

SENATE OFFICE OF OVERSIGHT AND OUTCOMES

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Gaps Emerge in Consumer Protections after Phone Deregulation

SACRAMENTO – Consumer protections have diminished significantly since the California Public Utilities Commission deregulated phone rates in 2006 and adopted a new “hands-off” approach toward telecommunications, according to a report released today [July 16] by the Senate Office of Oversight and Outcomes.

The report found that the PUC has consistently failed to provide basic information that would arm consumers against fraud and help them make informed choices when selecting a telephone carrier. The Senate’s report also found that -- despite a California law requiring the PUC to guarantee “just and reasonable” utility rates -- the commission, in effect, no longer tracks phone rate increases at all.

The full report, *Gaps Emerge in Telephone Consumer Protections*, is available at www.sen.ca.gov/oversight under “Reports.”

The report does not revisit the basic public policy reflected in telephone deregulation. Instead, it focuses on California law requiring the PUC to protect consumers. The law’s fundamental spirit is summed up in Section 451 of the Public Utilities Code, which says that all charges demanded by any public utility “shall be just and reasonable.”

In 2006, responding to federal law and rapid changes in telecommunications, the PUC stepped away from its traditional regulatory role to let the marketplace dictate telephone prices. Under deregulation, the commissioners declared, the competitive market itself guarantees that phone rates are both just and reasonable. They went further than uncapping rates – they also detached the PUC from monitoring prices.

“The result of these policies,” according to the report, “is an intentionally hands-off system that preempts protests that a rate may be unjust, unreasonable, or even discriminatory.”

The report is divided into two parts. First is a section on the recent history of telephone deregulation in California, including a review of residential phone rates. Next, the report makes five findings, discusses them and suggests possible options.

Among the report's findings and conclusions:

- The bedrock of deregulation is that California's telecom industry is sufficiently competitive to ensure consumer choice. But the commission has no formal system in place to document the level of competition. In 2008, the PUC's consumer division reported that AT&T and Verizon clearly dominate the market, together controlling 85 percent of the state's residential landlines.
- A central premise of deregulation is that competition tends to keep prices down. So far, however, PUC data show that residential phone rates have increased, some by several hundred percent.

One example is the monthly charge for an unlisted number. AT&T raised this rate 614 percent in the first year of deregulation – from 14 cents to \$1. SureWest raised the rate 563 percent, from 30 cents to \$1.99. Frontier increased it 99 percent, from \$1 to \$1.99. And Verizon upped it 25 percent, from \$1 to \$1.25.

- The basic residential rate and the subsidized Lifeline rate for low-income Californians have also climbed, with increases phased in over the past two years. On Jan. 1, 2011, the price cap on those rates comes off. Consumer advocates worry that prices will soar if no controls are in place to assure rates remain affordable.
- Though informed consumers supposedly will “vote with their feet” by changing carriers if rates are high or service is bad, the PUC doesn't provide the information that would help them decide. The commission does collect useful data – rates charged by different carriers, targets of fraud investigations, the PUC's own complaint statistics, “trouble” reports from the phone companies – but currently none of it is made public.
- “Cramming” – billing customers for services they never authorized -- is one of the most widespread and flagrant abuses in wireless telecommunications. More than a decade ago, the Legislature required the PUC to track and report cramming complaints. The commission did so for landline phones. So far, though -- despite years studying the matter -- the PUC has failed to apply this requirement to wireless carriers.

The California Constitution gives the Legislature broad authority over the Public Utilities Commission. Article XII declares that public utilities owned by private parties are “subject to control by the Legislature.” The state Senate also has the specific responsibility of confirming each commissioner appointed by the governor. This year and next, three of the five seats on the commission will be up for confirmation to six-year terms.

The non-partisan Office of Oversight and Outcomes was created in 2008 by Senate President pro Tempore Darrell Steinberg (D-Sacramento) to bolster the Senate's ability to gauge government performance.