

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Assess
and Revise the Regulation of
Telecommunications Utilities.

Rulemaking 05-04-005
(Filed April 7, 2005)

**PETITION OF THE DIVISION OF RATEPAYER ADVOCATES
FOR MODIFICATION OF DECISION 08-09-042
RELATING TO PRICE CONTROLS ON BASIC
RESIDENTIAL RATES**

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I. INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

Pursuant to Rule 16.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Division of Ratepayer Advocates (DRA) files this Petition for Modification of Commission Decision (D.) 08-09-042, requesting that the price controls on basic residential rates that are scheduled to be lifted on January 1, 2011¹ be extended until such time as the Commission has identified that sufficient competition exists to ensure reasonable, affordable rates.

On July 16, 2010, the California Senate Office of Oversight and Outcomes issued a report criticizing the Commission for its failure to properly regulate telecommunication companies and protect ratepayers.² The Senate Report noted that after the price caps are removed from basic residential rates and the subsidized Lifeline rates on January 1, 2011, “no one knows what will happen to prices after that.” DRA Staff has analyzed the data

¹ The Commission has noted that parties may file a petition to modify if it becomes apparent that rates are not just and reasonable after URF. The Commission stated: “consumers are still permitted to file complaints regarding the just and reasonableness of rates and we may institute an investigation or rulemaking regarding the just and reasonableness of rates. Parties may also file a petition for modification or petition for rulemaking as well.” (D.08-04-063, p.6.)

² California Senate Office of Oversight and Outcomes Report – Gaps Emerge in Telephone Consumer Protection dated July 16, 2010 (Senate Report).
http://www3.senate.ca.gov/deployedfiles/vcm2007/senoversight/docs/ca_public_utilities_commis_report_for_web.pdf

on prices and determined that lifting the price caps will result in substantial rate increases.

The evidence gathered by DRA, presented with a DRA Staff Report issued in conjunction with this Petition³, shows that rates on uncapped services have skyrocketed, proving that market forces were not sufficient to produce stable or reduced prices. DRA's Staff Report predicts that basic residential rates will also increase when the price controls are lifted, adversely affecting both high-cost areas and low-income ratepayers, frustrating the legislative mandate in Public Utilities (P.U.) Code section 739.3 specifically, and more generally in P.U. Code section 709.

It is the Commission's mandate to protect consumers and ensure reliable and reasonably-priced service for all. Pursuant to Public Utilities Code sections 709(f) and (h), it is the stated goal of the Legislature that the policies for telecommunications in California are "(t)o promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct" and "(t)o encourage fair treatment of consumers". In the 2006 URF decision, the Commission had promised to "remain vigilant in monitoring the voice communications marketplace" (D.06-08-030, p.156) and therefore proposed to consider further monitoring and reporting on competition and affordability. The URF decision also placed a temporary freeze on basic residential rates because "public policy programs make geographically unfettered pricing inappropriate in certain high-cost areas." (*Id.*, p.138.) Prices were to remain capped until January 1, 2009.

In a proceeding related to URF, the Commission modified the URF final decision by adopting phased-in transitional prices increases for basic residential service, which extended the rate freeze from January 1, 2009 until January 1, 2011. (D.08-09-042.) After that, prices for basic residential service will be unregulated, and, in the absence of competition, major market players like AT&T and Verizon would be free to raise prices substantially without fear of losing customers.

³ Attached hereto as Exhibit A, DRA Staff Report entitled "*The Failure of Consumer Protection: How the Commission Assumptions About Competition Harm Consumers*" (hereinafter referred to as the DRA Staff Report).

A serious flaw in the Commission’s past regulatory decisions in URF and related proceedings is the assumption that “intermodal” competition would work to keep prices for basic telephone services affordable. This has not occurred, as demonstrated by the evidence collected and presented in DRA’s Staff Report. Carriers do not compete for local residential service in California⁴. Instead of prices being influenced by market forces resulting from thriving competition, prices appear to be based on “marketing” forces – that is, prices have been raised by marketers to encourage switching to more expensive bundles of services, which are unregulated. Also, most customers do not view other types of telephone service (i.e., wireless) as a viable replacement for basic residential service, and so 76% of Californians (and over 90% of those over 65 years of age) continue to rely on their residential wireline service as their primary telephone number⁵. The inelastic demand for wireline service is evidenced by the high prices customers continue to pay for AT&T and Verizon’s basic residential services.

DRA firmly believes, and all the evidence demonstrates, that prices for basic residential service will rise when the carriers are allowed total pricing freedom. This will produce numerous negative effects on Californians, as discussed herein. DRA recommends that the Commission continue the price controls on wireline residential service that were adopted in D.08-09-042.

In addition, DRA has a second related request. As a matter of basic consumer protection, DRA questions in this Petition and Staff Report whether consumers can continue to afford certain commonly-used ancillary services due to the astronomical prices increases since URF. DRA believes the Commission should require the carriers to offer certain associated services or features at reasonable rates: these would include call-waiting, message service, three-way calling, call forwarding. These features require the underlying service as a prerequisite, so these features can be defined as “tied” to the wireline subscription in the classic antitrust sense. There is no viable competition for any

⁴ DRA Staff Report, p.18.

⁵ *Id.*, p.21.

feature as a stand-alone product, with the single exception of message service by answering machines. DRA believes that the Commission should create a forum to consider identifying which basic and necessary features should be available to all wireline consumers at affordable rates.

II. BACKGROUND OF THE RATE FREEZE ORDERED BY THE URF DECISION

In 2005, the Commission instituted Rulemaking 05-04-005 to assess and revise the regulatory paradigm for the four large and mid-sized incumbent local exchange carriers (ILECs) in California. The primary purpose of the proceeding was to develop a uniform regulatory framework for both ILECs and competitive LECs (CLECs), to the extent that the Commission found such a framework to be feasible and in the public interest. Following the Commission's adoption of the URF decision (D.06-08-030), customers of the four largest telephone companies in California (AT&T, Verizon, Frontier and SureWest) have faced sharp price increases for many services.

In the URF decision, the Commission decided that competitive forces will produce statutorily required "just and reasonable" rates for California's telecommunications consumers. Accordingly, the Commission granted these carriers broad pricing freedoms across almost all telecommunications services, new telecommunications products and bundles of services. With few restrictions, the Commission permitted carriers to add services to "bundles" and to target services and prices to specific geographic markets, thus permitting geographically de-averaged pricing.

Even so, the Commission found that continued pricing regulation is warranted for a few basic services relating to public policy programs. The Commission found some pricing restrictions are appropriate when a service receives a social program subsidy, such as California LifeLine program (LifeLine or ULTS) residential service and basic residential service in areas receiving California High Cost Fund-B (CHCF-B) subsidies. Thus, the Commission capped the price of basic flat-rate residential service until January 1, 2009 in order to address the statutorily-mandated link between the LifeLine rate and basic residential service rates. Decision 06-08-030 also froze rates of basic residential

services receiving a CHCF-B subsidy at a level equal to the current rate. In addition, Public Utilities Code Section 5950⁶ mandated that the price controls remain in effect until January 1, 2009.

A. D.08-09-042 Extended Price Controls Until 2011, With Increased Caps of 30-50%

Taking into account that basic residential rates remained fixed since the B-Fund was adopted in 1996, and had not increased above those levels since, (except for limited inflation-related adjustments for 2008 as authorized for AT&T and Verizon in D.07-09-020)⁷, the Commission determined that a “transition process is required to move to market-based pricing of basic service once the current rate caps expire effective January 1, 2009.”⁸

The Commission thus found that it was reasonable to allow a rate increase of roughly 30-50% for basic residential rates⁹. In Appendix 2 of D.08-09-042, the Commission allowed increased transitional rate caps (in phases) for basic residential service, and mandated that as of January 1, 2011, the carriers’ rates for basic residential service would be unregulated “subject only to competitive market forces.”¹⁰ The purpose of phasing-in rate increases was to avoid “rate shock” while allowing time for a “timely transition to market-based pricing.”¹¹

⁶ Under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), it was the California Legislature’s intent to “(c)reate a fair and level playing field for all market competitors that does not disadvantage or advantage one service provider or technology over another.” (Public Utilities Code section 5810(a)(2)(A).) As part of DIVCA, Public Utilities Codes section 5950 specifically prevents the Commission from lifting the rate freeze until 2009, to prevent unfair competition.

⁷ D.08-09-042, Finding of Fact 2.

⁸ *Id.*, Conclusion of Law 1.

⁹ *Id.*, Conclusion of Law 3. The increases applied to both flat rate and measured rate service. The rate increases phased in over two years. See Appendix 2 of D.08-09-042.

¹⁰ *Id.*, Ordering Paragraph #4.

¹¹ *Id.*, Finding of Fact #10.

In the Findings of Fact, the Commission demonstrated a belief that a transition to market-based pricing¹² would, in fact, occur. The Commission stated that the “forces of competition” would restrain carriers from raising basic service rates above affordable levels once the two-year transition period expires¹³. The Commission further found that “the ILECs would not be able to sustain rate increases for basic service above affordable levels after the end of the two-year transition period, under the provisions as adopted in this decision.”

III. THE URF CARRIERS ASSURED THE COMMISSION THAT PRICING FLEXIBILITY WOULD RESULT IN “ATTRACTIVE” AND “COMPETITIVE” PRICES

One of the fundamental premises upon which URF relied was that pricing flexibility would result in lower prices. In fact, AT&T and the other URF carriers repeatedly assured the Commission and the public that URF would result in “innovative products at attractive prices”, meaning new and different products at rates at or below the rates at the time. DRA, the public, and the Commission, were promised throughout the URF proceedings that competition would result in “competitive prices”, implying that “price floors” would harm consumers because prices might actually fall *below* current levels.

In 2006, AT&T promised a bright future where the competition that they predicted would create “the right product with the right features at the right price.” (Pacific Bell (now AT&T) Opening Comments in the URF proceeding, p.4.) Throughout its pleadings, AT&T assured the Commission that “competitive prices” would lead to “customer benefits” because “competition is robust and growing.” (*Id.*, at pp. 1, 3, 8, 22, 56, 78, 79.)

¹² The existing rates are were set by the Commission.

¹³ *Id.*, Conclusion of Fact #19.

IV. DESCRIPTION OF RATE INCREASES IN TELECOMMUNICATIONS SERVICES SINCE URF

As described below, the major carriers have continued to raise prices and the California Senate Office of Oversight and Outcomes has determined that the Commission has not been meeting its statutory obligation to ensure that rates are just and reasonable.

A. California Incumbent Telephone Carriers Continue To Raise Rates On Basic Services And Selected Custom Calling Services

In its earlier 2008 report on the rate increases by selected California ILECs¹⁴, DRA presented significant evidence of rate increases by California ILECs after the adoption of the Uniform Regulatory Framework (URF) in 2006. In addition, the Senate Report presented data showing how AT&T, Verizon, SureWest, and Citizens/Frontier have increased their rates on services since the deregulation of telephone rates in 2006.

For DRA's current report, staff reviewed numerous Communications Division (CD) Advisory Notices documenting rate increase announcements by the carriers. After reviewing these documents, DRA found that AT&T, Verizon, SureWest and Frontier/Citizens continue to raise monthly rates on selected telecommunication services.

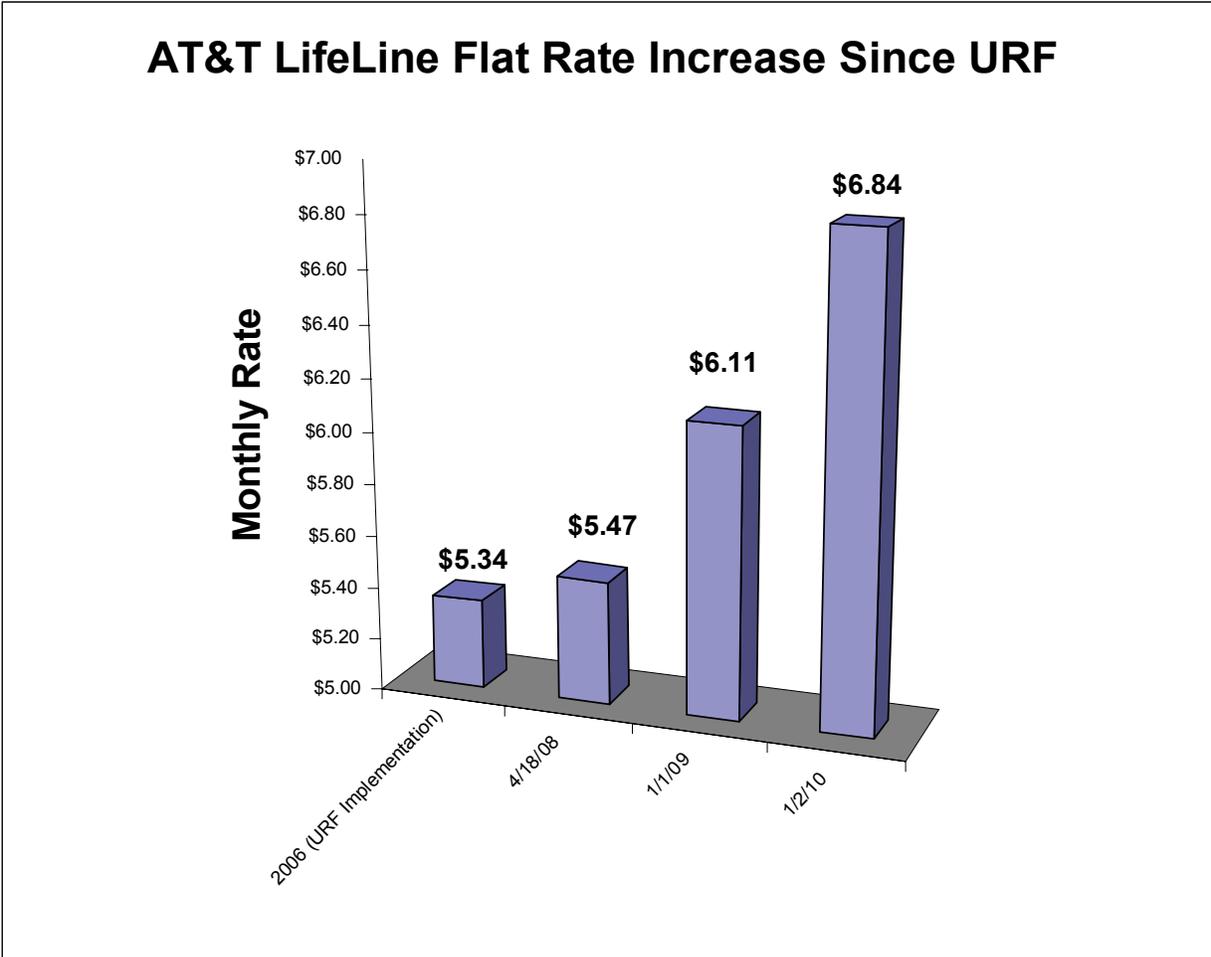
California deregulated virtually all telephone rates for AT&T, Frontier, SureWest and Verizon in 2006, and since then prices have risen dramatically. For example, some of the notable increases since the URF decision include:

- Frontier increased its WirePro rate by 399%
- Verizon increased its WirePro rate by 167%
- AT&T increased its WirePro rate by 134%
- AT&T increased its Call Waiting rate by 132%
- AT&T increased its Three-Way Calling rate by 117%
- Frontier increased both its Three-Way Calling and Call Waiting rates by 60%

¹⁴ DRA's 2008 Report can be found at: <http://www.dra.ca.gov/NR/rdonlyres/DE1D4D6F-B7F4-45B7-808A-1C677AD7C408/0/DRAFinalReportTelephoneServicePriceIncreases072908.doc>

The data shows that AT&T has raised its rates basic Lifeline rate by 25% every year, the maximum amount allowed by the Commission.

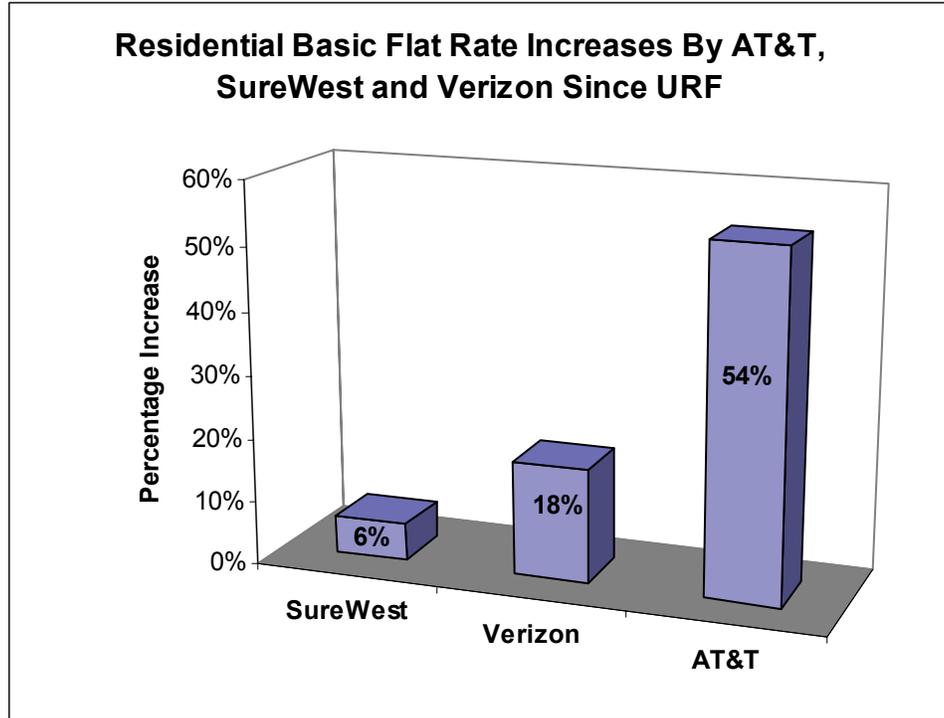
Graph 1¹⁵



Compared to the other four companies, AT&T has increased its basic rate the most since the deregulation of telephone service in California in 2006. In addition, it would appear that AT&T was the only company to raise its basic rate every year since deregulation (Graph 3).

¹⁵ AT&T has increased its LifeLine Flat Rate every year since deregulation by 25% (the maximum amount allowed by the Commission).

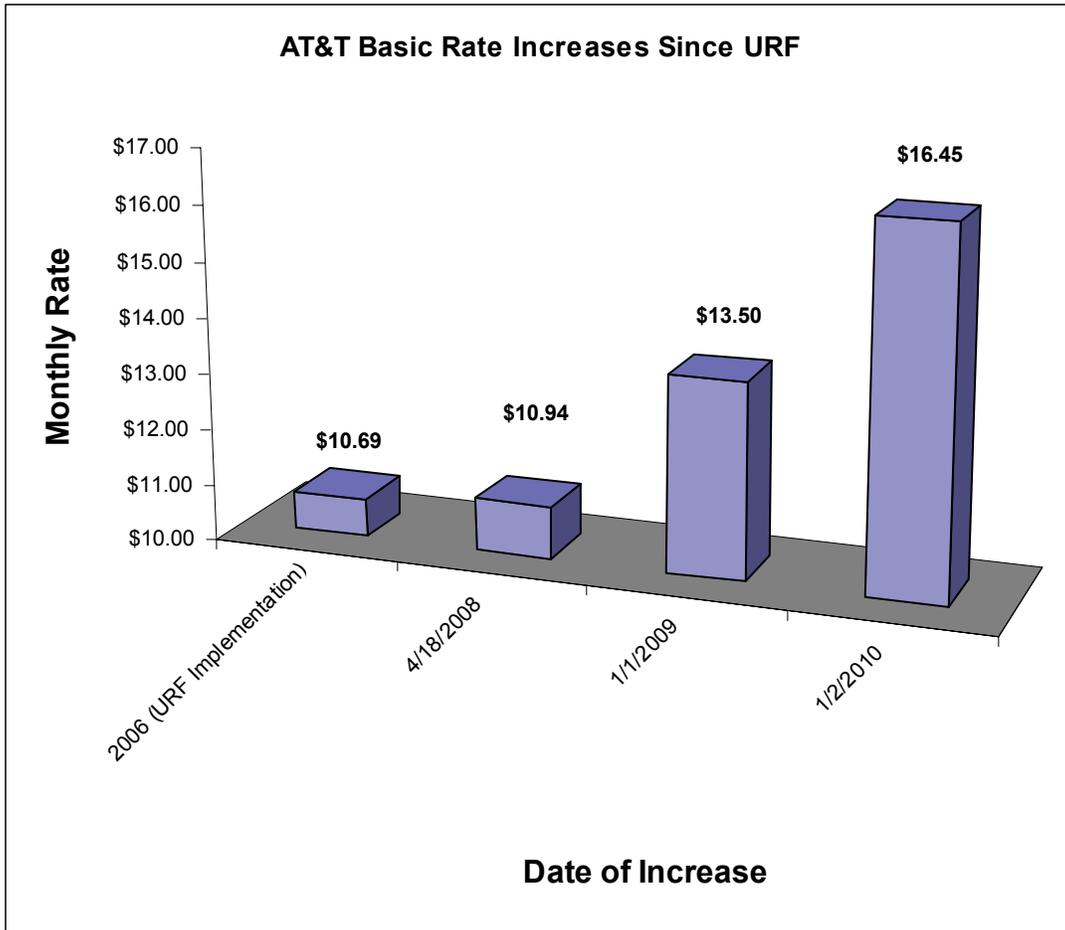
Graph 2¹⁶



Customers have faced steep rate increases for AT&T's Basic Rates, which would have risen more but for the Commission-imposed freeze.

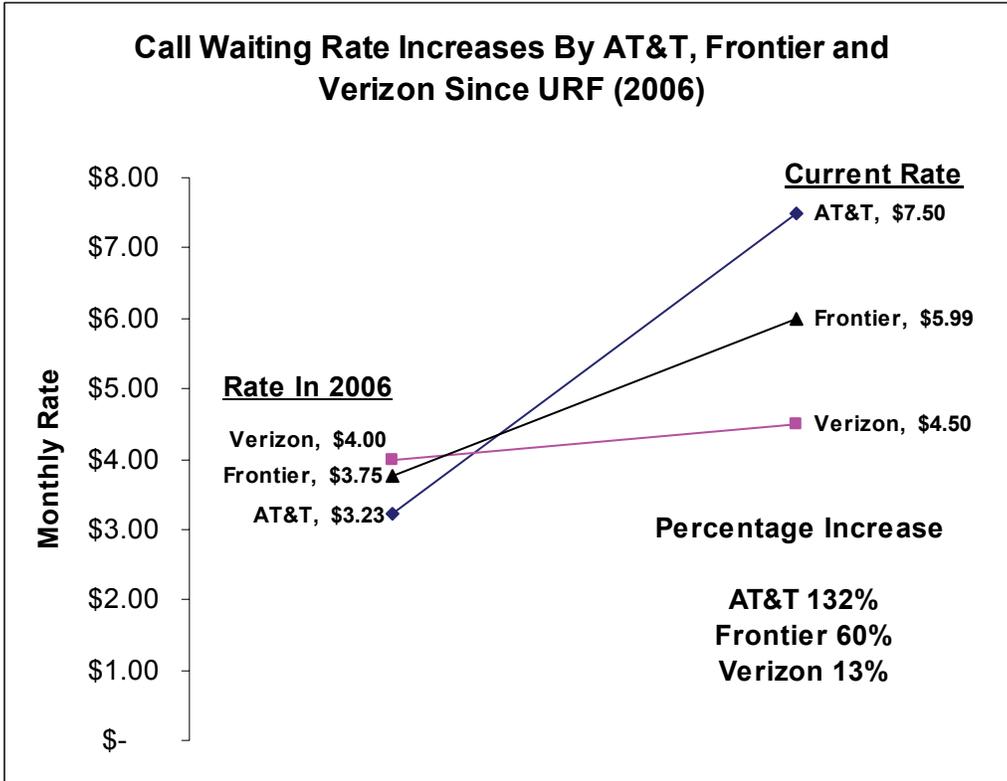
¹⁶ DRA was unable to locate any consumer notices from Frontier Telephone announcing basic rates.

Graph 3



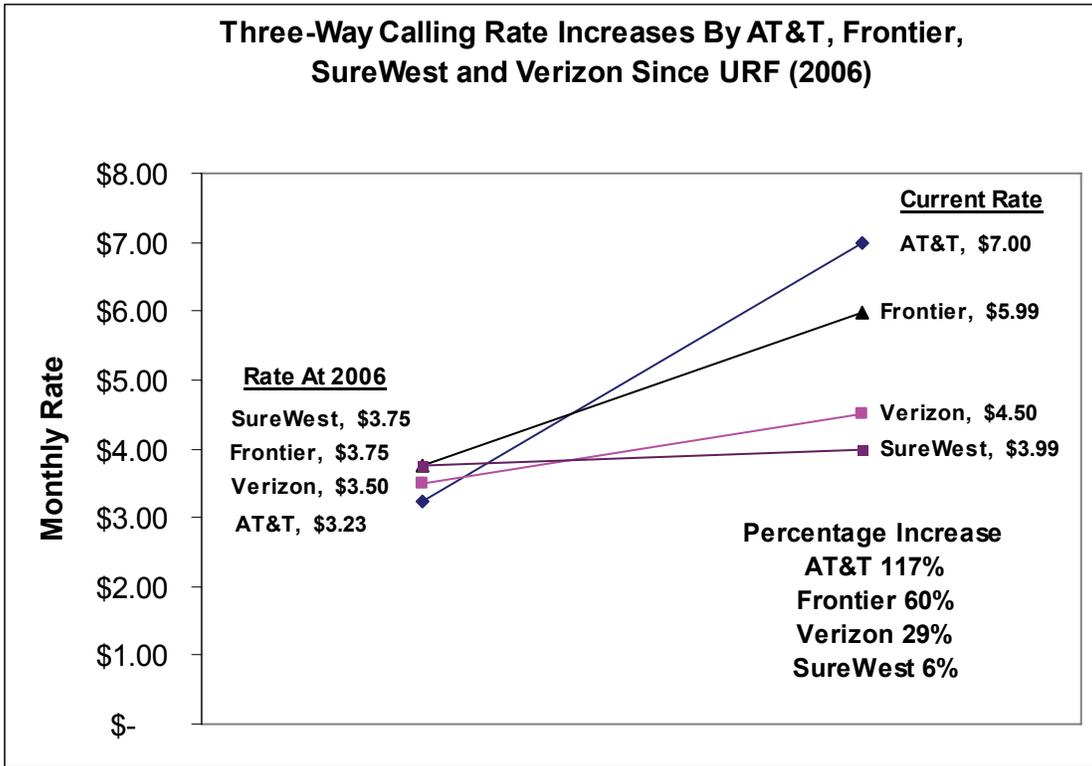
DRA graphed the rate increases on some of the more popular custom calling services offered by AT&T, Frontier, SureWest and Verizon, such as call waiting (Graph 4), three-way calling (Graph 5), and inside wire maintenance (WirePro – Graph 6).

Graph 4¹⁷

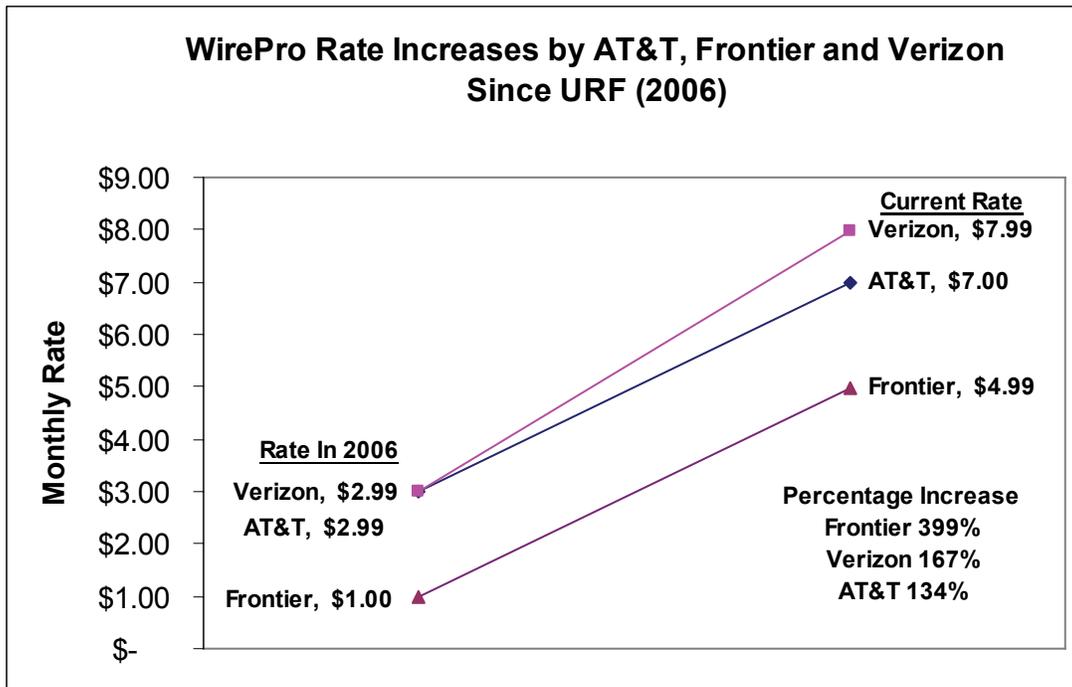


¹⁷ DRA did not locate any consumer notices from the Communications Division announcing rate increases from SureWest on its Call-Waiting services.

Graph 5



Graph 6¹⁸



B. Residential Price Decreases Promised by URF Have Not Materialized

The Commission issued the URF Decision¹⁹ in 2006 based on predictions about the development of competition – predictions that have not come true. Most notably, the assumption that wireless service would be a substitute for landline service was a foundation of the final decision. In D.06-08-030, Finding of Fact 39 states “wireless service is a substitute for wire line service”, the basis for the Commission’s belief in the future competitive alternatives to landline service. At that time both Verizon and AT&T provided comments and asserted demonstrations of wireless-landline substitutability, materials that were based on data prior to 2006.²⁰

Surveys and data gathered in subsequent years have shown that not only has *much less* competition developed than the Commission predicted, but also that wireless service is not a perfect substitute, or at best only a partial (and sometimes inferior) substitute for

¹⁸ SureWest has not raised its WirePro rates since deregulation according to the CPUC.

¹⁹ D.06-08-030, p. 254. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

²⁰ This included Verizon customer survey and FCC report data D.06-08-030. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

landline service. The data also indicates that wireless services serve a function and need that is distinct from the need served by landline service. This data demonstrates that most customers have not replaced their landline with wireless service, but rather have complemented the distinct features of one with the disparate usefulness of the other; the wireless phone's portability and convenience for some calling behavior, and the landline phone's reliability and voice quality for other calls.

Another fatal flaw in the URF decision is that carriers would compete against each other, but the carriers are simply not competing for local services²¹. AT&T and Verizon together control approximately 85% of California's wireline telephone market²². In their respective service territories, these two companies have not engaged in any meaningful wireline competition with each other²³.

From the time the URF ILECs were granted pricing flexibility for almost all services, the service offerings and the related pricing packages of the URF ILECs have changed very little, if at all. The chimerical promise of price decreases has not materialized. Indeed, the competition the ILECs predicted and on which this Commission has relied, has failed to materialize.

Pricing behavior does not indicate that there are any market forces at work. In fact, it appears that prices have instead been determined by "marketing" forces. That is, the carriers have raised rates to encourage customers to revert to purchasing more expensive bundles.

What these DRA findings show is that the URF carriers still possess significant market power in their respective service territories. Especially with regards to basic residential service, many consumers have little, if any choice.

²¹ DRA Staff Report, p.21.

²² *Id.*, p.15.

²³ *Id.*, p.22.

C. Wireless Is Not an Adequate Substitute for Landline Service

Since 2006, research and data produced by various institutions (discussed below) indicates that wireless serves a distinct and separate function from the function and uses of landline service. Not only does wireless service fail entirely as a complete or perfect substitute for landline service, it so clearly serves a complementary and separate function that having both services available has become a clear preference which increases as income level increase. Not only have objective and unbiased institutions without direct industry ties or conflicts documented this development, but AT&T and Verizon themselves have issued statements in the press vis-à-vis the continuing need for landline service in a “wireless world.” DRA’s Staff Report contends that these complementary uses reveal the fictional nature of wireless service as a source of competition

D. Quality, Reliability and Safety are the Primary Reasons Why Customers Keep Landline Service

In 2008, a Verizon survey showed that an overwhelming majority of customers, including Verizon cell phone subscribers, continue to rely on landline voice service for their homes due to the service’s quality and safety characteristics – the “unmatched performance and communications quality” and “day-in, day-out dependability”, Verizon said in its survey news release. Verizon’s consumers “see their wireline phone as a critically important phone in their homes.²⁴” Specific survey findings noted the strong confidence and reliance of customers (including cell phone owners) on landline service:²⁵

- 83% of the polled consumers intended to continue using their landline home phone indefinitely – most (74%) of them cell phone owners.
- 94% named reliability and 91% named safety as the key reasons, e.g., “My telephone is my lifeline.” and “I can depend on it 24 hours a day, 365 days a year.”

²⁴ “New Survey Shows 83% of Consumers Continue to Rely on Landline Voice Service for Its Quality, Safety Features. Verizon Survey Shows Vast Majority Plan to Retain Their Home Phone Service Indefinitely.” Verizon Communications, March 27, 2008. <http://newscenter.verizon.com/press-releases/verizon/2008/new-survey-shows-83-percent-of.html>

²⁵ *Ibid.*

- 76% of landline phone owners used their landline phone daily; nearly half (50%) of them said they would feel unsafe without a landline connection in their homes.
- 90% of those older than 65 said they would keep their landline phone forever (82% for those under 65).

These Verizon survey findings run counter to the AT&T URF testimony²⁶ in 2006.

This testimony predicted that wireless services were placing competitive pressure on landline services, even when purchased in addition to a landline connection:

“...finds that 39 percent of wireline phones users are “very” or “somewhat” likely to abandon their wireline service within two years.”

The 2008 Verizon survey findings have made clear the strong confidence and reliance of Verizon customers on landline service, even though most of them were also cell phone subscribers. The preponderance of “dual subscriptions” is a clear indication that wireless and landline services *complement* each other.

E. AT&T and Emergency Officials Have Advised Households to Retain a Landline Phone In Addition to a Cell Phone at Home for Emergency Communications

In 2009, following the release of survey findings showing most households did not have a home emergency communications plan, AT&T and the National Emergency Number Association (NENA) urged households to establish an emergency communications “home base” that should include “a corded landline phone in addition to a cell phone for making emergency calls”. Survey findings noting consumers’ strong reliance on the landline phone in particular for emergency situations included²⁷:

²⁶ AT&T testimony by Harris, D.06-08-030, p. 119.
http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

²⁷ “AT&T and the National Emergency Number Association (NENA) today released survey findings showing the need for households to establish home emergency communications plans that include a “home base” with a corded landline phone in addition to a cell phone for make emergency call.”
Emergency Officials and AT&T Urge Families to Establish a “Home Base” for Dialing 9-1-1. National Survey Shows Most Respondents Have Not Prepared a Home Emergency Plan. AT&T, July 7, 2009.
<http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=26916&mapcode=community>

“Establish a “home base.” Make sure there is a centrally-located landline phone for making emergency

- “80 percent felt that it is important to have both a corded landline and a cell phone in their home in case of emergency because it provided options to dial 9-1-1 reliably and quickly.”
- “66 percent said that dialing 9-1-1 from a landline telephone is part of their home emergency plan.”

Although AT&T persuaded the Commission in 2006 that wireless technology was an adequate substitute to wireline service²⁸, four years later both AT&T and NENA have identified landline service, and a corded landline phone as an essential element *in addition* to a wireless phone in household emergency communication plans due to the reliable 9-1-1 network features specific to the landline telephone. This is another indication that wireless service *complements* wireline service – in this case, one adds to the other to make a more complete, reliable, emergency communication plan. This is crucially important in a state like California which regularly experiences natural disasters.

F. The Majority of California Households Retain Landline Service In 2010

In 2006 Verizon provided survey data to the Commission suggesting that many of the customers who had given up their landline service considered wireless and landline services to be close substitutes²⁹.

DRA acknowledges the widespread adoption of wireless service and the increasing number of consumers who have wireless phone service. However, recent statistics show many wireless phone customers, in fact, a large majority of them, have *both* wireless *and* landline service – another indication that the two services are complementary. The DRA Staff Report describes the data that supports this.

Findings from the basic telephone affordability surveys conducted in 2010, presented in the Commission report *Affordability of Basic Telephone Service*³⁰, show

calls quickly.” *Survey Results: Preparing for Home Emergencies*. AT&T. <http://www.att.com/gen/press-room?pid=2932>

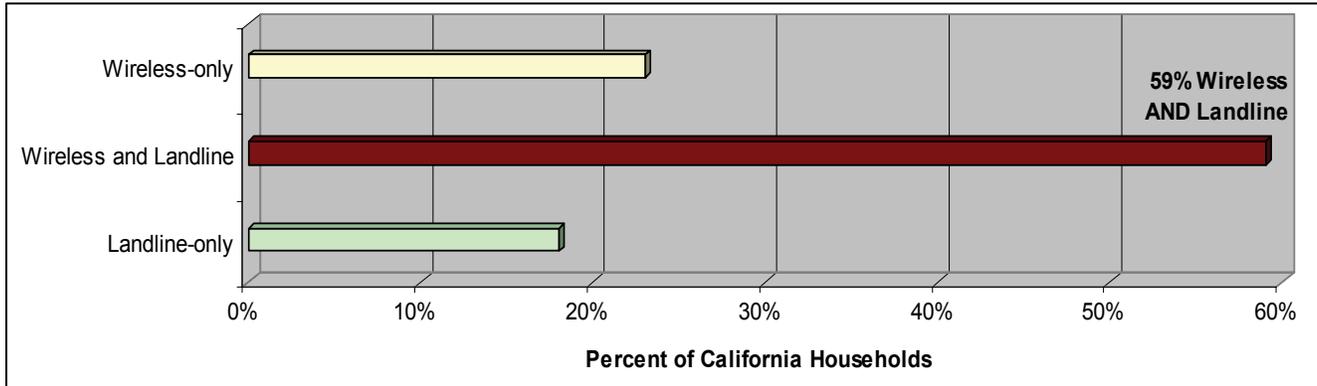
²⁸ D.06-08-030. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

²⁹ D.06-08-030, p. 72. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

³⁰ *Affordability of Basic Telephone Service*, Communications Division (CD), 9/30/2010. <http://www.cpuc.ca.gov/PUC/Telco/generalInfo/2010AffordabilitySurveys.htm>. See Technical Appendix A of that study for its survey methods, protocols, possible bias and other details.

that 77% of California households have landline service in 2010 – 59% have both wireless and landline services, and 18% have landline service only. With regard to wireless only, an estimated 23% of California households have wireless service only. Figure 1 illustrates these survey results.

Figure 1: Findings from the 2010 Basic Telephone Affordability Surveys



As can be seen clearly in Figure 1, a majority (59%) of California households have landlines *in addition* to their wireless phones in 2010, contrary to the predictions of the ILECs upon which the Commission relied in 2006. This is a clear, strong indication that many customers actually consider wireless and landline services to be *complementary*.

Other survey findings show that at least two-thirds (67%) of households in every racial/ ethnic group³¹ and almost 100% (98%³²) of survey respondents 60 years or older³³ occupy households with landline service.

Nationwide data mirrors California, showing that across the country consumers treat the services as complements to each other, rather than complete substitutes. Recent nationwide surveys represent general households’ consideration of landline service as essential at present time, even with the availability of wireless and other advanced communications services. All of these results are consistent with the 2010 California

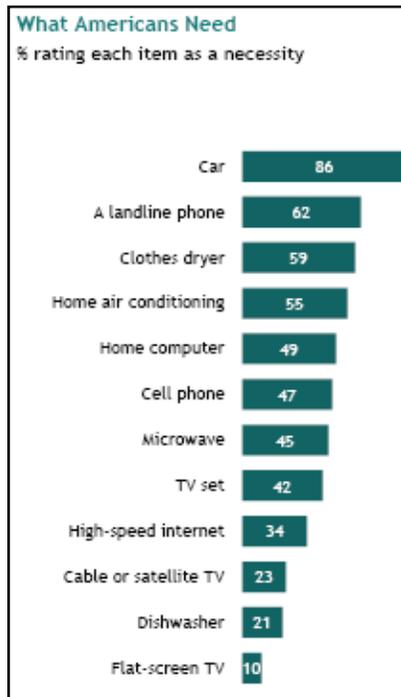
³¹ Survey respondents were broken down into these racial/ ethnic groups: White, African American, Latino, Asian or Pacific Islander and American Indian. Footnote 2, page 15.

³² 63% use wireless AND landline; 35% use landline-only; total is 98% use landline service. *Affordability of Basic Telephone Service*, Volume 1, p. 25, Communications Div., 9/13/2010. www.cpuc.ca.gov/PUC/Telco

³³ *Affordability of Basic Telephone Service*, Volume 1, p. 14, CD, 9/13/2010. www.cpuc.ca.gov/PUC/Telco

findings. A 2010 Pew Research Center survey reveals that a majority (62%) of Americans still consider the landline phone a “necessary of life”, which leads the cell phone by 15% in the “necessity of life” ranking³⁴, illustrated in Figure 2.

Figure 2: The Pew Research Center Survey Results³⁵



In summary, landline phones have not been replaced or substituted by wireless, proven by the survey data since 2006 that shows customers’ telecommunications choices.

G. Studies Show that Older Adults and the Disabled Are Heavily Dependent on Landline Telephones

California’s 2010 basic telephone affordability survey shows that almost 100% (98%³⁶) of survey respondents 60 years or older³⁷ are in households with landline

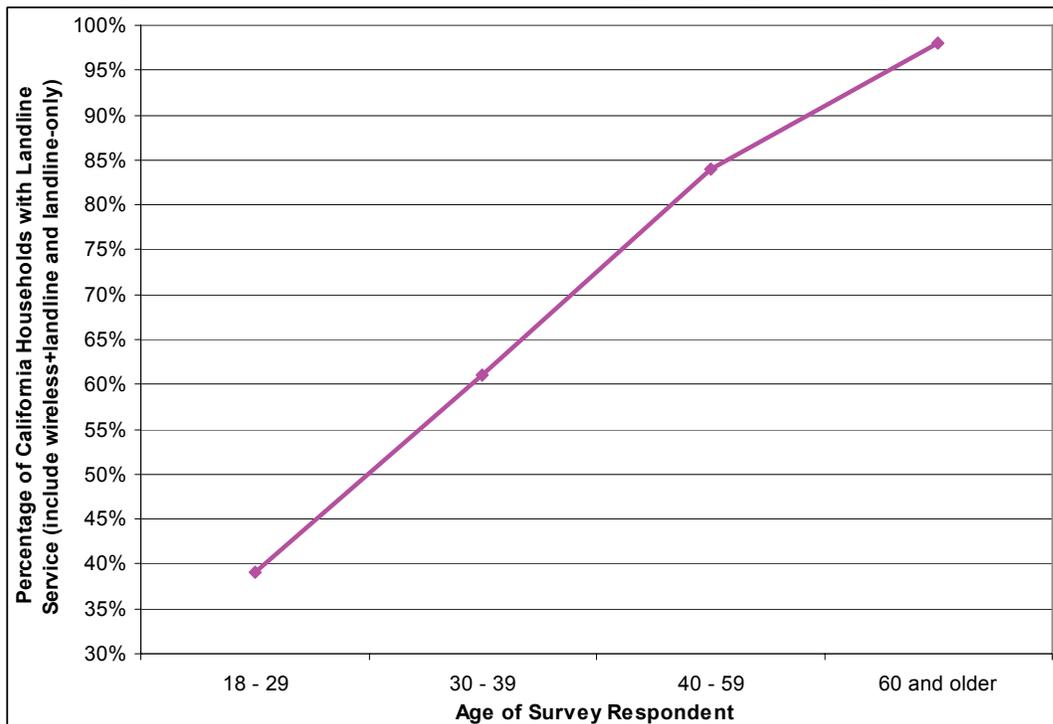
³⁴ *The Fading Glory of the Television and Telephone*, Pew Research Center, August 19, 2010, page 1. <http://pewsocialtrends.org/asserts/pdf/762-fading-glory-television-television.pdf>. The Pew Research telephone survey was conducted among a nationally representative sample of 2,967 adults from May 11 to 31, 2010. Using a list of a dozen items (see Figure 1) designed to make everyday life more productive, convenient, comfortable or entertaining, it asked respondents whether they consider each item a “necessity” or a “luxury.”

³⁵ *The Fading Glory of the Television and Telephone*, Pew Research Center, August 19, 2010.

³⁶ 63% use wireless AND landline; 35% use landline-only; total is 98% use landline service. *Affordability of Basic Telephone Service*, Volume 1, p. 25, Communications Div., 9/13/2010. www.cpuc.ca.gov/PUC/Telco

service³⁸, versus 84% for age 40 to 59 years, 61% for age 30 to 39 years, and 39% for age 18 to 29 years, illustrated in Figure 3 – indicating that the percentage of households with landline service increases with age. This relationship is more evident in the landline-only findings, which show that 35 % of survey respondents 60 years or older³⁹ are in households with landline-only, versus 11% for age 40 to 59 years, 11% for age 30 to 39 years, and 7% for age 18 to 29 years, illustrated in Figure 4.

Figure 3: Percent of California Households with Landline Service (wireless+landline and landline-only), by Age of Respondent, 2010

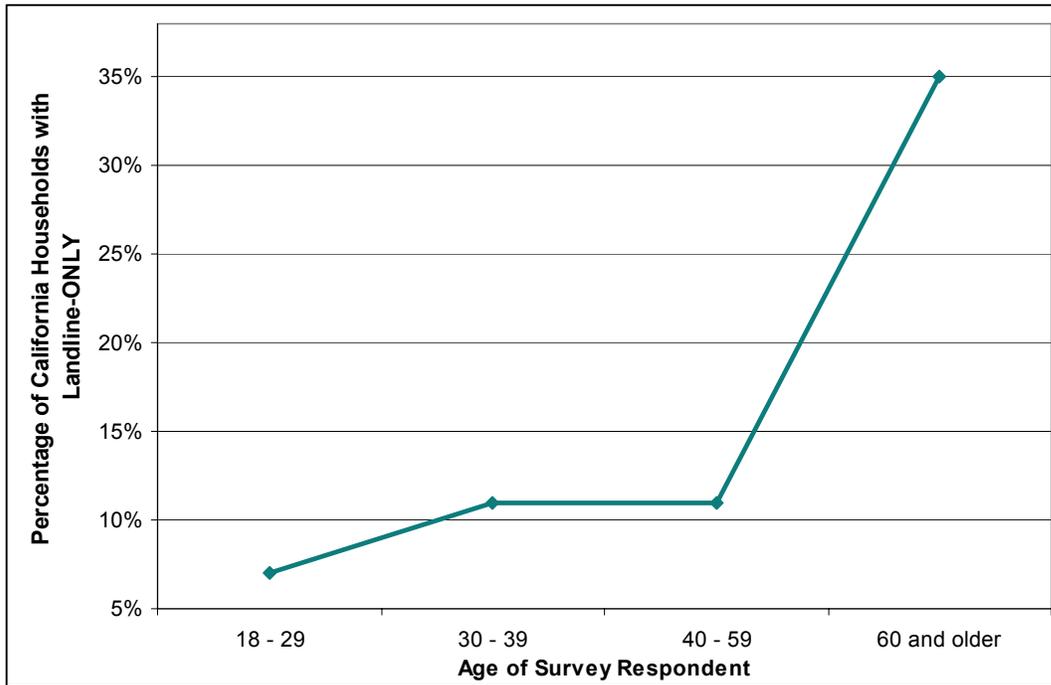


³⁷ *Affordability of Basic Telephone Service*, Volume 1, p. 14, CD, 9/13/2010. www.cpuc.ca.gov/PUC/Telco

³⁸ Total of wireless-and-landline service households plus landline-only households.

³⁹ *Affordability of Basic Telephone Service*, Volume 1, p. 14, CD, 9/13/2010. www.cpuc.ca.gov/PUC/Telco

Figure 4: Percent of California Households with Landline-ONLY, by Age of Respondent, 2010



Nationwide data show the same relationship. Statistics released by the Centers for Disease Control and Prevention (CDC) for July to December 2009 based on a national health interview survey indicate that the estimated percentage of adults living in homes with landline telephones increased with age from 35 years, with almost the entire (94.8%) surveyed population who were 65 years and over still being landline users⁴⁰. Table 1 and Figure 5 below present the CDC 2009 estimates. The Pew Research Center confirmed this age dependence on landline service with 2010 data⁴¹, shown in Figure 6.

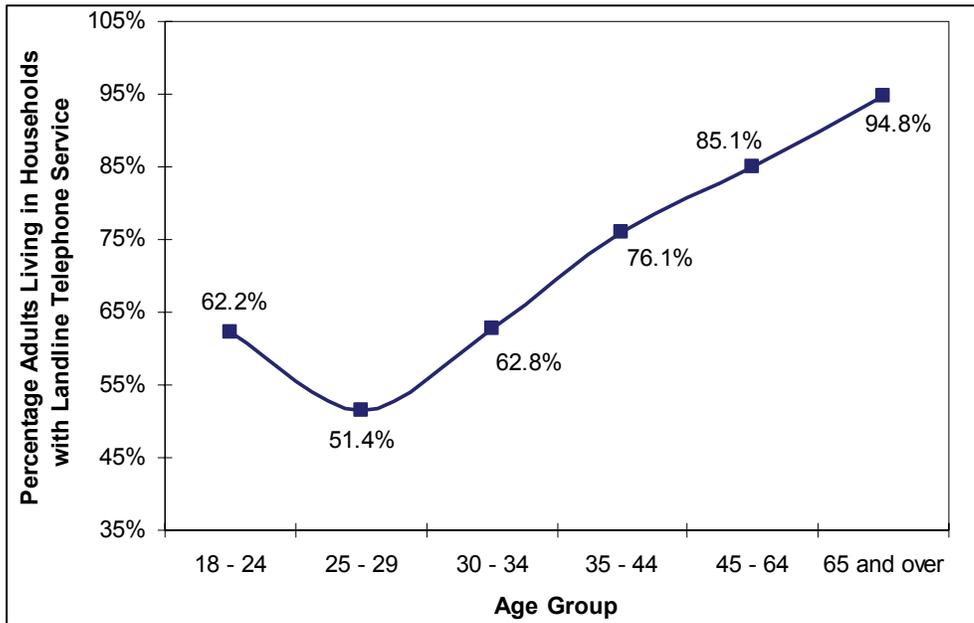
⁴⁰ *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009*, CDC. <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>

⁴¹ <http://pewsocialtrends.org/asserts/pdf/762-fading-glory-television-television.pdf>

Table 1: Estimated Percentage of Adults Living in Homes with Landlines, by Age Group, United States, July to December 2009⁴²

Age Group	Estimated Percentage of Adults Living in Homes with Landlines
18 – 24	62.20%
25 – 29	51.40%
30 – 34	62.80%
35 – 44	76.10%
45 – 64	85.10%
65 and over	94.80%

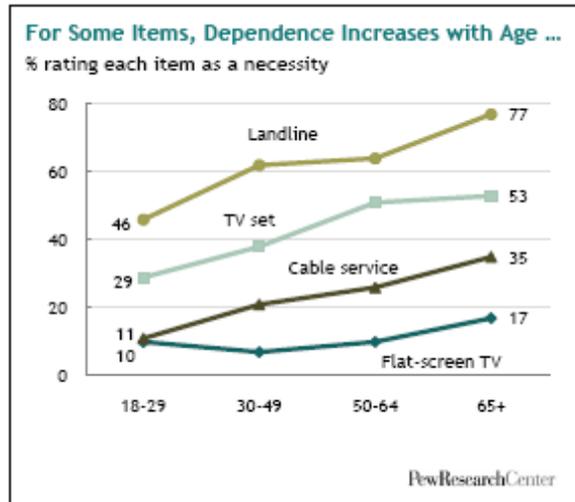
Figure 5: Estimated Percentage of Adults Living in Homes with Landlines, by Age Group, United States, July to December 2009⁴³



⁴² *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009*, CDC. <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>

⁴³ *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009*, CDC. <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>

Figure 6: Dependence on Landline and other Selected Items vs. Age,



Between December 2008 and April 2009, the UCSF Disability Statistics Center conducted an interview with participants from six broad (self-identified) disability categories: deaf, hard of hearing, blind, low-vision, difficulty using hands/mobility impairment, and speech impairment, with regard to their means of communication⁴⁴. Overall findings show that a majority (73%) of the participants still communicated with a landline phone in addition to another means of communication, such as the Internet or a wireless phone. Detailed results show that a majority of participants in each disability category, aside from the self-identified deaf group, also communicated using a landline phone, shown in Table 2 and Figure 7⁴⁵:

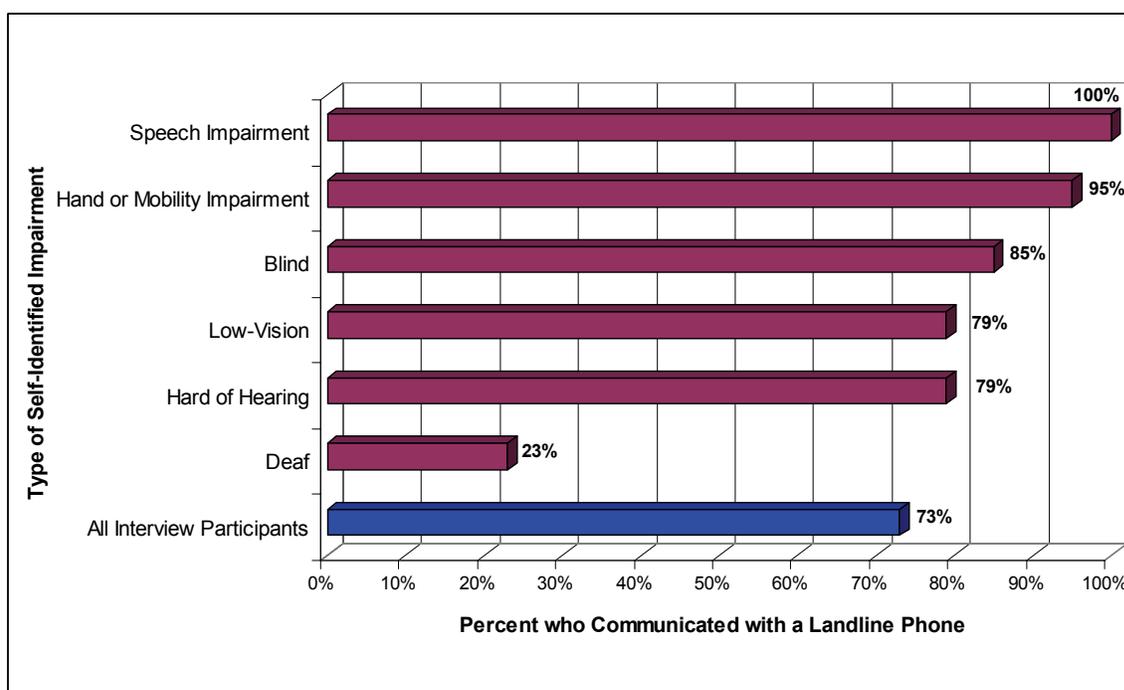
⁴⁴ *Telecommunication Needs of Californians with Disabilities: Final Report*, UCSF Disability Statistics Center, July 2009. [Http://www.pascenter.org/documents/puc_final_report.pdf](http://www.pascenter.org/documents/puc_final_report.pdf)

⁴⁵ *Telecommunication Needs of Californians with Disabilities: Final Report*, UCSF Disability Statistics Center, July 2009. [Http://www.pascenter.org/documents/puc_final_report.pdf](http://www.pascenter.org/documents/puc_final_report.pdf)

Table 2: Percentage of UCSF Disability Statistics Center Interview Participants who Communicated with a Landline Phone, by Type of Self-Identified Impairment, December 2008 to April 2009

Type of Self-Identified Impairment	Percentage that Communicated with a Landline Phone
Speech Impairment	100%
Hand or Mobility Impairment	95%
Blind	85%
Low-Vision	79%
Hard of Hearing	79%
Deaf	23%
All Interview Participants	73%

Figure 7: Percentage of UCSF Disability Statistics Center Interview Participants who Communicated with a Landline Phone, by Type of Self-Identified Impairment, December 2008 to April 2009



V. DRA’S RECOMMENDATIONS: EXTEND PRICE CONTROLS, ENSURE REASONABLE RATES UNTIL SUFFICIENT COMPETITION EXISTS, AND CONSIDER CREATING STAND ALONE BASIC SERVICES AT REASONABLE RATES

A. Recommendation #1: Extend the D.08-09-042 Controls on Basic Residential Service Rates Until Sufficient Competition Exists

Pursuant to Public Utilities Code sections 709(f) and (h), it is the stated goal of the Legislature that the policies for telecommunications in California are “(t)o promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct” and “(t)o encourage fair treatment of consumers”. As demonstrated by the drastic recent price increases, and thoroughly discussed in the Senate Report “Gaps Emerge in Telephone Consumer Protections”, the Commission has fallen short of its legislative mandate.

In the URF decision, the Commission promised to “remain vigilant in monitoring the voice communications marketplace”⁴⁶ and proposed to consider further monitoring and reporting on competition and affordability. DRA has continued to monitor competition and pricing, and reports its findings here. DRA also has shown that the Commission’s pledge to “remain vigilant” is still relevant today.

To accomplish the legislative goals to promote lower prices, broaden consumer choice, avoid anticompetitive conduct, and encourage fair treatment of consumers, DRA recommends that the Commission maintain the price controls it created in D.08-09-042, and which are scheduled to be lifted on January 1, 2011, until such time as the Commission has identified sufficient competition exists to ensure reasonable, affordable rates.

For the same reasons the Commission articulated in D.06-08-030 for the original basic residential rate freeze, namely, that California has not yet developed a competitive market for these basic services, DRA believes the request is still necessary and important today to protect consumers from future substantial price increases. No evidence exists to show that competition has been or will be sufficient to keep prices either stable or rising

⁴⁶ D.06-08-030, p.156.

only with inflation; all the evidence points to the existence of market dominance by AT&T and Verizon, which allows them to raise prices without losing market share. The Commission's faith in a "marketplace" of communications goods and services has not been well-placed, and DRA recommends that the Commission re-think its policies with regards to eliminating price controls on basic residential service.

B. Recommendation #2: Create a Forum to Consider Whether to Create Price Controls on Certain Ancillary Telephone Services

The rate increases on unregulated ancillary services have been startling, as described in DRA's Report. For example,

- Frontier increased its WirePro rate by 399%
- Verizon increased its WirePro rate by 167%
- AT&T increased its WirePro rate by 134%
- AT&T increased its Call Waiting rate by 132%
- AT&T increased its Three-Way Calling rate by 117%
- Frontier increased both its Three-Way Calling and Call Waiting rates by 60%

Given the post-URF price increases to date, DRA has reason to suspect that some consumers are simply unable to pay these increased prices and will be unable to afford services which they value or even be priced out of the market entirely. Basic residential service historically has been the least elastic of the ILECs' services; i.e., customers are least likely to change their basic wireline service in response to a price increase⁴⁷. The significant price increases described above prove that customer demand for certain basic ancillary services is similarly inelastic. DRA maintains that this is because basic telephone services are still a public convenience and necessity like electricity or water.

Consumers are not sufficiently protected by only continuing the price controls on basic residential service. Consumers are harmed when they are forced to select from expensive bundles of telephone services, without being able to choose the products or services that they want and/or need. Therefore, DRA strongly recommends that a new

⁴⁷ The Commission last looked at elasticity of demand in telecom in the IRD proceeding – D.94-09-065.

phase of this proceeding be created to include an examination regarding whether URF carriers should be required to offer certain telephone services on a stand-alone basis and at affordable rates.

DRA specifically suggests that some services are so commonly-used and perceived as necessary that they should be given special attention: caller ID, inside wire maintenance, non-published listing; directory assistance; and call waiting. DRA believes the post-URF price increases demonstrate the existence of market share power for these services; significant harm to consumers; inelasticity of demand; and price increases that are demonstrably not due to “market-based pricing”. The scope of the recommended proceeding would include an examination of whether the industry has colluded to eliminate the availability for stand-alone affordable basic services for average consumers.

VI. UNDER RULE 16.4(d), NEW FACTS JUSTIFY THIS PETITION FOR MODIFICATION

A Petition for Modification asks the Commission to make changes to an issued decision, and must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. DRA has explained the specific modification requested and the justification for modification above. The market forces that all the URF carriers promised would keep prices “competitive” have not done so; prices have increased substantially. Thus, the request that price controls created and extended under D.08-09-042 continue indefinitely and certain additional services be subject to such controls is reasonable under the circumstances. The requested modification is amply supported by the fact of skyrocketing prices for uncapped telecommunications services.

Rule 16.4(d) of the Commission’s Rules of Practice and Procedure state that Petitions for Modification are to be filed within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed from the effective date of the decision, the petition must include an explanation of why it could not have been presented within the one-year time period.

Decision 08-09-042 became effective in 2008. Since then, DRA has documented rate increases occurring over the last two years. This pattern of increased rates would not have been apparent until sufficient time passed for the new transitional rates to go into effect. By its very nature, the analysis DRA has performed required more than one year to perform, simply because DRA is monitoring the rise in rates over a period of more than one year. While some rates may have risen immediately, it is the *pattern* of rising rates over time that justifies modification to D. 08-09-042; without that rising pattern over time, the need to modify the decision in the way DRA requests here would not exist.

VII. CONCLUSION

In its 2006 Uniform Regulatory Framework Decision, the Commission decided that competitive forces would be sufficient to ensure statutorily required “just and reasonable” rates for California’s telecommunications consumers. At that time, the carriers were granted broad pricing freedoms for nearly all telecommunications services, products and bundles. On July 28, 2008, DRA released its *Report on Rate Increases* which examined and summarized the subsequent telephone rate increases allowed by this Decision. DRA’s Report found that after the adoption of the URF decision in 2006, California’s four incumbent telephone companies have regularly, and substantially, increased their rates.

Now, after four years of deregulation, the California Senate Office of Oversight and Outcomes has prepared a report on the state of consumer protection in the telecommunications industry. On July 16, 2010, the Senate Rules Committee issued the *California Public Utilities Commission: Gaps Emerge in Telephone Consumer Protections*, which examined the statutory mandate of consumer protection that remains in law and scrutinized the Commission’s regulatory performance. The Senate Report observed problems in the State’s oversight and criticized the Commission for failing to protect ratepayers when it deregulated rates for wireline telephone services. The Senate Report validated and referenced the DRA Report numerous times to show the substantial rate increases that occurred after the 2006 URF decision.

As a follow up to the prior DRA Report, DRA has again examined the telephone rates of the URF ILECs and found that rates continue to increase in California. These price increases have had, and will have, a major impact on the elderly, the economically disadvantaged, and the disabled. Yet a landline continues to be a “lifeline” for many – a necessary utility that ensures access to emergency services. DRA therefore recommends that 1) the price controls on basic residential rates that are scheduled to be lifted on January 1, 2011 be extended until such time as the Commission has identified that sufficient competition exists to ensure reasonable, affordable rates; and 2) that the Commission create a forum to consider identifying which basic and necessary features should be available to all wireline consumers at affordable rates.

Respectfully submitted,

/s/ TRAVIS T. FOSS

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October 25, 2010

EXHIBIT A

THE FAILURE OF CONSUMER PROTECTION HOW THE COMMISSION'S ASSUMPTIONS ABOUT COMPETITION HARM CONSUMERS

I. INTRODUCTION

In their 2006 Uniform Regulatory Framework (URF) Decision, the California Public Utilities Commission (Commission) decided that competitive forces would be sufficient to ensure statutorily required “just and reasonable” rates for California’s telecommunications consumers. At that time, the carriers were granted broad pricing freedoms for nearly all telecommunications services, products and bundles. On July 28, 2008, the Division of Ratepayers Advocates (DRA)¹ released its *Report on Rate Increases* (DRA Report), which examined and summarized the subsequent telephone rate increases allowed by this Decision. DRA’s Report found that after the adoption of the (URF) decision in 2006,² California’s four incumbent telephone companies (URF ILECs) have regularly, and substantially, increased their rates.

Now, after four years of deregulation, the California State Senate Rules Committee (Rules Committee) directed the Senate Office of Oversight and Outcomes to prepare a report on the state of consumer protection in the telecommunications industry. On July 16, 2010, the Rules Committee issued the *California Public Utilities Commission: Gaps Emerge in Telephone Consumer Protections* (Senate Report), which examined the statutory mandate of consumer protection that remains in law and scrutinized the

¹ DRA is an independent consumer advocacy division of the Commission. DRA’s statutory mission is to obtain the lowest rate for service consistent with safe and reliable service levels.

² On April 14, 2005, the Commission instituted its Uniform Regulatory Framework (URF) Rulemaking 05-04-005 to assess and revise the rate regulation of large ILECs in California. Decision 06-08-030, the Phase I URF decision, removed all remaining price regulation for business and residential telecommunication services with the exception of stand-alone basic residential service and lifeline service for low income consumers. It also established a framework for deregulating the price of basic residential service.

Commission's regulatory performance. The Senate Report observed problems in the State's oversight and criticized the Commission for failing to protect ratepayers when it deregulated rates for wireline telephone services. The Senate Report validated and referenced the DRA Report numerous times to show the substantial rate increases that occurred after the 2006 URF decision. The Senate Report produced five findings with options to remedy the lack of consumer protection mandated by law.

As a follow up to the prior DRA Report, DRA has again examined the telephone rates of the URF ILECs and found that rates continue to increase in California. DRA's findings follow. DRA also makes recommendations here and in the accompanying Petition to address the need for consumer protections and the Commission's statutory obligation to do so. In order to protect consumers and ensure reasonable rates, DRA recommends the following:

Recommendation #1: Extend Commission Decision (D.) 08-09-042 Controls on Basic Residential Service Rates Until Companies can Provide Concrete Evidence that Sufficient Competition Exist to Restrain Price Increases

Recommendation #2: Create a Forum to Consider Whether to Reinstitute Price Controls on Certain Ancillary Telephone Services

Summary of Data

- Prices for telephone services from the four URF ILECs in California continue to increase. Many of these rate increases have been substantial. For example, since 2006, custom calling services, like WirePro rates have increased 399% for Frontier, 167% for Verizon and 134% for AT&T; Call Waiting rates have increased 132% for AT&T, 60% for Frontier and 13% for Verizon; and Three-Way Calling rates have increased 117% for AT&T, 60% for Frontier, 29% for Verizon and 6% for SureWest.

- Similarly, AT&T's LifeLine rate has increased each year since 2006 by 25% or the maximum allowed by the Commission. Further, Residential Basic Flat Rate has increased by 54% for AT&T, 18% for Verizon and 6% for SureWest.
- DRA found that Wireless service is not substantially replacing and eliminating the need for landline service. In 2010, landline service still prevails among California households. The 2010 Commission report on affordability of basic telephone service showed an estimated 77% of California households with voice telecommunication service have landline service.
- In every racial and ethnic survey respondent group, at least 67% (two-thirds) of households have landline service and almost 100% (98%) of respondents over 60 years of age live in households with landline service.
- A report published by the UCSF Disability Statistic Center in July 2009 found that the majority of the disabled community in California use landline telephones. The UCSF report found that a majority of participants (73%) still used a landline phone to communicate and the following is a breakdown by disabilities of the percentages of those still dependent on landline telephones:
 - 100% of those with speech impairment;
 - 95% of those with hand or mobility impairment;
 - 85% of the blind;
 - 79% of those hard of hearing or with low vision

II. BACKGROUND OF THE CURRENT RESIDENTIAL RATE FREEZE ON LOCAL SERVICE

In 2005, the Commission instituted Rulemaking 05-04-005 to assess and revise the regulatory paradigm for the four large and mid-sized incumbent local exchange carriers (ILECs) in California. The primary

purpose of the proceeding was to develop a uniform regulatory framework for both ILECs and competitive LECs (CLECs), to the extent that the Commission found such a framework to be feasible and in the public interest. Following the Commission's adoption of the URF decision (D.06-08-030), customers of the four largest telephone companies in California (AT&T, Verizon, Frontier and SureWest) have faced sharp price increases for many services.

In the URF decision, the Commission decided that competitive forces will produce statutorily required "just and reasonable" rates for California's telecommunications consumers. Accordingly, the Commission granted these carriers broad pricing freedoms concerning almost all telecommunications services, new telecommunications products and bundles of services. With few restrictions, the Commission permitted carriers to add services to "bundles" and target services and prices to specific geographic markets, thus permitting geographically de-averaged pricing, which could result in a customer in places like Ukiah paying a different price for the exact same service as one in San Francisco.

The Commission found that continued pricing regulation is warranted for a few basic services relating to public policy programs. The Commission found some pricing restrictions are appropriate when a service receives a social program subsidy, such as California LifeLine program (LifeLine or ULTS) residential service and basic residential service in areas receiving California High Cost Fund-B (CHCF-B) subsidies. Thus, the Commission capped the price of basic flat-rate residential service until January 1, 2009 in order to address the statutorily-mandated link between the LifeLine rate and basic residential service rates. D.06-08-030 also froze rates of basic residential services receiving a CHCF-B subsidy at a level equal to the

current rate. In addition, Public Utilities Code Section 5950³ mandated that the price controls remain in effect until January 1, 2009.

A. D.08-09-042 Extended Price Controls Until 2011, With Interim Increases of 30-50% Allowed

Taking into account the fact that basic residential rates remained fixed since the B-Fund was adopted in 1996, and had not increased above those levels since then (except for limited inflation-related adjustments for 2008 as authorized for AT&T and Verizon in D.07-09-020)⁴, the Commission determined that a “transition process is required to move to market-based pricing of basic service once the current rate caps expire effective January 1, 2009.”⁵

The Commission thus found that it was reasonable to allow a rate increase of roughly 30-50% for basic residential rates⁶. In Appendix 2 of D.08-09-042, the Commission proscribed increased transitional rate caps (in phases) for basic residential service, and mandated that as of January 1, 2011, the carriers’ rates for basic residential service would be unregulated “subject only to competitive market forces.”⁷ The purpose of phasing-in rate increases was to avoid “rate shock” while allowing time for a “timely transition to market-based pricing.”⁸

In the Findings of Fact, the Commission demonstrated a belief that a transition to market-based pricing would, in fact, occur. The Commission

³ Under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), it was the California Legislature’s intent to “(c)reate a fair and level playing field for all market competitors that does not disadvantage or advantage one service provider or technology over another.” (Public Utilities Code section 5810(a)(2)(A).) As part of DIVCA, Public Utilities Code section 5950 specifically prevents the Commission from lifting the rate freeze until 2009, to prevent unfair competition.

⁴ D.08-09-042, Finding of Fact #2.

⁵ *Id.*, Conclusion of Law #1.

⁶ *Id.*, Conclusion of Law #3. The increases applied to both flat rate and measured rate service. The rate increases phased in over two years. See Appendix 2 of D.08-09-042.

⁷ *Id.*, Ordering Paragraph #4.

⁸ *Id.*, Finding of Fact #10.

stated that the “forces of competition” would restrain carriers from raising basic service rates above affordable levels once the two-year transition period expires⁹. The Commission further found that “the ILECs would not be able to sustain rate increases for basic service above affordable levels after the end of the two-year transition period, under the provisions as adopted in this decision.”

III. CALIFORNIA SENATE REPORT CRITICIZES THE COMMISSION FOR FAILURE TO PROPERLY REGULATE COMPANIES PROVIDING TELECOMMUNICATION SERVICES AND PROTECT RATEPAYERS

On July 16, 2010, the California Senate Office of Oversight and Outcomes issued a report for the Rules Committee criticizing the Commission for its failure to properly regulate companies providing telecommunication services and to protect ratepayers.¹⁰ The Senate Report looked at whether there was a true competitive telecommunication market by questioning if there is any substantial competition after deregulation. The Senate Report relied on the 2008 DRA Report on rate increases by selected ILECs for many of its factual findings which presented significant evidence of rate increases after the adoption of the URF in D.06-08-030 of 2006.

The following are a summary of the Senate Report’s findings and some possible options to remedy these problems.

Finding 1 – Deregulated telephone rates are not scrutinized and virtually any increase is automatically deemed just and reasonable.

Although the Commission is statutorily required to assess whether utilities’ rates are “just and reasonable,” the Senate Report found that deregulated telephone rates are not scrutinized and virtually any increase is automatically

⁹ *Id.*, Conclusion of Fact #19.

¹⁰ California Senate Office of Oversight and Outcomes Report – Gaps Emerge in Telephone Consumer Protection dated July 16, 2010 (Senate Report)

deemed just and reasonable. It also found that the Commission has no formal system in place to document market power abuse.

As a partial remedy, the Senate Report recommended that the Legislature renew an expired 1998 law, AB 1973, which required the PUC to “submit an annual report to the Legislature on the status of competition, significant changes in the telecommunications marketplace, and recommendations of statutory changes.” DRA supports this remedy and also recommends that companies be required to provide cost data to allow the Commission, DRA and other consumer groups the information necessary to not only track, but analyze the effect of any rate changes on ratepayers.

Finding 2 - What will happen when the price caps comes off the basic residential rate and the subsidized Lifeline rate on January 1, 2011? The Senate Report agreed with DRA’s conclusion that the lack of a price cap on the basic residential rate poses a “serious threat” to vulnerable Californians. The challenge for the Commission will be to assure that rates remain just and reasonable – and that the Lifeline rate remains affordable. DRA agrees with the recommendation that after the caps come off on January 1 2011, the Commission must be vigilant in monitoring the impact of any rate changes. Continuing rate increases strongly suggest there is not, in fact, sufficient competition to restrain incumbent market power.

Finding 3 - Resolving complaints against detariffed telephone companies is more difficult than with utilities with tariffs because of the lack of oversight. The Senate Report concentrated on the Commission’s Consumer Affairs Branch (CAB)’s focus of a “case closed” strategy to reduce its workload instead of working with the utilities to resolve the complaints. The report, however, also concluded that CAB is taking steps to improve its performance by extending the hours it is open to receive consumer complaints and implementing a new updated database to track

trends in complaints that should be posted online and included in the Commission's annual report to the Legislature.

Finding 4 –Failure to report information that could help consumers make comparisons. The Senate Report focused on posting “report cards” on carriers’ service quality and what information the wireline telephone companies are required to provide to the Commission. In contrast, wireless companies are only required to provide their coverage maps. The Senate Report concluded that although the Commission ordered that carriers’ service quality information should be published, including complaint statistics, as of 2009 no service quality reports, either wired or wireless, had been published. DRA supports the publication of service quality data, especially the CAB’s complaint statistics, as it is a valuable tool in helping consumers make important purchasing decisions.

Finding 5 - The Commission has failed to track and report cramming complaints for wireless telephone carriers. Although the Commission collects cramming¹¹ statistics from landline phone companies, wireless carriers have been in regulatory limbo for years. However, cramming has flourished with the advent of cellular telephones because the complicated bills generated by wireless carriers make it easier to disguise unauthorized charges. DRA supports proposed rules for reporting cramming violations, including wireless, with three objectives – prevent unauthorized charges by requiring phone companies to bill accurately; promptly identify any unauthorized bill, stop it, and obtain refunds for affected customers; and identify “bad actors” and prevent them from continuing to operate in California.

¹¹ Cramming is the inclusion of unauthorized charges on a telephone bill. See P.U. Code section 2890.

In response to investigating carriers who exceed the “100 complaint in 90 days” rule¹², it appears that CAB may be able to meet the Commission’s statutory obligation through its new complaint database that allows it to track and investigate cramming complaints. The results can be made public and posted with other complaint statistics on the Commission’s website.

IV. MAIN DISCUSSION

A. CALIFORNIA INCUMBENT TELEPHONE CARRIERS CONTINUE TO RAISE RATES ON BASIC SERVICES AND SELECTED CUSTOM CALLING SERVICES

In its earlier 2008 report on the rate increases by selected California ILECs, DRA presented significant evidence of rate increases by California ILECs after the adoption of the Uniform Regulatory Framework (URF) in 2006. In addition, the Senate Report presented data showing how AT&T, Verizon, SureWest, and Citizens/Frontier have increased their rates on services since the deregulation of telephone rates in 2006.

DRA reviewed numerous Communications Division (CD) Advisory Notices documenting rate increase announcements by the carriers. After reviewing these documents, DRA found that AT&T, Verizon, SureWest and Frontier/Citizens continue to raise monthly rates on selected telecommunication services.

California deregulated virtually all telephone rates for AT&T, Frontier, SureWest and Verizon in 2006. For example, some of the notable increases since the URF decision include:

- Frontier increased its WirePro rate by 399%
- Verizon increased its WirePro rate by 167%
- AT&T increased its WirePro rate by 134%

¹² P.U. Code section 2889.9 requires the Commission to investigate if it gathers more than 100 cramming complaints against one entity in any 90-day period.

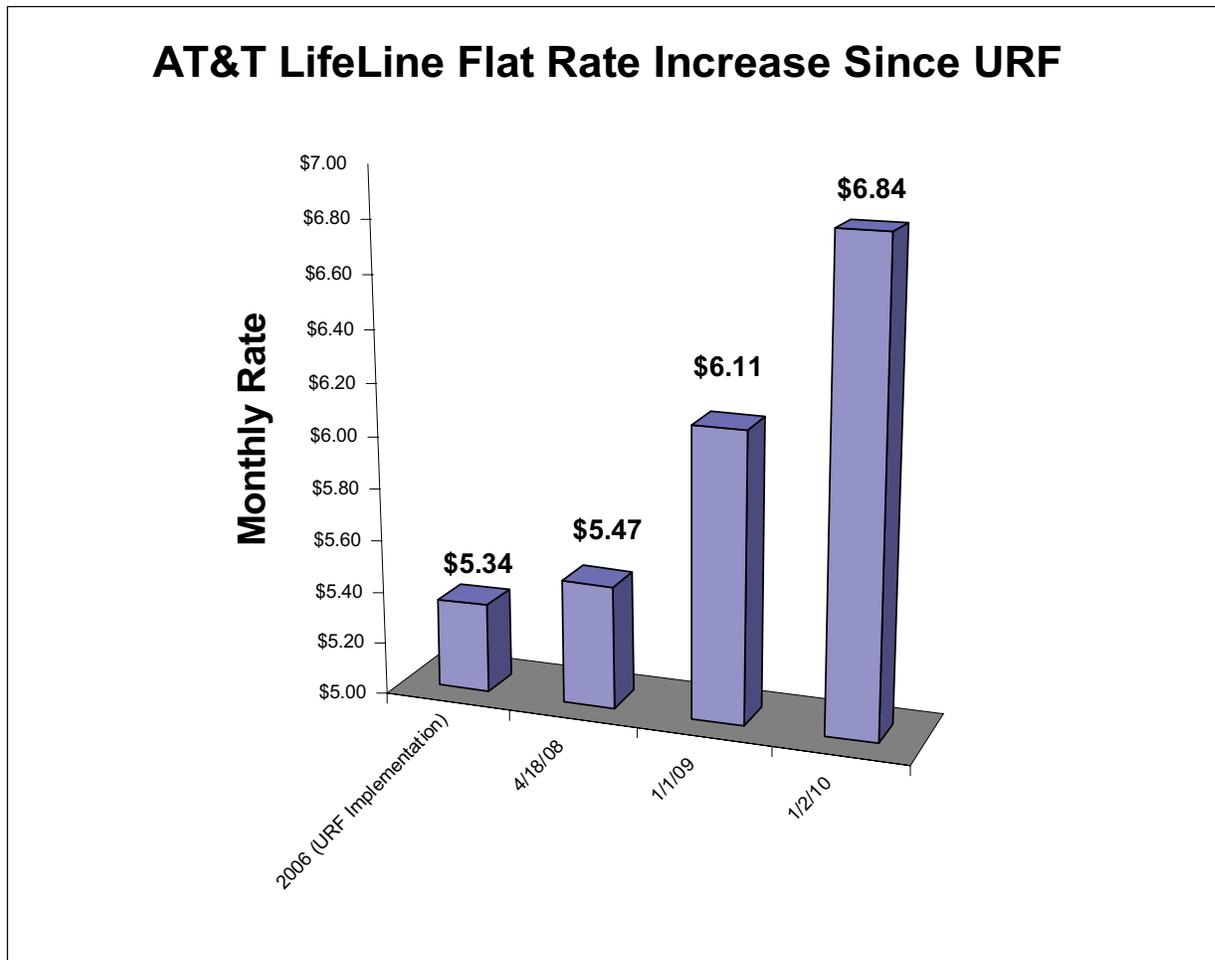
- AT&T increased its Call Waiting rate by 132%
- AT&T increased its Three-Way Calling rate by 117%
- Frontier increased both its Three-Way Calling and Call Waiting rates by 60%

1. Charts and Graphs

Source: CPUC, Communications Division Advisory Notices; 2007-2010

a) **AT&T LifeLine Basic Rate**

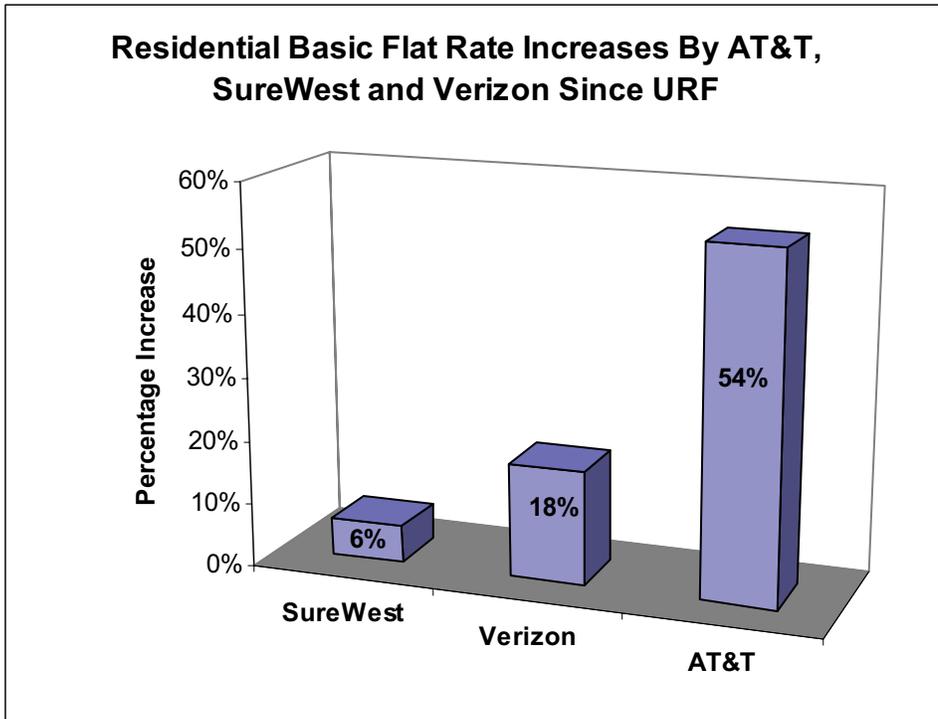
Graph 1¹³



¹³ AT&T has increased its LifeLine Flat Rate every year since the 2006 URF decision by 25% (the maximum amount allowed by the Commission).

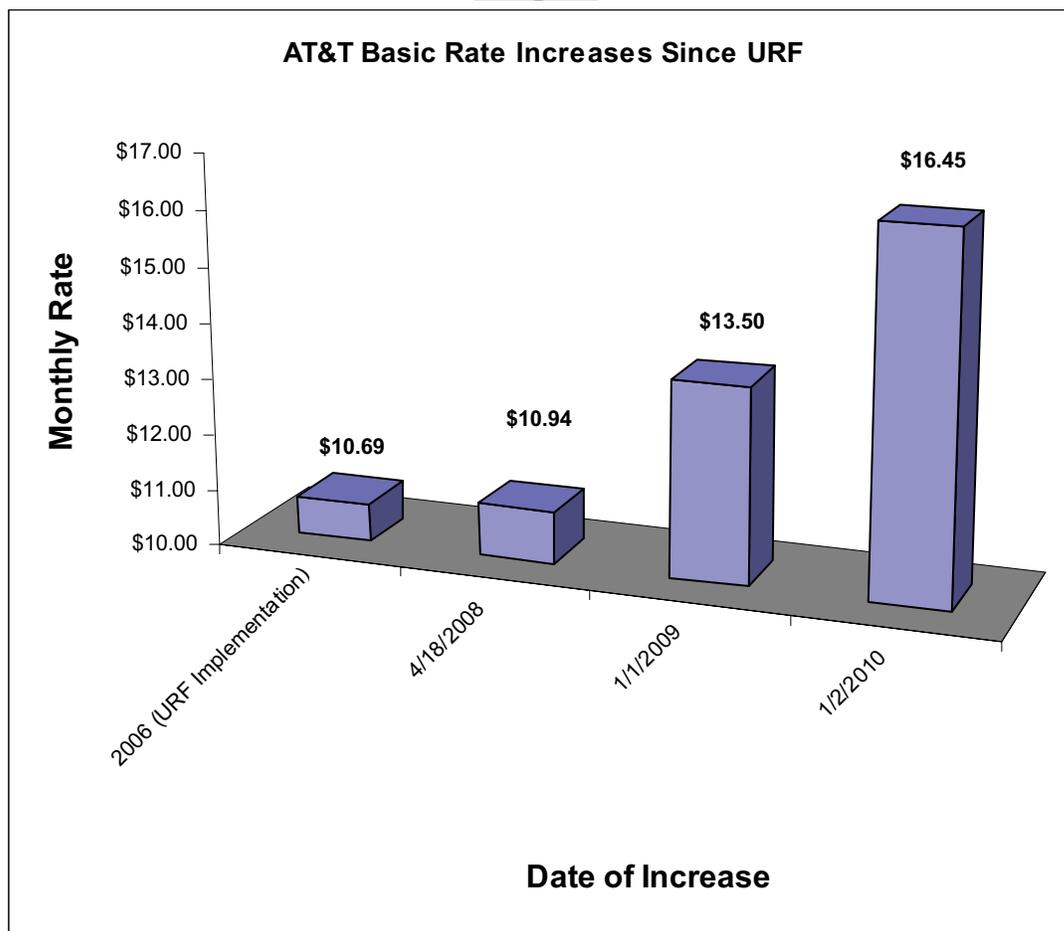
b) Residential Basic Flat Rate

Graph 2¹⁴



¹⁴ Compared to the other four companies, AT&T has increased its basic rate the most since the rate deregulation of telephone service in California in 2006. In addition, it appears that AT&T was the only company to raise basic rate every year since 2006(Graph 3). DRA was unable to locate any consumer notices from Frontier Telephone announcing basic rate increases since deregulation.

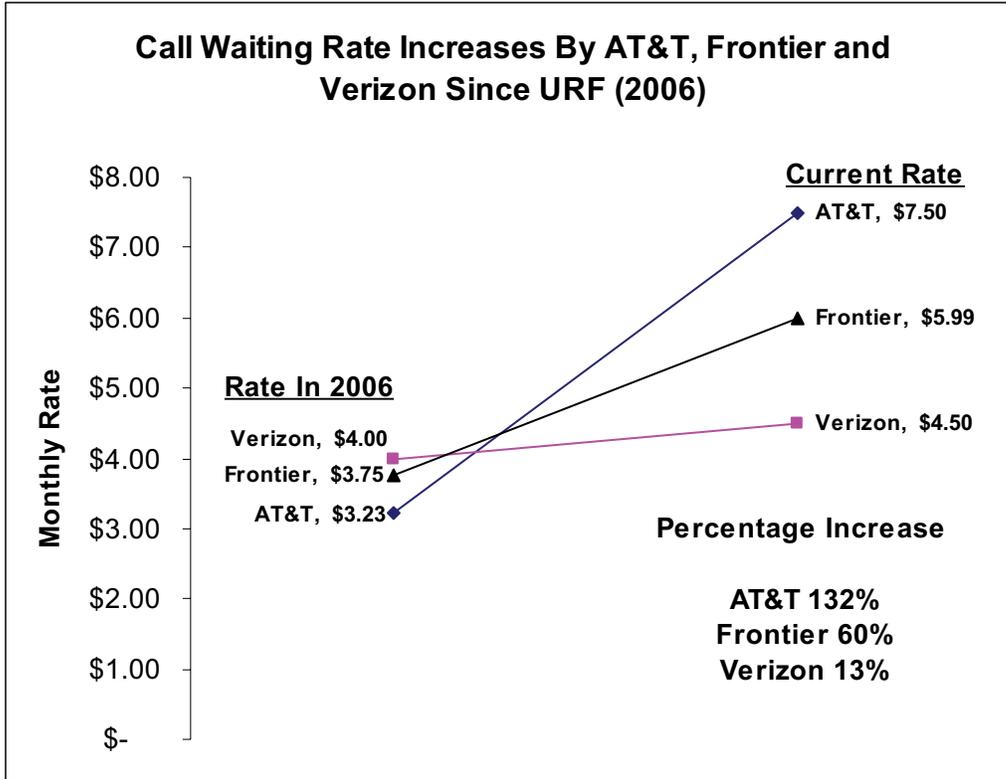
Graph 3



c) Custom Calling Rates

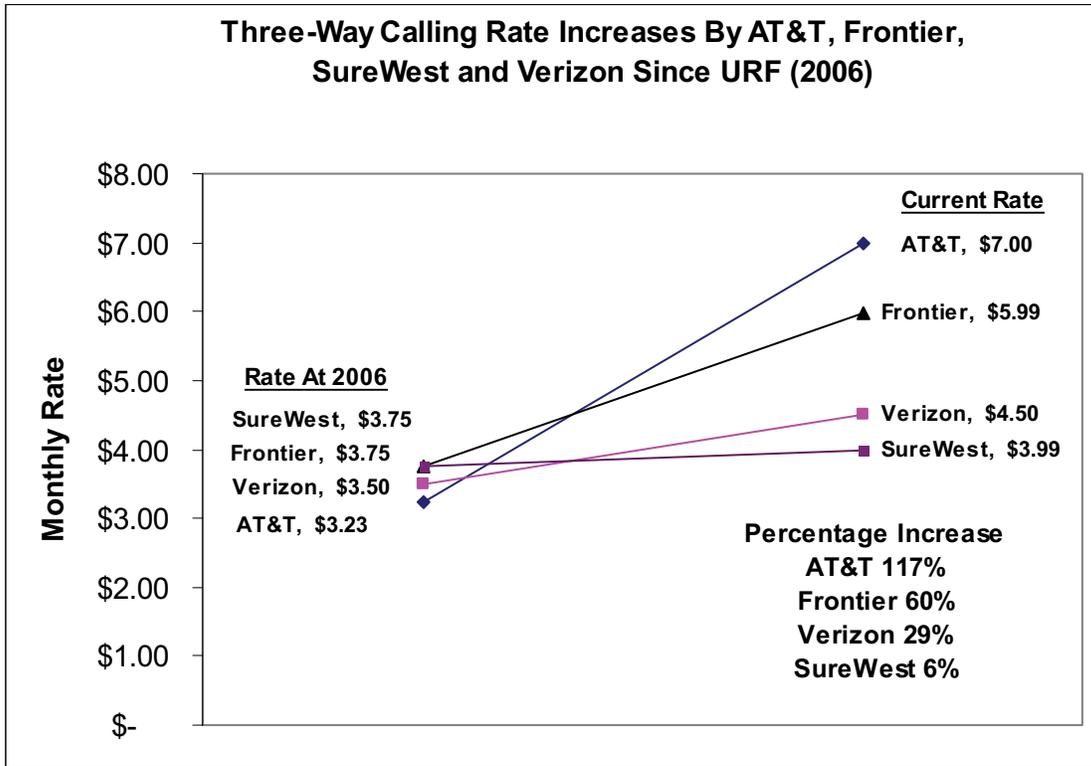
DRA graphed the rate increases on some of the more popular custom calling services offered by AT&T, Frontier, SureWest and Verizon.

Graph 4¹⁵

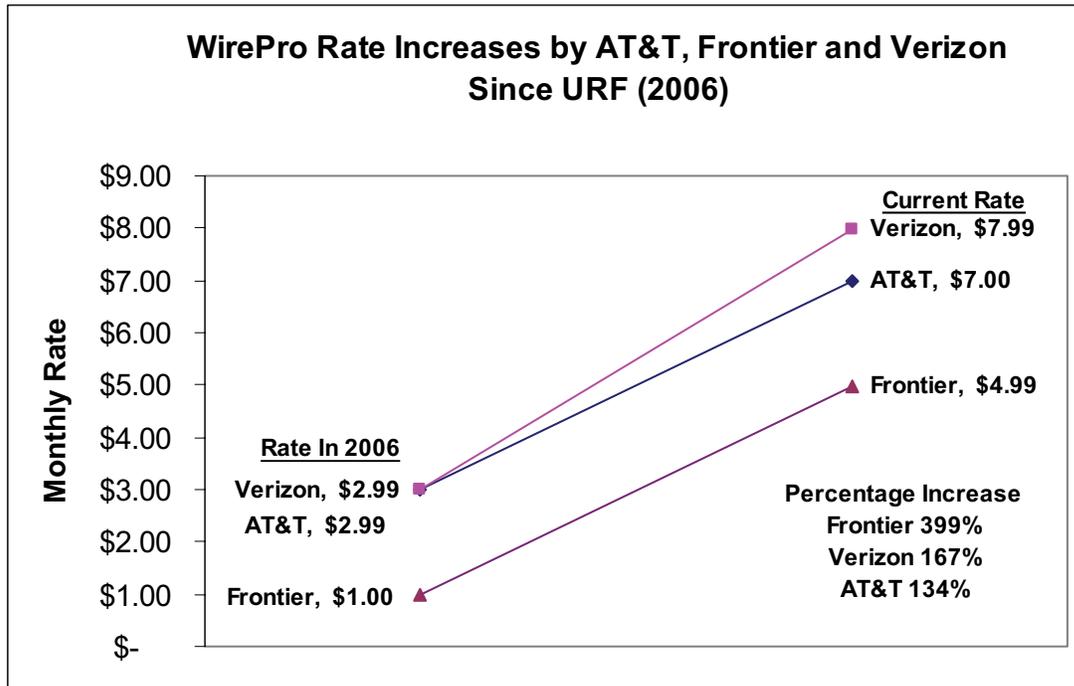


¹⁵ DRA did not locate any consumer notices from CD announcing any rate increases from SureWest for its Call-Waiting services.

Graph 5



Graph 6¹⁶



B. RESIDENTIAL PRICE DECREASES PROMISED BY URF HAVE NOT MATERIALIZED

In D.06-08-030, the URF carriers assured the Commission that there would be a competitive market in lieu of rates to protect customers. In its Petition for Modification of D.06-08-030, DRA argued that URF carriers’ assurance that pricing flexibility would result in “attractive” and “competitive” rates” have failed to materialize. Rising rates contradict the promises of the URF carriers and contradict the assumptions of the Commission.

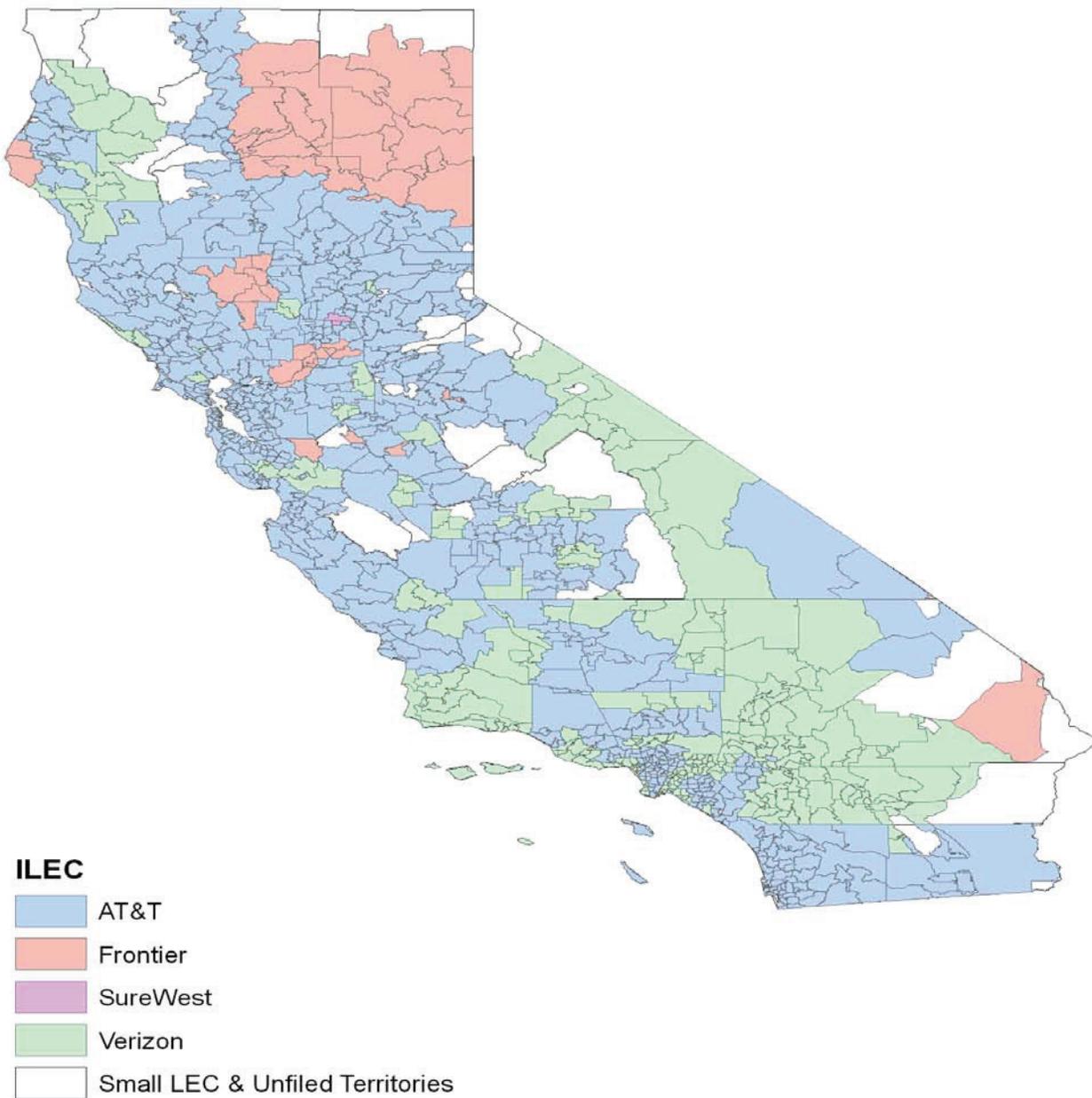
AT&T and Verizon together control approximately 85% of California’s wireline telephone market. (2008 DRA Report, footnote 10). As shown in the service territory map on the next page as Map A, and discussed below, these two companies have not engaged in any meaningful

¹⁶ According to the CPUC, SureWest has not raised its WirePro rates since the 2006 URF decision.

wireline competition with each other in their respective service territories.
Map A shows the physical service territory for the four URF ILECs for residential wireline service, the legacy service based on copper loops.

Map A

California Residential Service Territories



September 2010

C. CARRIERS ARE *NOT* COMPETING FOR LOCAL SERVICES

AT&T California, Verizon California, Frontier Communications, and SureWest, the four URF carriers, are well-established local wireline service providers within their own ILEC territories. Together, they cover most of the state of California and all of the state's major population centers (see map in Attachment A). Outside their ILEC territories, Verizon and Frontier do not have Competitive Local Exchange Carrier (CLEC) operations offering voice service to residential or business customers. While SureWest and AT&T do have a CLEC presence in California outside their ILEC territories, these operations serve purposes other than actively competing for wireline residential voice customers.

SureWest has a CLEC operation that provides services to its business customers, with operations both inside and outside SureWest's ILEC footprint; as such the CLEC does not engage in residential voice competition.

AT&T continues to maintain CLECs in California outside its ILEC territory, although these are largely the result of mergers with, and acquisitions of, competitor CLECs over the years; these include the PacificBell/SBC merger, acquisitions prior to the SBC-AT&T merger of 2005, and CLEC operations that the stand-alone AT&T Communications brought into the merged company. The pre-merger AT&T Communications stopped marketing residential local voice service in 2004; the current merged company does not actively market the service itself or through its legacy CLECs. While a customer in AT&T's out-of-region CLEC territories may request AT&T rather than the local ILEC service, AT&T's lack of marketing and drop in CLEC subscriptions indicates at best a passive (and declining) form of competition.

FCC "477 Reports," filed by both the pre-merger and post-merger AT&T since 2001, show that levels of CLEC-based wireline residential voice

subscribership have dropped significantly, and further support the case that any level of meaningful wireline competition is over.

DRA recognizes that there may be “some” competition for traditional wireline service from cable VoIP connections or from fiber offerings, just as there is a partial level of competition from wireless services. However, a service that must be purchased as part of a bundle, or will not work in an electrical outage may not be an adequate or acceptable substitute for stand-alone wireline service, and may not be acceptable for many consumers.

D. PREDICTING THAT WIRELESS SERVICE WOULD BE A COMPLETE SUBSTITUTE AND COMPETITION FOR LANDLINE SERVICE WAS A FATAL FLAW IN THE URF DECISION

The Commission issued the URF Decision¹⁷ in 2006 based on predictions about the development of competition – predictions that have not come true. Most notably, the assumption that wireless service would be a substitute for landline service was a foundation of the final decision. Finding of Fact #39 “wireless service is a substitute for wire line service” was a fundamental part of the Commission’s belief in the future competitive alternatives to landline service. At that time both Verizon and AT&T provided comments and asserted demonstrations of wireless-landline substitutability, materials that were based on data prior to 2006¹⁸. The Commission’s reliance upon the future development of competition was in error. DRA contends that this future has not come to pass, and today’s data further unmask the fairy tale.

Surveys and data gathered in subsequent years have shown that not only has *much less* competition developed than the Commission predicted, but also that wireless service is not a perfect substitute, or at best only a

¹⁷ D.06-08-030, p. 254. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

¹⁸ This included Verizon customer survey and FCC report data D.06-08-030. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

partial (and sometimes inferior) substitute for landline service. The data also indicates that wireless services serve a function and need that is distinct from the need served by landline service. This data demonstrates that most customers have not replaced their landline with wireless service, but rather have complemented the distinct features of one with the disparate usefulness of the other; the wireless phone's portability and convenience for some calling behavior, and the landline phone's reliability and voice quality for other calls.

1) Surveys and Data Since the 2006 Decision All Indicate that Landline Service Can Not Be Adequately Replaced by Wireless, As Landline's Quality and Reliability are not Replicated by Wireless Service

Since 2006, research and data produced by various institutions (listed below) indicates that wireless serves a distinct and separate function from the function and uses of landline service. Not only does wireless service fail entirely as a complete or perfect substitute for landline service, it so clearly serves a complementary and separate function that having both services available has become a clear preference which increases as income level increase. Not only have objective and unbiased institutions without direct industry ties or conflicts documented this development, but AT&T and Verizon themselves have issued statements in the press vis-à-vis the continuing need for landline service in a "wireless world." DRA also contends that these complementary uses reveal the fictional nature of wireless service as a source of competition for landline service.

2) Verizon's Survey found Quality, Reliability and Safety are the Primary Reasons Why a Vast Majority of Customers Keep Landline Telephone Service

In 2008, a Verizon survey showed that an overwhelming majority of customers, including Verizon cell phone subscribers, continue to rely on landline voice service for their homes due to the service's quality and safety

characteristics – the “unmatched performance and communications quality” and “day-in, day-out dependability”, Verizon said in its survey news release. “Of course, Verizon offers a tremendous cell phone service too, and these consumers see their wireline phone as a critically important phone in their homes.” Specific survey findings noted the strong confidence and reliance of customers (including cell phone owners) on landline service:¹⁹:

- 83% of the polled consumers intended to continue using their landline home phone indefinitely – most (74%) of them cell phone owners.
- 94% named reliability and 91% named safety as the key reasons, e.g., “My telephone is my lifeline.” and “I can depend on it 24 hours a day, 365 days a year.”
- 76% of landline phone owners used their landline phone daily; nearly half (50%) of them said they would feel unsafe without a landline connection in their homes.
- 90% of those older than 65 said they would keep their landline phone forever (82% for those under 65).

These Verizon survey findings run counter to the AT&T URF testimony²⁰ in 2006. This testimony predicted that wireless services were placing competitive pressure on landline services, even when purchased in addition to a landline connection:

“...finds that 39 percent of wireline phones users are “very” or “somewhat” likely to abandon their wireline service within two years.”

In summary, the 2008 Verizon survey findings have made clear the strong confidence and reliance of Verizon customers on landline service,

¹⁹ “New Survey Shows 83% of Consumers Continue to Rely on Landline Voice Service for Its Quality, Safety Features. Verizon Survey Shows Vast Majority Plan to Retain Their Home Phone Service Indefinitely.” Verizon Communications, March 27, 2008.

<http://newscenter.verizon.com/press-releases/verizon/2008/new-survey-shows-83-percent-of.html>

²⁰ AT&T testimony by Harris, D.06-08-030, p. 119.

http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

even though most of them were also cell phone subscribers. The preponderance of “dual subscriptions” is a clear indication that wireless and landline services *complement* each other.

3) AT&T and Emergency Officials Have Advised Households to Retain a Corded (not a cordless) Landline Phone In Addition to a Cell Phone at Home for Emergency Communications Due to Fast and Reliable 9-1-1 dialing features

In 2009, following the release of survey findings showing most households did not have a home emergency communications plan, AT&T and the National Emergency Number Association (NENA) urged households to establish an emergency communications “home base” that should include “a corded landline phone in addition to a cell phone for making emergency calls”. Survey findings noting consumers’ strong reliance on the landline phone in particular for emergency situations included²¹:

- “80 percent felt that it is important to have both a corded landline and a cell phone in their home in case of emergency because it provided options to dial 9-1-1 reliably and quickly.”
- “66 percent said that dialing 9-1-1 from a landline telephone is part of their home emergency plan.”

Although AT&T persuaded the Commission in 2006 that wireless technology was an adequate substitute to wireline service²², four years later both AT&T and NENA have identified landline service, and a corded landline phone as an essential element *in addition* to a wireless phone in

²¹ “AT&T and the National Emergency Number Association (NENA) today released survey findings showing the need for households to establish home emergency communications plans that include a “home base” with a corded landline phone in addition to a cell phone for make emergency call.” *Emergency Officials and AT&T Urge Families to Establish a “Home Base” for Dialing 9-1-1. National Survey Shows Most Respondents Have Not Prepared a Home Emergency Plan.* AT&T, July 7, 2009. <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=26916&mapcode=community> “Establish a “home base.” Make sure there is a centrally-located landline phone for making emergency calls quickly.” *Survey Results: Preparing for Home Emergencies.* AT&T. <http://www.att.com/gen/press-room?pid=2932>

²²D.06-08-030. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

household emergency communication plans due to the reliable 9-1-1 network features specific to the landline telephone. This is another indication that wireless service *complements* wireline service – in this case, one adds to the other to make a more complete, reliable, emergency communication plan. This is crucially important in a state like California which regularly experiences natural disasters.

4) The Large Majority of California Households Retain Landline Service in 2010; most have Landlines in addition to their Wireless Phones

In 2006 Verizon provided survey data to the Commission suggesting that many of the customers who had given up their landline service considered wireless and landline services to be close substitutes²³.

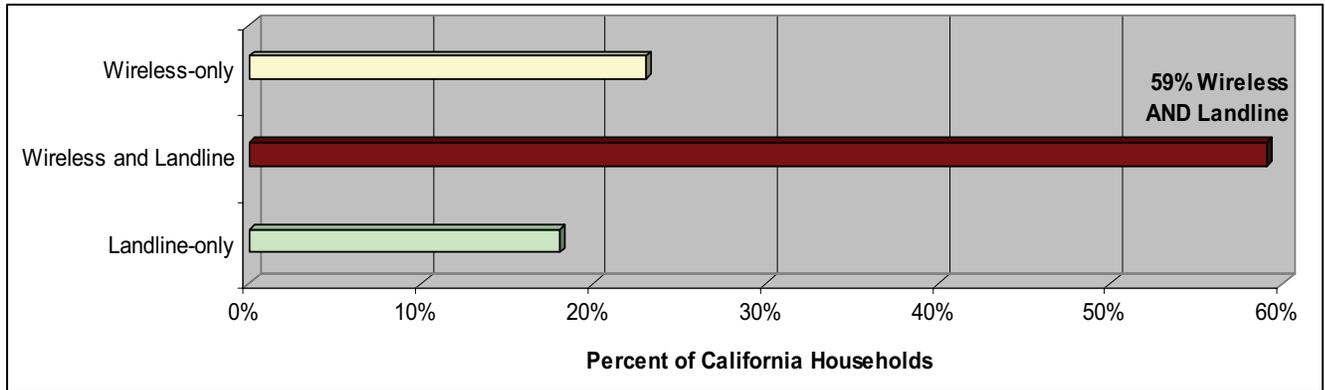
DRA acknowledges the widespread adoption of wireless service and the increasing number of consumers who have wireless phone service. However, recent statistics show many wireless phone customers, in fact, a large majority of them, have *both* wireless *and* landline service – another indication that the two services are complementary. The discussion below describes the data that supports this.

Findings from the basic telephone affordability surveys conducted in 2010, presented in the Commission report *Affordability of Basic Telephone Service*²⁴, show that an impressive 77% of California households have landline service in 2010 – 59% have both wireless and landline services, and 18% have landline service only. With regard to wireless only, an estimated 23% of California households have wireless service only. Figure 1 illustrates these survey results.

²³ D.06-08-030, page 72. http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/59388.htm

²⁴ *Affordability of Basic Telephone Service*, Communications Division (CD), 9/30/2010. <http://www.cpuc.ca.gov/PUC/Telco/generalInfo/2010AffordabilitySurveys.htm>. See Technical Appendix A for survey methods, protocols, possible bias and other details.

Figure 1: Findings from the 2010 Basic Telephone Affordability Surveys



As can be seen clearly in Figure 1, a majority (59%) of California households have landlines *in addition* to their wireless phones in 2010, contrary to the predictions of the ILECs upon which the Commission relied in 2006. This is a clear, strong indication that many customers actually consider wireless and landline services to be *complementary*.

Other survey findings show that at least two-thirds (67%) of households in every racial/ ethnic group²⁵ and almost 100% (98%²⁶) of survey respondents 60 years or older²⁷ occupy households with landline service.

Nationwide data mirrors California, showing that across the country consumers treat the services as complements to each other, rather than complete substitutes. Recent nationwide surveys represent general households' consideration of landline service as essential at present time, even with the availability of wireless and other advanced communications services. All of these results are consistent with the 2010 California findings. A 2010 Pew Research Center survey reveals that a majority (62%) of Americans still consider the landline phone a “necessity of life”, which leads

²⁵ Survey respondents were broken down into these racial/ ethnic groups: White, African American, Latino, Asian or Pacific Islander and American Indian. Footnote 2, page 15.

²⁶ 63% use wireless AND landline; 35% use landline-only; total is 98% use landline service.

Affordability of Basic Telephone Service, Volume 1, p. 25, Communications Div., 9/13/2010.

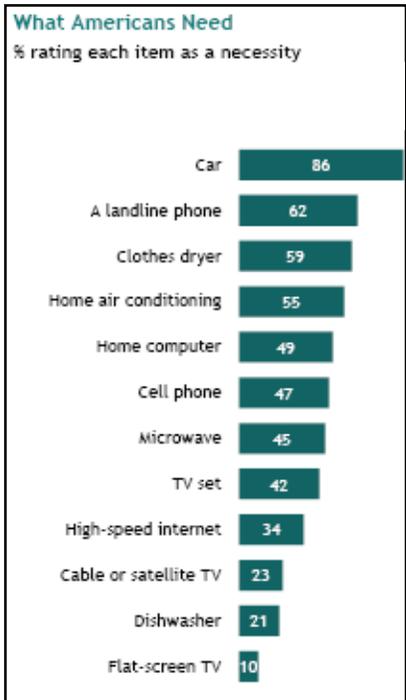
www.cpuc.ca.gov/PUC/Telco

²⁷ *Affordability of Basic Telephone Service*, Volume 1, p. 14, CD, 9/13/2010.

www.cpuc.ca.gov/PUC/Telco

the cell phone by 15% in the “necessity of life” ranking²⁸, illustrated in Figure 2.

Figure 2: The Pew Research Center Survey Results²⁹



In summary, landline phone has not been replaced, or substituted, by the wireless phone, proven by survey data since 2006 that show customers’ telecommunications choices – large majority of them are holding on to their landlines in addition to having wireless services.

5) Studies Show that Older Adults and the Disabled Are Heavily Dependent on Landline Telephones

California’s 2010 basic telephone affordability survey shows that almost 100% (98%³⁰) of survey respondents 60 years or older³¹ are in

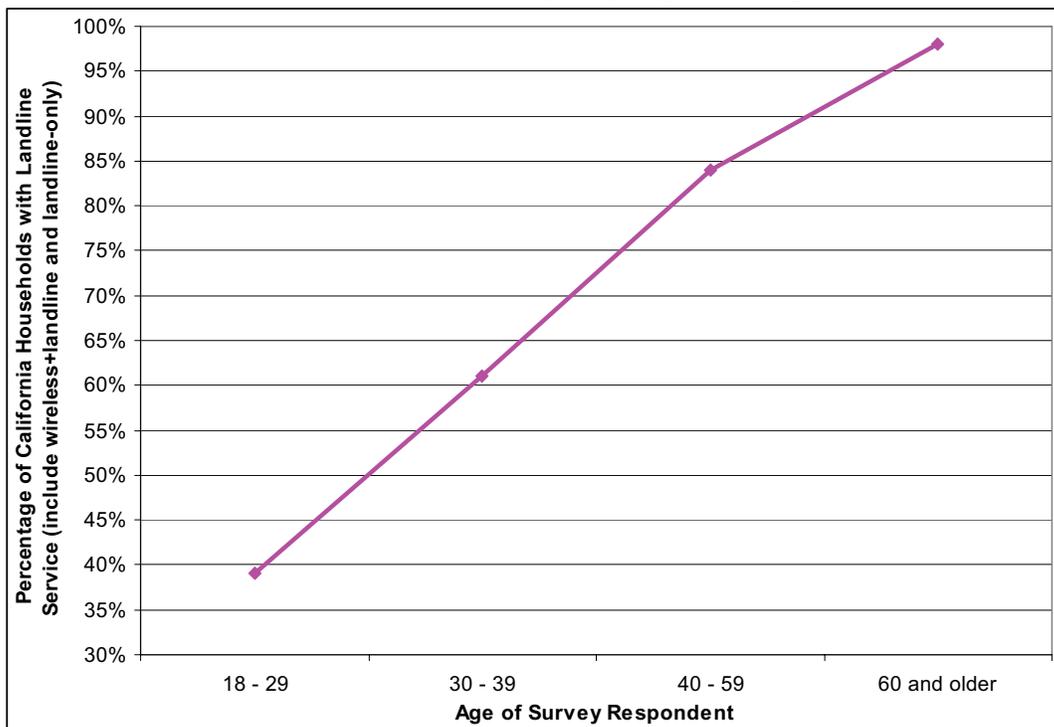
²⁸ *The Fading Glory of the Television and Telephone*, Pew Research Center, August 19, 2010, page 1. <http://pewsocialtrends.org/asserts/pdf/762-fading-glory-television-telephone.pdf>. The Pew Research telephone survey was conducted among a nationally representative sample of 2,967 adults from May 11 to 31, 2010. Using a list of a dozen items (see Figure 1) designed to make everyday life more productive, convenient, comfortable or entertaining, it asked respondents whether they consider each item a “necessity” or a “luxury.”

²⁹ *The Fading Glory of the Television and Telephone*, Pew Research Center, August 19, 2010.

³⁰ 63% use wireless AND landline; 35% use landline-only; total is 98% use landline service. *Affordability of Basic Telephone Service*, Volume 1, p. 25, Communications Div., 9/13/2010. www.cpuc.ca.gov/PUC/Telco

households with landline service³², versus 84% for age 40 to 59 years, 61% for age 30 to 39 years, and 39% for age 18 to 29 years, illustrated in Figure 3 – indicating that the percentage of households with landline service increases with age. This relationship is more evident in the landline-only findings, which show that 35 % of survey respondents 60 years or older³³ are in households with landline-only, versus 11% for age 40 to 59 years, 11% for age 30 to 39 years, and 7% for age 18 to 29 years, illustrated in Figure 4.

Figure 3: Percent of California Households with Landline Service (wireless+landline and landline-only), by Age of Respondent, 2010



³¹ *Affordability of Basic Telephone Service*, Volume 1, p. 14, CD, 9/13/2010.

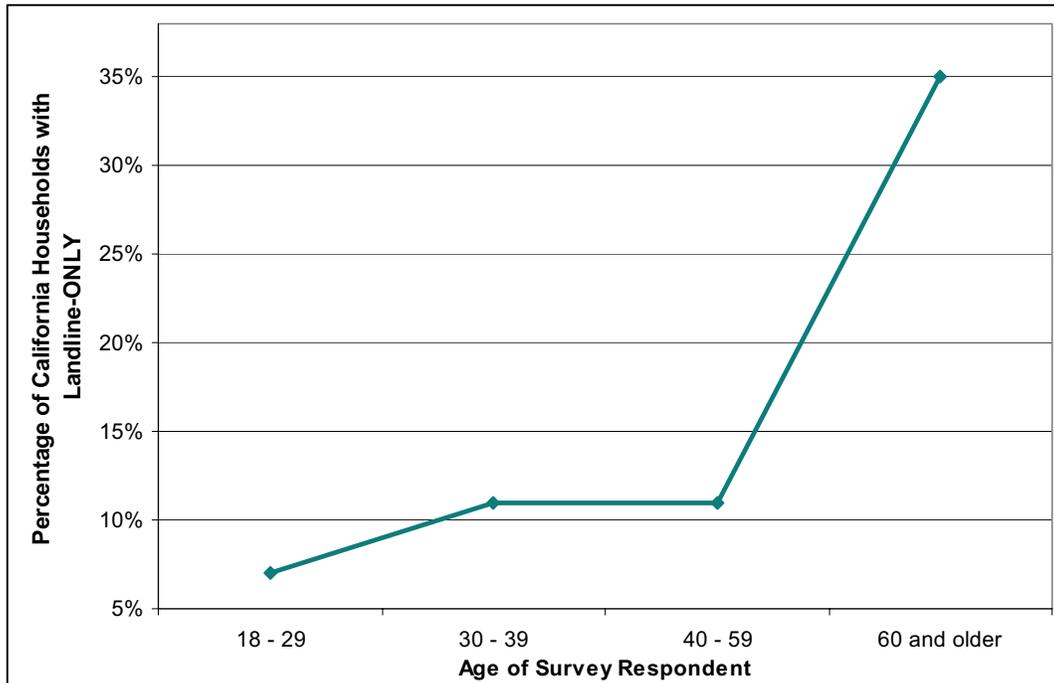
www.cpuc.ca.gov/PUC/Telco

³² Total of wireless-and-landline service households plus landline-only households.

³³ *Affordability of Basic Telephone Service*, Volume 1, p. 14, CD, 9/13/2010.

www.cpuc.ca.gov/PUC/Telco

Figure 4: Percent of California Households with Landline-ONLY, by Age of Respondent, 2010



Nationwide data show the same relationship. Statistics released by the Centers for Disease Control and Prevention (CDC) for July to December 2009 based on a national health interview survey indicate that the estimated percentage of adults living in homes with landline telephones increased with age from 35 years, with almost the entire (94.8%) surveyed population who were 65 years and over still being landline users³⁴. Table 1 and Figure 5 present the CDC 2009 estimates. The Pew Research Center confirmed this age dependence on landline service with 2010 data³⁵, shown in Figure 6.

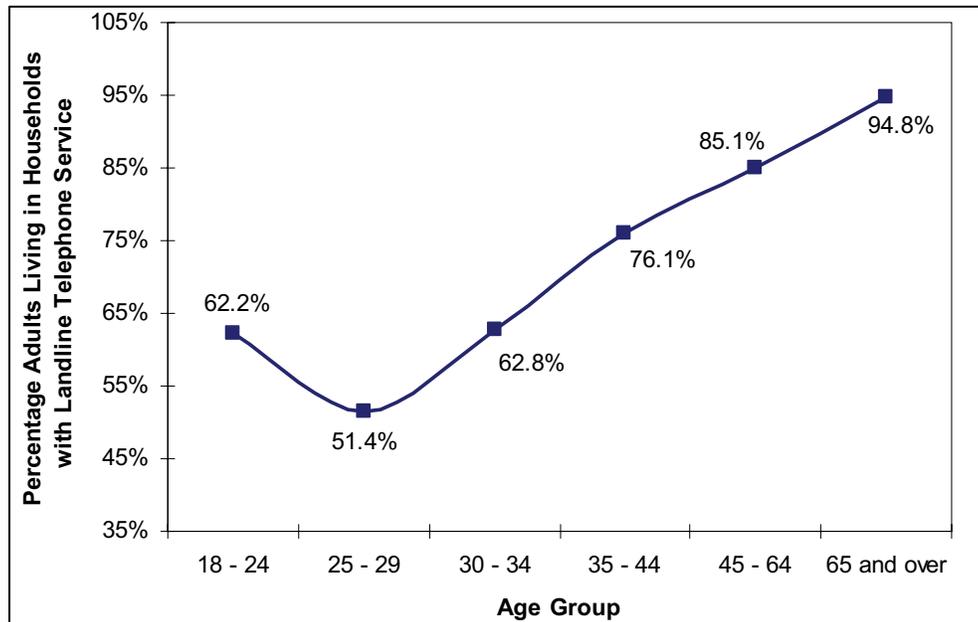
³⁴ *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009*, CDC. <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>

³⁵ <http://pewsocialtrends.org/asserts/pdf/762-fading-glory-television-television.pdf>

Table 1: Estimated Percentage of Adults Living in Homes with Landlines, by Age Group, United States, July to December 2009³⁶

Age Group	Estimated Percentage of Adults Living in Homes with Landlines
18 – 24	62.20%
25 – 29	51.40%
30 – 34	62.80%
35 – 44	76.10%
45 – 64	85.10%
65 and over	94.80%

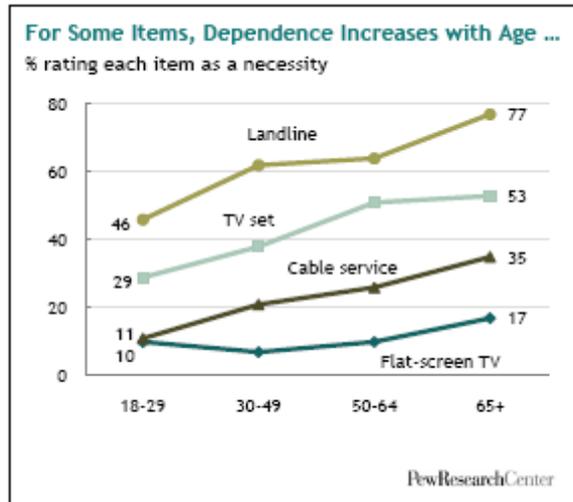
Figure 5: Estimated Percentage of Adults Living in Homes with Landlines, by Age Group, United States, July to December 2009³⁷



³⁶ *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009*, CDC. <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>

³⁷ *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009*, CDC. <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>

Figure 6: Dependence on Landline and other Selected Items vs. Age,



Between December 2008 and April 2009, the UCSF Disability Statistics Center conducted an interview with participants from six broad (self-identified) disability categories: deaf, hard of hearing, blind, low-vision, difficulty using hands/mobility impairment, and speech impairment, with regard to their means of communication³⁸. Overall findings show that a majority (73%) of the participants still communicated with a landline phone in addition to another means of communication, such as the Internet or a wireless phone. Detailed results show that a majority of participants in each disability category, aside from the self-identified deaf group, also communicated using a landline phone, shown in Table 2 and Figure 7³⁹:

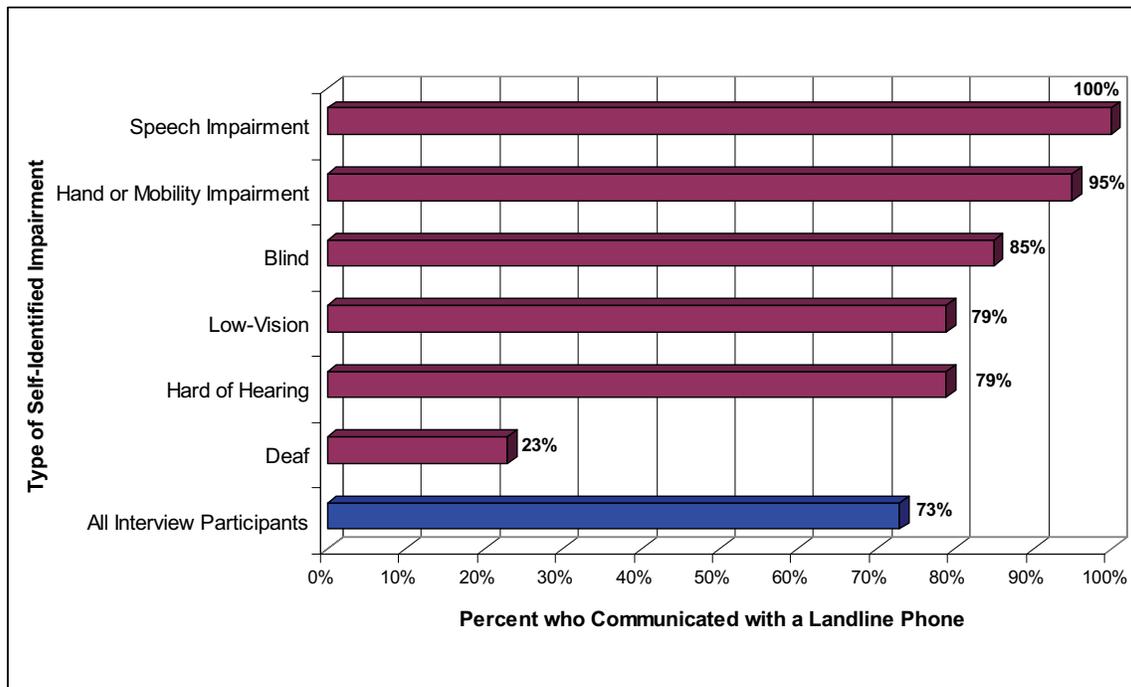
³⁸ *Telecommunication Needs of Californians with Disabilities: Final Report*, UCSF Disability Statistics Center, July 2009. http://www.pascenter.org/documents/puc_final_report.pdf

³⁹ *Telecommunication Needs of Californians with Disabilities: Final Report*, UCSF Disability Statistics Center, July 2009. http://www.pascenter.org/documents/puc_final_report.pdf

Table 2: Percentage of UCSF Disability Statistics Center Interview Participants who Communicated with a Landline Phone, by Type of Self-Identified Impairment, December 2008 to April 2009

Type of Self-Identified Impairment	Percentage that Communicated with a Landline Phone
Speech Impairment	100%
Hand or Mobility Impairment	95%
Blind	85%
Low-Vision	79%
Hard of Hearing	79%
Deaf	23%
All Interview Participants	73%

Figure 7: Percentage of UCSF Disability Statistics Center Interview Participants who Communicated with a Landline Phone, by Type of Self-Identified Impairment, December 2008 to April 2009



V. DRA’S RECOMMENDATIONS: EXTEND PRICE CONTROLS, ENSURE REASONABLE RATES UNTIL SUFFICIENT COMPETITION HAS BEEN CONCLUSIVELY DEMONSTRATED TO EXIST, AND CONSIDER CREATING STAND ALONE BASIC SERVICES AT REASONABLE RATES

Recommendation #1: Extend the D.08-09-042 Controls on Basic Residential Service Rates Until Sufficient Competition Exists

Pursuant to Public Utilities Code sections 709(f) and (h), it is the stated goal of the Legislature that the policies for telecommunications in California are “(t)o promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct” and “(t)o encourage fair treatment of consumers”. As demonstrated by the drastic price increases since 2006, and thoroughly discussed in the Senate Report “Gaps Emerge in Telephone Consumer Protections”, the Commission has fallen short of fulfilling its legislative mandate to ensure rates are “just and reasonable.”

In the URF decision, the Commission promised to “remain vigilant in monitoring the voice communications marketplace”⁴⁰ and proposed to consider further monitoring and reporting on competition and affordability. DRA has continued to monitor competition and pricing, and reports its findings here which update the 2008 report. DRA has shown that the Commission’s pledge to “remain vigilant” is still relevant and urgently needed today.

To accomplish the legislative goals to promote lower prices, broaden consumer choice, avoid anticompetitive conduct, and encourage fair treatment of consumers, DRA recommends that the Commission maintain the price controls created by D.08-09-042, which are scheduled to be lifted on January 1, 2011, until such time as the Commission has identified based upon actual evidence, that sufficient competition exists to ensure reasonable, affordable rates.

⁴⁰ D.06-08-030, at p.156.

For the same reasons articulated by the Commission in D.06-08-030 for the original basic residential rate freeze, namely, that California has not yet transitioned to a competitive marketplace, DRA believes the price caps are still necessary and important today to protect consumers from continuing substantial price increases. No evidence exists to show that competition has been sufficient to keep prices either stable or rising only with inflation; all the evidence points to the existence of market dominance by AT&T and Verizon, which allows them to raise prices without losing market share or revenue. The Commission's faith in a "marketplace" of communications goods and services has not been borne out based upon actual experience, and DRA recommends that the Commission re-think its policies with regards to eliminating price controls on basic residential service and certain other important ancillary services.

Recommendation #2: Create a Forum to Consider Whether to Reinstigate Price Controls on Certain Ancillary Telephone Services

The magnitude of the rate increases on unregulated ancillary services have been startling, as described in DRA's Report. For example, since the URF decision, some of the notable increases cited above include:

- Frontier increased its WirePro rate by 399%
- Verizon increased its WirePro rate by 167%
- AT&T increased its WirePro rate by 134%
- AT&T increased its Call Waiting rate by 132%
- AT&T increased its Three-Way Calling rate by 117%
- Frontier increased both its Three-Way Calling and Call Waiting rates by 60%

Given the post-URF price increases to date, DRA has reason to suspect that some consumers are simply unable to pay these increased prices and will be unable to afford services which they value or even be priced out of the wireline phone market entirely. Basic residential service has

historically been the least elastic of the ILECs' services; i.e., customers are least likely to change their basic wireline service in response to a price increase. The significant price increases described above suggest that customer demand for certain basic ancillary services is similarly inelastic. DRA maintains that this is because basic reliable landline telephone services are still a public convenience and necessity like electricity or water.

Even continuing price controls on the basis service rate is not enough. Consumers are not sufficiently protected by only continuing the price controls on basic residential service. Consumers are harmed when they are forced to select from expensive bundles of telephone services, without being able to choose only the products or services that they want and/or need. Therefore, DRA strongly recommends that a new proceeding be created to include an examination regarding whether URF carriers should be required to offer certain telephone services on a stand-alone basis and at affordable rates.

DRA specifically suggests that some services are so commonly-used and perceived as necessary that they should be given special attention: caller ID, inside wire maintenance, non-published listing; directory assistance; and call waiting. DRA believes the post-URF price increases demonstrate the existence of market power for these services; significant harm to consumers; inelasticity of demand; and price increases that are demonstrably not due to "market-based pricing." The scope of the recommended proceeding would also include an examination of whether the URF ILECs have acted to eliminate the availability for stand-alone affordable basic services for average consumers.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **PETITION OF THE DIVISION OF RATEPAYER ADVOCATES FOR MODIFICATION OF DECISION 08-09-042 RELATING TO PRICE CONTROLS ON BASIC RESIDENTIAL RAT** in **R.05-04-005** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on October 25, 2010 at San Francisco, California.

/s/ ALBERT HILL

ALBERT HILL

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