.’

We have created a [full library of our work and related resources](#), from 1985-2022, including our FCC and state filings.

We stand ready to answer any questions you might have.

Who We Are:

New Networks Institute was founded in 1992 as a telecommunications market research and consulting firm and filed comments with the NTIA in 2001 and 2006 pertaining to broadband, competition, and the creation of the Digital Divide. We have been the Managing Director of the IRREGULATORS since 2014

The IRREGULATORS is an independent, consortium of senior telecom experts, analysts, forensic auditors, and lawyers who are former senior staffers from the FCC, state advocate and Attorneys General Office experts and lawyers, as well as former telco consultants. Members of the group have been working together, in different configurations, since 1999.