

MARYLAND - DISTRICT OF COLUMBIA UTILITIES ASSOCIATION

66TH ANNUAL FALL CONFERENCE IN OCEAN CITY, MARYLAND
SEPTEMBER 21, 1990

DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION PERSPECTIVES

LADIES AND GENTLEMEN, I WANT TO THANK YOU FOR INVITING ME TO PARTICIPATE IN THE ASSOCIATION'S FALL MEETING. DESPITE MY MANY PRIOR APPEARANCES, I ALWAYS LOOK FORWARD TO THIS OCCASION. IT GIVES ME AN OPPORTUNITY TO BE AMONG FRIENDS AND FELLOW REGULATORS IN A MORE RELAXED SETTING WHICH, IN TURN, PROVIDES THE VEHICLE FOR EXPRESSING MUTUAL CONCERNS THROUGH YOUR QUESTIONS AND COMMENTS.

IN THIS ONGOING RELATIONSHIP BETWEEN REGULATORS AND THE REGULATEES, IT IS DOUBLY IMPORTANT IN THIS TIME OF CHANGING REGULATORY ENVIRONMENT, THAT WE COMMUNICATE CLEARLY AND DIRECTLY WITH EACH OTHER ABOUT THE ISSUES AND CHALLENGES FACING US. THUS, I WOULD LIKE TO PROVIDE YOU SOME GENERAL PERSPECTIVES FROM MY POSITION AS CHAIRMAN OF THE D.C. COMMISSION ON THE FUTURE TRENDS OF STATE REGULATION AND THE IMPLICATIONS FOR THE COMPANIES WE REGULATE.

GENERAL OVERVIEW

ALTHOUGH WE DO NOT HAVE RESPONSIBILITY FOR AS MANY UTILITIES AS OUR SISTER COMMISSION HERE IN MARYLAND, THE ISSUES WE FACE ARE OFTEN THE SAME.

IN THE NATURAL GAS AREA, WE ARE CONFRONTED WITH SUPPLY PROCUREMENT ISSUES, INCREASING COMPETITION BETWEEN ELECTRIC AND NATURAL GAS, DEVELOPMENT OF COGENERATION AND ATTEMPTS TO STREAMLINE PROCEDURES TO BE RESPONSIVE AND TIMELY IN MAKING DECISIONS ABOUT COMPANY ACTIONS WHICH, IN TURN, ALLOWS THE UTILITIES TO BE

EFFECTIVE AND COMPETITIVE.

ON THE ELECTRIC SIDE, ELECTRIC LOAD GROWTH, THE CAPACITY TO MEET PEAK DEMAND, GENERATION ISSUES, COGENERATION AND FUEL PROCUREMENT ISSUES DOMINATE THE AGENDA. A COMMON THREAD THROUGHOUT THESE ISSUES IS ENERGY EFFICIENCY. THE D.C. COMMISSION, THROUGH ITS DECISIONS AND WORK IN FORMAL CASE NO. 834, OUR ENERGY CONSERVATION PROCEEDING, IS ATTEMPTING THROUGH LEAST COST PLANNING PROGRAMS TO PROMOTE MEASURES TO HELP CONTROL PEAK DEMAND AND LOAD GROWTH. CUSTOMER ISSUES OF SATISFACTION AND SERVICE GROWS INCREASINGLY IMPORTANT AS UTILITY MARKETING DEPARTMENTS STRUGGLE TO MAINTAIN MARKET SHARES IN A COMPETITIVE ENVIRONMENT.

WITH RESPECT TO TELECOMMUNICATIONS, WE ARE GRAPPLING WITH HOW BEST TO PROTECT UNIVERSAL SERVICE WHILE ATTEMPTING TO DEFINE WHAT WE NOW MEAN BY "THE PUBLIC INTEREST". THE DC COMMISSION, AS WELL AS OTHER STATE COMMISSION'S ACROSS THE COUNTRY, FACE THE CHALLENGE OF NEW TECHNOLOGY AND SERVICE DEVELOPMENT, THE COSTING AND PRICING OF THESE NEW SERVICES, PRIVACY CONCERNS, REDUCED OR RELAXED REGULATION FOR COMPETITIVE SERVICES, AND NEW ENTRANTS OFFERING SPECIALIZED SERVICES, AND THE RISKS ASSOCIATED THEREWITH.

THESE ISSUES ARE OF PARTICULAR SIGNIFICANCE BECAUSE THEY RELATE DIRECTLY TO THE CHANGING CONFIGURATION OF THE TELECOMMUNICATIONS INFRA-STRUCTURE.

OF EQUAL IMPORTANCE TO STATE REGULATORS IS THE CONTINUING JURISDICTIONAL CONFLICTS WITH OUR FEDERAL COUNTERPARTS. IT WOULD SEEM AXIOMATIC THAT THE PEOPLE MOST AFFECTED BY FEDERAL POLICY SHOULD HAVE SOME INPUT INTO THOSE DECISIONS. WE HAVE ATTEMPTED AT

THE FCC TO BRING SOME BALANCE BY ASSERTING OUR OPINION AND POSITION ON ALL ISSUES AFFECTING US. SOME WE WIN AND SOME WE LOSE, BUT THE STRUGGLE TO MAINTAIN STATE COMMISSION AUTONOMY OVER FUNDAMENTALLY LOCAL DECISIONS CONTINUES.

NATURAL GAS REGULATION

I SEE THAT FRANK HOLLEWA WILL BE TALKING TO YOU TOMORROW ABOUT THE NATURAL GAS OUTLOOK IN THE 90'S, SO I WILL LIMIT MY REMARKS TO PARTICULAR ISSUES AND PERSPECTIVES ON NATURAL GAS REGULATION IMPACTING WGL'S SERVICE COMMUNITY. NIKE TELLS US THAT BO KNOWS FOOTBALL, WELL I AM HEAR TO TELL THAT ACCORDING TO DON, PAT, AND TOM, FRANK KNOWS GAS ACQUISITION.

IN THE DISTRICT OF COLUMBIA, FUEL PROCUREMENT ISSUES AND MARKET SHARE ISSUES PLAY SIGNIFICANTLY MORE IMPORTANT ROLES THAN EVER BEFORE. THIS, IN PART, IS A RESULT OF DEREGULATION INITIATIVES BEGUN BY THE FERC. I AM SPEAKING, OF COURSE, OF THE RESTRUCTURING OF THE INTERSTATE PIPELINE BUSINESS FROM SALES TO TRANSPORTATION THUS FORCING THE LOCAL DISTRIBUTION COMPANIES (LDCs) TO TAKE A MAJOR RESPONSIBILITY FOR SECURING ADEQUATE AND RELIABLE SUPPLIES. HOWEVER, ONCE HAVING GOTTEN THE NATURAL GAS, THERE IS NO ASSURED MARKET, GIVEN THE EMERGING INTRAFUEL COMPETITION BETWEEN NATURAL GAS AND ELECTRICITY. LAST NOVEMBER, THE ELECTRIC AND GAS COMPANIES IN THE DISTRICT FILED TO INTERVENE IN EACH OTHER'S RATE PROCEEDINGS. WHETHER, AS SOME COMMENTATORS HAVE SUGGESTED, SUCH INTERVENTIONS FORCE REGULATORS TO ARBITRATE WHAT IS ESSENTIALLY FREE MARKET DECISIONS REMAINS TO BE SEEN. DESPITE THESE INTERESTING TWISTS, OUR COMMUNITY NEEDS BOTH ELECTRIC AND NATURAL

GAS AND THE COMMISSION, TO USE A CLICHE, INTENDS ONLY TO KEEP THE PLAYING FIELD LEVEL.

AS YOU KNOW, THE RECOVERY BY THE UTILITIES OF TAKE-OR-PAY COSTS ASSESSED TO THEM BY THEIR INTERSTATE PIPELINE SUPPLIERS CONTINUES. THIS MATTER IS, IN MANY WAYS, LIKE THE PROVERBIAL OLD SOLDIER - IT IS IN FACT OLD BUT IT DOESN'T SEEM TO EVER FADE AWAY. UNFORTUNATELY, THE COMMISSION'S DECISION ON THIS ISSUE IS STILL UNRESOLVED. HOWEVER, I NOTE THAT THE LAW IS LESS THAN CRYSTAL CLEAR ON WHETHER THE STATE COMMISSIONS MAY REQUIRE LDC'S TO ABSORB A SHARE OF THE COSTS ASSOCIATED WITH TAKE-OR-PAY LIABILITY. AS RECENTLY AS DECEMBER OF LAST YEAR, THE ILLINOIS APPELLATE COURT RULED THAT THE ILLINOIS COMMISSION COULD PREVENT NATURAL GAS COMPANIES FROM RECOVERING 100% OF PIPELINE TAKE-OR-PAY COSTS APPROVED BY THE FERC.

ONE ISSUE I WOULD BE INTERESTED IN HEARING DEBATED IS WHY LOCAL NATURAL GAS TRANSPORTATION HAS NOT WORKED AND WHETHER THERE IS, IN FACT, A VIABLE MARKET IN OUR JURISDICTION FOR IT.

IN FORMAL CASE NO. 849, THE COMMISSION INDICATED A DESIRE TO SEE A DUAL MARKET EVOLVE FOR NATURAL GAS SERVICE. WE ENVISIONED A MARKET WHERE THE REGULATED LOCAL GAS COMPANY WOULD DELIVER CUSTOMER-OWNED GAS FROM THE COMPANY'S POINT OF INTERCONNECTION WITH INTERSTATE PIPELINE SUPPLIERS TO THE CUSTOMER AT A SINGLE DELIVERY POINT. MARGIN SHARING WAS A FEATURE AND THE REVENUES FROM THE DELIVERY SERVICE WOULD HAVE BEEN TREATED IN THE SAME MANNER AS INTERRUPTIBLE SPECIAL CONTRACT REVENUES. THE COMMISSION IMPLEMENTED A TRANSPORTATION TARIFF AND NOTHING HAPPENED. AS A

REGULATOR, IT WOULD BE HELPFUL TO HEAR THE INDUSTRY'S ASSESSMENT OF THIS ISSUE.

ELECTRIC REGULATION

THE ELECTRIC POWER COMPANY IS FACING SOME SIGNIFICANT CHALLENGES IN THE DISTRICT OF COLUMBIA. BECAUSE OF SUSTAINED GROWTH IN ELECTRIC DEMAND, BUT NO COHERENT PLAN TO SATISFY IT, WE MAY FACE FUTURE POWER SHORTAGES.

I REALIZE THAT FORECASTING ELECTRIC LOAD GROWTH HAS ITS PEAKS AND VALLEYS, IF YOU WILL PARDON THE PUN. HOWEVER, THIS UNCERTAINTY IN FORECASTING ELECTRICITY NEEDS PRESENTS SOME REAL PROBLEMS. THE PUBLIC DOESN'T LIKE SURPRISES, LEAST OF ALL RATE INCREASE SURPRISES WHEN THEY FEEL THAT THE UTILITY IS NOT COMMUNICATING WITH THEM, OR TO THEM. COUPLED WITH GREATER EXTERNAL COMPETITION, THE ELECTRIC COMPANY FACES CHALLENGES IT MUST ADDRESS FORTHRIGHTLY AND QUICKLY. ON THE GENERATION SIDE, PEPCO HAS PUT FORTH PLANS TO BUILD NEW GENERATING FACILITIES IN THE DISTRICT AND IT IS WORKING ON BRINGING ON COGENERATION POWER TO ADDRESS SOME CAPACITY AND DEMAND REQUIREMENTS. BECAUSE THE COMMISSION HAS THE AUTHORITY TO APPROVE THE CONSTRUCTION OF NEW ELECTRIC PLANTS UNDER THE D.C. CODE (§43-1002), PEPCO'S PLANS TO BUILD NEW GENERATING FACILITIES IN THE DISTRICT REQUIRE COMMISSION APPROVAL. HOWEVER, IN CARRYING OUT OUR DUTIES, WE FOUND THAT THE DISTRICT OF COLUMBIA HAD NO SITING PLANS OR REGULATIONS. OTHER DISTRICT AGENCIES WHICH ISSUE PERMITS, LICENSES, OR CERTIFICATES FACED THE SAME PROBLEM. BECAUSE THERE WAS NO TRACK RECORD, NO INSTITUTIONAL HISTORY, THE D.C. COMMISSION AND OTHER DISTRICT AGENCIES HAVE HAD TO INVENT THE WHEEL.

UNFORTUNATELY, THE PROCESS HAS TAKEN MORE TIME THAN I AM CERTAIN PEPCO ENVISIONED. MOREOVER, LAST OCTOBER, THE D.C. COUNCIL ENACTED A LAW WHICH DIRECTLY AFFECTS UTILITIES AND SITING OUR JURISDICTION. I AM SPEAKING OF THE DISTRICT OF COLUMBIA PUBLIC UTILITY ENVIRONMENTAL IMPACT STATEMENT ACT OF 1989 (LAW 8-45, EFFECTIVE OCTOBER 19, 1990). THE LAW REQUIRES A PUBLIC UTILITY TO SUBMIT AN ENVIRONMENTAL IMPACT STATEMENT AND ANALYSIS OF THE "CUMULATIVE RISK OF ADVERSE HEALTH EFFECTS" FROM EMISSIONS OF POLLUTANTS. FROM THE LATTER SUBMISSION, THE COMMISSION MUST THEN DETERMINE WHETHER IT IS NECESSARY FOR THE UTILITY TO SUBMIT ADDITIONAL STUDIES.

THIS REQUIREMENT APPLIES TO PROCEEDINGS BEFORE THE COMMISSION AND IS BEING PUT TO THE TEST IN F.C. 877, WHICH CONCERNS PEPCO'S APPLICATION TO CONSTRUCT TWO COMBUSTION TURBINES AT THE BENNING GENERATING STATION. THIS MATTER IS, OF COURSE PENDING, BUT I POINT IT OUT AS AN ILLUSTRATION OF HOW IN TODAY'S ENVIRONMENT, THE REGULATORY ASSUMPTIONS CAN AND DO CHANGE CAUSING SIGNIFICANT ADJUSTMENTS FOR EVERYONE INVOLVED IN ENERGY PRODUCTION AND REGULATION. IT ALSO SUGGESTS THAT THE POLICY MAKERS IN OUR JURISDICTION MUST DEVELOP CLEARER AND MORE EFFECTIVE PROCEDURES FOR THE PLANNING AND IMPLEMENTATION OF AN ENERGY POLICY.

THE D.C. COMMISSION HAS ALSO REQUIRED THE ELECTRIC UTILITY TO DESIGN PROGRAMS TO MANAGE DEMAND AND SUPPLY. AS YOU KNOW, UTILITY PROGRAMS DESIGNED TO INFLUENCE DEMAND MAY HAVE SEVERAL GOALS: (1) ADJUSTING DEMAND IN THE SHORT RUN TO BETTER MATCH EXISTING SUPPLIES AND (2) REDUCING THE NEED FOR NEW SUPPLIES. DEMAND-SIDE MANAGEMENT PROGRAMS OFTEN ARE DESIGNED TO MEET THE FORMER GOAL BY LIMITING

GROWTH UNTIL NEW SUPPLIES CAN BE BROUGHT ON LINE OR BY MARKETING POWER FROM EXCESS CAPACITY. OVER TWO YEARS AGO, IN MARCH 1988, OUR COMMISSION DIRECTED PEPCO TO FILE AN INTEGRATED LEAST COST PLAN. CONCOMITANTLY IN THAT SAME ORDER, WE WERE THE FIRST JURISDICTION TO INCLUDE A NATURAL GAS COMPANY IN THE CONSERVATION PLANS. DCNG FILED ITS FIRST LEAST COST PLAN THIS MONTH. WE ARE CURRENTLY REVIEWING THE PEPCO PLAN, AND HAVE JUST CONCLUDED HEARINGS. AT THE HEART OF THIS EFFORT IS A DESIRE TO PROMOTE ENERGY EFFICIENCY AND MEET DEMAND AND ENVIRONMENTAL CONCERNS. I DEFINE LEAST COST PLANNING (LCP) AS A FORMALIZED INTEGRATED DEMAND-SUPPLY PLANNING SYSTEM. COMMON ELEMENTS ARE DEMAND FORECASTS, ANALYZING DEMAND REDUCTION STRATEGIES AND SUPPLY RESOURCES ON AN EQUIVALENT BASIS AND ADDRESSING UNCERTAINTIES ASSOCIATED WITH LONG LEAD-TIME RESOURCES OR THE PRICE OF FUELS. ALTERNATIVE RESOURCE COMBINATIONS ARE UTILIZED TO MEET MANY DIFFERENT DEMAND SCENARIOS TO DETERMINE THE OPTIMUM PLAN. I BELIEVE LCP IS PROACTIVE, ALTHOUGH IT DOES NOT NECESSARILY ENSURE CONSUMERS WILL RESPOND AS AN ECONOMIC MODEL MAY INDICATE THEY SHOULD. LCPs CAN IDENTIFY TARGET AMOUNTS FOR DEMAND REDUCTIONS AND COSTS FOR RESOURCE GOALS, AND IT PROVIDES A MANAGERIAL TOOL FOR THE UTILITIES AND THE COMMISSION TO UTILIZE. EVEN IN FUEL PROCUREMENT, PEPCO HAS ISSUES CONFRONTING IT THAT CALLS FOR A COHERENT PLAN. WITH THE ADVENT OF A CLEAN AIR ACT, WHICH WILL REQUIRE UTILITIES TO CUT SULFUR DIOXIDE EMISSIONS BY 10 MILLIONS TONS, CAP EMISSIONS AT 1980 LEVELS, AND CUT NITROGEN OXIDE, THE UTILITY MUST BEGIN TO ACT NOW TO COMPLY WITH THOSE REQUIREMENTS.

TELECOMMUNICATION REGULATION

WITH THE DEVELOPMENT OF THE SIGNALING SYSTEM 7 (SS7) NETWORK, WHICH IMPROVES NETWORK SIGNALING CAPABILITIES, THE NATION'S TELEPHONE COMPANIES NOW HAVE THE ABILITY, WITH STATE COMMISSION APPROVAL, TO OFFER A VARIETY OF NEW SERVICES SUCH AS CALLER ID. THE SS7 NETWORK IS TRANSFORMING THE ORDINARY PUBLIC SWITCHED NETWORK INTO AN ADVANCED, INTELLIGENT ONE. ALTHOUGH TECHNOLOGICAL GROWTH IS OFTEN SEEN AS A BENEFICIAL COMPLEMENT TO ECONOMIC PROSPERITY, THERE ARE INHERENT DIFFICULTIES IN ASSESSING THE NEED FOR NEW TECHNOLOGY AND SERVICES. THE D.C. COMMISSION IS COGNIZANT OF THE SIGNIFICANT IMPACT THAT TECHNOLOGICAL ADVANCEMENTS CAN PLAY IN THE CONSUMER'S LIFESTYLE. HOWEVER, WE AS REGULATORS CANNOT BE OVERLY INFLUENCED BY THE PROMISE OF "BELLS AND WHISTLES". THE PUBLIC INTEREST REQUIREMENT MANDATES THAT NEW TECHNOLOGY, AND THE SERVICES THAT ARE OFFERED AS A RESULT, BE BENEFICIAL TO THE CONSUMER AND, AT THE SAME TIME, COST-EFFICIENT. WE ARE CHARGED WITH THE RESPONSIBILITY OF ENSURING THAT RATEPAYERS RECEIVE RELIABLE SERVICE AT REASONABLE COSTS. THE PREVAILING PROBLEM ASSOCIATED WITH THESE NEW SERVICES IS, IN MANY INSTANCES, PRICING.

AN EXAMPLE OF THIS IS THE PRICING ISSUES ASSOCIATED WITH CALLER ID AND OTHER, WHAT WE DESCRIBE AS, "CLASS" SERVICES. RECENTLY, THE D.C. COMMISSION APPROVED C&P'S PROPOSAL TO OFFER RETURN CALL AND CALLER ID WITHIN THE DISTRICT OF COLUMBIA. THE COMMISSION FOUND THAT THE PUBLIC INTEREST WOULD BE BEST SERVED IF PER-CALL BLOCKING WAS MADE AVAILABLE WITH THE OFFERING OF CALLER ID. C&P HAS NOW PROPOSED THAT PER-CALL BLOCKING BE OFFERED ON AN

OPERATOR-ASSISTED CALL BASIS. USING OPERATOR ASSISTANCE TO BLOCK CALLS, A CUSTOMER WISHING TO BLOCK HIS OR HER NUMBER WOULD DIAL "0" AND THE NUMBER. THE CALL WOULD BE INTERCEPTED BY AN OPERATOR, AND THE TELEPHONE NUMBER WOULD NOT BE FORWARDED. THE CHARGE FOR THIS SERVICE WAS PRICED, BY C&P, AT FORTY-FIVE (45) CENTS PER CALL. HOWEVER, DURING THE COMMISSION'S EVIDENTIARY HEARINGS, SEVERAL PARTIES ARGUED THAT THE SS7 NETWORK HAD THE CAPABILITY OF OFFERING PER-CALL BLOCKING WITHOUT THE NEED FOR OPERATOR ASSISTANCE. THESE PARTIES ADVOCATE THAT A CENTRAL OFFICE-BASED PER-CALL BLOCKING FEATURE SHOULD BE MADE AVAILABLE AT NO EXTRA CHARGE TO THE RATEPAYER. THE PRICING ISSUE WITH RESPECT TO THE PER-CALL BLOCKING FEATURE IS CURRENTLY PENDING BEFORE THE COMMISSION. IT IS INTERESTING TO NOTE, HOWEVER, THAT CALLER-ID HAS BEEN OFFERED WITH FREE CO-BASED PER-CALL BLOCKING IN NEVADA.

OTHER ASPECTS OF THIS PROCEEDING INVOLVED PRIVACY ISSUES WHICH REQUIRED DECISION-MAKING THAT WAS A BLEND OF CONSTITUTIONAL LAW, SOCIOLOGY, AND POLITICAL REALITIES. IT HAS BECOME PATENTLY OBVIOUS TO ME THAT EACH NEW ADVANCEMENT IN TECHNOLOGY STRETCHES THE CONCEPT AND OUR UNDERSTANDING OF "PLAIN OLD TELEPHONE" SERVICE.

AS AN ADJUNCT TO THE DEVELOPING TECHNOLOGY, TELEPHONE COMPANIES ARE PETITIONING STATE COMMISSIONS FOR REDUCED OR RELAXED REGULATION FOR COMPETITIVE SERVICES. DEREGULATION OF COMPETITIVE SERVICES MAY BECOME THE RULE, INSTEAD OF THE EXCEPTION. IN THE DISTRICT OF COLUMBIA, THE D.C. COMMISSION DECIDED THAT C&P COULD SEEK REGULATORY RELIEF FOR ITS COMPETITIVE SERVICES BASED ON A SHOWING OF ACTUAL LOSSES ATTRIBUTABLE TO COMPETITION, SUBSTANTIALLY

SUPPORTED PROJECTIONS OF ANTICIPATED REVENUE LOSSES, WITH C&P'S SHAREHOLDERS BEARING THE BURDEN OF ANY LOSS DUE TO SERVICES FOR WHICH THERE WAS REDUCED REGULATION. WE ALSO PROVIDED OTHER GUIDELINES WHICH ARE GENERALLY BASED ON THE STAFF'S PROPOSED "INDUSTRIAL ORGANIZATION" (IO) APPROACH. THE IO APPROACH FIRST DEFINES THE MARKET AND THEN ASSESSES THE IMPLICATIONS OF ACTUAL MARKET SHARE OR POWER. IN APPLYING FOR REDUCED OR FLEXIBLE REGULATION C&P WILL ALSO BE ALLOWED TO MAKE A SHOWING OF THE EXISTENCE OF VIABLE COMPETITORS, PRICE AND NON-PRICE COMPETITION, AND THE OPPORTUNITY AND EASE WITH WHICH FIRMS CAN ENTER AND EXIT A MARKET.

IN THE FEDERAL ARENA, THE COMMISSION HAS BEEN EXTREMELY ACTIVE, GOING TOE-TO-TOE, WITH RESPECT TO THE FCC'S PREEMPTION OF STATE COMMISSION'S AUTHORITY TO REGULATE ENHANCED SERVICES OR IMPOSE STRUCTURAL SEPARATIONS. IN THE RECENT COMPUTER III PROCEEDING, THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT VACATED AN FCC DECISION TO ALLOW THE BELL OPERATING COMPANIES TO INTEGRATE THEIR REGULATED COMMON CARRIER COMMUNICATIONS SERVICES AND UNREGULATED ENHANCED OR DATA PROCESSING SERVICES WITHOUT THE EARLIER REQUIREMENT OF STRUCTURAL CORPORATE SEPARATIONS. BY IMPLICATION, THE COURT REJECTED THE FCC'S COST-ACCOUNTING PROCEDURES AS PROTECTION FOR RATEPAYERS AND COMPETITORS AGAINST THE HARMFUL EFFECTS OF CROSS-SUBSIDIZATION. THIS DECISION HAS BEEN HAILED BY NARUC AND VARIOUS STATE COMMISSIONS. AS I HAVE STATED IN THE PAST, THE FCC'S NON-STRUCTURAL SAFEGUARDS ARE

INADEQUATE TO ENSURE THAT BASIC RATEPAYERS ARE PROTECTED FROM CROSS-SUBSIDIZATION BETWEEN REGULATED AND NON-REGULATED OFFERINGS BY THE SAME COMPANY. FURTHER, STATE COMMISSIONS ARE NOW PERMITTED TO REGULATE THE SALE OF ENHANCED SERVICES BY THE BOCs WITHIN THEIR RESPECTIVE JURISDICTIONS. AS GREAT AS THE COMPUTER III DECISION IS FOR STATE REGULATORS, IT IS UNFORTUNATE THAT THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, IN MARYLAND PSC V. FCC, DECLINED TO REVIEW THE MD. COMMISSION'S PETITION CHALLENGING FCC PREEMPTION OF STATE AUTHORITY TO REGULATE THE RATES FOR DISCONNECTION FOR NON-PAYMENT OF SERVICE THAT LOCAL EXCHANGE CARRIERS PROVIDE TO INTEREXCHANGE CARRIERS. BUT AS I STATED EARLIER, THE STRUGGLE TO MAINTAIN STATE COMMISSION AUTONOMY OVER FUNDAMENTALLY LOCAL DECISIONS CONTINUES.

PATTERNS OF FUTURE REGULATION

THE UTILITY WORLD IS CHANGING AND WE REGULATORS MUST EVALUATE AND UNDERSTAND THE FORCES BEHIND THOSE CHANGES - BECAUSE WE, TOO, MUST CHANGE. THE UTILITIES CAN HELP, BY HELPING THE REGULATORS UNDERSTAND UTILITY NEEDS AND DECISIONS. ONE OF THE REAL TRUTHS IS THAT AN INFORMED REGULATOR USUALLY, NOT ALWAYS, BUT USUALLY MAKES A BETTER DECISION THAN AN UNINFORMED ONE.

REGULATORS HAVE THE OBLIGATION TO MONITOR HOW A UTILITY EXERCISES ITS OPTIONS TO ACHIEVE THE GOAL OF PROVIDING ADEQUATE SERVICE SAFELY AND ECONOMICALLY. THE TRADITIONAL RATE-CASE SHOOT-OUT IS ONE WAY, BUT INCREASINGLY, DECISIONS MUST BE MADE COOPERATIVELY ABOUT CERTAIN DIRECTIONS AND APPROACHES THE UTILITY WILL TAKE TO FULFIL ITS MISSION. MOREOVER, UTILITIES ARE ENTITLED

TO BETTER THAN A BACKWARD-LOOKING PRUDENCY REVIEW. SOME COMMON SENSE APPROACHES TO HELPING THE REGULATORS INCLUDE: (1) ARTICULATING CLEAR CONCRETE GOALS TO THE COMMISSION, (2) BRAINSTORMING WITH THE COMMISSION STAFF ON WAYS TO SOLVE PROBLEMS, (3) BEING FORTHCOMING AND NOT RESISTING COMMISSION EFFORTS TO OBTAIN NEEDED INFORMATION, AND (4) RESISTING THE TEMPTATION TO VIEW THE COMMISSION AND ITS STAFF AS AN ENEMY.

WE, AS STATE REGULATORS, MUST STRIVE TO EVOLVE WORKABLE AND TIMELY METHODS FOR UNDERSTANDING AND DEALING WITH THE ISSUES CONFRONTING OUR UTILITIES. THE EXPECTATIONS RISE AS THE DEMANDS OF NEW SERVICES REQUIRE THE COMMISSION'S AND UTILITIES TO VENTURE INTO UNCHARTED WATERS. THESE RISING EXPECTATIONS ALSO SEEM TO CREATE A MISTRUST OF THE COMMISSION'S MOTIVES AND POLICIES AS WE SEEK TO ASSURE THE PUBLIC INTEREST IS SERVED. I THINK WE MAY DISAGREE AT TIMES AS TO WHAT IS IN THE PUBLIC INTEREST. BUT THE FUTURE OPTIONS ARE TOO IMPORTANT TO BE LEFT TO CHANCE. MOREOVER, IT IS IMPERATIVE THAT THOSE WHO WILL ULTIMATELY PAY THE UTILITY BILLS BE INVOLVED IN THIS PROCESS.

I THANK YOU FOR LISTENING TO ME. I HOPE THAT OUR DIALOGUE WILL BE A REFINEMENT AND CONTINUATION OF COOPERATIVE EFFORTS WHICH SERVE RATEPAYERS AND SHAREHOLDERS EQUALLY WELL. AS I BEGIN MY TENTH YEAR AS A REGULATOR, I MARVEL AT THE CHANGES I HAVE SEEN IN THE UTILITY INDUSTRY. IT HAS MOVED FROM A STATIC POSITION TO FRENZIED ACTIVITY INVOLVING EVERY ASPECT OF TELECOMMUNICATIONS, NATURAL GAS AND ELECTRICITY. THE COMPLEXITIES WE FACE HAVE TRIPLED AND AS THE NEW REGULATORS AT OUR COMMISSION GO THROUGH A LEARNING

PROCESS, I AM MINDFUL OF THE CHALLENGES AND OPPORTUNITIES THAT LIE
AHEAD - WE CAN ADDRESS THEM TOGETHER, COLLECTIVELY OR WE CAN
STRUGGLE WITH THEM INDIVIDUALLY- THE CHOICE IS CLEARLY OURS - THANK
YOU AGAIN FOR THIS OPPORTUNITY.

