FEDERAL-STATE COMMUNICATIONS JOINT BOARD ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMUNICATIONS AND POWER

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

NINETY-SECOND CONGRESS

FIRST SESSION

ON

H.R. 7048

A BILL TO AMEND THE COMMUNICATIONS ACT OF 1934, AS AMENDED, TO ESTABLISH A FEDERAL-STATE JOINT BOARD TO RECOMMEND UNIFORM PROCEDURES FOR DETERMINING WHAT PART OF THE PROPERTY AND EXPENSES OF COMMUNICATION COMMON CARRIERS SHALL BE CONSIDERED AS USED IN INTERSTATE OR FOREIGN COMMUNICATION TOLL SERVICE, AND WHAT PART OF SUCH PROPERTY AND EXPENSES SHALL BE CONSIDERED AS USED IN INTRASTATE AND EXCHANGE SERVICE, AND FOR OTHER PURPOSES

JUNE 29, 1971

Serial No. 92–21

Printed for the use of the Committee on Interstate and Foreign Commerce

U.S. GOVERNMENT PRINTING OFFICE
64-534 WASHINGTON : 1971

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HARLEY O. STAGGERS, West Virginia, *Chairman*

TORBERT H. MACDONALD, Massachusetts
JOHN JARMAN, Oklahoma
JOHN E. MOSS, California
JOHN D. DINGELL, Michigan
PAUL G. ROGERS, Florida
LIONEL VAN DEERLIN, California
J. J. PICKLE, Texas
FRED B. ROONEY, Pennsylvania
JOHN M. MURPHY, New York
DAVID E. SATTERFIELD III, Virginia
BROCK ADAMS, Washington
RAY BLANTON, Tennessee
W. S. (BILL) STUCKEY, JR., Georgia
PETER N. KYROS, Maine
BOB ECKHARDT, Texas
ROBERT O. TIERNAN, Rhode Island
RICHARDSON PREYER, North Carolina
BERTRAM L. PODELL, New York
HENRY HELSTOSKI, New Jersey
JAMES W. SYMINGTON, Missouri
CHARLES J. CARNEY, Ohio
RALPH H. METCALFE, Illinois
GOODLOE E. BYRON, Maryland
WILLIAM R. ROY, Kansas

WILLIAM L. SPRINGER, Illinois
SAMUEL L. DEVINE, Ohio
ANCHER NELSEN, Minnesota
HASTINGS KEITH, Massachusetts
JAMES T. BROYHILL, North Carolina
JAMES HARVEY, Michigan
TIM LEE CARTER, Kentucky
CLARENCE J. BROWN, Ohio
DAN KUYKENDALL, Tennessee
JOE SKUBITZ, Kansas
FLETCHER THOMPSON, Georgia
JAMES F. HASTINGS, New York
JOHN G. SCHMITZ, California
JAMES M. COLLINS, Texas
LOUIS FREY, JR., Florida
JOHN WARE, Pennsylvania
JOHN Y. McCOLLISTER, Nebraska
RICHARD G. SHOUP, Montana

W. E. WILLIAMSON, *Clerk*
KENNETH J. PAINTER, *Assistant Clerk*

Professional Staff

JAMES M. MENGER, Jr.
WILLIAM J. DIXON
ROBERT F. GUTHRIE
KURT BORCHARDT
CHARLES B. CURTIS

SUBCOMMITTEE ON COMMUNICATIONS AND POWER

TORBERT H. MACDONALD, Massachusetts, *Chairman*

LIONEL VAN DEERLIN, California
FRED B. ROONEY, Pennsylvania
ROBERT O. TIERNAN, Rhode Island
GOODLOE E. BYRON, Maryland

HASTINGS KEITH, Massachusetts
CLARENCE J. BROWN, Ohio
JAMES M. COLLINS, Texas
LOUIS FREY, JR., Florida

CONTENTS

FEDERAL-STATE COMMUNICATIONS JOINT BOARD ACT

TUESDAY, JUNE 29, 1971

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND POWER,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2123, Rayburn House Office Building, Hon. Lionel Van Deerlin presiding (Hon. Torbert H. Macdonald, chairman).

Mr. VAN DEERLIN. With unanimous consent of all members present and voting, the hearing on H.R. 7048 will come to order.

This morning the Subcommittee on Communications and Power has before it for hearing H.R. 7048—the Federal-State Communications Joint Board Act—which was introduced by our colleague on the subcommittee, Mr. Rooney of Pennsylvania.

Regularly jurisdiction over the telephone industry is divided between the Federal Communications Commission and the regulatory commissions of the several States. The FCC regulates interstate and foreign telephone rates, and the State commissions regulate intrastate and local rates. These rates are determined in terms of plant and operating expenses involved in furnishing telephone service. The combination of Federal and State regulation results in a situation of extreme complexity because most telephone plant and expenses are devoted to providing users with both interstate and intrastate telephone service. Therefore, telephone plant and expenses over the years have been allocated, or in the jargon of the industry, "separated" as between interstate and intrastate uses for purposes of ratemaking.

Congressman Rooney's bill would add a new subsection to section 410 of the Communications Act which would require the FCC to refer proceedings involving telephone separations to a joint board consisting of four State public utility commissioners nominated by the National Association of Regulatory Utility Commissioners (NARUC) and three members of the FCC. The State commissioners who were members of the joint board would also sit with the members of the FCC in any en banc hearings involving such proceedings and would participate in deliberations of the FCC involving recommended decisions of the joint board. The State members would, however, not have any vote in such deliberations.

In the last Congress the subcommittee held hearings on legislation which also was directed at resolving the problem of telephone separations. That bill—H.R. 12150, also introduced by Congressman Rooney—would have established a joint board with decisionmaking powers which would have replaced the FCC in the telephone separations field. The bill was strongly supported by NARUC and the State

public utility commissions. It was opposed by the FCC. During our hearings on that bill, Chairman Burch asked for an opportunity to work things out with NARUC and the State commissions. This he was successful in doing. To accomplish this he established a joint board under section 410(a) of the Communications Act. Out of the deliberations of that joint board came the so-called Ozark plan of telephone separation procedures which is now in effect.

H.R. 7048 would write into law the procedure followed in developing the Ozark plan. However, the bill differs from section 410(a) of the Communications Act which is a voluntary procedure, in that under it rulemaking proceedings regarding telephone separations must be referred to a joint board constituted as provided in the bill.

(The text of H.R. 7048 follows:)

[H.R. 7048, 92d Cong., 1st sess., introduced by Mr. Rooney of Pennsylvania on March 31, 1971]

A BILL To amend the Communications Act of 1934, as amended, to establish a Federal-State Joint Board to recommend uniform procedures for determining what part of the property and expenses of communication common carriers shall be considered as used in interstate or foreign communication toll service, and what part of such property and expenses shall be considered as used in intrastate and exchange service; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federal-State Communications Joint Board Act".

SEC. 2. The Communications Act of 1934, as amended, is further amended by adding a new subsection (c) at the end of section 410 (47 U.S.C. 410) to read as follows:

"(c) The Commission shall refer any proceeding regarding the jurisdictional separation of common carrier property and expenses between interstate and intrastate operations, which it institutes pursuant to a notice of proposed rulemaking and, except as provided in section 409 of this Act, may refer any other matter, relating to common carrier communications of joint Federal-State concern, to a Federal-State Joint Board. The Joint Board shall possess the same jurisdiction, powers, duties, and obligations as a joint board established under subsection (a) of this section, and shall prepare a recommended decision for prompt review and action by the Commission. In addition, the State members of the Joint Board shall sit with the Commission en banc at any oral argument that may be scheduled in the proceeding. The Commission shall also afford the State members of the Joint Board an opportunity to participate in its deliberations, but not vote, when it has under consideration the recommended decision of the Joint Board or any further decisional action that may be required in the proceeding. The Joint Board shall be composed of three Commissioners of the Commission and of four State commissioners nominated by the National organization of the State commissions, as referred to in sections 202(b) and 205(f) of the Interstate Commerce Act, and approved by the Commission. The Chairman of the Commission, or another Commissioner designated by the Commission, shall serve as Chairman of the Joint Board."

Mr. VAN DEERLIN. Our first witness this morning is the Chairman of the Federal Communications Commission, the Honorable Dean Burch.

STATEMENT OF HON. DEAN BURCH, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION; ACCOMPANIED BY BERNARD STRASSBURG, CHIEF, COMMON CARRIER BUREAU, AND ROY BAKER, MEMBER, COMMON CARRIER BUREAU

Mr. BURCH. Mr. Chairman, I am pleased to be here today to present the views of the Federal Communications Commission on H.R. 7048. This bill would amend the Communications Act of 1934 to require

the Commission to refer to a Federal-State joint board any proceeding instituted pursuant to an FCC notice of proposed rulemaking regarding the jurisdictional separation of common carrier property and expenses between interstate and intrastate operations.

It would establish a procedure whereby both Federal and State representatives would participate more directly and formally in separations proceedings. However, it will retain in the Federal Communications Commission responsibility for the regulation of interstate telephone rates. We support enactment of the bill.

At the outset, it is important to understand the purpose and significance of cost allocations in telephone rate regulation by the Federal and State authorities.

Title II of the Communications Act of 1934, as amended, 47 U.S.C. 201(ff) provides for regulation of interstate communications common carriers by the Federal Communications Commission. The Commission, in determining whether the rates charged by various carriers are reasonable, must first determine a rate base and operating expenses for the utility for the interstate services subject to its jurisdiction. Thus it must determine the costs of rendering such interstate services which the utility recovers from the public in the form of rates. The carrier is entitled to earn a reasonable return on its plant investment in common carrier service and to recoup its expenses reasonably incurred in furnishing the service.

Telephone utilities, however, are subject both to Federal and State regulation. The Federal Government regulates interstate common carrier services while the States concurrently exercise jurisdiction over intrastate toll and local exchange services. While the jurdisdictions are separate for interstate and intrastate services, the plant facilities are to a great extent the same for both. The same household telephone instrument, for example, is used for intrastate and interstate calls. Thus, in order for each jurisdiction effectively to exercise its authority, procedures are needed to apportion the common costs among the services subject to each jurisdiction.

Over the years, the State commissions and the FCC have cooperated in their efforts to establish and implement such procedures. The original Separations Manual came into being in 1947 through such cooperative efforts. A number of substantial revisions in separations procedures have occurred since then through the joint efforts of the State commissions and the FCC.

Without dwelling on past history, it is sufficient to note that the Commission opposed earlier versions of the bill which would have made the decision of the joint board final primarily because it would have removed from the Commission the sole responsibility of determining interstate communications common carrier rates. The Commission indicated, however, that it intended to continue to cooperate with NARUC in further refining procedures in jurisdictional separations matters.

We have already put into practice the procedures that would be required under this bill. Thus, on May 20, 1970, the FCC adopted a notice of proposed rulemaking and order convening the joint board in docket 18866, 23 F.C.C. 2d 465 (1970), in the matter of prescription of procedures for separating and allocating plant investment, operating expenses, taxes, and reserves between the intrastate and interstate operations of telephone companies. The purpose of the pro-

ceeding was to consider changes in the separations procedures. But the Commission also convened a joint board under 47 U.S.C., section 410, to recommend the changes. That joint board operated under procedures almost identical to those made mandatory by H.R. 7048. Thus, the board consisted of three FCC commissioners and four State commissioners nominated by NARUC, and I was the chairman of that joint board.

On August 6 the board convened, and a week later it recommended proposed rule changes to the Commission. Shortly thereafter, the Commission issued a further notice of proposed rulemaking in docket No. 18886, 26 F.C.C. 2d 123 (1970) calling for comments from interested parties on the proposal—the so-called Ozark plan—from the joint board. Finally, on October 28, 1970, the Commission adopted a report and order, 26 F.C.C. 2d 247 (1970) which adopted the recommendations of the FCC–NARUC joint board on jurisdictional separations. The revised procedure resulted in an additional shift of approximately $130 million in revenue requirements from intrastate to interstate operations.

Your committee, by a series of letters, was kept advised of developments as they arose during this period. These developments demonstrated a further attempt on the parts of both the FCC and the States to cooperate in setting separation procedures.

In the meantime, the FCC and NARUC reached agreement on October 7, 1970, on an amendment to the earlier bill—which is now H.R. 7048—to codify the joint board procedures which were followed in the adoption of the Ozark plan.

Under H.R. 7048 the Commission's voluntary efforts with the States in the area of separations would be made mandatory. In addition, the Commission may refer other communications common carrier matters of concern to both Federal and State governments to the joint board consistent with existing law.

The joint board would have seven members: Three FCC commissioners selected by the Commission, and four State commissioners nominated by the national organization of the State commissions, and approved by the FCC. The Chairman of the Commission or a member thereof would be chairman of the joint board.

When the Commission considers the recommended decision of the board, it must allow the State members of the joint board to sit en banc with the Commission for oral argument and deliberations. However, the State board members would not vote on the final decision.

As in section 410(a) of the act, section 410(c) proposed by H.R. 7048 provides that the joint board's decision is the equivalent of an examiner's opinion in that it would "* * * prepare a recommended decision for prompt review and action by the Commission."

By retaining in the Commission the final authority to rule on separations—a matter essential to the proper discharge of its regulatory responsibilities—the bill now meets our objections to the bills of the 91st Congress. We welcome H.R. 7048 as a permanent improvement in continued State-Federal cooperation in the jurisdictional separations area.

Thank you, Mr. Chairman. That concludes my testimony and I will be pleased to answer any questions.

I am accompanied this morning by Mr. Bernard Strassburg, Chief of the Common Carrier Bureau, and Roy Baker, member of our Common Carrier Bureau and terribly knowledgeable in this field. Also, I would like to point out that Mr. George Bloom, who is going to testify before you this morning, was a member, with me, of the original Federal-State joint board which we held under section 410(a) of the act. It was my personal feeling that the procedures worked extremely well and that the result was not only gratifying but equitable. I hope George felt that it worked that way, also.

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

I suppose someone should ask right off the bat whether there is any consumer interest application in this legislation. Is there likely to be any change in rates up or down, either in local or long-distance tolls?

Mr. BURCH. Well, as you know, we now have a hearing on a tariff increase which was filed by A.T. & T. The original increase that they requested was some $500 million. This would be in the interstate portion of the telephone business. We asked that those tariffs be refiled. They were in the sum of $250 million. We suspended those, put them under an accounting order, and they are now in a hearing. That is on the horizon.

I think it is a matter of common knowledge that in almost every State of the Union the telephone company or companies involved has made application for increased intrastate rates, and one of the reasons that exacerbated the poor relations between the State and the Federal Government in the telephone field was that until this recent rate application of the A.T. & T. the history had been that interstate rates tended to keep going down each year or so, whereas intrastate rates were going up at the same time.

This is understandable, and I think anybody who gets into it would appreciate that the economies that have been developed are more or less in the long-distance-call field. Nevertheless——

Mr. VAN DEERLIN. You mean the technological advances?

Mr. BURCH. Yes, the technological improvements. Nevertheless, it is very difficult to explain to a consumer or user how he can be getting charged more for intrastate and then read in the paper that the FCC has reduced interstate rates by x millions of dollars.

For that reason, the State commissioners, and very rightly, wanted to participate in the entire separations area, not only that portion which deals with the States, but that portion which deals in the interstate field, because quite obviously when we determine that x percent of plant may be charged to the interstate field we have in effect determined the amount that applies in the intrastate field, because the balance is intrastate. So the State commissioners felt, and rightly enough, that they should be a part of that process.

Mr. VAN DEERLIN. And this legislation would achieve that happy result?

Mr. BURCH. Yes. Everyone who is a telephone subscriber has an interest in every one of these deliberations, whether it be interstate or intrastate. I personally feel that the way our joint board acted before was representative of the best interests of the consumer, but we did not have an outside member of the board who was designated as a consumer representative.

Mr. VAN DEERLIN. Mr. Collins?

Mr. COLLINS. Mr. Chairman, as I understand it now from your testimony you would approve this bill in toto?

Mr. BURCH. Yes, sir.

Mr. COLLINS. Everything about it, no amendments, just the way it is?

Mr. BURCH. Yes, sir.

Mr. COLLINS. Tell me something. We discussed telephone. Is this primarily what this concerns?

Mr. BURCH. So far as I know, that is all it concerns.

Mr. COLLINS. All telephone?

Mr. BURCH. Yes.

Mr. COLLINS. There is nothing else that you get involved in?

Mr. BURCH. No; it does not apply to telegraph. No, it would just be telephone.

Mr. COLLINS. And can you anticipate any problems we are going to have? You worked very well in the informal committee that you had developing this procedure. Does it look like this committee will be an ultimate complete solution to negotiations between——

Mr. BURCH. I do not know there is an ultimate and complete solution. I think this is the best solution from many points of view. The bill which was up for consideration last year would have set up a board similar to this, four State members, three FCC members. The primary distinction was that board would have made the final decision.

Mr. COLLINS. I see.

Mr. BURCH. From our point of view it is arguable if four State members got together and voted down the FCC members they would have a 4-to-3 decision in anything that came along. Interestingly enough, in this one test run we made, the vote was 6 to 1 with four State members and two Federal Communication members voting together and then one dissent from the FCC—excuse me, it was one State member concurred or dissented, depending on how you wanted to read the statement, and the six voted together. Then at the FCC level there was a dissenting statement by one of the members of the FCC.

Mr. COLLINS. Is this all to do with rates? Are there any other matters that come up?

Mr. BURCH. It deals indirectly with rates, but primarily what it does is the very difficult and rather esoteric problem—if this is a telephone that is on your desk, one argument is that any time you pick it up you have a 50–50 chance that you will make an interstate call or intrastate call. If you follow that through you should divide half the costs to interstate and half to intrastate. The facts are you do not use it to that percentage. But query, how do you determine on a $44 instrument, let's say, how much of that do you charge to the interstate service and how much to the intrastate service? The same thing is true of the local loop that takes you from your home to the local exchange. That loop can be used for either intrastate or interstate calls. That is the kind of thing that this deals with.

Now, ultimately, having determined that, it will end up having a great deal to say about what the rates are, because you have now determinated the investment. If you allow an 8-percent return on the investment you have pretty much determined the rate.

Mr. COLLINS. Then most of your expertise is in the accounting field?

Mr. BURCH. I do not know—accounting is not quite the word. What would be an appropriate word?

Mr. STRASSBURG. Accounting, economics and accounting. You have to have a comprehension of how the telephone is used, what its layout is, and what its circuitries consist of, in order to make an intelligent judgment. I might say, Mr. Chairman, other matters of jurisdictional matters, of cost allocation could be referred to the board under this procedure, conceivably matters—anything commonly of concern to rate authorities could be referred to the joint board, questions on tariff application to interconnection of customer-owned equipment as just one example, because it affects both interstate and intrastate uses of telephone systems.

Mr. BURCH. Mr. Chairman, I would like to point out one other thing. The joint board that we convened voluntarily under section 410(a) of the act I thought worked well, but there is no doubt that we strained section 410(a) of the act a little bit to set up the type of board that we did, and particularly in the manner of designating the State members, because the Communications Act does not deal with NARUC as such. So one of the reasons that this bill is important, I think, is to make crystal clear that it has an appropriate procedure and that NARUC is the appropriate body.

Mr. VAN DEERLIN. I think if we have been remiss it is only that the gentleman who was represented as having so much expertise has not been called on to share any of this expertise. Is there anything that should be added to this presentation, sir?

Mr. BAKER. No, sir. I think you did very well. I would not want to get into all the technicalities, I am sure.

Mr. VAN DEERLIN. No, as a matter of fact, when the Chairman referred to the 50–50 chance you have when you pick the phone up, I thought maybe he meant it as 50–50 on getting a dial tone. I do very much appreciate, Mr. Chairman, your not infrequent visit to this subcommittee. I guess after spending 6 hours with the Senate one day recently you will be very satisfied to get off with 15 or 20 minutes here.

Mr. BURCH. Thank you, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Byron?

Mr. BYRON. No questions.

Mr. VAN DEERLIN. Thank you, Mr. Burch.

The next witness will be another not infrequent visitor to the subcommittee, Mr. George I. Bloom, who is president of the NARUC, National Association of Regulatory Utility Commissioners, from the home district of our colleague, Mr. Rooney, who is the author of this legislation.

Mr. Bloom, you may proceed, sir.

STATEMENT OF GEORGE I. BLOOM, PRESIDENT OF THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (NARUC); ACCOMPANIED BY PAUL RODGERS, GENERAL COUNSEL

Mr. BLOOM. Thank you, Mr. Chairman and members of the committee.

We regard this legislation as very important to NARUC and the consumers. I have been attending the regional conference of utility

commissioners at Whitefield, N.H., flew down here last night and must return as soon as we get through. I am saying that merely to point out we think it is important to be here because of the importance of this bill.

I am going to paraphrase in places and will omit a lot of the statement in the interest of time.

Mr. VAN DEERLIN. By unanimous consent you would like to have the entire statement in the record?

Mr. BLOOM. I would like to have the entire statement made a part of the record.

Mr. VAN DEERLIN. So ordered.

Mr. BLOOM. The members of the NARUC appreciate the opportunity you have given me as their spokesman to make their views known on H.R. 7048, a bill proposing the Federal-State Communications Joint Board Act, which was introduced by Mr. Rooney of Pennsylvania at the request of the NARUC. See Congressional Record of March 30, 1971, pages H2196–H2204.

Regulatory jurisdiction over the telephone industry is divided between the FCC and the State commissions. The FCC regulates interstate message toll calls, commonly referred to as long-distance calls. The State commissions regulate intrastate message toll calls and local exchange calls even in instances where the boundaries of the exchange area overlap State lines.

Under this division of regulatory responsibility, the FTC regulates approximately 3 billion interstate long-distance toll calls a year and the State commissions regulate approximately 166 billion intrastate toll and local exchange calls a year. In terms of plant investment, the FCC exercises jurisdiction over approximately 25 percent of Bell system plant while the State commissions exercise jurisdiction over the remaining 75 percent and over virtually all of the plant of the independent telephone companies.

The State commissions contend that the longstanding problems of FCC-prescribed separations procedures, which favor the interstate users, is magnified by a strong technological trend in the telephone industry which results in reduced costs for long-distance service and increased costs for local service. The extensive use of microwave facilities and of coaxial cable, with its high-volume circuit capacity, has dramatically reduced the cost of long-distance circuits. Ten years ago coaxial cable could carry only about 500 telephone calls at a time. The newest ones can handle about 32,000 calls at a time, and it is anticipated that in the near future this capacity can be increased to 100,000 calls. During the same period, the cost of installing such cable has decreased from about $100 a mile for each channel to less than $5.

In contrast, there is no such technological breakthrough in the furnishing of local exchange service and hence the cost of providing this service steadily rises due to inflation. Although exchange plant is employed in both interstate and intrastate service, the investment in such plant is determined by the number of exchange subscribers served and not by the volume of local traffic generated. In other words, the investment in the local distribution plant connecting the subscriber to his central exchange office, as well as a significant portion of the investment in the central office, have a 1-to-1 correspondence with the number of subscribers. Accordingly, exchange plant costs vary directly

with the number of subscribers while the magnitude of the long-distance toll lines plant investment is largely determined by actual usage and hence this high use factor permits long-distance calling to achieve a high degree of economic efficiency.

Presently, it is estimated that the average telephone is used 1½ minutes a day for interstate toll service, 1½ minutes a day for intrastate toll service, and 27 minutes a day for local exchange service; and remains idle 23½ hours a day.

We believe the paramount criterion employed in the separation of all telephone plant has been far too heavily based on actual time in use with far too little consideration being given to idle time which someone must pay for. Accordingly, the primary criterion for the separation of telephone plant is consistent with the character of the toll business but inconsistent with the character of exchange business.

We believe the FCC has been too prone over the years to regard our nationally integrated communications system as being divided into two parts—interstate and intrastate—and to shower the economies of long-distance circuitry upon the interstate callers instead of flowing the benefits through to the far more numerous and less affluent local callers.

The intereffect of rate actions at the Federal and State levels, as determined by separations procedures, was dramatically illustrated early last year by the FCC's action in reducing Bell system interstate message toll rates in the amount of $237 million at a time when the same Bell system was seeking from State commissions rate increases totaling approximately $600 million for State and local telephone service. Since then the situation has worsened.

At the present time, the Bell system is seeking from 19 State commissions rate increases totaling well over $1 billion as reflected by the tabulations in my prepared statement.

The second tabulation in my prepared statement reflects that close to half a billion dollars in rate increases have been granted by 22 State commissions to Bell system companies since January 1, 1969. The figures in this tabulation, of course, do not include the numerous rate increases now being sought by the non-Bell telephone companies who are also adversely affected by unfair separations procedures.

Furthermore, this growing tide of rate applications during this accelerated inflationary period clearly indicates that virtually all of the commissions of the 50 States will be pressed in the near future to increase rates for local telephone services.

Clearly, the average user of telephone service is benefited more by fixing his flat monthly charge for service at the lowest practicable level, rather than by reductions in interstate toll rates—rates which are generally paid by a more affluent class of users. The lower the flat monthly charge, the more accessible telephone service is to the economically depressed and to others who are severely disadvantaged by inflation. Furthermore, the value of telephone service increased proportionately with the number of telephone users, and the more users, the lower the cost of service for each user.

These basic economic tenets are reflected in an observation made by Senator Pastore on March 5, 1969, during a hearing of the Senate Subcommittee on Communications on FCC policy matters.

I shall not take the time of the subcommittee today to describe all of the difficulties which the State commissions have experienced in

their long effort with the FCC to achieve fair separations procedures for the average consumer. I could go into a long statement on this, but really Chairman Burch has been so clear and defined it so well, I do not think it is necessary to repeat many of the things he said and which are repeated in my official statement, so I will not repeat that at all.

But I want to say to you that I believe very sincerely that this bill would be of advantage to the consumer because it would give us a greater voice in determining how these separations shall take place, how much of the plant and expenses that are used jointly between interstate and intrastate are to be divided between the intrastate service and the interstate service, because the more that you put over onto the intrastate side increases, the size of the plant, the dollars in the plant, or, in other words, the rate base, and each company—the company is entitled to receive a reasonable return on that investment, the rate base investment so that as the rate base increases it requires more revenue to give a fair return, and in that way you have to raise revenues and raise rates to secure the revenues and therefore the rates become higher on the intrastate side.

Conversely, if the rate base is lower on the interstate side it does not require as much revenue and therefore they can decrease rates on the interstate calls and give cheaper long-distance-rate calls. I do not know whether I have made myself clear, but that is the principle that is involved.

So that if you want to—if there is an equitable and just separation between the two and we can arrive at that we can see to it that these local exchange rates do not get clear out of sight where the average workingman or the common fellow that really wants a telephone, the senior citizen, the low-income earner can have a telephone in his home. Otherwise your local exchange rates will get out of proportion. It will be so high that they cannot afford to have a phone in their home. That is why we think this will be very beneficial.

In the meetings that we have had with the Federal Power Commission I think that we have had the finest relations that we have had in years with them, and we are working very closely, and I think that what——

Mr. VAN DEERLIN. Do you mean the Federal Power Commission or the——

Mr. BLOOM. Federal Communications Commission. That applies to the Federal Power Commission, too, but the Federal Communications Commission, as indicated by Chairman Burch, we have been doing fine.

You say that since this has worked well under this procedure that has been set up, why do we want this legislation? Well, he indicated to you in his statement that there is some question of whether they strained the section of the act a little in order to accomplish what they did in the procedures that they set up. So we think that if we had this legislation it certainly would correct—ease that strain so that no question could ever be raised about the authority to set up a procedure such as was set up, and also, we have no assurance that Chairman Burch and the present members of the Commission will continue there indefinitely, and if you have a change in your setup and your membership of the Commission and the power who creates that procedure

can remove that procedure, we will be right back where we started from again and all the good work that has been done in the last couple of years in creating this fine relationship between the State regulators and the Federal Communications Commission, the Federal commissions will just go out the window. We think this is a very, very important piece of legislation to put on the books and to give us a procedure whereby we can work together, the State governments with the Federal Government in its regulatory process to come up with a fair and equitable answer on this important question of separations.

Mr. VAN DEERLIN. Thank you, Mr. Bloom.

We will place your prepared statement in the record at this point.

(Mr. Bloom's prepared statement follows:)

STATEMENT OF GEORGE I. BLOOM, PRESIDENT, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (NARUC)

Mr. Chairman and Members of the Subcommittee: My name is George I. Bloom. I am the President of the National Association of Regulatory Utility Commissioners, commonly known as the "NARUC". I am also the Chairman of the Pennsylvania Public Utility Commission and I have served in such capacity since May 3, 1965.

I am accompanied at the witness table today by Paul Rodgers, General Counsel of the NARUC.

The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the *fifty* States and of the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of carriers and utilities. Our chief objective is to serve the public interest by seeking to improve the quality and effectiveness of government regulation.

The members of the NARUC appreciate the opportunity you have given me as their spokesman to make their views known on H.R. 7048, a bill proposing the Federal-State Communications Joint Board Act, which was introduced by Mr. Rooney of Pennsylvania at the request of the NARUC. See Congressional Record of March 30, 1971, pp. H2196–H2204.

In the United States today there are over 115 million telephones which average out to about 52 telephones per 100 people. Of these, approximately 72 percent are classified as residential and the remaining 28 percent are classified as business.

These telephones comprise a nationally interconnected system which transmits approximately 169 billion calls a year.

Dominant in this national communications network is the American Telephone and Telegraph Company and its 24 associated companies which comprise the Bell System. This System is concentrated primarily in the metropolitan areas and has over 91 million telephones, a gross plant investment of over 46 billion dollars, and annual revenues of approximately 14½ billion dollars.

The remainder of the telephone service in the Nation is provided by 1,850 independent, or non-Bell, companies who have 19½ million telephones, a gross plant investment of almost 12 billion dollars and annual revenues of 2½ billion dollars.

Regulatory jurisdiction over the telephone industry is divided between the FCC and the State commissions.[1] The FCC regulates interstate message toll calls, commonly referred to as long distance calls.[2] The State commissions regulate intrastate message toll calls and local exchange calls even in instances where the boundaries of the exchange area overlap State lines.[3]

---

[1] Telephone companies are regulated by State commissions in every State except Texas where regulation is administered at the municipal or local level. In the District of Columbia, The Chesapeake & Potomac Telephone Company, a part of the Bell System, is regulated by the District of Columbia Public Service Commission.

[2] Communications Act of 1934, as amended, Secs. 1 *et seq.*, (47 U.S.C., Secs. 151 *et seq.*).

[3] *Id.* Secs. 2(b) and 221(b) [47 U.S.C., Secs. 152(b) and 221(b)]. An example of an exchange area which overlaps State lines is the very large Washington metropolitan exchange area encompassing the District of Columbia and parts of Maryland and Virginia. Calls therein are subject exclusively to State and local regulations. The dimensions of the exchange area are measured by the distance you can call without incurring a toll charge.

Under this division of regulatory responsibility, the FCC regulates approximately 3 billion interstate long distance toll calls a year and the State commissions regulate approximately 166 billion intrastate toll and local exchange calls a year. In terms of plant investment, the FCC exercises jurisdiction over approximately 25 percent of Bell System plant [4] while the State commissions exercise jurisdiction over the remaining 75 percent and over virtually all of the plant of the independent telephone companies.[5]

Under the rate base concept of ratemaking, practiced by the FCC and the State commissions, the Bell System, through its rates, is entitled to earn a reasonable return on its plant invested in common carrier service and to recoup its expenses reasonably incurred in furnishing such service. Since the vast bulk of Bell System plant and expenses are used in furnishing both interstate and intrastate communication service, such plant and expenses must be allocated or separated between the interstate and intrastate uses for purposes of ratemaking by the respective Federal and State jurisdictions.

The procedures employed in the division of these joint telephone costs are commonly referred to as "separations procedures." Inherently, they involve judgment factors in which there is no absolute correctness or incorrectness. We do not expect the Committee to focus on the very technical details of separations procedures. However, there is involved, as hereinafter explained, a basic policy question of tremendous effect upon the American consumer which we hope the Committee will consider and act upon.

It is essential to the public interest that procedures for separating such plant and expenses be fair and equitable so that no unreasonable burden will be placed on either the interstate or intrastate users of the telephone service.

The State commissions have long contended that the FCC, which has controlled the prescription of separations procedures since the beginning, has never prescribed equitable ones because it has consistently refused to allocate a fair amount of the cost of providing local telephone service to the users of the interstate service. Local telephone service is an integral part of the national and international toll network. It is the gateway to the toll network and without it the toll network would be worthless.

The State commissions contend that the long-standing unfairness of FCC prescribed separations procedures, which favor the interstate users, is magnified by a strong technological trend in the telephone industry which results in reduced costs for long distance service and increased costs for local service. The extensive use of microwave facilities and of coaxial cable, with its high volume circuit capacity, has dramatically reduced the cost of long distance circuits. Ten years ago coaxial cable could carry only about 500 telephone calls at a time. The newest ones can handle about 32,000 calls at a time, and it is anticipated that in the near future this capacity can be increased to 100,000 calls. During the same period, the cost of installing such cable has decreased from about 100 dollars a mile for each channel to less than 5 dollars.

In contrast, there is no such technological breakthrough in the furnishing of local exchange service and hence the cost of providing this service steadily rises due to inflation. Although exchange plant is employed in both interstate and intrastate service, the investment in such plant is determined by the number of exchange subscribers served and not by the volume of local traffic generated. In other words, the investment in the local distribution plant connecting the subscriber to his central exchange office, as well as a significant portion of the investment in the central office, have a one-to-one correspondence with the number of subscribers. Accordingly, exchange plant costs vary directly with the number of subscribers while the magnitude of the long distance toll lines plant investment is largely determined by actual usage and hence this high use factor permits long distance calling to achieve a high degree of economic efficiency.

The very low use of exchange plant was described by the FCC in July 1967 in the following terms:

> As a consequence of this characteristic of subscriber plant, although such plant is available for use of the subscriber twenty-four hours a day, it is in actual use, on a nation-wide average basis, only twenty-nine minutes out of the twenty-four hours. For the remainder of the time, the plant stands idle but available for the subscriber's use. In other words, actual use for all services, intrastate and interstate, accounts for only 2 per cent of total time

---

[4] *Re American Telephone and Telegraph Company et al.*, 70 PUR 3d 129, at p. 145, par. 21 (1967).

[5] Communications Act of 1934, as amended, Sec. 2(b)(2) [47 U.S.C., Sec. 152(b)(2)].

such plant is available for use. Of this 2 per cent, interstate toll service makes actual use of the plant for an average of 4 per cent, intrastate toll for an average of also 4 per cent, and exchange service for an average of 92 per cent. *Re American Telephone and Telegraph Company et al.*, 70 PUR 3d 129, at p. 212, par. 286.

Presently, it is estimated that the average telephone is used 1½ minutes a day for interstate toll service, 1½ minutes a day for intrastate toll service, and 27 minutes a day for local exchange service; and remains idle 23½ hours a day.

We believe the paramount criterion employed in the separation of all telephone plant has been far too heavily based on actual time in use with far too little consideration being given to idle time which someone must pay for. Accordingly, the primary criterion for the separation of telephone plant is consistent with the character of the toll business but inconsistent with the character of exchange business.

We believe the FCC has been too prone over the years to regard our nationally integrated communications system as being divided into two parts—interstate and intrastate—and to shower the economies of long distance circuitry upon the interstate callers instead of flowing the benefits through to the far more numerous and less affluent local callers.

The inter-effect of rate actions at the Federal and State levels, as determined by separations procedures, was dramatically illustrated early last year by the FCC's action in reducing Bell System interstate message toll rates in the amount of 237 million dollars at a time when the same Bell System was seeking from State Commissions rate increases totaling approximately 600 million dollars for State and local telephone service. Since then the situation has worsened.

At the present time, the Bell System is seeking from nineteen State Commissions rate increases totaling well over one billion dollars as reflected by the following tabulation:

State	*Amount requested (in millions)*	State	*Amount requested (in millions)*
Alabama	$19.9	New York	$391.0
Arizona	7.6	North Carolina	23.1
California	194.9	Oregon	17.1
Illinois	2.2	Pennsylvania	73.0
Indiana	31.3	Rhode Island	14.8
Louisiana	24.6	Virginia	42.0
Maryland	40.3	Washington	24.9
Michigan	59.7	West Virginia	11.1
Minnesota	38.0		
Nebraska	5.0	Total	1,099.5
New Jersey	79.0		

The following tabulation reflects that close to half a billion dollars in rate increases have been granted by twenty-two State commissions to Bell System companies since January 1, 1969:

State	*Amount requested (in millions)*	State	*Amount requested (in millions)*
Colorado	$17.1	New York	$120.8
Connecticut	13.2	North Dakota	.5
Delaware	2.3	Ohio	64.7
Florida	21.1	Oregon	1.4
Georgia	20.8	Rhode Island	5.9
Illinois	77.9	Tennessee	2.1
Kentucky	1.2	Utah	2.1
Maryland	22.8	Virginia	2.9
Massachusetts	7.7	Washington	14.0
Michigan	14.8	Wisconsin	12.1
Missouri	30.7		
New Mexico	5.0	Total	461.1

The above figures of course do not include the numerous rate increases now being sought by the non-Bell telephone companies who are also adversely affected by unfair separations procedures.

Furthermore, this growing tide of rate applications during this accelerated inflationary period clearly indicates that virtually all of the commissions of the fifty States will be pressed in the near future to increase rates for local telephone service.

The FCC has in the past exaggerated the benefit to the average telephone user of low rates for long distance interstate calls. In the vast majority of cases the person who makes an interstate toll call for a few cents less is the same person who must pay unduly high charges for exchange service and for intrastate toll calls. The result is a net loss to the average consumer.

For example, the 150 million dollar interstate rate reduction which the FCC negotiated with AT&T, which became effective January 1, 1970, accomplished the following significant changes in long distance rate structure:

(*a*) Reduction to 90 cents for three-minute customer-dialed coast-to-coast calls, and advancement of the time these "night rates" apply to 5 p.m. from the present 7 p.m.;

(*b*) Introduction of a 35-cent coast-to-coast rate (less for intervening points) for a one-minute customer-dialed call between midnight and 8 a.m.;

(*c*) Lengthening of the reduced rate period by an additional hour from 7 a.m. to 8 a.m.; and

(*d*) Inauguration of a separate, discounted rate schedule for customers who dial their own calls covering distances more than 200 miles.[6]

The Wall Street Journal, in reporting on this proposed reduction on December 3rd, stated that "Business customers would be among the chief beneficiaries, particularly those transmitting short bursts of data late at night." Obviously, the late-night coast-to-coast rate of 35 cents for a *one-minute* call, referred to in item (*b*) above, will be of no practical benefit to the housewife or other non-business user.

In contrast, the Maryland Public Service Commission has been forced to grant a rate increase to The Chesapeake & Potomac Telephone Company of Maryland, an AT&T subsidiary, which will increase its annual revenues by 22.8 million dollars. The rate schedules which had to be approved to implement the Maryland increase ranged from 80 cents to one dollar and 25 cents for residential customers in the Maryland suburban portion of the Washington metropolitan area.

The Virginia State Corporation Commission has been forced to grant a rate increase to The Chesapeake & Potomac Telephone Company of Virginia, another AT&T subsidiary, which has increased its annual service charges by 2.9 million dollars. This increase provides: for raising the charge for connecting new telephones from 12 to 15 dollars for business and from 8 to 11 dollars for residential subscribers; and for raising from 6 to 8 dollars the charge for changing business and residential telephone service from one location to another.

These cases, which involve the Washington metropolitan area, epitomize the kind of rate increases which are being sought across the Nation.

These kind of increases hit the little consumer the hardest and the injurious effects are by no means offset by lower rates for interstate calling.

This kind of rate discrimination is particularly severe on the economically underprivileged. The United States Department of Commerce reports that the median family income in 1964 of households with telephones is 7,281 dollars, compared with a median family income of 3,386 dollars for families without telephones.[7]

These statistics of the Department of Commerce further reveal that there are over 7¼ million families without telephone service and that 44 percent of these families have less than 3,000 dollars annual income, that 71.3 percent have less than 5,000 dollars annual income, and that 82.3 percent have less than 6,000 dollars annual income. This is particularly unfortunate since the American people have become dependent upon telephone service for police, fire and medical protection.

Also hard hit are retired people living on fixed incomes. Their numbers are reflected by Department of Commerce figures showing that there are 9.3 million households with a median income of 2,715 dollars and a head of household, 65 years of age or older, who is not in the labor force.

The effect of inequitable separations procedures is also depicted by the following indexes which reflect that charges for local exchange service are significantly increasing while charges for long distance calling are going in the opposite direction:[8]

---

[6] The FCC in January 1971 approved a $250 million interstate message toll increase for the Bell System which generally resulted in increased rates for those calls that require *operator handling*. NARUC Bulletin No. 5–1971, p. 20.

[7] Characteristics of Households with Telephones, March 1965, Series p–20, No. 146, December 27, 1965, page 1.

[8] These index figures are derived from a presentation by Dr. Harry M. Trebing, Director, Institute of Public Utilities, Michigan State University, to the Annual Convention of the Midwest Association of Railroad and Utilities Commissioners on June 9, 1969, in Hot Springs, Arkansas.

	1945	1957–59	1966
Local service revenue per telephone	64	100	111
Intrastate telephone rates	68	100	99
Interstate telephone rates	96	100	94
Consumer price index	62	100	116
Wholesale price index	58	100	106

Clearly, the average user of telephone service is benefited more by fixing his flat monthly charge for service at the lowest practicable level rather than by reductions in interstate toll rates—rates which are generally paid by a more affluent class of users. The lower the flat monthly charge the more accessible telephone service is to the economically depressed and to others who are severely disadvantaged by inflation. Furthermore, the value of telephone service increases proportionately with the number of telephone users, and the more users the lower the cost of service for each user.

These basic economic tenets are reflected in an observation made by Senator Pastore on March 5, 1969, during a hearing of the Senate Subcommittee on Communications on FCC policy matters. He stated, in reference to separations procedures, that:

> If the advantage is weighted in favor of the local caller who is least able to pay it, I think there is a definite advantage to the average American citizen and the telephone subscriber. Certainly I find no fault in that. . . . I think only too long the heavy arm of the Federal Government has striven to reduce the long distance call rate which only results in an increase in the local call rate. After all, you are going to make a certain return on the capital investment, and it all depends on how you separate that capital investment and where you put your weight.
>
> Personally, I would rather see Momma call up her son or daughter more cheaply than some business executive in New York calling Washington. *Hearings on Federal Communications Commission Policy Matters and Television Programming*, Part 1, March 4–5, 1969, Serial 91–6, page 102, last paragraph.

I shall not take the time of the Subcommittee today to describe all of the difficulties which the State commissions have experienced in their long effort with the FCC to achieve fair separations procedures for the average consumer. However, in order to supply the historical perspective in this matter, I respectfully request that the Subcommittee incorporate by reference in this record the NARUC testimony presented to it on February 24, 1970, in support of H.R. 12150, Ninety-first Congress. *Hearings on Joint Board for Telephone Separations*, February 24–25, 1970, Serial No. 91–81, pages 5–67.

H.R. 7048 is similar to H.R. 12150 and S. 1917 in the Ninty-first Congress which proposed the creation of a seven member Board composed of four FCC Commissioners designated by the FCC and three State Commissioners nominated by the NARUC and appointed by the FCC. The Board would have sole administrative authority under the Communications Act of 1934 to prescribe uniform procedures for determining what part of the property and expenses of communication common carriers shall be considered as used in interstate or foreign communication toll service, and what part of such property and expenses shall be considered as used in intrastate and exchange service.

Congressional hearings on this legislation were precipitated by an announcement of the FCC on November 5, 1969, that it had negotiated with the Bell System telephone companies an interstate toll rate reduction totaling 237 million dollars. This announcement came at a time when the same Bell System was seeking from State commissions rate increases totaling over half a billion dollars for State and local telephone service!

NARUC President Francis Pearson requested the prompt scheduling of hearings on the legislation in duplicate letters, dated November 8, 1969, to Chairman Harley O. Staggers of the House Committee on Interstate and Foreign Commerce and to Chairman Warren G. Magnuson of the Senate Committee on Commerce.

The Senate Committee on Commerce concluded hearings on the legislation on December 9, 1969. Fifty-one State commission representatives from 32 States appeared in support of the bill at these hearings. The FCC testified in opposition to the bill.

This Subcommittee concluded hearings on H.R. 12150 on February 25, 1970. Fifty State commission representatives from 30 States appeared in support of the bill. Again, the FCC testified in opposition.

Following the conclusion of the NARUC testimony on February 25, 1970, the FCC, by letter of March 17, 1970, to the NARUC, suggested that pending jurisdictional separations proposals be considered by a Federal-State joint board established pursuant to Section 410 of the Communications Act of 1934, as amended (47 U.S.C.A., Sec. 410). The Congress, thereupon, suspended further consideration of the legislation to await the outcome of the joint board procedures. A joint board was established in FCC Docket No. 18866 and, pursuant to its recommendation, the FCC on October 27, 1970, adopted the "Ozark Plan" which transferred approximately 126 million dollars of annual revenue requirements from intrastate to interstate operations. NARUC Bulletin No. 46–1970, p. 22.

The NARUC and the FCC on October 7, 1970, reached an agreement on a proposed amendment to the legislation which, in effect, would strike all after the enacting clause and substitute a provision confirming the Federal-State joint board procedures used in FCC Docket No. 18866. The FCC's agreement on this compromise legislation is reflected by its letters dated November 13, 1970, to Chairman Staggers of the House Committee on Interstate and Foreign Commerce and Chairman Magnuson of the Senate Committee on Commerce. A copy of the Magnuson letter is appended to this statement.

Unfortunately, the FCC and the NARUC arrived at this compromise too late to permit adequate Congressional consideration in the last days of the Ninety-first Congress.

Accordingly, H.R. 7048 was introduced by Mr. Rooney in this Congress to reflect the compromise legislation agreed upon by the FCC and the NARUC. H.R. 7048 proposes an amendment to the Communications Act of 1934 to provide that the FCC "shall refer any proceeding regarding the jurisdictional separation of common carrier property and expenses between interstate and intrastate operations" and "may refer any other matter, relating to common carrier communications of joint Federal-State concern, to a Federal-State Joint Board."

The Joint Board, composed of three FCC commissioners and four State commissioners nominated by the NARUC, would prepare a recommended decision on separations for prompt review and action by the FCC.

In addition, the State members of the Joint Board would sit with the FCC at oral argument, and they would have the opportunity to participate in the deliberations, but not vote, when the recommended decision or further decisional actions are being considered.

While the enactment of H.R. 7048 would require no expenditure of Federal funds, it would nevertheless provide important and long overdue protection for the American consumer.

The enactment of H.R. 7048 would provide a balanced approach in the future development of fair and equitable separations procedures which would result in relatively lower rates for the users of local telephone service.

Aside from the necessity for developing fair separations procedures, it is patently unfair for the FCC, which has jurisdiction over only 25% of Bell's property, to in effect exercise *sole* authority to determine how 100% of such property shall be separated between the Federal and State authorities for ratemaking purposes. The State commissions should have at least a minority voice in the making of such a determination, and such is the purpose of H.R. 7048.

We believe the long and difficult history of separations procedures clearly reveals the need for this legislation to benefit consumers.

As I mentioned earlier, the enactment of H.R. 7048 would provide statutory confirmation of the advisory Federal-State joint board used by the FCC in Docket No. 18866 to develop the "Ozark Plan" for the relief of local users.

In view of the continuing need for periodic review of separations procedures, we believe that it is very important for the joint board procedure to be expressly authorized by an amendment to the Communications Act since it provides an enlarged voice to the millions of local users across the Nation in the separation of telephone company costs between interstate and intrastate operations. Furthermore, the functioning of the board would not disturb the overall Federal superintendence of the field.

Without such an amendment, the FCC would be free to discontinue the board at any time. Such discontinuance could easily occur after any significant change in the membership of the FCC.

We believe that the compromise evidenced by H.R. 7048 is a major breakthrough in Federal-State relations in this long-existing and troublesome field of national concern.

We respectfully urge the Subcommittee to give prompt consideration to favorably reporting this bill.

Thank you for your attention.

APPENDIX

NOVEMBER 13, 1970.

Hon. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: This is in reference to S. 1917 the "Federal-State Joint Board Act of 1970" and the letter to you dated October 9, 1970 from the Honorable Francis Pearson, President, National Association of Regulatory Utility Commissioners transmitting a proposed amended version of that bill.

Under the proposed amendment, the bill would amend section 410 of the Communications Act of 1934, as amended, 47 U.S.C. Section 410, to provide for a Federal-State Joint Board to consider matters regarding jurisdictional separation of communications common carrier property and expenses between interstate and intrastate services. As in section 410(a) of the Act, the proposed section 410(c) would provide that the Joint Board's decision is the equivalent of and Examiner's Opinion in that it would "prepare a recommended decision for prompt review and action by the Commission."

The Joint Board would have seven members: three FCC commissioners, selected by the Commission and for State commissioners nominated by the national organization of the State commissions, and approved by the FCC. The Chairman of the FCC would be the Chairman of the Joint Board if he is on the Board. Otherwise, the full Commission would designate the Chairman of the Joint Board.

The bill would require that once the Commission institutes a proceeding pursuant to a Notice of Proposed Rule Making regarding jurisdictional separations it must refer the matter to the Joint Board. The Commission may, in addition, refer other communications common carrier matters of concern to both Federal and State governments to the Joint Board consistent with existing law.

When the Commission considers the recommended decision of the Board, or other orders of decisional importance regarding the separations proceeding, it must allow the State members of the Joint Board the opportunity to sit *en banc* with the Commission for oral arguments and deliberations. In order to retain federal superintendence in this field, however, the State members would not vote on the final decision.

As you have been advised, a similar procedure has recently been voluntarily followed under the present statutes. On May 20, 1970 the FCC adopted a Notice of Proposed Rule Making and Order convening Joint Board in Docket 18866, 23 F.C.C. 2d 465 (1970), In the Matter of prescription of procedures for separating and allocating plant investment, operating expenses, taxes, and reserves between the intrastate and interstate operations of telephone companies. The purpose of the proceeding was to consider changes in the separations procedures, but the Commission also convened a joint board under 47 U.S.C. § 410 to recommend the changes. The Board consisted of three FCC commissioners and four state commissioners nominated by NARUC. On August 6 the Board convened, and a week later it recommended proposed rule changes to the Commission. Shortly thereafter, the Commission issued a Further Notice of Proposed Rule Making in Docket 18866, 25 F.C.C. 2d 123 (1970) calling for comments from interested parties on the Joint Board's proposal (the so-called Ozark Plan). Finally, on October 28, 1970 the Commission adopted a Report and Order, —— F.C.C. 2d —— (1970) which adopted the recommendations of the FCC-NARUC Joint Board on Jurisdictional Separations. The revised procedure resulted in an additional shift of approximately $130 million in revenue requirements from intrastate to interstate operations.

Your committee was kept advised of developments as they arose during this period.

It appears that the proposed amendment would afford the state commissioners the opportunity to participate in proceeding which affect their regulation, while not affecting the responsibility and authority granted this Commission by section 221(c) of the Communications Act to determine what property of common carriers shall be considered as used in interstate or foreign telephone toll service.

In view of the foregoing the Commission supports enactment of the amended bill.

Sincerely,

DEAN BURCH, *Chairman.*

Mr. VAN DEERLIN. It is always hard to project the future, and of course you have got 50 different entities working within the organization which you are here to represent. You have indicated a great number of commissions which have in the past 2 years or less been compelled to grant rate increases on intrastate tolls. Would it be your guess that this legislation will help those commissions hold the line on future applications for local increases?

Mr. BLOOM. Yes; I think that the separations will help, because if the separations are done equitably there will be less rate base in the State portion of the plant and therefore there will be less money required, revenues required to give a reasonable return to Bell of Pennsylvania or any other of their subsidiaries.

Mr. VAN DEERLIN. I suppose in estimates of telephone use time, as recounted on page 7 of your testimony, that homes with teenagers were fed into the computer?

Mr. BLOOM. They were, but I know in some homes where they have teenagers they use it more than is indicated here. But they were fed in.

Mr. VAN DEERLIN. I can look ahead in the fullness of time to 23½ hours of idle time on our telephone.

Mr. BLOOM. I do not know how many teenagers you have, sir.

Mr. VAN DEERLIN. Less with the passage of time. Without sounding provincial, I hope, I would like to inquire into the position of the California State Commission on this proposal. I know that they have not always seen eye to eye with the——

Mr. BLOOM. Last year you will recall that they differed with the other 49 States on this original bill, but I am pleased to say that they have withdrawn their objection and I think in your records and files you will find a letter from the Commission in which they withdraw their objections to the present bill. So that now the 50 States are unanimous in support of this bill. Mr. Rodgers, our general counsel.

Mr. RODGERS. The purpose of the California objection is that the California Commission wanted a much stronger bill than this, because the bill the committee heard last year provided the State commissions would have a vote in final decisionmaking, whereas the bill that is now before the committee is merely an advisory board and the California Commission wanted a stronger bill. That was the point of difference.

Mr. VAN DEERLIN. But now we see a united front, and California has joined the rest of the Union on this.

I am happy to note that the Republican caucus has terminated and greatly increased the number representing this side of the aisle.

Mr. Brown?

Mr. BROWN. Not to mention the quality, Mr. Chairman.

The assumption of the caucus, however, was incorrect. I was testifying on a matter of great public importance in the Transportation and Aeronautics Subcommittee relating to the establishment of a Federal facility in Ohio in my congressional district, and I am sure you would want me to do my public duty in that regard. I will let the other gentlemen speak for themselves as to the reasons for their tardiness.

May I ask, Mr. Bloom and Mr. Rodgers, does this legislation provide for any prospective consideration by both local commissions and by the Federal Communications Commission, of matters that may in the future relate to the common carrier problems, such as the development

of CATV, or would it, if CATV wound up in a common carrier status be encompassed by this legislation?

Mr. BLOOM. I had better let Mr. Rodgers—but my own impression is that this deals with separations only, and that they must consult us under this act and form a joint board for separations. But they may form a joint board on any other subject that involves both the State regulatory bodies and the Federal Communications Commission.

Mr. RODGERS. Yes, sir. That is correct. This advisory board is mandatory in the case of separations, but permissive in all other cases, joint Federal-State concern in common carrier matters. So if CATV in the future were determined to be a common carrier, then this could have future application, if the FCC so chooses, to use this advisory board.

Mr. BROWN. Would it be appropriate under the legislation as you understand it for an advisory board to sit merely for joint consideration of policy development, rather than with reference to a specific problem, such as separation?

Mr. RODGERS. I think that it would be because it would have one phrase in there regarding permissive use in which the FCC could apply it in a very broad area, in areas of joint Federal-State concern. So I think it would apply to policymaking matters as well.

Mr. BROWN. It would cover NAI–CATV because it is the most prospective example at this time, but would it cover any developing common carrier circumstance, and not be limited to the existing common carriers as we know them now?

Mr. RODGERS. Yes, sir.

Mr. BROWN. Thank you, Mr. Chairman. That is all I have.

Mr. VAN DEERLIN. Mr. Byron?

Mr. BYRON. Could you just kind of fill me in a little bit on the theory for the different ratemaking procedures on the basis of the State, on the one hand, which regulates utilities on the basis of their own fair return investment, whereas the Federal Government is regulating the telephone company under perhaps a different basis?

Mr. BLOOM. Well, if no part of the plant were used in intrastate communication, then all of the plant would be on the interstate side and there would be no need for any separations at all. Vice versa, if the entire plant of a telephone company were used entirely on intrastate matters, local exchange, and intrastate calls, long-distance calls, then all of that would be a matter that would be charged to intrastate, the whole plant. But where the difficulty comes in, that part of the investment is used jointly, it is used for the benefit of interstate calls and intrastate calls. So the problem comes up, how much we separate that investment so that part of that investment is chargeable over into the rate base of the interstate system under the jurisdiction of the Federal Communications Commission and the other part over to the Public Utility Commission of Pennsylvania, we will take as an example, and put into the rate base in Pennsylvania for us to form a base upon which we determine how much revenue we shall allow the Bell of Pennsylvania.

Mr. BYRON. Could I be specific, because this recently happened in my own congressional district which takes in part of the community of Columbia, between Baltimore and Washington.

The C. & P. Telephone engaged in hearings to increase not only rates in the State of Maryland, but also to increase the differentials so that people who were on the fringes of the metropolitan area had to pay larger monthly charges for the use of their telephone into the major metropolitan areas. Are you saying that the Maryland Public Utility Commission could not take into account what C. & P. was making in effect on long-distance calls in determining this rate? That is not proper for a State utility commission?

Mr. BLOOM. No; I did not say that. I did not say they could not take into account, because there is a settlement made between A.T. & T. and the local Bell Co. on the long-distance calls, and there is a portion of it that goes back to the local revenues and counted in as revenues of your State Bell Co.

The same thing is true with your independents where it is made by an independent telephone company and used through the Bell systems. They get a settlement agreement where they get a part of that long-distance call charge.

Mr. RODGERS. To answer you a little differently, the plant and expenses of the Bell system are involved in rendering a total communication system. So for ratemaking purposes you have to separate between interstate and intrastate. The calls to the interstate calls go down, the the calls for the local calls go up. In order to keep this in balance as the technology develops it is important to put more and more of the expense and allocate more on the interstate side and that removes an economic burden from the intrastate side and therefore affords the State commission more flexibility at advising at better for the local users.

I am not familiar with the situation that you mentioned in Maryland. However, I take it there were rate increases which were unpopular in Maryland?

Mr. BYRON. No question about that, and also not only the flat rates, but they increased the differentials for those who were getting metropolitan service on a flat monthly rate. Suddenly this increased in some cases twofold.

Mr. RODGERS. Right. Well, if there had been more of the plant expenses allocated to interstate, then the increases in Maryland would not have to be as great as they were.

Mr. BYRON. This is more of an informational type thing than anything; is that what it is?

Mr. RODGERS. No; this advisory board would actually put more plant expenses in the long run on interstate calling, and more of the rate burden on interstate callers who are better able to absorb it.

Mr. BLOOM. Provided it was an equitable separation. We would not expect to try to stand up for separation that was absolutely unjust and inequitable and put it all over on interstate and a very small part of it on intrastate, because that would be just as unfair as what we think has been going on over the many, many years.

Mr. BYRON. Thank you, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Collins?

Mr. COLLINS. I am delighted to have Mr. Bloom with us. I was impressed with his testimony recently about powersites.

Mr. BLOOM. I hope I helped pass that regulation.

Mr. COLLINS. That is what I was talking about. The thing that impressed me is that in your own State, with all the problems up east, you have been making definite progress building up your own reserve. So I know you are not just a theory man, you get practical results.

On this particular bill I think it is good that you come here with both sides in agreement, which makes it fine for our committee. But one thought that comes up which my colleague from Maryland has raised is the question of practical implications of ratemaking, because all of us know that the pressure is always on to keep local rates down. We have this problem in my district just as well as in Maryland. Any time a telephone rate goes up, the situation is very sensitive. If the telephone rate goes up a dollar or two it is a major issue.

I wonder if we are going to be inclined to establish rates on the ability to pay rates rather than economics or accounting. You were talking about the practical applications as well as the accounting factors involved. Do you rely on the ability to pay in setting rates?

Mr. BLOOM. You cannot go on the theory of ability to pay.

Mr. COLLINS. But you rely on interstate because they are better able to pay?

Mr. BLOOM. Yes, but I do not think you can go entirely on the ability to pay. You have got to consider what the cost is and the investment and the cost of the service and try to balance it out. Perhaps you try to keep it down as low as you can. I know our commission has in mind that we would like to keep the local exchange rate as low as possible, so that everyone who wants a phone could have a phone. If we could keep that rate lower it means that so many more people can have phones and the fellows that want to make long-distance calls maybe would pay a little higher rate, but certainly the local exchange rate ought to be compensatory.

Mr. COLLINS. You would stay on an accounting basis for ratemaking. Let me ask one other thing. With inflation about 4 percent a year and the way we are spending down here, it looks like we might have 8 or 10 percent a year inflation. How do you determine what is a fair and equitable rate for the telephone industry to receive on investment, since this is a telephone bill?

Mr. BLOOM. You have to——

Mr. COLLINS What do you limit them to now in Pennsylvania?

Mr. BLOOM. There isn't any fixed rate, because it depends on each company, what their financial structure is. It depends upon how much bonded indebtedness they have, what percentage of that bonded indebtedness is to their whole financial picture, how much of it is equity and what is the embedded cost of their bonded indebtedness, their long-term debt. It is certainly a difference if they have old bonds out at 4 to 4½ percent interest, or their bonding is recent and they have got bonds out at 8½ and 9 percent or 9½ percent. So that you take the average and you average it and get the embedded costs of those bonds. And all of these things have to be considered, and then you determine how much the fair and reasonable return is. It might be 7 percent in one company. It might be 7½ in another. We had one telephone company not long ago that their bonded indebtedness was the—the embedded cost was 9 percent. It was all recent debt, and when you had a situation like that we had to give a higher rate of return and I think we went to about a little over 9 percent in that particular case. We had

to because they had to meet the interest-carrying charges and the ratio of bonded indebtedness that would be required.

Of course, you cannot stay at 6 percent that you used to consider as a reasonable return. Well, today 6 percent is hardly a reasonable return if they are doing any construction work or borrowing any money at 8½, 9, 9½, and we had one company at 10¼ percent on bonds, an outstanding company, a holding company that has utilities in New Jersey and Pennsylvania.

Mr. COLLINS. I am glad to hear about his practical economics. I agree. Thank you.

Mr. VAN DEERLIN. Mr. Frey?

Mr. FREY. Thank you, Mr. Chairman.

I was at a hearing about the shuttle, how it will be in Florida, which I am happy to hear about, too.

Mr. VAN DEERLIN. I thought it was going to be in California.

Mr. FREY. Well, it seems you just recently joined the union. Let me ask you a question about this. I sort of get suspicious, when both sides agree, that it might be a lousy piece of legislation.

Seriously, what do you see down the line, what is the biggest problem you see with this working together? It is obviously going to take some time to see if it will work out.

Mr. BLOOM. No, I think that we can work together, and I believe that there are many things at the State level that can be done better at the State level. I think that, as an example, gas safety under the regulations we have, if the States are left to do it under the supervision of your Office of Pipeline Safety, your railroad regulations, I do not think you can build up a bureaucracy here in Washington that can really take care of all of the needs and know the States and I think you can work out a relationship where a lot of these functions can be delegated back to the States to do a job at the State level under supervision and standards that are fixed as minimum standards that they must meet. That is what we have been trying to do, and I think it can work out right, provided that there are some grants-in-aid to encourage the State legislatures to match it so that you can get enough staff at the State level.

Some States, your State of California has a pretty good staff of people in their public service commission or public utility commission. New York has. Illinois has. We are a little short in Pennsylvania. We need more people. But if there was a little encouragement given to them, and they were required to match the grants-in-aid, you could build up a staff where much of the work could be done at the State level under the supervision and standards that were fixed here by the Office of Pipeline Safety or Railroad Administration or what-not.

I think in this case that you are asking about, I think we can work together. It has been demonstrated and we got along very well with Chairman Burch and the other members of the Federal Communications Commission and our four State legislatures, we got along very well.

Mr. FREY. Nothing else, Mr. Chairman.

Mr. VAN DEERLIN. All right.

Any further questions of Mr. Bloom?

(No response.)

Mr. VAN DEERLIN. Thank you, Mr. Bloom.

Is there anyone else at this time who wishes to be heard on the pending legislation?

(No response.)

Mr. VAN DEERLIN. Well, that ends it.

The subcommittee will now adjourn, and we will reconvene subject to call from the Chair.

Thank you very much, gentlemen.

(The following statements and letters were received for the record:)

STATEMENT OF DONALD V. TAVERNER, PRESIDENT, NATIONAL CABLE TELEVISION ASSOCIATION, INC.

My name is Donald V. Taverner, I am President of the National Cable Television Association, Inc. (NCTA). Our counsel is Gary L. Christensen, and any inquiries about the legal aspects of these comments should be directed to him at the NCTA offices, 918 16th Street, N.W., Washington, D.C. 20006; our telephone number is 466–8111.

NCTA is the only national trade association representing the cable television industry. NCTA has appeared numerous times on behalf of its members before federal and state agencies and legislative committees, in addition to representing its members' interests in the courts. It has been continuously concerned with matters related to the possible treatment of cable television (CATV) systems as common carriers.

It is our understanding that this bill, as presently written, is not intended to include CATV systems within its purview. We would, however, like to submit this statement in order to make our views known. The position of the NCTA is that the bill should exclude CATV systems from its operation because they are not common carriers, or that it be made clear that CATV systems operate exclusively in interstate commerce.

At the present time, the character of CATV systems is of a decidedly non-common carrier nature. A CATV system's principle activity is carrying television signals into subscribers' homes for a fee in order to improve reception of nearby signals and to bring in distant signals. Some systems also originate their own programming on one or more channels. Other potential services, such as two-way communications and public access channels, are not yet a common feature of CATV. The prime function of CATV, carriage of television signals, is clearly not a common carrier activity. The Federal Communications Commission has held that this is so, and its conclusion was upheld by the courts. *Philadelphia Television Broadcasting Co.* v. *FCC*, 359 F.2d 282, 284 (D.C. Cir., 1966); *United States* v. *Southwestern Cable Co.*, 392 U. S. 157 (1968). Furthermore, as the FCC's regulations governing CATV have developed over the years, they have clearly treated CATV systems like broadcasters, not common carriers. See 47 C.F.R. 74.1101–74.1131; *Second Report and Order* in Docket No. 15971, 31 F.R. 4540, 2 F.C.C. 2d 725 (1966). This characterization was accepted when the courts affirmed the FCC's jurisdiction over CATV. *United States* v. *Southwestern Cable Co.*, 392 U.S. 157 (1968). For example, Section 74.1101 defines a CATV system in terms of distribution of broadcast signals; Sections 74.1103, 74.1105 and 74.1107 relate to what broadcast signals a CATV system can and cannot carry; and several other rules make the general regulations applicable to broadcasting apply to CATV system program origination as well. Therefore it seems clear that CATV systems have not heretofore been considered to be common carriers either in contemplation of law or in the federal regulatory scheme. Furthermore, CATV systems are regulated like utilities in only four states (Connecticut, Nevada, Vermont, and Rhode Island). In addition, one other state, Hawaii, regulates CATV, although not as a utility.

It should also be pointed out that the FCC is presently looking into whether CATV systems should be required to provide certain common carrier functions on excess channels, what the proper roles of the federal, state and local regulatory bodies should be, and the relationship between CATV systems and communications common carriers. *Notice of Proposed Rulemaking and Notice of Inquiry* in Docket No. 18397, 15 F.C.C. 2d 417 (1968). And, in a very recent development, the President has appointed a high level task force to study long-range cable issues including the question of whether CATV is or should be a common carrier for regulatory and other purposes. See *Broadcasting*, June 28, 1971, p. 16; *Electronic News*, June 28, 1971. Thus, in addition to the present non-common

carrier nature of CATV systems, it would be premature for the Congress to include CATV in a bill of the sort under consideration.

Finally, I should like to note that CATV, as an adjunct to broadcasting, is clearly engaged in interstate commerce, even where reception and distribution of television signals is wholly intrastate. See *Federal Radio Commission* v. *Nelson Brothers Bond & Mortgage Co.*, 289 U.S. 266 (1933); *Idaho Microwave, Inc.* v. *F.C.C.*, 352 F. 2d 729 (D.C. Cir. 1965); *United States* v. *Southwestern Cable Co.*, 392 U.S. 157 (1968).

In sum, the bill under consideration should not apply to CATV systems as they presently operate, both because of their non-carrier nature and the type of regulation now in force. And, of course, this entire matter is being looked at in long range terms by the FCC and the White House.

The NCTA stands ready to render any further assistance which this subcommittee may desire.

U.S. INDEPENDENT TELEPHONE ASSOCIATION,
Washington, D.C., June 28, 1971.

In re H.R. 7048—Federal-State Communications Joint Board Act.

HON. TORBERT H. MACDONALD,
Chairman, Subcommittee on Communications and Power,
House of Representatives, Washington, D.C.

DEAR CHAIRMAN MACDONALD: The United States Independent Telephone Association (USITA), a trade association representing the Independent (non-Bell) segment of the telephone industry, endorses the concept of the Federal-State Communications Joint Board in H.R. 7048. We would like to have our support made a matter of record in the hearings you are currently holding.

In 1969 when somewhat similar legislation was pending in the Congress, the USITA Executive Committee and later the USITA Board of Directors instructed this office to make known its endorsement of legislation providing for a Federal-State Communications Joint Board. Even though there was extensive review in the 91st Congress, legislation was not passed. Your current hearing in the 92nd Congress is the first opportunity to express our support.

The Independent segment of the telephone industry consists of 1,800 telephone companies in 48 states serving 21 million telephones in over one-half the geographical service area of the United States. Our companies for the most part are regulated by state regulatory commissions. Local service rates are generally established on a company by company basis as a result of tariffs filed before state regulatory commissions. On message toll rates, however, our companies concur in Bell affiliated company toll tariffs because of the desirability of nationwide uniformity. Rates for interstate toll messages are set by the Federal Communications Commission (FCC) in Bell (AT & T Company) rate cases. Also, the FCC has established not only rates but procedures and regulations covering separations of interstate-intrastate plant without regard to the effect upon our state regulated companies.

Our companies find themselves with 30 to 40 per cent of their revenues coming from a source (message toll) over which they have no influence on rates. Our companies operating in the rural and suburban areas have many customers who feel the reduction of the interstate message toll rates and the increase in local service rates to meet the total revenue requirement has favored big business at the expense of the small user.

In addition, the FCC separations procedures have created toll rate disparities between interstate and intrastate message traffic of similar distances. All but two of our states have higher intrastate toll rates than interstate rates. The public finds it difficult to understand why it costs more to make an intrastate call of the same distance than it does for a similar interstate call.

In 1970 considerable progress was made in FCC regulation under an informal Federal-State Communications Joint Board. The so-called "Ozark Plan" was formulated, supported and approved in late 1970. Chairman Burch of the FCC in October 1970 stated: "Our cooperative efforts with the (NARUC) to resolve the current telephone separations problems have produced a most successful result." Under other circumstances and perhaps other chairmen an informal board may not be available.

USITA believes there should be legislative recognition of the Joint Board concept. It has proven successful over a reasonable trial period. It offsets to a considerable extent the imbalance that exists between Federal and state regulatory responsibility. Apropos of this imbalance are comments of the NARUC President

who appeared before your Subcommittee on February 24, 1970: "Under this division of regulatory responsibility (State-Federal), the FCC regulates approximately two and one-half billion interstate long distance toll calls a year and the State Commissions regulate approximately 147 billion intrastate toll and local exchange calls a year. In terms of plant investment, the FCC exercises jurisdiction over approximately 25 per cent of Bell System plant while the State commissions exercise jurisdiction over the remaining 75 per cent and over *virtually all* of the plant of the Independent telephone companies." (Italics added.)

Our Association strongly urges a favorable report on H.R. 7048 by your Committee and hopes for ultimate passage by Congress.

Sincerely yours,

WILLIAM C. MOTT,
Executive Vice President.

RCA GLOBAL COMMUNICATIONS, INC.,
Washington, D.C., July 7, 1971.

HON. TORBERT H. MACDONALD,
Chairman, Subcommittee on Communication and Power of the Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MACDONALD: We greatly appreciate this opportunity to submit our comments with respect to H.R. 7048, the Federal-state Communications Joint Board Act, on which your Subcommittee recently held hearings.

RCA Alaska Communications, Inc. and RCA Global Communications, Inc. have reviewed H.R. 7048 and fully support its objectives. We agree that close federal and state cooperation is essential in the area of telephone separation procedures. However, we note that a great deal has been said by some supporters of H.R. 7048 (and S. 1917, 91st Congress, 1st Session) to the effect that the states should be permitted through the use of separations procedures to increase the burden on interstate telephone users in order to hold down local telephone rates.

In this connection the Subcommittee's attention is invited to the principles land down in *Smith* v. *Illinois Bell Telephone Company*, 282 U.S. 133 (1930), to the effect that "actual use" and "relative use" must be the guidelines in separating costs between state and interstate operations.

The average cost of a local telephone call is not very far from the ten cents commonly paid from a pay station. Yet, when these identical local facilities are used to make an interstate long distance call, local companies frequently receive fifty cents and upward to a dollar or even more. In fact, some local companies have been known to claim several dollars per interstate call. Thus, some supporters of a strong state-dominated Joint Board make clear their desire to increase further the payments to the local companies at the expense of interstate users.

This would in our opinion constitute a gross departure from the relative use principle laid down by the Supreme Court. Clearly the departure would place an undue burden on interstate commerce by forcing the interstate user to pay far in excess of the amount the relative use principle demands.

Surely few would insist that in principle interstate shippers should pay in excess of their relative use of railroad cars or tracks or that interstate bus passengers should pay in excess of their relative use of bus capacity. Neither should interstate telephone users.

In view of the hearing record in H.R. 7048 (and the Senate Bill before the 91st Congress, S. 1917), we believe that the Subcommittee should be fully aware of these aspects of the separations problems while considering H.R. 7048.

Sincerely,

LEONARD W. TUFT,
Vice President.

(Whereupon, at 11:05 a.m., the hearing was adjourned.)

○