

SEPTEMBER 21, 1987

STATE TELECOMMUNICATIONS REGULATION: SUCCESS OR FAILURE?

GOOD MORNING. WHEN I WAS GIVEN THE TOPIC OF THIS PANEL,
STATE TELECOMMUNICATIONS REGULATION: SUCCESS OR FAILURE?, I WAS
REMINDED OF THE CHILDREN'S STORY ABOUT THE BLIND MEN WHO WERE
ASKED TO DESCRIBE AN ELEPHANT. ONE BLIND MAN GRABBED THE TRUNK
AND STATED MOST EMPHATICALLY THAT AN ELEPHANT WAS ~~COMPARABLE TO A~~ ^{VERY MUCH LIKE}
SNAKE. ANOTHER SWUNG ON THE TAIL AND ANNOUNCED THAT ^{HE WAS WRONG: THAT} IT WAS ~~LIKE~~ ^{LIKE} ~~WAS~~ ^{LIKE}
A VINE. THE THIRD MAN GRABBED THE ELEPHANT'S LEG AND STATED THAT
^{WAS BOTH PROPER AND A RESPECT} IT WAS LIKE A TREE. THE FINAL MAN FELT THE ELEPHANT'S SIDE AND
^{THEY WERE ALL IN ERROR AND AN ELEPHANT WAS IN FACT} DECLARED THAT ~~IT WAS~~ LIKE A WALL. THUS, LIKE THE BLIND MEN AND
THE ELEPHANT, WHETHER STATE REGULATION OF THE TELEPHONE INDUSTRY
IS A SUCCESS OR A FAILURE DEPENDS ON WHOM YOU ASK AND THEIR
PERSPECTIVE. AS A REGULATOR, I BELIEVE THAT THE REGULATORY
SYSTEM IS A SUCCESS, BUT THAT CHANGES ARE WARRANTED.

IS DEREGULATION THE ANSWER?

REGULATORS ARE RECEIVING PRESSURE FROM THE INDUSTRY TO
DEREGULATE AND FROM CONSUMERS TO KEEP PRICES LOW. FURTHER, STATE
REGULATORY COMMISSIONS HAVE A STATUTORY MANDATE TO SET FAIR AND
REASONABLE UTILITY RATES WHILE ALLOWING THE COMPANIES TO EARN A
FAIR RATE OF RETURN. SOME COMMISSIONS BELIEVE THAT A MOVE TO
DEREGULATE WOULD CONSTITUTE AN ABANDONMENT OF THIS STATUTORY
DUTY¹/ WHILE OTHERS BELIEVE THERE IS SIMPLY INSUFFICIENT

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COMPETITION TO WARRANT DEREGULATION. THE COMPANIES, FRUSTRATED BY THIS LACK OF ACTION, HAVE TAKEN THEIR DEREGULATORY PLEAS TO THE STATE LEGISLATURES.

SINCE 1983, NINETEEN STATES HAVE HAD LEGISLATIVE ACTIVITY TO DEREGULATE SOME ASPECT OF TELECOMMUNICATIONS SERVICES. THESE STATES ARE ARIZONA, COLORADO, IDAHO, INDIANA, IOWA, ILLINOIS, MINNESOTA, MONTANA, NEBRASKA, NEW MEXICO, NORTH CAROLINA, NORTH DAKOTA, OREGON, TEXAS, UTAH, VIRGINIA, WASHINGTON AND WISCONSIN.^{2/}

PROBABLY THE BEST KNOWN AND MOST CONTROVERSIAL LEGISLATION WAS PASSED IN NEBRASKA. ~~IT PROVIDES THAT THE TELEPHONE COMPANIES~~ ARE NOT SUBJECT TO ANY RATE REGULATION. INSTEAD, THEY NEED ONLY FILE RATES WHICH WILL BECOME EFFECTIVE IN TEN DAYS. HOWEVER, CHANGES IN MONTHLY RATES FOR BASIC LOCAL SERVICE REQUIRES SIXTY DAYS NOTICE TO ALL SUBSCRIBERS.

THE PSC MAY ONLY REVIEW BASIC LOCAL EXCHANGE RATES UPON RECEIPT OF A FORMAL COMPLAINT SIGNED BY 5% OF ALL SUBSCRIBERS IF THE COMPANY HAS NO MORE THAN 50,000 LINES, OR 3% OF ALL SUBSCRIBERS IF THE COMPANY HAS BETWEEN 50,000 AND 250,999 LINES. SUCH COMPLAINTS MUST BE RECEIVED SIXTY DAYS UPON RECEIPT OF THE RATE CHANGE NOTICE. IF THE PSC FINDS THAT THE COMPLAINT IS VALID, IT MAY ADJUST THE RATES, BUT MAY NOT SET ANY RATE BELOW THE ACTUAL COST OF PROVIDING SERVICE. THE COMMISSION MAY ALSO ORDER THAT THE COMPANY REFUND ANY AMOUNTS COLLECTED THAT EXCEED THE RATE SET BY THE COMMISSION. ~~IF THE COMMISSION ADJUSTS A COMPANY'S RATES,~~

~~THE COMPANY MAY NOT INCREASE ITS RATES AGAIN FOR SIX MONTHS UNLESS THE PSC APPROVES. THIS PROVISION, HOWEVER, FOR PSC REVIEW AND ADJUSTMENT EXPIRES ON AUGUST 31, 1991.~~^{3/}

IN SETTING INTEREXCHANGE RATES, THE LEGISLATION MANDATES RATE AVERAGING ON A STATEWIDE BASIS UNTIL AUGUST 31, 1991 UNLESS THE PSC ORDERS OTHERWISE. THE COMPANY MAY ALLOW VOLUME DISCOUNTS OR OTHER DISCOUNTS THAT HAVE A REASONABLE BUSINESS PURPOSE.^{4/}

THE COMMISSION RETAINS JURISDICTION OVER QUALITY OF SERVICE, DEPOSITS AND DISCONNECTIONS.^{5/}

THE NEBRASKA LEGISLATION WAS SCHEDULED TO BECOME EFFECTIVE ON JANUARY 1, 1987. HOWEVER, AS YOU KNOW THE NEBRASKA PUBLIC SERVICE COMMISSION FILED A LAWSUIT TO HALT ITS IMPLEMENTATION ON CONSTITUTIONAL GROUNDS. IN MARCH OF 1987, THE SUIT WAS DECIDED AGAINST THE COMMISSION AND THE LEGISLATION HAS BEEN IMPLEMENTED. HOWEVER, A FURTHER APPEAL HAS BEEN FILED WITH THE NEBRASKA SUPREME COURT.

SINCE THE LEGISLATION TOOK EFFECT, ONE INDEPENDENT COMPANY HAS INCREASED ITS RATES 150% AND OVER 300 COMPLAINTS HAVE BEEN FILED. THE COMMISSION HAS SCHEDULED A REVIEW, BUT THE STANDARD FOR REVIEW HAS BEEN ^{LEGISLATIVELY} CHANGED FROM "FAIR, JUST AND REASONABLE RATES" TO "FAIR, JUST, REASONABLE AND BELOW ACTUAL COST RATES." SINCE THE COST OF PROVIDING SERVICE IN NEBRASKA IS RELATIVELY HIGH, TELEPHONE RATES CAN INCREASE ON AN ACCELERATED BASIS AND STILL BE BELOW ACTUAL COST.

THE TELECOMMUNICATIONS LEGISLATION IN COLORADO HAS BEEN PUT ON INDEFINITE HOLD. THE BILL, HB 1336, HAD BEEN PASSED BY THE HOUSE, BUT IN A FORM THAT WAS NOT ACCEPTABLE TO ITS PROPONENT, MOUNTAIN BELL. THE BILL HAD BEEN AMENDED TO GIVE THE PUC THE AUTHORITY TO DEREGULATE IN AREAS WHERE TELEPHONE COMPANIES PROVE THAT THEY ARE FACED WITH COMPETITION. THE ORIGINAL BILL PROPOSED BY MOUNTAIN BELL WOULD HAVE FREED THE COMPANY FROM REGULATION IN ALL AREAS, EXCEPT FOR SOME OVERSIGHT IN THE AREA OF BASIC LOCAL SERVICE. MOUNTAIN BELL IS HOPEFUL OF ANOTHER HEARING ON THE BILL, BUT HAS INDICATED AN UNWILLINGNESS TO MAKE ANY ADDITIONAL COMPROMISES. 6/

IN IDAHO, THE GOVERNOR VETOED DEREGULATORY LEGISLATION AND HIS VETO WAS SUSTAINED BY A MERE TWO VOTES. IN AN EFFORT TO SALVAGE THE LEGISLATION, A NEW BILL HAS BEEN PROPOSED WHICH DELETES THE CONTROVERSIAL RATE STABILITY CLAUSE. UNDER THIS CLAUSE, THE PUC WOULD HAVE NO AUTHORITY OVER INCREASES OF LESS THAN \$1.00 PER MONTH OVER A CONSECUTIVE 12-MONTH PERIOD. 7/

FINALLY, THE CITIZENS OF ARIZONA DEFEATED PROPOSITION 100, A CONSTITUTIONAL AMENDMENT WHICH WOULD HAVE GRANTED THE STATE CORPORATION COMMISSION AUTHORITY TO DEREGULATE TELECOMMUNICATIONS SERVICES AND THE LEGISLATURE THE AUTHORITY TO SPECIFY THE COMMISSION'S REGULATORY JURISDICTION OVER THESE SAME SERVICES. 8/

THE PROBLEM WITH THE LEGISLATIVE MODE OF DEREGULATION IS THAT IT TAKES THE DECISION AWAY FROM THE PEOPLE BEST QUALIFIED TO

MAKE IT. FURTHER^{more}, IN THOSE JURISDICTIONS THAT WE HAVE BEEN MONITORING DEREGULATION HAS BEEN IMPLEMENTED ON A FLASH-CUT ^{basis} ~~TYPE~~.

I AM NOT OPPOSED TO DEREGULATION. I, TOO, AM AN AMERICAN AND THEREFORE BELIEVE IN FREE MARKET FORCES, HOWEVER, I BELIEVE SUCH GOVERNMENTAL ACTION MUST BE JUSTIFIED. I BELIEVE THAT IT MUST BE SHOWN THAT DEREGULATION WILL IMPROVE THE OVERALL STATE OF TELECOMMUNICATIONS, THAT IT WILL RESULT IN EFFICIENCIES, TECHNOLOGICAL INNOVATIONS, SUSTAINED PRICE REDUCTIONS AND THAT, GENERALLY, THE BENEFITS WILL EXCEED THE RISKS BY SOME APPRECIABLE AMOUNT. I ALSO BELIEVE THAT DEREGULATION SHOULD PROCEED SLOWLY, CAUTIOUSLY, ON A SERVICE-BY-SERVICE BASIS, AND ONLY AFTER A CLEAR SHOWING THAT IT IS IN THE BEST INTERESTS OF THE COMPANY AND ITS RATEPAYERS. FURTHER, I FIRMLY BELIEVE THAT DEREGULATION IS NOT ALWAYS THE ANSWER. FLEXIBLE PRICING IS A VIABLE ALTERNATIVE.

THE DISTRICT OF COLUMBIA IS SIGNIFICANTLY DIFFERENT FROM OTHER REGULATORY JURISDICTIONS. WE HAVE ONLY ONE LATA. WE HAVE NO INTRASTATE LONG DISTANCE. WE HAVE A HIGH PERCENTAGE OF LOW INCOME HOUSEHOLDS. BECAUSE OF OUR SMALL GEOGRAPHIC CONFIGURATION AND THE HIGH POLITICAL INVOLVEMENT OF OUR ^{CITIZENS} ~~RESIDENTS~~, THE D.C. COMMISSION CONDUCTS ITS BUSINESS IN A "FISH BOWL" ENVIRONMENT. MANY SEGMENTS OF OUR COMMUNITY REGULARLY VOICE THEIR OPINION AND OUR ACTIVITIES ARE PROMINENTLY FEATURED IN THE NEWS MEDIA. UNLIKE MANY JURISDICTIONS, OUR LEGISLATORS PRIDE THEMSELVES AS BEING STRONGLY CONSUMER ORIENTED AND VIEW THE ROLE OF THE CONSUMER ADVOCATE AS ITS APPOINTED "WATCHDOG" OVER COMMISSION ACTIVITIES.

BASED ON THESE FACTORS IT IS NOT DIFFICULT TO UNDERSTAND WHY OUR JURISDICTION HAS NOT SEEN A GREAT DEAL OF DEREGULATION~~ACT~~ ACTIVITY. IN FACT, THE ISSUE HAS ONLY ARISEN ON TWO OCCASIONS, THE FIRST BEING CENTREX SERVICE.

CENTREX

CENTREX SERVICE IS A MATTER OF EXTREME IMPORTANCE IN THE DISTRICT OF COLUMBIA. AS OF AUGUST 1987, C&P HAD 308,602 CENTREX MAINSTATION LINES IN SERVICE. THESE CENTREX LINES ACCOUNT FOR 42% OF C&P'S INTRASTATE REVENUES. THIS LARGE DEPENDENCE ON CENTREX REVENUES BY C&P IS UNIQUE AMONG LOCAL EXCHANGE CARRIERS.

IN 1984, C&P FILED AN APPLICATION WITH OUR COMMISSION TO REVISE ITS CENTREX TARIFF, ALLEGING THAT COMPETITION FROM PBX SYSTEMS HAD INCREASED DRASTICALLY AND THAT IF THE COMPANY CONTINUED TO OFFER CENTREX AT CURRENT RATES, PBX WOULD REPLACE ALL BUT 16.6% OF THE LINES IN SERVICE BY 1989. THE COMPANY PROPOSED TO CONTINUE ITS PRESENT RATE STABILITY PLAN AND INSTITUTE A NEW PLAN, WHICH CONTAINED A THREE YEAR CONTRACT LIFE AND SUBSTANTIAL PRICING REVISIONS, RANGING FROM REDUCTIONS OF 10% TO 95%. C&P ALSO PROPOSED TO IMPLEMENT A FULL CALC CREDIT OF \$2.00 TO ENSURE CONTINUED COMPARABILITY WITH PBX SYSTEMS.

THE OFFICE OF THE PEOPLE'S COUNSEL ARGUED THAT THE COMMISSION SHOULD, IN ESSENCE, DEREGULATE CENTREX, AND INSTEAD IMPUT A SPECIFIC REVENUE REQUIREMENT TO THE SERVICE CATEGORY. ^{WHNS} C&P

STRONGLY OPPOSED ~~CENTREX~~ DEREGULATION OF CENTREX.
THE

EVEN THOUGH WE FOUND THAT THE EVIDENCE WARRANTED GIVING CENTREX SPECIAL REGULATORY TREATMENT, WE REJECTED THE PROPOSAL TO CREATE A SEPARATE CENTREX REVENUE REQUIREMENT CATEGORY. WE WERE NOT PREPARED TO DEREGULATE AND THUS RELINQUISH REGULATORY AUTHORITY OVER A SERVICE WHICH UTILIZED SUCH A SUBSTANTIAL PORTION OF COMMON CENTRAL OFFICE FACILITIES AND OUTSIDE PLANT.

(Auto) HOWEVER, THE COMMISSION KNEW THAT IN ORDER FOR CENTREX TO REMAIN VIABLE OVER THE LONG TERM, THE COMPANY HAD TO BE ABLE TO OFFER THE SERVICE IN A MANNER WHICH WOULD ALLOW IT COMPETE EFFECTIVELY WITH PBX. WE ALSO KNEW THAT APPLYING TRADITIONAL RATEMAKING PROCEDURES TO CENTREX HAD BECOME PROBLEMATIC IN THAT THREE PROCEEDINGS HAD BEEN INSTITUTED BY THE COMPANY IN THE LAST FOUR YEARS IN AN EFFORT TO DEVELOP NEW WAYS TO ASSURE CENTREX SURVIVAL IN THE NEW COMPETITIVE ENVIRONMENT.

IN ORDER TO REMEDY THIS SITUATION, WE OPENED A^{subsequent} DOCKET TO CONSIDER WHAT SPECIFIC CHANGES WERE NECESSARY. THE PARTIES AGREED THAT SOME SPECIAL REGULATORY TREATMENT WAS APPROPRIATE, BUT DIFFERED AS TO WHAT THAT TREATMENT SHOULD BE. THE OPTIONS AVAILABLE WERE: 1) FLEXIBLE REGULATION, 2) DETARIFFING AND 3) DEREGULATION.

C&P^{had opted} FOR FLEXIBILITY AND PROPOSED THREE NEW TARIFF OFFERINGS: 1) THE INDIVIDUAL CASE BASIS (ICB) TARIFF; 2) THE FACILITIES BASED TARIFF (FBT) AND 3) THE BUSINESS PAK TARIFF (BPT).

THE ICB TARIFF IN PARTICULAR AFFORDED C&P ALMOST TOTAL REGULATORY FLEXIBILITY FOR LARGE CENTREX CUSTOMERS BY ENABLING IT

TO ENTER INTO BINDING CONTRACTS WITH INDIVIDUAL CUSTOMERS PRIOR TO EXPLICIT APPROVAL FROM THE PSC. THE CONTRACT WOULD BE DESIGNED TO MEET THE SPECIFIC NEEDS OF A PARTICULAR CUSTOMER. FURTHER, C&P AGREED THAT TO THE EXTENT WE FOUND THAT AN ICB RATE WAS SET BELOW COST, THE COMPANY WOULD NOT INCLUDE THE SHORTFALL IN ITS REVENUE REQUIREMENT IN ANY FUTURE RATE CASE. IN EFFECT, C&P WOULD ALLOCATE THAT SHORTFALL TO ITS SHAREHOLDERS.

THEREFORE, WE DIRECTED C&P TO DEVELOP AN EMBEDDED COST OF SERVICE STUDY WHICH WOULD ALLOW US TO DETERMINE WHETHER REVENUE DEFICIENCIES HAD OCCURRED. WE REQUIRED THE COMPANY TO IDENTIFY CENTREX INVESTMENT, COSTS AND REVENUES IN SUCH A MANNER THAT THE PSC COULD DETERMINE WHETHER CENTREX WAS COVERING ALL OF THE COSTS OF PROVIDING THE SERVICE.

THE BUSINESS PAK TARIFF (BPT)

THE BPT IS APPLICABLE TO CENTREX SYSTEMS REQUIRING FROM 2 TO 30 LINES. THE BPT IS A NON-STABILIZED OFFERING WITH A SIX MONTH REVENUE GUARANTEE. EXCHANGE ACCESS AND INTERCOM COMPONENTS ARE OFFERED AS A COMPLETE SERVICE. THIS FEATURE WAS DESIGNED TO ENSURE THAT SMALL CUSTOMERS ORDERING CENTREX TRULY ARE INTERESTED IN CENTREX FEATURES, RATHER THAN AN EFFECTIVE RATE REDUCTION IN THE PRICE OF LINES USED AS ORDINARY BUSINESS LINES, DUE TO THE APPLICATION OF THE PROPOSED SLC CREDIT.

THE FACILITIES BASED TARIFF (FBT)

THE FBT IS TARGETED AT SMALL TO MEDIUM SIZED CUSTOMERS WHO DO NOT HAVE SPECIALIZED SERVICE REQUIREMENTS.

(Katoys)
C&P ADOPTED AN INNOVATIVE AND COMPETITIVE APPROACH IN ITS MARKETING OF CENTREX ^{AND} WHICH THE COMMISSION FULLY SUPPORTED. ^{fully supported the company by}
~~APPROVED THE THE~~ ~~1618AL.~~

THE SECOND AREA WHERE THE QUESTION OF DEREGULATION HAS ARISEN CONCERNS PROPOSED LEGISLATION WHICH WAS ^{developed} DISCUSSED BY ^{the (Georgia) state} OUR ^{company}
A LOCAL TELEPHONE COMPANY, C&P, BUT THUS FAR HAS NOT BEEN FORMALLY SUBMITTED FOR CONSIDERATION TO THE ^{d.c.} CITY COUNCIL.

^{APPROXIMATELY}
C&P REVIEWED DEREGULATORY LEGISLATION FROM OTHER STATES AND FORMULATED SOME CONCEPTS WHICH IT BELIEVED WOULD WORK IN THE DISTRICT. KEY AMONG THESE WERE: ^{THE FOLLOWING:}

1. ANY TELEPHONE COMPANY PROVIDING SERVICE IN THE DISTRICT WOULD APPLY TO THE COMMISSION FOR DESIGNATION AS A COMPETITIVE COMPANY. THE COMMISSION WOULD HAVE TO GRANT THE APPLICATION UNLESS IT FOUND BY CLEAR AND CONVINCING EVIDENCE THAT THE COMPANY WOULD DISCONTINUE THE PROVISION OF BASIC LOCAL SERVICE. (SECTION 43-1419).

2. ONCE A COMPANY WAS DECLARED COMPETITIVE, THE COMMISSION WOULD ONLY REGULATE THE FOLLOWING AREAS: BASIC RESIDENTIAL SERVICE, AND BASIC BUSINESS SERVICE FOR FIVE LINES OR LESS. HOWEVER, SUCH REGULATION WOULD BE STRICTLY LIMITED BECAUSE

THE PSC WOULD BE WITHOUT AUTHORITY SO LONG AS THE RATE FOR THESE SERVICES WAS NOT INCREASED MORE THAN ONCE IN A 12-MONTH PERIOD AND SUCH INCREASE DID NOT EXCEED THE MOST RECENT INCREASE IN THE CONSUMER PRICE INDEX. (SECTION 43-1420(C)).

3. THE RATES FOR SERVICES OTHER THAN BASIC COULD BE CHANGED AT ANY TIME AND WOULD BECOME EFFECTIVE UPON TEN DAYS NOTICE TO THE COMMISSION. (SECTION 43-1420(E)).

4. ONCE A COMPANY HAS BEEN DESIGNATED COMPETITIVE, IT WOULD NEGOTIATE WITH THE CONSUMER ADVOCATE^{IN THE OFFICE,}, OPC, WITH RESPECT TO THE TERMS AND CONDITIONS UNDER WHICH BASIC SERVICE RATES WOULD BE CHANGED. SUCH AGREEMENT WOULD BE VALID FOR A FIXED TERM WHICH WOULD NOT EXCEED FIVE YEARS. THE AGREEMENT WOULD BE SUBMITTED TO THE PSC FOR ITS APPROVAL. THE PSC ^{WOULD HAVE TO} ~~MUST~~ APPROVE IT AFTER A HEARING UNLESS THERE WAS CLEAR AND CONVINCING EVIDENCE THAT THE COMPANY WOULD NOT CONTINUE TO PROVIDE BASIC LOCAL SERVICE. (SECTION 43-1421). ONCE SUCH AN AGREEMENT HAD BEEN APPROVED, THE PSC WOULD NO LONGER REGULATE THESE SERVICES. (SECTION 43-1420(C)).

FINALLY, THE PROPOSED LEGISLATION CONTAINED A PROVISION WHICH EXEMPTED THE D.C. GOVERNMENT FROM COMPLYING WITH TARIFFS OR AGREEMENTS WHICH WERE APPROVED BY THE COMMISSION. RATHER, THE D.C. GOVERNMENT WAS GIVEN THE OPTION OF NEGOTIATING DIRECTLY WITH THE COMPANY.

THUS, THE COMMISSION WOULD HAVE LIMITED REGULATION OF BASIC SERVICE UNTIL THE COMPANY NEGOTIATED AN AGREEMENT WITH OPC.

THEN, THE COMMISSION WOULD HAVE NO REGULATORY AUTHORITY. FURTHER, THERE WAS LANGUAGE WHICH WOULD PROHIBIT ANY RESTRICTIONS ON THE LINES OF BUSINESS THE COMPANY COULD ENTER AND WHICH PROHIBITED THE IMPOSITION OF A SEPARATE SUBSIDIARY REQUIREMENT.

EVEN THOUGH THE LEGISLATIVE PROPOSAL OF C&P HAS NOT BEEN ACTIVELY PURSUED, IT POSES, IN MY OPINION, SEVERAL PROBLEMS. FOR EXAMPLE, COULD OR SHOULD A SINGLE PROVIDER IN A GIVEN SERVICE AREA BE DECLARED COMPETITIVE? WHY WAS THERE NO RE-REGULATION PROVISION, IF THE NEED SHOULD ARISE? WHY WAS THE COMMISSION PLACED IN THE POSITION OF HAVING NO CHOICE BUT TO APPROVE FILINGS EXCEPT WITHIN VERY NARROW CIRCUMSTANCES WHICH WERE NOT LIKELY TO ARISE? WHY WAS A LARGE CUSTOMER SUCH AS THE D.C. GOVERNMENT EXEMPTED, WHILE A LARGER CUSTOMER, THE FEDERAL GOVERNMENT, WAS NOT?

THE COMMISSION, RATHER THAN WAITING FOR LEGISLATIVE EFFORTS, HAS DECIDED TO INVESTIGATE ^{ON ITS OWN} ~~THE~~ ^{AS} ~~ISSUE~~ ^(EXCERPT) OF RATE OF RETURN, COMPETITION, FLEXIBLE PRICING AND THE CONCEPT OF RATE CAPS FOR CERTAIN CUSTOMER CLASSES. THIS WORKING GROUP WILL TACKLE THESE ISSUES ^{AND OTHERS} AND HOPEFULLY MAKE APPROPRIATE RECOMMENDATIONS THAT WILL ALLOW OUR COMMISSION, WITH THE LEAST AMOUNT OF RATE DISRUPTION, TO CONTINUE DOWN THE ROAD OF EFFECTIVE TELECOMMUNICATIONS REGULATION.

HOWEVER, AS I STATED EARLIER, WE MUST PROCEED CAUTIOUSLY. IT IS CLEAR THAT IN THE DISTRICT OF COLUMBIA, AND I ASSUME IN

OTHER JURISDICTIONS AS WELL, THAT LOCAL EXCHANGE COMPETITION IS NON EXISTENT, AND NOT LIKELY TO BE IN EXISTENCE IN THE FORSEEABLE FUTURE. LOCAL SERVICE ALTERNATIVES IN THE DISTRICT CURRENTLY EXIST AT SUCH A LIMITED LEVEL THAT THEY CAN IN NO WAY BE VIEWED AS IMPOSING ANY CONSTRAINT UPON C&P'S MARKET POWER. FOR EXAMPLE, THERE IS ONLY ONE ALTERNATIVE FIBER NETWORK IN THE DISTRICT AREA CAPABLE OF PROVIDING CONNECTIONS BETWEEN LONG DISTANCE CARRIERS AND OUR VERY LARGE TELEPHONE USERS. LIKE OTHER POTENTIAL ALTERNATIVE SERVICE PROVIDERS, THIS ENTERPRISE FOCUSES ON SERVING VERY SPECIALIZED MARKET SEGMENTS. ITS PRESENCE HAS VIRTUALLY NO IMPACT ON THE PROVISION OF LOCAL EXCHANGE SERVICE BY C&P. IT DOES RAISE THE ISSUE OF BYPASS, BUT THAT'S ANOTHER ^{with the same} PROBLEM FOR ANOTHER ^{speech} ~~SPEECH~~.

FURTHER, C&P (AS WELL AS THE OTHER BOCS) CAN PROVIDE SERVICE OVER ITS EXISTING NETWORK AT A LOWER COST THAN A POTENTIAL PROVIDER WHO WOULD BE REQUIRED TO CONSTRUCT WHAT ARE ESSENTIALLY DUPLICATIVE FACILITIES. IN THE DISTRICT, THE COST ADVANTAGE ENJOYED BY C&P IS COMPOUNDED BY THE FACT THAT AT PRESENT, THERE IS SUBSTANTIAL EXCESS LOOP PLANT AVAILABLE TO SERVE NEW OR EXISTING CUSTOMERS. THUS, IT IS HIGHLY UNLIKELY THAT AN ALTERNATIVE SERVICE PROVIDER WOULD COMPETE WITH C&P FOR THE PROVISION OF LOCAL SERVICE ON A LARGE SCALE BASIS.

THE D.C. COMMISSION MADE THIS ARGUMENT IN ITS RECENT COMMENTS ON THE DOJ RECOMMENDATIONS ^{that were filed with} TO JUDGE GREENE. JUDGE GREENE

FOUND OUR ARGUMENT SO PERSUASIVE THAT HE REFERENCED IT IN HIS FINAL ORDER.

IN CLOSING, I WOULD LIKE TO SAY THAT OUR CURRENT REGULATORY SYSTEM WORKS WELL. HOWEVER, WE MUST CONTINUE TO RESPOND TO THE MARKET ENVIRONMENT. REGULATION SHOULD EVOLVE TO KEEP PACE WITH AND ENCOURAGE TECHNOLOGICAL ADVANCES. WE MUST BE WILLING TO QUICKLY RESPOND TO CHANGES IN THE NEEDS OF THE UTILITIES AND THEIR CUSTOMERS. EVEN MORE IMPORTANT, WE SHOULD FORSAKE THE IDEA THAT REGULATORS AND UTILITIES ARE NATURAL ADVERSARIES. RATHER, WE SHOULD FOSTER AN ENVIRONMENT OF MUTUAL SUPPORT AND COOPERATIVE EFFORT. WHAT IS INTERESTING IS THAT I URGED THE SAME MUTUAL SUPPORT WHEN I RECENTLY ADDRESSED A MEETING OF THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES (NASUCA). I EMPHASIZED THAT THE ^{REGULATORY CULTURE} REGULATORY ENVIRONMENT WAS SUCH THAT ALL OF THOSE INVOLVED IN THE PROCESS NEEDED TO POOL THEIR RESOURCES. OTHERWISE, LIKE THE BLIND MEN AND THE ELEPHANT, WE WILL FAIL TO SEE THE BIG PICTURE AND INSTEAD FOCUS ON OUR OWN POINT OF VIEW TO THE DETRIMENT OF EVERYONE.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20001 (202) 626-5100

MEMORANDUM

DATE: September 17, 1987

TO: Chairman Patricia M. Worthy

FROM: Margo P. Domon
Technical Assistant

SUBJECT: Speech entitled "State Telecommunications Regulation:
Success or Failure?"

Attached is your presentation as panel member at the Phillips Publishing Conference entitled "Deregulation or Regulation: State and Federal Communications Policy for the 1990's". The conference will be held at the Marriott Crystal Gateway Hotel in Arlington, Virginia, on Monday September 21, 1987. Your panel will be held from 11:00 a.m. - 12:30 p.m. and each panelist will speak for 15 - 20 minutes followed by a question and answer period.