# UTILITIES: TELECOMMUNICATIONS, ENERGY AND OTHER SERVICES

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UTILITY SERVICES ARE ESSENTIAL TO MODERN LIFE. TELECOMMUNICATIONS, ELECTRICITY, NATURAL GAS, WATER AND SEWER SERVICES ARE ALL CRUCIAL TO HEALTH AND PERSONAL WELFARE. FOR OLDER AMERICANS IN PARTICULAR THE ABILITY TO CONTACT POLICE, FIRE, MEDICAL AND OTHER SERVICES IN TIMES OF EMERGENCY; TO READILY ACCESS AFFORDABLE, SAFE WATER; AND TO HAVE AIR-CONDITIONING DURING THE SUMMER AND HEAT DURING THE WINTER AT AN AFFORDABLE RATE ARE ABSOLUTELY NECESSARY.

MEETING THE COST OF UTILITY SERVICES REQUIRES A SIGNIFICANT PORTION OF AN AVERAGE CONSUMER’S PERSONAL INCOME. TELEPHONE, ENERGY, WATER AND SEWER SERVICES ACCOUNT FOR ABOUT 5 PERCENT OF AN AVERAGE HOUSEHOLD’S MONTHLY INCOME. FOR OLDER AMERICANS WITH ANNUAL INCOMES OF $10,000 OR LESS, THIS SHARE CAN BE AS MUCH AS 24 PERCENT. ON AVERAGE, FAMILIES SPEND A GREATER SHARE OF THEIR INCOME ON UTILITY COSTS THAN ON OTHER NECESSITIES SUCH AS HEALTH CARE OR PROPERTY TAXES. THIS IS THE CASE FOR AN INCREASING NUMBER OF OLDER PEOPLE, AS AVERAGE EXPENDITURES FOR TELEPHONE, NATURAL GAS, ELECTRICITY, WATER AND SEWER SERVICES FOR HOUSEHOLDS HEADED BY PEOPLE AGE 65 AND OLDER INCREASE AT A FASTER RATE THAN INFLATION (FIGURE 10-1).

BECAUSE OF THE LARGE AMOUNTS OF CAPITAL REQUIRED TO BUILD UTILITY SYSTEMS, THESE SERVICES TRADITIONALLY HAVE BEEN PROVIDED UNDER CONDITIONS OF NEAR OR COMPLETE MONOPOLY. GOVERNMENTS HAVE GRANTED EXCLUSIVE-SERVICE TERRITORIES.
Utilities: Telecommunications, Energy and Other Services

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to single large companies in exchange for universal high-quality service. To ensure that such service is provided, federal, state and local authorities have regulated utility companies tightly. These firms have been guaranteed the opportunity to earn a set rate of return on their capital. Their rates and investment plans have been subject to close public scrutiny and government approval. The goal of this system is to provide adequate levels of service and just and reasonable rates across the country.

Since the 1990s, however, the nation’s utility industries have been undergoing radical shifts. For example, alternative providers are promising expanded and better service at lower prices. And some policymakers and utility regulators are responding by opening utility markets to competition for the first time.

Changes in utility regulation may hold much promise, but only strong safeguards—such as maintaining provisions for universal service, assistance to low-income households, and affordable and high-quality services for all residential consumers—will ensure that all consumers benefit from these changes. Policy reforms that relinquish at least some public oversight of utilities in the name of competition may be insufficient to produce long-term consumer benefits if large service providers possess significant market power. Moreover, deregulation or industry self-regulation efforts may improve the welfare of only certain customer classes and even harm others. The act of eliminating, reducing or preventing regulation by itself does not necessarily lead to sufficiently competitive markets or produce competitive benefits, including lower rates and better products and services for residential consumers.

This same principle also applies to the development and deployment of several increasingly important information and communications technologies and services. Improvements in technology over the past two decades have led to an array of new and better services, as well as profound social and economic benefits for many people. As the rapid pace of technological achievement continues, an increasing percentage of consumers are taking advantage of these technologies and services. They are connecting with family, friends and colleagues through e-mail, accessing the Internet to search for information or shop online, and conversing from practically anywhere through the use of wireless telephone service. Some even have access to more sophisticated services, such as video on demand and teleconferencing, that allow them to hold business meetings, take interactive college courses, visit the doctor or rent a movie—all without having to leave their home. Simply put, new technologies and services are dramatically changing the way Americans work, communicate, shop and obtain information.

At the same time, however, there is still a significant gap, often referred to as the digital divide, between people with access to technology and those without it. Older people—as well as people with lower incomes and education levels, certain minorities, and residents of rural areas or central cities—are among the groups that typically lack access. While people age 65 and older are less likely than their younger counterparts to report that they use the Internet, the percentage of users among this older age group
continues to grow rapidly (Figure 10-2). In the future, ready access to information and communications services such as the Internet will become only more critical to economic success and personal well-being. As such it is important that these services be available to everyone regardless of gender, geographic location, income or age.

Figure 10-2

Prepared by AARP Public Policy Institute.
AARP PRINCIPLES

All Americans must be able to rely on the availability of safe, affordable and high-quality utility and communications services. In order to uphold this principle, the following standards must underlie the development, evaluation and comparison of utility policies and proposals at the federal, state and local levels.

**Universal service**—essential utility services that are affordable and available to all households

**Quality of service**—reliable, safe and high-quality utility services

**Customer information**—clearly stated and understandable terms and conditions on all bills, marketing literature and other relevant communications to enable consumers to make informed decisions about utility providers and products

**Consumer representation**—independent, fully funded and adequately staffed consumer advocacy organizations empowered to initiate investigations and authorized to represent residential ratepayers before state and federal regulators and in the courts

**Consumer education**—adequately funded education programs to help consumers select utility services wisely and protect themselves against fraud

**Service termination**—established rights and protections for consumers facing service termination

**Regulatory authority**—independent, fully funded and adequately staffed commissions that are focused on protecting residential ratepayers and empowered to initiate investigations and enforce laws and regulations

**Public participation**—broadly publicized hearings on proposed changes in public-utility services, policies and rates that are conducted in the service area to be affected and allow consumers and their advocates to express their views

**Low-income discounts**—fully funded and well-promoted low-income assistance programs, including self-certification and automatic enrollment provisions, for all low-income consumers with home-utility burdens that exceed the median percentage of household income spent on utility services statewide

**Privacy**—strong protections against the unauthorized use or disclosure of personal information and records
Regulation and rate structures—utility rate structures that fairly distribute costs among customer classes, are easy to understand, and nondiscriminatory; periodic review of alternative forms of regulation; and mandatory and rigorous audits of unregulated affiliates, parent holding companies and regulated utilities to ensure the fair allocation of costs and profits.

Terms and conditions for competitive markets—true and effective competition in markets for residential users before residential utility service is deregulated, with continuing oversight to ensure markets remain competitive.

Mergers—strong prohibitions against company mergers that would compromise regulatory protections for residential ratepayers, hinder competition, or fail to increase economic efficiency; specific safeguards to ensure that residential ratepayers receive at least 50 percent of the short-term and long-term forecasted economic benefits, as determined by regulators, of any proposed merger or acquisition.

Anticompetitive safeguards—measures that regulate and penalize harmful, anticompetitive activity.

Prudent investment—rates that include compensation only for prudent costs.
GENERAL UTILITY ISSUES

Background

Consumer Advocate Offices
Most states and the District of Columbia have established and provided funding for utility consumer advocate offices to represent utility consumers before federal and state utility regulatory commissions, other agencies and the courts. However, ten states, plus Puerto Rico and the Virgin Islands, do not allocate funding for a utility consumer advocate office. The states are Idaho, Louisiana, Mississippi, Nebraska, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota and Wisconsin.

FEDERAL POLICY

Consumer Advocate Offices
Congress should create and sufficiently fund independent federal consumer advocate offices to represent residential utility consumers before federal regulatory agencies and in the courts.

STATE POLICY

Consumer Advocate Offices
State policymakers should establish and sufficiently fund independent utility consumer advocate offices to represent the interests of residential utility consumers before regulatory agencies and in the courts.

PUBLIC PARTICIPATION IN REGULATORY PROCEEDINGS

Public utility regulatory agencies make many important decisions that affect the cost, quality and availability of necessary services such as electricity, natural gas, telecommunications and water. Indeed few government agencies have as much impact on consumers’ lives as do commissions that regulate utility services. Too often, however, commission decisions are made without the benefit of meaningful input from consumers because concerned citizens, consumer groups and small businesses simply do not have the resources, expertise or time to participate fully in regulatory processes.

Some states have taken important actions to expand public participation in commission decisionmaking processes, such as establishing significant
intervenor-funding programs; making commission proceedings more accessible to nonattorneys, consumer groups without attorneys, and those with limited funding; and reducing the complexity and cost of the procedures used for receiving consumer input.

**FEDERAL & STATE POLICY**

**GENERAL UTILITY ISSUES**

**Public Participation in Regulatory Proceedings**

Policymakers should formally adopt and fully fund an intervenor-compensation program to ensure that community-based organizations and advocacy groups that speak for underrepresented parties will have an informed and effective presence throughout regulatory processes.

Policymakers should make regulatory proceedings more accessible to nonattorneys, consumer groups without attorneys, and those with limited funding and reduce the complexity and cost of the procedures used for receiving consumer input.

**GENERAL UTILITY ISSUES**

**Background**

**Selection of Utility Commissioners**

State-level commissions regulate public utilities in the US. In most states commissioners are appointed by the governor. However, in 16 states utility commissioners are elected by state residents.

Some policymakers and analysts contend that the method a state uses to select a regulator has an impact on regulators’ behavior. In fact some research suggests that elected commissioners are more proconsumer in their outlook than their appointed colleagues. However, these findings are far from conclusive, as there are a host of potential reasons why certain utility regulators produce more proconsumer outcomes.

**STATE POLICY**

**GENERAL UTILITY ISSUES**

**Selection of Utility Commissioners**

In states where utility regulators are appointed by elected officials, state policymakers should thoroughly investigate and carefully consider the cost and benefits of directly electing utility regulators.
GENERAL UTILITY ISSUES

Background

Credit Scoring
Lenders traditionally use credit histories and records to help determine whether they should extend credit to consumers. With the benefit of computer programs, lenders condense this payment information into a three-digit number, known as a credit score, and use it to predict the creditworthiness of an individual applicant. More recently, however, the use of credit scores has moved beyond lending to other industries, where companies consider these numbers as a means to judge consumers on a wide variety of transactions. Some utilities now use credit scores to determine the conditions for providing service, such as whether to require a security deposit and what amount to charge for the deposit. At least one utility has even proposed assigning higher rates to customers with lower credit scores.

The use of credit scores by utility service providers raises questions of fair practice and access to essential services, especially for low-income consumers. In fact a 2004 AARP survey found that approximately 90 percent of consumers age 50 and older say it is inappropriate for electric utilities to charge a customer a higher rate based on a low credit score.

While businesses contend that credit scoring more accurately gauges the financial risk posed by customers and helps companies become more efficient and profitable, credit scores are based on reports that often contain erroneous information because of mistakes or identity theft. In addition many credit-scoring models do not include utility payment history. As a result a consumer could have a perfect utility payment history and still be required to provide a deposit or pay a higher rate.

STATE POLICY

Credit Scoring
State policymakers should prohibit providers of residential utility services from using a consumer’s credit score to determine the rate the consumer must pay for essential utility service.

If state policymakers permit public utilities to require an applicant for utility service to pay a security deposit because of a credit score, the following minimum consumer protections should be required:

- Credit scores should not be the only method of determining whether to require a security deposit.
• Applicants who are required to pay a security deposit as a result of a credit score should have an opportunity to demonstrate creditworthiness through other means.
• Utilities must disclose credit scores to all applicants required to pay a security deposit based on their score. The utility must also provide such applicants with the name and contact information of the agency, bureau or other entity providing the score and with the rights and disclosures required by the Fair Credit Reporting Act, the Equal Credit Opportunity Act, and any state utility, credit and collection regulations.
• Utilities should disclose their use of credit scoring to all consumers.
• Credit-scoring procedures should be applied uniformly to all customers and service areas.
• Customers who pay a security deposit should have the right to receive a full refund of their deposit plus interest if they fulfill their payment obligations to the utility over a reasonable amount of time.
• State regulators should review and approve the development and use of credit scores and the specific score below which a security deposit will be required.
• To help determine the impact of credit scoring on consumer access to essential services, utilities should submit all relevant data to state regulators on an annual basis.

GENERAL UTILITY ISSUES

Background

Consumer Choice in Multifamily Dwelling Units

Residential tenants in many multifamily dwelling units (MDUs)—apartment complexes, condominiums and housing cooperatives—currently do not have the option to choose an alternative telecommunications provider or select a distributor of video programming other than their cable company. Typically the homeowners association or the landlord contracts with one provider to offer service to the entire MDU. As a result individual residents are denied the opportunity to make their own choices and pursue the benefits of a competitive marketplace, which may include lower prices and better service.

FEDERAL & STATE POLICY

Consumer Choice in Multifamily Dwelling Units

Federal and state policymakers should ensure that all occupants of multifamily dwelling units have access to the cable company—or other distributor of video programming—and telecommunications provider of their choice.
GENERAL UTILITY ISSUES

Background

**Paper-Billing Fees**

An increasing number of public utilities and other providers of essential services are imposing a paper-billing fee on customers who receive a traditional printed copy of their monthly bill in an effort to shift more customers to e-mailed bills. As a result consumers who do not have or can not afford a computer, or who simply do not want to conduct transactions electronically, are penalized by paying extra.

FEDERAL & STATE POLICY

**Paper-Billing Fees**

Policymakers should ensure that any provider of utility services that uses paper bills to charge customers for services rendered provides each customer with one paper copy of the customer’s regular bill each billing cycle at no additional cost to the customer.

TELECOMMUNICATIONS

Introduction

Telephone communication is a basic necessity that allows older people to maintain social contact, preserve health and safety, and gain assistance in an emergency. In fact people age 65 and older are more likely than any other age group to have traditional landline telephone service. This higher market penetration rate exists even though older households spend 4.1 percent of their income, or about twice as much as younger households (1.9 percent), just to use the average amount of telephone service. Nonetheless 10 percent of low-income older households and 12 percent of all households with annual incomes below $10,000 do not have telephone service. Overall about 5 percent of US households do not have telephone service.

In recent years competition and advances in technology have changed the way people communicate and have transformed the single-service telephone industry into a multiservice communications industry. Now in addition to basic local and long-distance telephone service, consumers may choose from a variety of other services as well. From a personal toll-free number, a second phone line, and various calling features such as call-waiting, voice mail and caller ID to cell phone service, high-speed Internet access and digital satellite television, the list of offerings is almost overwhelming. For many of these services some consumers also can choose from among several different vendors; in a few cities around the country, these vendors now include
nontraditional telecommunications providers such as a cable company or an electric utility. In general more options and greater competition in the telecommunications industry provide important benefits to consumers through lower rates and better service.

**Telecommunications**

**Background**

**Competition and the Promise of Consumer Benefits**

The principle objective of the Telecommunications Act of 1996 was to bring competition to the marketplace for all telecommunications services. However, Congress sought to do more than encourage competition simply for the purpose of having a competitive market. It recognized that competition is a process that can give consumers real choices and promote their economic well-being. In this regard competition that benefits consumers depends on the likelihood that they can and will switch service providers. The act of choosing some options over others enables consumers to satisfy their own wants, indicate their preferences to the market, and put pressure on service providers to lower their prices and make the necessary investments to improve service quality and develop new services.

Unfortunately, 11 years after the act was signed into law, the telecommunications industry has not produced the vigorous competition and meaningful consumer choices Congress envisioned for all consumers.

Enactment of the 1996 law produced high expectations that the largest providers of local telephone service, the regional Bell operating companies (RBOCs), would move into each other’s service territories and become major competitors. Instead the RBOCs have chosen to merge rather than compete. Prior to the act the four largest providers of local telephone service owned 48 percent of all the telephone lines in the country. In 2005 the RBOCs’ share of the local residential market increased to close to 90 percent; their share of the long-distance market grew to more than 70 percent in some areas after the two largest RBOCs acquired AT&T and MCI, their biggest rivals.

Although some wireless or cellular telephone service providers are marketing wireless service as a competitive local-service alternative, the service is not yet a viable substitute for traditional local telephone service for most users. In contrast to traditional local service, wireless service is generally more expensive, offers poorer service quality, charges for incoming as well as outgoing calls, and does not allow multiple connections to the same phone number. As a result fewer than 5 percent of wireless customers have dropped traditional phone service.

The idea that wireless carriers will compete against the RBOCs is further complicated by the fact that the majority of wireless subscribers in the US receive service from a carrier that is owned by an RBOC. In fact the three
largest RBOCs (Verizon, SBC and BellSouth) control about 63 percent of the major wireless service providers.

Internet phone service, which uses a technology called Voice over Internet Protocol (VoIP), is becoming a competitive alternative. Indeed, traditional cable television providers have begun to use this technology to offer their own telephone service. Currently, however, VoIP, which requires a broadband connection, is not an option for the majority of local telephone service customers, as roughly three in five US households do not have broadband service.

Despite the limited amount of competition for traditional local telephone service and the increasing consolidation of the RBOCs, states increasingly are pursuing rate deregulation of basic residential services. According to the National Regulatory Research Institute (NRRI), during the period between October 2004 and July 2006, 18 states adopted laws deregulating rates for retail services and a total of 25 states approved some form of retail rate deregulation of services for one or more local-exchange carriers. NRRI points to the list of pending bills, regulatory plans and petitions for deregulation as evidence that these trends will continue in the near future.

**FEDERAL & STATE POLICY**

**TELECOMMUNICATIONS**

**Competition and the Promise of Consumer Benefits**

Federal and state policymakers should establish a clear definition of effective competition that includes, at a minimum:

- a range of accessible, comparable and useful consumer options at just, reasonable and affordable rates;
- just and reasonable distribution of the benefits of competition across all groups of residential consumers, including low-income consumers and those in rural areas;
- low switching barriers, to ensure consumers are unimpeded in their ability to switch among service providers; and
- clear, reliable and meaningful price and service-quality information that is easily accessible and comparable across providers.

Policymakers first should establish clear and quantifiable standards for market performance with regard to the indicators of effective competition, then monitor service-provider performance, and if the market fails to deliver, vigorously enforce promised sanctions.

Policymakers should monitor the development of competition and introduce strict regulatory controls—or reconsider any regulatory flexibility they granted on the premise that competition was emerging—if promises or predictions regarding effective competition, prices, service quality, reliability and overall consumer protections are not realized.
The Federal Communications Commission and state public utility commissions (PUCs) should ensure that the Telecommunications Act of 1996 and any revisions to it lead to the development of true and effective competition, with benefits to residential consumers in the form of lower prices and better-quality service.

Federal and state policymakers should ensure that consumers maintain the option to purchase only the services they want or need by preventing telecommunications service providers from requiring subscribers to purchase one service—such as local telephone service—in order to obtain another service—such as digital subscriber line (DSL) or long-distance service.

Federal and state policymakers should require telecommunications carriers to maintain and provide the data that regulators and other interested parties need to evaluate the effect of the act or any effort that reduces or eliminates regulation of telecommunications services or rates.

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**TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits**

**Background**

**Line-Item Charges**

The dramatic increase in the use of line-item charges on landline and wireless telephone bills over the last several years has had a negative impact on consumers, and older consumers in particular. As documented by the National Association of State Utility Consumer Advocates, telephone carriers have generally reduced their advertised usage-based rates, while hidden surcharges “have mushroomed—in terms of the numbers of carriers imposing them, the number of charges being imposed by carriers on consumers’ monthly telephone bills, and the amount of revenue being recovered via such fees.” Because of these pricing changes, many consumers do not discover the full cost of their telephone service until they receive their monthly bill. Regrettably, they are likely to find that the actual cost far exceeds the price they expected to pay. In fact, hidden fees can add 20 percent or more to the advertised cost of phone service.

When consumers take a closer look at these added costs, they are likely to find line-item charges with names such as “regulatory assessment fee” and “federal programs cost recovery fee.” Carriers assess these charges seemingly to recover costs incurred because of specific government mandates, when in reality they are not required to do so by any regulatory authority. Unaware of these misleading billing descriptions, many consumers assume that all carriers will charge these exact same “government” charges. As the Federal Communications Commission (FCC) notes, “Consumers may be less likely to engage in comparative shopping among service providers if they are led erroneously to believe that certain rates or charges are federally mandated amounts from which individual carriers may not deviate.”
Not surprisingly some industry representatives contend that customers experience few billing problems and that truth-in-billing regulations are unnecessary in lieu of guidelines at this time. They state that competition in the marketplace requires carriers to address billing issues to satisfy their customers. However, findings by the Council of Better Business Bureaus (CBBB) contradict the claim that consumers have relatively few complaints about their telephone service providers. Cell phone companies and telephone companies, in general, remain high on the list of the most complained about industries. In fact CBBB data show that customers filed 31,671 complaints about cell phone companies in 2005, which means that, for the second consecutive year, the cell phone service industry is the most complained about business in the US. Moreover the CBBB says that nearly two-thirds of all cell phone complaints include billing problems.

While the FCC also reports receiving many complaints from cell phone subscribers—the agency received 25,942 complaints about wireless telecommunications in 2005, of which more than half were billing- and rate-related—the agency has yet to issue a single fine or take a single enforcement action against a cell phone company. Moreover a 2005 FCC order would have preempted states from regulating line-item charges on wireless bills and thus limited the states’ ability to protect cell phone customers from deceptive billing practices. That ruling, however, has been reversed by the US Court of Appeals for the Eleventh Circuit, which cited the federal Telecommunications Act as “unambiguously preserve[ing] the ability of the States to regulate the use of line items in cellular wireless bills.”

FEDERAL & STATE POLICY

TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

Line-Item Charges

Federal and state policymakers should prohibit telecommunications carriers—both landline and wireless—from imposing any separate monthly line-item charges, surcharges or other fees on customer bills unless such charges have been expressly mandated by federal, state or local law.

Background

End-User Access Charges

The Federal Communications Commission (FCC) allows local telephone companies to include a subscriber line charge (SLC) on local telephone bills. The agency states that the charge partially offsets the cost companies pay for building and maintaining the local telephone network. Some states also permit local telephone companies to collect a state subscriber line charge.
For most local telephone customers the federal SLC increased incrementally from $3.50 a month in 1999 to $6.50 in 2003. The FCC also is considering several plans to restructure intercarrier compensation—the payments telecommunications carriers make to each other for the costs of starting and ending telephone calls—that could raise the SLC to $10 per month.

The FCC contends that these increases were part of an order that adjusted service prices to reflect costs, thus establishing a pricing structure more consistent with competitive markets. The theory is that as telecommunications markets become increasingly deregulated, competitive pressures will force the industry to price all individual products and services at their respective costs. In reality this justification is incompatible with competitive market behavior and ultimately detrimental to consumers.

AARP research shows that companies in more competitive industries, including US banking and wireless communications, rarely set their prices equal to the cost of each specific, stand-alone product. Instead these companies respond to competition by lowering or eliminating the price of customer access and then recouping this cost through the provision of multiple products and pricing options. Wireless telephone service providers, for example, often discount or give away mobile telephones in order to gain network subscribers. With a greater number of subscribers, wireless providers earn more profits from commissions on airtime and increase the value of their network to existing subscribers. These companies recognize that their overall profitability is tied to the total profits generated from their customers and not necessarily to the profits created by a particular product or service.

FEDERAL & STATE POLICY

TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

End-User Access Charges

Federal and state policymakers should pursue procompetitive pricing structures by reducing or eliminating subscriber line charges and should refrain from imposing or increasing any fixed, unavoidable monthly surcharge on consumers of telecommunications services.

TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

Background

Residential Rate Rebalancing

Citing the need to “rebalance” rates, the regional Bell operating companies (RBOCs) are determined to raise residential and rural rates for basic local service. The companies claim that rate increases will permit them to lower urban and business rates, a goal they say they must achieve if they are to survive in a competitive market. The RBOCs justify raising residential rates
by arguing that in the past, urban areas subsidized rural rates and businesses subsidized residential rates. However, state consumer advocates, AARP and some state public utility commissions (PUCs) have successfully challenged these long-asserted positions.

In a number of recent regulatory decisions, state PUCs have pointed out that the cost of the local loop—the wire and other infrastructure that connects the customer with the telephone company—is not solely attributable to basic local-exchange service. The local telephone network is a shared facility. Services in addition to basic local telephone service, such as call-waiting, long-distance service and Internet services, also bring in revenue. In short the cost of the local telephone network, and by extension the cost of providing customer access, should not be assigned to one particular service since it is the mix of provided services that determines the cost. When revenues for all services sold over telephone lines are taken into account, basic residential telephone service more than pays for itself.

STATE POLICY

TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

Residential Rate Rebalancing

State public utility commissions should protect residential and rural ratepayers by denying rate increases that would result from rebalancing.

In testing the existence of a subsidy to residential customers, state regulators should adopt the following guidelines:

- Determine which costs would be avoided if residential service were discontinued and business service maintained. Do not fully allocate a particular cost to residential service if that cost would also be incurred in providing a network that only offered business service.
- Take into account that a substantial portion of telecommunications traffic is between business and residential customers, and thus the revenue from business services depends in part on residential service.
- Ensure that all assumptions regarding money, depreciation and other cost inputs are reasonable and accurate.

TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

Background

Cost Allocation

The telephone network was designed to provide voice telephone service, while separate networks would provide high-speed data and video services. Currently local telephone companies are investing heavily in redesigning the voice network so that it will also be able to provide high-speed data and video transfers. This redesigned network may cost hundreds of billions of
dollars and is unnecessary for basic voice service. Attempts by local telephone companies to shift the cost of the investment for new services onto residential ratepayers will threaten consumers’ ability to afford basic telephone service.

FEDERAL & STATE POLICY
TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

Cost Allocation
The Federal Communications Commission and state public utility commissions should devise cost-allocation methods that appropriately assign investment costs and accelerated depreciation expenses to the services that incur them.

State and federal regulators should adopt a user-pays principle to ensure that all services share in the allocation of their joint and common costs.

TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

Background

Local Number Portability
To increase competition among telecommunications service providers, consumers need to be able to retain their telephone numbers when they switch from one service provider to another. Research shows that consumers have little interest in changing their service providers if they have to change telephone numbers.

With the passage of the Telecommunications Act of 1996, Congress mandated the implementation of local telephone number portability. The Federal Communications Commission established rules to require number portability for both traditional, or landline, local carriers and wireless providers.

FEDERAL POLICY
TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

Local Number Portability
The Federal Communications Commission should ensure that all qualifying telecommunications service providers implement local number portability to facilitate switching for consumers.
STATE POLICY

TELECOMMUNICATIONS • Competition and the Promise of Consumer Benefits

Local Number Portability
State policymakers should ensure that all qualifying telecommunications service providers charge customers only for the portion of the month that they had service before they transferred their number to another provider.

TELECOMMUNICATIONS

Background

Universal Service
The goal of universal service has been an explicit national policy for more than 80 years. Its main objective has been to make access to telecommunications and information services available to all Americans at rates that are just, reasonable and affordable. The requirement of affordability means that all consumers should be able to purchase a level of service that meets their daily needs at an affordable price and that no one should have to forgo other necessities, such as medicine and food, in order to use necessary telecommunications services. Moreover this concept recognizes that just and reasonable rates may still be unaffordable for some consumers.

Both the states and the Federal Communications Commission (FCC) are empowered to define “universal service” and create universal service support programs. All 50 states, the District of Columbia, Puerto Rico and the US Virgin Islands have universal service fund (USF) programs in one form or another. According to a recent National Regulatory Research Institute report, however, state USFs are diverse in all major dimensions such as funding sources, services covered, subsidy eligibility, size and administration. Thus only 19 states have a functioning USF that supports access to telecommunications services in rural and high-cost areas. Thirty-three states have a low-income program, which provides a subsidy to basic local residential telephone services and/or a discount for the initial installation fee. Nine states have a state subsidy program for schools and libraries. At least five states maintain a program for advanced telecommunication services/broadband deployment, while four states have established explicit standards to determine whether their universal service goals have been achieved.

The federal USF subsidizes service to high-cost areas, low-income consumers, schools, libraries, and rural health care facilities. Total funding for the USF has grown from $1.8 billion in 1997 to an estimated $7.3 billion in 2006. But the USF funding base has not kept pace with the growth in the
Part of the reason for the dramatic growth in the USF, which is paid for by all local telephone customers as a surcharge, is that an increasing number of telecommunications carriers have been granted eligible telecommunications carrier (ETC) status. The ETC designation is important because it allows a carrier to receive universal service funding. In addition under current FCC rules, all residential and business phone lines or connections provided by ETCs are eligible for high-cost support. Supporting multiple lines from multiple carriers for each resident in high-cost areas is unnecessary to achieve the goal of universal service and could increase fund expenditures in a way that threatens the USF sustainability. In fact rule changes to limit high-cost support to a single connection per subscriber could reduce the growth in the USF by hundreds of millions or even billions of dollars.

Establishing the broadest possible base of contributors is another option to achieve a sustainable long-term contribution plan. In this regard the FCC currently requires that only a limited class of service providers bear the burden of universal service support, which causes inequities in the system and incentives to avoid contribution. A fairer, more effective approach would be to expand the base of contributors to include all providers using the underlying infrastructure, including but not limited to all providers of two-way communications regardless of technology used.

The FCC has identified the following basic local telephone services as those that merit funding:

- single-party service;
- voice-grade access to the public telecommunications network;
- touch-tone service;
- access to emergency services, including 911 and Enhanced 911, which identifies a caller’s location;
- access to operator services;
- access to inter-exchange services;
- access to directory assistance; and
- Lifeline and Link-Up services for low-income consumers.

The use of “access to” instead of “use of” in the list above is significant. It means that the cost to access these services will be affordable but the cost to use them may not be. For example, while the FCC’s list ensures that the cost to have a telephone line with operator assistance will be affordable, it does not ensure that the cost to use a reasonable amount of operator services also will be affordable.

In October 1999 the FCC adopted new rules for providing universal service funding for high-cost areas. Under these rules, which the FCC amended in 2003, the amount of high-cost support for each state is determined by comparing the statewide average cost per line, estimated by the FCC’s forward-looking cost model, to a nationwide cost benchmark. If a state’s costs are above the national benchmark, high-cost support is allocated to...
nonrural carriers within that state. Some policymakers and industry representatives have expressed concern that this method of allocation provides very little nonrural funding to western states and that more than 80 percent of high-cost support is given to only three states.

**FEDERAL & STATE POLICY**

**TELECOMMUNICATIONS**

**Universal Service**

Ensuring universal service should be a top priority for legislators and regulators.

Federal and state regulators should apply rigorous standards in the designation of all eligible telecommunications carriers to ensure that only fully qualified carriers that are capable of and committed to providing universal service receive support.

In addition to the essential services identified by the Federal Communications Commission (FCC), state regulators and the FCC should also classify the following as essential services:

- call-tracing and -blocking of 900-type numbers,
- annual local directories,
- equitable access to long-distance providers,
- telecommunications relay service for the hearing-impaired, and
- unlimited local calling to communities of local interest.

Universal services must support consumers’ use of and not just access to emergency services, operator services and directory assistance.

All telecommunications carriers, and any other providers that use the Public Switched Telephone Network, should be required to contribute to the universal service fund.

Policymakers should ensure that all carriers recover their universal service contributions in a manner that is fair and equitable to all consumers, including low-volume users.

**FEDERAL POLICY**

**TELECOMMUNICATIONS**

**Universal Service**

Policymakers should ensure that universal service funds are distributed among the states in a fair and equitable manner.

The Federal Communications Commission should ensure that rates in high-cost areas are affordable and “reasonably comparable” to rates in lower-cost areas, as required by Section 251 of the Telecommunications Act of 1996.
Federal policymakers should limit federal universal service support from the high-cost fund to a single line for each household. This would prevent the excessive and unnecessary future growth in the fund that will result from supporting all lines provided by all eligible telecommunications carriers.

STATE POLICY

Universal Service

Regulators should prohibit mandatory, local, measured service rate structures (local billing based on distance, duration, time of day and frequency of calls), which jeopardize affordable flat-rate service.

Regulators should prohibit all attempts by eligible telecommunications carriers to restrict basic services through mechanisms such as blocking, charges for directory assistance, or restrictions on the area a customer can call without paying a toll charge.

If a telephone company’s appeal of a Federal Communications Commission or state public utility commission ruling results in a court decision that undermines the principles established in the Telecommunications Act of 1996 for facilitating universal service, then regulators should consider the merits of appealing the decision. In addition federal or state regulators should revisit any regulatory flexibility they granted incumbent telephone companies on the belief that universal service was attainable.

Policymakers should ensure that no customer is disconnected from basic service for failing to pay for long-distance or other unregulated services.

TELECOMMUNICATIONS

Background

Targeted Subsidies

Under the 1996 Telecommunications Act, all consumers—including low-income consumers and those in rural areas—should have telecommunications and information services at costs “reasonably comparable” to rates charged in urban areas. To implement this guiding principle, the Federal Communications Commission (FCC) adopted rules to preserve and enhance a variety of programs aimed at promoting universal telephone service.

Two major FCC programs targeting low-income consumers are Link-Up and Lifeline. Link-Up helps low-income households obtain telephone services by paying up to one-half of the new service connection and installation charges. Lifeline helps low-income households retain telephone service by providing a credit of up to $13.50 or more on qualified residential customers’ local monthly phone bills. Of this amount, the federal government distributes a
basic benefit equal to the telephone company’s subscriber line charge (SLC), which is as much as $8.25 per month, plus an additional $1 for every $2 of support provided by the states, up to $1.75 per month. Thus states secure the maximum federal support amount of $10 by contributing at least $3.50.

Under FCC rules consumers that live in states that do not supplement federal funding for Lifeline service must certify that their household income is at or below 135 percent of the federal poverty guidelines or that at least one member of the household receives one of the following types of assistance (this is known as categorical eligibility): Medicaid, food stamps, Supplemental Security Income, federal public housing, the Low-Income Home Energy Assistance Program, the National School Lunch Program’s free lunch program, or Temporary Assistance for Needy Families. States that supplement federal funding for Lifeline service have more flexibility. They may rely on additional categorical eligibility criteria or use other criteria that are based on or related to income. For example some states determine eligibility based on an income test that exceeds the federal limit, such as 150 percent or more of the federal poverty guideline. Other states expand their categorical eligibility criteria to include state-administered assistance programs as proxies for Lifeline eligibility. Some states offer more than one option, allowing a household to either pass an income test or satisfy a categorical eligibility requirement.

Neither Lifeline nor Link-Up has adequately served the low-income population. According to an AARP study of Lifeline participation data from 2000, only about 30 percent of income-eligible households nationwide participate in the Lifeline program. The rate of participation drops dramatically, however, when California—which has a high participation rate—is omitted from the calculation; then the rate is 16 percent.

Stringent certification requirements and decisions by some states not to participate are among the reasons that the program is underused. Moreover determining participation rates has been difficult since 1991, when the FCC stopped collecting data on the population eligible for and participating in telephone assistance programs.

**FEDERAL & STATE POLICY**

**TELECOMMUNICATIONS**

**Targeted Subsidies**

Achieving universal service for low-income consumers should be a top priority for legislators and regulators.

Regulators should use forward-looking (i.e., efficient) cost models to determine the size of the universal service fund.

The Federal Communications Commission and state public utility commissions should ensure that financing for telephone assistance programs is preserved and enhanced in a competitively neutral manner as telecommunications markets are restructured.
**FEDERAL POLICY**

**TELECOMMUNICATIONS**

**Targeted Subsidies**

The Federal Communications Commission should reinstate efforts to report data on the populations eligible for and participating in telephone assistance programs.

**STATE POLICY**

**TELECOMMUNICATIONS**

**Targeted Subsidies**

State policymakers should:

- establish simple and less stringent eligibility criteria, including both expanded categorical eligibility options and income-eligibility guidelines, and mandate automatic enrollment in low-income telephone assistance programs for all eligible people;
- allow telephone customers to self-certify that they are eligible to participate in the Lifeline or Link-Up programs or any state low-income telephone assistance program—With the adoption of self-certification, state policymakers should also require sample verification audits and the use of appropriate fraud warnings on application forms to protect against potential fraud;
- require telephone companies to engage in vigorous outreach and education programs in order to increase participation in telephone assistance programs; and
- ensure that state funding for the Lifeline program is sufficient to secure the maximum amount of federal assistance.

**TELECOMMUNICATIONS**

**Background**

**Telecommunications Access for People with Disabilities**

Fifty percent of people over age 65 have some disabling condition that makes telephone use difficult. Under the 1991 Americans with Disabilities Act telephone companies must establish relay services for customers with hearing disabilities in order to provide affordable access to telephone services comparable to that provided to the general population. However, as new services and technological capabilities develop throughout the telephone network, meeting the needs of people with disabilities may become more complex.
Telecommunications Access for People with Disabilities

The Federal Communications Commission (FCC) should ensure successful implementation of the Americans with Disabilities Act.

The FCC should develop standards, in consultation with representatives of the disabled community, to ensure that advances in telecommunications services and networks are designed to be affordable and accessible to people with disabilities.

Quality of Service

High-quality telecommunications services and networks are critical to the health and welfare of all Americans and to the US economy. However, government reports indicate that local telephone service quality is declining from levels just a decade ago.

A number of states have implemented “minimum standard” regulations, which provide criteria to measure customers’ service-related experiences with telecommunications providers, field staff (those who make repairs, service calls, etc.), and business offices, as well as network performance. This type of regulation is commonplace for a variety of industries affecting public safety and economic prosperity. For example, the automobile industry is regulated with regard to the minimum safety equipment necessary for a vehicle to be sold legally. The adoption of minimum standards gives telecommunications providers clear objectives on which to focus their attention and establishes service guarantees for which their customers can hold them accountable. In addition, the creation of a standardized set of statistics allows consumers to make a fairer comparison among providers.

The Federal Communications Commission (FCC) maintains a database (known as ARMIS) on service quality and network infrastructure, with information collected from the large local-exchange carriers. The database includes state complaints, installation and repair intervals, initial and repeat-trouble reports, and installation commitments met. With this information the commission and state regulators are able to make consistent comparisons of service performance among large telephone companies that cannot be made using the disparate types of service data the states collect. Recently, however, the FCC has sought to modify or eliminate some of its accounting and reporting requirements, including several service-quality rules. These changes threaten to diminish the scope and meaningfulness of the service-quality information available to the public.
FEDERAL POLICY

TELECOMMUNICATIONS

Quality of Service

The Federal Communications Commission (FCC) should refrain from making any changes to the current ARMIS reporting requirements that would diminish the scope and meaningfulness of the service-quality information available to the public.

The FCC should ensure that all relevant service-quality information from each telecommunications carrier required to report such data is current and available both online and through other means in a consumer-friendly manner.

STATE POLICY

TELECOMMUNICATIONS

Quality of Service

State policymakers should establish minimum customer-focused service-quality standards for all incumbent local-exchange carriers (known as ILECs) and competitive local-exchange carriers (CLECs). These standards should:

- require telephone companies to collect service-quality data on a monthly basis and report them to state regulatory commissions on a quarterly basis—all underlying data used to develop such reports should be retained for three years and made available on request to federal and state regulators;
- cover a range of performance data including but not limited to such areas as installation of basic service, frequency of trouble reports, efficiency of repair services, number and duration of network outages, customer perceptions (as revealed in complaints and surveys), and business-office and phone-center performance;
- establish a baseline performance level for each company in the selected performance areas that reflects its recent performance or a higher performance level if regulators determine that the company’s historical performance is inadequate;
- include substantial penalties for failing to achieve the baseline performance level for any of the selected performance areas—Any penalties incurred under these standards should either be returned to all customers in the form of a credit on their bills or be paid to customers affected by the degradation of service;
- ensure that in any year in which the state assesses penalties, each telephone company assessed informs its customers of its failure to achieve the baseline level of service quality; and
- ensure that service-quality data for all ILEC and CLEC telecommunications services available to consumers are easily accessible.
on the Internet and reported in a format that focuses on the customer’s perspective.

State policymakers should establish and adequately fund consumer education and outreach programs to maximize the public’s understanding of its rights and obligations with regard to telecommunications service quality.

TELECOMMUNICATIONS

Background

Marketing Practices and Consumer Protections

Telephone lines today provide a host of services beyond simple voice communications. For example telecommunications companies now provide services such as Internet access, call-forwarding, caller ID and inside-wire maintenance. Increased competition encouraged by the Telecommunications Act of 1996 has caused all telecommunications companies to market these and other services more aggressively.

In several instances local-exchange companies have engaged in fraud and improper marketing practices affecting thousands of customers. For example some companies have marketed inside-wire maintenance to apartment owners, who often lack the authority or responsibility for the upkeep of these wires. They have also used their monopoly control of the local telephone network to delay equal access to competitors.

STATE POLICY

Marketing Practices and Consumer Protections

As the telecommunications industry is deregulated, states should ensure that telecommunications companies are subject to statutes governing unfair and deceptive acts and practices and to consumer protection laws that forbid fraudulent or misleading marketing practices.

States also should:

- provide meaningful remedies for fraudulent and deceptive marketing;
- restrict the marketing of optional services when a consumer calls to inquire about essential service, so that only basic information about the option’s availability and price are provided;
- require telephone companies to provide consumers with the necessary information to obtain the company’s most economical service(s) conforming to the consumer’s stated needs—This information should be provided in a clear and conspicuous manner;
- prohibit telephone companies from changing a monthly billing cycle to another periodic form of billing unless the customer agrees in writing to such a change; and
ensure that service providers clearly and conspicuously present inside-wire maintenance as an addition to basic service and only under stringent advertising guidelines.

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**TELECOMMUNICATIONS • Marketing Practices and Consumer Protections**

**Background**

**Consumer Complaint Data**

Publicly available and easily accessible records of consumer complaints are absolutely essential if consumers are to make intelligent and informed buying choices. Both competitors and consumers can properly use complaints to encourage improved service through product differentiation and purchasing power.

**FEDERAL & STATE POLICY**

**TELECOMMUNICATIONS • Marketing Practices and Consumer Protections**

**Consumer Complaint Data**

Regulators should compile and report, on a regular basis, the number and types of complaints they receive about landline and wireless phone service. Regulators should also ensure that each of these reports specifically classifies complaints by service provider and on a per-unit basis and that all information is readily accessible to the general public in an easily understandable manner.

**TELECOMMUNICATIONS • Marketing Practices and Consumer Protections**

**Background**

**Slamming and Cramming**

Slamming and cramming are two common types of telecommunications fraud and abuse cited by consumers. Slamming is the illegal practice that occurs when one telecommunications service provider switches an individual’s telephone service away from another provider without the customer’s full consent or proper authorization. Slamming often happens in the context of high-pressure and deceptive marketing telephone contacts or as a part of “contests” in which participants are not fully informed that they have authorized a change in their provider. Once they have been slammed, consumers almost always pay higher rates to the unauthorized provider.

Cramming is the illegal practice of submitting or including unauthorized charges on a consumer’s telephone bill. Examples of cramming include charges that are added to consumers’ bills without a clear description of the services provided (such as “monthly fee” and “service charge”) and charges
for services that the consumer did not request or authorize (such as voice mail, caller ID, pay-per-call services and club memberships).

**FEDERAL & STATE POLICY**

**TELECOMMUNICATIONS • Marketing Practices and Consumer Protections**

**Slamming and Cramming**

The federal government and the states should:

- fully enforce existing laws and regulations against all telecommunications providers that engage in slamming, cramming, and other deceptive marketing practices;
- require all telecommunications providers to obtain clear, verifiable and written authorization before they switch any consumer’s service provider;
- ensure that telephone bills contain complete, clear and truthful descriptions of all listed charges and clearly identify the service provider (by name, address and telephone number) responsible for each charge;
- impose substantial penalties on all telecommunications service providers that engage in slamming, cramming and other deceptive practices; and
- ensure that consumers who have been slammed or crammed do not have to pay for any of the resulting charges and receive full refunds if they have paid for unwanted services.

**TELECOMMUNICATIONS • Marketing Practices and Consumer Protections**

**Background**

**Privacy Protections in the Use of Telecommunications Services**

Telecommunications companies maintain a wealth of information about their customers. Through the application process, these companies collect Social Security numbers, credit references, names of employers and sources of income, among other customer-specific information. They also know whether their customers subscribe to optional services, how much they spend each month for the services provided, and what their payment history has been. Access to this information is valuable to these companies because it allows them to focus their marketing campaigns on those customers most likely to subscribe to new and optional services and to avoid less creditworthy customers, who may not be considered as desirable in a more competitive market. The use of this information, however, raises serious privacy concerns (see also Chapter 11, Financial Services and Consumer Products: Information Privacy).

In July 2002 the Federal Communications Commission (FCC) adopted rules that address the nature of the customer approval required before a telecommunications carrier can use, disclose or permit access to customer proprietary network information (CPNI). CPNI includes a customer’s calling
patterns, service and product selections and usage history. The rules state that customers must give their express consent, or opt in, before carriers can release this information to third parties. But the rules allow carriers to give the information to their affiliates unless customers specifically opt out. The rules also state that the commission will not block or preempt state efforts to further protect CPNI.

The flow of personal information over the Internet and other advanced communications services and devices has increased the risk that private information will become public, either intentionally or unintentionally. For example CPNI is widely available for purchase online at the websites of data brokers and private investigators. This information has often been obtained without the permission of the account holder because lax security on the part of providers makes “pretexting” (accessing personal information by pretending to be the account holder) relatively easy. A petition is before the FCC urging increased security standards to prevent unauthorized access to account holder information. In addition competition in the utilities industries could lead to use of personal information for marketing services and denying credit and utility service.

FEDERAL POLICY

TELECOMMUNICATIONS • Marketing Practices and Consumer Protections

Privacy Protections in the Use of Telecommunications Services

Federal policymakers should ensure that all consumers are protected against unauthorized access to or use of personal data, such as utility use and billing and payment information.

Federal policymakers also should require telecommunications companies to provide consumers with the opportunity to determine whether their nonpublicly available and personally identifiable information should be used or disclosed for purposes other than those for which the information was originally provided.

STATE POLICY

TELECOMMUNICATIONS • Marketing Practices and Consumer Protections

Privacy Protections in the Use of Telecommunications Services

States should:

- require telecommunications companies to protect a customer’s proprietary network information and usage, billing, payment and other personal information from disclosure unless the disclosure has been authorized by the customer or is necessary to provide services the customer has requested;
ensure that consumers have avenues for redress if their personal information is inappropriately disclosed or used and have the right to correct the listing of their personal information if it is false or inaccurate; and

establish rules to specify the procedures by which a customer can provide authorization for disclosures and the method by which all customers are informed of their privacy rights.

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TELECOMMUNICATIONS

Background

Pay Phones

A pay phone is a public telephone providing service on a fee-per-call basis, using coins, credit or calling cards, or by calling collect. Pay phones are provided by local telephone companies or private vendors, which contract with building owners or businesses for the right to install pay phones on their premises.

Pursuant to the Telecommunications Act of 1996, the Federal Communications Commission (FCC) took several actions to encourage competition in the pay phone industry. The FCC made it easier for local telephone companies—the major providers of pay phone service—to remove unprofitable phones. The commission also deregulated the charges for pay phone calls.

Since deregulation the number of pay phones in the US has dropped dramatically, from its peak of 2.6 million in 1996 to about 1.2 million today, with much of the decline occurring in the last few years. Deregulation has also resulted in price increases. A local coin call that cost 25 cents in 1996, and initially increased to 35 cents, is now 50 cents in most markets.

While the decline in the number of pay phones coincides with the rise of cell phones, about 86 percent of rural households and 92 percent of poor households do not have a cell phone. Further roughly 25 percent of low-income urban households and 23 percent of poor Americans living in rural areas lack basic home telephone service. Pay phones also function at times when cell phones will not. Callers in New York City, for example, formed long lines at pay phones during the blackout of 2003 because cell towers were crippled.

In deregulating the pay phone industry Congress recognized the need to ensure the existence and maintenance of pay phones that serve an important public interest. Thus it directed the FCC to determine whether public interest pay phones should be maintained, and if so, how they should be supported.

The FCC determined that public interest pay phones are those that fulfill a public policy objective in preserving health, safety or public welfare; are not provided for a business with an existing contract for the provision of a pay
phone; and would not otherwise exist in the competitive marketplace. The FCC ordered each state to determine if it needed a public interest pay phone program and how to support it. Although few states did so initially, California, Indiana, Kentucky, New Hampshire, New York, Maine and Wisconsin have adopted public interest pay phone programs in recent years to subsidize pay phones at locations meeting the FCC criteria.

**STATE POLICY**

**TELECOMMUNICATIONS**

**Pay Phones**

State policymakers should establish and adequately fund a public interest pay phone program to ensure that pay phones are available where needed for public health, safety and welfare.

**TELECOMMUNICATIONS**

**Background**

**Wireless Communications**

Wireless telephones are becoming more popular as their cost drops and quality of service improves. The number of cellular or wireless telephone subscribers in the US has grown substantially over the past decade, increasing from roughly 16 million in 1994 to 97 million in 2000, and to about 200 million in 2005. Many of these subscribers are older Americans. In fact the percentage of consumers age 50 to 64 likely to have a cell phone (58 percent) is close to the percentage of those age 18 to 49 (65 percent). Only 37 percent of consumers age 65 and older are likely to have a cell phone. While cell phone users age 65 and older are most likely to say that security in case of an emergency is the main reason they have a cell phone, younger cell phone users are most likely to list convenience as their chief reason.

Congress and the Federal Communications Commission (FCC) have sought to avoid imposing any restrictions or regulatory burdens on the wireless telephone industry that might impede the development of competition. As part of legislation enacted in 1993, Congress gave the FCC authority to make certain common carrier regulations “inapplicable” to wireless service providers if the commission determined that the requirements were unnecessary to ensure just, reasonable and nondiscriminatory rates; inconsistent with the public interest; and unnecessary to protect consumers. Pursuant to this authority the FCC decided that wireless providers would not be subject to most rate regulations or many other common carrier rules. States, however, may petition the FCC to regain rate regulation authority should wireless service become a substitute for traditional local telephone service. States also retain the authority to regulate “the other terms and conditions” of wireless service, which include placement of wireless facilities,
customer billing information and practices, billing disputes, and other consumer protection matters.

FEDERAL & STATE POLICY

TELECOMMUNICATIONS

Wireless Communications

Legislators should enact, and regulators should vigorously enforce, consumer protection principles for wireless services. The principles should cover such issues as:

- **price and quality comparisons**—To facilitate and encourage comparison shopping regulators should require that consumers have access to information that is low cost or free, comprehensive and easy to read. Regulators should sponsor and disseminate price and quality comparisons of wireless goods and services.
- **disclosure**—Prices for wireless goods and services should be disclosed up front. Contract terms should be clear and concise.
- **privacy**—Consumers should be protected from the unauthorized use of records and personal data.
- **choice**—Consumers should have a choice of vendors, all of which should have a fair chance to compete for customers.
- **service area coverage information**—Consumers should receive maps or other information from vendors that identifies network holes or high-traffic areas that disrupt service.
- **oversight and enforcement**—Consumers should have a right to aggressive oversight and enforcement of consumer protections by state and federal regulators.
- **public participation**—Consumers should be adequately represented in public policy decisionmaking relating to wireless communications.
- **redress**—Timely and effective means of redress should be available to consumers when they encounter problems. Vendors must clearly explain how and where consumers can lodge complaints.
- **usability**—Consumers should have easy access both to customer service agents—rather than just an automated call system—and to user-friendly instructions for wireless goods and services.

Background

Informed Choice and Consumer Protection

Findings from a 2003 AARP survey suggest that the existence of numerous competitors in the wireless telephone market does not necessarily ensure that consumers have realistic choices among these competitors or can freely switch providers. In fact among all wireless subscribers who responded to
the survey, just 33 percent have ever switched companies to get a cheaper rate. Even fewer older respondents report that they have changed their wireless service provider. To put this in perspective, consider the data from the long-distance telephone industry. According to another AARP survey released in 2000, 62 percent of consumers who make long-distance telephone calls say they have changed their long-distance company to get a cheaper rate. One possible explanation for the lack of customer turnover in the wireless industry is the fact that many wireless telephone companies require their customers to sign long-term contracts. Another potential reason is that most wireless carriers insert special handset-locking software in the phones they sell to prevent customers who switch to another wireless carrier from using their handset on that competitor’s network.

Some in the wireless industry contend that the low turnover, or “churn,” rates are the result of overall customer satisfaction. However, a 2003 AARP survey suggests that the more consumers use their cell phones, the less satisfied they are with their service. More specifically the heaviest cell phone users, who are generally in the best position to assess the overall quality of their service, are less likely to report being “very satisfied” with their service and more likely to say they have experienced difficulties in making or receiving calls. When asked why they remain with their current provider despite a low level of satisfaction, more than half of the most frequent users of cell phone service said either that they wanted to avoid paying an early termination fee or that they did not want to give up their current cell phone number.

Filing a complaint might be an option for less satisfied users, except that many users do not know whom to contact if they cannot resolve a problem with their service provider. In fact very few cell phone users say they would contact the Federal Communications Commission (FCC), which tracks cell phone service complaints. The lack of consumer awareness of possible complaint options raises concerns about the comprehensiveness of the FCC’s consumer complaint data. Further, the usefulness of the agency’s complaint collection efforts is also diminished by its decision to limit its information disclosure: Although the FCC publishes overall data on complaints, it does not identify the number of complaints attributed to specific cell phone service providers unless asked to do so.

The finding that the heaviest cell phone users are less satisfied than other users with their service and more likely to say they have experienced difficulties in making or receiving calls should concern low- and medium-volume cell phone users as well. As less frequent users of cell phone service, these subscribers may not have experienced dropped calls and gaps in service coverage, and thus may expect their service to work in areas that it does not. For cell phone users in an emergency situation, this expectation could have disastrous consequences. Regrettably, accurate information on the existence of coverage gaps, i.e., areas within an identified calling area where service does not exist, is often difficult to find. In fact the FCC no longer requires cell phone service providers to distribute coverage maps to their subscribers. Further, providers
that do supply coverage maps are under no obligation to represent accurately
the true extent of coverage or the existence of coverage gaps.

STATE POLICY

TELECOMMUNICATIONS • Wireless Communications

Informed Choice and Consumer Protection

State policymakers should adopt comprehensive rules or legislation to
promote informed choice and consumer protection in the wireless
telecommunications services market. Specific provisions should, among
other goals:

- ensure that all consumers are able to cancel, without penalty, any contract
  for wireless telephone service within a period of up to 20 days after the
date of the first bill for monthly service following service activation—
Consumers should be able to return for a full refund any equipment
acquired from the provider or its agents or authorized dealers;
- reasonably limit the fee that providers can charge customers for
terminating their service contract before it expires, to enhance
competition in the industry and promote consumer satisfaction;
- prevent wireless carriers from using handset-locking software or other
techniques that disable otherwise functional cell phones when consumers
switch providers;
- establish standards for, and require mass distribution of information
about, the quality of service associated with providers operating in the
state, including call-center performance, blocked- and dropped-call rates,
and the number of complaints regulators receive quarterly for each
provider per 1,000 subscribers;
- require that providers create accurate, verifiable coverage maps that
clearly convey information regarding the quality of service and have
uniform characteristics so consumers can compare service quality among
providers;
- require providers to state clearly and in a consumer-friendly manner their
rates and all terms and conditions associated with their plans so
consumers can accurately compare plans and providers; and
- require publication of public utility commission and Federal
Communications Commission contact information on each billing
statement so customers will know the appropriate channels for lodging
complaints against providers.
Enhanced 911

As the official national emergency telephone number in the US, 911 provides Americans with essential access to local emergency medical, fire and law enforcement agencies. With the implementation of Enhanced 911, or E911, which enables an operator to know the exact location of a caller and to contact or dispatch the appropriate local emergency service provider with the push of a button, emergency help can be provided more quickly and effectively.

The ability to pinpoint the location of 911 calls is critical because it enables almost immediate dispatch of emergency aid, even when the caller is too injured or disoriented to provide his or her exact location. For calls made from traditional, or landline, phones, most 911 systems in the US support this capability. For wireless phone calls, however, the operator must rely almost entirely on the caller, who may not know where he or she is, or who may be incapacitated. This is a particularly important issue for older Americans, who tend to subscribe to wireless telephone service primarily for use in the event of an emergency.

In 1996 the Federal Communications Commission adopted rules to begin deploying the technology to report accurately the location of wireless 911 calls. Under the E911 Phase II rules wireless carriers were to be capable of pinpointing a caller’s precise location—within 50 to 300 meters in most cases—by October 1, 2001. Regrettably, the wireless industry did not meet this deadline or numerous subsequent deadlines. In fact a 2006 Government Accountability Office report concludes that “no clear picture is emerging on when Phase II will be fully deployed nationwide.”

Enhanced 911

Federal, state and local policymakers and regulators should ensure that wireless carriers deploy wireless Enhanced 911 (E911) technology as soon as possible.

The Federal Communications Commission should ensure thorough testing of the functionality and performance of every wireless carrier’s E911 Phase II system. All testing should be completed at a local level and on a semiannual basis so that results are current and specific enough to help local public safety providers make better dispatch decisions and to allow consumers to make better purchasing decisions.
Federal, state and local policymakers and regulators should ensure that consumers have clear and accurate information to facilitate comparisons of the major wireless service providers’ E911 performance in their local community.

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**TELECOMMUNICATIONS • Wireless Communications**

**Background**

**Privacy Protections**

Currently most cell phone numbers are not included in traditional directories and directory assistance services.

While many subscribers to more traditional landline telephone service want to keep their home numbers private, cell phone subscribers have additional incentives to do so. First, the privacy of wireless subscribers has always been safeguarded, and many cell phone users now expect to receive calls only from those individuals to whom they have personally given their number. Second, wireless service providers, unlike their landline counterparts, charge for incoming as well as outgoing calls. As a result wireless users have to pay for any unwanted incoming calls.

A 2004 AARP national survey found that cell phone owners highly value the privacy of their wireless telephone numbers. An overwhelming majority of them view positively the current lack of a publicly available wireless phone directory. If such a directory were created, most cell phone owners indicated they would not want to have their number included. In fact they believe that no wireless phone number should be added to the directory unless the cell phone owner specifically requests it.

**FEDERAL & STATE POLICY**

**TELECOMMUNICATIONS • Wireless Communications**

**Privacy Protections**

Federal and state policymakers should require wireless service providers to obtain express written authorization from their subscribers before adding a subscriber’s phone number to any directory.

They also should ensure that wireless subscribers are protected against charges or fees for keeping their wireless phone number out of directory assistance.
Cell Phones and Hearing-Aid Compatibility

The emergence of the digital cell phone—approximately 91 percent of all wireless subscribers use digital service rather than analog-only service—as a mainstream communications tool has produced enormous benefits for many consumers, providing them with a feeling of safety and security and an unprecedented level of convenience with telephone communication. Unfortunately many of the more than six million individuals who use hearing aids or cochlear implants are unable to use many digital wireless phones because of the resulting audible interference. In fact the proximity of the two devices often produces static or buzzing feedback that makes understanding speech difficult and communication over cell phones annoying and sometimes painful.

Recognizing the need to make digital wireless phones more accessible to individuals who use hearing aids or have cochlear implants, the Federal Communications Commission (FCC) issued a ruling in August 2003 that requires mobile wireless carriers and manufacturers to increase the number of wireless phones that can be used effectively with hearing aids. More specifically the FCC ruled that 25 percent of digital handsets offered by national mobile phone carriers must be hearing-aid compatible by September 2005—the FCC has since extended this deadline for carriers offering handsets that operate on a particular frequency to August 2006—and that 50 percent must be hearing-aid compatible by February 2008. The FCC also decided that each carrier providing digital wireless services must offer at least two handset models that are telecoil-compatible by September 2006. About 25 percent to 30 percent of the hearing aids in the US contain telecoils, which generally are used by individuals with profound hearing loss to amplify the voice on the phone and filter out background noise.

FEDERAL POLICY

Cell Phones and Hearing-Aid Compatibility

The Federal Communications Commission should ensure full and prompt implementation of the hearing-aid compatibility rule it issued in August 2003 to increase the number of wireless phones that can be used effectively with hearing aids.
### TELECOMMUNICATIONS

#### Background

**Internet Services**

Improvements in technology over the past two decades have led to an array of new and better information and communications technologies and services, as well as profound social and economic benefits for many people. As the rapid pace of technological achievement continues, an increasing percentage of consumers are taking advantage of these technologies and services. They are connecting with family, friends and colleagues through e-mail, accessing the Internet to search for information or shop online, and taking advantage of lower prices and the multitude of features associated with Internet service.

At the same time, however, there is still a significant gap, often referred to as the digital divide, between people with access to technology and those without it. Older people—as well as people with lower incomes and education levels, certain minorities, and residents of rural areas or central cities—are among the groups that typically lack access. In the future, ready access to information and communications services such as the Internet will become only more critical to economic success and personal well-being. As such it is important that these services be available and affordable to everyone regardless of gender, income, age or geographic location.

#### FEDERAL, STATE & LOCAL POLICY

**Internet Services**

Policymakers at all levels of government should adopt and promote a comprehensive, coherent plan to provide widespread, affordable Internet services and bridge the divide that separates those who can access and use the Internet and other information and communications technologies and services effectively and those who cannot.

Specific provisions to promote connectedness and the use of information and communications technologies and services should, among other goals:

- regularly measure, using objective and meaningful criteria, the extent to which information and communication technologies and services are integrated into society in general;
- ensure that information and communications technologies and services are accessible, affordable and easy to use for the population at large;
- ensure that the necessary infrastructure (e.g., computer access, networks and institutions) is in place;
- maintain a legal and regulatory framework that will foster the use of information and communications technologies by all consumers; and
• ensure that solutions are tailored to meet local needs and based on local decisionmaking.

TELECOMMUNICATIONS • Internet Services

Background

Broadband Services

Broadband technology allows users to access the Internet at a rate of speed faster than that of a narrowband, or dial-up, connection. As such, consumers with a broadband connection gain the ability to use a range of voice, video and data services.

A growing, but relatively small percentage of older Americans have a broadband connection at home (Figure 10-3). Nevertheless many of the benefits of ubiquitous and affordable access to broadband networks would be of particular value to older Americans. For example with a broadband connection to support monitoring devices and interactive video, home health care becomes a viable option for many consumers, particularly those with limited mobility or who may not be well enough to travel. A broadband connection also facilitates distance-learning opportunities at convenient times and places, especially for individuals who have jobs, disabilities or family responsibilities that make it difficult to travel to a classroom. With a broadband connection telecommuting becomes a more realistic possibility for workers and employers. The benefits of telecommuting with a high-speed connection may be particularly attractive to older workers. According to an
AARP study on work and careers, 69 percent of workers age 45 to 74 plan to work in some capacity during their retirement years. Many of these people, however, want to work on different terms, with more flexibility and autonomy, than they did during their earlier careers. In fact 70 percent of older workers say they are looking for ways to better balance their work and personal lives, and 41 percent report that the ability to work from home is an absolutely essential part of their ideal job. Affordable access to the high-speed Internet makes this a realistic possibility (see Chapter 8, Housing: Building Livable Communities, for additional discussion regarding the benefits of having broadband access).

Broadband access is provided in a number of ways, including through cable modems, telephone lines (known as digital subscriber line (DSL) service), satellite technologies, fiber optic technologies, electrical power lines, and wireless technologies. However, according to recent studies cable companies (with 58 percent of the nation’s residential broadband subscribers) and telephone companies (with 41 percent) dominate the market for broadband access.

This dominance is at the heart of a growing battle over whether policymakers should impose rules on broadband network operators to prevent them from functioning as gatekeepers of the Internet, with the ability to block or degrade consumers’ access to online content or services offered by a competitor. Without such rules network operators will, for example, be able to cut deals with certain content providers and online retailers to ensure that consumers have faster and more reliable access to their information, at the expense of their competition. They will be able to charge content developers for the right to gain access to their customers, and they will be able to block or discriminate against various Internet applications such as Internet telephone service offered by independent companies.

Evidence also suggests that the substantial market power wielded by the telephone and cable companies may be a significant factor as to why the US has fallen behind many other countries in broadband penetration. Indeed, according to the International Telecommunication Union (ITU), the US ranks 15th worldwide in the number of broadband connections per 100 inhabitants and 21st on the ITU’s Digital Opportunity Index, which is a composite index designed to measure each nation’s progress in creating digital opportunity and bridging the digital divide. The extent of competition in the broadband market (which for many US consumers means a choice between one cable provider and one DSL provider) has been insufficient to increase Americans’ access to high-bandwidth capacity and lower their cost per unit of bandwidth in comparison to other nations. As a result while broadband service remains an expensive and often unattainable proposition in the US, prices for broadband Internet access in other countries have plummeted as transmission speeds have soared. For example companies in Japan provide consumers with broadband Internet access that is on average 20 times faster and half the price of broadband service in the US.
Many of the countries that lead the US in deploying broadband service established specific and well-publicized national goals to achieve universal, affordable access to high-speed Internet service. In 2001 the Japanese government, for example, developed a plan to bring high-speed broadband service to 40 million of the country’s 46 million households by 2005. More specifically Japan sought to make fast connections of up to 10 megabits per second (mbps) accessible to 30 million households, and superfast connections of up to 100 mbps accessible to 10 million households. At about the same time South Korea developed a similar strategy in hopes of making high-speed broadband connections—of up to 20 mbps—available to more than 80 percent of its households. Both countries met their target goals and established new objectives designed to move them further ahead as world leaders in Internet innovation and deployment.

In the US the Federal Communications Commission (FCC) measures broadband service as starting at 200 kilobits per second (kbps). This standard is roughly four times faster than a dial-up connection. However, in comparison to Japan, South Korea and many other countries, 200 kbps is very slow. In fact 200 kbps is about one one-hundredth the speed of the typical broadband connection in Japan or South Korea. Moreover the FCC’s speed threshold for broadband service is not fast enough for good-quality video streaming. As such it is completely inadequate for many applications and services that are associated with broadband, including on-demand movies and TV programs, distance learning, always-on medical monitoring, video security at home, and video conferencing. A faster connection is also necessary for Internet telephone service and can make a significant difference in the time it takes to download information and files (Figure 10-4).

<table>
<thead>
<tr>
<th>Speed</th>
<th>Type of Internet Connection</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>56 Kbps*</td>
<td>Dial-up speed</td>
<td>8.5 days</td>
</tr>
<tr>
<td>200 Kbps</td>
<td>FCC definition of “broadband”</td>
<td>2.5 days</td>
</tr>
<tr>
<td>512 Kbps</td>
<td>Minimum recommended for Internet phone service</td>
<td>23 hours</td>
</tr>
<tr>
<td>1.5 Mbps**</td>
<td>Typical advertised US broadband connection speed in 2006</td>
<td>7.6 hours</td>
</tr>
<tr>
<td>30 Mbps</td>
<td>Widely available in many Asian and European countries</td>
<td>23 minutes</td>
</tr>
<tr>
<td>100 Mbps</td>
<td>Available to more than 80 percent of people in Japan in 2004</td>
<td>7 minutes</td>
</tr>
</tbody>
</table>

*Kbps: Kilobits per second  
**Mbps: Megabytes per second  
Prepared by AARP Public Policy Institute using the download time calculator, http://download.stormloader.com/ and based on the assumption that a two-hour high-definition movie requires 5 gigabytes of disk space.

The methodology that the FCC uses to determine broadband coverage in the US is also somewhat misleading. A 2005 FCC report on high-speed Internet connections measured overall broadband availability by counting the number of zip codes that include at least one broadband subscriber. The problem
with this measurement is that broadband service may be available to one person in a particular zip code but unavailable to others. This approach also does not recognize that broadband service comes in different prices and connection speeds. As a result a zip code in which affordable and very fast Internet access is available to most of the population is no different from a zip code where broadband service is mostly unavailable or unaffordable.

The US is in serious danger of forfeiting substantial economic and quality-of-life benefits unless it acts quickly to advance broadband deployment and once again become the world leader in Internet development. In fact one report estimates that as much as $1 trillion might be lost over the next decade due to present constraints on broadband development. A 2005 report by the Institute of Electronic and Electrical Engineers also stresses the critical importance of a broadband infrastructure that is ubiquitous and available to all:

Seamless and rapid communication permits easy access to all knowledge—scientific, medical, economic, commercial, educational, political and recreational. Through ubiquitous gigabit networks the entire US population, urban and rural, could contribute fully to developing our nation’s standard of living while overcoming a digital divide that now forecloses productive activity by those without such access.

The lack of universal, affordable broadband Internet access and the growing recognition that a fast Internet connection is critical for economic development and public safety has prompted hundreds of local governments to consider rolling out broadband networks themselves. Big cities such as Philadelphia and San Francisco—as well as relatively smaller communities, including Chaska, MN, and Addison, TX—have contracted with providers other than the local telephone or cable companies to build or run broadband networks using WiFi (wireless fidelity) technology or fiber optic cables with the goal of delivering free or deeply discounted broadband to their residents. In response the telecommunications and cable industries have lobbied Congress and the states to ban or limit municipalities from undertaking such efforts in markets where they compete, leading to the passage of many state laws that prohibit or limit cities from deploying their own high-speed networks.

FEDERAL, STATE & LOCAL POLICY

TELECOMMUNICATIONS: Internet Services

Broadband Services

Policymakers should make ubiquitous, affordable and truly high-speed broadband a national priority.

Policymakers should create an aggressive national broadband deployment strategy that includes specific targets in terms of broadband penetration, coverage and usage, and establishes the US as the world leader in providing
all of its citizens with access to the fastest and most affordable broadband services.

Policymakers should ensure that:

- all residential consumers have the ability to choose from among multiple, competing broadband networks;
- all local governments maintain the right to own, operate or deploy their own broadband network and services;
- consumers have the right to use their Internet connections to access, use, send, receive or offer any lawful content or services they choose over the Internet;
- consumers can use any applications or services made available over the Internet or in connection with access to the Internet; and
- consumers have the right to attach any device (e.g. Internet phones, gaming consoles and WiFi routers) to the operator’s broadband network as long as that device does not damage or degrade other subscribers' use of the network.

Regulators should compile and report standardized information that provides a full and accurate measure of broadband deployment in the US in a manner that distinguishes among several levels of broadband service based on connection speed (e.g. basic, fast and very fast), identifies the extent to which broadband is available to all households in a zip code or other local area rather than just one household, and recognizes that broadband service is available in a local area only to the extent that it is affordable.

**TELECOMMUNICATIONS • Internet Services**

**Background**

**Voice Communication over the Internet**

Roughly three million households in the US have switched from traditional telephone service to Internet phone service, which uses a technology called Voice over Internet Protocol (VoIP). By 2009 the number of households using VoIP is expected to jump to 27 million.

With VoIP, consumers use a regular phone and an adapter to complete calls over a broadband Internet connection. The technology converts a caller's voice into many packets of data (much like e-mail); transmits these packets via digital subscriber line (DSL), cable or other high-speed Internet lines; and reassembles them so the voice comes through at the destination.

The advent of VoIP brings great promise and possibility. Lower prices and a multitude of features, including the ability to check and manage messages from any phone or computer, are among the potential benefits for consumers who switch to VoIP service. However, VoIP has limits. For example the service does not work during blackouts or at other times when electric power is off or broadband service is down. VoIP also lacks important
911 capabilities to ensure that a subscriber will be connected to a live dispatch operator during an emergency.

Another major difference between VoIP service and more conventional landline service is how the two are regulated. Most states require phone companies that provide conventional telecommunications service to meet certain commitments, such as providing minimum levels of customer service, complying with 911 regulations, and contributing to a universal service fund that helps pay for rural phone service and Internet access for libraries and schools. A number of states have even implemented “minimum standard” regulations for telephone service quality, which establish criteria for measuring customers’ service-related experiences with telecommunications providers, field staff who make repairs and service calls, business offices, and network performance. Residential consumers have come to rely on these state regulations to ensure that they receive reliable and high-quality telephone service and have appropriate consumer protections.

In contrast VoIP consumers do not have the benefit of these basic protections, since this service is essentially unregulated. Moreover while a 2004 ruling by the Federal Communications Commission (FCC) that prohibits states from regulating VoIP services has been appealed to the courts, Congress is also considering legislation that would prevent states and the FCC from regulating VoIP service.

**FEDERAL & STATE POLICY**

**TELECOMMUNICATIONS • Internet Services**

**Voice Communication over the Internet**

Policymakers should adopt rules and promote a market structure for telecommunications services that ensures all consumers—whether they subscribe to traditional telephone services or choose Voice over Internet Protocol (VoIP) services that are marketed to customers as substitutes for traditional telephone service—have ready access to affordable, reliable and high-quality voice telecommunications service. Specific provisions should, among other goals:

- preserve the dual state-federal system of regulating providers of voice communication service for VoIP services by maintaining the states’ authority to adopt service-quality and other consumer protection standards and further strengthening minimum federal requirements;
- require VoIP service providers to pay into the universal service fund and obtain eligible telecommunication carrier status if they meet mandated requirements;
- require VoIP service providers to comply with federal and state truth-in-billing standards so that consumers can easily understand their bills;
- establish service termination requirements and procedures and prohibit VoIP service providers from imposing early-termination penalties on subscribers;
- subject VoIP service providers to local number portability requirements in order to ensure that consumers continue to benefit from this important procompetitive function;
- prohibit VoIP service providers from imposing any separate monthly line-item charges, surcharges or other fees on customers’ bills unless such charges have been expressly mandated by federal, state or local law;
- subject VoIP service providers to Federal Communications Commission rules restricting the use of customer proprietary network information and other caller identification data;
- require VoIP service providers to provide full up-front disclosures regarding the limitations of VoIP service; and
- ensure that VoIP service packages include Enhanced 911 services.

**DELIVERING VIDEO PROGRAMMING**

**Background**

**Pay Television Service**

More than 92 million households, including many older households, in the US (85 percent of households with televisions) subscribe to pay television service. Cable operators are the largest providers of pay television service, also known as multichannel video service. About 68 percent of subscribers receive their video programming from a franchised cable operator. Another 25 percent subscribe to satellite television service. More recently traditional telephone companies also have begun to offer their own television services. Because many older Americans are less mobile, they are even more dependent on television and ultimately cable for news and entertainment.

According to the Bureau of Labor Statistics (BLS) subscriber rates for cable television have increased by about 60 percent since the Telecommunications Act passed in 1996. Over that same period inflation increased by only 23 percent. Moreover the BLS statistic excluded increases in cable rates due to changes in the quality of service provided, such as the addition of channels.

As required by the act almost all restrictions on cable rates were lifted in March 1999.

The average consumer regularly watches only 17 television channels, but to access those channels a consumer must buy a subscription package that typically includes hundreds of channels. Many consumer advocates and some in Congress believe that pay television operators need to adopt “a la carte” programming in which operators would price channels individually and let consumers buy the ones they want.
FEDERAL, STATE & LOCAL POLICY

DELIVERING VIDEO PROGRAMMING

Pay Television Service

The Federal Communications Commission should make appropriate recommendations to ensure just and reasonable pay television subscription rates.

Policymakers should require pay television operators to offer “a la carte” pricing to give subscribers more control over bills.

Policymakers should protect consumers’ right to public access programming on pay television.

Regulators should prohibit anticompetitive mergers and acquisitions involving pay television operators.

DELIVERING VIDEO PROGRAMMING

Background

Video Franchise Requirements

As part of the Federal Communications Act, Congress created a process under which video service providers must first negotiate and enter into agreements with city governments and other local franchising authorities before offering services to their residents. Congress recognized that local jurisdictions could play an important role in ensuring that video services are deployed to maximize the benefits for each community and all of its citizens. Thus cities and towns typically negotiate agreements that include a variety of consumer protections and provisions tailored to the jurisdiction’s needs.

Over the last several years the regional Bell operating companies (RBOCs) have started to rebuild their networks to offer consumers advanced digital television service over their phone lines. The emergence of the RBOCs in the marketplace for the delivery of video could create more service options and market competition, and with them, rewards for consumers, including better services, more advanced technology and lower prices.

However, the RBOCs contend that requiring them to negotiate separate agreements with the many local franchise authorities throughout the US would significantly delay their deployment of TV service and might prevent them from competing with cable companies to offer video programming. Instead the RBOCs are campaigning for changes in state and federal laws that will allow them to avoid the franchising process. Opponents of such changes argue that the phone companies could easily obtain franchise agreements if they are willing to accept the same terms as the local cable company.
Video Franchise Requirements

If policymakers consider overriding local control of video franchises in favor of establishing a state or national franchise process, they should also adopt explicit provisions that maintain the benefits and protections consumers received under the local franchising process. Regardless of what jurisdiction regulates this process, at a minimum these provisions should:

- prevent economic redlining and generally ensure that all providers make their service available in all neighborhoods;
- ensure access to local public access, education and government channels;
- establish customer service standards and enforcement mechanisms;
- ensure that local jurisdictions have the authority to manage the disruption caused by installing and maintaining infrastructure in city streets and public rights of way; and
- ensure that video service providers offer compensation in the form of franchise fees for the benefit of using public property and rights of way.

Background

Digital Television Transition

In 2006 Congress enacted legislation that requires all US television stations to air only digital broadcasts by February 17, 2009.

The move to digital television (DTV) will free up broadcast spectrum for public safety and emergency response communication and ensure superior picture and sound quality and a wider range of programming options for consumers. However, to view DTV, consumers will need to have television sets or converters that can process digital broadcast signals.

The Government Accountability Office (GAO) expects that converter boxes will cost between $50 and $100. In addition some consumers may have to pay for installation and special rooftop antennas. Consumers will also bear the expenses associated with the time spent and inconvenience of purchasing and installing the required equipment. In total the cost of transitioning to DTV may be prohibitively expensive for many of the 21 million households who have over-the-air, broadcast-only television sets. Almost half (48 percent) of these households have incomes under $30,000, and 41 percent include at least one person over the age of 50, according to the GAO. Millions of these older consumers live on low or fixed incomes.

Many consumers are unaware that the transition to DTV will soon render their analog, over-the-air, broadcast-only TV sets unusable. The switch will
surprise and confuse consumers who are left with blank screens and will likely anger consumers who have recently bought conventional analog TVs only to find that they do not work in the new digital environment.

As authorized by Congress, the National Telecommunications and Information Administration (NTIA) will have almost $1 billion, and possibly as much as $1.5 billion, to administer and implement a digital-to-analog converter box assistance program. The program will distribute coupons, each worth $40 off the price of a converter box, to households that request them. Each household may apply for up to two coupons but only use one per box. The NTIA may spend up to $5 million of their budget to inform consumers about the coupon program.

### FEDERAL POLICY

#### DELIVERING VIDEO PROGRAMMING

**Digital Television Transition**

Policymakers should ensure that the transition to digital television (DTV) occurs in the most convenient manner and at the least cost for all consumers. The appropriate federal agencies should implement a consumer-friendly DTV transition plan that includes:

- a comprehensive, proactive and wide-reaching outreach and education program that informs the public of the transition deadline and the converter box purchase assistance program and reaches underserved communities, and
- a mechanism to assist with the distribution and installation of converter boxes for consumers, particularly those with limited mobility who would have difficulty with traveling to a retail store to purchase the device, waiting in long lines to obtain such devices, or installing the equipment themselves.

The National Telecommunications and Information Administration should implement and administer a digital-to-analog converter box coupon program that:

- provides households without Internet access an equal opportunity to receive coupons;
- features a simple application that has clear instructions and is widely available, especially in locations with substantial numbers of low- and fixed-income households;
- offers meaningful information, such as the coupon expiration date, printed in a clear, easy-to-read format on the front of the coupon and in a letter enclosed in the coupon mailing;
- clearly tells consumers that the coupons are free; and
- provides strong safeguards to protect consumers from fraud and abuse in the coupon program.
ENERGY

Introduction

Home energy costs make up a considerable portion of household budgets. Exceedingly volatile natural gas, electricity and fuel oil prices in recent years have significantly increased the energy burden facing many consumers. Older Americans are particularly vulnerable to rapid increases in energy prices. Although they consume approximately the same amount of energy as younger people do, older Americans devote a higher percentage of total spending to residential energy costs (Figure 10-5). This may be because older people spend a greater proportion of their income on home heating costs (even after adjusting for weather and home size). Low-income older households spend an average of 10 percent of their income on residential energy. However, about one of every four low-income older households spends 15 percent or more of their entire income on home energy bills. Too often low-income older people must choose between risking their health and comfort by cutting back on energy expenditures and reducing spending for other necessities.

Figure 10-5
Energy Expenditures as a Percentage of Income, by Age, 2005

Prepared by AARP Public Policy Institute.
ENERGY

Background

Safe and Reliable Energy

Safe, reliable and affordable energy is a key requirement for a secure and productive society. If there were ever any doubt about this, the August 14, 2003, blackout, which resulted in the loss of 62,000 megawatts of electricity over 34,000 miles of high-voltage transmission lines, was a startling reminder of the central role energy has in our economy and way of life.

The most massive blackout in history affected major cities, including New York and Detroit, and many smaller communities, and left 50 million Americans without power. But as these people soon understood, the blackout meant much more than no electricity. They also lacked heat and air-conditioning, public transportation, and traffic and security lights. Many thousands of people were without water, and millions more learned, as they tried to make urgent calls, that their cell phones did not work.

Official reports cite computer malfunctions, poor communications systems, human error, insufficient training and tree-trimming problems as the specific causes of the blackout. However, other experts contend that these are just the symptoms of larger, underlying problems—including an aging infrastructure, increased energy demand, increased reliance on gas-generated electricity, a fragmented and inefficiently operated transmission system, increased use of the transmission system for inappropriate commercial purposes, and insufficient investment in the transmission system as a result of utility deregulation and restructuring—that threaten the reliability of the entire US energy transmission system.

FEDERAL & STATE POLICY

Safe and Reliable Energy

Congress should require, and regulators should vigorously enforce, strict mandatory rules for operating the energy infrastructure to ensure safe and reliable energy service for all Americans.

Federal and state policymakers should increase appropriated funds for research, development and demonstration of new transmission system technologies that will improve the reliability and security of our transmission systems.
ENERGY

Background

Universal Service
In the telecommunications industry, federal law and many state laws have broadly defined “universal service” to include the concept of affordability. The requirement of affordability means that all consumers should be able to purchase a level of service that meets their daily needs at an affordable price and that no one should have to forgo other basics, such as medicine and food, in order to use necessary telecommunications services. This concept also recognizes that just and reasonable rates may still be unaffordable for some consumers. Lawmakers have not adopted a similar policy for consumers of household energy services.

FEDERAL & STATE POLICY

Universal Service
Federal and state policymakers should ensure that essential energy services are affordable and available to all households.

Federal and state policymakers should establish a definition of “universal service” for the energy industry that is similar to the one in the Telecommunications Act of 1996. The definition should specifically state that rates must be just, reasonable and affordable and that energy assistance programs should be available to low-income households.

ENERGY

Background

Low-Income Energy Assistance Programs
Federal energy assistance programs are the primary means for helping low-income older people meet their home fuel costs and improve the energy efficiency of their residence. The two major programs are the Low-Income Home Energy Assistance Program (LIHEAP), administered by the Department of Health and Human Services, and the Weatherization Assistance Program (WAP), which is sponsored by the Department of Energy (DOE) and implemented by state and local agencies throughout the country.

LIHEAP provides eligible low-income households with financial assistance to offset the costs of heating and/or cooling their home. Under federal rules a household is eligible for LIHEAP if its income does not exceed 150 percent of the poverty level or 60 percent of the state median income.
whichever is greater. States, however, may establish a more restrictive standard and set income eligibility as low as 110 percent of the poverty level. About half of all households (49 percent) served by LIHEAP have at least one member age 60 or older.

Current LIHEAP funding levels ($2.2 billion in fiscal year 2005) permit only 19 percent of eligible households to receive program benefits. In most states the average benefit covers only about 49 percent of a recipient's heating cost. However, with fuel costs rising dramatically over the winter of 2005–2006, the government would have had to spend $5.2 billion—an increase of $3.1 billion over the previous year—to protect the people currently receiving LIHEAP assistance from paying more for heat and to accommodate a small expected increase in LIHEAP participation, according to the Center on Budget and Policy Priorities.

Established in 1976, WAP has helped more than 5.2 million low-income households increase the energy efficiency of their home, reduce their energy expenditures, and improve health and safety. On average, weatherization reduces heating bills by 31 percent, and overall energy bills by $200 to $250 per year, depending on fuel prices.

Each state sets its own eligibility rules for WAP based on national guidelines. A state may determine that a low-income household is one whose combined income is at or below 125 percent of the poverty level, or it may decide that all homes eligible under LIHEAP are eligible for weatherization assistance. Alternatively a state may use either 150 percent of the poverty level or 60 percent of the state’s median income as its standard for eligibility. Preference is given to people over age 60, people with disabilities, and in some cases households with children. As many as 30 million low-income families in the US are eligible for WAP. However only about 16 percent of eligible households are served.

**FEDERAL POLICY**

**ENERGY**

**Low-Income Energy Assistance Programs**

Congress should:

- substantially increase funding for the Low-Income Home Energy Assistance Program (LIHEAP) and the Weatherization Assistance Program and ensure that these programs strengthen their outreach efforts by conducting effective education and publicity campaigns;
- pass supplemental, emergency appropriations to replenish LIHEAP funds when energy crises prematurely exhaust them;
- require an annual study to document the energy assistance needs of low-income consumers—Such an evaluation should determine the extent to which low-income consumers undertake unfavorable actions (e.g., forgoing prescription medications, going one or more days without food,
or not paying rent) as a result of unaffordable or unsustainable home energy bills; and
- require a performance-based evaluation of LIHEAP.

**STATE POLICY**

**Low-Income Energy Assistance Programs**

State policymakers should encourage companies that supply households in the Low-Income Home Energy Assistance Program (LIHEAP) to plan and coordinate service with the responsible state agency. Coordination can reduce the adverse impact of delayed federal funding for other critical state programs and services until all federal funds are available. State policymakers also should:

- create and fully fund a statewide bill payment assistance program for low-income residential customers;
- automatically enroll electric and natural gas customers in any and all state low-income energy assistance programs when they apply for other income-based financial assistance programs;
- allow electric and natural gas customers to self-certify that they are eligible to participate in low-income energy assistance programs;
- prohibit all utilities from disconnecting or refusing to reconnect electric or natural gas service to low-income and vulnerable households during the winter months—In warm-temperature states policymakers should prohibit the disconnection of electric service during the summer months;
- require and fund all electric and gas utilities to establish percentage-of-income payment plans to ensure that the energy burden on low-income households is no greater than on a household earning the state’s median income; and
- strengthen outreach and education programs to increase participation in LIHEAP and other energy assistance programs in the state.

**ENERGY • Low-Income Energy Assistance Programs**

**Background**

**LIHEAP Funding Allocations**

Under the Low-Income Home Energy Assistance Program (LIHEAP) the federal government, through the Department of Health and Human Services, allocates energy-assistance funding to the 50 states, the District of Columbia and other grantees, including US territories and commonwealths and Indian tribal organizations. Each state receives a percentage of the regular LIHEAP appropriation. However, the size of a state’s percentage may vary, depending on the size of the total regular appropriation for that fiscal year (FY). When the regular appropriation for a fiscal year equals $1.975 billion or less, as it
has since FY 1986, an individual state’s allotment is determined by a formula based on the home heating expenditures of that state’s low-income households from 1976 to 1980. However, when a regular appropriation for LIHEAP is more than $1.975 billion, an individual state’s share is determined by a second formula, based on the current estimated home heating and cooling expenditures of the state’s low-income households. The omission of any factor for cooling in the first formula means that the distribution of LIHEAP funds favors northern states with heating needs at the expense of states in the South and West that have high cooling burdens.

Cooling assistance is imperative to help safeguard the health—and lives—of low-income families across the nation. In fact excessive heat is the leading weather-related cause of death, with at least 1,500 deaths from heat-related causes during the average US summer.

**FEDERAL POLICY**

**ENERGY • Low-Income Energy Assistance Programs**

**LIHEAP Funding Allocations**

Congress should significantly increase Low-Income Home Energy Assistance Program (LIHEAP) appropriations to ensure continuous use of the LIHEAP formula that allocates funding to an individual state based on the current estimated home heating and cooling expenditures of the state’s low-income households.

**ENERGY**

**Background**

**Electricity**

Americans depend on electricity for lighting, heating, air-conditioning, cleaning, refrigeration, telecommunications and many other functions in modern life. Indeed, electricity is central to practically all aspects of human welfare. It enables the day-to-day operations of the nation’s schools and businesses; allows hospitals to refrigerate vaccines, run diagnostic equipment and light operating rooms; and powers Internet access, traffic lights, ATM machines and televisions. The essential nature of electricity means that its cost and availability have implications for the entire economy; its absence is usually associated with poverty and reduced quality of life.

**FEDERAL & STATE POLICY**

**ENERGY**

**Electricity**

Regulators should adopt safeguards that ensure just, reasonable and affordable rates and high-quality service for residential customers.
Policymakers should consider expanding public power and requiring adequate reserve capacity to effect significant and measurable benefits for residential customers.

**FEDERAL POLICY**

**ENERGY**

**Electricity**

The Federal Energy Regulatory Commission (FERC) should order cost-based price regulation and take other appropriate regulatory actions in any wholesale market where rates are not demonstrably and reliably just and reasonable.

FERC should closely monitor the wholesale electricity market to identify prices that reflect the exercise of market power and to order refunds for any overpayments that result from consumers buying electricity at these prices.

**ENERGY • Electricity**

**Background**

**Securitization**

Securitization is a financial mechanism that allows a utility to recover revenue up front in a single lump-sum payment rather than over a period of time. This is accomplished through the issuance of bonds, which are backed by an irrevocable guarantee of repayment made under state law. Utility customers are required to pay a surcharge that is transferred to bondholders as payment.

States have enacted statutes authorizing securitization of utilities’ “stranded costs” as part of retail electricity restructuring (see Energy—Electricity Restructuring—Stranded Costs). Recently securitization has been used or proposed to speed utilities’ recovery of storm-related expenses, as well as to mitigate the immediate impact of substantial rate increases after price caps expire, by spreading the rate increase (plus interest) over several years.

Securitization ensures consumers will pay for the bonds through a charge on their electric bills. The law typically directs the state public utility commission (PUC) to determine the proper amount that can be recovered through securitization and to authorize the transaction. Once the PUC approves the transaction, a special government-established entity, often a trust, issues bonds whose repayment is guaranteed by the legislature. The trust then gives the proceeds from the sale of these bonds to the utility in exchange for the right to collect the utility’s transition charge. Unless restricted by law or commission order the utility can use the money from the bonds to retire its debt, buy back stock, make investments or do anything else it wants.
In theory securitization should result in lower costs than other forms of financing. The lower interest rate is a result of the legislature’s declaration in the securitization law that customer repayment is irrevocable.

Proponents of securitization contend that it benefits consumers by lowering financing costs for necessary expenses, thus reducing the impact on rates.

Opponents are concerned that securitization:

- requires ratepayers to take on a long-term investment risk that typically should be borne by shareholders;
- provides no incentive to mitigate costs because regulators cannot adjust a financing order once it is issued;
- guarantees a payment stream that may be entirely inappropriate in the future;
- does not necessarily guarantee that the utility will use the money wisely or for its intended purpose;
- could be anticompetitive, because it gives the utility a large sum of cash that its competitors do not have; and
- with regard to stranded costs, traps customers into taking on market risk that investors should bear.

STATE POLICY

ENERGY • Electricity

Securitization

State policymakers should rely on securitization only as the least desirable means for utilities to recover their stranded costs and should guarantee that the securitization plan would result in rate reductions for consumers.

For other types of expenses securitization should be used only when a finding is made that it will reasonably be expected to result in the lowest overall costs for consumers and when the following consumer protections are included in the securitization plan:

- The securitization proceeding is a public process and allows the financing order to be appealed in court.
- Recovery is permitted only for reasonable and prudent costs.
- Any other revenue and reimbursements, such as insurance proceeds and government grants, are offset.
- Charges are “trued up” annually to reflect changes in the customer base, are explicitly shown on the customer bill, and are fairly shared among customer classes.

If policymakers authorize securitization, the reduced risk to the utility should be reflected in a reduced rate of return.
ENERGY • Electricity

Background

Cost Allocation
Policymakers allocate transmission, distribution and other joint and common
costs in proportion to use and cost causation. In particular there is concern
that residential customers will bear costs that utilities incur solely in serving
large users, which will not have to pay their share of the costs for utility
services.

FEDERAL & STATE POLICY

Cost Allocation
Federal and state regulators should devise cost-allocation methods that
appropriately assign transmission and distribution costs and accelerated
depreciation expenses to those customers and nonutility generators
responsible for the costs and expenses. Such methods should be consistent
with universal service and affordability goals.

Federal and state regulators should ensure that all beneficiaries, including
ratepayers and nonutility generators, share in the responsibility for paying
joint and common costs based on a user-pays principle.

ENERGY • Electricity

Background

Electric Reliability Organization
The US ranks low among developed countries in terms of the reliability of its
electric service. According to the Carnegie Mellon Electricity Industry Center
the average US customer loses power for 214 minutes per year. That
compares with 70 minutes annually in the United Kingdom, 53 in France, 29
in the Netherlands, and 6 in Japan. Moreover in Japan the average customer
loses power once every 20 years, while the average US customer loses it once
every 9 months, excluding hurricanes and other strong storms.

As part of the Energy Policy Act of 2005 Congress sought to improve
reliability and required the Federal Energy Regulatory Commission (FERC)
to establish a mandatory electric reliability regime through the creation of an
electric reliability organization. In July 2006 FERC approved the North
American Electric Reliability Council, which will have legal authority to
enforce reliability standards on all owners, operators and users of the bulk
power system, rather than relying on voluntary compliance.
**Electric Reliability Organization**

Policymakers should ensure that consumers are fully represented in the electric reliability organization and all aspects of the reliability oversight process and that all confirmed reliability standard violations are disclosed fully and promptly in a publicly transparent process.

**Regional Transmission Organizations**

Establishment of a regional transmission organization (RTO), such as an independent system operator or other similarly independent, competitively neutral entity, to manage a transmission grid could help address market-power concerns. Depending on its structure an RTO lessens or eliminates the potential for owners of the transmission system to favor one generating facility over another in providing transmission access. An RTO also could help alleviate transmission congestion and ensure safe and reliable electric service.

**Regional Transmission Organizations**

The Federal Energy Regulatory Commission, with assistance from the states, should ensure that regional transmission organizations:

- are cost-effective and accountable to a broad group of stakeholders, including residential consumer representatives, and are completely independent of transmission and distribution owners and generators;
- cover a geographic region large enough to avoid charges from multiple transmission operators and increase supply options for consumers;
- provide comparable and nondiscriminatory service to all end users of the transmission system;
- maintain safe, adequate and reliable service for all end users of the transmission system; and
- minimize system congestion and other real or potential transmission constraints.


ENERGY • Electricity

Background

Public Utility Holding Companies

Congress passed the Public Utility Holding Company Act (PUHCA) of 1935 to prevent consumer and investor abuses by large interstate holding corporations and their electric and gas utility affiliates. Prior to the enactment of PUHCA, utility holding companies had grown into large, complex structures with diversified interests throughout the US. They fueled much of this growth by using revenue collected through the rates charged to captive utility customers and by borrowing to finance unregulated and often risky business ventures unrelated to electric or gas service. Eventually, however, many utility holding companies began to fail, and numerous financial and accounting abuses were revealed. In response to these abusive practices PUHCA established federal rules to regulate registered multistate public utility holding companies and protect consumers and investors from future exploitation.

Seventy years after the enactment of PUHCA, Congress repealed the law as part of the Energy Policy Act of 2005 and imposed new, much less restrictive provisions that mainly allow the Federal Energy Regulatory Commission and the state utility commissions to review the books and records of utility holding companies. Supporters of the repeal included a number of industry representatives who had argued that the action was essential to encourage much needed investment in our energy infrastructure. Other groups, however, expressed serious concerns that the repeal of PUHCA would lead to higher rates and lower service quality for consumers. Both sides agree that the repeal of PUHCA will lead to a wave of mergers among utilities.

FEDERAL POLICY

Public Utility Holding Companies

Congress should explicitly grant federal and state regulators the authority to expand antitrust investigations and order holding companies to divest assets.

The Federal Energy Regulatory Commission should adopt and vigorously enforce regulations to prevent utility holding companies from using utility revenue to subsidize nonutility business ventures.

The Securities and Exchange Commission, as part of its administration of federal securities laws, should review all utility holding company filings on a frequent and regular basis.
Public Utility Holding Companies

State public utility commissions (PUCs) should examine the need to strengthen their regulation of the utilities within their jurisdiction in order to address the potential for market manipulation and other risks that are likely to occur following the repeal of the Public Utility Holding Company Act.

State PUCs should adopt and vigorously enforce regulations to prevent utility holding companies from using utility revenue to subsidize nonutility business ventures.

Time-of-Use Rates

Utilities have traditionally charged the same rate for electricity, whether customers use it in the middle of the day or the middle of the night. A time-of-use metering and billing program gives customers the option of buying power based on when they use it, rather than on a flat kilowatt-hour charge. Customers with time-of-use rates pay more for electricity at times of peak demand (during the day and evening) and less at low-demand periods (at night and on Sundays and holidays).

Time-of-Use Rates

State policymakers should disallow any time-of-use metering and billing program that requires mandatory participation, is likely to have an adverse impact on residential customers generally, or shifts costs to those who use less than the average amount of electricity.

State policymakers should ensure that all time-of-use metering and billing programs adopt an opt-in approach (in which customers must indicate that they want to participate), as opposed to an opt-out approach (which automatically includes customers in the program unless they specifically indicate that they do not want to participate).

State policymakers should ensure that any time-of-use metering and billing program is accompanied by a consumer education program that, at a minimum, informs customers of both the costs and benefits associated with the selection of the program, how to determine the impact of the program...
on the customer’s annual electricity usage, and the costs of the customer’s annual electricity usage.

ENERGY • Electricity

Prepaid Meters

A prepaid metering program allows a customer to pay in advance for electric or natural gas service. After making a deposit at a designated payment center the customer uses a plastic magnetic-strip card to load the meter. Through a display unit located inside the residence, customers can continuously monitor how much electricity or natural gas they have used, how much they are using currently, and how much prepurchased power remains. Service is automatically terminated when the credit balance is depleted and is restored only when additional payment is rendered and the customer returns to load the meter.

Prepaid meters have been implemented on a limited trial basis in a few cities in the US, but are common in other countries. Supporters of prepaid meters say they help consumers on limited budgets control their usage and are a way for utilities to collect outstanding debt. Opponents charge that prepaid meters are more expensive for consumers and force them to “self-disconnect” when they run out of credit.

Prepaid meters have been used in the United Kingdom (UK) since the mid 1980s, but their use exploded with the introduction of energy deregulation. There are now an estimated 6 million prepaid meters in use in the UK, where research has shown that consumers with low incomes and the disabled are most likely to have them. Moreover the majority of prepaid meters have been installed to recover customer debt, and although providers have no risk of nonpayment, the rates for prepaid service are typically higher than for standard billed service. According to advocates in the UK, consumers with prepaid meters are paying up to £173 (about $325) a year more for natural gas and £113 (about $212) a year more for electricity.

Utilities are exempt from all state-level termination procedure rules and regulations for customers that use a prepaid meter. In the UK, the number of consumers disconnected due to debt dropped from 48,000 in 1991 to 400 in 1998, as utilities began converting customers to prepaid meters rather than disconnecting them. However, it is estimated that 11 percent of customers on prepaid meters self-disconnect for 7 hours or longer during a year and 1 percent are chronically disconnected (20 times or more per year).
Prepaid Meters

State policymakers should prohibit providers of residential utility services from implementing a prepaid metering program.

If state policymakers permit such programs, the following minimum consumer protections should be in place:

- No prepaid metering program should require mandatory participation, including for tenants or for consumers with outstanding debt.
- All prepaid metering programs should adopt an opt-in approach (in which customers must indicate that they want to participate), as opposed to an opt-out approach (which automatically includes customers in the program unless they specifically indicate that they do not want to participate).
- Prepaid metering programs should not be targeted to low-income customers.
- Prepaid rates should be no higher than the regulated or standard rate set by regulators.
- The disconnection protections for customers with prepaid meters should be equivalent to those for customers with standard billed service. For example service should not be disconnected at a time when a customer is unable to recharge a prepayment card.

Background

Quality of Service

The reliability of the nation’s electric system is of paramount importance to the health, welfare and quality of life of individual consumers, as well as to the vitality of the economy, and must not be compromised by current electric industry restructuring efforts.

A number of states have implemented “minimum standard” regulations, which provide criteria to measure customers’ service-related experiences with various utilities and their field staff (those who make repairs, service calls, etc.) and business-office and network performance. This type of regulation is commonplace for a variety of industries affecting public safety and economic prosperity. For example the automobile industry is regulated with regard to the minimum safety equipment necessary for a vehicle to be sold legally. The adoption of minimum standards gives energy providers clear objectives on which to focus their attention and establishes service guarantees for which their customers can hold them accountable. In addition the creation of a
standardized set of statistics allows consumers to make a fairer comparison among providers.

STATE POLICY

ENERGY · Electricity

Quality of Service

Legislators and regulators should ensure a reliable, safe and high-quality electric system before endorsing retail competition.

State policymakers should establish basic service-quality standards for all electric utilities. These standards, at a minimum, should:

- require electric utilities to collect service-quality data on a monthly basis and report them to state regulatory commissions on a quarterly basis—All underlying data used to develop such reports should be retained for three years and made available on request to federal and state regulators;
- cover a range of performance data in areas that include but are not limited to installation of service, frequency of trouble reports, efficiency of repair services, number and duration of network outages, customer perceptions (as determined through customer complaints and surveys), and business-office and call-center performance;
- establish a baseline performance level for each company in the selected performance areas that reflects its recent performance or a higher performance level if regulators determine that the company’s historical performance is not adequate;
- include substantial penalties for failing to achieve the baseline performance level for any of the selected performance areas—Any penalties incurred under these standards should either be returned to all customers in the form of a credit on their bills or be paid to customers affected by the degradation of service;
- ensure that in any year in which it is assessed penalties, each electric utility informs its customers of its failure to achieve the baseline level of service quality; and
- ensure that all electric utility service-quality data for retail services is easily accessible on the Internet.

State policymakers should establish and adequately fund consumer education and outreach programs to maximize the public’s understanding of its rights and obligations with regard to utility service quality.
ENERGY

Background

Electricity Restructuring

For much of this century, electric utilities have exclusively controlled the generation, transmission and distribution of the nation’s electricity. They have provided the power generated at the plant and the transmission or delivery of that power to community wires and poles that distribute or carry the power to a customer's home. Under this monopoly utilities have been obligated to provide all interested customers with reliable service at terms, conditions and prices established by government regulators based on cost of service.

In the hope of encouraging lower prices, higher service quality and greater innovation, policymakers have sought to restructure the utility industry to allow consumers to purchase electricity generation services from competing suppliers, rather than through the traditional regulated monopoly structure. In theory, competitive pressure, instead of regulators, would keep electricity rates just and reasonable. To ensure a smooth transition to competition and lower prices, state policymakers would cap residential rates charged by the existing utilities for varying numbers of years.

However, deregulation has so far failed to produce the rate cuts and retail competition its supporters had predicted. In California and other western states, price manipulation by energy suppliers produced blackouts and substantial increases in wholesale prices, which were passed on to ratepayers. Many of the 20 states that have continued deregulation laws are facing rate increases of as much as 50 percent to 72 percent as residential rate caps expire. While fuel costs have certainly played a role in higher electricity costs, market power and other factors also have contributed to high prices. Moreover no states have deregulated since 2000, and several states have reversed course entirely. Still other states have begun to consider alternatives that may be available for a mid-course correction in their restructuring programs and to analyze the feasibility of these options.

STATE POLICY

Electricity Restructuring

As the envisioned benefits of restructuring or deregulation have not materialized for residential customers, policymakers in states that have yet to introduce retail competition should refrain from doing so. Policymakers in states that restructured or deregulated their electric utility industry should adopt policy changes that will ensure affordability, availability and reliability of service.
Where a state continues to pursue a transition to a competitive market for electricity, state policymakers should ensure that utilities do not give discounts to industrial consumers at the expense of residential ratepayers.

ENERGY • Electricity Restructuring

Background

Stranded Costs

Stranded costs (sometimes called transition or uneconomic costs) are the costs a utility incurs while operating as a regulated monopoly; they would be recoverable under regulated rates but perhaps not in a competitive market. Thus the stranded cost is usually calculated as the difference between the utility’s costs for generation and power contracts under traditional regulation and the cost of replacing that power in the open market after restructuring.

Stranded-cost recovery is one of the most contentious and important issues in electric industry restructuring because it requires customers to pay additional charges that benefit utilities by speeding up the repayment of their generation costs. Moreover in the years since the move to restructure electric markets began, the market price of power has skyrocketed. As a result consumers have overpaid stranded costs, while utilities and their holding companies have profited from selling high-priced power from generation plants that were subsidized by ratepayers.

FEDERAL & STATE POLICY

ENERGY • Electricity Restructuring

Stranded Costs

If policymakers endorse retail competition, they should ensure that stranded costs are allocated equitably among stockholders and all classes of consumers who contribute to the need for plant capacity and are subject to retail competition.

In calculating stranded costs, regulators should consider the following mitigating factors: previously compensated risk, investments made as a result of poor management decisions, ongoing profitable investments, and new revenue opportunities, including increases in the market price of power.

Policymakers should ensure that any mechanism for recovering stranded costs is nondiscriminatory and that no customer or customer class is exempt from paying for stranded costs.

Policymakers should provide a mechanism by which consumers would get back any stranded costs they overpaid because the market price of energy exceeded the estimate used in the stranded-cost calculation. If policymakers allow stranded-cost recovery, the reduced risk to the utility should be reflected in a reduced rate of return.
ENERGY

Background

Natural Gas Restructuring

For much of this century the structure of the natural gas industry remained relatively stable. Gas producers sold gas to pipeline companies. Pipeline companies sold and transported gas to local distribution companies (LDCs). LDCs sold gas to residential, commercial and industrial end users. The federal government regulated the prices for gas sold by producers to pipelines, and pipelines to LDCs. State governments regulated the price at which LDCs sold gas to end users.

Although this system offered consumers some protection from market abuse, it did not give them a choice in purchasing gas services. Instead LDCs were regulated franchise monopolies serving specific geographic areas. They made decisions on purchase, storage, distribution and other customer services.

Starting in the late 1970s, however, a series of changes at the federal level significantly transformed the structure of the natural gas industry. The changes required pipeline companies to separate the services they offered to LDCs and limited their activity to transportation of gas for third parties. Some gas purchasers can now negotiate prices with different suppliers and deal separately with the pipeline companies over the cost of delivery.

The changes in the natural gas industry also mean that large industrial consumers can now transport gas themselves, avoiding LDCs as well as the costs associated with their delivery systems. A number of states have now adopted or are considering programs that would allow residential and commercial customers to purchase natural gas from a supplier other than their LDC. If these efforts are adopted, LDCs would distribute gas only for those residential consumers who select an independent supplier.

FEDERAL & STATE POLICY

Natural Gas Restructuring

Federal and state regulators should ensure that local gas monopolies procure gas supplies and allocate costs for residential ratepayers at the lowest possible cost consistent with maintaining adequate profits and reliable supply inventories.

Legislators and regulators should ensure a reliable, safe and high-quality natural gas system before implementing retail gas competition.

If and when the natural gas industry is restructured to permit residential consumers to select their supplier, regulators should adopt safeguards that
protect just, reasonable and affordable rates and high-quality service for residential customers.

State policymakers should:

- grant public utility commissions the authority to oversee the process of natural gas procurement,
- ensure that residential ratepayers do not have to pay for stranded costs as long as they do not benefit from the move to retail competition, and
- require natural gas suppliers to abide by the state's consumer protection statutes and prohibit them from engaging in unfair or deceptive acts and practices.

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**ENERGY**

**Introduction**

**Energy Restructuring**

The potential to lower natural gas and electricity rates has been the driving force behind utility restructuring. Yet restructuring could just as easily result in higher energy prices for consumers. Moreover the prospect of theoretically lower prices in the future is not a sufficient trade-off if the new market also means an increase in complaints, customer confusion, fraud, and an inability to understand and participate in a new market structure. Efforts to restructure the natural gas or electric industries will require policymakers to rethink a broad range of issues concerning the provision of basic utility services to all consumers.

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**ENERGY • Energy Restructuring**

**Background**

**Consumer Protections in the Energy Industry**

Consumer protection laws must be fully applicable to the sale of electricity and natural gas in a restructured industry. Low-income, non-English-speaking and elderly consumers, in particular, will need strong protections and access to special market information to prevent abuse in the competitive market.

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**FEDERAL & STATE POLICY**

**ENERGY • Energy Restructuring**

**Consumer Protections in the Energy Industry**

Legislators should enact, and regulators should vigorously enforce, the following consumer protection principles in a competitive retail market:
All suppliers and service providers must meet service-quality standards or pay significant penalties for noncompliance.

All suppliers and service providers must abide by state consumer protection statutes and not engage in unfair or deceptive acts and practices. States should impose substantial fines on violators for each specific offense.

All suppliers, service providers and aggregators should be required to disclose such information as price per kilowatt-hour of electricity and its generation sources, and price per therm for natural gas, as well as any fees or minimums.

All suppliers and service providers must adhere to explicit restrictions on disconnections that compromise public health and safety and explicit requirements for notices, payment plans as alternatives to shut-offs, and deposit limitations.

All consumers should be protected from unauthorized use of records and personal data (for more information, see Telecommunications—Marketing Practices and Consumer Protections—Privacy Protections in the Use of Telecommunications Services).

All suppliers and service providers must adhere to strict credit and collection standards ensuring that consumers are not disconnected from basic service if they fail to pay for deregulated services.

All suppliers and service providers must meet licensing requirements—including proof of the requisite financial, technical and managerial capabilities to provide reliable, high-quality energy service—to do business in the state in which they operate and must meet minimum market standards of conduct.

All customers should have access to information and education to help them understand their rights and responsibilities.

All decisions on electricity or natural gas restructuring should be made with participation from representatives of residential consumers.

Utilities should continue to provide repair services in emergency situations and should base their emergency response on a set of principles that includes the following:

- An emergency exists when, for example, a gas odor is detected, a home is without heat, or a pilot light needs to be lighted.
- Emergency repair services should be free of charge.
- The rules covering minor repairs should be fair to both the ratepayer and the service repair operator.

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**ENERGY • Energy Restructuring**

**Background**

**Aggregation**

Aggregation occurs when an entity brings together retail electric or natural gas customers into buying groups to increase each consumer’s purchasing...
power. Because large users of electricity or natural gas are the most attractive customers in a competitive marketplace, aggregation may represent an opportunity to benefit from utility restructuring.

Local governments may be best suited to implement aggregation. Municipal aggregation can combine the best of local control and competitive markets, while allowing individual, low-consumption customers to band together for more purchasing power.

FEDERAL & STATE POLICY

ENERGY • Energy Restructuring

Aggregation

Federal and state policymakers should permit local entities (which include but are not limited to municipalities, county governments, local community organizations and neighborhood civic groups) to participate in planning for appropriate energy supply arrangements, including aggregation if it will benefit their constituencies. Where local entities have implemented such plans, consumers must still have the ability to opt out and choose their own supplier.

Federal and state policymakers should ensure that all aggregators abide by state consumer protection statutes (see this chapter’s section Energy Restructuring—Consumer Protections in the Energy Industry).

ENERGY • Energy Restructuring

Background

Standard Offer Service

In states that restructure their natural gas or electric utility industries to allow competition, some residential customers might not choose a competitive service provider. Other residential customers who select a competitive provider may desire to return to utility service at a regulated rate. Still other residential customers who switch may find that their competitive provider goes out of business. For these and other residential customers, the marketplace does not guarantee a reliable supply of electricity at stable, reasonable and affordable prices. Thus states must ensure that all residential customers retain electricity service at all times. In states that restructure their natural gas or electric utility industries, this is accomplished by ensuring the provision of standard offer service (also known as provider of last resort service or default service).
STATE POLICY

ENERGY • Energy Restructuring

Standard Offer Service

State policymakers should:

- ensure that standard offer service is always available and automatically provided to residential customers who for any reason have stopped receiving natural gas or electricity or other competitive services;
- ensure that standard offer service is stable, predictable and affordable, based on a 10- to 15-year planning horizon that includes a diversity of contract terms and energy management services to smooth out short-term wholesale market trends where possible;
- require providers of standard offer service to actively manage a portfolio of diverse contract terms and services, integrating energy efficiency and renewable resources where appropriate to achieve this goal;
- ensure that standard offer service includes the same consumer protections that historically have been provided by traditional electric utility service to these customers prior to the onset of restructuring; and
- ensure that standard offer service is provided at rates that are cost-based and just and reasonable.

ENERGY • Energy Restructuring

Background

Slamming and Cramming

Slamming and cramming, prevalent problems for long-distance telephone customers, may become problems for natural gas or electricity consumers as competition increases among utility companies. “Slamming” refers to arranging for a customer’s supplier to be switched to a competitor without the customer’s agreement. “Cramming” refers to the practice of adding services that the customer never ordered to the customer’s account.

FEDERAL & STATE POLICY

ENERGY • Energy Restructuring

Slamming and Cramming

Federal and state regulators should fully enforce existing laws and regulations against slamming, cramming and other deceptive marketing practices and require utilities to obtain clear, verifiable and recorded authorization before changing any consumer’s natural gas or electricity provider.
Federal and state policymakers should:

- ensure that natural gas and electric bills contain complete and clear descriptions of all charges listed and clearly identify the service provider (by name, address and telephone number) responsible for each charge;
- impose substantial penalties on companies that engage in slamming, cramming and other deceptive marketing practices; and
- ensure that consumers who have been slammed or crammed do not have to pay for any resulting charges. Consumers who have been slammed or crammed should receive full refunds on any payments for unwanted services.

ENERGY

Background

Energy Efficiency Programs

By 2030 natural gas consumption in the US is projected to grow by a fifth and electricity use by half. Such growth will produce higher prices, greater volatility, and increasing dependence on foreign natural gas. In this regard the energy industry and all consumers have much to gain from the adoption and implementation of various energy efficiency programs. These programs have the potential to help consumers lower their monthly energy usage as well as reduce their monthly energy bills.

FEDERAL & STATE POLICY

Energy Efficiency Programs

Federal and state policymakers should encourage the development of affordable, cost-effective energy efficiency programs and ensure that any program for residential customers is accompanied by a consumer education component. The education plan should inform customers of both the costs and benefits associated with the selection of the program and how to determine the program’s impact on annual electricity use and costs.

ENERGY

Background

Renewable Energy

Ninety-five percent of air pollution results from the production and use of conventional, fossil fuel–based energy. Further, fossil fuels are diminishing resources and may eventually become too expensive or environmentally damaging to extract. By contrast renewable energy resources—including hydroelectric power, wood and waste—and geothermal, wind and solar
resources can be harnessed to produce power and heat with little if any pollution. In addition renewable energy is not subject to the same fluctuations in supply or international politics that influence fossil fuel costs. However, additional research and development are needed to enable renewable energy to make a greater contribution to our overall energy supply.

According to the Department of Energy the share of total energy consumption derived from renewable sources is projected to be 7 percent in 2020, approximately the same share as in 2000. Greater use of renewable energy is hindered by the total cost of generating it relative to that for fossil fuel–based energy. Other barriers exist as well. Wind energy, for example, can be used to pump water or generate electricity but requires extensive amounts of space to produce significant amounts of energy. Solar panels require nearly as much energy to manufacture and maintain as they produce. Dams required for the production of electricity from water, the largest of the renewable resources, disrupt fish habitats and migration.

FEDERAL & STATE POLICY

ENERGY

Renewable Energy

Federal and state policymakers should:

- support research and development of new, cost-effective renewable energy sources and technologies,
- support cost-effective efforts to increase the percentage of electricity produced from renewable sources, and
- ensure adequate and fair access to transmission facilities for distributing renewable sources of energy.

TELECOMMUNICATIONS AND ENERGY ANTICOMPETITIVE SAFEGUARDS

Background

Subsidiary and Affiliate Activities

As new markets in energy and telecommunications develop, dangers for individual consumers may arise from the residual monopoly advantages held by existing utility providers. Many utilities have formed separate, unregulated subsidiaries in order to participate in markets closed to their regulated divisions. These utilities, seeking to combat rising competition, may use tactics such as preferential pricing and hidden asset transfers to extract greater profit from consumers and drive potential competitors out of business.
FEDERAL & STATE POLICY

TELECOMMUNICATIONS AND ENERGY ANTICOMPETITIVE SAFEGUARDS

Subsidiary and Affiliate Activities

Policymakers should adopt legislation that protects consumers from anticompetitive activities between providers of monopoly services and their separate subsidiaries. The following guidelines should apply:

- Separate affiliates (subsidiaries and parent companies) should conduct all competitive business independently.
- Parent companies and subsidiaries should own assets separately.
- Regulated assets should not qualify as security for loans to affiliates or be subject to legal action against affiliates.
- Parent companies and subsidiaries should maintain and audit separate financial records and have different employees, officers and directors.
- The formation of utility holding companies should be discouraged.
- Affiliates should conduct transactions between themselves at arm’s length. Transactions should be subject to public notice and hearing.
- Incumbent utility service providers should not discriminate in favor of their separate affiliates nor cross-subsidize any business of an affiliate.
- The Justice Department and corresponding state agencies should monitor anticompetitive behavior and enforce laws prohibiting such practices.

TELECOMMUNICATIONS AND ENERGY ANTICOMPETITIVE SAFEGUARDS

Background

Mergers and Acquisitions

Mergers and acquisitions may threaten to inhibit the development of truly competitive utilities because they may increase the market power of the newly formed entity. This in turn either creates a barrier to entry for potential competitors or allows the newly formed entity to engage in anticompetitive marketing and pricing practices. Utility mergers may also interfere with effective regulation of utilities.

FEDERAL & STATE POLICY

TELECOMMUNICATIONS AND ENERGY ANTICOMPETITIVE SAFEGUARDS

Mergers and Acquisitions

Regulators should prohibit utility company mergers that compromise regulatory protection for residential ratepayers, retard competition, or fail to increase economic efficiency.
State policymakers should ensure that residential ratepayers receive at least 50 percent of the short-term and long-term forecasted economic benefits, as determined by regulators, of any proposed merger or acquisition.

Federal and state policymakers should ensure that ratepayers do not bear the costs and risks of utility mergers or takeovers.

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**WATER AND SEWER**

**Introduction**

The residential water industry in the US is actually three separate industries that collectively include approximately 54,000 water systems. One industry comprises small groups of large, sophisticated, investor-owned water companies. Another water industry consists of large, sophisticated water systems owned and operated by large cities. The third is composed of more than 50,000 small water systems, each serving fewer than 3,000 customers, with many serving fewer than 100. These systems may be either publicly or privately owned and lack full-time employees, as well as basic financial and managerial controls. Most people in the US and most urban areas are served by large water systems in the first two categories. However, the third category contains the greatest number of water systems in the country. These serve many suburban areas and essentially all rural areas.

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**WATER AND SEWER**

**Background**

**Increasing Water Costs**

Water and sewer rates are rising dramatically in almost every community across the nation. In fact water rates are rising much more quickly than incomes. These rising rates are a particular hardship for many older people and for households living on fixed or limited incomes. Several factors are responsible for the increase in rates.

**Increased regulation of the quality of water**—The Environmental Protection Agency (EPA) is considering several major regulatory changes to improve the quality of drinking water but these changes could result in dramatic cost increases. For example the EPA expects to finalize in the near future new regulations concerning the treatment of surface water supplies, at an estimated cost of more than $1 billion nationwide. Further the EPA is scheduled to propose regulations governing the disinfection of groundwater sources, which could have major cost implications for small water systems within five years.

**The physical age of water systems**—Many of the nation’s water systems are beginning to fail. A large percentage have outlived their 100-year life expectancy. Many other systems, built during World War II with inferior
metals, are also failing. Replacing water mains is extremely expensive—often about $100 per foot—particularly when the original mains had cost a few dollars per foot. According to a 2002 EPA report water systems will need to spend a minimum of $274 billion by 2019 to install, upgrade or replace infrastructure and ensure the provision of safe drinking water.

**Water scarcity**—Less than 1 percent of the water on Earth is available for human use. It is estimated that around 1.7 billion people live in regions with severe water scarcity; that estimate is expected to reach 2.4 billion by 2025. By contrast the US has a plentiful supply of water. On average the US gets 14 times the freshwater from rainfall than the nation consumes daily. While water is a renewable resource, the availability of water varies around the nation. Severe droughts can lead to water scarcity, especially in areas without adequate drought plans and in places where there are existing stresses on the freshwater supply. In August 2002, 56 percent of the nation, excluding Alaska and Hawaii, experienced moderate to severe drought.

Additional stresses on the availability of water—such as the depletion of groundwater sources, population growth, drought, and competing demands on the use of freshwater—have resulted in water shortages around the country. Other factors, according to the Government Accountability Office, are the potential effects of climate change, which include less precipitation, new runoff patterns, and greater usage due to higher temperatures. Around three-quarters of the state water managers expect freshwater shortages in the near future under normal weather conditions in the next ten years.

**Increased demand**—For the western US additional factors contribute to the rising cost of water. First, much of the land is arid, with more than half of the area of the western states receiving less than 20 inches of rainfall per year, the minimum rainfall required by agricultural crops without artificial irrigation. Some areas receive less than ten inches of rain per year. Second, water supplies are strained further as the West continues to experience a rapid growth in population. In fact the population of western states increased by about 32 percent in the past 25 years, compared with 19 percent for the rest of the nation. By the year 2025 the West is expected to add another 28 million residents. Finally, the population in the West is distributed unevenly over a vast area of land. Western states account for more than 60 percent of the land area of the continental US but have less than 40 percent of the population. For this reason water often has to flow great distances through pipeline and canal systems before reaching its destination.

**Consolidation and restructuring of small water systems**—Many small systems need to improve treatment and pumping equipment and other infrastructure components, as well as come into compliance with government requirements and become financially viable. Although such efforts tend to improve the safety and reliability of water service, they also can result in dramatic price increases. Rate increases of 300 percent or more are not uncommon when a small water system that has been neglected begins modernizing. Because of the rising cost of water, a number of large investor-owned water utilities are moving to acquire small private or investor-owned
water systems, and many thousands of municipal systems facing budgetary constraints are considering privatization. This consolidation trend is likely to continue over the next several years as the cost of water increases.

Water system security—The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (known as the Bioterrorism Act) amended the Safe Drinking Water Act and requires every community water system serving a population greater than 3,300 people to conduct and submit to the EPA an assessment of the system’s vulnerability to terrorist attack or other acts that would substantially impact the safe and reliable supply of drinking water. The act also lists actions that every community water system must take to improve the security of their systems. According to the EPA’s 2003 Drinking Water Infrastructure Needs Survey and Assessment, the water systems surveyed identified $1 billion in security-related needs, most of which were for major systemwide security projects.

Privatization—Most water systems are publicly owned and operated. Some government officials and many executives of large, privately owned water companies believe that government should not be in the business of providing this essential service. In addition because of budgetary constraints, some publicly owned water systems have been neglected and are in need of major capital improvements. These factors are fueling an increasing trend toward privatizing some or all of the operations of publicly owned water systems. Although it may result in improved levels of service in some instances, privatization does not protect against monopoly abuse. Ownership is less important than regulation in achieving performance gains; efficiency practices and economies of scale are most important. A concern with public-private partnerships is the trend toward long-term water contracts. Many privatization contracts are for 20 years and may lack incentives for private companies to control costs and provide water services efficiently. Long-term contracts may not be flexible enough to deal with new problems that arise after the partnership is initiated.

Tenant-paid water—Increasingly property owners or landlords bill tenants for water and wastewater services rather than collecting these costs as part of the rent. Unfortunately for tenants, the move to exclude water service from rent usually does not result in a rent reduction.

Among those property owners or landlords that separate water and sewer costs from rent, most typically use one of the following billing and cost-allocation methods to determine the amount to bill each tenant:

- **Submetering**—Some landlords use submeters, which are installed in each rental unit, to measure a tenant’s exact water consumption. Submetering is the most accurate method for a landlord to allocate water costs, although water meters may be difficult or expensive to install in some buildings.

- **Ratio utility billing system**—A ratio utility billing system (RUBS) assesses costs based on variables such as unit size, number of tenants or number of bathrooms. This approach can be problematic for consumers
because it does not directly reflect each unit’s individual consumption. Thus a landlord using a RUBS might allocate the same water usage and water bill to both an older person living alone in a two-bedroom apartment and a family of four living in an identical unit, even though the family will almost certainly consume substantially more water.

- **Hybrid metering**—Some landlords measure a portion of the total water consumption in each unit and then use that amount in a formula to estimate overall water usage. Under this method a landlord might connect a submeter to the hot water line of each rental unit and then use the hot water amount as an indicator of how much cold water is used.

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**FEDERAL, STATE & LOCAL POLICY**

**WATER AND SEWER**

**Increasing Water Costs**

Congress should make sufficient funds available for states and municipalities to help defray the costs of complying with increased water quality regulation.

Regulators should consider consolidation, technological innovations and other methods that would allow the water industry and regulators to recognize economies of scale and thus control costs.

Regulators also should develop least-cost water policies that will provide universal service and ensure adequate, potable and affordable water for current and future users.

Federal, state and local policymakers, with assistance from federal agencies and input from all affected users of a water source, should engage in long-term integrated resource management to establish priorities concerning water quality and quantity within a watershed region.

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**STATE & LOCAL POLICY**

**WATER AND SEWER**

**Increasing Water Costs**

State policymakers should develop and adequately fund a water conservation program that includes but is not limited to:

- technical assistance to help local officials conduct comprehensive systemwide water audits, water-use accounting and reporting, and leak-detection and repair programs;
- the installation of water-conserving plumbing fixtures and highly efficient water meters in residential, municipal and state-owned buildings; and
- the establishment of a permanent, year-round public education program that utilizes public-private partnerships and all available media and school curricula, and includes information on water supplies, use, planning and conservation.
State policymakers should also:

- require all water suppliers to submit and periodically update their water conservation plans,
- identify quantifiable goals for water conservation and require suppliers to incorporate these goals into their plans, and
- require utilities to provide consumers with information on basic household conservation measures.

State and local policymakers should:

- encourage and facilitate the public’s involvement in deliberations on alternative sources of water, such as reclamation and desalination;
- consider including a list of incentives for better performance and water quality in any privatization contracts—Incentives could include shorter contract terms with built-in extensions, rather than a 20-year contract; a percentage of the management fee contingent on performance; or the option for the local or state government to buy back the water system;
- adopt consumer protections that apply to submetered and estimated water and wastewater bills, including billing standards, limitations on billing and service fees, the right to inspect and verify bills, and disclosure of the billing method prior to lease signing;
- ensure that all property owners and landlords of multifamily dwellings engage in best practices that minimize water bills, including leak repair and paying for common area usage; and
- require landlords to use billing and cost-allocation methods that reasonably reflect each unit’s consumption.

State and local policymakers also should adopt consumer protections and ratemaking practices that are consistent with the goal of water affordability, minimize rate shock, and establish:

- fair billing practices,
- reasonable disconnection procedures, and
- budget billing plans as a basic offering from all service providers.

WATER AND SEWER

Background

Low-Income Water Assistance Program

Home energy and telephone service are crucial to the health and personal welfare of all Americans. The federal government recognizes this and has created rate-assistance programs to help low-income consumers afford these essential services. Water services are just as important. However, the federal government has not established a rate-assistance program to help low-income households afford water service.
Low-Income Water Assistance Program

Congress should fund research and analysis to determine the scope and depth of residential water-affordability problems and the best options to assist low-income households facing increasing water rates.

Federal and state policymakers should consider the development of effective water assistance programs.

Background

Flexible Standards and Goals for Water Quality

Community prosperity and well-being depend directly on the sufficient supply of clean water. In addition to helping maintain basic human health and sanitation, a clean and adequate water supply provides crucial benefits such as irrigation for agriculture, a habitat for myriad plants and animals, natural beauty, recreational opportunities, and economic vitality. Many of these benefits are not complementary: Obtaining one benefit may make it more difficult to pursue another. In this regard the most appropriate choices and compromises are often those based on the values and needs of individual communities.

Flexible Standards and Goals for Water Quality

Legislators and regulators should balance water demands for municipal, agricultural and industrial uses with environmental protection and preservation of water quality.

Federal policymakers should allow states and localities reasonable flexibility to achieve national standards and goals for water quality. At the same time policymakers should require careful monitoring and strict accountability to ensure compliance with national standards.