



# FEDERAL COMMUNICATIONS COMMISSION

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DATE: October 29, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In The Matter of: )  
 )  
EN BANC HEARING: )  
 )  
CONSUMER ISSUES AND EDUCATION )  
 )

Room 856  
FCC Building  
1919 M Street, N.W.  
Washington, D.C.

Thursday,  
October 29, 1998

The parties met, pursuant to the notice, at  
1:12 p.m.

BEFORE: WILLIAM E. KENNARD  
Chairman

FEDERAL COMMISSIONERS AND STATE JOINT BOARD:

JULIA JOHNSON, Chairman  
SUSAN NESS, Commissioner  
LASKA SCHOENFELDER, Commissioner  
HAROLD FURCHGOTT-ROTH  
, Commissioner  
PATRICK M. WOODS III, Chairman  
MICHAEL POWELL, Commissioner  
MARTHA HOGERTY, Consumer Rep.  
GLORIA TRISTANI, Commissioner  
DAVID BAKER, Commissioner

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## PANEL 1:

MARK COOPER, Director of Research  
American Federation of America  
FRANK GUMPER, USAIC  
JOHN C. METTS, National Telephone  
Cooperative Association  
BILLY JACK GREGG, Director, Consumer  
Advocate Division, Public Service  
Commission of West Virginia

## PANEL 2:

MICHAEL TRAVIESCO, Counsel representing  
Maryland consumers  
MICHELE FARQUHAR, Western Wireless  
BILL GILLIS, NARUC  
JOEL LUBIN, AT&T  
DAVE GILLES, Wisconsin DOJ  
DOROTHY ATTWOOD, Common Carrier Bureau  
FCC

1                                   P R O C E E D I N G S

2                   CHAIRMAN KENNARD: Good afternoon, and welcome  
3 everybody to our En Banc Panel on Consumer Issues and  
4 Education. We have a very interesting and packed agenda for  
5 the afternoon, so I think we need to get started, and we're  
6 going to have to keep our schedule.

7                   We have our -- we have a timekeeper here, Ruth,  
8 are you going to do that for us today? Ruth Darcey is going  
9 to be our timekeeper and she is a very tough lady, so she's  
10 going to be enforcing our time deadlines strictly.

11                  I would like to welcome everyone here. We are  
12 going to have two panels today. The first panel will be on  
13 issues of affordability of basic telephone service.  
14 Obviously, this is a central goal of the FCC, and our  
15 colleagues in the states. It has been for many decades.  
16 And Congress, of course, reaffirmed that goal quite  
17 explicitly in the Telecommunications Act of 1996.

18                  We have been given the difficult task of  
19 implementing the extremely important Universal Service  
20 provisions in the 1996 Act. We are in the midst of that  
21 process. Commissioner Susan Ness and Chairman Julia Johnson  
22 have been co-chairing the Joint Board on Universal Service.  
23 They are -- they have a very busy November ahead. We're

1 looking very much forward to the recommendations of the  
2 Joint Board.

3           The first panel will address these affordability  
4 issues. We will have a second panel on consumer education  
5 issues, which, as you all know, have taken on renewed  
6 prominence as we have moved into more competitive markets in  
7 telecommunications. It requires more vigilance, in my view,  
8 not only on behalf of consumer, as there are more  
9 competitors out there vying for their dollars, but also  
10 those of us in government have to be more vigilant to make  
11 sure that issues like slamming and cramming are on our radar  
12 screens, and that we are actively protecting consumers.

13           I'll tell you a little bit about how we plan to  
14 proceed today just from a procedural standpoint.

15           I will welcome the other Commissioners here to  
16 make opening remarks. Then we will introduce the first  
17 panel. I will ask all of the panelists to introduce  
18 themselves and tell us your affiliation. Then I will ask  
19 each panelist to take no more than eight minutes for their  
20 presentation, and the timekeeper, Ms. Dancey, will indicate  
21 when two minutes remain, and I do implore the you be very  
22 mindful of the time. Then we're going to have some general  
23 Q and A's from the panelists.

1           We are going to alternate federal commissioners  
2 and state commissioners. I have given all the commissioners  
3 a list of the order of questioning. There is no logic to  
4 it. It was pretty much at random, and we will begin with  
5 Chairman Johnson.

6           CHAIRMAN JOHNSON: Opening statement?

7           CHAIRMAN KENNARD: Opening statement, yes.

8           CHAIRMAN JOHNSON: Thank you, Mr. Chairman, and  
9 Commissioners of both federal and state. I think this is a  
10 moment that we should all be very proud of, to have an  
11 opportunity to address these issues.

12           As we attempt to implement the Telecommunications  
13 Act on both the state and federal level, one of the things  
14 that we keep hearing from customers is, as you try to  
15 transition for companies, remember us in the process. I've  
16 had the opportunity over the last year to hold about 45  
17 public hearings. Some of them have dealt directly with the  
18 consumer issues, slamming and cramming. Others have dealt  
19 with fair and reasonable rates, and what should that mean,  
20 and Universal Service type issues for customers.

21           Some of the messages are clear. Customers don't  
22 want to see competition for the sake of competition, and  
23 that they don't believe that Universal Service should mean

1 higher local rates. Those concepts are seen as counter-  
2 intuitive.

3 I think that we should be able to, from the  
4 comments of our panelists on both panels, have a better  
5 appreciation of those issues, determine how we're going to  
6 address those issues working together. To the extent that  
7 we have consumer education programs, I brought with me my  
8 director of consumer affairs, Bev DeMello, because we are  
9 interested in partnering with industry and the federal and  
10 state regulators to make sure that customers are more  
11 informed.

12 We have learned a lot from the last time around. I  
13 think when we implemented some of the Universal Service  
14 programs, we, at the regulator stages and the companies,  
15 could have done a better job of educating and informing  
16 customers as to what would happen, and I think we have to  
17 remain cognizant of that process as we endeavor to implement  
18 whatever else might need to be implemented.

19 As we hold these panels, and as we begin our  
20 deliberations as it relates to Universal Service, I am  
21 always reminded that we are becoming less economic  
22 regulators and more consumer educators, and I keep that in  
23 mind as we hear your comments on both affordability, I say

1 that to the panelists, and on consumer education and how we  
2 are going to make customers better understand the new  
3 competitive markets in which we will be participating in.

4 And with that, again I would like to thank you,  
5 Mr. Chairman, and Commissioner Ness for her involvement and  
6 her leadership on the Universal Service Joint Board, and we  
7 look forward to comments and deliberations.

8 CHAIRMAN KENNARD: Thank you.

9 Commissioner Ness.

10 COMMISSIONER NESS: Thank you, Mr. Chairman.

11 I just want to make two points. Point one is that  
12 the consumer is at the heart of everything that we do. And  
13 point two is that point one is as valid for state  
14 commissioners and state consumer advocates as it is for  
15 federal commissioners.

16 So I'm glad to have this joint assembly of FCC  
17 commissioner and State Joint Board members so that we can  
18 explore all of the issues that we both are grappling with,  
19 and I look forward to the discussion today.

20 Thank you.

21 CHAIRMAN KENNARD: Thank you.

22 Commissioner Schoenfelder.

23 COMMISSIONER SCHOENFELDER: Thank you, Mr.

1 Chairman, and thank you for having us here today.

2 I am going to be very brief, and rather than just  
3 to repeat what Commissioner Johnson has said, what I'm going  
4 to do is invite you to come to NARUC the 8th of November,  
5 and listen to some of the same discussion as the states get  
6 into the discussion of what we can do for consumers also.  
7 So I hope that will take off from here and we can learn here  
8 and add to that. So I would like to invite you all to come  
9 to that.

10 Thanks.

11 CHAIRMAN KENNARD: Well, I'll be there.

12 Commission Furchgott-Roth.

13 COMMISSIONER FURCHGOTT-ROTH: Thank you, Mr.  
14 Chairman.

15 I just would like to take a brief moment to  
16 welcome the panelists here, particularly on the first panel.  
17 Mr. Metts has come from Penasco Valley, in New Mexico, and I  
18 had the great pleasure of visiting Commissioner Tristani's  
19 home state in August and meeting with Mr. Metts and other  
20 folks from some of the small rural telecoms in southeastern  
21 New Mexico. Mr. Gumper, it's always a pleasure to see you,  
22 and I particularly would like to welcome our consumer  
23 advocates, both from the State of West Virginia, and Mark

1 Cooper, who does such a fine job for Consumer Federation.

2 Consumer advocates have a rare position in our  
3 society of providing some sense of moral authority, if you  
4 will, on behalf of consumers. They have both the privilege  
5 and the responsibility of speaking on behalf of consumers  
6 for what the world might look like.

7 We has commissioners, whether at the federal or  
8 the state level, have a different responsibility, and that  
9 is to interpret the law as it is written, and these two work  
10 together very well.

11 I very much look forward to your comments from the  
12 perspective of consumers about how Universal Service should  
13 be implemented, and I hope very much to hear particularly  
14 your views about what agency has the specific legal  
15 authority to do precisely what you would think best in the  
16 consumer interest, whether that is the federal commission,  
17 the state commissions, or whether in fact there may not be  
18 the specific legal authority to do what you think best, and  
19 in some sense that might have to be left either for state  
20 legislators or for Congress.

21 It is a great pleasure to be here on a panel with  
22 both federal and state commissioners because I think many of  
23 the issues will be addressed today may not necessarily lie

1 in the federal jurisdiction, and we look forward to  
2 understanding better how these can be addressed at the state  
3 level as well.

4 Thank you, Mr. Chairman.

5 CHAIRMAN KENNARD: Thank you, Commissioner.

6 Chairman Wood.

7 CHAIRMAN WOOD: Thank you, Bill.

8 I think all of us appreciate being up here with  
9 you all on these important issues.

10 Just a little background, we in Texas are going  
11 through a Universal Service Fund restructuring that we  
12 anticipate being done in two months, and are going through a  
13 lot of these issues in an accelerated time frame as we're  
14 experiencing collectively here.

15 And I think one of the things, and I was reading  
16 the testimony last night, believe it or not you are all more  
17 interesting than anything that was in C-SPAN or CNN. Parts  
18 of the world out there aren't as interested in the elections  
19 as maybe folks here are.

20 But the reading did point out a few things from  
21 both panels that I would like you all to just muse over and  
22 help me understand more today is we do have a very subsidy  
23 rich industry we're talking about here with a lot of

1 misallocated rates that for whatever purposes they are, they  
2 are. And in undoing that, which I think a competitive  
3 market will do and/or regulators that want to spur the  
4 development of a competitive market may want to do, a  
5 customer education effort is just real critical.

6 I am more than willing to assume the customers, if  
7 you tell them the truth, they're going to maybe not like it,  
8 but at least accept and understand and move on to the next  
9 issue.

10 I've got a litany of complaints from my customer  
11 protection unit that talk about the run around, that we get  
12 blamed for this, and then we blame so and so with that.  
13 We've even got one back from the FCC that said call the PEC,  
14 they regulate AT&T's rates, which made me kind of scratch.  
15 Joel, maybe we need to talk about that.

16 (Laughter.)

17 I'm going to assume as a given that the customers  
18 of Texas and the rest of the United States can handle the  
19 truth if we tell it to them in a clear way. And so I'm not  
20 scared of the fact that we've got some subsidies to undo. I  
21 can defend a Universal Service assessment if I know the  
22 money is going to the right place. But I think it's a  
23 collective effort that we've all got to take the pledge to

1 do, and I look forward to maybe exploring with you all  
2 through both panels how to do that, because the pledge is  
3 pretty darn hard to write because nobody want to sign off on  
4 it just yet.

5 But I think the only way to get to a real  
6 competitive industry that does deliver benefits to the  
7 customer is to make sure that we are telling a unified and  
8 uniform truthful story to the public about what we're up to.

9 CHAIRMAN KENNARD: Thank you.

10 Commissioner Powell.

11 COMMISSIONER POWELL: I really had nothing to add  
12 to that. I would like to, however, formally associate  
13 myself with Commissioner Wood's remarks. I think that tee's  
14 up our challenge precisely, and I also thank both the  
15 Chairman and others for organizing this invaluable  
16 opportunity to meet with our state colleagues, and I welcome  
17 all of them, and very much look forward to hearing from the  
18 panel.

19 Thank you.

20 CHAIRMAN KENNARD: Thank you, Commissioner  
21 Martha Hagerty, our consumer representative

22 MS. HAGERTY: Thank you.

23 As I see our charge, and it always has been, is to

1 preserve, I think the statute does say "preserve" Universal  
2 Service, and at the same time I think consumers have been  
3 promised during all this legislative debate that they would  
4 have lower prices and more services, or better services.

5 I'm interested to hear what the consumers have to  
6 say about many of the proposals in this docket. Simply  
7 attempt to restructure rates, raise some rates, lower  
8 others, and in some cases I think there is a concern that  
9 what we call Universal Service rates, basic rates, are being  
10 proposed to be raised, I don't think that's what the Act  
11 envisioned. I would like to have that debate today.

12 Secondly, with respect to consumer education, I  
13 think it's obviously very incumbent upon the regulators to  
14 address this issue. It's time that this issue be tee'd up.  
15 All of us who deal with consumers in our states are aware of  
16 the complete confusion that consumers are undergoing and  
17 their inability to make intelligent choices because they  
18 simply do not have the information in front of them. So  
19 I'll be very anxious to hear the panel today.

20 CHAIRMAN KENNARD: Thank you.

21 Commissioner Tristani.

22 COMMISSIONER TRISTANI: Mr. Chairman, first of  
23 all, I want to welcome all my fellow commissioners and the

1 consumer advocate, fellow commissioners from the states. I  
2 still have my heart in the states, as you well know. And I  
3 am delighted that we are having this hearing.

4 Two things: Our first panel is entitled "Ensuring  
5 Affordability and Consumer Choice," and it sounds like we're  
6 sure that things are affordable right now, and that may be  
7 true for the vast majority of Americans, but I think we need  
8 to remember that our penetration rate, which is about 94  
9 percent, is not across the board, and there are certain  
10 Americans that are very, very out and not connected, whether  
11 it be Native Americans in New Mexico, whether it be the 26  
12 percent of households in my native island of Puerto Rico who  
13 do not have telephone service, whether it be many minorities  
14 in the inner cities that don't have telephone service.

15 So my interest is not only ensuring that those  
16 American that are connected continue to have affordable  
17 service, but those that are not get connected.

18 Now, some may say, oh, there may be other issues,  
19 there may be cultural issues, a variety of issues that we  
20 don't know that keep other Americans from being connected,  
21 that may be, but I think affordability probably is a big,  
22 big concern.

23 Our second panel has to do with consumer

1 education, and that's one I particularly welcome. Less we  
2 forget, we have a consumer cost center at the FCC. And, Mr.  
3 Chairman, I looked at our web page today. I wanted to know  
4 how many calls we had gotten on slamming and cramming  
5 through September 30th. And if my arithmetic is correct,  
6 because I had to add up several categories, 101,611. That's  
7 the people who know that we have a hot line to call. Those  
8 numbers alone tell us that we have to do everything, working  
9 together, the FCC and the states, consumer advocacy groups,  
10 any groups that can help us, to inform the public on what  
11 their rights are when they are deceived.

12 Thank you, Mr. Chairman.

13 CHAIRMAN KENNARD: Thank you, Commissioner.

14 Commissioner Baker.

15 COMMISSIONER BAKER: Thank you, Mr. Chairman.

16 It's, of course, a pleasure to be here. I will reserve  
17 comment other than just to, of course, thank the federal  
18 commission, my state counterparts, and, of course, the state  
19 and federal staffs, and, of course, today's panelists for  
20 efforts that they have put forth towards today and  
21 tomorrow's panels, and we're all very glad to participate in  
22 this process.

23 I would like to make one comment that

1 affordability is obviously important notion, and one which  
2 needs to be addressed, and one which needs to be preserved,  
3 but also part of the equation is the quality of service that  
4 consumers receive, and we need to be mindful of that in  
5 addressing the issues of cost, and realizing that consumers  
6 want more than just the cheapest product; they want the best  
7 value for their telecommunications dollar, and that's an  
8 equation which balances cost and quality.

9 Thank you.

10 CHAIRMAN KENNARD: Thank you.

11 Now we will proceed with our panelists again. I  
12 will ask that you introduce yourselves, and I will also ask  
13 that you limit your remarks to eight minutes. We will go  
14 through the presentations of all the panelists and then we  
15 will have some questioning from the commissioners.

16 Thank you.

17 Mr. -- who is beginning here? Mr. Gregg.

18 MR. GREGG: Thank you. My name is Billy Jack  
19 Gregg. I'm director of the Consumer Advocate Division of  
20 the Public Service Commission of West Virginia.

21 I want to say good afternoon to all the  
22 commissioners, thank them for having us here today.

23 I have arranged my statement as a response to each

1 of the questions posed by the Commission in setting up this  
2 panel.

3 The first question was, "Is the goal of affordable  
4 basic service being met?"

5 Yes, current rates for basic service are  
6 affordable and becoming more affordable. Even before the  
7 advent of the Telecommunications Act of 1996, the general  
8 trend in rates was down. Why? Because transcending any  
9 changes in law and regulation, telecommunications continues  
10 to be a declining cost industry. Between 1992 and 1997,  
11 local rates held steady while general inflation rose by 15  
12 percent. At the same time toll rates came down by 31  
13 percent while use of the network increased by 61 percent,  
14 according to the Commission's most recent study of revenues  
15 in the telecommunications industry.

16 In approaching the issues of Universal Service and  
17 access charge forum, the Commission and Joint Board must  
18 keep in mind that affordable rates are assumed by Americans  
19 as a given. Policies adopted to introduce competition into  
20 all area of telecommunications must not do damage to the  
21 level of affordability which has already been achieved.

22 The second question: Are there policies the Joint  
23 Board should consider recommending to meet the goal of

1 affordable service?

2           The Commission and the Joint Board must remember  
3 that the ultimate goals of the Telecommunication Act of 1996  
4 are lower prices and better services for all Americans. The  
5 means that we have chosen to achieve those goals is  
6 competition. However, some seem willing to sacrifice the  
7 ultimate goals of the Act and the affordability we have  
8 already achieved in an attempt jump start local service  
9 competition.

10           Citing the wording of Section 254, which requires  
11 that Universal Service support be explicit and sufficient,  
12 they argue that basic rates must be raised to unaffordable  
13 levels, and that the federal Universal Service Fund must  
14 swell to \$20 billion.

15           I say to you most emphatically that the purpose of  
16 including the specific Universal Service guarantees in  
17 Section 254 of the Telecommunication Act was not to impose  
18 \$50 a month basic service charges on rural customers, nor to  
19 impose a 20 percent Universal Service surcharge on all  
20 customers.

21           On the contrary, the explicit goal of 254 is  
22 affordable service for all, and rates in rural areas that do  
23 not vary appreciably from those available in urban area.

1           Furthermore, there is no language in Section 254  
2 nor in any other part of the Act which requires that access  
3 charges be reduced and that Universal Service obligation be  
4 raised to pay for such reductions.

5           Policies which the Joint Board should consider to  
6 meet the goal of affordability should include the following:

7           First, do no harm. Rates are affordable now. The  
8 Telecommunications Act was passed to make rates even more  
9 affordable for everyone. Whatever you do don't make average  
10 consumers in this country worse off as a result of your  
11 decisions, which are supposed to maintain and enhance  
12 Universal Service.

13           Second, let states take the lead in determining  
14 affordability. The cost of living is different in different  
15 states, and it stands to reason that affordability will also  
16 differ. Each state should be able to determine  
17 affordability according to its own standards and experience.

18           Some states have already proposed rate benchmarks  
19 for their own purposes. For example, Nebraska has proposed  
20 an affordability benchmark of \$22.00, including the  
21 subscriber line charge and other surcharges, while Wyoming  
22 has proposed \$25.00, excluding the SLIC and other  
23 surcharges. Other states may propose different standards.

1 Some states have rates based on measured rates. Others  
2 prohibit measured rates. Each state is different.

3 The Commission should ensure that states continue  
4 to receive at least the level of federal Universal Service  
5 support they current receive, and let each state plot its  
6 own course in determining when and how it will reorganize  
7 internal subsidies and local rates, if any. If additional  
8 federal support is needed after competition actually begins  
9 at the local level, the issue can be addressed at that time  
10 with the benefit of actual data.

11 Third, additional Universal Service support should  
12 not flow until competition actually develops. Competition  
13 is supposed to drive out the implicit subsidies in existing  
14 rates within each state. Great, let competition do it.  
15 Regulators shouldn't. Regulators are very bad at  
16 replicating the market. There is no harm in devising a  
17 Universal Service support system which can kick in if and  
18 when competition actually begins to erode revenues  
19 supporting the existing network to unacceptable levels.

20 However, it would be the height of folly for  
21 regulators to attempt to wring out perceived implicit  
22 subsidies before competition begins. The only result will  
23 be insupportably high local rates and/or insupportably high

1 Universal Service surcharges.

2 Fourth, avoid mandatory surcharges, especially  
3 fixed per line surcharges. Fixed per line surcharges tend  
4 to endure regardless of changes in underlying cost. Witness  
5 the subscriber line charge. In spite of numerous reductions  
6 in access charges over the past few years and in spite of  
7 reductions in the underlying cost of telecommunications and  
8 in spite of the earnings of the companies which receive the  
9 SLIC, the SLIC has remained fixed, immune to changes in the  
10 surrounding environment.

11 Fifth, be aware of the impact of the totality of  
12 your decision. In determining the affordability of basic  
13 service for consumers, it is the totality of rates that is  
14 important. Local service plus any surcharges are line items  
15 charges. You will have accomplished little by defining  
16 affordability as an arbitrary dollar figure if an excessive  
17 Universal Service surcharge must be added to the customer's  
18 bill to make the so-called affordable level achievable.

19 The third question: To the extent that surcharges  
20 are imposed, are there policies that the Joint Board should  
21 recommend to ensure that rates remain affordable?

22 As I've stated above, the real question is whether  
23 surcharges should be imposed at all. I emphasize again the

1 Commission should not impose mandatory surcharges on end  
2 users. In fact, I would point out that some states have  
3 prohibited recovery of state Universal Service contributions  
4 through surcharges.

5 However, if surcharges are imposed, the following  
6 policy should be followed to ensure that rates remain  
7 affordable:

8 First, federal surcharges should apply only to  
9 services over which this Commission has jurisdiction;  
10 namely, interstate services.

11 Second, surcharges on end users should not be  
12 mandator. Section 254(d) of the Telecommunications Act is  
13 very clear that every telecommunications carrier rather than  
14 every telecommunications customer must contribute to  
15 Universal Service support mechanisms. So far this  
16 Commission has followed this clear directive of the Act and  
17 has continued to impose Universal Service obligations on  
18 carriers, allowing them to recover those costs in any lawful  
19 manner.

20 Third, the subscriber line charge should be  
21 reduced or eliminated. If the Commission is tying together  
22 the issues of Universal Service reform and access charge  
23 reductions, it must ensure that the subscriber line charge

1 is also reduced. The SLIC was instituted in the mid-1980s  
2 as part and parcel of the imposition of the new access  
3 charge regime created after the break up of the Bell System.  
4 If it seems likely the Commission is going to reduce  
5 interstate access charges imposed on carriers as part of  
6 overall Universal Service reform, in fairness, the  
7 Commission must also reduce or eliminate the mandatory SLIC  
8 currently imposed on all end users.

9 I thank you for allowing me to present my views  
10 here today and I'll be happy to entertain any questions.

11 CHAIRMAN KENNARD: Thank you, Mr. Gregg.

12 Mr. Gumper.

13 MR. GUMPER: Thank you for inviting me to be here  
14 today. I thought you were going to go down the list. I  
15 wasn't quite ready.

16 First of all, I think I would agree with some of  
17 the comments we have just heard. Yes, telephone service for  
18 the vast majority of Americans is affordable. I think that  
19 affordability provides both state and federal regulatory  
20 bodies the flexibility to address some of the policy issues  
21 without fear of in fact making phone service unaffordable.

22 As a result of competition and as it develops,  
23 there may be a need for some increases in local rates and

1 even the subscriber line charge. However, these types of  
2 increases will not reduce subscribership and they will not  
3 make basic telephone service unaffordable.

4 So what's the problem?

5 As Commission Tristani noted, there are areas,  
6 there are pockets where subscribership is still very low.  
7 For this segment of society, one of the actions that the  
8 Federal-State Joint Board took was to significantly enhance  
9 the Lifeline and Link-Up Programs.

10 As a member of the USAC board, I'm happy to report  
11 that as of August 1998, the last month which we have data  
12 available, there were 5.1 million Lifeline participants.  
13 More importantly, the first eight months of this year 1.3  
14 million households took advantage of the Link-Up Program to  
15 offset some of the initial connect charges for getting basic  
16 service. Currently, these programs are growing at an  
17 average rate of about two percent a month in terms of the  
18 demand on those two different funds.

19 Jorge Schement has done extensive research work in  
20 telephone penetration. His most recent work indicates that  
21 it's not always clear what are the underlying causes of  
22 lower telephone penetration, particularly among different  
23 segments of society.

1           I'd like to cite some figures from his study, and  
2 actually cite from his study in terms of data representing  
3 owner-occupied housing units, and I would just point out  
4 that in my comments those figures are cite are for owner-  
5 occupied housing units, not for the general population as a  
6 whole.

7           As he points out, "Since those who own their own  
8 homes are most likely to have a telephone, the differences  
9 between the majority and minorities should be minimized.  
10 Therefore, owner housing units represent a strong test for  
11 the uniform existence of a telephone gap.

12           "In California counties, where data is available,  
13 the differences between African-Americans and whites vary in  
14 the extreme. Yuba County has a gap of 37.24 percent, while  
15 nearby Sacramento County shows almost no difference.  
16 Furthermore, five of the counties measured indicate higher  
17 telephone penetration rates amongst African-Americans than  
18 whites.

19           I think that kind of data indicates that the  
20 explanation as to why we have different penetration rates in  
21 different areas of society is not something that ia easily  
22 solved at a national level.

23           Again, to quote from this research paper, "If we

1 wish to solve the mystery of the telephone service gaps, we  
2 will have to look beyond the data that has guided us in the  
3 past. We must go beyond national data that will uncover a  
4 complex array of factors more particular to localities than  
5 to the country as a whole."

6 I would state that this information indicates that  
7 the reasons that people do not have a telephone go far  
8 beyond price and affordability, and probably need to be  
9 addressed at a local level in terms of trying to design very  
10 specific programs if you're going to address those issues.

11 Another reason for reduced telephone penetration  
12 is that the cost of wiring sparsely populated areas can be  
13 very prohibitive. We've been at this game, I might say, for  
14 a long time, this idea of trying to identify what the cost  
15 of Universal Service is in remote areas precedes the Telcom  
16 Act. The models that we are looking at now, including the  
17 more recent version that the FCC has put out, started back  
18 several years ago, and there is no question that when you  
19 look at those models it indicates that there are areas of  
20 the country that it is extremely expensive to deploy wire  
21 line facilities.

22 I think what we've missed in the process, though,  
23 over these past few years is that wireless technology has

1 probably become the more cost efficient way to serve the  
2 areas. One example I would give you is a subsidiary of Bell  
3 Atlantic Mobile, Southwestco Wireless, basically operates in  
4 Arizona serving many remote areas, including the Tohotum  
5 Indian Reservation, an area where, quite frankly, it's  
6 probably cost prohibitive to deploy wire line facilities.

7 Another example I quote was Western Wireless in  
8 Antelope Valley Nevada. This is an area where basically  
9 they were able to provide service to 58 customers who lived  
10 there for a cost of \$100,000 versus what would have been the  
11 wire line cost of \$1.3 million.

12 I would maintain that it is probably not in the  
13 best public interest to, in effect, subsidize or grant  
14 support levels to wire line companies in numbers that can  
15 exceed \$100 a month when in fact you can get wireless  
16 alternative that gives you almost nationwide coverage for  
17 that same price.

18 In closing, let me say that telephone service is a  
19 bargain and will remain affordable as local competition and  
20 technology develops. However, states and the FCC must  
21 address the implicit support in their rates that will not be  
22 viable with increasing competition, and I would add that  
23 that doesn't necessarily have to be done immediately, but as

1 competition develops.

2           Some states will not have the resources to solve  
3 their own high cost problems. For those states, and only  
4 those states, a small targeted federal fund can provide  
5 assistance to ensure that their rates remain affordable.  
6 The distribution of these funds within a state and the need  
7 for intrastate support program are more effectively  
8 addressed at the state and local levels. However, the Joint  
9 Board must continue to monitor these issues as we move  
10 forward to detect if additional policy intervention is  
11 warranted.

12           Thank you for this opportunity, and will be glad  
13 to answer any questions.

14           CHAIRMAN KENNARD: Thank you, Mr. Gumper.

15           Mr. Cooper?

16           MR. COOPER: Thank you, Mr. Chairman.

17           My name is Mark Cooper. I am Director of Research  
18 at the Consumer Federation of America. I have also  
19 testified in about 40 states. At least two dozen of those  
20 on Universal Service, including Texas and Florida, which are  
21 represented on the Board. I have a project in New Mexico  
22 looking at low income people.

23           The Joint Board and the Federal Communications

1 Commission face a difficult task in the months ahead of  
2 lowering access charges to cost, expanding participation in  
3 the Lifeline Program, funding the schools' libraries, and  
4 help grow Health Care Program, and providing high cost  
5 support to rural areas and insular areas, all this while  
6 keeping rates just reasonable and affordable.

7           However, the Joint Board and the FCC have already  
8 forced the conceptual framework to make this task manageable  
9 in the decisions that were laid down in 1996. They have  
10 firmly and soundly refused to change the fundamental  
11 principle, a simple idea that shared services should share  
12 the cost for the facilities they use. There is no legal,  
13 constitutional, economic or public policy reason to stop  
14 treating the loop as a shared cost between all the services  
15 that use it, the principle that was laid down 70 years ago  
16 by the Supreme Court.

17           The 1996 Act reaffirmed that fundamental  
18 commitment in Section 254(k) where not only was a subsidy  
19 for competitive services forbidden, but also basic service  
20 was required to bear no more than, and could bear less than,  
21 a reasonable share of joint and common costs.

22           If you accept that principle, we will have no  
23 difficulty preserving the affordability of service, and we

1 have said that, CFA and its member groups, at the federal  
2 level and the state level. I recently testified to that, in  
3 fact, in Florida as well.

4 The FCC and the Joint Board have determined that  
5 forward-looking economic costs are the only basis on which  
6 we can build an effectively competitive industry, efficient  
7 forward-looking economic costs, and I urge you to resist the  
8 tendencies to constantly build back in inefficiencies into  
9 your analysis under the threat or claim about stranded  
10 costs.

11 The FCC has already adopted the principle that the  
12 unit of analysis for unbundling the network elements should  
13 be the same as the unit of analysis for calculating  
14 Universal Service. If we have a statewide average unbundled  
15 network element, we ought to have a statewide average  
16 estimate of Universal Service costs.

17 The FCC and the Joint Board have adopted the  
18 fundamental principle that affordability is not just a  
19 question of are people willing to pay more, but what is the  
20 burden. That is an absolutely crucial observation. We know  
21 you could double the telephone rates and most people would  
22 keep their phones. The market will bear a lot more. The  
23 simple fact of the matter is we're not supposed to be

1 pricing up to what the market will bear.

2 And there are some people who will not be able to bear  
3 that increase in costs.

4 The fact that the telephone costs have been declining  
5 in real terms does not justify rate increases. Many  
6 consumer products, particularly those in the technology  
7 industries, have been declining in real terms. That's not a  
8 justification to increase peoples' prices.

9 Now, we believe if you apply these principles you  
10 will have a manageable task, but there will still be a need  
11 for Universal Service Funds, and let me give you a few  
12 principles to apply, and specific principles we've advocated  
13 at the federal and state levels.

14 First, as you have already done, you must treat  
15 the telephone network as a multi-product integrated entity.  
16 Include all the revenues from the services that use this  
17 network. Don't try and get it all from basic service, which  
18 is what some companies would like you to do.

19 Second of all, all Universal Service programs  
20 should be funded from one source. This effort to split low  
21 income and high cost in school and libraries misses the fact  
22 that these are all Universal Service programs, all embraced  
23 by Congress and they should be funded in the same way.

1           Third, I believe that all Universal Service  
2 programs should be funded from all telecommunications  
3 revenues, and, again, in your order you establish the fact  
4 that you had the authority to do that. It's folly to burden  
5 one sector with all of the burden of Universal Service  
6 costs. Universal Service benefits all classes of customers,  
7 all services and all geographic areas.

8           Finally, the FCC has articulated the correct  
9 principle in how to collect funds. It has argued against  
10 line items, and we believe that this is required by the Act,  
11 it's practically necessary, and conceptually correct.  
12 Legally, the Act required telecommunications service  
13 providers to make the contribution for Universal Service.  
14 Line items on consumers' bills are not service provider's  
15 contribution.

16           As a practical matter, the FCC has had a certain  
17 amount of difficulty of finding ways to ensure that federal  
18 rate cuts get passed through to residential and small  
19 business customers. If you impose a line item on peoples'  
20 bills, they will suffer a net increase because you've been  
21 unable to figure out how to make sure the little guy gets  
22 his share of the rate cuts.

23           Conceptually, I don't believe that line items are

1 appropriate. Now, let me make it clear. We firmly believe  
2 that consumers should get useful and correct information in  
3 their bills so that they can make effective economic  
4 choices. But a Universal Service line item is neither  
5 economically useful nor economically accurate.

6           When you put a line item on someone's bill, there  
7 is nothing the consumer can do with that information. Every  
8 service provider charges them, so they can't avoid it. It  
9 cannot inform their consumption decision, and that's what  
10 economic decision-making is about.

11           When you put a line item on their bill, the  
12 consumer has no way to accurately measure its value.  
13 Universal Service is a public good. The indirect value of  
14 ubiquity is an externality that consumers have difficulty  
15 evaluating.

16           More importantly, those consumers who are the  
17 direct beneficiary of that Universal Service Fund would be  
18 completely uninformed if you tell them you're paying \$2.00  
19 for Universal Service, but you don't also tell them you're  
20 receiving \$10.00 of subsidy. It is very difficult to  
21 portray that information.

22           Now, if the purpose of putting the information on  
23 a consumer's bill is a policy purpose -- excuse me -- a

1 political purpose, to tell them that the program exists,  
2 then be my guest. Once a year inform them that there is a  
3 Universal Service Fund. Here is what it's for, here is how  
4 it's paid, and here is how much it costs in the aggregate.  
5 That is useful political information. I don't think it has  
6 any place on a consumer's bill, but fine, put it there if  
7 you think you want to inform them.

8           Thus, we believe that Universal Service can be  
9 achieved by a simple set of principles that the Joint Board  
10 and the FCC have already articulated. There is one way I  
11 can suggest that you can guarantee the little guy, the  
12 residential rate payer will get a benefit, and that is to  
13 reduce the subscriber line charge. I've said this a few  
14 times in the past. I will say it again. It's an idea whose  
15 time has come.

16           Fifteen, approximately 15 years ago when we began  
17 to put this charge in place, we had an estimate of federal  
18 costs that were brought into the federal jurisdiction, and  
19 over those 15 years the cost of basic service has declined  
20 dramatically, but the subscriber line charge never has. Now  
21 is the time to ensure that rate payers get some of the  
22 benefit that was promised by this Act by reducing the  
23 subscriber line charge.

1           You can also reduce other charges and raise your  
2 Universal Service Fund. We prefer that that fund be raised  
3 from service providers. That's what Congress thought,  
4 that's what is economically rational, and that is what we  
5 think will support this program and continue to advance  
6 Universal Service.

7           This is a complex task as the Commission and the  
8 Joint Board have learned in the last couple of years. We  
9 look forward to working with you to build on the sound  
10 principles you've already laid down.

11           Thank you.

12           CHAIRMAN KENNARD: Thank you, Mr. Cooper.

13           Mr. Metts.

14           MR. METTS: Good afternoon, Mr. Chairman,  
15 Commissioners, Members of the Joint Board.

16           I am John C. Metts, Chief Executive Officer and  
17 General Manger of Penasco Valley Telephone Cooperative, PVT,  
18 headquartered in Artesia, New Mexico.

19           I am appearing today on behalf of the National  
20 Telephone Cooperative Association, NTCA, of which I am a  
21 member of the board of directors, representing Arizona, New  
22 Mexico, Oklahoma and Texas. NTCA represents approximately  
23 500 small and rural telephone companies operating throughout

1 the United States and in nine foreign countries.

2 We appreciate the opportunity to appear before you  
3 to discuss the issue of affordability, which is among the  
4 most critical issues for rural telephone companies during  
5 the transition to the new competitive environment.

6 PVT is a subscriber-owned cooperative which serves  
7 just over 3,000 access lines in six exchanges scattered over  
8 4600 square miles in southeastern New Mexico. The largest  
9 community in our telephone service area is Mayhill, New  
10 Mexico, with a population of 300 people. Approximately 20  
11 percent of our access lines serve businesses, the rest are  
12 residential.

13 PVT services and technologies are state-of-the-  
14 art, with all digital switching, equal access, advanced  
15 calling features, and INSD capability. Some of our most  
16 remote subscribers are served by BEDRS Radio. Otherwise, we  
17 use a mixture of fiber and copper looped technology.

18 In addition to POTS and advanced services, PVT  
19 offers interactive educational television to the schools,  
20 internet access, cellular and paging. PVT is beginning  
21 construction of PCS service and has obtained an LMDS  
22 license.

23 Our basic service rate is \$14.90 per month for

1 residential, and \$20.30 for business customers. PVT is  
2 typical of small rural telephone companies in the NTCA  
3 membership, except like most western countries, its  
4 subscriber density is much lower.

5 I believe there is general agreement that basic  
6 telephone service today is generally affordable for most of  
7 the population. This agreement was reflected in the Joint  
8 Board's recommended decision and the Commission's report and  
9 order in the Universal Service proceeding.

10 The Joint Board and the Commission also concluded  
11 correctly that affordability has both an absolute component  
12 and a relative component. I also are that subscribership is  
13 an important issue, but not the only measure of whether  
14 service is affordable.

15 PVT, like most NTCA member companies, has a high  
16 level of subscribership. In addition to subscribership,  
17 regulators should consider affordability issues in the  
18 context of the other Universal Service principles in Section  
19 254 of the Act. The first of which is that rate should be  
20 just, reasonable and affordable.

21 The Act also establishes that rates for urban and  
22 rural areas must be reasonably comparable for similar  
23 services. Any comparison of rates must, as the report and

1 order recognized, consider the vast differences in calling  
2 scope between urban and rural companies.

3 PVT has an average of 500 access lines per  
4 exchange. However, with EAS to US West areas from three of  
5 these exchanges, the average subscriber in those exchanges  
6 has a calling scope of approximately 5,055 lines. For the  
7 other three exchanges, the local rate only provides access  
8 to 104, 458 and 1206 lines, respectively, and those  
9 exchanges calls, the school, doctors and county seats are  
10 toll calls.

11 Even with EAS, rural subscribers necessarily use  
12 much more toll than urban subscribers to conduct their daily  
13 affairs. That's a fair comparison to both local service  
14 rates and the average intra-LATA toll bill.

15 It's very important at this critical point in the  
16 implementation of the 1996 Act to pause for a moment to  
17 reflect on how it became to be that rural areas are so well  
18 served today, especially by rural telephone companies.

19 The good service and affordable rates we now enjoy  
20 have not always been available to rural areas of this  
21 country and generally are still not in major portions of the  
22 world.

23 Before making extensive changes in this successful

1 system, it's important that the Joint Board and the  
2 Commission have a very degree of confidence on the  
3 replacement methodology.

4 As Chairman Kennard so aptly said earlier this  
5 year, "Most important, we must make sure that the new  
6 Universal Service mechanisms work."

7 To make a long story short, affordable quality  
8 service has been widely deployed since the Second World War  
9 in high cost, low density rural areas because of a  
10 combination of factors.

11 First, in 1949, The Rural Electrification Act was  
12 amended to provide loans to telephone companies serving  
13 rural areas. Congress took this action in response to find  
14 the telephone subscribership in rural areas was very low and  
15 had in fact declined substantially since 1920. Around the  
16 same time, the FCC, working with the Joint Board, began to  
17 evolve the separation rules which in their present form  
18 allow for recovery of substantial portion of the cost of a  
19 rural company to be recovered through access charges and  
20 Universal Service support.

21 For 1996, rural utility service borrowers obtained  
22 64 percent of their revenues from these sources and only 27  
23 percent from local service charges.

1           The result is that local rates are affordable  
2 despite the much higher per subscriber cost for providing  
3 service. For those subscribers for whom the local rate is  
4 still too expensive, Lifeline and Link-Up Programs may make  
5 the difference. PVT participates in both state and federal  
6 assistance programs.

7           The exception to the general availability of  
8 affordable telephone service is in those remote areas where  
9 potential subscribers of non-RUS borrowers are required to  
10 contribute several thousands of dollars in aid to  
11 construction charges in order to obtain service. For most  
12 families in remote areas, particularly on Indian  
13 reservations, these charges effectively preclude  
14 subscription to service.

15           The Commission's decision to fund only 25 percent  
16 of the Universal Service support necessarily means that in  
17 many high cost rural states the support will not meet the  
18 statutory criteria of sufficient and predictable, and that  
19 local rates will not be just, reasonable and affordable, nor  
20 comparable to urban rates. I understand that this decision  
21 is now being reconsidered, and I applaud the Chairman's  
22 statement last April that recognized that there are areas  
23 where it makes little sense to limit federal support to 25

1 percent.

2 States which have mostly high cost areas cannot  
3 raise the 75 percent of the support within their borders  
4 except by extracting contributions from subscribers at a  
5 level that defeats the purpose of Universal Service support.  
6 The point has been well explained in the reconsider  
7 petitions of several states and the local exchange carrier  
8 associations. I would add, however, that this question  
9 needs to be addressed sooner rather than later as many  
10 states are actively considering state Universal Service  
11 funds and the unresolved 75/25 issues makes it almost  
12 impossible to understand what will be needed in the  
13 individual states.

14 Third, continued affordability of local service is  
15 depended on recognition of the impacts of various aspects of  
16 the Commission's access reform orders. The two primary  
17 concerns are primary inter-exchange carrier charge, PICC,  
18 and the subscriber line charge.

19 When the Commission first adopted the subscriber  
20 line charge, it was recognized by all that from the  
21 subscriber's perspective the subscriber line charge was  
22 added to the local service charge to determine the bottom  
23 line amount required for each month to maintain dial tone.

1       However, at that time there was a more clearly identifiable  
2       pass-through of the reduced access charges by inter-exchange  
3       carriers in that there were corresponding toll rate  
4       reductions. This process maintained the essential character  
5       of local service charges as mandatory and toll as a  
6       discretionary expenditure.

7               I thank you for the opportunity to be here today.  
8       I'll be glad to answer questions.

9               CHAIRMAN KENNARD: Thank you very much, Mr. Metts.  
10              We'll now go to a question and answer period from  
11              the panel here. I'll ask each of the commissioners who are  
12              inclined to ask questions to limit their questioning to no  
13              more than a four-minute question and answer period per  
14              commissioner, and we'll go in the order that we gave our  
15              opening statements.

16              I'll begin by asking just a couple of brief  
17              questions of the panel.

18              Mr. Gumper, first of all, let me thank you and  
19              commend you for your service on the USAC board. You've been  
20              a very dedicated participant in that organization, and I  
21              just wanted to publicly commend you and thank you.

22              And I was very interested to hear your report on  
23              the effectiveness of the Lifeline and Link-Up Programs as

1 those programs have been expanded and made more effective.  
2 But I was having difficulty reconciling that with your  
3 position in your testimony that you believe that meeting the  
4 challenge of underserved areas is principally a local issue  
5 because it seems to me -- first of all, I agree with you  
6 that these issues of serving underserved areas are very  
7 complicated and they are made more complicated by issues of  
8 poverty and race and class, and these are not easy issues  
9 for us as a country. They never have been.

10 But I part company with you when you say that  
11 these issues, as they pertain to affordable telephone  
12 service, should not be dealt with at the federal level, and  
13 I think Lifeline and Link-Up are good examples of how we've  
14 had a federal role and a matching state role that has been  
15 quite successful.

16 And I'm just curious how you reconcile those two  
17 positions.

18 MR. GUMPER: Let me be clear. What I meant by  
19 that was that the -- I think the federal program of Lifeline  
20 and Link-Up is out there, and obviously it has been expanded  
21 and it will help resolve some of the penetration issues.

22 I think the question is do you need to do more in  
23 terms of telephone penetration other than what the program

1 that you have already put in place. And the answer to that,  
2 I believe, would be no; that given the telephone penetration  
3 in terms of the socio-economic people we're talking about,  
4 what we're down to, and I think the study by Jorge really  
5 points that up, these variations go beyond the question of  
6 just affordability and price.

7           The Lifeline and Link-Up Programs are there for  
8 those people that lack a telephone is a question of  
9 telephone price, they can take advantage of that. I would  
10 maintain, though, that there are still going to be people  
11 who for other reasons aren't going to want to have a  
12 telephone in their home. And I know that comes as a shock  
13 to some of us.

14           And I know when I was a -- years ago I had a -- I  
15 used to commute to Rockland County and there was a working  
16 couple, and one day I offered to give them a ride home  
17 because he didn't have a car, and they were both -- had nice  
18 jobs, and as we were approaching their apartment, they said  
19 could I stop at the pay phone so they could make a call and  
20 make arrangements for a taxi the next morning.

21           And when they got back in I said, "You don't have  
22 a phone at home." And they looked at me and said, "No, we  
23 are pestered by phones all day long on our jobs, and the

1 last thing in the world we want in our house is a phone."

2 Now, these were two well-to-do, you know, couples,  
3 could easily afford a phone. They didn't want one.

4 So I think the problem we have to deal with is  
5 that there are going to be -- we're never going to get to  
6 zero percent, and that's why I think if one wants to go  
7 beyond the Lifeline and Link-Up, it's going to take a  
8 different type of emphasis to understand what it is that's  
9 driving people who don't take advantage of these programs  
10 not to have telephones in their homes. That's all.

11 CHAIRMAN KENNARD: It seems to me that the class  
12 of people who don't have a telephone just because they don't  
13 want one but can otherwise afford it is a very, very small  
14 percentage of American, and not, frankly, one that, I agree  
15 with you, we shouldn't be terribly concerned about, that's a  
16 matter of a personal choice.

17 But I don't think it's appropriate, though, for  
18 the class of people who don't have phone service for other  
19 reason, be it affordability or issues of poverty or  
20 education, that we should just abdicate the federal role  
21 altogether, because there are -- certainly most states will  
22 act responsibly in this matter. But there may be those  
23 states that don't, may not have the resource, and it seems

1 to me that there should be a federal safety net of sorts to  
2 make sure that we can advance universal service to the  
3 extent possible.

4 Mr. Cooper, you touched on an issue that we have  
5 been grappling with for quite some time at the Commission,  
6 and that is how we make sure that consumers get the benefits  
7 of savings in a declining cost industry. And I'm curious as  
8 to whether you have some more specific proposals or guidance  
9 that you can give us on ways that we as regulators and  
10 policy makers can ensure that consumers get the benefits of  
11 access charge reductions, for example, all classes of  
12 consumer, not just the more attractive high-end business  
13 customers.

14 MR. COOPER: Well, the first answer and one that  
15 CFA has always embraced is that the consumer's best friend  
16 is effective competition. That is the best form of consumer  
17 protection. The difficulty is that we do not have effective  
18 competition in many telephone markets, and we particularly  
19 don't have it in the residential and local exchange and  
20 exchange access markets.

21 So the first line of defense is something that  
22 this Commission, again, has been working on in terms of its  
23 local competition approach, and it's the 271 process, and

1 that will take a long time. It's become quite clear that a  
2 100-year-old monopoly may take 100 years to go away. Who  
3 knows? It's not going away so fast. That's the first line  
4 of defense.

5           If that line of defense -- if that form of  
6 consumer protection is not going to work, then you have to  
7 look at the regulatory approaches. Our experience has been,  
8 CFA has not itself looked at the numbers, but the way I like  
9 to put it is that there has been enough finger pointing back  
10 and forth so that neither side has any credibility to  
11 demonstrate to the average consumer that they've been  
12 getting the benefits of the cost reductions that this  
13 Commission has ordered.

14           My folks just don't believe it, and they want a better  
15 measure.

16           We relied upon the subscriber line charge as a way  
17 for you to at the end of the day say, look, that number is  
18 on the bottom of your bill and it got smaller. That was the  
19 number put on in the 1980s. It grew to its current level by  
20 the mid-'80s, and it stayed there. And other numbers have  
21 been reduced by this Commission.

22           Back in 1980, the split of the recovery of those  
23 costs in the federal jurisdiction was 50/50. Because of the

1 last 10 years of reducing other charges and leaving that one  
2 alone, I think it's something like 80/20 today. That is, of  
3 those original costs, we're getting 80 percent of them from  
4 the end user and 20 in the usage charges.

5 One way to go about this is get us back to the  
6 50/50. Make that reduction. I know I write that check  
7 every month. And so if you lower that number, you can say  
8 we lowered that. Will other numbers go up? That's our  
9 fear, but at least you have this bottom line protection.

10 It's extremely important that if you do it, you  
11 tell people you've done it because the cost of providing the  
12 service has gone done, which it demonstrably has. That  
13 means that people then can't run and say you've got to  
14 replace that money. There is nothing to replace. It's  
15 become less costly to provide service, and I think that's  
16 exactly what regulators should be doing. We support that in  
17 the access area. We support it in the subscriber line  
18 charge. Move prices to costs, and that's the one place you  
19 really do control that number. I understand you don't  
20 control a bunch of other numbers, although we wish you had  
21 retained control of some of them, but clearly that's one you  
22 have control over.

23 CHAIRMAN KENNARD: Thank you, Mr. Cooper.

1 Chairman Johnson.

2 CHAIRMAN JOHNSON: Yes, let me follow up on that  
3 with Mr. Cooper and Mr. Gregg also providing an answer.

4 So I guess it's your opinion then that if we were  
5 to look at access, if we assume that there is some Universal  
6 Service support in access, and I'm not certain if you agree  
7 with that or not, but let's just assume it for now, and you  
8 were to restructure that in some way.

9 If we could ensure that there was a flow-through  
10 and so that minute of use would go down, even though we've  
11 restructured and put some of it on the end user's bill, if  
12 we can show that the bill will go down, not necessarily the  
13 local rate but their overall bill would go down, would that  
14 be a concept you would be supportive of? And maybe that's  
15 too hypothetical, but if you can answer that, that will be  
16 helpful.

17 Then I want you to tell me how we can get those  
18 dollars to be flow-through so that we can have some minute  
19 of use benefit.

20 MR. COOPER: Well, there is two difficulties.  
21 One, when you say the bill goes down, the problem is that  
22 you will only be able to tell me the average bill goes down  
23 because if you lower the per minute of use charges, it's

1 clear that the people who use the most minutes gets the  
2 biggest cut, and the people who use a small number of  
3 minutes get a little cut and -- I mean, the numbers are  
4 proprietary. You ought to ask companies, but there is a  
5 substantial number of people who don't place a long distance  
6 call in a given month, so they get no reduction. So you  
7 have always got this problem of flowing through your per  
8 minute reduction to people in an equitable fashion, which is  
9 why I prefer this.

10 I know my constituents pay that subscriber line  
11 charge every month. And so if you put a Universal Service  
12 dollar on their bill and take a subscriber line dollar off  
13 their bill, well, you haven't done much, you've changed the  
14 name, but at least I know my bill didn't go up.

15 CHAIRMAN JOHNSON: Well, if that end user  
16 surcharge, it was a surcharge based upon revenue, that would  
17 at least be a little more equitable because --

18 MR. COOPER: Oh, absolutely.

19 CHAIRMAN JOHNSON: -- the ones that use more  
20 minutes would pay more.

21 MR. COOPER: If you force me to accept a line item  
22 on the bill, and I've said that in my testimony, I think it  
23 ought to be as a percentage of all the services sold. I

1 think all the services benefit from ubiquity, and so if you  
2 make me accept the line item, then clearly I prefer a  
3 percentages of the total bill as opposed to identifying  
4 basic service.

5 And think about it. The purpose of this program  
6 is to keep basic service affordable. Why then do it on a  
7 per line/per month basis which is, of course, attacking the  
8 affordability. Do it on a percentage of revenue basis. I'd  
9 much prefer that.

10 If you give me a percentage of revenue basis, then  
11 the match between the high volume users who are getting the  
12 cuts in their per minute charges and paying the surcharge  
13 are clearly much better, and then you can say with much  
14 greater confidence that the two balance one another out.

15 One thing is very important is when we look a  
16 these per minute surcharges, a lot of the benefit flow out  
17 to business customers, and we're all for business, but  
18 remember it's the business customers that frequently,  
19 certainly large businesses, are heavy users. They are the  
20 guys that have already been getting the cuts in the  
21 marketplace so far as we can tell. Now you're going to cut  
22 costs again. They capture it. So if you do a percentage of  
23 total bill, at least you're charging the people who appear

1 to be getting the benefits of what competition there is.

2 CHAIRMAN JOHNSON: Can you -- you said one other  
3 thing as to the general proposition of perhaps local rates  
4 may go up but bills would go down you said for the average  
5 customer.

6 Do you know, or maybe Mr. Gumper may know, whether  
7 or not we have any information in the record that could kind  
8 of give us a demonstration of the usage, how many people use  
9 long distance, \$10.00 a month, \$5.00 a month? Is there a  
10 way to have that information to give me more information  
11 when I have to make these kind of hard decisions?

12 MR. COOPER: Well, in Florida, where we have this  
13 ongoing proceeding, depending on how you calculate what goes  
14 up and down, but if you -- if you lower the cost -- the  
15 price of all the vertical services, that is, everything but  
16 basic and try and make that up on basic, three out of four  
17 people end up with higher bills, particularly because so  
18 much goes off to the business customers.

19 Now, if you just hold it back and say we're only  
20 going to do local and long distance for residential  
21 customers, well, then, it's easier. But remember, in the  
22 State of Florida, and I just testified there, out of every  
23 dollar of rate rebalancing, 40 cents went out of the

1 residential class and into the business class.

2 It's very difficult to say the residential  
3 customer is going to be whole when that much goes between  
4 classes. This is just the arithmetic of rebalancing rates.

5 Another 30 cents in Florida went to vertical  
6 services. Well, if that much is going to those kind of  
7 services, it's very difficult to tell the average  
8 residential rate payer who consumers are on vertical  
9 service, a small number of long distance calls, that their  
10 bill is going to be equal.

11 But, again, this is information you can get from  
12 the companies --

13 CHAIRMAN JOHNSON: Okay.

14 MR. COOPER: -- as you consider that decision. It  
15 will vary from state to state, and depending on which  
16 scenario you use about which rates are going up and which  
17 rates are going down.

18 CHAIRMAN JOHNSON: Okay.

19 MR. COOPER: But that's the question to ask.

20 CHAIRMAN JOHNSON: Thank you.

21 CHAIRMAN KENNARD: Thank you.

22 Commissioner Ness.

23 COMMISSIONER NESS: Thank you, and thank you,

1 panel, for your interesting observations.

2 We, in implementing the '96 Act, took a number of  
3 steps to enhance Lifeline and Link-Up, and one of those  
4 steps was to extend the benefits of Lifeline to all states  
5 whether or not the state was having matching funding.

6 Can any of you -- does any of you have data to  
7 comment as to whether or not states have continued to fund  
8 into Lifeline where we have increased the amount of funding?

9 In other words, are the states continuing to fund  
10 the program? Has it been successful? Or have some states  
11 seen the federal subsidy as a means to cut back on what they  
12 were providing in terms of service?

13 Mr. Cooper, you look like you would like to answer  
14 that question.

15 MR. COOPER: I spend a lot of time on the road  
16 doing Universal Service. I'll give you one example which  
17 was very distressing to me from the State of Oklahoma, which  
18 had previously -- had passed the statute which said there  
19 should be a -- the state should match 3.50 and get the 3.50,  
20 so we had a \$7.00 discount.

21 When the federal discount went to \$5.20, if the  
22 state had continued the 3.50 match, then we would have  
23 gotten to the new 10.50.

1           Some people interpreted the statute to suggest  
2 that, no, what the legislature meant in Oklahoma was that we  
3 really want the discount of \$7.00, and what the state did  
4 was back down from 3.50 to "1.62 and a half cents or  
5 whatever the number was, to hit the ceiling at \$7.000.

6           That problem exists out there.

7           COMMISSIONER NESS: May I assume its anomaly?

8           MR. COOPER: I would not assume it's an anomaly.  
9 The \$5.25, it was very easy for people to say let's take  
10 that as a Lifeline program.

11           I assume that you folks have the ability to  
12 monitor. Very few states have finished the Universal  
13 Service, even the Lifeline part, because they have been  
14 become tied up in the cost issues.

15           But there is a great deal of resistance to going  
16 to a 10.50 discount, which is obviously a very substantial  
17 discount.

18           COMMISSIONER NESS: Mr. Gregg, you look like you  
19 wanted to comment.

20           MR. GREGG: I can speak for my state, and we were  
21 very appreciative of the Commission's action. The most  
22 beneficial thing you did was to require that eligibility be  
23 based on income. Before a number of states had limited

1 assistance for telephone rates to handicapped and aged  
2 individuals. By basing it on income, it you really opened  
3 the door.

4 We have an overall state penetration rate in West  
5 Virginia of 94 percent, exactly the national average.  
6 However, we have 11 counties with very high unemployment  
7 that have penetration levels of 85 percent or less, and this  
8 is totally income-based basis for not being on the system.  
9 There is no geographical limitation whatsoever.

10 The fact that you opened the door to eligibility  
11 based on income has allowed us to expand that program, and,  
12 in fact, we did expand it up to the maximum amount. The  
13 final funding of that from the state level is still up in  
14 the air, but we are fully committed to getting the maximum  
15 benefit that you appropriated.

16 MR. GUMPER: May I just add something?

17 COMMISSIONER NESS: Yes.

18 MR. GUMPER: I believe that, and I will check into  
19 it and try to get it to the members here the information. I  
20 believe USAC, though, could provide you data as to what we  
21 are providing as support on an average line per state. And  
22 obviously if there is increased matching, you know, we can  
23 see what the states are doing, but I will see what

1 information USAC could provide along those lines.

2 COMMISSIONER NESS: It's an extremely important  
3 program, and I'm very anxious to ensure that that which we  
4 do at the federal level works for the states, and works most  
5 importantly for the consumers.

6 MR. COOPER: Let me recommend one specific policy  
7 to you.

8 COMMISSIONER NESS: Yes.

9 MR. COOPER: As Billy mentioned, you changed the  
10 criteria and many states did not have -- you know, had other  
11 criteria. It's now time if a state doesn't change the  
12 criteria, to take the money back, cause we wrote a series of  
13 waivers to let the states avoid -- they said they needed  
14 time, and in a specific state we worked, we passed  
15 legislation to remove from the books the restrictive  
16 criteria, and then the governor vetoed, and said, "Don't  
17 worry, the FCC will keep giving us the money even though we  
18 still have the restriction."

19 We're going into another state legislative cycle.  
20 This Commission, if you want people to take up this  
21 improvement in the program, you're going to have to make it  
22 clear that this is what you meant, and if you don't change  
23 your criteria, you're going to lose the federal support. As

1 I said, I wouldn't do it tomorrow, but let's make it clear  
2 by, you know, three years after the original concept was  
3 laid out there, if you don't really want let low income  
4 people in without being also disabled or elderly, we're not  
5 going to put the money up. You have to back up that policy.

6 COMMISSIONER NESS: Mr. Metts, you wanted to  
7 comment also.

8 MR. METTS: Yes. New Mexico has had a low income  
9 telephone assistance program for over 10 years. We  
10 participate in that with our cooperative. We have 56  
11 customers that avail themselves of that program alone with  
12 the federal. That's less than two percent of your  
13 customers, yet we know there are several more qualifying  
14 people that could qualify on an income basis. They don't  
15 take the service either because of pride or whatever. It's  
16 advertised to them. We notify them every year.

17 So the fact of low income being at that big a  
18 consideration and people not taking telephone service, our  
19 statistics don't show that.

20 COMMISSIONER NESS: Okay, thank you. My time is  
21 up.

22 CHAIRMAN KENNARD: Thank you.

23 Commissioner Schoenfelder.

1                   COMMISSIONER SCHOENFELDER: Mr. Gregg, I would  
2 like to have -- I think that you were answering Commissioner  
3 Johnson's question about this and I'm going to try -- I took  
4 notes, so I'm going to try to quote what you said. If I'm  
5 wrong, will you correct me, and then expand on this a little  
6 bit?

7                   I think you said if the Commission ties access  
8 reduction with Universal Service reform, then they should  
9 reduce or eliminate the SLIC. And I think that's the same  
10 thing Commissioner Johnson was talking about, and you didn't  
11 get a chance to answer and I'd like to have you just expand  
12 on that a little, please.

13                  MR. GREGG: I took her question to be more  
14 general, looking at the whole area of access charge  
15 reductions, for example.

16                  COMMISSIONER SCHOENFELDER: It could have been.

17                  MR. GREGG: And whether IXCs have actually flowed  
18 those through to end users. And I'll vary a little bit from  
19 what Mr. Cooper said.

20                  He said that we need competition in the local  
21 loop. I think if you look at the toll area, which is what  
22 we're concerned about, the access charge reductions went to  
23 the IXCs which provide toll, which is competitive. And this

1 points out one of the failings of competitive market. While  
2 it does much good, in a competitive market where you're  
3 allowed to do the economically rational thing, you're going  
4 to put the money where it does you as an economic unit the  
5 most good.

6           You're going to do -- first, you're going to keep  
7 it if you can. Secondly, you're going to pass it through to  
8 competitive computers, customers who will shop around and go  
9 elsewhere if you don't cut rates to them. And lastly,  
10 you're going to soak customers who don't make a choice, who  
11 are non-shopping customers, who are default customers.

12           In fact, in West Virginia, in any one month half  
13 of the customers make no intra-LATA toll calls, and I'm sure  
14 this goes on to the interstate arena as well. You have a  
15 disparity. You have a number of customers -- a small number  
16 of customers that make a whole lot. You have a very large  
17 portion that make none or very little. They don't care,  
18 they don't know, they don't shop. They are still paying the  
19 same default rates they paid 10 years ago.

20           We just put out a survey last month. We do an  
21 annual survey on long distance rates in West Virginia. In  
22 the last 10 years average toll rates have fallen 44 percent,  
23 and they've fallen 13 percent just in the last year after

1 the advent of One Plus competition. However, the default  
2 rate that is charged to customers that do not choose has  
3 varied virtually none in the past 10 years. It is still  
4 exactly where it is, and you still have a large majority of  
5 customers that are still paying that rate.

6 So if you want to pass through, you can't rely  
7 upon the competitive market. They're going to do the  
8 economically rational thing. I would cite to Commissioner  
9 Baker's statement. When they passed the Telecommunications  
10 Act of 1995, they mandated that certain companies reduce  
11 their intrastate access down to interstate levels. They  
12 also required that those access reductions be passed through  
13 to all customers on a proportionate basis, and that has  
14 happened. Access has gone down but customers have been  
15 guaranteed and, in fact, have received those access charge  
16 reductions on a proportionate basis, all customers.

17 COMMISSIONER SCHOENFELDER: I have one quick  
18 question for Mr. Cooper, and it's a yes or no question.  
19 Honest.

20 MR. COOPER: It's tough to get a yes or no from  
21 me.

22 (Laughter.)

23 COMMISSIONER SCHOENFELDER:

1           But I think you said that the funds should be  
2 raised from providers, and not from the end user is what I  
3 was taking it for you to mean.

4           Do you really believe that the provider will not  
5 pass that cost on to the consumer?

6           MR. COOPER: Well, it gets --

7           COMMISSIONER SCHOENFELDER: Yes or no.

8           (Laughter.)

9           MR. COOPER: To the extent they think they can,  
10 they will. And if there are market forces that prevent them  
11 from doing so, they will not be able to, and that's a  
12 marketplace question just like any other cost of doing  
13 business.

14           COMMISSIONER SCHOENFELDER: That's pretty close to  
15 a yes or no. Thank you.

16           CHAIRMAN KENNARD: Chairman Wood has just informed  
17 us that the shuttle launch was successful today. We missed  
18 it. Discovery 25. So we will have, at least as we speak,  
19 we still have a full congressional delegation from the State  
20 of Ohio.

21           Commissioner Furchgott-Roth.

22           COMMISSIONER FURCHGOTT-ROTH: Thank you, Mr.  
23 Chairman.

1           Mr. Metts, I always like people who put the number  
2 of children they have on their bio, and I'm very pleased to  
3 see that you have five children.

4           (Laughter.)

5           COMMISSIONER NESS: Something magical about that  
6 number.

7           MR. METTS: We have close to the same.

8           COMMISSIONER FURCHGOTT-ROTH: Yes. Mr. Metts, we  
9 on the Joint Board have before us some items that have been  
10 referred to us on high cost recovery for large telephone  
11 companies, and I know that you represent a small rural  
12 telephone company and I see some other folks from small  
13 rural community in the audience today.

14           One possible solution would be to raise the size  
15 of the Universal Service Fund for large companies, and I  
16 just want to get your reaction.

17           Do you think that's something that should be done  
18 before we look at small company issues or should be done in  
19 isolation from looking at the size of support for small  
20 companies?

21           MR. METTS: Well, I don't know that I understand  
22 exactly where you're coming from.

23           COMMISSIONER FURCHGOTT-ROTH: Well, let me try to

1 rephrase it.

2 MR. METTS: Okay.

3 COMMISSIONER FURCHGOTT-ROTH: Could you explain,  
4 and I know cooperatives are sort of member-owned, could you  
5 explain to the members of your cooperative if you're told,  
6 well, this is the support we get from the federal government  
7 through Universal Service support, and it's going to stay  
8 that way for a little while. There's another telephone  
9 company somewhere else in the country, it's a very big  
10 company, and they just got so many millions of dollars more,  
11 but don't worry, our turn is coming a few years down the  
12 road.

13 How would the members of your cooperative feel  
14 about that?

15 MR. METTS: That would be extremely difficult.  
16 Every year at our annual meeting we explain the fact of what  
17 it costs us to provide service, and we also explain what  
18 kind of support we're getting from Universal Service Funds,  
19 high cost funds.

20 Our local service revenue requirement is \$66.00 a  
21 month. Now, disregarding what I've heard about cost of  
22 service going down and getting cheaper, that is not the case  
23 in rural America. It costs us \$50,000 to put in a mile of

1 fiber. Our average net depreciated investment per look is  
2 \$7400. So we -- we have to have Universal Service Funds.  
3 Our local service rates would go from \$14.00 to \$70.00  
4 without USF. So it's extremely important to us.

5 And even though we continue to tell our members  
6 that some day this may change, and you will have to realize  
7 we provide you all these advance services, that you cannot  
8 continue with that rate. It's hard enough for them to  
9 understand why it would go away. It would be extremely hard  
10 to explain it went away to a bigger company.

11 COMMISSIONER FURCHGOTT-ROTH: Thank you, Mr.  
12 Metts.

13 Mr. Cooper, I appreciate your comments about why  
14 prices should in some sense reflect costs, and I appreciate  
15 your comments about if you reduce usage sensitive rates,  
16 that much of the benefit would go to consumers that use  
17 telephone services a lot, which may, in fact, be a lot of  
18 business customers.

19 Is it not possible that one could get the benefits  
20 of reducing usage sensitive rates, which, of course, just  
21 penalize customers who want to use the phone and discourages  
22 them because they're having to pay something that's well  
23 above cost, is it possible to come up with a system of flat

1 charges which, of course, can be paid both by long distance  
2 local companies in such a way that flat charges are higher  
3 for business customers and lower for residential customers?

4 MR. COOPER: That sounds like the system we have  
5 today. The question of whether charges should be flat or  
6 fixed is a separate question from whether or not costs are  
7 above or below or they are subsidies.

8 We supported the concept of a PICC in the sense  
9 that it made sense to recover a fixed cost for a facility  
10 that's being used by the long distance provider in a fixed  
11 fashion, and we did support it. It's become a bone of  
12 contention, but it makes economic sense to have those fixed  
13 charges to cover fixed costs. And if you did cost cause of  
14 analysis, you might well find that there -- as I said, when  
15 we first supported that, sometimes costs are not so fixed;  
16 that is, people decide how many fibers to put in there, how  
17 much to light, and it starts to look variable as the revenue  
18 opportunity is a variable revenue opportunity.

19 But clearly, we supported the concept of  
20 recovering those fixed cost with fixed charges, and  
21 distinguishing between high and low volume users.

22 COMMISSIONER FURCHGOTT-ROTH: Thank you, Mr.  
23 Chairman.

1           CHAIRMAN KENNARD: Thank you.

2           Chairman Wood?

3           CHAIRMAN WOOD: Mr. Gregg, in your testimony you  
4 mentioned, actually in your written testimony, you mentioned  
5 about the totality of the bill shouldn't go up.

6           in this age of, I think, migration back toward the  
7 one bill option, although hopefully from a number of  
8 different companies instead of just one or two, isn't the  
9 totality of the bill that we need to be thinking about, the  
10 whole telecommunications service bill?

11           MR. GREGG: I think you need to focus primarily on  
12 the basic rate, rates that people have to pay to get access  
13 to the network. Every other type of usage that you make of  
14 that network tends to be discretionary to some extent,  
15 except for rural areas, as Mr. Metts stated, where toll  
16 calls are a necessity.

17           CHAIRMAN WOOD: Right.

18           MR. GREGG: But I believe that our charge is not  
19 to worry so much about vertical services, not to worry so  
20 much about advance service pricing. It's to make sure that  
21 basic service, the price, the rate that everyone of us, no  
22 matter what our economic standing is, has to pay to get on  
23 that network and to keep that network at the high value it

1 current has, because 94 percent of our citizens are  
2 connected. So in that regard, I think the focus is on local  
3 rates.

4 I think there are ways to address the toll issue  
5 through EAS, for example. There has been a movement  
6 throughout the nation to increase the value that a customer  
7 gets from his calling area, and, in fact, customers have  
8 shown that they are willing to pay more if they get more  
9 value. In fact, starting in 1988 and concluding in 1994, we  
10 instituted statewide EAS in our state. Every subscriber of  
11 every phone company has exactly the same calling area, and  
12 exactly the same calling options, and exactly the same  
13 rates.

14 Obviously, some are supported more than others,  
15 but everybody is put on an equal footing and everybody has  
16 options to try to fit what they need with their income and  
17 their desires.

18 CHAIRMAN WOOD: What's your basic -- what would  
19 the basic local rate plus SLIC, plus mandatory taxes and  
20 local fees be?

21 In other words, if all you wanted was dial tone and  
22 no caller ID.

23 MR. GREGG: 9.50.

1 CHAIRMAN WOOD: With the SLIC included?

2 MR. GREGG: With the SLIC. 9.50.

3 CHAIRMAN WOOD: And what would be --

4 MR. GREGG: That is all measured though. Every  
5 call you make is measured.

6 CHAIRMAN WOOD: And what is a per minute or per  
7 call?

8 MR. GREGG: It's per minute, distance, time of  
9 day. It has all four dimensions.

10 CHAIRMAN WOOD: It's like Chicago. Okay. Just  
11 like Chicago has.

12 MR. GREGG: Just like Chicago.

13 Then we have basically four different levels. You  
14 can buy a greater amount of prepaid flat service.

15 CHAIRMAN WOOD: Right.

16 MR. GREGG: \$15.00. Your local change is all  
17 flat. Everything else is measured.

18 CHAIRMAN WOOD: Fifteen plus nine?

19 MR. GREGG: Fifteen plus the 3.50.

20 CHAIRMAN WOOD: Okay. Okay.

21 MR. GREGG: \$22.00 plus the 3.50 for your home  
22 exchange, surrounding exchanges.

23 CHAIRMAN WOOD: Okay.

1 MR. GREGG: And then the rest measured. Twenty-  
2 nine bucks plus the 3.50, everything flat.

3 CHAIRMAN WOOD: Let me ask the other three  
4 panelists. Mr. Gumper, in your testimony you compared it to  
5 the cost of the pizzas you got. I was comparing it to the  
6 cab ride I took from the Reagan Airport to here, and I don't  
7 know what affordability is.

8 What is affordability since that's your panel? I  
9 mean, in dollars, what affordability of basic local service?

10 Mr. Gregg gave a good range of what West Virginia  
11 is talking about.

12 MR. GUMPER: Well, I think --

13 CHAIRMAN WOOD: You said 21 bucks for the pizzas?

14 MR. GUMPER: The average -- okay, yeah, the  
15 average local service right now is \$21.00, and that includes  
16 basically your surcharges and your taxes. The average total  
17 bill is \$54.00. So you can see for the average customer  
18 their basic service represents about 40 percent of their  
19 total bill.

20 You know, I think when you take a look at the  
21 penetration rates overall, it's obvious that telephone  
22 service is affordable. The vast majority of people in this  
23 country have it, and when you compare the prices of other

1 goods and what has happened to those goods and services over  
2 the last 10, 15, 20 years, telephone service, particularly  
3 basic service, becomes even more affordable.

4 So I would say I think a lot of states have gotten  
5 rates into the neighborhood of 20 - 25 dollars for basic  
6 service, and they have not seen penetration rates suffer.

7 CHAIRMAN WOOD: In the co-op, Mr. Metts, you're  
8 right next to a lot of the folks I regulate, and I know your  
9 rates are probably maybe even a little higher than what they  
10 are. You said 14?

11 MR. METTS: \$14.90.

12 CHAIRMAN WOOD: Four, and is that with the SLIC?

13 MR. METTS: With the SLIC and 911 will be about  
14 \$19.00.

15 CHAIRMAN WOOD: Okay. And calling scope of how  
16 big?

17 MR. METTS: Well, some exchange is 500 customers.  
18 Some exchange is 5,000, because we don't -- we don't provide  
19 service in the town where we're headquartered. That U.S.  
20 West. But we have one exchange has 104 customers and that's  
21 all they can call, and there is no doctors, there is no  
22 school, there is no medical facilities. They can call the  
23 volunteer fire department, and everything else is a toll

1 call.

2 CHAIRMAN WOOD: And your toll rate would be what  
3 per minute?

4 MR. METTS: The toll rate?

5 CHAIRMAN WOOD: Is it distance sensitive or is  
6 there an average number?

7 MR. METTS: No, it's would be distance sensitive.

8 CHAIRMAN WOOD: I'm just trying to get an idea of  
9 what the number --

10 MR. METTS: Twenty-five cents probably.

11 CHAIRMAN WOOD: Okay. Mr. Cooper, what's  
12 affordable?

13 MR. COOPER: In response to Julia Johnson's  
14 question, and it's something I did in Florida, this question  
15 of, well, compared to other things it's gotten real cheap,  
16 so therefore a big increase would be affordable.

17 It depends on what you look at. Remember, this is  
18 an electronic-based, technology-based industry. If you  
19 compare it to computers, it's not gotten real cheap.  
20 Computers have gotten a lot cheaper. It's -- ironically  
21 since the breakup so has gasoline, so has shoes, so has TV,  
22 so has audio, so there is a bunch of stuff there that has  
23 gotten a lot less expensive, and it's not clear that that is

1 a standard that you ought to apply.

2 Now, if you put the -- cable rates have gone up  
3 more. So if you put us back to 1984, you can actually say  
4 that telephone costs less than cable, but that's an  
5 unregulated monopoly. That's exactly what we're trying to  
6 stay away from. But I will tell you the companies in  
7 Florida said, "Hey, look what cable rates have done."  
8 That's exactly the comparison we don't want.

9 So the question is are rates affordable today?  
10 Yes. Could you double them without causing people to drop  
11 off the network? You probably could. Would some people  
12 drop off the network? Yes, they would. Would a lot of  
13 people end up with a higher bill, particularly my  
14 constituents? Yes, they would.

15 So that affordability is a complex concept, and we  
16 don't think you ought to increase basic rates today going  
17 forward. The point was to start where we were and see if we  
18 could get a competitive market to lower those prices.

19 CHAIRMAN WOOD: Thank you.

20 CHAIRMAN KENNARD: Thank you.

21 Commissioner Powell.

22 COMMISSIONER POWELL: Thank you, Mr. Chairman. I  
23 have this set of concerns. If we were to be concerned

1 solely in the administration of our functions with consumers  
2 getting the best deal possible, you might have a certain  
3 kind of system. But we have other obligations and events we  
4 are trying to help to foster the proper conditions for, not  
5 the least of which is a form of competition that will bring  
6 values, in the judgement of the Congress, to these consumers  
7 as well.

8           And in light of that, I'm sort of struck by  
9 certain statements that I want to explore a little further,  
10 first with you, Mr. Cooper. You said something which, to  
11 some degree, knocked me over in the sense that affordability  
12 shouldn't have anything to do with what the market would  
13 bear. I'm not so sure I fully understand what you mean by  
14 that.

15           It seems to me if it's unaffordable, I wouldn't be  
16 able to pay, but you seem to have a definition of  
17 affordability that would allow consumers to maintain  
18 subscribership but still as a matter of government policy  
19 should be kept below those levels. That seems to be  
20 extraordinarily intention with any kind of competitive  
21 market, no matter how you created it. If you had a notion  
22 that a market could produce rates that consumers or users  
23 would be willing to play but nonetheless the government

1 would keep them below those rates as a matter of policy, and  
2 I would just like to hear you flush that statement out a  
3 little.

4 MR. COOPER: Well, the answer, the simple answer  
5 is the following. That the market that you've described to  
6 me only has a demand side. That is, what you're saying is  
7 that we're going to price by looking at what the demand side  
8 of the market says.

9 In point of fact, the magic of our capitalist  
10 system is the supply side of the market. So that a  
11 competitive marketplace, you're not only looking at what the  
12 consumer is willing to pay, you have to look at what your  
13 competitors are willing to charge.

14 And so the real driving force in a competitive  
15 market, which we endorse, is on the supply side where people  
16 come in and say, "If he tries to put his price up," he looks  
17 at telephone service and he knows Cooper would pay twice as  
18 much for service, if he tries to double my rate, the supply  
19 side enters and said, "I don't have to let him do that. I  
20 can steal Cooper as my customer without raising his price."  
21 So that's the first part of the answer is that when we talk  
22 about a supply side, and we have commended the Commission  
23 for vigorously trying to get that supply side of the market.

1           The second answer is that even on the demand side,  
2 and we've said this in our testimony, and I go back to the  
3 original Michigan petition on the demand side, clearly  
4 affordability is not an absolute concept. If you look in  
5 the dictionary today, the first definition you will get of  
6 affordability is a relative concept. It doesn't say  
7 "ability to pay." It says, "ability to pay without undue  
8 harm, burden," et cetera. So that our concept of  
9 affordability is, in fact, a relative concept.

10           We do ask how much does it hurt, and that, we  
11 think, is the -- when Congress said affordable, they didn't  
12 point their finger to whether it was definition A or  
13 definition B. So I believe that both on the demand side and  
14 the supply side.

15           COMMISSIONER POWELL: Well, that's a good point,  
16 but one of the things that concerns me is that in order to  
17 materialize or pump the supply side, to create those choices  
18 in the first place are going to require some level of price  
19 flexibility or some level of ability to respond to pricing  
20 in order to make it viable to enter and be that choice in  
21 the first place.

22           And so, I mean, I don't really dispute your --  
23 your focus is right to be concerned with both, but what I

1 struggle with is the interaction of the two; that there are  
2 potentially subsidy distortions and distortions that could  
3 be justified if focused exclusively on, and Dave's point  
4 about quality and cost need to be considered, but if that's  
5 all you focused on, you could easily engineer a system in  
6 which those things were maximized, fearfully to the  
7 exclusion of potential for efficient entry, and that's just  
8 my caution.

9           In the interest of time, let me move to another  
10 question, and I think maybe I'll direct to Mr. Gregg. I  
11 kind of clicked in late to the point of your discussion but  
12 the focus on basic rates, I think, was your core points, but  
13 you were discussing the general issue of passing savings  
14 through only to competitive customers and not to those who  
15 don't seem to switch from basic rates from month to month,  
16 et cetera.

17           It seems to me part of our -- and this may even  
18 play into the question of line items and what values they do  
19 or don't serve, but it seems to me that in the exercise of  
20 how consumers are going to interact one has to be concerned  
21 about conditioning them to change the paradigm as well.  
22 That is, someone mentioned about consumers for the vast  
23 majority of the time that they have had an interaction with

1 a phone see it as a guarantee level of affordability, a  
2 utility-like model.

3 But as we introduce a competitive model, there is  
4 a fear to me, it seems to me, that the logical thing, if you  
5 are a producer, is to pass it through to competitive -- to  
6 your competitive customers.

7 Now, I would be very concerned if there were true  
8 barriers to basic residential customers switching to more  
9 competitive alternatives, but I don't want to accept, I  
10 don't think, that if people won't choose options available  
11 to them, if there is information as to -- informed  
12 information available in the market for them to make those  
13 choices, just because they don't for whatever reasons, which  
14 would be difficult for us to determine, that we should  
15 nonetheless play to that lower common denominator.

16 I'm somewhat surprised by this assertion because  
17 if you take an AT&T, they don't hide the 10 one-rate plan.  
18 My TV is bombarded with this. I get called with it all the  
19 time because they have learned that the switch stimulates  
20 demand and they get a benefit from people switching to some  
21 of these more competitive plans. Nonetheless, they still  
22 have a problem every month with people who will not switch  
23 from it.

1           And at some point isn't it responsible to say that  
2 the policy shouldn't be geared to take care of a class of  
3 consumers that will not make those choices for whatever  
4 reason?

5           MR. GREGG: Well, you are correct, but in spite of  
6 being bombarded every conceivable way, through radio,  
7 television, newspapers and actual phone calls to their  
8 homes, there is a vast majority of customers who simply will  
9 not and do not switch, do not care to get in the game at  
10 all. And this is probably true in terms of shopping for  
11 bread. I go to the corner grocery even though I know I'm  
12 paying 50 percent more rather than drive a couple more  
13 blocks to go to the big supermarket, and that's going to be  
14 true in any competitive market.

15           I think my response was if the concern is we've  
16 reduced access \$9 billion, we want to make sure the end  
17 users get \$9 billion of savings. The only way you're going  
18 to actually be able to verify that is by some sort of  
19 prescriptive requirement. If you're not willing to do that,  
20 if you're willing to let the market work and let the players  
21 make economically rational decision, you're going to get  
22 what you've gotten, which is that the savings go to the  
23 competitive customers. Why would you in your right mind

1 pass it through to customers who are going to pay whatever.

2 COMMISSIONER POWELL: Um-hmm. Um-hmm.

3 MR. GREGG: And the distinction, though, to get  
4 back to Mr. Cooper's perspective, is that while we do have a  
5 competitive market in toll, we still do not have a  
6 competitive market by any stretch of the imagination for  
7 local service, and that is why it would be unconscionable to  
8 let local service rates rise now.

9 For example, one paradigm would be cap rates where  
10 they are. Rates are affordable right now. Cap them where  
11 they are. Let competition seek out the areas where they can  
12 provide service below that price, where the cost is low. If  
13 those internal subsidies that exist within states, those are  
14 not affected by the external subsidies that the federal  
15 government gives them. If those have to be recompensed by  
16 some sort of Universal Service Fund, that's the state's  
17 responsibility first. And if they need additional  
18 assistance, that is when I believe the federal government  
19 should kick in additional external subsidies.

20 COMMISSIONER POWELL: Thank you.

21 CHAIRMAN KENNARD: Ms. Hogerty.

22 MS. HOGERTY: Yes, Mr. Gregg, I was interested in  
23 your suggestion. I believe that you suggested that perhaps

1 the fund should be somewhere close to where it is today, and  
2 you have also suggested that implicit subsidies are  
3 something that you should let the competitive market deal  
4 with, and I think that's just what you were talking about  
5 with Commissioner Powell.

6           Could you expand on that some more?

7           MR. GREGG: Well, basically you've got --

8           MS. HOGERTY: And if you want to use competition  
9 as a standard, do you have some kind of criteria that could  
10 be used.

11           MR. GREGG: Once again, going back to where we are  
12 now. Rates are affordable. We've got a high cost fund of  
13 1.7 billion; Lifeline, a half a billion; schools and  
14 libraries, 1.3; and whatever the rural health care is going  
15 to end up being. So you're looking at basically about a 3  
16 billion plus fund that's being recovered by approximately  
17 five percent surcharge by most long distance companies.

18           I believe that for the high cost issue, the \$1.7  
19 billion, that fund right now is sufficient. The funds that  
20 Mr. Metts' phone company gets, the funds that the small  
21 rural telcos in my state get that keeps their rates  
22 affordable are flowing now. If you can guarantee that they  
23 will at least continue to flow at that level, I think that

1 we in the states can deal with the internal subsidies that  
2 come about because of average rate, those flows of business  
3 to residential and urban to rural.

4 Right now those flows are happening through  
5 average rates. We have an implicit Universal Service Fund.  
6 Unless and until competition begins to erode those internal  
7 implicit flows there is no need for any additional Universal  
8 Service funding. And if you look at the pace of local  
9 service competition developing, I believe it will be -- any  
10 losses, any revenue losses from beginning competition will  
11 be more than offset by access line growth and revenue growth  
12 of the incumbents. That's what we have seen so far. Even  
13 in areas where there has been the greatest competition  
14 growth, there still has been very healthy growth by the  
15 incumbent.

16 MS. HOGERTY: So would you see the way this  
17 playing out is that the incumbents would come to their state  
18 regulators and say we need to start de-averaging our rates?

19 MR. GREGG: Right, the state regulators are the  
20 ones that have set up whatever system exists in their  
21 particular state. And as I said in my statement, it varies  
22 wildly across the United States. They are the ones that  
23 know where the high cost areas area. They know them

1 inherently. They are from those states.

2 I tend to agree with Commissioner Furchgott-Roth  
3 that I don't think it's possible for people sitting in  
4 Washington constructing a wonderful machine to somehow  
5 magically figure out the cost in every sub grid of every  
6 census block in the United States. I just don't think it's  
7 possible. It's like trying to reach the horizon. You can  
8 never make an abstraction of reality reality.

9 So for those reasons I believe that dealing with  
10 those implicit subsidies, those internal subsidies, should  
11 be left in the first case to the states. If and when we  
12 have real data that there is an additional need there to  
13 support affordability, then we can come to the federal  
14 government and see if we need any additional external  
15 subsidies.

16 MS. HOGERTY: Mr. Gumper, I wanted to ask you  
17 about Lifeline and Link-Up.

18 Do you know how many of those who are actually  
19 eligible for those services are taking them?

20 MR. GREGG: No, I don't.

21 MS. HOGERTY: Okay.

22 MR. GREGG: I would estimate it's probably a  
23 fairly small percentage for a couple of reasons. One,

1 obviously as it's already been alluded to, there is no  
2 question that in many parts of this country, particularly  
3 the more rural areas, not only in program like Lifeline and  
4 Link-Up, but the school lunch program and things like that,  
5 we know that people who are eligible for it many times  
6 prefer not to participate.

7           The other thing I would point out is because the  
8 Joint Board expanded the Lifeline, Link-Up Program effective  
9 January 1st of this year, there were a lot of states that  
10 did not have a program prior to that, so they have  
11 implemented those programs, so there is obviously going to  
12 be some time required to ramp up those programs to a more  
13 appropriate participation rate since they are fairly new and  
14 there is going to be a need for consumer education in those  
15 states where they never had the program existing before.

16           MS. HOGERTY: Mr. Metts, what kind of an education  
17 program do you have for Lifeline and Link-Up?

18           MR. METTS: Well, there is a state program by the  
19 State Corporation Commission mandates that you do certain  
20 things for that program every year, and we send out mailers  
21 to the customer base and that type of thing. And they have  
22 to qualify, they have to go through State Human Services and  
23 be able to qualify for light, heat, Medicare, those types of

1 things, but it's --

2 MS. HOGERTY: So it's an annual mailing --

3 MR. METTS: Yes.

4 MS. HOGERTY: -- is the way you notify?

5 MR. METTS: Yes.

6 MS. HOGERTY: Okay. Don't you think that perhaps  
7 if the education effort were beefed up a little bit you  
8 might get a better subscription?

9 MR. METTS: I do not know that. It is possible  
10 that it could, but I don't know that that would do it.

11 MR. GREGG: In our state the Health and Human  
12 Services Department dispenses information about the  
13 telesystems program with every welfare recipient  
14 application.

15 MS. HOGERTY: I don't know if -- do I have some  
16 more time? Mr. Cooper --

17 CHAIRMAN KENNARD: No.

18 MS. HOGERTY: Am I out of time?

19 CHAIRMAN KENNARD: You're out of time.

20 MS. HOGERTY: Okay.

21 CHAIRMAN KENNARD: If you have one more question,  
22 go ahead, Martha.

23 MS. HOGERTY: That's okay.

1                   COMMISSIONER TRISTANI: Mr. Chairman, I have two  
2 questions and I'll try and be brief.

3                   CHAIRMAN KENNARD: Okay.

4                   COMMISSIONER TRISTANI: One is a follow up on  
5 Lifeline, Link-Up, and I will say being from New Mexico I am  
6 proud that our state was a little bit ahead of the curve  
7 with this program, with the requirements, so I know that  
8 it's a good program.

9                   Having said that, though, I'm troubled from some  
10 of the things I have heard today that there are some states  
11 that have not changed eligibility requirements, and so that  
12 alone tells me that there must be a lot of eligible people  
13 that aren't linked up because they can't apply.

14                   And may I ask, Mr. Cooper, what state that was  
15 where it was vetoed or --

16                   MR. GUMPER: I believe that was the State of  
17 Minnesota.

18                   COMMISSIONER TRISTANI: Okay.

19                   MR. COOPER: And, again, it's a state I have been  
20 active in. But there is another answer here, is that the  
21 FCC identified a sensible approach, which was automatic  
22 enrollment. As you've just heard two people tell you that  
23 State Department of Health and Human Services gets a piece

1 of paper back from a customer and then sends another piece  
2 of paper to the phone company. Instead of simply saying all  
3 these people are receiving food stamps, light, heat, et  
4 cetera, put them in the Lifeline Program, which is what the  
5 board recommended. Tremendous resistance. These are people  
6 who have already declared themselves to be in need and found  
7 to be in need. Why are we forcing them to fill out another  
8 piece of paper?

9 And that answer to that is there is a lot of folks  
10 who have said they've gotten food stamps or they have gotten  
11 those programs, and have not come in for Lifeline. They  
12 don't know. We don't need the mailing. We just need an  
13 exchange of data tapes and all these folks will get that  
14 benefit.

15 A perfectly good idea, applied in a couple of  
16 places. But to my knowledge, no other state since the Board  
17 and the FCC recommended that we adopt automatic enrollment,  
18 no other state has done so.

19 COMMISSIONER TRISTANI: Okay. I'm going to go  
20 back to, and it relates to Lifeline, Link-Up, the class of  
21 people who aren't connected, six percent.

22 Mr. Gumper, first of all, I want to thank you for  
23 sharing the study which you talked about, and I haven't had

1 time to read through all of it, but I will tell you that it  
2 doesn't say income doesn't matter. It says there are a  
3 variety of issues, and I won't go into detail, but it keeps  
4 pointing back to income makes a difference. Certain  
5 minority groups like African-Americans and Latinos are more  
6 disconnected.

7 Not surprising, or actually this statistic  
8 surprised me, but I guess it shouldn't have, single civilian  
9 female with children has the second lowest telephone  
10 penetration rate, 82.6 percent, exceeded only by the  
11 homeless. And I'm bringing up that statistic because you  
12 also said that you thought, and maybe I misunderstood you,  
13 you thought we'd reached this optimum, like 94 percent. the  
14 Commission shouldn't be doing more, and let me -- let me  
15 just go a little further.

16 My question to you and the rest of the panel is  
17 have we reached an optimum? Is this something the FCC  
18 should be looking at? Should we be looking at in  
19 conjunction with the states? Do we know enough about the  
20 reasons for non-subscribership?

21 MR. GUMPER: I would say, first of all, I don't  
22 think we know enough, and I think that was what Jorge's  
23 study really points out; that this is a very complex issue.

1 Some of the variations, I would point out, and the reason  
2 why I quoted the statistics from California is because  
3 California happens to have a very aggressive low income  
4 program.

5 COMMISSIONER TRISTANI: Um-hmm.

6 MR. GUMPER: They have one of the highest  
7 penetration rates. I think New York and California today  
8 represent a big chunk of the Lifeline and Link-Up  
9 participants. And yet even in a state like California,  
10 which has a very aggressive program, and New York, as my  
11 testimony also quoted because he also has some statistics  
12 from New York, New York, Lifeline costs \$1.00 a month. It's  
13 hard to believe that when you can get telephone service for  
14 \$1.00 a month that affordability is a primary issue if  
15 you're talking about the price of basic telephone service.

16 So the question then comes is why do you have such  
17 large variations in people who own their own homes, and  
18 those statistics are owned, so those people own their own  
19 homes, and yet we see variations where in some cases there  
20 is no variation in some counties. In other cases, it's 35 -  
21 40 percent.

22 I would say those kind of extreme variations in  
23 two states that have very aggressive Lifeline programs, and

1 you can get telephone service at very, very cheap rates,  
2 then affordability is not the issue.

3 Now, there may be places where it still is  
4 because, again, we have just started the Lifeline, Link-Up  
5 programs, and as Mark has indicated, obviously there has  
6 still been a lot of resistance in some areas to follow a  
7 norm. So I don't think you can just say we can wash our  
8 hands.

9 As I said to the Chairman before, I think the  
10 current Lifeline and Link-Up programs that exist should  
11 address the issue of affordability.

12 COMMISSIONER TRISTANI: If properly implemented.

13 MR. GUMPER: Yes.

14 COMMISSIONER TRISTANI: Now, let me just -- what  
15 do we do about Native American reservations, which as the  
16 Navajo, and the statistics are in here where I think it's 18  
17 percent penetration? And, of course, I think distance has a  
18 lot to do with that.

19 MR. GUMPER: I tried to allude, you know, in my  
20 remarks, because I think realistically in those areas where  
21 it is very, very expensive, there it's not so much a  
22 question of affordability, I don't believe. I think it's a  
23 question that it is cost prohibitive.

1           And then the question is do you as a Joint Board  
2 recommend and adopt a program which basically provides large  
3 amounts of funding to wire line companies to deploy  
4 facilities to those very remote areas, or, in fact, do you  
5 look to a wireless solution.

6           And I would say that given what has happened in  
7 the wireless market and the price structures that have been  
8 occurring more recently there -- you know, when this debate  
9 started three - four years ago wireless was probably not a  
10 very viable alternative. Today, the amount of minutes that  
11 people get in wireless packages and the price they can get  
12 it at, realizing that in some cases that package covers the  
13 entire United States, is it feasible or reasonable to  
14 subsidize wire line companies to the same level just to  
15 provide local usage where in fact someone can get five - six  
16 hundred minutes of nationwide use for the same amount of  
17 dollars?

18           I would say it's not.

19           MR. COOPER: I think if you look at people who own  
20 their own homes, you've excluded people who don't. And if  
21 you look at the median income of those two groups, you would  
22 find a dramatic difference.

23           The simple fact of the matter is that the single

1 most important determinant of telephone subscribership is  
2 income. If you look at six percent of people who don't have  
3 phones, you will discover that two-thirds of them, three-  
4 quarters of them have income below 200 percent of poverty.  
5 Simple observation.

6 Now, that means that there are some people who  
7 have higher incomes who don't have telephones, and then  
8 you're going to ask yourself, but the big problem is income.  
9 The second question you will discover if you run the  
10 econometric models, it will always enter the analysis,  
11 language spoken at home. If you don't speak English at  
12 home, the phone is less valuable to you because everybody  
13 out there on the network speaks English primarily, so you've  
14 got less value to you.

15 And so the language and cultural stuff will help  
16 to answer that. But all of those other factors get pretty  
17 small when it comes to -- you start from income.

18 Now, Frank is right. After you -- after you've  
19 controlled for income, you've got all these other things  
20 that affect telephone subscribership, but I think the thing  
21 you're reacting to we sort of gave, and it's an impression I  
22 don't think he intended to give, he says income doesn't  
23 matter. He didn't say that.

1           But there comes a point where if you look at the  
2     statistics, if you hit about \$40,000 of household income, or  
3     50, from there on up 98 percent of the people have phone  
4     service in every income group. Two percent of those folks  
5     don't, but there down you get down to, you know, 20 percent  
6     who don't have in the lowest income.

7           So with respect to the question of affordability  
8     income definitely still matters, and the Lifeline Program is  
9     important, and it's targeted but it's not fully subscribed  
10    nor is the benefit 100 percent in most places as defined by  
11    the Joint Board and the FCC.

12           COMMISSIONER TRISTANI: Is there anything else the  
13    FCC could be doing that it's not doing?

14           MR. COOPER: Well, as I've said, we -- we thought  
15    the FCC did a terrific job in defining the program. We just  
16    don't have people buying into it, and we don't have people  
17    doing automatic enrollment. We are still fighting this  
18    business about how do we send paper around, educate and move  
19    it around. So the answer is that, as I said, make it clear  
20    that if they don't expand the eligibility, they're not going  
21    to get the money.

22           You may have to lean harder on the question of --  
23    five and a quarter is very attractive for states to take the

1 money and run. There is a lot of people looked down and  
2 said, "That's a big discount, why do we need a match?" And  
3 you made it too easy to do that.

4 So I think you've defined a great program. It  
5 just hasn't been taken up in the rest of the country, and  
6 then now you ask yourself how do we put some muscle behind  
7 getting people to adopt the program.

8 CHAIRMAN KENNARD: Thank you.

9 Commissioner Baker?

10 COMMISSIONER BAKER: Thank you, Mr. Chairman.

11 I'll base my questions on Mr. Cooper's testimony,  
12 but I will invite any of the panelists to respond.

13 First, regarding line items, Mr. Cooper, you  
14 stated that in your opinion line items should not appear on  
15 consumer bills, correct?

16 MR. COOPER: Yes.

17 COMMISSIONER BAKER: Okay. But aren't line items  
18 consistent with the notion of making Universal Service  
19 support explicit? That is, consumers realize what portion  
20 of their bill goes to support high cost funding?

21 MR. COOPER: Well, the word "explicit" appears in  
22 the statute, and in that section of the statute it talks  
23 about service provider contribution. It never says -- and

1 so if a service provider is told here is how much your cost  
2 of Universal Service is, that is explicit to the service  
3 provider, and that's the way the provision was written.

4           Could you have written a provision which said  
5 consumers should be told it cost them \$2.00 a month?  
6 Congress could have written that. They said explicit, they  
7 said telecommunications service providers. And, in fact, if  
8 you tell them you are paying \$2 million or whatever the  
9 number is and there is no other subsidy any place in any HUR  
10 playing -- paying, it is explicit to the telecommunications  
11 service provider, which is what that section of the Act  
12 says.

13           MR. GUMPER: I'd like to respond to that for a  
14 second.

15           COMMISSIONER BAKER: Yes, and I guess, Mr. Gumper,  
16 if I can anticipate your response because my follow-up  
17 question would be, I mean, can't we all reasonably  
18 anticipate that providers charged with an obligation of  
19 contributing to a support fund would in fact pass this along  
20 to consumers?

21           MR. COOPER: We didn't say they couldn't pass it  
22 along, and they will try, and we'll see where they put it.  
23 Some might say -- one company might put in the bottom of the

1 bill, which is what we saw in long distance, and another  
2 company might say, "Hey, we don't put that on your bill."  
3 And the consumer will start to figure out and they'll look  
4 at that. So essentially this is just like any other cost of  
5 business. Why don't they break out the CEO's salary on the  
6 bottom of the bill, or the unemployment insurance that they  
7 pay? Every company pays unemployment insurance for those  
8 bills. Do you see it on the bottom of the bill saying, "You  
9 see that, you're paying for unemployment insurance in the  
10 State of Georgia?"

11 The answer is that each cost of business is  
12 recovered in the price sold to the customer and we don't  
13 separate out those things on the bottom of the bill.

14 MR. GUMPER: Okay, let's though point out that in  
15 the telecommunications industry every telcom company, except  
16 for the local exchange carriers, has the flexibility to  
17 recover their contribution in any way, shape or form they  
18 desire. And I agree with you, most of them will put it as a  
19 line item in one shape or another on a customer's bill, and  
20 we've seen that happen as this past year has rolled out.

21 The only exception are the local exchange  
22 carriers. We do not have the flexibility to just simply say  
23 we will recover those costs any which way we can. We have

1 to be given permission of our regulators to recover those  
2 costs. And right now today the local exchange carriers  
3 recover our contribution and for Bell Atlantic's case it's  
4 about 215 million a year we put into the fund through our  
5 access charges which, quite frankly, we don't think is a  
6 very viable way to do that. And it's sort of a little bit  
7 of follow, you know, the nut under the cap because, you  
8 know, the long distance carriers in effect reimburse us  
9 through access charges for most of our contribution, and it  
10 probably would make a lot more sense for us not to put it in  
11 our access charges, but to put it on a line item on the  
12 bill. But the only way we can do that is if we're given the  
13 permission from the regulators.

14 MR. GREGG: Mr. Baker, my preference would be to  
15 prohibit service charges altogether like Section 167(h) of  
16 the Georgia Telephone Competition Act. However, if you are  
17 going to impose surcharges, I believe that the most  
18 important thing is that they not be made mandatory. Right  
19 now we have virtually every company putting a surcharge of  
20 one type or the other. AT&T is 93 cents per month. Others  
21 are 4.9 percent, 5.2 percent.

22 However, I believe if you do not make them  
23 mandatory, that the market will ultimately drive them out.

1 If consumers do not like paying all these other extra  
2 charges that are on their bill, there is going to be  
3 somebody who is going to come up and fill a niche and says  
4 no hidden charges, 10 cents a minute, and when we say it you  
5 can believe it. We're not going to be like MCI. We're not  
6 going to be like AT&T and say 10 cents a minute, but what we  
7 really mean is 10 cents plus five percent.

8 So I believe as long as you let -- if you're going  
9 to have surcharge -- I'd rather have it in the cost of  
10 overall rates, but if you're going to have surcharges or  
11 allow surcharges, allow them, don't mandate them, because if  
12 you mandate them it will be like the SLIC. It will stay  
13 there forever.

14 COMMISSIONER BAKER: Okay, which leads into my  
15 next question. And again starting with Mr. Cooper's  
16 comments, you would favor a reduction or elimination of the  
17 SLIC; is that correct?

18 MR. COOPER: Yes.

19 COMMISSIONER BAKER: Okay. Squeezing the balloon  
20 at one end, which makes it bigger at the other, where does  
21 the balloon get bigger? Do the reductions in the SLIC  
22 translate into dollar increases in the high cost fund?

23 MR. COOPER: We think the balloon ought to let

1 some air out of it.

2 (Laughter.)

3 MR. COOPER: There is no doubt there is a lot of  
4 excess profits and other things that will make plenty of  
5 room for these funds without simply having to find them some  
6 place else. So there is no doubt, and we've been consistent  
7 in that. We think there is too much air in the balloon.

8 MR. GREGG: Remember the SLIC supports incumbent  
9 local carriers, and the question of whether reductions in  
10 the SLIC are going to be sufficient to trigger basic rate  
11 increases, as you say, squeeze the balloon and it comes out,  
12 is once again a state issue.

13 This is a federally imposed end user surcharge  
14 that basically affects the state performance of companies.  
15 Let the states judge it, and as Dr. Cooper said, there is  
16 probably a lot of air that can be let out without any  
17 adverse affect on anybody.

18 MR. GUMPER: Just for the record, I will point out  
19 I don't think there is a lot of air.

20 (Laughter.)

21 MR. GUMPER: And also I've agreed with almost  
22 everything you've said, Billy, up to this point.

23 (Laughter.)

1           If you reduce the SLIC, the balloon is in the  
2 charges that the IXCs pay us because unless we were to  
3 change the separations rules, those are interstate revenues.  
4 And if you reduced the collection of the subscriber line  
5 charge, presumably it would mean an offset in interstate  
6 access charges either through a PICC or through a per minute  
7 kind of charge, not a local rate increase.

8           MR. COOPER: I predicated on an efficiency finding  
9 and a cost finding that allows that air to get out, and in  
10 that I agree with Frank. It will stay in this jurisdiction  
11 and you really do have to base it upon a finding that the  
12 dollar figure has declined so that it doesn't just pop up  
13 someplace else.

14           COMMISSIONER BAKER: Next question. Heretofore we  
15 have addressed cost of service by looking at either flat,  
16 that is, per line charges or per minute charges. That's  
17 been the traditional way. That's been the way we've done it  
18 up till now and that's the way we're going to do it for  
19 purposes of the order that will issue regarding high cost  
20 fund.

21           But it's entirely conceivable, and some would say  
22 likely, that in the not too distant future there will be a  
23 new means of measuring service and that is "bit metering,"

1 to use an expression. In which case, conceivably voice gets  
2 very, very cheap. But laying that side, any thoughts as to  
3 how or whether we need to address that issue so that the  
4 current order that will issue will at least not be  
5 incompatible with a market that might exist in the very near  
6 future where bit metering at least supplements if not  
7 supplants the tradition division between flat line and  
8 permanent charges.

9 MR. COOPER: Well, I'd be a big fan of bit  
10 metering because voice is very skinny and it doesn't take up  
11 a lot of space and it's very simple. But that is the  
12 fundamental premise of how I approach this. That is, the  
13 loop that connects everyone's house to a central office is  
14 capable of providing a tremendous amount of service, and it  
15 is critical and we have said this for years and years that  
16 capturing all of that growth to contribute to share the cost  
17 of this network is exactly the way you accomplish  
18 affordability. So that whether you want to measure bits,  
19 you will hear people argue that some bits are different, we  
20 suddenly learn if there are big streams and they behave  
21 differently, but the answer is absolutely, the amount of  
22 service provided over that loop should share all the costs  
23 of the loop, and that's a position that I've counted seven

1 times since the Act was passed that this Commission has  
2 reaffirmed that fundamental concept. It's extremely  
3 important at both the federal and state level.

4 CHAIRMAN KENNARD: Okay, I'm afraid we're going to  
5 have to wrap up. It's unfortunate because I think we were  
6 just getting warmed up there, but we are about 45 minutes  
7 behind schedule and we really need to get moving.

8 We'll have a 15-minute break, reconvene at 3:30,  
9 and I did want to thank this great panel that we had to get  
10 us going. Thank you very much.

11 (Applause.)

12 (Whereupon, a recess was taken.)

13 CHAIRMAN KENNARD: I think we should get going  
14 since we already falling behind schedule.

15 Our second panel today is on consumer and  
16 education issues, and we will proceed the way we did with  
17 the earlier panel. I will ask each of the panelists to  
18 introduce themselves and give an eight-minute presentation.  
19 We have our trusty timekeeper here who will keep us on  
20 track, and then afterwards we will have an open session of  
21 questioning and answers for the panel.

22 Our first panelist will be Michael Travieso.

23 MR. TRAVIESO: Travieso.

1 CHAIRMAN KENNARD: Travieso. Thank you.

2 MR. TRAVIESO: Like the gas.

3 CHAIRMAN KENNARD: Okay, great. Thank you.

4 MR. TRAVIESO: Thank you, Mr. Chairman and Member  
5 of the Commission and the Board.

6 My name is Mike Travieso. I am the Maryland  
7 people's counsel. My job is to represent the residential  
8 customers in the State of Maryland of all utility services,  
9 including telephone services.

10 I would prefer not to actually read my testimony  
11 today. It's been submitted in written form and it's in the  
12 record. Instead, I'd like to pull the major points out of  
13 that testimony and perhaps make a few observations which are  
14 based somewhat on anecdotal information, but also I think  
15 are things that have been discussed in literature from the  
16 NNRI and the regulatory assistance project, and Barbara  
17 Alexander and others.

18 First, I would say that many customers, telephone  
19 customers still do not understand the difference between  
20 long distance toll and local telephone service.

21 Second, while most people probably know that they  
22 can switch long distance carrier, if they choose to. Few,  
23 if any, know that at some point in time in the near future

1 they will have a choice of local exchange carriers. Most  
2 customers don't understand that the advertisements that you  
3 see for 1010 calling or for competitive long distance 10  
4 cents a minute calling, which guarantees a savings, are  
5 based on what Billy Jack referred to this morning as the  
6 default service, and not on calling plans which a large  
7 percentage of customers actually have.

8 Consumers of telephone service, in general, are  
9 not equipped to make intelligent choices. Making an  
10 intelligent choice is obviously an important component of a  
11 properly functioning competitive market. Customers do not  
12 understand their bills. You have a NOPR that you've issued  
13 on this -- more or less on this subject matter, and  
14 customers do not know which services are regulated and which  
15 services are not regulated.

16 Most customers do not understand that state  
17 utility commissions cannot help them with problems with  
18 their long distance companies. They don't understand the  
19 jurisdictional split. And despite the reference, I guess it  
20 was Commissioner Tristani made to the 100,000 calls received  
21 by the FCC complaining about slamming, most people don't  
22 know what the FTC is, they don't know what the FCC is, and  
23 they don't know what the state public utility commissions

1 are, nor do they know what they do.

2           Dissipation rates and Lifeline and Link-Up  
3 programs are low because consumers do not know that these  
4 programs exist generally. The question is not how many  
5 participants are there in Lifeline or Link-Up programs. The  
6 question is what percentage of the eligible population  
7 actually participate. And it's clear to us that very many  
8 of these customers do not actually know that these programs  
9 exist. There is insufficient notice to consumers about the  
10 existence of these programs.

11           I might add a footnote here that what I was going  
12 to say about that is that automatic enrollment is the  
13 obvious solution to that problem, but Mark Cooper has  
14 already said that, so I would only second that as a  
15 proposition that if you go to a social service agency and  
16 you are eligible for LIHEAP or whatever the state  
17 eligibility requirement is in the state law, that you be  
18 told that you can automatically enroll at that point in  
19 these kinds of programs and you would be enrolled unless you  
20 declined to enroll.

21           What are some reasonable solutions to these  
22 problems as we move into the all market-based  
23 telecommunications service industry?

1           I believe that federal and state regulators must  
2 play a major role in educating consumers. I believe  
3 unabashedly that government is good, for example, and that  
4 government can do good, so that we can use our agencies,  
5 state and federal agencies to provide information to  
6 consumers in ways that we probably haven't done in the past  
7 because we've had a regulated marketplace.

8           There ought to be toll free hot lines to  
9 appropriate government agencies. Government agencies should  
10 have web pages which provide information to consumers.  
11 Government agencies can mandate that the bill be used as a  
12 way to inform consumers.

13           For example, I believe that a bill should  
14 separately identify different providers that are providing  
15 services to that customer by name and by telephone number.  
16 This would be a very easy way to allow a customer to detect  
17 whether they've been slammed or not, and some states do not  
18 have those kind of requirements. And I'm sure if you tried  
19 to figure out from reading your telephone bills what  
20 services you get and how much you're being charged for them,  
21 many of you have probably had difficulty doing that.

22           Those bills could tell consumers where to complain  
23 if they have particular problems with providers and which

1 agencies have jurisdiction over which companies. We could  
2 require periodic bill inserts to explain about  
3 telecommunications deregulation and about customer rights  
4 along the lines of what's now required in the Truth and  
5 Lending Act, and the Telecommunications Disclosure and  
6 Dispute Resolution Act.

7 We could have public service announcements  
8 sponsored by the FCC and/or state commissions. We could use  
9 the FCC and state commission staff to hold public forums.  
10 We could set up clearinghouses of information that could be  
11 shared amongst state agencies and then be made available to  
12 consumers where appropriate.

13 We could create and/or staff up consumer resource  
14 centers within agencies. We must do more than just field  
15 telephone calls. We actually have to help solve the  
16 problems. I know in my state we have a consumer division of  
17 the Public Service Commission. It is the stepchild of the  
18 Public Service Commission. It is the second which gets the  
19 least attention, has the least amount of resources, has no  
20 access to staff counsel until very recently, is not seen as  
21 a good place to work, et cetera, et cetera. That has to be  
22 changed if we're going to move into a situation in which, in  
23 my belief, agencies are going to turn into more like

1 consumer protection agencies and less like rate-making  
2 agencies as we deregulate all of the, or virtually all of  
3 the utility services except perhaps network services and gas  
4 and electric.

5 We can provide consumer oriented information  
6 through brochures on things like how to evaluate a provider,  
7 how to compare prices, how to detect fraud and deceptive  
8 practices, what questions to ask a company soliciting your  
9 business, how and where to file a complaint, and things of  
10 this nature.

11 I might indicate that it's not only government  
12 agencies that can and should be doing these things, but I  
13 believe government agencies ought to be doing these things.  
14 My own agency has hired a person, we are a little law firm,  
15 that's basically what we are. We've taken away one lawyer  
16 position and we've hired one public information position so  
17 that we can have a person during this time period who can  
18 arrange for our staff to go out and talk to the public.  
19 I've been on cable TV. I've been on public radio. I've  
20 been on public television, and I've gone around to the AARP.  
21 I've been all over the place trying to explain these things  
22 to the public.

23 So I think that's a key and I would urge

1 commission, federal and state, to sort of reexamine their  
2 traditional roles and to come to the conclusion that  
3 consumer education and consumer protection is going to be an  
4 extremely important role in the future.

5 I appreciate the opportunity to be come and  
6 testify before you today.

7 CHAIRMAN KENNARD: Thank you very much.

8 We have a surprise guest today, Michele Farquhar  
9 on behalf of Western Wireless.

10 MS. FARQUHAR: First, I would like to thank the  
11 Universal Service Joint Board for reaching out to the  
12 wireless industry for their thoughts on critical Universal  
13 Service issues, such as consumer education and affordability  
14 of basic telecom service. I also appreciate the opportunity  
15 to represent John Stanton, who is the chairman and CEO of  
16 Western Wireless, which offers cellular service in primarily  
17 rural areas.

18 Consumer education is clearly a critical issue  
19 that needs to be addressed as we move towards a more  
20 competitive Universal Service market. Briefly, I'd like to  
21 highlight some of Western Wireless's Universal Service  
22 initiatives that are aimed at bringing the benefits of  
23 competition to consumers located in rural and high cost

1 areas, and you can follow along with the handout that was  
2 passed around earlier.

3 Western Wireless is already demonstrating its  
4 unique capabilities of itself and other wireless carriers  
5 serving approximately 50 customers in a very remote region  
6 of Nevada, which is unserved by any other local exchange  
7 service carrier. These customers are receiving local dial  
8 tone service through a new wireless local loop technology at  
9 a flat rate of \$10.00 per month. The difference between  
10 this rate and Western Wireless's costs are recovered through  
11 a state rural improvement fund.

12 To expand its own Universal Service offerings,  
13 Western Wireless recently filed petitions in 13 states,  
14 seeking designation as an eligible telecom carriers or ETC.  
15 As an ETC, Western Wireless intends to provide competitive  
16 local telephony service to consumers in rural and high cost  
17 areas.

18 Western Wireless is also sponsoring a wireless  
19 cost model and is working with federal and state regulators  
20 to establish an affordable Universal Service system that is  
21 both competitively and technologically neutral.

22 We also want to express our appreciation to the  
23 Joint Board for appointing a representative of Western

1 Wireless to the Rural Task Force.

2           Turning to the issue of consumer education,  
3 Western Wireless strongly believes that three principles  
4 should guide the development of a consumer education  
5 program.

6           First, we should empower the consumer to decide  
7 which carrier best serves individual telecom needs and what  
8 services are included in the Universal Service offering  
9 provided, of course, that that service meets the basic  
10 definition of Universal Service.

11           Second, we should educate consumers on the  
12 benefits of competition.

13           And, lastly, we should eliminate any barriers to a  
14 competitive Universal Service system that would harm the  
15 public.

16           In adopting Universal Service policies, the Joint  
17 Board should first ask whether the policy is in the  
18 consumers' interest. By focusing policy initiatives on the  
19 consumer, the public interest will thereby be served.

20           The first principle is empowering the consumer.  
21 The consumer and not the regulators should be the decision-  
22 maker in the competitive environment. The Joint Board  
23 recommended and the FCC adopted a list of services that must

1 be provided by all ETCs.

2           Beyond these mandated services, the consumer  
3 should be empowered to decide who provides the service, how  
4 the service is provided, and what additional services are  
5 offered. The consumer should decide, for example, whether  
6 the service is mobile or fixed, whether unlimited local  
7 usage is included in the offering, whether the service  
8 should be for a large or a small local calling area, and  
9 whether other services and features are included in the  
10 offering.

11           In other words, the Joint Board and the FCC need  
12 to work together to ensure that the Universal Service system  
13 is competitively and technologically neutral.

14           To make sure consumers get the full range of  
15 choices, regulators must take care to avoid inadvertently  
16 creating pitfalls for new entrants, particularly wireless  
17 carriers. For example, the definitions of which services  
18 are supported should be broad enough in order to enable  
19 consumers to make their own choices about the type of  
20 Universal Service that they want and need. As long as all  
21 carriers get the same amount of support per month, no  
22 carrier would have any unfair advantage over others and  
23 consumers' choices would not be distorted by skewed

1 regulations.

2           The second principle is educating consumers on the  
3 benefits and pitfalls of competition. For many consumers,  
4 the establishment of a competitive Universal Service system  
5 will be the very first time that they've had a choice of  
6 local service providers.

7           As a starting point for educating consumers on  
8 Universal Service offerings, the Universal Service provider  
9 is required to advertise the availability and rates of the  
10 services offered as a condition of being designated as an  
11 ETC.

12           In addition, the Joint Board may want to encourage  
13 all ETCs to further education consumers about the  
14 comparative benefits of different services or technologies.

15           For example, on CTIA's web site, it includes  
16 information about how to choose a wireless service and how  
17 to choose and use a wireless phone, as well as information  
18 and tips on driving safety, wireless fraud and disabilities  
19 access.

20           It will also be important for regulators to inform  
21 consumers that they will benefit from the increased  
22 competitive choices for local telecom service. Indeed,  
23 regulators can cite to the positive experience of wireless

1 subscribers with new competitive entry. Many wireless  
2 consumers have already experienced benefits of lower calling  
3 rates, more minutes of use, and higher quality service.

4 The Joint Board and state commissions could  
5 sponsor public fora to educate consumers about the new  
6 competitive environment as well as new technology, such as  
7 wireless, and highlighting the benefits to consumers.

8 Western Wireless recently testified at such a  
9 public hearing hosted by the State of Nebraska, which  
10 focused on consumer concerns about the size of local calling  
11 areas.

12 The third principle is the elimination of barriers  
13 to a competitive Universal Service system. The most  
14 significant barrier to entry is the differing amounts of  
15 support available to different classes of carriers. How can  
16 a new entrant hope to compete if the incumbent -- against an  
17 incumbent if the incumbent is getting hundreds of dollars  
18 per line in subsidies while the new entrant can qualify only  
19 for a small fraction of that amount?

20 Regulators must ensure that Universal Service  
21 support is fully portable; that is, that competitive  
22 carriers receive the same dollar amount of support as  
23 incumbents for each line that they serve. This basic

1 principle should be applied for both implicit as well as  
2 explicit subsidies.

3           For example, the FCC has stated that rural  
4 telephone companies will continue to receive subsidies under  
5 the historic system until the year 2001. Western would  
6 prefer to see that the new forward-looking Universal Service  
7 system implemented much sooner. But if that is not  
8 possible, regulators could consider at least distributing  
9 Universal Service support to new competitive entrants based  
10 on a forward-looking cost model. This support would roughly  
11 match the implicit subsidies that the rural telcos are now  
12 receiving, and this would ensure that all Americans,  
13 including consumers in rural areas, have access to the same  
14 array of competitive options as in urban areas.

15           More broadly, the FCC and the states must work  
16 hard to eliminate all implicit subsidies, such as inflated  
17 access charges and inequities in the phone companies' rate  
18 structure as rapidly as possible. And in the meantime,  
19 regulators should try to level the playing field by giving  
20 new entrants access to some of the revenue flow and  
21 corresponding explicit subsidies that the incumbents are now  
22 receiving.

23           Even the explicit Universal Service support

1 mechanism need to be revised to ensure full portability of  
2 subsidies. Western Wireless filed a petition two weeks ago  
3 with the FCC expressing concerns about the FCC's current  
4 Universal Service distribution rules which impose a delay of  
5 as long as two years on a new entrant's ability to receive  
6 explicit report and distribute funding to new entrants based  
7 on data and line counts that may be as long as two years  
8 old.

9           Similarly, some state commissions are not  
10 providing the right amount of explicit intrastate Universal  
11 Service Funds to incumbents and new entrants.  
12 Unfortunately, the Kansas Commission did just that. While  
13 we have asked the FCC to preempt this aspect of the Kansas  
14 Universal Service system and policy, we're also working  
15 directly with Kansas and other state commissions to remedy  
16 these problems.

17           In closing, I'd like to quote from a recent speech  
18 by Chairman Kennard before an International Telecom  
19 Regulator Group at the ITU plenipot where he stated that,  
20 "Universal Service rules also should not unfairly advantage  
21 or disadvantage one technology over another. Wired  
22 telecommunication services may make sense in some places,  
23 while wireless may make sense in others. Our objective

1 should be to create an environment where such distinctions  
2 are of no great consequence to the consumers."

3 Thank you very much.

4 CHAIRMAN KENNARD: Thank you very much, Michele.  
5 Commissioner Gillis.

6 COMMISSIONER. GILLIS: Thank you, Mr. Chairman.

7 I am Bill Gillis, from -- commissioner from the  
8 State of Washington. I am a member of the NARUC  
9 Communications Committee. I am vice-chair of the NARUC Ad  
10 Hoc Consumer Affairs Committee and I chair the Rural Task  
11 Force.

12 In thinking about our working title for my  
13 remarks, I thought about a couple of things. One of them I  
14 was thinking of a title of, gee, it's really lonely being a  
15 regulator, or why don't my friends call me anymore.

16 (Laughter.)

17 Back in the good-old days of competitive reforms,  
18 we could always count on consumers being in our hearing room  
19 and supporting us when we're working on competitive reforms,  
20 but that support has dwindled considerably in recent times.

21 In my own state, for example, we had a hearing on  
22 the final rule for our state access reform rule, and nobody,  
23 not one person stood up and said we were doing the right

1 thing, and that's not too easy.

2 Where have the consumers gone? And it's something  
3 that we do, it's pro-competitive, it's something that we're  
4 doing for consumers.

5 Well, what we hear in hearings and really talking  
6 to people one on one, what we're hearing is that the  
7 consumer is saying that we see the cost but we don't see the  
8 benefits. Is competition ever going to come to the  
9 residential and small business customers? We don't think  
10 so.

11 You know, where they are seeing competition,  
12 primarily in the long distance realm, they are saying it's a  
13 hassle, we don't like marketing phone calls in the evening,  
14 we're getting charged for services we didn't subscribe to,  
15 and so forth, and we're not so sure about this competition  
16 thing.

17 And it's that backdrop that makes it hard to  
18 explain Universal Service to consumers, and we try to  
19 explain to them, well, we need to take these implicit  
20 subsidies and make them explicit, so we aren't forced to  
21 make a choice between competition and Universal Service. We  
22 shouldn't be forced to make that choice.

23 But they say, well, we don't want this competition

1 thing anyway. We're not so sure about that, and besides  
2 isn't that a new tax of some sort people are talking about,  
3 and what's in it for me anyway?

4 And the bottom line I get from that as a state  
5 regulator is we aren't doing a very good job of consumer  
6 education. We need to make our competitive policy more  
7 consumer friendly. We need to find out a way to explain it  
8 to people.

9 Chairman Woods in his opening comment summarized  
10 in one sentence what I struggled to -- struggled around to  
11 say, is that we need to tell the consumers the truth. It's  
12 our burden to explain to them what we're doing and why we're  
13 doing it, and we need to be accountable.

14 So where do we start? Well, one area we start is  
15 recognizing consumer expectations. From the standpoint of  
16 your work, the FCC and the Joint Board, I think the most  
17 important expectations I hear from my consumers is that they  
18 should not be made worse off as a result of competition.  
19 That's the bottom line from their perspective.

20 And to me, that is the fundamental goal of  
21 Universal Service, is making sure that to the best of our  
22 possible ability to be able to look them in the eye and  
23 saying we are doing everything we can to make sure that no

1 citizen, no business in this nation is going to be worse off  
2 as a result of competition. Hopefully, a lot of people are  
3 going to be made better off.

4 And, you know, we need to really resist people who  
5 characterize Universal Service as a new social program,  
6 social welfare program of some sort. It's not. The bottom  
7 line of Universal Service is it's our mechanism to make sure  
8 that the benefits of competition are distributed nationwide  
9 to everybody and not just to those that happened to be lucky  
10 enough early in the competitive reforms to be able to have a  
11 choice. It distributes benefits evenly across the country  
12 and we owe that to the customers.

13 Preparing consumers for change, state utility  
14 commissioners and NARUC have been very active in recognizing  
15 that we need to -- we need to do better jobs at consumer  
16 outreach, education and protection. I enclosed with my pre-  
17 filed remarks a copy of the White Paper that was drafted by  
18 the Ad Hoc Committee on Consumer Affairs and the  
19 Communications Committee jointly, and some various  
20 principals that were in that, and I'm not going to go into  
21 those now.

22 The one principle that I did want to mention  
23 though comes from another NARUC resolution which did

1 indicate that the content of bill should be accurate, if  
2 nothing else. Chairman Woods commented about telling the  
3 truth. And what we've done in our state goes beyond the  
4 NARUC resolution. I don't mean this to be NARUC's position,  
5 but we've taken that a bit farther, and we decided that that  
6 mean in the context of Universal Service full disclosure.

7 In our draft Universal Service rule, what we've  
8 done is for companies that would receive Universal Service  
9 Funds they would have two choices. One, no disclosure,  
10 including no disclosure of percent of customer payment  
11 contributed to it by the carrier, or full disclosure. And  
12 full disclosure means the amount of monthly support the  
13 carrier receives from the fund, the amount of carrier  
14 contribution, the amount of support per line received by the  
15 carrier, and the customer's exchange, and a recurring  
16 statement of the carrier's toll and per line reduction  
17 ordered under a different section of our rule. In other  
18 words, tell them everything. Don't mess around with it.  
19 And that's our suggestion, and I am speaking for myself, not  
20 NARUC in this regard, I would recommend that to you at the  
21 federal level is that that's something to think about, is  
22 just require full disclosure.

23 Final topic is I was asked to comment on the

1 potential role of NARUC as a clearinghouse of information on  
2 consumer issues to help you at the FCC in getting a better  
3 understanding of consumer needs. And I think that's a great  
4 idea. It's very consistent with what we're trying to do  
5 anyway.

6           The Ad Hoc Committee on Consumer Affairs, which I  
7 am vice-chair of, was established by NARUC for the purpose  
8 of helping us, the states, understand and share among  
9 ourselves what are the different options for reaching out to  
10 consumers for consumer protection, consumer education. And  
11 we're developing a sharing arrangements to get a better  
12 understanding of what consumers want in individual states.

13           The ad hoc committee just completed its two years  
14 work plan, and one element of that plan is to do a better  
15 job of communicating between states and federal agencies on  
16 consumer issues, so that's just right on target.

17           And so my recommendation is, and actually I'm  
18 looking at Commissioner Schoenfelder because she chairs the  
19 policy subgroup on consumer issues for the Communications  
20 Committee, but I think we ought to just do it. We'll just  
21 figure out a way to make it work. If our colleagues at the  
22 FCC want that relationship, it's something that I think we  
23 can easily accommodate.

1           So to summarize, the bottom line for me is I'm a  
2 believer in the '96 Act. I think that it's a well written  
3 document. It's something that promises good things for  
4 America, and I want to see both competition and Universal  
5 Service. I don't want to make a choice between Universal  
6 Service and competition. I want them both. I think we can  
7 do that, but we're not going to get there if we don't have  
8 the support of consumers. At least in my state, we've lost  
9 it, and I think that's true nationally, is that consumers  
10 for a variety of reasons are doubting whether competitive  
11 forms make any sense for them, particularly residential and  
12 small business consumers. We need to step back.

13           We need to make sure that our competitive policies  
14 are consumer friendly. We need to be able to explain them  
15 to consumers in a very truthful fashion, and I would also  
16 comment that we need to have a Universal Service Fund that  
17 is sufficient in size and administered in a way that we can  
18 truly look consumers in the eye and say that we haven't made  
19 you worse off. At least we've done our best to make sure  
20 every citizen of business in this nation is at least as well  
21 off after these reforms than they were before they happened.

22           Thank yo for this opportunity to comment. I look  
23 forward to answering questions later.

1 CHAIRMAN KENNARD: Thank you.

2 Mr. Lubin.

3 MR. LUBIN: My name is Joel Lubin. I work for  
4 AT&T. I have the good fortune of working on these  
5 interesting and complex issues.

6 Thank you for giving me the opportunity to speak  
7 before you today regarding issues of educating the consumer  
8 in the telecommunications marketplace. AT&T supports the  
9 Commission's objective of eliminating customer confusion and  
10 better educating consumers about telecommunications issues,  
11 in particular, Universal Service.

12 Let me also say that in a competitive long  
13 distance market, AT&T has every incentive to ensure that its  
14 customers fully understand its offers and charges associated  
15 with these offers. If our customers are confused, they have  
16 choice. We are in the business to win customers and keep  
17 them satisfied, not to have them leave because they are  
18 confused.

19 For this reason, we provide educational  
20 information when new charges are introduced or if charges  
21 change through bill messages or bill inserts.

22 In the case of the charges that we have imposed to  
23 recover our Universal Service expenses, we work closely with

1 regulators and other stakeholders to ensure that our  
2 messages to our customers were clear and complete. Our  
3 bills include an 800 number for customers to call if they  
4 have questions about their bill.

5           And here again, it's in our interest to ensure  
6 that our bills are clear and understandable, both because  
7 it's what our customers want and deserve, and because it  
8 minimizes our costs by reducing the number of calls to our  
9 customer care 800 number. We believe that we have taken  
10 extraordinary steps to achieve this goal given the existing  
11 circumstances surrounding Universal Service.

12           However, some of the customer confusion over USF  
13 implementation is caused by carriers doing different things.  
14 This can be significantly mitigated if all carriers assess  
15 end users for this expense in a similar manner. And it is  
16 inevitable that all carriers in a competitive marketplace  
17 will recover this expense from their customers because it is  
18 an external cost that is beyond our control and cannot  
19 merely be competed away.

20           Under the existing rule, carriers are assessed USF  
21 based on the previous year's revenues and have complete  
22 discretion over the manner in which they recover the  
23 assessment as part of their current year's cost.

1           Unfortunately, this means that some carriers who  
2     have less revenue in '98 relative to '97 will have a  
3     collection rate that is literally higher than the assessment  
4     rate.

5           Some seek to recover their assessments through  
6     fixed monthly charges while others recover it through a  
7     percentage assessment. Some seek to recover their  
8     assessments from interstate services only, while others  
9     recover it from all services. The FCC has allowed the ILECs  
10    to recover their obligation from the inter-exchange  
11    carrier's access charges, known as ILEC flow-back. That's  
12    what you heard Frank Gumper talk about in the previous  
13    panel. That's raising the cost of providing LD service.  
14    Some IXCs recover their ILEC flow-back portion from their  
15    nationwide average toll rates, while others include it in  
16    their end user USF recovery charges, thus raising the USF  
17    line item on the bill.

18           AT&T has decided to charge 93 cents per month to  
19    each of its residential accounts and a 4.1 percent surcharge  
20    to its business customers, interstate revenues. Given that  
21    each carrier has its own set of uncollectibles that it must  
22    account for, it is not surprising that each would charge  
23    their customer a different rate under the Universal Service

1 banner. This has resulted in needless customer confusion.

2 Competitive neutrality is enabled when all  
3 carriers are required to use the same assessment and  
4 collection rate applicable to all end user revenues. With  
5 simultaneous assessment and recover of the carriers'  
6 Universal Service obligation and no discretion on the part  
7 of the carrier as to how the recovery will be made as  
8 between different classes of customers, the end user  
9 surcharge approach removes the potential kind of  
10 gamesmanship over USF recovery that inevitably fosters  
11 customer confusion, dissatisfaction with the entire system.

12 Such an approach applied fairly and uniformly to  
13 all customers will ultimately lead to customer acceptance,  
14 if not approval, and serve to strengthen our universal  
15 support mechanism.

16 An alternative revenue base surcharge, the  
17 Commission could require both assessment and recovery from  
18 an interstate service providers by an end user per line  
19 charge. That is to say the carrier owes what it collects  
20 from the subscriber based on the new assessment rate that  
21 the carrier does not set but USF sets under the direction of  
22 the regulator.

23 Here in this example, the denominator of the

1 factor would be calculated by the administrator based on  
2 total lines, including primary line, non-primary, wireless  
3 lines, business lines, paging lines. A per line charge has  
4 the additional benefit of solving the internet assessment  
5 controversy with a per line charge to the customer line  
6 itself is assessed for the Universal Service, not the  
7 services provided over the line.

8           The Commission can also decide to enforce public  
9 policy objectives by varying the per line factor by customer  
10 type. For example, it could decide among a number of  
11 options to cap the customer per line assessment at a dollar,  
12 cap paging at a quarter, exempt Lifeline customers from any  
13 assessment at all, and have the business per line charge  
14 make up the difference.

15           Through the common USF factor, all carriers would  
16 be charging the respective customers uniformly. Thus, all  
17 customers within the same segment would be charged the same  
18 amount regardless of their service provider.

19           Whether the Commission implements a revenue or a  
20 per line surcharge, the anti-competitive ILEC flow-back  
21 issue would be eliminated. All carriers, including the  
22 ILECs, will be assessing and collecting their obligations  
23 simultaneously from their retail customers. This also

1 eliminates the possibility of carriers gaming the process.  
2 From the customer's perspective, the USF charge would be  
3 clear, unambiguous and consistently labeled, eliminating  
4 significant amount of confusion on the topic.

5 Thank you for your time. I look forward to  
6 answering your questions. Thank you.

7 CHAIRMAN KENNARD: Thank you.

8 Mr. Gilles.

9 MR. GILLES: My name is Dave Gilles. I'm an  
10 assistant attorney general in the Wisconsin Department of  
11 Justice. I have worked in the Office of Consumer Protection  
12 in Wisconsin, Department of Justice, for long enough to  
13 remember when consumer -- the very infrequent consumer  
14 complaints about telephone services were routinely and  
15 quickly resolved by an industry that was subject to very  
16 comprehensive regulation on the federal and state level.

17 That is not the case today.

18 During the last four years, I've had the occasion to  
19 handle six cases against companies that were engaged in  
20 slamming or cramming practices, and the resources devoted by  
21 our office and my counterparts in other states have  
22 increased dramatically over time.

23 Today, I would like to address two issues. I

1 would like to outline consumer education efforts that have  
2 been undertaken in Wisconsin to try and improve consumer  
3 understanding in this industry.

4 And secondly, I would like to provide you with  
5 some observation that I have as a person involved in  
6 enforcement and enforcing deceptive practice issues about  
7 what it is about this industry that creates the climate for  
8 this fraud.

9 Turning to the first point, Wisconsin has  
10 undertaken two approaches to deal with consumer education  
11 concerning telecommunication services. The Wisconsin  
12 attorney general, in 1996, petitioned the Wisconsin Public  
13 Service Commission to undertake steps to promote consumer  
14 education issues and other consumer safeguards. And as a  
15 result of that, last March the Public Service Commission,  
16 which had worked closely with other state agencies,  
17 announced a four-part consumer education program that  
18 consisted of primarily the development of a buyer's guide to  
19 telecommunication services, as well as specific information  
20 pieces dealing with particular issues.

21 Now, this printed materials -- the printed  
22 materials were coupled with television and radio public  
23 service announcements which announced their availability.

1 In addition, distribution was coordinated through libraries  
2 and community groups, and, finally, there was online access  
3 to it through the web site for the Public Service  
4 Commission.

5 As best we can determine, it's been successful,  
6 although the distribution has been limited. The reports are  
7 being revised because at the time they were prepared  
8 "cramming" hadn't become a term of art in this business.

9 The second aspect of consumer protection education  
10 that's been undertaken in Wisconsin, in contrast to this  
11 generic approach, has been a pilot program that the  
12 Commission approved for Ameritech to undertake with regard  
13 to consumers who were having difficulty in paying bills. It  
14 was a program that's become known as "Telcap," and was  
15 focused on persons who appeared not to have the resources to  
16 pay for basic local phone service.

17 Specific Ameritech personnel were trained in  
18 providing information about Lifeline and other resources  
19 that would be available to people in the situation, and  
20 according to the reports, this has been effective in  
21 lowering the number of disconnections that are occurring in  
22 the pilot program.

23 I'd be happy to provide more information regarding

1 either of those programs to you.

2           Turning to the second point, I would very much  
3 like say that as a result of the consumer education efforts,  
4 I don't have as much to do, but that's no the case. We have  
5 begun three actions this year, and these are very time  
6 consuming and we continue to get lots of complaints.

7           There are three things that, I think, give rise to  
8 this, at least, and the first is in the deregulated industry  
9 telecommunication services with lower barrier to entry, it  
10 provides a very attractive place for people who are not  
11 interested in delivering what consumers think they are  
12 buying. The opportunity to use the telephone system to  
13 collect for fraudulent practices is one that has not missed  
14 people who used to have to go door to door to sell their  
15 subscriptions.

16           Let me tell you a couple situations that I have  
17 encountered. In 1995, we brought an action against a  
18 company that was using a prize promotion to sell  
19 subscription service to calling card customers. This is  
20 before the term "cramming" had been coined. As a result of  
21 setting these boxes out at our state fairs, this company  
22 enrolled 4,000 people in Wisconsin that failed to check off  
23 after the fine print that by entering the contest they also

1 agreed to a \$5.00 monthly calling card subscription. So  
2 this was in addition to their dial 1 plus.

3 So a few people complained to us and after we  
4 filed an action against the company, and determined that  
5 after the promotion had run 4,000 people were signed up.  
6 About 10 months later 2,000 people continued to pay \$5.00 a  
7 month without ever making a long distance call with the  
8 calling card.

9 Now, the company assured us that they had sent a  
10 welcome package that contained the plastic card with the  
11 number, but we all -- at least my belief is that most of  
12 those are regarded as solicitations and get accorded the  
13 same treatment that your invitations to subscribe for  
14 another credit card get.

15 And so what we had was, after eight months you had  
16 2,000 people continuing to pay this \$5.00 a month charge.

17 Now, in the settlement discussions with the  
18 company, I sat across the table from the president, and I  
19 said, "Well, your primary business is selling long distance  
20 service, right?" He agreed.

21 I said, "That means that when someone isn't using  
22 your card to make calls, you aren't making money. You  
23 aren't doing your business." He said, "That's true."

1 I said, "What do you do to let people know about  
2 your service?"

3 "Well, we contact them once a month.

4 "How do you do that?

5 "On the bill it says services \$5.00."

6 That was how he contacted their people.

7 Two other points in terms of the marketplace.  
8 Information about what services are has to be clear,  
9 accurate and not misleading. The notion of unbundling  
10 services and creating the impression that somehow these  
11 unbundled components are being used to pay a specific tax,  
12 are being used for some purpose that's not clear from the  
13 description of it, gives rise to concern from someone who  
14 has been involved in prosecuting deceptive advertising  
15 cases. It creates -- it creates a concern if the money  
16 that's collected is not obligated to go to the source that's  
17 designated and referenced.

18 For example, in one case involving a cruise line  
19 that was unbundling service, all cruise lines had to pay  
20 some sort of tax based on usage. What this cruise line did  
21 that we prosecuted it unbundled the tax that it had to pay  
22 and told people after they signed up for the cruise, besides  
23 that, you have to pay a \$40.00 tax," and people paid it

1 thinking this was part of the price of admission, like sales  
2 tax. In fact, it wasn't.

3 Now, in conclusion, I think that what has to be  
4 done is we have to continue with consumer education efforts.  
5 Secondly, that the Commission, as well as other enforcement  
6 agencies, have to take action to apply established consumer  
7 protection principles to bring incentives in the marketplace  
8 that would discourage fraud, and to implement those  
9 principles in this new competitive market.

10 Finally, I would like to acknowledge and  
11 appreciate your efforts in pursuing these matters, and thank  
12 you for the opportunity to share these views today.

13 CHAIRMAN KENNARD: Thank you very much, Mr.  
14 Gilles.

15 Dorothy Attwood.

16 MS. ATTWOOD: Thank you. I'm Dorothy Attwood. I  
17 am Chief of the Enforcement Division in the Common Carrier  
18 Bureau. I've seen half of you regularly, but I'm very  
19 pleased today to participate in this panel, and even more  
20 pleased that this focus on consumer education and protection  
21 by the Joint Board will help foster the key cooperative  
22 effort on this issue.

23 As the Commission and this Board has recognized,

1 consumer protection, education and enforcement have played  
2 an increasingly important role as we move into a deregulated  
3 environment.

4           Moreover, like other issues for which we may share  
5 different visions, on this issue of consumer protection and  
6 education and enforcements, the interests of the states and  
7 the FCC are aligned. In fact, our interests are not just  
8 shared, but borrowing from the popular jargon of today, I  
9 think we could say that we're co-dependent on each other,  
10 because for every consumer call, letter, e-mail or complaint  
11 that the state receives, the odds are the Commission  
12 received them as well.

13           Moreover, the odds are that you probably in the  
14 state hear about when the Commission treats consumers well  
15 or perhaps not so well, and we certain hear about your job  
16 performance as well. This all means that our collective  
17 performance to consumers as government entities is  
18 intricately linked.

19           Now, the good side of our co-dependence is that  
20 for many issues, for every consumer whose concern, confusion  
21 or complaint we resolve, we both benefit, and importantly  
22 because we share the consumer, the consumer also benefits  
23 for each of our actions.

1           Similarly, when either state or the FCC brings  
2 successful enforcement action against a carrier that is  
3 shirking the law, we all benefit from the message that it  
4 sends to the industry generally. And again, most  
5 importantly, our shared consumer benefits as we collectively  
6 ferret out those carriers that can play by the rules and  
7 those carriers that cannot.

8           At its core, our co-dependence means that a  
9 victory for one is a victory for all. It also means that  
10 through cultivating our shared goal of consumer protection,  
11 we can make even greater gains in ensuring that the  
12 marketplace is full of informed consumer choice and not  
13 confusing, misleading or fraudulent carrier conduct.

14           Some of the specific ways we can build this  
15 cooperative effort, in our view, is through actively seeking  
16 to avoid jurisdictional divide. We need to work together so  
17 carriers can't exploit the boundaries and work to create a  
18 seamless consumer protection network.

19           For example, the Common Carrier Bureau recently  
20 provided the State of Wisconsin, which -- Mr. Gilles, in  
21 fact, with an informal staff opinion regarding the  
22 preemptive effect of the federal anti-slamming provision in  
23 Section 258 of the Act in relation to certain state laws,

1 Wisconsin state laws prohibiting unfair and deceptive  
2 practices.

3 Wisconsin had come to us for this letter in  
4 connection with a suit brought by a carrier under state law,  
5 and the carrier had claimed that the state had no authority  
6 to proceed against it because federal law preempted.

7 In this letter, and it's in your materials, we  
8 concluded that the Wisconsin statutes at issue didn't  
9 obstruct the Commission's objective at all, but rather,  
10 although utilizing different means to do so, both the  
11 Commission and the state laws served to protect -- prevent  
12 slamming and were not incompatible.

13 We issued a similar letter to the State of  
14 California and also to Vermont earlier in years past, and  
15 have been told by both those states that they have been  
16 extremely effective in litigation, in working toward not  
17 creating a divide on jurisdictional grounds.

18 The bottom line here is that when it comes to  
19 consumer protection, the more cops on the beat the better.  
20 Moreover, through utilizing all of the consistent state and  
21 federal laws and resources, we maximize our potential to  
22 shut down or at least rein in disreputable businesses.

23 As we all know, Al Capone ultimately went to

1 prison for tax evasion. So at least in this one instance I  
2 think we all agreed that the Tax Code served the public's  
3 interest.

4 Another way we can work together is through  
5 improving our coordination of federal and state enforcement  
6 actions against common problem carriers. Specifically,  
7 we're actively working here at the FCC to enhance our data  
8 collection and mining of information that we receive from  
9 consumers by way of written complaints, e-mails and calls.  
10 The sooner we can understand and analyze what consumers are  
11 telling us, the sooner we can act on emerging problems.

12 While we improve this ability at the FCC, we need  
13 also to work on making sure this information is available as  
14 a shared resource for the states. We each see a piece of  
15 the problem, but together the telescope range geometrically  
16 increases.

17 Moreover, such coordination helps to leverage all  
18 of our limited resources, to get the most bang for the  
19 public's buck.

20 Indeed, Commission Johnson visited our shop  
21 yesterday with her consumer protection folks, and gave us  
22 some very useful information about what Florida is doing,  
23 and it was very gratifying to see a publication that Florida

1     apparently issues, I guess on a monthly basis, called  
2     "Consumer Activity Report." If you look on it, there is a  
3     listing of the apparent slamming infractions. And we looked  
4     at that and we saw that of the top four who have --  
5     consumers have complained against these certain carriers, of  
6     those top four, three of them the Commission today at least  
7     has taken action against.

8             Several months ago we took action against Al  
9     American Telephone, which is on the top of your list.  
10    Today, the Commission adopted two over a million dollar  
11    notice of apparent liability against two other carriers on  
12    your list.

13            And so when we help enforcement actions against  
14    companies, it's gratifying to see that the Florida consumers  
15    are also clearly directly impacted.

16            Another way we can improve our coordination about  
17    emerging problems is to seek a coordinated -- is seek to  
18    coordinate joint consumer alerts about fraudulent schemes  
19    that help -- and therefore we can help each other spread the  
20    word, and help consumers that way.

21            Finally, we need to think proactively about not  
22    just how to manage the complaints that we all receive and  
23    pool our equally scarce resources, but how to ultimately

1 reduce these complaints. Swift and strong enforcement  
2 action are a part, but giving consumers appropriate tools to  
3 protect themselves is absolutely vital. And on this basis  
4 the Commission recently adopted a truth in billing notice of  
5 proposed rule-making. We sought comment on ways that  
6 information could be provided to consumers about the  
7 services being billed by carriers.

8 Last Friday, the Bureau held a forum where state  
9 representatives were participant, and to discuss some of the  
10 recommendations raised in that NPRM, and through this effort  
11 of working toward clarifying consumer information and  
12 understanding of their charges, we work to minimize consumer  
13 confusion and carrier fraud, and ultimately we arm consumers  
14 with the best weapons that they can have in the new  
15 marketplace and that is clear information.

16 We look forward to working with the states closely  
17 on this effort, and I just remind you that comments are due  
18 November 10th, and we look forward to getting them in.

19 Other proactive measures should include web link-  
20 ups so that other relevant federal and state agencies and  
21 enforcement bodies can be reached by consumers in a single  
22 try.

23 Finally, I look forward to learning from states

1 about the techniques that have proved effective in providing  
2 consumers real measures of protection and education, and I  
3 welcome this dialogue today and in the future.

4 CHAIRMAN KENNARD: Thank you, Dorothy. Good job.

5 We're now in the question and answer period of our  
6 panel, and rather than go seriatim, as I mentioned earlier,  
7 I'll first invite the commissioners here to explore with the  
8 panelists any particular issues that were raised or any  
9 other issues that might be on your mind.

10 I did want to echo one thing that Dorothy Attwood  
11 said about our truth in billing notice. That notice was  
12 inspired, in part, by the very excellent paper that NARUC  
13 put out on consumer education, and I think that that effort  
14 itself is a good example of state governments and state  
15 commissioners working together with the federal government  
16 and federal commissioners to solve a very difficult problem  
17 for consumers.

18 So I also would like to invite you all to focus on  
19 that proceeding and to file your comments or to give us your  
20 views in any way possible.

21 With that, do we have any questions from the  
22 bench?

23 Chairman Johnson?

1           CHAIRMAN JOHNSON: Yes, I have a question for Mr.  
2 Lubin.

3           Making sure that I understand your analysis  
4 because I got your pre-filed a little late, but you're  
5 suggesting that we as regulators would require or mandate  
6 that there be an end user line item charge on the bill; that  
7 that somehow would help with the flow-through issue?

8           I didn't follow your argument or your position, so  
9 could you please explain?

10          MR. LUBIN: Yes, Ms. Chairman.

11          What we are describing is that whatever the  
12 assessment mechanism is that is finally implemented from  
13 USAC and if it's a percentage of revenue, if it's a line,  
14 whatever it turns out to be, and let me for the moment,  
15 let's just pick a revenue assessment, and it turn out to be  
16 3.25 percent, then all carriers would put on their bill 3.25  
17 percent. They wouldn't raise it. They wouldn't lower it.  
18 They would put 3.25 percent.

19          And by virtue of all carriers who have an  
20 assessment paying in to the Fund, meaning collecting the  
21 money from the retail user, by doing that the local company,  
22 if they have an assessment and it turned out to be 3.1  
23 percent or whatever it turned out, they would collect it the

1 same way, pay it to the administrator, and thus eliminate  
2 the problem that Frank Gumper talked about on the previous  
3 panel.

4 So when I said it would eliminate the flow-back,  
5 of which there is approximately \$800 million today, that the  
6 LECs pay that's buried in access fees, by literally having  
7 an assessment and collection to be the same for all carriers  
8 who are being assessed the value, yes, it would eliminate  
9 the flow-back.

10 CHAIRMAN JOHNSON: What if a company didn't want  
11 to assess --

12 MR. LUBIN: Ah, excellent question.

13 CHAIRMAN JOHNSON: -- or collect? Or collect  
14 really.

15 MR. LUBIN: Right.

16 CHAIRMAN JOHNSON: If they didn't want to collect  
17 it from their customers --

18 MR. LUBIN: Right.

19 CHAIRMAN JOHNSON: -- there would be a  
20 governmental mandate that they have to collect this money  
21 even though they don't want to?

22 MR. LUBIN: A couple of thoughts, and maybe there  
23 are other ways -- variations, but the thought that I would

1 have is the obligation is still there on that carrier. Now,  
2 maybe the carrier comes along and says, "You know what, I  
3 don't want to do it." I would suggest that they still have  
4 that as a line item on the bill, and literally waive the  
5 charge. And when I say "waive the charge," is if somebody  
6 says, "You know what, I don't want to do this, and for the  
7 next six months or the next two years or the next 10 years  
8 I'm going to waive it," they waive it.

9           However, they still have the obligation, if it was  
10 3.1 percent, to collect the 3.1 percent and hand it to USAC.  
11 They just elect to waive it.

12           And the reason I highlight that is you eliminate  
13 the problem associated with each carrier having let's say a  
14 different collectable rate, or last year's revenues are  
15 different than this year's revenues.

16           And, in fact, if this individual is a customer of  
17 mine and that individual left me and went to another  
18 carrier, I no longer would have the obligation to pay the  
19 3.1 percent. The other carrier would have the obligation.

20           So, yes, from my point of view, if you had the  
21 assessment and the collection to be the same as defined by  
22 the USAC, and that if a carrier didn't want to do it, and  
23 wanted to use that as some vehicle to win a customer, they

1 can effectively waive it, but they still have to pay  
2 theoretically that number to USAC.

3 CHAIRMAN KENNARD: Mr. Lubin, what would you do  
4 about carriers that don't send out a monthly bill, that  
5 don't have presubscribed customer or dial-around customers,  
6 phone cards?

7 MR. LUBIN: You'll get a couple answers.

8 I mean, first of all, if it's a percentage of  
9 revenue, my view is you do the same thing.

10 CHAIRMAN KENNARD: Um-hmm.

11 MR. LUBIN: Because if they don't send a bill,  
12 they don't get revenue. So if it's a percent of revenue,  
13 it's not an issue.

14 If it were a line charge, which is hypothetically  
15 another way, then you have to ask the question who is the  
16 assessor of the line charge.

17 CHAIRMAN KENNARD: Um-hmm.

18 MR. LUBIN: And we can have a discussion of that,  
19 and if you want, I'll give you my answer right now, but to  
20 me --

21 CHAIRMAN KENNARD: Go ahead.

22 MR. LUBIN: My answer of the line charge is the  
23 local company for residents would have the line charge. And

1 so the dial-around issue is not an issue.

2 For 800 or whoever has the customer, if it's a  
3 private line business, whatever, let's say I have the  
4 relationship, then I put that per line charge on the bill,  
5 and I collect it and I had it off to USAC.

6 I would also suggest to you that if it were this  
7 way, and again I'm not trying to be arguing that per line is  
8 the right approach, I'm just trying to lay out, hey, there  
9 is two different ways of going about it. Each one has  
10 different attributes, and you've got to figure out which  
11 attributes you find most compelling in terms of public  
12 policy.

13 But the other point I was going to make to you is  
14 if the LEC were the collector on the -- on the residential  
15 line or the local line, for that matter, you have the most  
16 efficient collection mechanism; the lowest of collectable  
17 rate, the least customer confusion because of all billing  
18 information that goes back and forth to various vendors.

19 And by the way, I'm not saying this to try to put  
20 the burden on the LEC because I expect -- I hope to be a LEC  
21 as well, but I am looking for what is the most efficient  
22 from my point of view rational way if you went down the per  
23 line basis. The alternative is you don't go down the per

1 line basis.

2 CHAIRMAN KENNARD: Thank you.

3 MR. LUBIN: Yes.

4 CHAIRMAN KENNARD: Chairman Wood?

5 CHAIRMAN WOOD: Commissioner Gillis, welcome.

6 If you could do it over again, how would you do it  
7 so that your customers would be -- I mean, specifically,  
8 what would had not done that you all did do or what would  
9 you do that you all forgot to do?

10 COMMISSIONER GILLIS: So I still have friends, you  
11 mean?

12 CHAIRMAN WOOD: So they call you back.

13 COMMISSIONER GILLIS: Well, it's hard to say what  
14 we would do over. It's probably easier to talk about what  
15 we should be doing on a going forward basis.

16 But I think what we have not done well is make the  
17 case to customer of why these competitive reforms are in  
18 their interest as customers beyond just telling them, well,  
19 it's the law. I mean, that's -- I've tried that. That's a  
20 regulator's cop-out, and say -- hold up the Act and say,  
21 "Well, I know, but it's the law."

22 Actually, I agree with the law. I think that the  
23 '96 Act is right on target and what we should be doing. So

1 that is just probably a cop-out.

2 But I think the best we can do and what we need to  
3 do more of is to present the case to consumers of why these  
4 competitive reforms are needed. We also need to, and what  
5 we could do better, I think, is be more sensitive in the way  
6 we design our competitive reform, to make sure they are  
7 consumer friendly; that we do -- just to pick on one -- do  
8 our best to make sure that we can prevent customers from  
9 being billed for services they didn't subscribe to, those  
10 kind of things; make it easy for customers to make choices  
11 as much as we can.

12 But there is always this tough balancing act.  
13 That's my biggest problem in doing this as a regulator.  
14 It's -- we can't always do everything that makes it easy for  
15 consumers or protecting consumers exactly to the extent that  
16 it provides a barrier to entry, and we always need to weigh  
17 those things.

18 But it's a long waffley answer, Chairman Wood. I  
19 don't really know, but I know that we aren't doing it well  
20 enough at the moment.

21 COMMISSIONER SCHOENFELDER: May I?

22 CHAIRMAN KENNARD: Please.

23 COMMISSIONER SCHOENFELDER: I would like to follow

1 up with Commissioner Gillis just a little bit. He and I  
2 worked together on a few interesting consumer issues, and  
3 this is more of a comment, but I guess I would invite anyone  
4 on the panel to comment on what I have to say.

5 He said something about we need to tell our  
6 consumers the truth, and that is absolutely imperative that  
7 we do that. I can't emphasize that enough. We have to be  
8 believable. And one of the things that's frustrating to me  
9 is I listen to Michael say that we need to do this, this and  
10 this, and everything he said we do at my commission. I've  
11 done it.

12 In addition to that, I've written a weekly news  
13 column. I've done all kinds of interesting things. Now, we  
14 have a saying in my state that you can lead a horse to  
15 water, but you can't make him drink, and sometimes that's  
16 where I'm at. Sometimes I think I become so frustrated in  
17 trying to educate the consumer about what's happening in  
18 this industry that I wonder what to do next. And we've  
19 stolen things from Commissioner Johnson's commission. We've  
20 stolen ideas of how to do things because she has a large  
21 consumer education group and we don't.

22 CHAIRMAN JOHNSON: Do you want to give them back?

23 COMMISSIONER SCHOENFELDER: No.

1 (Laughter.)

2 We just take her idea. We have done all sorts of  
3 things to educate our consumers. We have put on workshops.  
4 We have done those things.

5 First of all, I have a couple observations that I  
6 think might be driving this, and one of them is that we need  
7 to -- government by its own nature, and we do great things  
8 as government, and by the way, I'm an elected commissioner,  
9 which means that my constituents call me up with slamming  
10 complaints, and we do solve those on the state level before  
11 anybody ever questions the jurisdiction. We just take care  
12 of them.

13 MR. TRAVIESO: Good for you.

14 COMMISSIONER SCHOENFELDER: We did that and many  
15 states do by the way. We just don't refer them to the  
16 federal jurisdiction unless there is a major jurisdictional  
17 problem and someone raises that issue.

18 But one of the things I think that is happening is  
19 that we need quicker responses to the developments in the  
20 marketplace. The amount -- a number of people who are  
21 performing in the marketplace right now are more than what  
22 there are regulators. So we need help from consumer groups.  
23 We need help from anyone who will help us inform people.

1 But most of all, we need help from the citizens of this  
2 country to better inform themselves.

3 And is that handing it back and saying, well, I'm  
4 not accepting my responsibility? I don't think so. But I  
5 think that we have to do some of that.

6 And then my other observation is competition is  
7 just plain messy, and that's difficult, and this is an area  
8 where consumers have never had to deal with competition  
9 before, and so they are not used to it, so they take  
10 additional education and additional understanding on our  
11 part.

12 I think some companies can help. Rather than just  
13 slam them, educate them a little bit if you'd like to keep  
14 them as consumers.

15 But I'll shut up with that and ask someone to  
16 respond to those terrible outlandish observations.

17 MR. TRAVIESO: Well, at the risk of responding in  
18 kind, I would actually agree with almost everything you've  
19 said. I don't think anyone can advocate that we have to --  
20 once we've done everything we can to provide the information  
21 to the consumers, that we then have to sort of follow them a  
22 round somehow and make sure that they use that information,  
23 and I don't think anyone is advocating that.

1           But I think they are advocating, certainly I'm  
2     advocating that it's extremely important to use every  
3     resource available to provide the information to the  
4     consumer, and then it's up to the consumer, presumably  
5     reasonably well informed consumer, to make whatever choice  
6     that consumer wants. And if the consumer chooses to remain  
7     with X company, their incumbent local carrier, and pay more  
8     than they might pay by switching to a competitor, that's  
9     their choice, and I don't have any problem with that.

10           But I'd like to respond to one other point, and  
11     that is that the concept that commissions should go tell  
12     consumers that competition -- that the reforms that are  
13     occurring are good and are going to save them money, or are  
14     going to benefit them while at the same time -- we've had  
15     some panelists say things like we're going to have to  
16     rebalance the rates, there are implicit subsidies in  
17     residential rates, we can't have average rates anymore, we  
18     have to send price signals, rates are going to go up.

19           How do you propose to go tell consumers in your  
20     areas that competition is good for them and they're going to  
21     benefit from it and at the same time allow the market, which  
22     is what, you know, the market will do, to charge more for  
23     services than are already charged in places where it costs

1 more to provide those services, and where we haven't built  
2 in maybe a necessary Universal Service, portable Universal  
3 Service Fund that will make up the difference?

4 So I would have -- I would be reluctant to  
5 encourage commissioners to actually proslatize. I think  
6 what commissioners ought to do is to explain that we're  
7 moving from a regulated system to a competitive system and  
8 there are risks and benefits, and here they are, and here is  
9 a way for you all to evaluate your choices.

10 COMMISSIONER SCHOENFELDER: Can you simplify that  
11 enough so that the average American who does not want to  
12 understand this network completely can understand it?

13 MR. TRAVIESO: I think you can. You can use an  
14 analogy to a gasoline station. You know, we don't regulate  
15 what gasoline stations charge, and there is competition, and  
16 you can drive three block and pay \$1.20 a gallon or you can  
17 go -- ride around for a long time and find a station that  
18 pays \$1.09. And customers would understand that if there  
19 was one gas station and one rate, that's what they would  
20 pay. And if there wasn't, and there was competition, they  
21 might pay more or less, depending on where they go.

22 And you have a lot of -- I mean, there are many  
23 services, all services basically, except for what's left

1 over now is the regulated service, are competitive service.  
2 People just have to understand that they're not guaranteed  
3 any longer a rate. They're going to pay a market rate and  
4 it may be more or less. That's what I don't think customers  
5 are hearing. They are hearing from all -- from both the  
6 incumbents and the competitors that competition is great and  
7 they are all going to save money, and I Just don't think  
8 that's the truth, to speak in Commissioner Wood's terms. I  
9 don't think that is the truth.

10 COMMISSIONER TRISTANI: Can i interject to the  
11 last --

12 CHAIRMAN KENNARD: Sure. Sure.

13 COMMISSIONER TRISTANI: Can you hear me? And I've  
14 got to make a statement because I think we're talking about  
15 two kinds of consumer education. We're talking about  
16 consumer education about the changing landscape, but we're  
17 also talking about consumer education, about consumer  
18 protection. And I think it's really important to  
19 distinguish that.

20 I also think it's important to distinguish that  
21 state commissions have varying resources, and we know that  
22 well, and that there may be some state commissions out there  
23 that do no consumer education whatsoever. And I can tell

1 you because I was on the New Mexico State Corporation  
2 Commission about a year ago, that we were one of those  
3 commissions. We had no resources, so we were not doing  
4 that. I hope that the commission can do that now, but we  
5 were not.

6           So many states are much further along than others.  
7 Many states have good consumer advocates, people's council.  
8 Many states do not have those resources or they are very  
9 limited. In our state, the attorney general handle those  
10 kind of issues, and at that time they chose to devote their  
11 resources to the electric utilities, hardly anything to do  
12 with telephones.

13           Getting back to the two kinds of consumer  
14 education, I think it's extremely difficult, and you used  
15 the gasoline analogy, but I think it's very difficult to  
16 explain the changing landscape. I have trouble  
17 understanding it, so it's hard to explain.

18           But I think it's easier to explain consumer  
19 protections and the things you can do and ought to be able  
20 to do when you're slammed, when you're crammed, when  
21 deceptive practices are used, and I think we need to  
22 distinguish between the both, and I know you can't make the  
23 horse drink the water, but I think it's the obligation to --

1 almost if you have to give it to them with you hand, you  
2 have to do that.

3 And there are also different kinds of consumers,  
4 and the elderly are more prone to be the prey of the  
5 deceptive practices, and, you know, it's hard, and so we  
6 can't just say it's all one group of consumers and one kind  
7 of problem.

8 And what I do want to ask after all of that long  
9 introduction is several of you talked about how well or how  
10 good it is to work together, the state commissions or the  
11 state council with FCC and et cetera, et cetera, and I know  
12 we're doing a lot of good efforts there. But I know there  
13 is not a formal process.

14 And my question would be to any of you, what would  
15 be the best way to get a formal process going where we make  
16 sure that we're telling each other about the particular bad  
17 players, we make sure we're giving the same information to  
18 consumers? Could anyone address that question? How should  
19 we start?

20 COMMISSIONER GILLIS: I can take a start at that.  
21 Specifically, we're having a NARUC meeting in Orlando next  
22 week.

23 COMMISSIONER TRISTANI: Oh, okay.

1                   COMMISSIONER GILLIS:   And Commissioner  
2   Schoenfelder is organizing a panel with part of the  
3   Communications Committee just on this topic.

4                   I can speak personally that I would be -- I will  
5   bring that request back to the Ad Hoc Consumer Affairs  
6   Committee, which I think is the key entity that should be  
7   involved with that, and I think that from NARUC's  
8   perspective it's a reasonable request, and it's more a  
9   matter of having the right contact within the FCC that you  
10  can tell us who that is that we can work with, and we'll  
11  plug in, and use some processes that really are pretty far  
12  along within the work of the Consumer Affairs Committee at  
13  this point.

14                  So I think we just need to make it into a project  
15  is my opinion, and we need a person, we can identify some  
16  people with NARUC and just do it.

17                  MS. ATTWOOD:   Well, I guess I am that person.

18                  I wanted to say that there also are actually --  
19  well, there are informal, they are more routinized mechanism  
20  that at least we've been talking to states.  There is the  
21  National Association of Attorney General, the NAAG group,  
22  and they have conference calls.  We're usually on them at  
23  least every month where we talk about these issues,

1 potential problem areas, and we are making a concerted  
2 effort in our division through the FCC to actually have  
3 specific state contacts for each person that we have a  
4 routine that we can call and talk about what we're doing and  
5 what they're doing.

6 COMMISSIONER TRISTANI: I guess I'm going further  
7 than that, thinking there ought to be a plan where let's say  
8 we're going to do so many forums across the country. I'm  
9 thinking out loud here but together.

10 MS. ATTWOOD: Yes, I agree.

11 MS. HOGERTY: Can I make an observation?

12 With all due respects to everybody in this room,  
13 it seems that there for some time has been a lot of talk  
14 about this, and very little is being done. I think the  
15 notion of the federal and the state regulator, or all  
16 entities cooperating in this effort makes sense. But I  
17 think Michael made a very good point that in most  
18 commissions, and there may be some exceptions, they have  
19 maybe a consumer protection division who is treated as a  
20 stepchild, who simply does nothing but answer calls. That  
21 isn't doing the job.

22 Consumers need to be educated so they can make  
23 intelligent choices. It has to be explained to them what

1 the market is turning into, and the fact that, as Michael  
2 pointed out, the people still don't -- many don't know the  
3 difference between a toll call and a local call suggests a  
4 huge amount of confusion among consumers. They have to know  
5 where to complain. There has to be some kind of remedy for  
6 things like slamming. I mean, they can complain. The  
7 regulators can go and give penalties. That does absolutely  
8 nothing for the consumer who has been put through this  
9 treatment, they've have been slammed. They don't get their  
10 money back. You can file all the penalty actions you want  
11 to. It's a very small sanction as far as stopping these  
12 companies from taking advantage of consumers. And as long  
13 as consumers know that this is going to happen, that may be  
14 one reason why they do not go out and use the competitive  
15 market, because they do not want to take a chance of dealing  
16 with some kind of a fly by night, or someone who is going to  
17 take advantage of them.

18 I see some very good discussion going. I don't  
19 see anything happening. That is just my observation.

20 CHAIRMAN KENNARD: Mr. Lubin, I noted recently  
21 AT&T inaugurated a new rate plan for its basic schedule  
22 customers and it increased the monthly rate to \$3.00 per  
23 month for some classes of consumers.

1 I'm curious about what your company did to educate  
2 consumers about why you were doing that, what they were  
3 being asked to pay for, what has been the reaction from  
4 these consumers, what has been the churn rate among these  
5 classes of consumers. If you can just give us some sense of  
6 the reaction to that, I think it would be helpful to us.

7 MR. LUBIN: First of all, as you're probably  
8 aware, the minimum monthly \$3.00, as I understand it, was  
9 for new customers, not for let's say all of the existing  
10 customers.

11 Unfortunately, I am not that knowledgeable in  
12 terms of answering all the questions you have tee'd up, and  
13 I'll be glad to seek answers to your questions.

14 But at least the feedback that I've been getting  
15 is not a lot of calls coming in, but I should probably stop  
16 because I'm just not that intimately familiar with the  
17 answers to the questions your posing.

18 CHAIRMAN KENNARD: I would be interested in  
19 learning more about that.

20 MR. LUBIN: Okay.

21 COMMISSIONER NESS: Mr. Lubin, your basic proposal  
22 about requiring mandating that there be charges on a bill at  
23 a specific percentage, the Communications Act requires that

1 every telecommunications carrier that provides intrastate --  
2 telecommunications services, intrastate telecommunications  
3 services shall contribute on an equitable and  
4 nondiscriminatory basis.

5 In your view, do the local exchange carriers  
6 provide intrastate services?

7 MR. LUBIN: Yes.

8 COMMISSIONER NESS: How would they be addressing  
9 the requirement that they pay into the Universal Service  
10 Fund?

11 MR. LUBIN: Assuming the assessment factor were  
12 percentage, whatever that percentage is --

13 COMMISSIONER NESS: Their customer, as I recall,  
14 would be -- would be the interstate carrier, they're  
15 providing access to the interstate carrier.

16 MR. LUBIN: Right, but they also provide an  
17 interstate SLIC to the end user. So my understanding, if  
18 the assessment on interstate revenues, let's just say it was  
19 3.14 percent or something like that, their obligation is  
20 3.14 percent on interstate retail revenues, which would  
21 include the interstate subscriber line charge. They also  
22 have private line or special access lines that are bought by  
23 the end user.

1           And so they are assessed on the interstate retail  
2 revenue which, from my point of view, unfortunately, then  
3 comes back, roughly 93 percent of it, comes back in the form  
4 of access. plus the schools/libraries which is assessed on  
5 inter and intra, the same thing occurs there as well.

6           COMMISSIONER NESS: So, again, again are they then  
7 taking those revenues and assessing an end user charge on a  
8 consumer or are they assessing a charge on the interstate  
9 carrier?

10          MR. LUBIN: Under what I would --

11          COMMISSIONER NESS: Under your plan.

12          MR. LUBIN: What I was suggesting is whatever the  
13 assessment rate is, and the example if it was 3.1 or 3  
14 percent on interstate revenue, it would apply 3.1 percent on  
15 interstate retail revenues. What is that? That would be  
16 the interstate SLIC. That would be all of the retail,  
17 private line or special access lines they sell directly to  
18 the end user. It would exclude access as it currently does.

19          COMMISSIONER NESS: Thank you.

20          MR. LUBIN: You're welcome.

21          CHAIRMAN KENNARD: Commissioner Baker.

22          COMMISSIONER BAKER: Thank you. To the panel,  
23 would anyone care to address the notion of how would we, how

1 will we optimize as opposed to merely maximize the level of  
2 information that consumers get?

3           And what I'm getting at is you take a bottle of  
4 cold medicine say, and inside that packet there is a little  
5 leaflet printed on tissue paper in about two point type,  
6 with about 10 pages of medicalese, legalese. There is a  
7 pretty good argument to be made that that is too much  
8 information to be useful to most consumers.

9           At the other extreme, getting back to telecom, a  
10 one-line bill with one charge for "phone service" would  
11 obviously be insufficient.

12           How do we optimize the level of information?

13           I heard some of the panelists mention plain  
14 English as being one means, but can we expound on that a  
15 little bit?

16           MR. GILLES: I would like to respond to your  
17 question because, you know, phone service and the rates that  
18 we pay are not that dissimilar to credit, are not that  
19 dissimilar to rates involved in leasing vehicles, or  
20 something like that. So there are places in the other  
21 markets that can be looked at as to how regulatory agencies  
22 have approached problems, particularly if you look in the  
23 area of consumer credit with truth in lending coming out.

1           Before truth in lending you had all sorts of terms  
2 out there for what you were going to pay on time for  
3 merchandise, \$20.00 a week forever or something like that.  
4 People didn't disclose back-end charges in transaction.  
5 There were all sorts of extra things after you got the  
6 merchandise that you had to pay. And what we had with truth  
7 in lending was by definition you identified what the selling  
8 price is going to be, what the finance charge was, how many  
9 payments and so forth.

10           Now, if you study the history of truth in lending  
11 over time, it -- the amount of disclosures has changed  
12 because at first you had limited disclosure and people  
13 thought more was better. Then we came to the point that it  
14 was information overload, and we tapered back truth in  
15 lending, so there has been a process at work though in that  
16 area in terms of how do you define a rate so that people can  
17 compare what the price of the service, what the price of  
18 credit is; that it would be worthwhile for the Commission to  
19 investigate, particularly in terms of the truth in billing  
20 requirement.

21           So, now, the more practical aspect of your  
22 question relates to, well, how is this going to work. I  
23 mean, we can each in the state's attorney general, we've

1 discussed at length how can we -- how can we -- we think  
2 some of these ads about long distance rates are deceptive,  
3 how can we approach this problem, how can we make sure that  
4 people are able to take this information and compare it.

5           Recently, the Federal Reserve Board revised truth  
6 in leasing, and they went through a very long rule-making  
7 process. The Federal Reserve Board relied on its own  
8 initiative, it wasn't structured by industry, but it had  
9 input of everyone involved in that process, relied on  
10 standard techniques in terms of focus groups, in terms of  
11 surveying people as to what their take-away was, if you  
12 will, from a particular disclosure and to see if it was  
13 useful information or not.

14           So they brought the principles that are out there  
15 in industry and marketing, and how do you make information  
16 and how do you make certain that this information is going  
17 to be useful and helpful to bear on that process.

18           Now, those are two items, I think, that could be  
19 considered in trying to identify what has to be disclosed in  
20 terms of the rate.

21           MR. TRAVIESO: I have a quick response to that  
22 also, another source of information that can be helpful.

23           There are probably eight or nine states that have

1 already gone through an education process, a consumer  
2 education process in the electric restructuring that is  
3 going on in a number of states. And they have actually --  
4 all of those states have issued RFPs to hire consultants to  
5 help them figure out how to explain, you know, to Joe Six-  
6 Pack, how to pick an electric company. And they have more  
7 or less success, but there is a body of information which  
8 exists already because of that process which resides,  
9 typically resides at a state commission or may reside with  
10 consultants who have written articles about it to assist  
11 other commissions like mine, which is in the round table  
12 process right now trying to figure out how to do this on the  
13 electric side, which is a whole another problem.

14 But there is a body of information and they  
15 actually have focus group information. They have done some  
16 of the things that have been talked about, trying to  
17 evaluate the success or failure of particular kinds of  
18 approaches, and there are many different approaches that  
19 have been used, and many different kinds of ad that you see  
20 if you happen to be in one of those states.

21 So that's another place to go and try to see if  
22 you can learn something from that process.

23 MS. FARQUHAR: I also have a comment from the new

1 technology or wireless perspective, that they also have a  
2 huge consumer education hurdle to overcome, to convince  
3 consumers, once they get over the regulatory hurdle, to  
4 adopt a new technology.

5 In fact, some of you may have seen the Teligent  
6 truck that's driving in front of the FCC and downtown D.C.  
7 and around downtown today, trying to get people to switch to  
8 this new fixed, broad-band wireless service here in  
9 Washington, and as they are expecting to have to do a huge  
10 consumer education, and we'll actually need state regulatory  
11 help to highlight the benefits of some of these new  
12 technologies.

13 CHAIRMAN KENNARD: Thank you. I think we need to  
14 wrap up. I'm going to at this time invite the commissioners  
15 to offer any closing comments if they have any statements?

16 Okay, hearing none, I will thank our panelists for  
17 a very enlightening afternoon, and also I'd like to thank  
18 some people who made this possible today, the organizers of  
19 this event: Lori Wright, Matthew Vitalie, Sheryl Todd,  
20 Astrid Carlson and Tom Power.

21 Thank you all very much for participating.

22 (Applause.)

23 (Whereupon, at 5:06 p.m., the meeting was

1 concluded.)  
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