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IRREGULATORS BIG WIN: We Freed the States to Get the Money Back from AT&T, Verizon & CenturyLink

(This is similar to the DC Circuit decision that freed Net Neutrality from the FCC's control to become a state issue.)

- We got the decision that we wanted—billions of dollars per state can now be freed to solve the Digital Divide, lower prices and bring in competition.
- All wireless cross-subsidies can be stopped -- 5G is no longer profitable.

[IRREGULATORS v FCC](#): DC Court of Appeals Decision, March 13th, 2020

WE CAN NOW TAKE THE NEXT STEPS

WHAT WE NEEDED TO FIX: Unknown to most, [AT&T](#), Verizon and CenturyLink control [America's telecommunications utilities](#), and over the last decade they have used the FCC's accounting rules and formulas to charge the majority of all company-wide expenses to the local wired state-based telecommunications utilities, while the other services that are also using the same wired copper and fiber utility facilities, like broadband, internet and wireless, do not pay their fair share.

This financial shell game has made the entire state-based utility infrastructure appear unprofitable and they have relied on these distorted financial results to argue that they cannot upgrade rural areas or even inner cities, and it has been used to justify local rate increases multiple times, as well as save billions in taxes. More importantly, it is also the excuse to "shut off" the wired networks and go wireless with 5G.

Over the last five years we filed more than 18 [separate pleadings and reports](#) to stop the continuing use of these obsolete and now deformed rules. The FCC refused to take action, claiming that the rules didn't apply, even though the companies still use them and the state commissions still accept them to the detriment of utility customers.

We brought this case to expose one of the largest accounting scandals in American history and to get a decision by the U.S. Court of Appeals - D.C. Circuit—and we won. The Court made clear that the FCC does not have control over the state accounting and the states are free to adopt new regulations. This also allows the states to go after the billions in cross-subsidies and overcharging that has been costing America an estimated \$50-60 billion annually.

This is one of the largest victories for consumers in recent years. The states now clearly have the authority to pick up the mantle and act to narrow the Digital Divide, promote

Digital Inclusion, lower prices, bring in competition and end the cross subsidization of 5G by the public utility. And it provides a national broadband plan which is not funded by government subsidies but by dismantling this financial shell game.

This is a partial list of what this decision means going forward:

- **[IRREGULATOR Treasure Map: Billions for Broadband in Your State and Refunds on Your Communications Bills.](#)**
- **We help to take down the billions in Corporate Operations overcharging:** In NY, Verizon Local Service was overcharged an estimated \$1.5 billion dollars a year for the corporate jets, the executive pay, and the lawyers and lobbyists pushing anti-customer agendas. Now a state can now stop the billions of dollars in unrelated expenses that has been put into local service and caused rate increases.
- **We help to take down billions in tax losses:** Today, the state utility pays the majority of expenses, even if it has nothing to do with Local Service. In NY, Verizon has been showing artificial losses of \$2 billion annually. The states can stop the cross-subsidies and let these companies pay their fair share of taxes.
- **All subsidies to wireless can now be stopped by the states:** The states are free to stop the cross subsidies where the fiber optic networks are being built for the benefit of the wireless company, instead of properly upgrading cities and towns, especially in more rural areas.
- **[5G Is Not Profitable Once We Do This.](#)**
- **We take down the 75-25% rule with this decision:** Today, 75% of the costs of the wired network expenses (even for wireless, broadband and internet) are dumped into 'local service'; wireless and these other services got a free ride -- Not anymore. The states can come up with their own allocation factors.
- **We just lowered prices billions of dollars if the state decides to go after the money:** After all of this shell game is exposed and removed, a state can make the price be 'incremental' -- and it can decide that local service and the wired networks should only be based on the actual costs, and not made up expenses.
- **We now present billions in new found cash to solve the Digital Divide:** Removing this long standing shell game means billions can now be properly allocated to build out the wired state-utility infrastructure for broadband to EVERYONE in the state.
- **Cities can now build out their networks.** [NYC's Master Internet Plan](#) to solve the Digital Divide requires government funds and never held Verizon NY accountable. The City of New York, like all cities across America trying to get a digital future for every citizen, should have examined the financial cross-subsidies that were exposed in this case and the bait-and-switch funding for wireless. Now, NYC can go after the money and provide a fiber optic future to everyone.

NOTE: We lost this DC Court decision on standing: Since the rules don't apply, we can't be harmed. We now have clarity about these cost accounting rules. The states are free to do what they want. Our strategy in bringing this case was to secure a definitive answer about the rights of states vs the control by the FCC over the financial accounting.

The Court made it clear that the states are independent from the FCC and from the application of the federal accounting formulas known as “Part 36”.

"This means that any injuries the petitioners suffer through the application of outmoded Part 36 rules to price-cap carriers are traceable not to the Commission's freeze order but to the states' voluntary and independent decisions to use the rules of Part 36 for their own purposes." [\(PAGE 9\)](#)

“Price Caps” Need Investigation and Repair: AT&T et al. and the states may say: "We are under price caps and the utility expenses are no longer examined."

ANSWER: The States can now go back, do the audits, and stop the financial shell game. “Price caps” is a form of regulation that was supposed to keep prices capped and reasonable, which never worked. This was to increase the companies' profits, which were supposed to be used to replace the existing copper wires with fiber optics—and that never happened. Instead, using the FCC's corrupted formulas, it allowed for this massive overcharging. Prices are no longer ‘just and reasonable’ when you can charge local phone customers to build the wireless networks or pay for the corporate jets.