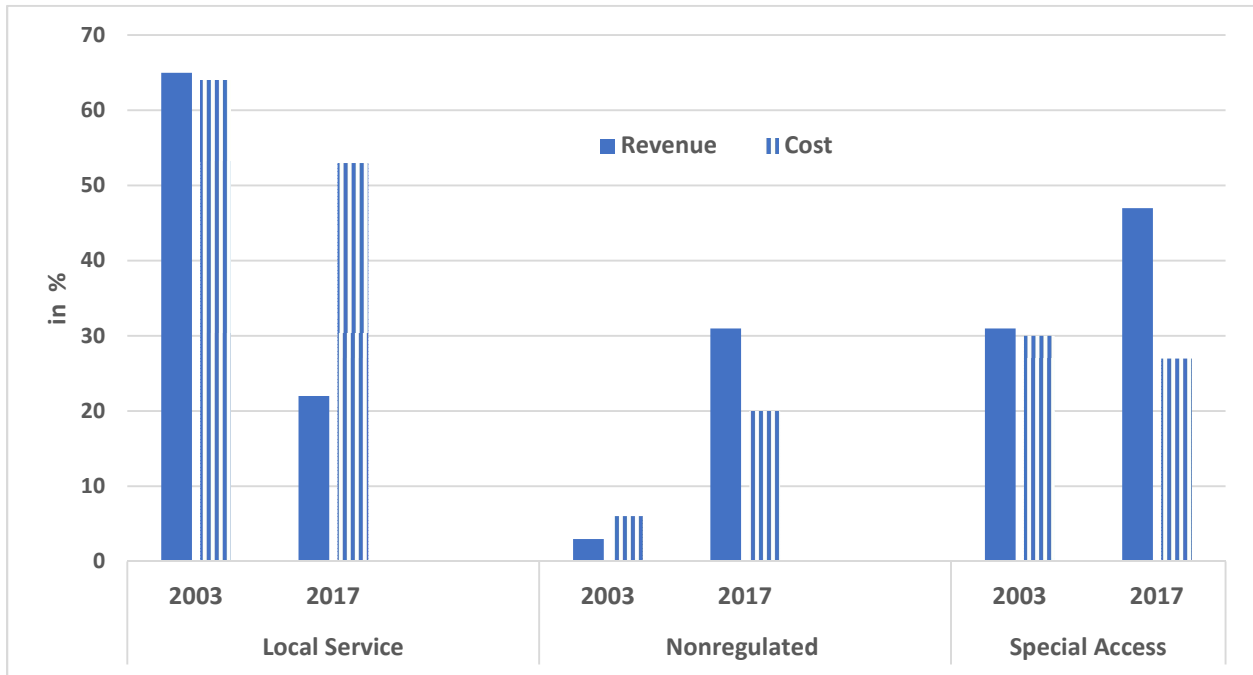


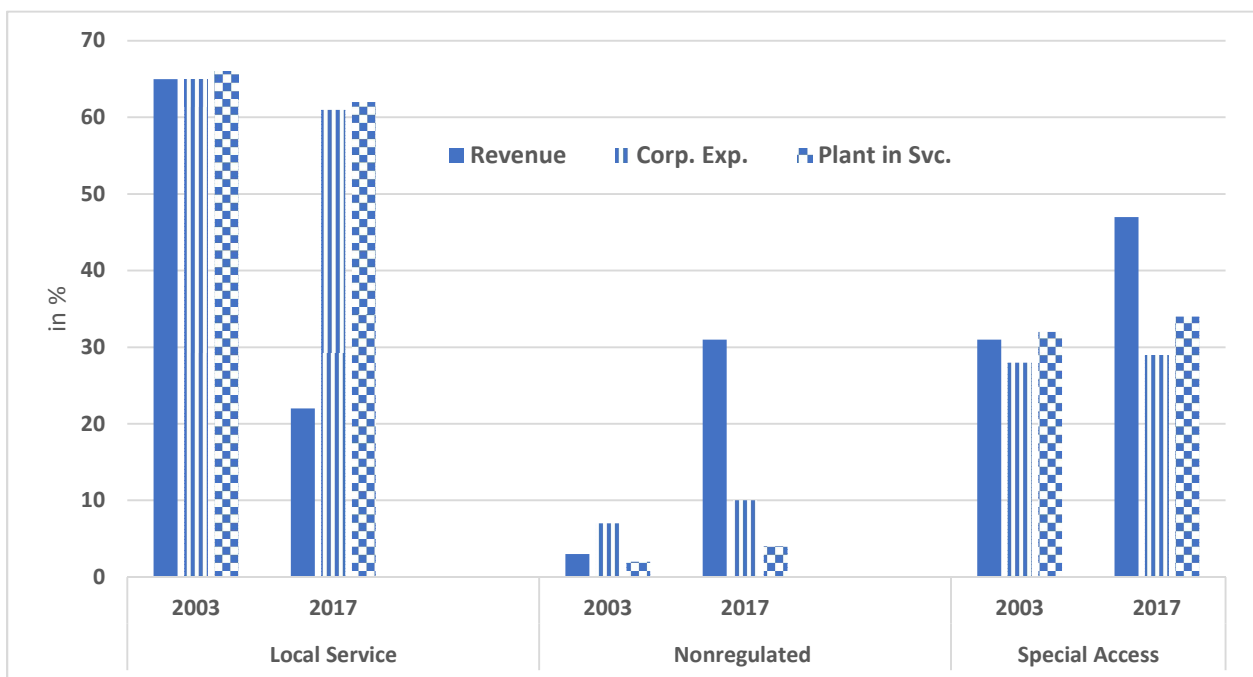
EXHIBIT 1: A ROAD MAP TO THE FCC’S FRAUDULENT ACCOUNTING RULES AND THEIR IMPACT ON CONSUMERS AND COMPETITION

A. The Problem: Two Decades of Frozen Cost Allocation Ignoring the Transformation of the Communications Sector

Revenues and Total Expenses



Revenues, Corporate Operations and Plant in Service



B: The Result: Misallocation of Costs, Anti-Consumer Local Rate Increase, Excess Profits and Anticompetitive Price Squeezes on Wireless

New York Annual Financial Report of Verizon (Figures in %, except Access lines)

	2003			2017 (recent)			
	Special Access	Non Regulated	Regulated Local	Regulated Local	Special Access	Non regulated	
Revenue	31	3	65	↔ 22	47	31	} Cost Misallocation
Total Expenses	30	7	64	↔ 53	26	20	
Corporate Ops.	28	7	65	↔ 61	29	10	
Plant in Service	32	2	66		34	4	
Depreciation	32	5	66		32	5	
Local lines (millions)			10.2		1.9		
Expenses per Access Line							
Total			\$0.04		\$1.11		
Plant Specific			\$182**		\$792		

Impact

Local rate increases⁹
180+%

anti-competitive wireless price squeeze¹⁰
180+%

Rate of XS Profits¹¹
25%+

Sources: Data: Annual Verizon New York State Financial Reports, Discussions can be found in: “Comments of the Irregularators,” *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, Before the Federal Communications Commission, CC Docket No. 80-286, April 17, 2017, and the numerous documents cited therein. Mark Cooper, “Business Data Services After the 1996 Act: The Failure of Potential Competition to Prevent Abuse of Market Power in the Core Service of the Digital Communications Network,” *Telecommunications Policy Research Conference*, September, 2017; Consumer Federation of America; Comments of the Consumer Federation of America and the New Networks Institute, WC Docket No. 16-143, *et al.* (filed June 27, 2016).

⁹ Verizon New York, *Annual Reports*, 1998-2017, base estimate without taxes and some other fees.
¹⁰ “Comments of the Consumer Federation of America and the New Networks Institute,” *In the Matter of Business Data Service in an Internet Protocol Environment, Investigation of Certain Price Cap Local Exchange Carrier Business Data Service Tariff Pricing Plans, Special Access for Price Cap Local Exchange Carriers, AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, before the Federal Communications Commission, WC Docket No. 16-143, 15-247. 05-25, RM-10593, June 27, 2016, p. 22.
¹¹ Excess EBITDA as a % of total Consumer Bill, Mark Cooper, *Overcharged and Underserved*, Consumer Federation of America and Public Knowledge, December 2016, p. xiii.

This data supports the conclusion of my affidavit in the standing phase of this case, which read as follows:¹²

1. Petitioners hope to convince the court on the merits that the Freeze Order is illegal and there must be a timely and more realistic, 21st century separation of costs between the intrastate and interstate jurisdictions. The result would move costs from intrastate to interstate, and then ultimately costs should, would or perhaps might be reallocated between interstate services to better match how these higher interstate costs are incurred to provide each service. Then serious inquiry can be made at the state and federal level whether some of costs that are presently recovered from basic services are more properly attributed to competitive services or affiliated concerns.

2. Predicting how that will come out in the end is difficult, but one thing is certain: **any** separation reform will be far better and more favorable to consumers and competitors than is the case under the current “frozen” regime.

A. The true rate to which basic local service and legacy copper plant will be revealed. Basic ratepayers may yet actually receive some benefit from the immense amounts they were forced to fund for fiber that either did not get deployed or actually used to provide services to the residential mass market.

B. States that still regulate local rates will be able to lower them to more just, reasonable and cost-based levels.

C. States that have shifted to some form of price cap will be in position have to adjust the caps in recognition of the dramatic reduction in costs.

D. States that have deregulated will be under immense pressure to lower rates so that consumers enjoy at least part of the benefit of correcting the misallocation error.

E. At the federal level, the FCC will finally be confronted with the problem it created. The companies will want to raise interstate rates to cover the costs that have been illegally relegated to the intrastate jurisdiction. In the proceeding that follows reallocation of jurisdictional costs, the FCC will be forced to comply with the 1996 Act.

F. Timing is important, and a six-year delay will be fatal. Ratepayers will soon be called upon to fund another round of network upgrades to support wireless 5G. The required investment will rival or exceed the amounts dedicated to recent upgrades to digital and fiber plant. The FCC may be content with doubling down on the past misallocations and abuses, but the states are likely to disagree. From a ratepayer perspective a course correction after six years will be much more difficult, if not impossible.

The reply brief of the Irregulators makes it abundantly clear that the stakes for consumers are huge

Petitioners did “explain how ending the freeze would alleviate alleged misallocations” and “alleviate their purported injuries....” For example, Petitioners’ ... listed the harms inflicted by the freeze and contended that

¹² Affidavit of Mark Cooper in Support of Standing, The Irregulators, New Networks Institute, Bruce A. Kushnick, Mark N. Cooper, Tom Allibone, Kenneth Levy, Fred Goldstein, and Charles W. Sherwood, Jr., Petitioners v. Federal Communications Commission and United States of America, Respondents, Petition for Review of Order by the Federal Communications Commission, United States Court of Appeals District of Columbia Circuit Case No. 19-1085.

extending the freeze would maintain “massive financial cross-subsidies, rate increases, massive financial losses that save billions in taxes....”

Expiration would lead to lower intrastate cost burdens and rates for rate-of-return carriers. It would also reduce interstate switched access rates....

updating separations to reflect current jurisdictional use would transfer billions of dollars in cost responsibility from the intrastate jurisdiction to the interstate jurisdiction. Intrastate price-cap “exogenous” adjustments would reduce intrastate prices, especially for intrastate retail basic local service. Rate-of-return carriers’ intrastate rates would also go down. If the freeze expires *all carriers* will have to update separations factors and category relationships to better reflect current jurisdictional use. Rate relief will follow.

Rate-of-return carriers’ allocation to interstate End User Common Line (paid by consumers) and interstate carrier common line switched access (paid by the consumer’s toll provider) would go down. On the other hand, allocations to special access service (BDS) would increase. Rate-of-return carriers would be required to adjust those rates accordingly. Going forward, no LEC could use the current jurisdictional cost misalignment to engage in anti-competitive affiliate transactions or subsidize wireless service build-out, including 5G. Consumers would benefit, competition would benefit and pricing would become more rational. That would “help.”¹³

The recent Network Neutrality ruling, adds even more fuel to the fire.¹⁴ Everyone lost something important in the case and the bases for winning and losing only increases the level of dispute. By citing the broad agency flexibility (Chevron Deference) and restricting Federal authority (questioning preemption) the court decision guarantees another round litigation and debate, with the state and local aspect much more important.¹⁵ Thus, our effort to overturn the frozen separation factor, which is largely a state issue (i.e. moving costs out of the intrastate jurisdiction and shift cost recovery away from regulated local service, dove tails with the next round of debate over network neutrality. The powerful qualitative issue of discrimination by network owners can now be married to the equally powerful pocketbook issue of the misallocation and over-recovery of costs.

¹³ “Reply Brief for Petitioners The Irregulars Et al *pp.* 29-31.

¹⁴ United States Court of Appeals for the District of Columbia Circuit, No. 18-1051, Mozilla Corporation, Petitioner V. Federal Communications Commission and United States of America, Respondents City and County of San Francisco, Et al., Intervenors, Decided, October 1, 2019

¹⁵ The irregularator reply brief, cites the network neutrality decision repeatedly on this point.