
Issues Related to Transition to Inter-modal Competition in the Provision of Telecommunications Services

August 2, 2006
NARUC Summer Meetings

Robert Mayer, Director
Office of Telecommunications
New York State Department of Public Service



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Cornerstone principles articulated by the Commission

- The goal of ensuring the provision of quality telecommunications services at reasonable rates is primary
- Where feasible, competition is most efficient way by which the primary goal may be achieved
- Regulation should reflect market conditions
- Providers in like circumstances should be subject to like regulation

Telecommunications markets have evolved dramatically over the past few years

- 90% of New Yorkers have the choice of at least two inter-modal alternatives to incumbent wireline networks. Over 35% subscribe to a high-speed service
 - Facilities-based digital phone service (TW and CV)
 - Application-based phone services (Vonage, VoiceWing)
 - Wireless Services
- Verizon lost almost 3 million access lines from peak 2001 – 40,000 per month in 04 to about 94,000 in 05, Jan 06 100,000
- Frontier lost 23% of their access lines and 38 Independents (8% penetration) lost 3.5% of access lines

Implications of Inter-modal Competition

- IP-based competitors (Cable, Voice over BB, and Wireless) are largely outside the jurisdictional reach of the PSC and not subject to public interest obligations
- By and large, these competitors have full upward and downward pricing flexibility (within antitrust constraints) and derivative geographic obligations at best. No COLR expectation.
- Negative and low returns on common equity put at risk continued incumbent investment in legacy plant and system reliability
- Reliance by our Independents on universal service revenues and access rates operates to constrain competition where rates are below actual costs.

A record was needed to establish a “rational basis” for policy and rule changes

- What is the level of competition that is needed to trigger a change in pricing flexibility?
- What indicia are used to measure competition?
- How do we define competitive vs non-competitive areas/markets/products?
- Are alternative technologies "substitutable" to wireline? What does “substitutable mean and who makes the determination?
- Should different "weights" be assigned to these different technologies depending on how "substitutable they are?

policy and rule changes (continued)

- Can price levels from competitive areas serve as a competitive benchmark?
- Should rates in less densely populated areas be allowed to increase to their underlying cost levels?
- How do you "protect" customers in non-competitive areas and should prices for ILEC telecommunication services be uniform across their service territory?

Key Conclusions

- “... we find that the telecommunications market in New York State, is, in aggregate, adequately competitive. Perfect competition, which is the ideal, is not needed; the market need only be adequately competitive.
 - Given the inefficiencies inherent in economic regulation, a market need not be perfect, or even near-perfect, to produce better outcomes for consumers than traditional regulation, given the well documented inefficiencies of the latter, and its shortcomings in an increasingly competitive market.
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Key Conclusions (continued)

- Therefore, despite the lack of the ideal of a perfectly competitive telecommunications market in New York, we find that the forces of competition are sufficiently strong, both now and for the foreseeable future, to easily be considered an adequately competitive market.
- Alternative facilities-based platforms and viable substitute services are available in the market sufficient to constrain most residential prices such that we can and should rely more heavily on market forces to set prices...”

Commission determined, among other things, that

- Sufficient competition existed to justify full pricing flexibility for non-basic services (exceptions for bottleneck services such as directory listings, non-published numbers, PIC changes and restoral charges) subject to a “uniformity rule.”
- Rates need to better align with underlying costs to help ensure that high quality telephone services continue while also providing regulated carriers with incentives to maintain and upgrade their networks.
- Review of regulations currently underway (Case 06-C-0481) to streamline existing regulations and eliminate, where feasible, asymmetrical rules.