

**INTERIM REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

**THE EFFECTS OF THE CHANGES IN THE
TELECOMMUNICATIONS INDUSTRY ON THE
CITIZENS AND BUSINESSES
OF THE COMMONWEALTH**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 30

**COMMONWEALTH OF VIRGINIA
RICHMOND
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Terry Mapp, Research Associate
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**Interim Report of the Joint Subcommittee
Studying the Effects of the Changes in the
in the Telecommunications Industry on the
Citizens and Businesses of the Commonwealth
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1984**

To: Honorable Charles S. Robb, Governor of Virginia
and .

The General Assembly of Virginia

INTRODUCTION

Within the last decade many technological changes have taken place in the telecommunications industry that have made monopolistic service impossible and have led to its deregulation. The most profound changes have resulted from the legal divestiture of the monopoly which controlled the industry for many decades, American Telephone and Telegraph (AT&T). The restructuring of the telephone industry has and will continue to significantly impact the citizens and businesses of this Commonwealth.

Virginia has exhibited foresight which other states have not by recognizing the need to examine the changes in the telecommunications industry.

The Joint Subcommittee Studying the Effects of the Diverse Changes in the Telecommunications Industry upon the Citizens and Businesses of the Commonwealth was established pursuant to House Joint Resolution No. 84 of the 1982 General Assembly.

Due to the complexity of the industry and policy changes at the federal level, it was necessary to continue the study. This was made possible by House Joint Resolution No. 63 of the 1983 General Assembly.

HOUSE JOINT RESOLUTION NO. 63

Continuing the joint subcommittee of the House Committee on Corporations, Insurance and Banking and the Senate Committee on Commerce and Labor studying the effects of diverse changes in the telecommunications industry upon the citizens and businesses of the Commonwealth.

WHEREAS, for many years all telecommunications services and facilities were provided by monopolies regulated by the federal government and state governments; and

WHEREAS, within the last decade decisions by federal regulators and federal courts have ended monopolies in several markets by allowing unregulated companies to provide terminal equipment and by allowing new competition to provide long distance service; and

WHEREAS, on January 8, 1982, the United States Department of Justice and the American Telephone and Telegraph Company (AT&T) announced an agreement to settle the federal government's antitrust case against AT&T; and

WHEREAS, under the terms of that agreement, AT&T will divest itself of all of its local exchange telephone companies, including the Chesapeake and Potomac Telephone Company in exchange for the right to enter nonregulated markets and retain the division which offers public switched network long distance service in this country and abroad; and

WHEREAS, this restructuring of the telephone industry in this country will be accompanied by deregulation of customer premises equipment, effective January 1, 1983; and

WHEREAS, these developments will radically alter the telecommunications industry and marketplace in this Commonwealth and have a significant impact on the consumers and businesses of the Commonwealth; and

WHEREAS, the Federal Communications Commission, the federal courts and possibly Congress soon will be making decisions which will also have a significant impact on the consumers and businesses of the Commonwealth; and

WHEREAS, House Joint Resolution No. 84 of 1982 established a joint subcommittee of the House Committee on Corporations, Insurance and Banking and the Senate Committee on Commerce and Labor to study the magnitude of these changes and their effects; and

WHEREAS, although the joint subcommittee has diligently studied this issue, it needs to do additional work during 1983; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the joint subcommittee of the House Committee on Corporations, Insurance and Banking and the Senate Committee on Commerce and Labor studying the effects of diverse changes in the telecommunications industry upon the citizens and businesses of the Commonwealth is hereby continued. The present members of the joint subcommittee shall continue to serve and any vacancies in the membership shall be filled by the Speaker of the House in the case of House members and by the Senate Committee on Privileges and Elections in the case of Senate members.

The joint subcommittee shall conclude its work and submit any recommendations it deems appropriate to the 1984 Session of the General Assembly.

The cost of this study shall not exceed \$5,000.

Delegate Marian Van Landingham served as Chairperson of the joint subcommittee. Other members of the House of Delegates who served on the joint subcommittee were Lewis W. Parker, Jr. of South Hill, Richard M. Bagley of Hampton, Gladys B. Keating of Franconia, and W. Ward Teel of Christianburg.

Senator Clive L. DuVal, 2d served as Vice-Chairperson of the joint subcommittee. Other Senators who served on the joint subcommittee were Willard J. Moody of Portsmouth and Madison E. Marye of Shawsville.

A change in the membership of the joint subcommittee in 1983 was the result of the 1982 election and committee reassignments. Delegate Frank D. Hargrove of Glen Allen replaced Delegate Teel and Senator Peter K. Babalas of Norfolk replaced Senator Marye.

C. William Cramme', III, Senior Attorney and Terry Mapp, Research Associate of the Virginia Division of Legislative Services served as legal and research staff for the joint subcommittee. The House Clerk's Office provided administrative and clerical staff assistance for the study group.

WORK OF THE SUBCOMMITTEE

In an effort to hear as much testimony as possible during the two-year study regarding the effects of the changes in the telecommunications industry on the citizens and businesses of the Commonwealth, the joint subcommittee held eight meetings: two in 1982, on October 13 and December 10; five in 1983, on January 11, April 6, May 25, October 13, and December 21; and one in 1984, on January 9.

The joint subcommittee heard a large amount of oral testimony and received position papers and other written materials from the following organizations: the State Corporation Commission, the State Department of Telecommunications, Chesapeake and Potomac Telephone Company of Virginia, Continental Telephone of Virginia, the Virginia Independent Telephone Association, the Virginia Association of Realtors, Quality Communications, MCI, Bell Atlantic Mobile Systems, the Roanoke Botetourt Telephone Company, and two communications consulting firms: Carruthers, Deutsch, Garrison and Williams, Inc., and Cresap, McCormick and Padgett.

Representatives of those organizations discussed at length concerns over major changes resulting from advances in technology and the divestiture of AT&T. Some speakers expressed the belief that the changes will be more beneficial to Fortune 500 companies, heavy long distance toll users, intercity carriers, and the federal government (heavy user of long distance) than to individual consumers. Other speakers pointed out, however, that if long distance rates are maintained at an artificially high level to subsidize local users, heavy users will simply employ new technology to "by-pass" the system which would leave small users paying for the existing telephone network. Many felt that state regulators will be pre-empted by federal policy and that local telephone companies will suffer economic difficulties.

A paper summarizing the major change in the industry and explaining the agreement between AT&T and the Department of Justice was presented to the joint subcommittee. A copy of this is attached as Appendix 1. The Modified Final Judgement, the document resulting from this agreement was the topic of much discussion and disagreement. For the Bell Operating Companies divested from AT&T, it called for a configuration of exchange areas or local access transport areas (LATAs). The design of these LATAs was the subject of some disagreement between the State Corporation Commission and C&P Telephone.

A representative of the SCC testified at the September 30, 1982 meeting that the entire state should be a single LATA since the division of Virginia into five LATAs (C&P's proposal) could not be accomplished without undue disruption of traditional service patterns or major alterations in switching facilities. He explained that if the purpose of the smaller LATAs was to allow AT&T to transmit long distance calls intrastate and between LATAs, it was not allowed by Virginia's monopolistic law.

The subcommittee learned at the May 25, 1983 meeting that C&P's proposal of five LATAs had been accepted by Judge Harold Greene, U.S. District Court, District of Columbia. A map illustrating the five LATAs, Culpeper, Lynchburg, Norfolk, Richmond, and Roanoke, is attached as Appendix 2. It was determined that Northern Virginia would be included in the Washington D.C. LATA.

The purpose of the LATA device, as explained to the joint subcommittee, was to divide the Bell System market between the Bell Operating Companies (BOC) and AT&T with the Bell Operating Companies being economically viable in providing local and toll service within their LATAs and with AT&T providing intrastate long distance service between LATAs, as well as interstate.

The joint subcommittee heard testimony on the various types of access charge plans under consideration by the Federal Communications Commission and access charge plans in general. It was explained that access charges are fees to be paid by local telephone customers to inter-connect to long distance carriers. A summary of the FCC Access Charge Ruling of December 22, 1982 is attached as Appendix 3. Although interstate access charges of \$2 for residential customers and \$4 for business customers per month were to be in effect January 1, 1984, the FCC suspended them until July 1, 1985. A representative of C&P testified that thirty-five to forty-five percent of C&P's revenue in Virginia is from access charges paid by AT&T to C&P. He explained that this was possible because long distance rates were artificially high and AT&T had used long distance tolls to subsidize local companies. He explained further that under the new FCC access charge plan, local users will pay flat access charges to local companies resulting in competitive long distance tolls.

A representative of the Virginia Independent Telephone Association testified that because of geographic terrain service to rural areas is very costly. He explained that he was not sure that the replacement of toll revenues which have been used to subsidize rates for a long time with access charges will allow small companies to continue to supply affordable service. He expressed his agreement with Judge Greene that a program must be designed to subsidize high cost providers in rural areas so that universal service will be maintained. A representative of Continental Telephone testified that his company will suffer large toll revenue losses when the AT&T settlement is completed which will cause local rates to increase substantially. He explained that the AT&T settlement policy with the Bell Operating Companies was mirrored in payments to other local companies.

The State Corporation Commission told the joint subcommittee that in addition to forming its own task force to study the changes being made at the Federal level, it had hired two consulting firms to conduct studies - one in conjunction with C&P to determine reasonable costs for local exchange services, and another to look at the long range issues of how the SCC should regulate the telecommunications industry in Virginia given the AT&T divestiture. The joint subcommittee heard from the second consulting firm, Cresap, McCormick and Paget, during several meetings.

The consultants testified that their study focused on developing a policy-oriented framework for the telecommunications industry in Virginia and involved three major questions: Is it time to address comprehensive redrafting of legislation presently underling the industry? What are the state and local tax implications likely to result from these changes? How has the industry been regulated by the SCC and how will it be regulated in the future?

The consultants presented highlights of their study to the joint subcommittee on December 21, 1983. They discussed problems related to existing Virginia law and regulatory practices based on the presumption of a monopoly on long distance service that no longer exists. The consultants recommended that Virginia adopt a cohesive strategy of phased adaptation which would recognize the difference between monopolistic and competitive service. They stressed the need for state policy to temper and modulate the impact of federal trends in order to guard against abrupt shifts in service and to minimize financial burdens on customers. An overview of the consultants' presentation is attached as Appendix 4.

The consultants told the joint subcommittee they felt that immediate attention should be given to: the certification of competing carriers, the redefinition of "public service company", improvements in the staffing and funding of the SCC, and amending the Radio Common Carrier Act.

Throughout the course of this study the joint subcommittee heard testimony both in favor of and in opposition to giving the SCC the authority to certify competing long distance carriers. Concern was expressed over the fact that under current law C&P would be the only certificated provider of intra-LATA tolls, and that AT&T would be the only certificated provider of intrastate, inter-Lata calls. The joint subcommittee and consultants noted that if competition is allowed it is essential to preserve universal and good service . While it is not currently economically feasible for more than one company to offer standard local service, it was noted, that the certification of one Bell Operating Company and one non-Bell Operating Company in each metropolitan service area by the FCC to provide cellular telephone radio services is the beginning of competition at the local level.

Joint subcommittee members had the consultants prepare draft language for three of the four issues they felt were most important. The staffing and determination of the roles of the SCC did not require any legislation. The SCC testified that it will hire qualified people to supply the technical knowledge needed when deemed necessary.

SUBCOMMITTEE RECOMMENDATION

The joint subcommittee feels it is necessary now to redefine public service company and allow competition among long distance carriers. Legislation concerning these issues was therefore drafted to be introduced to the 1984 General Assembly. A copy of this legislation is attached as Appendix 5.

The joint subcommittee also feels that because of the complexity of the telecommunications industry and the changes being made, the study should continue its work. To accomplish this purpose, a resolution continuing the study was also prepared.

PRESENTATION
TO
JOINT SUBCOMMITTEE TO STUDY CHANGES
IN THE TELECOMMUNICATIONS INDUSTRY

May it please the Committee, I am Warner Brundage, General Attorney for C&P of Virginia. In the next few minutes I'd like to accomplish three things which I hope will assist the Committee in understanding some of the changes occurring in the telephone business. These are:

1. To briefly review for you the history leading to the agreement recently modified and approved by the U.S. District Court in Washington requiring divestiture of the Bell System.
2. To outline the broad terms of divestiture.
3. To describe, in general, the schedule of steps to be taken to complete the divestiture.

As I proceed, I would be pleased to try to answer questions you might have, although, as I will describe, many of the details of the split are unknown pending the submission to the Court and approval of the precise plan for accomplishing the break.

Over the last 15-20 years, three major forces have reshaped the telephone industry:

1. Advances in technology - which have driven costs down and merged the technology of computers and communications.
2. New markets have developed in what is being called "The Information Age" - the "office of the future" is here today.

3. New government policies, primarily at the Federal level, have endorsed increased competition and less regulation for the telephone industry.

This changing government policy is illustrated by a series of FCC decisions allowing connection of non-telephone company provided telephone equipment to the telephone network and providing for the eventual detariffing of the provision of customer premises telephone equipment (telephones, datasets, PBX's, etc.). The FCC has also allowed competition in the provision of interstate long distance service. Today there is vigorous competition in the provision of customer premises telephone equipment and long distance services.

Coincident with many of the changes occurring in the telephone business, the U.S. Department of Justice filed its antitrust suit against the Bell System in 1974.

Time does not permit a comprehensive review of the claims and defenses raised in that case. Broadly speaking, the U.S. charged the Bell System with monopolization and a conspiracy to monopolize the supply of telecommunications service and equipment in the U.S. The Government's basic thrust was that the Bell System had a monopoly on the provision of local exchange telephone service and through this alleged "bottleneck" was able to monopolize the long distance market and the markets for telephone equipment. One of the remedies suggested by the Government was to divest this "bottleneck" from the other parts of the System.

As you no doubt are aware, the case was vigorously contested by both sides. On January 8 of this year, the DOJ and AT&T announced a proposed resolution of the antitrust suit. Basically, the Agreement called for the antitrust suit to be dropped with no finding ² that the Bell System had violated the antitrust laws and for the divestiture of that portion of Bell's business involving the local exchange business.

From January 8 forward, an extensive and intensive public debate raged concerning the proposed Consent Decree. This debate carried over into the Halls of Congress where a proposed rewrite of the Federal Communications Act was debated. This bill ultimately was withdrawn.

The debate obviously extended to the U.S. District Court considering whether the proposed Consent Decree was in the public interest. This Court, presided over by Judge Harold Greene, considered over 600 comments from interested persons, extensive briefs submitted by the parties and heard oral argument. Among those persons or groups filing comments were Virginia's Attorney General and the State Corporation Commission.

On August 11 of this year, Judge Greene, in an exhaustive 178 page opinion found that the proposed Decree should be approved as being in the public interest provided that the parties agree to modifications found by Judge Greene to be necessary. The parties subsequently agreed to Judge

Greene's modifications, and on August 24, 1982, orders were issued dismissing the antitrust case and entering the Consent Decree, a document now called the Modified Final Judgment. (the "MFJ").

This document calls for a plan of reorganization of the Bell System to be submitted within 6 months of the effective date. (AT&T has already announced, however, that it hopes to beat that 6 month deadline.)

The plan must provide for completion of reorganization within 18 months after the effective date of the MFJ. For planning purposes, AT&T has announced the date of 1/1/84 as the target divestiture date.

The MFJ calls for the BOCs, following divestiture, to be left with the facilities and ability to perform the exchange telephone functions, that is, provide local exchange service as well as exchange access service. When I use the term "exchange" in context of the MFJ, you should understand it to include a larger geographic area than the local telephone exchanges generally outlined today in C&P's tariffs filed with the SCC.

BOCs will be required to provide exchange access to interexchange carriers.

The facilities for interexchange service will be retained by AT&T. (AT&T will retain ownership of Western Electric and Bell Laboratories).

In a change dictated by Judge Greene and urged by the Virginia State Corporation Commission, the BOCs will retain the Yellow Pages business.

While AT&T will retain the present customer premises equipment, in another change, Judge Green said that the BOCs will be permitted to provide (but not manufacture) new CPE, if they choose.

The provision applicable to the BOCs restricting them generally to the business of exchange telecommunications and exchange access can be removed at a later date by the Court upon a suitable showing by the BOCs. There are other numerous provisions which I will not discuss. Suffice it to say that the MFJ restricts C&P to three basic businesses - local exchange, including exchange access, Yellow Pages and provision of new CPE.

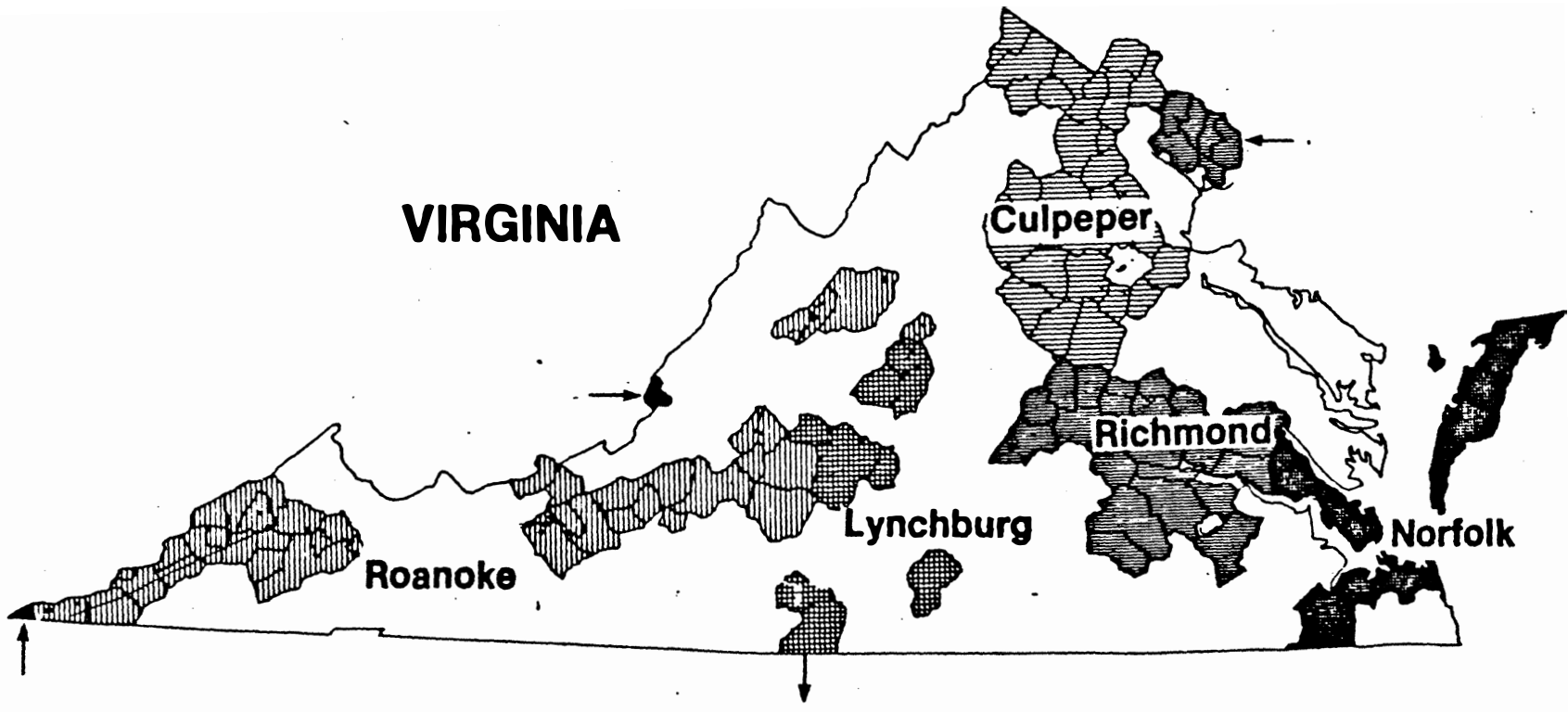
The next step is to present to the Court and to the DOJ for their review the proposed configuration of what the MFJ calls "exchanges." As I stated, this term in the MFJ is quite a bit different from the areas encompassed by today's local exchange calling areas. These "exchange areas" - what we will now call Local Access and Transport Areas ("LATA's") - encompass geographic areas having common social, economic or other ties. For example, a local telephone exchange served today by C&P is Richmond, while a LATA for this area would encompass not only Richmond but also Petersburg. Purpose of the LATA's is to define the geographic area within which the

BOCs will provide exchange telecommunications and exchange access services. In other words, the LATA's will be the areas within which the BOCs will provide service as distinguished from the interLATA or interexchange area to be served by AT&T and the other long distance carriers. Thus, the LATA boundaries will also represent a dividing line for the division of exchange and interexchange assets between the BOCs and AT&T.

So the definition of the LATA's is a necessary first step in the divestiture process. Once the LATA's are defined, precise divestiture plans can be developed and submitted for approval. The time schedule for the LATA submission is that the application will be submitted soon (within this next week perhaps). Thereafter, parties will have 30 days to file objections with Judge Greene. (As I said earlier, both the SCC and the Attorney General of Virginia are parties). The DOJ and AT&T will then have 20 days to file responses.

Thereafter, a divestiture plan will be submitted. That too, will be subject to review and comments by the intervenors in the case (including SCC and Attorney General). After Judge Greene's approval of the plan, divestiture will proceed.

LATA's of C&D Telephone Co of VA.



SUMMARY OF FCC ACCESS CHARGE RULING OF DECEMBER 22, 1982
CC DOCKET 78-82 *

The FCC's Access Charge Plan presents a seven year transition for reallocation of interstate non-traffic sensitive (NTS) telephone plant costs. At the conclusion of this transition recovery of NTS cost would be from customer (end user) access lines. A nationwide interstate cost of \$8.5 billion has been identified as NTS which must be reallocated. In the first year of the plan \$4.3 billion would be derived from end users through minimum flat access charge (\$2.00/residential; \$4.00/business) and usage charges up to a ceiling or cap. The long distance carriers would be allocated \$4.2 billion in NTS costs which reduce over a five year phase-out. AT&T would be directly assigned \$1.4 billion with a four year phase-out (25% per year) while all carriers would be charged on a usage basis per minute of use, to recover the remaining \$2.8 billion over five years. All long distance carriers would contribute to a Universal Service Fund on a per minutes of use basis, the rate being established by the FCC. This pooling fund would be utilized to support high cost and rural exchanges as necessary.

Charges to the carriers would be administered through tariffs filed by an Exchange Carriers Association whose members would be AT&T and all concurring exchange telephone companies.

The last two years of the transition period are designated to phase end user charges to a single flat access fee estimated to be about \$8.00. The Universal Service Fund would continue in effect indefinitely beyond the 7th year.

* Based upon press release information. Formal Order has not been issued as of January 11, 1983.

APPENDIX 4

Summary of Consultants' Presentation

to the Joint Subcommittee

I. Legislative Initiatives

The consultants recommend:

1. the revision of the telecommunications law to include statements of legislative purpose and intent;
2. the redefinition of the concept of "universal service" as currently there are two extreme interpretations of what it includes-pure access to the network and EAS for all. A new definition of universal service might include access to a local network at reasonable cost, access to public authorities without incurring large additional costs and access to the interexchange network.
3. the amending of the Utility Facilities Act to allow the SCC to authorize competition within the State and interexchange markets. The purpose of this certification of carriers is to avoid the uncertainty of who is in the market.
4. that the SCC be given the authority to designate public service companies based on what the companies actually do. Present law allows a company to be classified as a public service company if it is so stated in its charter.
5. the introduction of cellular services into the State
6. the elimination of statutes providing municipal exemptions from tariffs.
7. the elimination of narrow guidelines for rate-making in this industry as utilities do not have such specific guidelines.
8. a clarification of what is regulated and what is not.
9. a provision to be made allowing competing entities to communicate with the SCC on a reasonably confidential basis.

II. Tax Implications

The consultants recommend:

1. the analysis of both gross receipt tax revenues and local excise taxes. Currently, the gross receipt tax falls on some but not all.
2. a study be conducted to make sure that competitive markets exist and that the market place does not favor one jurisdiction over the other with possible local excise tax distortion.
3. a study be made of the applicability to subsidiaries of the gross receipt and local excise taxes, whether the subsidiaries will be subject to taxes, and if so, whether the taxes are fair and equitable.

III. Regulatory Initiatives

The consultants feel that the SCC will:

1. be called on to fulfill the leadership role in this area.

2. have to assume a broader long-range technical oversight of interconnectability and should encourage both a phased introduction of competition with oversight given to public security and the introduction of new technology to communities in order to avoid bypass.
3. need not only to augment with new personnel its staff in marketing and network and plant design but also to keep and attract good people as competition for knowledgeable and skilled people will be intense.
4. need to monitor the quality of service to customers as they may not understand what is taking place.

The consultants recommend:

1. that LATA configuration be redesigned based on "market service" area concept. This approach was used in Illinois and has proven to be better for the community interest.
2. the state look realistically at whether the regulatory process should be used to maintain those businesses which cannot keep costs down and that the regulatory process not serve as a shield behind which high cost producers can hide.
3. the development of techniques providing for a more viable rate of return for efficient providers and incentives rather than rate increases for efficient providers as well.
4. streamlined regulatory processes for small companies which would reduce the costs of regulation to them.
5. that regarding the question of how to address situations were spinoffs of regulated companies rely on the name and resources of the original company, some sort of fee or royalty flow back to the original company. "Imputation" is used in some areas, yet the consultants found that it is not necessarily the best way.
6. that over time rate subsidization be diminished to avoid any rate bypass. Although pricing is now based on out-bound traffic, in-bound traffic should be taken into consideration in the designing of rates so that the rates are more accurately reflected.

APPENDIX 5

SENATE BILL NO. HOUSE BILL NO.

A BILL to amend the Code of Virginia by adding a section numbered 56-1.1, to authorize the State Corporation Commission to designate a business as a public service corporation.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-1.1 as follows:

§ 56-1.1. Designation as public service corporation.— *The State Corporation Commission may designate a business enterprise operating as a telephone or telecommunications company to be a public service corporation when, upon appropriate inquiry and public hearing, the commission determines that the enterprise is engaged in any of the public utility services described in § 56.1.*

House Bill No. 483

A BILL to amend and reenact §§ 56-1 and 56-265.4 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-265.4:4, relating to public service companies and telephone utilities under the Utilities Facility Act.

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-1 and 56-265.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-265.4:4 as follows:

§ 56-1. Definitions.—Whenever used in any chapter under this title, the following terms, words and phrases shall have the meaning and shall include what is specified in this section, unless the contrary plainly appears, that is to say:

The words “the Commission” shall mean the “ State Corporation Commission “ .

The word “corporation” or “company” shall include all corporations created by acts of the General Assembly of Virginia, or under the general incorporation laws of this ~~State~~ *Commonwealth* , or doing business therein, and shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the ~~State~~ *Commonwealth* .

The words “interexchange telephone service” shall mean telephone service between points in two or more exchanges, which is not classified as local exchange telephone service.

The words “local exchange telephone service” shall mean telephone service provided in a geographical area established for the administration of communication services and consists of one or more central offices together with associated facilities which are used in providing local exchange service. Local exchange service, as opposed to interexchange service, consists of telecommunications between points within an exchange or between exchanges which are within an area where customers may call at rates and charges specified in local exchange tariffs filed with the Commission.

The word “person” shall include individuals, partnerships and corporations.

The words “public service corporation” or “public service company” shall include gas, pipeline, electric light, heat, power and water supply companies, sewer companies, telephone companies, telegraph companies, and all persons authorized to transport passengers or property as a common carrier, and shall exclude all municipal corporations, other political subdivisions, and public institutions owned or controlled by the ~~State~~ *Commonwealth* .

The word "railroad" shall include all railroad or railway lines, whether operated by steam, electricity, or other motive power, except when otherwise specifically designated.

The words "railroad company" shall include any company, trustee or other person owning, leasing or operating a railroad.

The word "rate" shall be considered to mean "rate charged for any service rendered or to be rendered."

The words "rate," "charge" and "regulation" shall include joint rates, joint charges and joint regulations, respectively.

The words "transportation company" shall include any railroad company, any company transporting express by railroad, and any ship or boat company.

§ 56-265.4. Certificate to operate in territory of another certificate holder.— *No Except as provided in § 56-265.4:4, no certificate shall be granted to an applicant proposing to operate in the territory of any holder of a certificate unless and until it shall be proved to the satisfaction of the Commission that the service rendered by such certificate holder in such territory is inadequate to the requirements of the public necessity and convenience; and if the Commission shall be of opinion that the service rendered by such certificate holder in such territory is in any respect inadequate to the requirements of the public necessity and convenience, such certificate holder shall be given reasonable time and opportunity to remedy such inadequacy before any certificate shall be granted to an applicant proposing to operate in such territory.*

§ 56-265.4:4. Certificate to operate as a telephone utility.—A. No certificate shall be granted to an applicant proposing to furnish local exchange telephone service in the territory of another certificate holder unless and until it shall be proved to the satisfaction of the Commission that the service rendered by such certificate holder in such territory is inadequate to the requirements of the public necessity and convenience. If the Commission shall be of the opinion that the service rendered by the existing certificate holder in such territory is in any respect inadequate to the requirements of the public necessity and convenience, that certificate holder shall be given reasonable time and opportunity to remedy the inadequacy before any certificate shall be granted to an applicant proposing to operate in that territory.

B. The Commission may, however, grant certificates to competing telephone companies for interexchange service where it finds that such action is justified by public interest, and is in accordance with such terms, conditions, limitations, and restrictions as may be prescribed by the Commission for competitive telecommunications services. Any company so certificated shall not be allowed to offer services within local market areas as defined by the State Corporation Commission or in local access and transport areas as established under federal court order until January 1, 1986.