

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

ADVANCED TELECOMMUNICATIONS NOTICE OF)
PROPOSED RULEMAKING, FCC 98-188)

CC DOCKET NO. 98-147

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COMMENTS OF NEW NETWORKS INSTITUTE

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STATEMENT:

THE FCC SHOULD NOT GRANT THE BELLS ANY NEW FINANCIAL INCENTIVES AND SHOULD INVESTIGATE THE BELLS FAILURE TO DELIVER ON PROMISED ADVANCED NETWORKS DESPITE PREVIOUS INCENTIVES. .

The Baby Bells have requested that that the FCC give the companies new financial incentives to facilitate the rollout of new, advanced telephone network services. And the FCC is proposing granting parts of the Bell's wishes, by allowing them to offer these new services as a separate subsidiary.

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

In our related New Networks Institute filing for the FCC's Notice of Inquiry, we clearly show that:

I The RBOCs have repeatedly failed to deliver on promises of network upgrades made in exchange for regulatory benefits. By the next of next year, the Bells had collectively promised to rewire over HALF of their residential customers with fiber-optic, 500 channel, full motion video interactive broadband services.

For example, Bell Atlantic, one of the petitioners, stated that by the year 2000, the company would have almost 9 million households wired. Meanwhile while NYNEX (the Bell company that Bell Atlantic purchased) would have wired an additional 2 million customers to the Fiber-optic highway by 1996!

And each Bell made similar promises though none of the Bells' promised services were ever deployed. Moreover, the Bells' promises extend back to the 1980's when the companies, such as Southwestern Bell and Pacific Telesis, promised the deployment of ISDN (Integrated Service Digital Networks). Even today these services are not being adequately deployed at reasonable prices.

In some cases, such as in Ohio, Ameritech actually did roll out some of the promised fiber optics, but not as part of an advanced telecommunications network. Instead, Ameritech/Ohio deployed its fiber simply to offer "plain old cable service." In other words, Ameritech took the money that was supposed to reward consumers of regulated telephone service with a superior, advanced network and used it to subsidize Ameritech's efforts to offer "I Love Lucy" reruns.

II) Secondly, the Bells already received major financial incentives to build these new undelivered networks and most likely pocketed the excess monies, estimated at \$50+ billion dollars, and growing. An estimated \$30 billion dollars in direct incentives was borne by customers paying higher rates and an additional \$21 billion dollars extracted from improper copper-plant write-offs.

In exchange for the deployment of these wondrous advanced networks, regulators gave the Bells major financial incentives in the form of higher rates for customers. We estimate

approximately that over \$30 billion dollars in extra charges on customer's telephone bills has been overcharged, and it continues today, unabated.

Blossom Peretz, New Jerseys' Consumer Advocate, discussing Bell Atlantic's Advanced network rollout stated:

"...low-income and residential customers have paid for the fiber-optic wire lines every month but had not yet benefited." In a complaint against New Jersey Bell/Bell Atlantic filed with the New Jersey Department of Public Utilities, April, 1997 the Advocate stated:

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

The conclusion: approximately \$1.5 billion additional dollars was supposed to have been spent, but the Advocate found that they had spent only \$79 million dollars. At the same time, New Jersey/Bell Atlantic dividends to the parent company was an additional \$1 billion dollars.

Opportunity New Jersey, the state incentive regulation plan created with Deloitte & Touche, was so successful that the same plan was also used in numerous other states. There was an Opportunity Pennsylvania, Opportunity Indiana, Advantage Ohio, and Advantage Illinois.

An additional \$21 billion dollars in improper copper-plant write-offs should be investigated. Besides the estimated \$30 billion dollars garnered from the Bells failure to deploy advanced networks, New Networks Institute filed a request with the Criminal Justice Division of the Internal Revenue Service to investigate an additional \$21 billion dollars of Bell network write-offs. From 1993-1995, each Bell took massive multiple billion dollar deductions, write-offs of the copper installed network claiming that it was going to be replaced with Fiber optics. Unfortunately, the copper wiring is still in use today as the standard way to deliver telephone services, and will continue to be so for the near future. (We will be glad to supply the FCC with additional information.)

If the costs for the wires that go into everyone's' home and offices has already been written-off as part of their advanced network deployments, then the costs of all services going over those wires should have dropped, including all FCC subscriber charges or even basic service charges.

III) Competitors are not receiving fair and equal access to advanced networks. Based on extensive interviews, NNI has found that the ILECs are stifling competition and delaying the deployment of advanced network services. Our preliminary findings support the complaints outlined in the NOI comments submitted by the ISP/C (CC 98-146). Enforce the unbundling of the local loop as directed by section 271 and CLECs and ISPs would deploy advanced services immediately, without any other regulatory incentives.

CONCLUSIONS

Therefore, We are requesting, before the FCC grants any new financial incentives for advanced networks:

* The FCC, working with the States and Congress should immediately investigate the failure of the Bells to deliver on advanced network services, including ISDN and the fiber-optic deployment.

The FCC should investigate if telephone companies (i.e. Ameritech/Ohio) used advanced network deployments as an excuse to have telephone customers finance cable services.

* The FCC, working with the States and Congress should investigate the issue of Bell overcharging, using the promises of advanced networks as a new form of consumer fraud.

* If \$30+ billion has been overcharged then the FCC should mandate Refunds and Rebates where the Bells have failed to deploy advanced networks as promised, and they should be required to fulfill their advanced network obligations.

* The FCC's department of Audits should immediately investigate the Bell's improper write-offs of the copper telephone networks of \$21 billion dollars.

* The FCC and the states should enforce the local loop unbundling obligations and rely on fair competition, rather than additional Bell promises, as the quickest path to advanced service delivery.

* Finally, the FCC should not grant any new incentives to the Bells until prior obligations are met. Forbearance of regulation should not let the mistakes of the past be applied to the advanced networks of the future.

Respectfully submitted,

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