



# NARUC

*Serving the consumer interest  
by seeking to improve the  
quality and effectiveness  
of public utility regulation  
in America.*

## ***NARUC's Contribution to Progressive Regional Regulation***

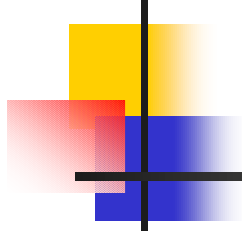
Presentation to  
International Telecommunication Union

**Bob Rowe**  
**President**

**National Association of Regulatory Utility Commissioners**

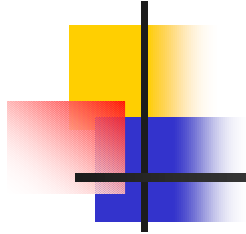
[browe@state.mt.us](mailto:browe@state.mt.us)

# ***NARUC Resolution Supporting the ITU Regulatory Global Dialogue Initiative***



- WHEREAS, The International Telecommunication Union (ITU) concluded its first world symposium for national communications regulators in November 2000 in Geneva, Switzerland; and
- WHEREAS, The ITU launched the Development Symposium for Regulators in an effort to strengthen Regulators around the world; and
- WHEREAS, Regulators around the world are striving to bridge the digital divide by working to ensure that the new competitive industry framework is implemented in such a way that serves the best interests of consumers; and
- WHEREAS, Regulators capitalized on the opportunity provided by the Symposium to begin exchanging information and experiences on key regulatory issues; and

# ***NARUC Resolution Supporting the ITU Regulatory Global Dialogue Initiative, cont.***



- WHEREAS, During the closing session, participants endorsed a continuing global regulator's dialogue by embracing four initiatives: to identify a focal point responsible for coordinating the exchange of regulatory experiences with other regulators, to create a website for the exchange of regulatory and policy experiences, to establish a regulator's hotline to provide rapid responses to urgent regulatory issues and to hold an annual global regulators meeting; *now therefore be it*
  - RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC) convened in its 2001 Winter Committee Meetings in Washington D.C., supports the continuation of a global regulator's dialogue mechanism as outlined by the ITU and encourages participation beneficial to the NARUC membership; *and be it further*
  - RESOLVED, That the NARUC designate that the Committee on International Relations be responsible for coordinating with the ITU the exchange of regulatory experiences with other regulators.
- Adopted by the NARUC Board of Directors, February 28, 2001.*



# *Overview*

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- NARUC as regional model and source of support
- Elements of effective regulation in changing markets
- Changes in U.S. regulatory bodies
- Overview of United States “cooperative federalist” approach
- Example of state-to-state cooperation on opening local market to competition
- U.S. academic support programs



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***NARUC - a vehicle for  
United States and  
international coordination  
and support***



# Who We Are

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- The National Association of Regulatory Utility Commissioners (NARUC) is a national association composed of:
  - Multi-sector regulatory commissions in the 50 states, District of Columbia and U S territories.
  - 23 national regulatory commissions from around the world.



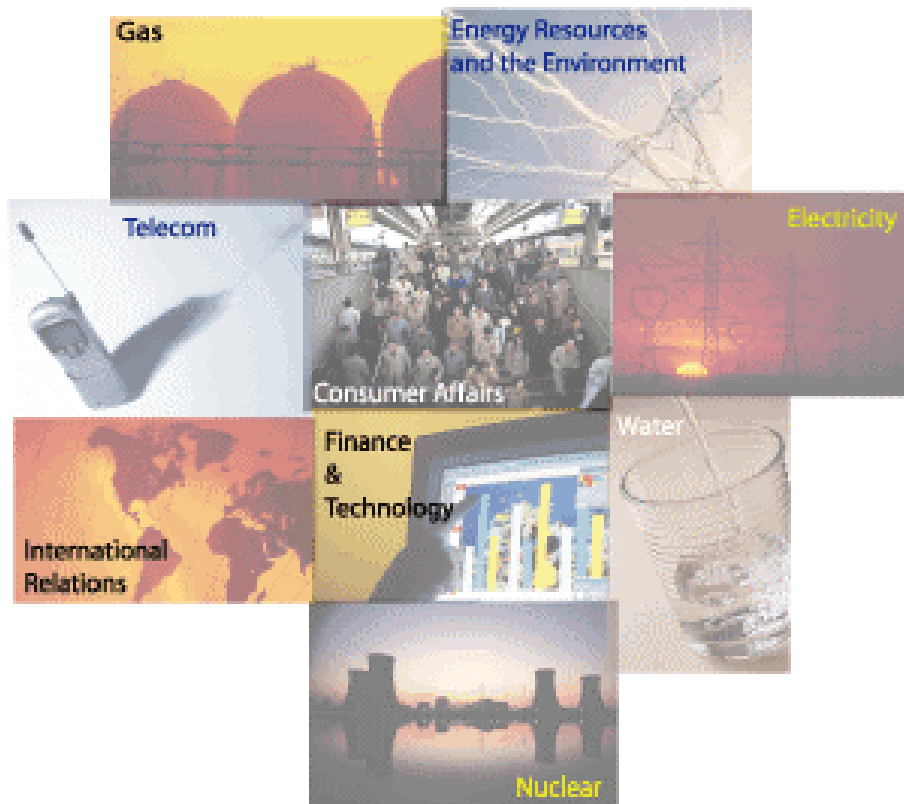
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# What We Do

## Regulation of Utilities

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- Research
- Training
- Policy development
- Advise on Regulatory Legislation and Policy
- On-Line Communication
- International Committee
- Sector committees
- New Commissioners' tutorial



# *NARUC Mission Statement*

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“The Mission of the NARUC is to help its members promote and protect the public interest in the provision of utility and other public services.”





## *NARUC's Goals*

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- “NARUC will increase its federal and international influence and visibility.”
- “NARUC will provide information and other assistance to members regarding policy, market and technology developments associated with changes in the regulated industries.”



## *NARUC's goals*

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- “NARUC will respond effectively and in a timely fashion to changing market and political conditions”
- “NARUC will provide a forum for airing state commission positions for the development of policies, seeking consensus wherever possible”
- “NARUC will maximize member participation in the association”



# *NARUC's Telecom Experience*

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- Regulatory enforcement
  - Pricing and tariffs
    - Rate rebalancing
    - Price caps
  - Promoting competition
  - Interconnection arbitration standards
  - Consumer protection and education
  - Service quality
  - Technology deployment
  - "Universal Service" implementation



# *Service Quality*

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- Consumer Services Standards and Monitoring
  - H/R Development and Training
  - Consumer Information Resources
  - Establishment of Database and Reference Center
  - Billing Issues





# *Regulatory Focus*

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- Building Regional Capacity
  - Training Programs
- Defining the Role of the Regulator
- Strengthening the Institutional Framework
  - Legislative
  - Enforcement

# *NARUC's Global Connections*



[www.narucintl.org](http://www.narucintl.org)



# *Regional Energy Regulatory Program for Central Eastern Europe/Eurasia*

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Director of International Programs– Erin Skootsky  
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Program Officer - Tatyana Kramskaya  
[tkramskaya@naruc.org](mailto:tkramskaya@naruc.org)

Website

[www.narucintl.org/CEE-NIS/index.htm](http://www.narucintl.org/CEE-NIS/index.htm)



## *Origin of the Program*

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- October 1998, NARUC enters 3-year cooperative agreement with the US Agency for International Development
  - coordinate information exchange among new energy regulatory bodies in Central and Eastern Europe and Eurasia (CEE/Eurasia) and
  - support the region's energy regulatory bodies in formalizing their relationship and establishing a voluntary association





## *Participating Countries*

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- 15 countries in the targeted region have independent energy regulators: Albania, Armenia, Bulgaria, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyz Republic, Latvia, Lithuania, Moldova, Poland, Romania, Russia, and Ukraine
- Energy officials from the Czech Republic, Macedonia, Croatia, Slovakia and others also participate in select activities as observers.



# *Program Activities*

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- Technical Meetings for the Tariff/Pricing Committee, Licensing/Competition Committee, Export-Import Working Group, and Steering Committee on Regional Association
- 4 Annual Conferences
- Newsletter (in English and Russian) with updates on regulatory activities in each country
- 25 attendees at World Energy Forum
- Energy Regulators Regional Association (ERRA) now chartered.
  - Secretariat in Budapest, Hungary
  - Moving toward sustainability.
  - NARUC now also an ERRA member

# *International Regulatory Cooperation Project*



D.C. Public Service Commission  
Florida Public Service Commission  
Illinois Commerce Commission  
Iowa Utilities Board  
Kansas Corporation Commission  
Kentucky Public Service Commission  
Maine Public Utilities Commission  
Maryland Public Service Commission  
Massachusetts Dep. of Telecom-s/Energy  
Michigan Public Service Commission  
Minnesota Public Utilities Commission  
Public Utilities Commission of Ohio  
Oklahoma Corporation Commission  
Oregon Public Utility Commission  
Pennsylvania Public Utility Commission

India  
Brazil, Dominican Rep-c  
Kazakhstan  
Brazil  
Guatemala  
Armenia  
Romania, India  
India  
India  
Republic of Georgia  
Philippines  
Ukraine, India  
Georgia, Ukraine  
Brazil  
Ghana



# *Other NARUC international efforts*

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- World Forum on Energy Regulation (May 2000, co-sponsored with Canadian regulators)
- Establishing cooperative relationships with DOE and the World Bank to provide assistance to regulators in Africa, Latin America and Asia
- NARUC Grant Programs fund studies of interests to State and Federal Regulators
- In country consultations on telecoms regulation (e.g., Russia Federation, Republic of Georgia)
- Twice yearly consultations with Council of European Energy Regulators (CEER).



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***Elements of effective  
regulation in changing  
markets***



# *Forces driving change*

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- Privatization
- Globalization
- Technology
- Policy preference for market-based approaches
- Need for critical infrastructure investment
- Legislative intervention
- Eroding consent of the regulated
- Power shift from suppliers to some customers, especially larger customers
- Development of new forms of decision-making
  - Disenchantment with litigation.



# *Elements of effective regulation*

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- Transparency of process and reasons for decision
  - Does multi-member board help?
- Neutrality between parties
- Professionalism
  - Understand technology and economics
- Independence from utility management
- Independence from rest of government
  - Employment processes
  - Budgeting
- Judicial review
- Understanding of informed public and decision leaders



# *Barriers to effective regulation*

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- Limited legal authority
  - Mismatch with markets
  - Access to information
  - Ability to structure remedies
- Limited resources
  - Budgetary
  - Personnel
  - Investigative
  - Technical and economic analysis
- Limited political legitimacy



# "Unbundling" regulation

## Form

- Contested case Tariff
- Rulemaking
- ADR
- Contract
- Implicit consensus

## Retail Rates

- \*Rate base/  
Rate of Return
- \*AFORs \*Price cap

## Forum

- Agency
- Court
- Standards body
- Private dispute resolution

## Customer

- Customer education
- Consumer protection
- Retail service quality

## Universal Service

- Customer support – Low Income
- Loop support – High Cost Fund
- E911 \* Schools & libraries \* Rural health care

## Wholesale

- \*Rates \*Terms \*QOS \*Numbering \*Spectrum
- \*Interconnection/UNE /resale \*Structural/non-structural safeguards

- General consumer law\*Uniform Commercial Code\*General contract law\*
- \*Anti-trust \*Common law

**"State of nature" – Hobbes vs. Rousseau**

# *Post-privatization issues*

- Legal & regulatory environment
  - Jurisdictional issues
  - Property rights
  - Commercial infrastructure
  - Enforcement
- Social impact of sector restructuring
- Enabling environment





# *The enabling environment*

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- Government controls
- Unpredictable government policies
- Lack of information
- Lack of support institutions
- Investment and sources of financing
- Ability to absorb technical assistance

# *Competitive markets*

- Transition from monopoly to competitive environment
- WTO compliance
  - Anti-competitive practices
  - Licensing
  - Scarce resources
  - Transparency
- Establish regulatory framework to encourage competition





# *Sector performance issues*

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- Income levels
- WTO/EU accession
- Public policy & regulation
- Access in rural areas
- Capital market development



# *Decision tree for designing a new structure*

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- What values underlie the work?
- What needs to be done (objectives)?
- How should it be done, most consistently with the underlying values?
- Who should do what needs to be done?
- Feedback - How will we know when we do not need to do something anymore, do less of it, or do it differently?



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## ***U.S. commission restructuring***



# *Commission restructuring*

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- 1995/1998 National Regulatory Research Institute/NARUC Summits
- Organization Transformation: Ensuring the Relevance of Public Utility Commissions (February 1998)
- Missions:
  - Core customer protection
  - Social goals still important, harder to achieve
  - Service quality more important
  - Foster customer-driven environment
  - Consumer education, often in cooperation with other entities





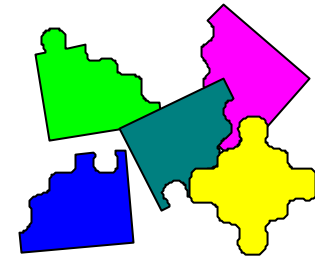
# *Commission restructuring --*

*continued*

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- Strategies

- Market analysis - competitive services, monopoly, emerging, anticompetitive practices.
- ADR, structured negotiation, flexibility.
- Outreach, workshops, collaboratives.
- Stranded cost issues (esp. energy).





# *Commission restructuring --*

*continued*

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- Implementation steps
  - Resource constraints increasing.
  - Advisory staff crucial.
  - Ex parte rules for commission staffs may need review.
  - Changing mix of commission skills and attitudes.
  - Multi-state cooperation.



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***U.S. “cooperative  
federalist” telecoms policy***



# *1996 US Telecommunications Act goals*

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“To provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.”

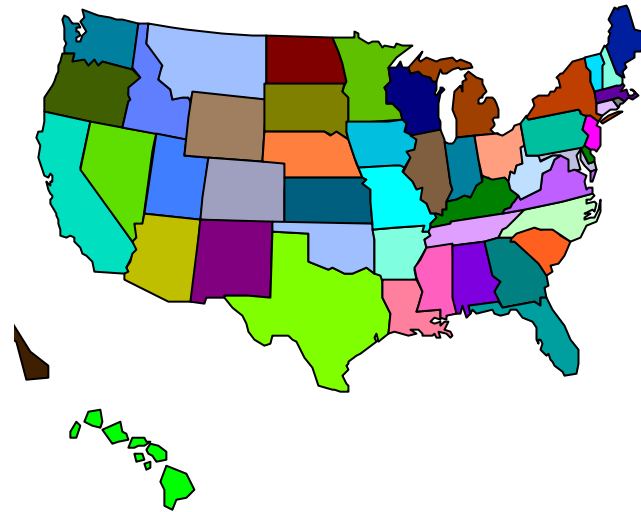
*Conference Report*

- Open markets
- Support introduction of advanced services
- Maintain universal service - and - *let's not forget* -
- Consumer protection

# *Telecom Act of 1996*

## *- State commission duties*

- Interconnection
  - Prices
  - Terms
  - Facilities
  - Enforcement
- Advanced services
- Promoting competition
- Maintaining and advancing universal service
  - Antithesis of competition, or basis for some competition?
  - ED/CD opportunities and approaches
- Protecting customers of monopoly and competitive services
  - Traditional methods still useful
  - New methods required





# *Federalism - US states as vehicles of national policy in 1996 Telecoms Act*

- Old – “dual federalism”
  - Section 2(b) reservation of intrastate rate and service authority
  - Jurisdictional separations
- New – “cooperative federalism”
  - 253 preemption of state/local barriers to entry
    - (d)(3) allows consistent state/local policies
  - 2(b) retained
  - States revise statutes to grant authority consistent with Telecom Act
- Not - “preemptive federalism”
  - National government assumes entire policy and implementation responsibility



# *U S federalism and European “subsidiarity” compared*

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Deciding the appropriate level for action - EC or member nation.

- Generally, as close to the citizen as possible
- Maastricht Treaty - in areas not within the EU's exclusive competence, will act only if objectives cannot be achieved by Member States, and due to scale or effect of the proposed action, can better be achieved by the Community
- Amsterdam Treaty - Community action should not exceed what is necessary to achieve the objectives (“proportionality principle”)



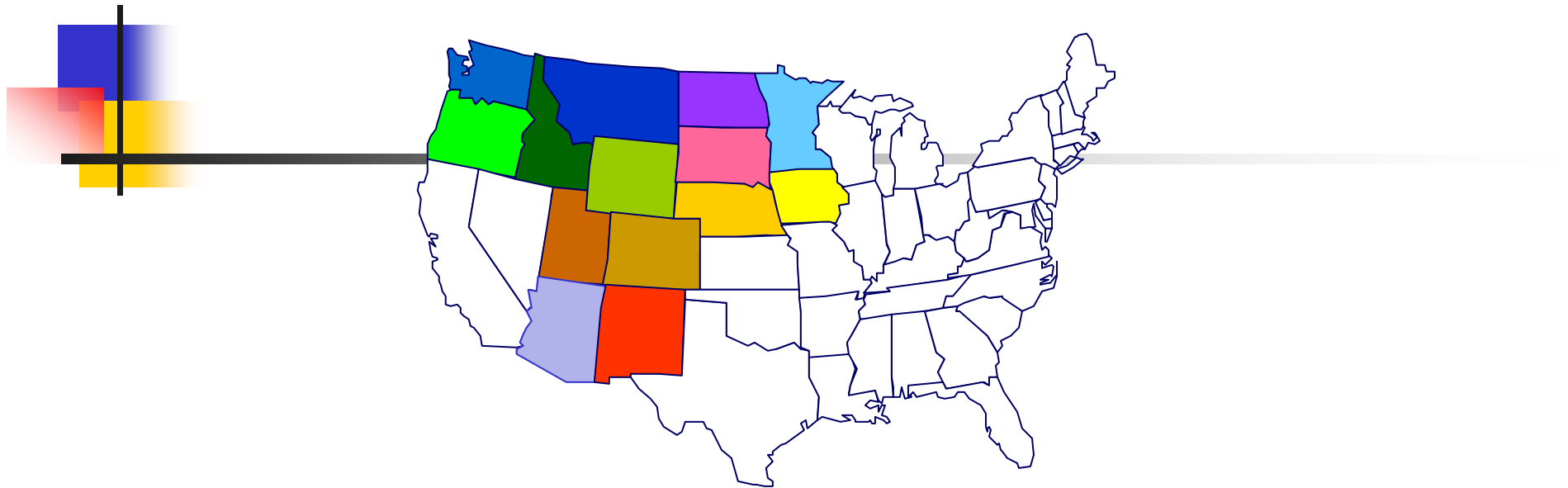
## *Perimeter or “border” issues*

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- Telecoms providers and markets cross international boundaries
- Providers offer multiple products, some are substitutable, either now or over time
- How to coordinate policy across jurisdictions, across markets, across products?
- How to share resources, including information and skills?
- Growing interest in regional coordination on regulatory issues



# Implementing Section 271 in the Qwest Region



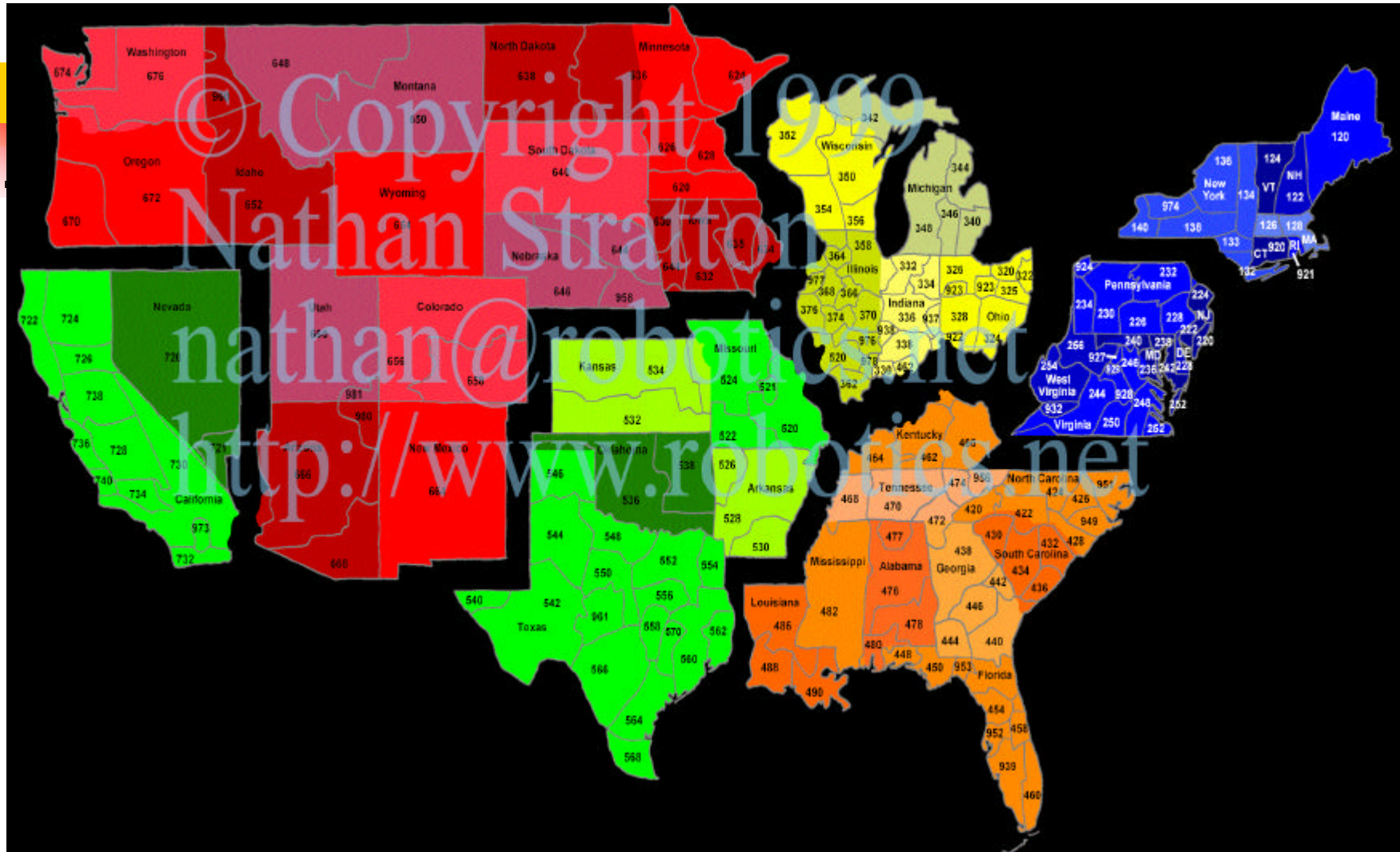
*State-to-state cooperation  
in opening local markets*



## Section 271 overview

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- 271 is key part of '96 Telecommunications Act's plan to open local telecoms markets.
- Prior to Act, BOCs were prohibited from providing in-region interLATA long distance service
- Section 271 provides path for BOCs to gain entry into their in-region long distance markets
- Trade-off is that BOC must demonstrate its local market is open to competitors





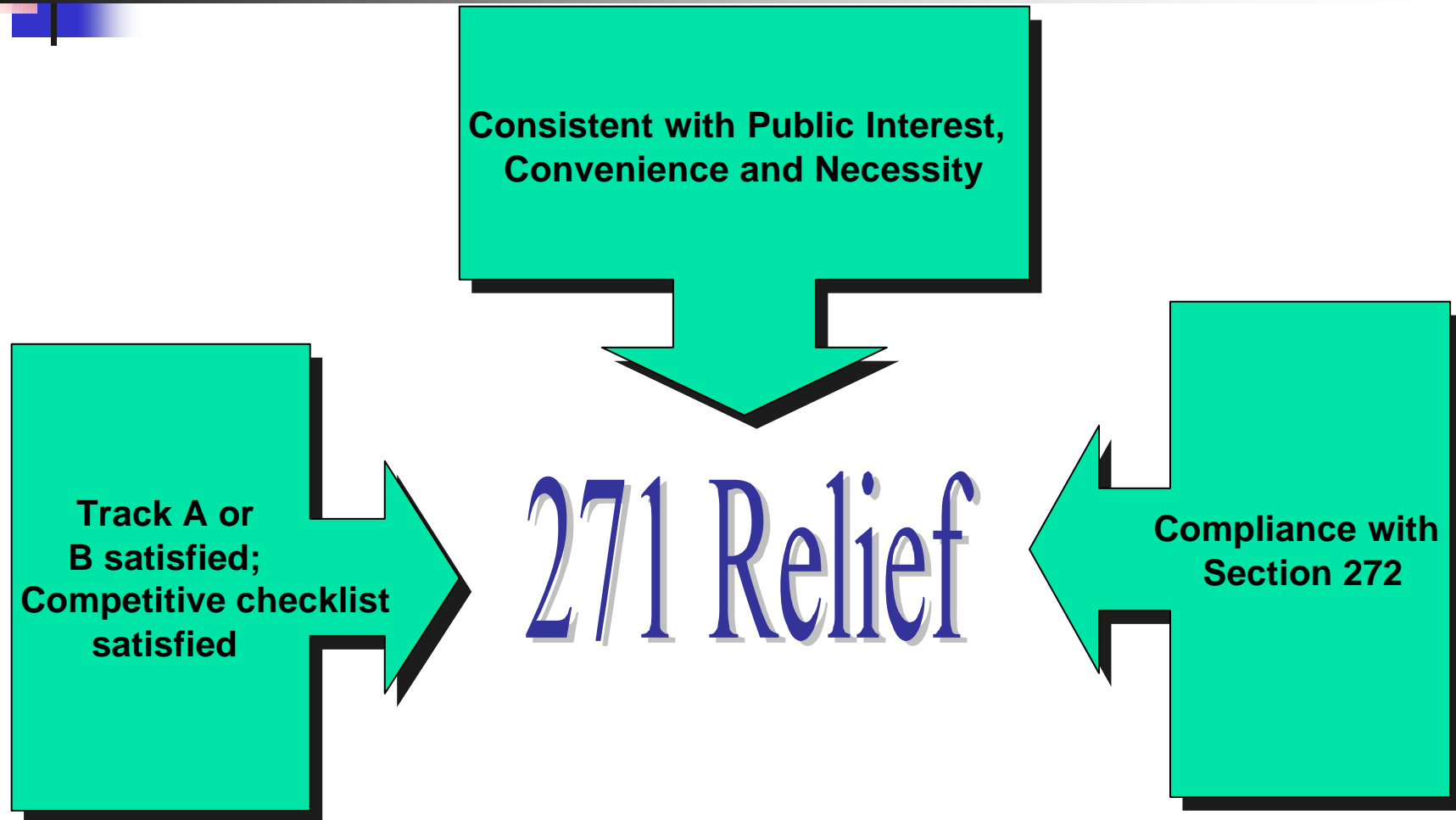
# How a BOC can get into the in-region long-distance business

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- At least one interconnection agreement or an official statement of terms and conditions (SGAT)
- Satisfy 14-point competitive checklist
- Be facing real competitors
- Establish a separate long distance subsidiary (Sec. 272)
- Show that entry would be “consistent with the public interest, convenience, and necessity.”



# InterLATA entry requirements

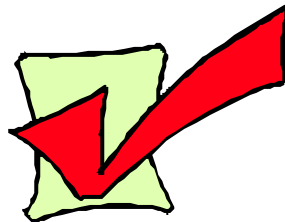




# 14-point competitive checklist

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- Interconnection
- Access to network elements
- Access to poles, ducts, conduits, R/W
- Unbundled local loop
- Unbundled transport
- Unbundled switching
- Access to DA and OS
- White page directory listings
- Telephone number assignment
- Access to databases & signaling
- Number portability
- Local dialing parity
- Reciprocal compensation
- Resale at wholesale rates





# Public interest

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- U S Department of Justice position - “irreversibly open”
- Federal Communications Commission:
  - Address public interest test in context of actual BOC 271 applications
  - Competitive checklist compliance
  - Public interest as independent element
  - Review of competition in local and toll markets



# The 271 process

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- FCC must consult with state commission
- Must also consult with DOJ, giving DOJ recommendation “substantial weight”
- FCC has 90 days after RBOC files to issue decision
  - Tight timeline & complexity means state commission:
    - Plays crucial role developing record
    - Has opportunity to solve problems
    - *Multi-state project is doing both!*



# Regional Oversight Committee (ROC) collaboratives

- ROC-OSS test (13 states) collaborative
- 14 Point Checklist/public interest collaborative



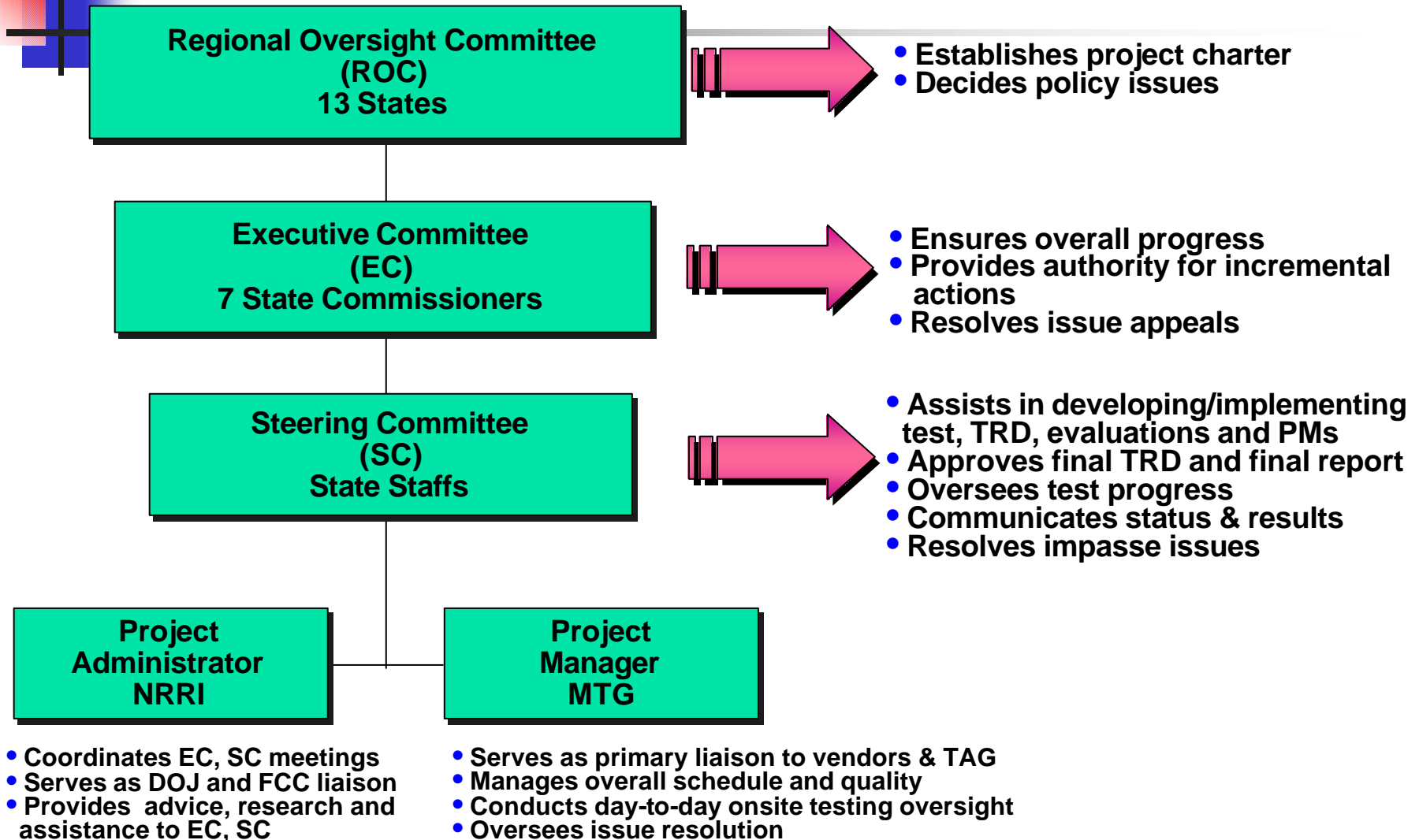


# Regional OSS test

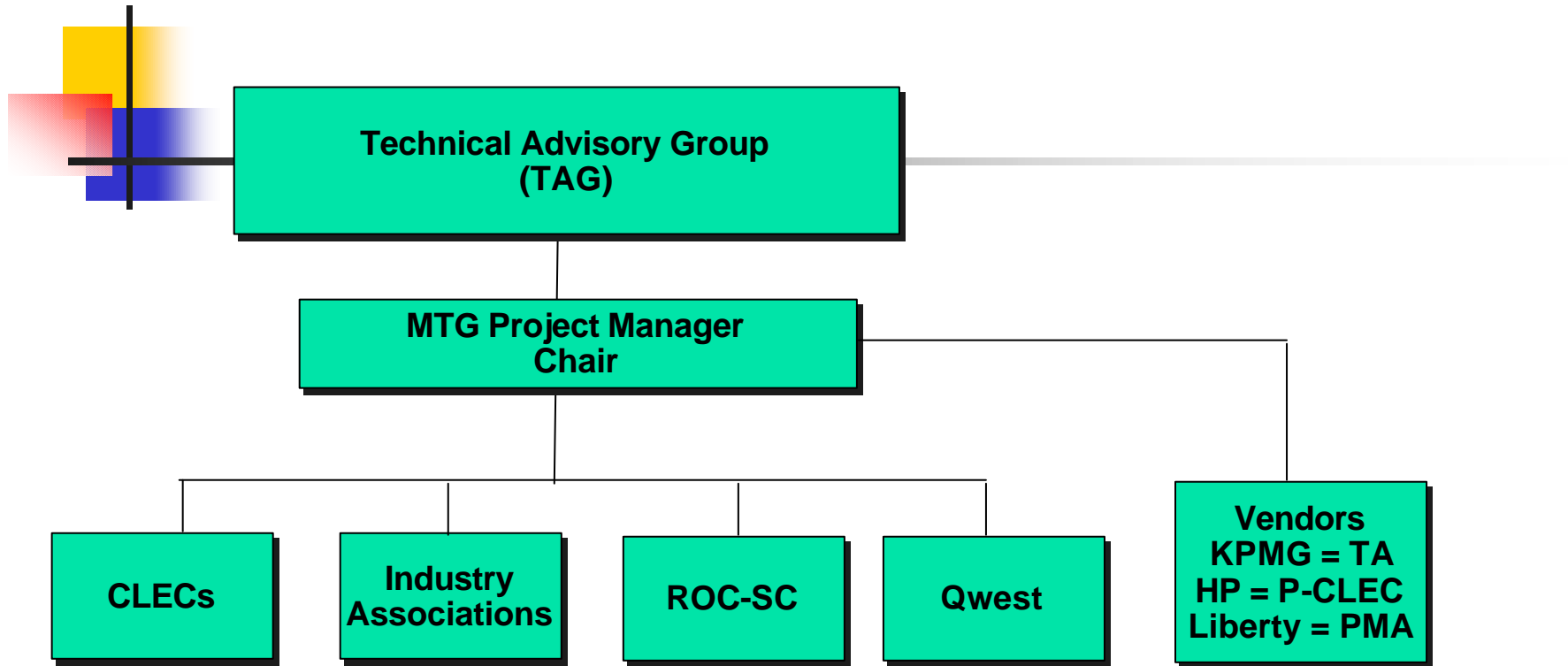
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- OSS – operational support systems
  - FCC defined as a UNE
  - Perform 5 functions: pre-ordering, ordering, provisioning, maintenance & repair, billing
- Qwest agreed to ROC invitation for regional test in August 1999
- July 2000 - hired 4 consultants to conduct test:
  - MTG – ROC project manager
  - NRRI – Project Administrator
  - KPMG – test administrator
  - Hewlett Packard – pseudo-CLEC
  - Liberty Consulting – performance measure auditor

# ROC-OSS testing structure



The ROC Technical Advisory Group (TAG) serves as the primary collaborative forum for the testing effort - throughout the testing life cycle from pre-test planning and design to execution and the final report.



- **Contributes subject matter expertise, documentation and perspectives**
- **Reviews RFPs and vendor proposals**
- **Provides order volume, interface usage and other data for the T A to use in determination of the “replicate mix” and capacity volume forecasts**
- **Provides technical assistance in test planning and execution**
- **Recommends criteria for selection of vendors**
- **Assists with scenario definition**
- **Assists with issue identification, resolution and when necessary - escalation to the ROC**
- **Periodically reviews test results and offer advice, observations and provides input to the test process**



# ROC-OSS test phases

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- 1 – scoping/planning, define test, agree on sample distribution for 13 states
- 2 – interface certification, test bed provisioning, some process tests, release PIDs for use in test, Pseudo-CLEC's interim report
- 3 – transaction testing, military-style re-testing, process tests, KPMG's interim report & discrete reports, clear Observations & Exceptions
- 4 – results development, statistical analysis, final report (currently scheduled for 2/14/02)



# Key characteristics

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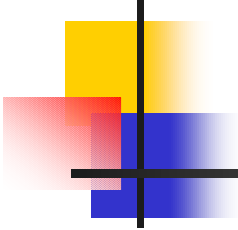
- Multi-state
- Web-based communication and documentation – [www.nrri.ohio-state.edu/oss/htm](http://www.nrri.ohio-state.edu/oss/htm)
- Highly open and transparent
- 3<sup>rd</sup> party audit of performance measures
- Company-specific data reconciliation
- Publication of discrete reports as test portions completed



# Key characteristics

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- Multi-state approach allows *state commissions* to share resources. (Many western PUCs have very small staffs – perhaps only 1 or 2 doing all telecoms.)
- Allows *competitors* to coordinate, participate more than they would in individual state proceedings.
- Allows Qwest to focus resources more on systems development, rather than litigation.
- States, Qwest, and competitors have developed much better understanding of issues and commitment to address them.



# Multi-state checklist/public interest collaborative

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- 7 states (MT, IA, WY, ND, UT, NM, ID) participating in collaborative effort to consider Qwest's checklist compliance and conduct SGAT review
- Hired Liberty Consulting to facilitate workshops and make recommendations on issues
- All workshops are completed and facilitator reports are issued; now, it's up to each state to make findings on issues and wrap up remaining 271 issues





# Multi-state 271 workshop topics

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- Group 1: “non-controversial” checklist items – 3, 7, 8, 9, 10 & 12
- Group 2: checklist items 1, 11, 13 & 14
- Group 3: emerging services
- Group 4: Unbundled Network Elements
- Group 5: general terms & conditions, Track A, Sec. 272, public interest
- Qwest performance assurance plan (QPAP)

10 separate workshop sessions were held



# Qwest performance assurance plan review

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- 11 states, Qwest & several CLECs participated in PEPP (post entry performance plan) collaborative in late 2000 and ending in May 2001 – no consensus on plan, but many agreements on specific elements were reached
- Collaborative review of Qwest Performance Assurance Plan (QPAP) in 7-state group, plus WA & NE
  - Took advantage of agreements reached in PEPP collaborative
  - Facilitator's report, with recommended QPAP changes, issued 10/22/01
  - Participants' comments received 11/1/01
  - Each commission will review & decide
- Colorado PUC has finalized its PAP



# FCC guidance on performance plans

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- Should provide sufficient incentives to comply with performance standards
- Clearly articulated and predetermined performance measures
- Structure to detect and sanction poor performance
- Self-executing mechanism for sanctions
- Reporting and auditing

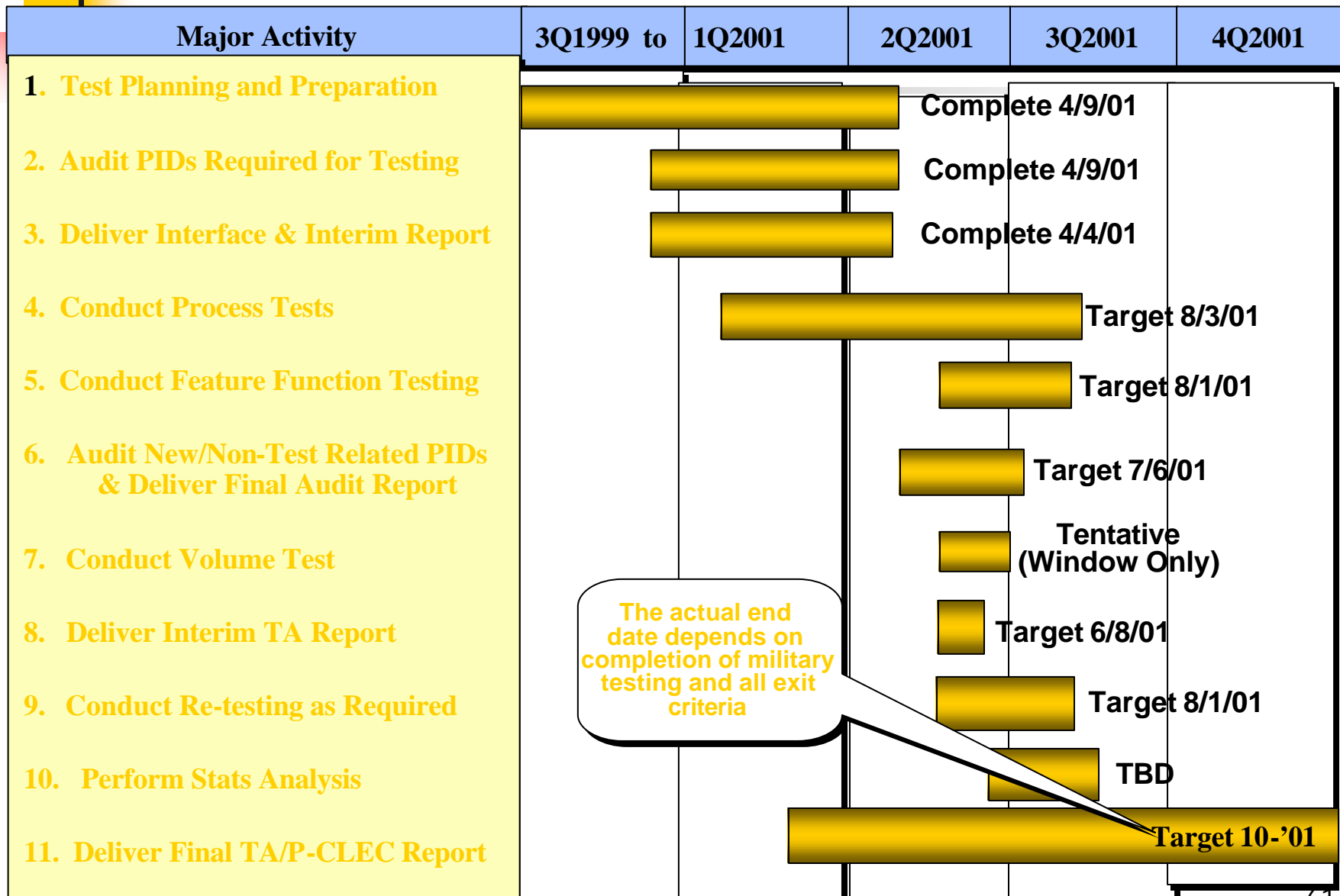


# Some QPAP issues addressed by facilitator

- Hard cap of 36% of Qwest revenues or procedural cap?
  - Sufficiency of payout levels
  - Appropriateness of QPAP limit on payment escalation to 6 months
  - Ongoing audits/reviews of plan
  - Performance measures in QPAP (appropriate weight to assign, other issues relating to specific measures)
  - Minimum payments for substandard performance to CLECs with small order volumes
  - Effective date (immediately, upon state approval, upon FCC 271 approval)
  - Dispute resolution

***State commissions are now considering the facilitator's recommendations and parties' comments.***

# Current test schedule





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## ***NARUC - United States academic support organizations***

# *National Regulatory Research Institute*



As the official research arm of NARUC, The National Regulatory Research Institute provides research and assistance designed to help public utility commissions accomplish their missions. Established by NARUC in 1976, the NRRI is a department of the College of Engineering at The Ohio State University. Though most noted for its research reports and analytic studies, the NRRI also provides a wide array of other services.



## *NRRI program areas*

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- Telecommunications
- Electricity
- Natural gas
- Water
- Consumer protection and education





# *NRRI research projects*

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- Competition
- Commission design
- Social goals
- Deployment
- Pricing
- Service quality and reliability
- Research papers available at

[www.nrri.ohio-state.edu](http://www.nrri.ohio-state.edu)

# *Institute of Public Utilities*

*(IPU) Michigan State University*



**INSTITUTE**  
OF PUBLIC UTILITIES

- About the IPU ([www.bus.msu.edu/ipu](http://www.bus.msu.edu/ipu))
  - Education and research center focusing on regulator education and training - endorsed education provider for NARUC
  - Mission: to improve regulatory and management practices in utility and network industries
  - Scope: domestic and global telecommunications, energy and water



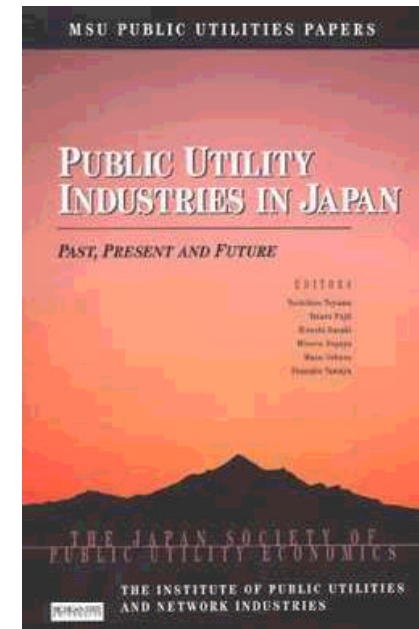
# *IPU Regulatory Training Programs*

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- The Institute has more than 30 years of experience developing education programs for industry and government that address market evolution, regulatory best practices, and policy development
  - **Camp NARUC** - two week immersion program focusing on applied regulation
  - **NARUC Advanced Regulatory Studies Program** - one week program on advanced regulatory practices
  - **IPU Annual Conference** - three day conference on public policy for network industries.
- International delegates -- largest growing segment at IPU regulatory training programs

# *International Projects and Programs*

- Regulatory Capacity Building Seminar at Camp NARUC
  - seminar series offered in conjunction with the Regulatory Studies Program
- On-going research and training projects with regulators and executives from Argentina, Canada, and other countries
- Publication projects focusing on regulatory policy and practice in other countries
  - i.e., *Public Utilities in Japan: Past, Present and Future* (East Lansing: Institute of Public Utilities, 2000).
- Host to visiting researchers, executives and regulators



# *Public Utility Research Center, University of Florida*



- Extensive Teaching Materials
  - Market reform and competition
  - Financial techniques
  - Incentive regulation
  - Pricing
  - Non-price issues
  - Regulatory process
- Case Studies
  - Country cases for all regions
  - Stylized team projects in market reform, incentive regulation, pricing, and regulatory process
- Core materials in English and Spanish



# *PURC/World Bank Program*

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- Biannual, two-week program
  - 85% government officials and 15% operators
- Comprehensive Topics
  - Market reform, incentive regulation, pricing, service quality, agency development
- Faculty includes 30-35 world leaders in infrastructure reform



# *Upcoming Programs*

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- Panama
  - 2-week, multi-sector program
- Trinidad & Tobago
  - Energy Training for Regulatory Agency
- Moldova
  - Telecommunications pricing



## *Contact Information*

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