

REMARKS OF CHAIRMAN PATRICIA WORTHY
CONCERNING STATE IMPLEMENTATION OF
THE BOC'S ONA TARIFFS

Presented to the Enhanced Services Council Conference
"A Critical Assessment of the Business Opportunities
with Open Network Architecture: Changing the Local
Exchange - the Next Step Towards ONA"

March 28, 1988
11:00 a.m.

"What Has to Happen After the FCC's Comment
Period Closes on May 18, 1988 - the MFJ Court;
in Congress; and in the States"

GOOD MORNING. LET ME FIRST SAY THAT I AM EXTREMELY PLEASED TO HAVE THE OPPORTUNITY TO PARTICIPATE IN THIS DISCUSSION OF THE HOWS AND WHEREFORES OF THE BOC'S ONA PROPOSALS WITH A GROUP REPRESENTING INTERESTS VITAL TO THE EFFECTIVE DEVELOPMENT OF THE INFORMATION AGE IN THIS COUNTRY. THE ENHANCED SERVICES COUNCIL IS PROVIDING A VALUABLE OPPORTUNITY FOR COMPUTER III PARTICIPANTS TO LEARN FIRST-HAND SOME OF THE CONCERNS OF MEMBERS OF THE ENHANCED SERVICES INDUSTRY AS IT RELATES TO THE ONA PLANS.

TO PROVIDE A FRAMEWORK FOR A DISCUSSION OF THE BOC ONA FILINGS, IT IS PERHAPS USEFUL TO DIGRESS MOMENTARILY AND DISCUSS THE HISTORY OF THE FCC'S INQUIRIES INTO THE INTERRELATIONSHIP OF COMMUNICATIONS AND DATA PROCESSING TECHNOLOGIES AND THE EXTENT TO

WHICH THE REGULATED LOCAL EXCHANGE CARRIERS MAY PROVIDE COMPUTER-
ENHANCED SERVICES.

IN ITS FIRST COMPUTER INQUIRY, COMPLETED IN 1971, THE FCC
ESTABLISHED A THREE PART CLASSIFICATION FOR COMPUTER AND
TELECOMMUNICATIONS SERVICES -- SERVICES WERE EITHER "DATA
PROCESSING", "TELECOMMUNICATIONS" OR A "HYBRID" OF THE TWO. THE
FCC RULED THAT DATA PROCESSING WOULD REMAIN UNREGULATED,
TELECOMMUNICATIONS WOULD CONTINUE TO BE REGULATED, AND "HYBRID"
SERVICES WOULD BE CLASSIFIED ON A CASE BY CASE BASIS AND TREATED
ACCORDINGLY. THE FCC PERMITTED NON-BELL COMMUNICATIONS CARRIERS
TO PROVIDE DATA PROCESSING SERVICES THROUGH ARMS LENGTH
SUBSIDIARIES (THAT IS, THROUGH STRUCTURAL SEPARATION). PROVISION
OF DATA PROCESSING SERVICES BY THE BELL COMPANIES WAS NOT
ADDRESSED INASMUCH AS THE FCC CONCLUDED THAT THE 1956 ANTITRUST
CONSENT DECREE RESTRICTED AT&T FROM SUCH ACTIVITY.

IN LIGHT OF SHORTCOMINGS IN ITS DEFINITION OF "HYBRID"
SERVICES, THE FCC COMMENCED THE SECOND COMPUTER INQUIRY IN 1976.
IN ITS FINAL ORDER, THE FCC REPLACED ITS THREE TIERED

CLASSIFICATION WITH THE TWO TIERED SYSTEM IN USE TODAY: SERVICES ARE DEFINED AS EITHER "BASIC" OR "ENHANCED." BASIC SERVICES WERE DEFINED AS "THE COMMON CARRIER OFFERING OF TRANSMISSION CAPACITY FOR THE MOVEMENT OF INFORMATION," AND WOULD REMAIN SUBJECT TO TRADITIONAL REGULATION. ENHANCED SERVICES, ON THE OTHER HAND, INCLUDED SERVICES OFFERED OVER COMMON CARRIER FACILITIES, THAT EMPLOY COMPUTERS TO ALTER SUBSCRIBER INFORMATION, PROVIDE ADDITIONAL OR RESTRUCTURED INFORMATION, OR INVOLVE CUSTOMER INTERACTION WITH STORED INFORMATION. THE FCC CONCLUDED THAT ENHANCED SERVICES SHOULD BE NON-REGULATED. AT THE SAME TIME, IT REVERSED ITS COMPUTER I CONCLUSION REGARDING THE 1956 CONSENT DECREE AND DECIDED THAT IT DID NOT BAR AT&T PROVISION OF ENHANCED SERVICES PROVIDED AT&T DID SO THROUGH A STRUCTURALLY SEPARATED ARMS LENGTH SUBSIDIARY.

THE COMPUTER II ORDER PREEMPTED STATE REGULATION IN TWO AREAS. FIRST, IT PROHIBITED STATES FROM REGULATING THE PROVISION OF ENHANCED SERVICE. AS JUSTIFICATION FOR ITS DECISION, THE FCC CONCLUDED THAT CONGRESS HAD INTENDED FOR AUTHORITY OVER SUCH

REGULATION TO RESIDE EXCLUSIVELY WITH THE FEDERAL GOVERNMENT, AND THAT AUTHORITY SHOULD NOT BE DIVIDED BETWEEN THE FCC AND STATES AS COMMON CARRIER COMMUNICATIONS HAD BEEN. SECOND, IT RULED THAT THE STATES COULD NOT INTERFERE WITH THE FCC'S DECISION TO ALLOW AT&T TO PROVIDE ENHANCED SERVICES ON A STRUCTURALLY SEPARATED BASIS. THE STATES COULD NOT, FOR EXAMPLE, PERMIT AT&T AFFILIATES TO OFFER INTRASTATE ENHANCED SERVICES ON A NON-STRUCTURALLY SEPARATED BASIS.

AFTER THE DIVESTITURE OF AT&T, THE FCC EXTENDED ITS PREEMPTION DECISION TO INCLUDE THE ENHANCED SERVICE OFFERINGS OF THE BOCS. THESE ACTIVITIES, OF COURSE, HAVE BEEN GREATLY RESTRICTED BY THE INFORMATION SERVICES PROHIBITION OF THE 1983 MFJ.

THE FCC'S PREEMPTION OF STATE ENHANCED SERVICES AND STRUCTURAL SEPARATIONS REGULATIONS WAS CHALLENGED BY THE STATES IN A FEDERAL COURT APPEAL IN 1982, BUT WHICH RESULTED IN AFFIRMATION OF THE FCC'S POSITION. IN ESSENCE, THE COURT RULED THAT THE FEDERAL COMMUNICATIONS ACT GRANTED THE FCC EXCLUSIVE

JURISDICTION OVER ENHANCED SERVICES AS PART OF ITS ANCILLARY JURISDICTION OVER INTERSTATE COMMUNICATIONS. AS SUCH, INCONSISTENT STATE REGULATIONS STOOD AS A BARRIER TO THE FCC'S EXECUTION OF ITS FEDERAL POLICY. AS I WILL DISCUSS IN A MOMENT, THE CASE MAY NO LONGER BE GOOD LAW.

FINALLY, IN 1985, THE FCC INITIATED THE THIRD COMPUTER INQUIRY IN ORDER TO ADDRESS ISSUES RAISED BY TECHNOLOGICAL DEVELOPMENTS IN THE YEARS SINCE COMPUTER II, THE PERCEPTION THAT STRUCTURAL SEPARATION WAS UNECONOMIC, AND THE DEVELOPMENT OF INCREASINGLY COMPETITIVE MARKETS. IN ITS 1986 ORDER, THE FCC CONCLUDED THAT BOCS WOULD BE PERMITTED TO OFFER ENHANCED SERVICES DIRECTLY, AND NOT THROUGH ARMS LENGTH SUBSIDIARIES, PROVIDED THAT THEY COMPLIED WITH CERTAIN REQUIREMENTS KNOWN AS NON-STRUCTURAL SAFEGUARDS. THESE SAFEGUARDS, INTENDED TO CREATE AN ENVIRONMENT CONDUCIVE TO FAIR COMPETITION BETWEEN BOCS AND ESPS, ARE AS FOLLOWS. ONE, THE BOCS MUST PROVIDE THE SAME ELEMENTS AND QUALITY OF NETWORK ACCESS TO ENHANCED SERVICE COMPETITORS THAT THE BOC USES FOR ITS OWN ENHANCED SERVICE ACTIVITIES. MOREOVER, THE BOCS

MUST BEGIN TO CONFIGURE THEIR NETWORKS TO FACILITATE NETWORK ACCESS MORE BENEFICIAL TO COMPETITORS THAN CURRENTLY EXIST. THESE ARE THE COMPARABLY EFFICIENT INTERCONNECTION AND OPEN NETWORK ARCHITECTURE REQUIREMENTS. SECOND, THE COMPANIES MUST ADOPT SPECIAL ACCOUNTING METHODS TO ENSURE THAT THEIR REGULATED ACTIVITIES ARE NOT BEING USED TO SUBSIDIZE UNREGULATED ENHANCED SERVICE OFFERINGS. THE COMPANIES HAVE COMPLIED WITH THIS REQUIREMENT BY OBTAINING FCC APPROVAL OF THEIR JOINT COST ALLOCATION MANUALS REQUIRED BY THE "PART X" PROCEEDING. THIRD, THE COMPANIES MUST REVEAL TO THE PUBLIC, IN A TIMELY FASHION, NETWORK TECHNICAL INFORMATION CONCERNING NEW ENHANCED SERVICE OFFERINGS. THIS WILL PROVIDE TIME FOR DEVELOPMENT OF COMPETITIVE SERVICES BY ESPS. AND FOURTH, THE BOCS MUST PROVIDE INFORMATION CONCERNING CUSTOMERS' NETWORK USAGE AND CONFIGURATIONS TO ENHANCED SERVICE COMPETITORS IF THE CUSTOMER SO REQUESTS.

TO DATE, THE ONLY ELEMENT OF THE COMPUTER III REGIME IN PLACE IS THE PART X ACCOUNTING ALLOCATION REQUIREMENT. THE BOCS HAVE PROPOSED COMPLIANCE METHODS REGARDING THE OTHER THREE

ELEMENTS IN THEIR ONA FILINGS.

DURING THE LAST TWO MONTHS I HAVE HAD A CHANCE TO REVIEW MOST OF THE BOC'S ONA PROPOSED PLANS. THE PLANS CLARIFY A KEY FACTOR THAT HAS BEEN AN UNDERCURRENT THROUGHOUT THE COMPUTER III PROCEEDING AND WHICH NOW STANDS AS PERHAPS THE GREATEST UNKNOWN ELEMENT OF THE ONA PUZZLE. THAT FACTOR IS THIS: IMPLEMENTATION OF ONA IS, ESSENTIALLY, A MATTER OF STATE TARIFF APPROVAL BY THE NATION'S FIFTY-ONE STATE REGULATORY COMMISSIONS, AND THE FUTURE AND EFFECTIVENESS AND SUCCESS OF ONA IS, THEREFORE, IN THE HANDS OF THE STATES. AS SUCH, THE ENHANCED SERVICES INDUSTRY MUST NOW SHIFT ITS FOCUS AWAY FROM THE FEDERAL ARENA AND TO THE STATE UTILITIES COMMISSIONS.

ALTHOUGH THE FCC HAS ATTEMPTED TO ESTABLISH BROAD POLICY RECOMMENDATIONS CONCERNING DEVELOPMENT, PRICING AND DEPLOYMENT OF BASIC SERVICE ELEMENTS, THE BOCS WILL FOR THE MOST PART PROVIDE ONA-RELATED SERVICES THROUGH THEIR STATE TARIFFS. FIVE BOCS, BELL ATLANTIC, BELL SOUTH, PACIFIC TELESIS, SOUTHWESTERN BELL, AND U.S. WEST, PROPOSE TO TARIFF BSES PRIMARILY ON THE STATE LEVEL.

AMERITECH AND NYNEX WILL TARIFF INTRASTATE BSES ON BOTH THE INTERSTATE AND INTRASTATE LEVELS, DEPENDING ON THE APPLICATION. (THE ACTUAL DIFFERENCE IN APPROACH OF THESE TWO GROUPS MAY BE PURELY SEMANTIC.) THESE DECISIONS ARE LEGALLY APPROPRIATE, INASMUCH AS THE COMMUNICATIONS ACT OF 1934 RESERVES TO THE STATES EXCLUSIVE AUTHORITY OVER ALL INTRASTATE COMMUNICATIONS AND RELATED-MATTERS, IRRESPECTIVE OF THE APPLICATION OF THOSE SERVICES. AS SUCH, THE STATE COMMISSIONS RETAIN ULTIMATE CONTROL OVER THE SUCCESS OF ONA STEMMING FROM THEIR ABILITY TO EITHER FACILITATE OR IMPEDE ITS IMPLEMENTATION.

ONCE THE FCC HAS APPROVED THE ONA FILINGS, THE BOCs MUST AMEND THEIR STATE TARIFFS TO INCLUDE BSE SERVICES. A FEW WORDS SHOULD BE SAID ABOUT THE STATE TARIFF APPROVAL PROCESS. WHILE TARIFF AMENDMENT PROCEDURES VARY FROM STATE TO STATE, THE PROCESS GENERALLY INVOLVES A COMPANY FIRST FILING PROPOSED TARIFF PAGES WITH THE COMMISSION, ACCOMPANIED BY A NARRATIVE EXPLANATION OF THE PROPOSAL AND COST SUPPORT DATA. IN THE DISTRICT OF COLUMBIA, THE PROPOSAL IS THEN PUBLISHED FOR PUBLIC COMMENT. THE

COMMISSION REVIEWS THESE COMMENTS, AND, IF THE RECORD IS SUFFICIENT, ISSUES A FINAL ORDER APPROVING, REJECTING, OR MODIFYING THE PROPOSAL. IF APPROVED, THE TARIFF BECOMES EFFECTIVE WITH THE PUBLICATION OF A NOTICE OF FINAL RULEMAKING. THE TIMEFRAME FOR THIS PROCESS VARIES WITH THE COMPLEXITY OF THE PROCEEDING, AND, IN THE DISTRICT, MAY TAKE FROM SIX WEEKS TO OVER A YEAR.

IN REVIEWING THE BOC'S ONA TARIFF FILINGS, THE STATES' MUST FOCUS THEIR DELIBERATIONS ON TWO KEY QUESTIONS: HOW WILL ONA IMPACT THE BULK OF LOCAL SERVICE RATES AND, ULTIMATELY, WHAT EFFECT WILL THERE BE ON OTHER BASIC SERVICES PROVIDED TO LOCAL USERS. THESE CONCERNS BRING TO MIND A MYRIAD OF RESULTING QUESTIONS:

- HOW WILL ONA AFFECT THE GOAL OF UNIVERSAL TELEPHONE SERVICE?
- WILL "UNBUNDLING" OF NETWORK SERVICES CONTINUE TO A POINT THAT IT WILL HAVE A NEGATIVE IMPACT ON RESIDENTIAL AND SINGLE LINE BUSINESS RATES?
- WILL ONA COMPEL STATE REGULATORS TO FOCUS THEIR ATTENTION ON ANTI-COMPETITIVE MATTERS TO THE DETRIMENT OF THEIR OVERSIGHT OF OTHER, TRADITIONAL REGULATORY

SUBJECTS?

-- AND, PERHAPS MOST IMPORTANTLY, WHAT MUST BE DONE TO ENSURE THAT REGULATED SERVICES ARE NOT USED TO SUBSIDIZE UNREGULATED ACTIVITIES?

STATE COMMISSIONS VARY IN THEIR ATTITUDES TOWARD ONA. MOST STATE COMMISSION ARE EITHER UNABLE TO FORMULATE A POSITION DUE TO THEIR LACK OF ADEQUATE INFORMATION, OR THEY ARE UNWILLING TO DO SO AT PRESENT, CHOOSING INSTEAD TO TAKE A WAIT-AND-SEE ATTITUDE. STATES THAT RESIST ADOPTING THE FCC'S ONA POLICIES MAY DO SO FOR POLITICAL REASONS, OR OUT OF A GENUINE REFUSAL TO ACCEPT THE RISKS OF CROSS-SUBSIDIZATION ASSOCIATED WITH NON-STRUCTURAL SAFEGUARDS, OR BOTH.

INTERESTED PARTIES MAY FIND SOME GUIDANCE ON THE POSITION OF THE STATES' IN A RESOLUTION ADOPTED IN FEBRUARY BY OUR NATIONAL ASSOCIATION, (NARUC), THE STATES EMPHASIZED THAT "DEVELOPMENT OF THE ENHANCED SERVICES MARKET SHOULD NOT COME AT THE EXPENSE OF THE EXISTING FRAMEWORK FOR PROVIDING LOW-COST, HIGH-QUALITY BASIC LOCAL SERVICES." MOREOVER, NARUC RESOLVED THAT IMPLEMENTATION OF ONA MUST NOT INCREASE THE AGGREGATE COST OF PROVIDING OTHER NETWORK SERVICES AND FUNCTIONS, THAT IMPLEMENTATION COSTS MUST BE

BORNE BY THE COST CAUSERS, THAT BSES AND BSAS SHOULD NOT AFFECT ADVERSELY THE PRICE OR AVAILABILITY OF EXISTING SERVICES, AND THAT USERS SHOULD NOT BE FORCED TO REPLACE EXISTING SERVICES WITH UNBUNDLED SERVICES. THE FULL RESOLUTION WILL BE FILED WITH THE FCC AS PART OF NARUC'S COMMENTS ON THE ONA PLANS.

AMONG THE ISSUES THAT WILL NO DOUBT PLAY AN IMPORTANT ROLE IN THE STATES' IMPLEMENTATION OF ONA IS THE EXTENT TO WHICH STATE PRICING AND DEPLOYMENT POLICIES COMPORT WITH THOSE ARTICULATED BY THE FCC. WITH REGARD TO BSE PRICING, THE FCC HAS STATED THAT IT FAVORS COST-BASED PRICING FOR THE DISTANCE-SENSITIVE TRANSMISSION ELEMENT AS WELL AS FOR CARRIER-PROVIDED CONCENTRATION EQUIPMENT LOCATED ON CUSTOMERS' PREMISES. IT HAS ALSO STATED THAT IT FAVORS AVERAGED PRICING FOR THE NETWORK INTERCONNECTION, CENTRAL OFFICE-BASED CONCENTRATOR ELEMENTS, AND HAS EXPRESSED NO PREFERENCE REGARDING PRICING OF NETWORK USAGE.

WITH GOOD REASON, SOME STATES ARE DISTURBED THAT HERE AGAIN THE FCC IS ATTEMPTING TO REACH DOWN AND DETERMINE LOCAL REGULATORY POLICY. AS THE FCC ITSELF POINTS OUT, IT HAS NO

AUTHORITY TO SET THE RATES, TERMS, CONDITIONS, OR METHODS OF REGULATION OF INTRASTATE BSES. AS THEY ALWAYS HAVE, STATES WILL SET LOCAL RATES IN A MANNER THAT SERVES THE PUBLIC INTEREST AS REQUIRED BY EACH STATE'S LAW. NOTHING THE FCC DOES OR SAYS CAN CHANGE THAT.

MOREOVER, IN LIGHT OF THE LOUISIANA DECISION, A NUMBER OF STATES AND THE DISTRICT OF COLUMBIA HAVE APPEALED THE COMPUTER III ORDERS TO THE EXTENT THAT THEY PREEMPT THE STATE REGULATION OF BOC PROVISION OF ENHANCED SERVICES. IN PART, THE APPEAL RESTS ON THE CONCLUSION THAT THE CASE UPHOLDING THE FCC'S COMPUTER II DECISION MAY HAVE BEEN FLAWED, AND THAT THE RECENT SUPREME COURT CASE COMPELS A DIFFERENT RESULT, IN THAT THE SUPREME COURT IN THE LOUISIANA DECISION, CLARIFIED AND REITERATED THAT CONGRESS CREATED A DUAL SCHEME OF FEDERAL-STATE REGULATION IN THIS COUNTRY, AND THAT THE FCC MAY NOT IGNORE THIS MANDATE IN ORDER TO EXPAND ITS POWER.

THE STATES' APPEAL OF COMPUTER III IS NOW IN THE BRIEFING PHASE, AND WILL NOT BE RESOLVED AT LEAST UNTIL THE END OF THE

YEAR. IT MAY BE PRUDENT FOR ALL INTERESTED PARTIES TO AWAIT THE OUTCOME OF THE APPEAL. ALTHOUGH IT MAY NOT AFFECT DIRECTLY STATE TARIFFING OF BSE'S, THE APPEAL MAY HAVE SUBSTANTIAL IMPACT ON THE ENHANCED SERVICES COMPETITIVE LANDSCAPE.

AS WITH PRICING, THE FCC HAS ALSO ESTABLISHED A POLICY REGARDING BSE DEPLOYMENT, AND HAS REQUIRED THE BOCS TO SUBMIT TIMETABLES, UPDATED ANNUALLY AS NECESSARY, SETTING OUT MARKET BY MARKET DEPLOYMENT AND PENETRATION SCHEDULES. THIS FCC REQUIREMENT FAILS TO RECOGNIZE, HOWEVER, THAT MATTERS RELATING TO INTRASTATE CONSTRUCTION AND INVESTMENT ARE BEYOND ITS JURISDICTION. THE STATES ARE FREE TO STEP IN AS NECESSARY TO ENSURE THAT PUBLIC UTILITY RESOURCES ARE BEING DISTRIBUTED EQUITABLY AMONG USERS. THE FCC HAS, THEREFORE, CREATED YET ANOTHER UNNECESSARY CONFLICT BETWEEN ITSELF AND THE STATES, WITH THE BOCS AND THEIR CUSTOMERS CAUGHT IN THE PINCH.

WHILE THE FCC HAS SO FAR INTIMATED THAT IT WILL NOT PREEMPT STATE REGULATION OF BSE PRICING AND DEPLOYMENT, IT HAS ESTABLISHED PROCEDURES THROUGH WHICH IT WILL KEEP INFORMED OF

STATE REGULATORY ACTIVITIES. IT WILL, FOR EXAMPLE, REQUIRE BOCS TO OBTAIN COMPUTER III WAIVERS IF STATES ESTABLISH PRICING CONDITIONS THAT DEVIATE FROM FCC POLICIES. LIKEWISE, CARRIERS MUST INFORM THE FCC OF STATE-INVOKED CUSTOMER AND USE RESTRICTIONS ON BASIC ONA SERVICES. IN THIS MANNER, THE FCC HAS INDIRECTLY THREATENED STATE REGULATORS WITH FURTHER PREEMPTION IF THEY FAIL TO FOLLOW THE FCC'S SUGGESTION FOR A REGULATORY FRAMEWORK.

ALTHOUGH THE FCC HAS WORKED HARD TO ASSERT EXCLUSIVE JURISDICTION OVER ENHANCED SERVICES REGULATION, IT KNOWS THAT THERE ARE AREAS CONCERNING WHICH EVEN THE FCC'S MOST CREATIVE LEGAL ANALYSES COULD NOT JUSTIFY STATE PREEMPTION. ONE OF THESE IS THE ALLOCATION OF COSTS BETWEEN BOCS' REGULATED AND UNREGULATED ACTIVITIES. RECENTLY, THE FCC HAS APPROVED THE JOINT COST ALLOCATION MANUALS SUBMITTED INDIVIDUALLY BY THE BOCS. THESE MANUALS ESTABLISH ACCOUNTING PROCEDURES TO GUARD AGAINST CROSS-SUBSIDIZATION OF UNREGULATED ACTIVITIES WITH RESOURCES FROM FEDERALLY REGULATED ACTIVITIES, MOST NOTABLY, INTERSTATE SWITCHED

AND PRIVATE LINE COMMUNICATIONS. THE FCC LEFT TO EACH STATE THE DEVELOPMENT OF ACCOUNTING RULES TO PROTECT AGAINST CROSS-SUBSIDIZATION INVOLVING INTRASTATE REGULATED RESOURCES. TO DATE, THE VAST MAJORITY OF STATES HAVE NOT YET PROMULGATED COST ALLOCATION RULES. YOU WILL LIKELY SEE INCREASED STATE ACTION IN THIS DIRECTION AS BOC ENHANCED SERVICE OPERATIONS DEVELOP AND QUESTIONS OF CROSS-SUBSIDIZATION COME TO REGULATORS' ATTENTION MORE FREQUENTLY.

ANOTHER KEY FACTOR BEYOND THE FCC'S AUTHORITY IS THE DEGREE OF UNIFORMITY AMONG ONA TARIFFS FROM STATE TO STATE. UNIFORM ONA TARIFFS COULD PROVE EXTREMELY BENEFICIAL TO THE EFFICIENT DEVELOPMENT OF COMPETITIVE ENHANCED SERVICE OFFERINGS AT THE LOCAL LEVEL. A PATCHWORK OF TARIFFS WOULD REQUIRE ESPS TO BECOME PROFICIENT IN TARIFF INTERPRETATION IN ALL 52 JURISDICTIONS FROM THIS REGULATOR'S PERSPECTIVE, UNIFORMITY DOES NOT APPEAR TO BE UNREASONABLE, PROVIDED RATES ARE SET IN A MANNER THAT ENSURES THE PUBLIC INTEREST IS SERVED AS DEFINED BY EACH STATE. IN MY MIND, THAT MEANS THAT BASIC LOCAL SERVICES ASSOCIATED WITH ENHANCED

SERVICE OFFERINGS MUST PAY THEIR FULL FAIR SHARE OF NETWORK COSTS.

IF THE ESPS DESIRE UNIFORM REGIONAL ONA TARIFFS, THEY MUST TAKE THE INITIATIVE, INASMUCH AS THE FCC HAS TAKEN NO ACTION TO PROMOTE UNIFORMITY THROUGH JOINT FEDERAL-STATE ACTIVITIES. IF THE FCC HAD WORKED WITH THE STATES THROUGH THE JOINT BOARD PROCESS, IT COULD HAVE RESOLVED MUCH OF THE JURISDICTIONAL UNCERTAINTY THE INDUSTRY NOW FACES AND PERHAPS OBIATED THE NEED FOR A CONFERENCE SUCH AS TODAY'S. THE FCC WOULD BE WISE TO KEEP THIS IN MIND FOR THE INEVITABLE COMPUTER IV.

I THANK YOU FOR YOUR TIME.