

***Challenges Facing Consumers With Limited English Skills
In The Rapidly Changing
Telecommunications Marketplace***



***Prepared by:
Consumer Services and Information Division
Telecommunications Division
Consumer Protection and Safety Division***

***California Public Utilities Commission
October 5, 2006***

Table of Contents

Executive Summary	i
I. Introduction and Report Organization	1
II. Background	5
A. Ethnic and Linguistic Landscape of California	5
B. Government Requirements and Best Practices	17
C. Best Practices of California State Government Agencies	19
D. Existing In-Language Mandates	25
III. In-Language Activities of the Commission Related to Telecommunications Service	34
A. Past and Current Commission Programs Involving Language Access Efforts	35
B. Commission Efforts to Increase Language Access to Agency Services	46
C. Commission Enforcement Efforts Related to Language	59
IV. Carriers Multilingual Practices	63
A. CUDC Survey of Company Language Practices	64
B. Telecommunications Carriers' In-language Activities	65
C. Carrier Comments on the August 2006 Draft Staff Report	70
V. Challenges and Needs of LEP Telecommunications Consumers	72
A. Information Needs	72
B. Customer Service Needs	75
C. Enforcement Needs	76
D. Comments of CBOs and Consumer Advocacy Organizations on the August 2006 Draft Staff Report	77
VI. Options for Consideration by the Commission	79
A. Options for Improving Education	80
B. Options for Improving Customer Service	82
C. Strategies for Improving Enforcement	85

Table of Contents

VII. Recommendations	86
Recommendations for Immediate Action	87
Short-Term Action Plan	89
Long-Term Action Plan	90
VIII. Conclusion	91

Appendices

Appendix A: Study Plan	A-I
Appendix B: June 26, 2006 Workshop Summary	B-I
Appendix C: Appendix C. Written Comments on the Study Plan	C-I
Appendix D: Summary of Key Input from Public Meetings	D-I
Appendix E: Draft Staff Report released August 21, 2006	E-I
Appendix F. Written Comments on the Draft Staff Report	F-I
Appendix G: CTR Data Report	G-I

Executive Summary

California Public Utilities Commission (Commission) Decision (D.) 06-03-013 (“Consumer Protection Initiative” or “CPI”) orders Commission staff to perform a study of the special needs of and challenges faced by California telecommunications consumers with limited English proficiency (LEP). The decision contemplates that the report resulting from this study will serve as “both as a short-term action document with respect to potential new rules and education and enforcement programs, as well as a longer-term reference document”¹.

In response to this mandate, Commission staff and a language access consultant assembled information on the language demographics of California, services currently available to LEP Californians through the Commission and telecommunications carriers, and the challenges faced by LEP telecommunications consumers. Sources used in the production of this report include census and other demographic data, records of past and current Commission activities, the Internet and other research into the language accessibility practices of state and federal government agencies, information received from telecommunications carriers, as well as comments and information provided by carriers, community based organizations (CBOs) and consumers groups both in writing and at a series of workshops and public meetings held for this purpose. Pursuant to requests for an extension of the original 180 day study deadline (September 8, 2006), Commission Executive Director Steve Larson granted additional time for parties to submit comments on the draft report, and extended the deadline for this staff report until October 5, 2006.

¹D.06-03-013, p. 138.

This document, which represents a report describing research and conclusions to date, includes some recommendations for immediate action and specifies further information for staff to gather in order to make a comprehensive proposal for commission and industry action to address the challenges and problems identified in the course of this study.

Staff recommends that the Commission's next steps on this issue include the development of a set of options for targeted Commission actions that take into account the costs, benefits, and feasibility of solutions to the documented challenges and problems facing LEP consumers. Staff contemplates that this effort will continue beyond the original 180 day deadline specified in the D. 06-03-013. As detailed in this report, this proposal will also discuss appropriate venues and procedures for further Commission action to implement desirable solutions. Staff anticipates that a formal proceeding will be necessary to determine the need for rules and, if rules are appropriate, the specifics of those rules, but is open to efforts carriers and other stakeholders may make to develop voluntary industry standards that address the problems identified in this report. Staff recommends that to the extent possible, solutions that do not require formal Commission action, such as staff initiatives that may be undertaken at the direction of the Commission's executive director, and voluntary industry actions should not be delayed awaiting the results of any forthcoming proceeding.

Overview of Recommendations

The information on available multilingual services as well as the needs and concerns expressed by representatives of LEP communities revealed several issues and concerns. Based on this information, it appears that the Commission should take immediate actions to facilitate improved communications between carriers and CBOs to ensure that systematic problems facing the LEP communities are heard and resolved, and should consider making staff more available to consumers throughout the state to assist in filing informal and (when

necessary) formal complaints with the Commission. In addition, the Commission should increase attention and resources available to its own bilingual services office to augment its ability to serve California consumers. The Commission should also broaden the efforts of the Public Advisor's Office already taken in the CPI initiative to add telecommunications education in languages such as Russian and Armenian, which have increasing populations in the state. Moreover, the Commission should develop and propose a set of targeted rules for telecommunications carriers for consideration in a formal Commission proceeding. This should not be a "one-size-fits all" proposal, but instead should take into account the varied circumstances (such as size, geographic and demographic characteristics of the population served, and services offered) of different telecommunications carriers and target rules to provide appropriate protection while allowing flexibility appropriate to these differences. Specific recommendations include:

For Immediate Action

The Commission should:

1. Direct staff to prepare a set of possible rules that address the key challenges and problems identified in this report. The staff proposal will be the basis for a future Order Instituting Rulemaking (OIR), in which they will serve as a focus for addressing persistent problems facing LEP telecommunications customers that are unlikely to be solved through education alone.
2. Reconcile the disparate language requirements in various Commission decisions and programs (for example, ULTS, CPI, etc.) to ensure that what is learned in this proceeding is applied consistently throughout our current telecommunications programs. This activity should recognize that different programs have different audiences and some differences in requirements may be appropriate. CPI LEP-related recommendations later

may be extended to other industries regulated by the Commission, for example energy and water.

3. In coordination with the above recommendation, direct the staff to review all of the Commission's telecommunications-related public outreach and consumer education materials to ensure that they meet the appropriate comprehension levels of target audiences.
4. Based on current demographic data, add to its list of languages appropriate for consumer education and public outreach in California languages with particularly high rates of linguistically isolated households or with growing or concentrated populations.
5. Improve CAB's tracking ability in the new CAB database scheduled to be on line in 2007 to capture the language in which complaints are filed, and whether the outcomes of complaints differ due to language barriers.
6. Send appropriate language-trained staff from the Commission's Consumer Affairs Branch (CAB) and the Public Advisors Office, in concert with CBOs and carriers, to hold "bill clinics" and other events throughout the state on a regular basis, in order to assist consumers in person in their own communities. Such opportunities for public contact should be planned and organized to encourage public participation through accessible locations and adequate advance public notice, and should take place during hours in which LEP consumers, CBO representatives, and carrier staff are likely to be available to attend, e.g. weekday evenings. In addition to bill clinics, other activities could include dispute resolution and consumer education.
7. Set up procedures to rapidly refer cases of suspected fraud, marketing abuse, and other possible violations involving in-language marketing and customer service to the Commission's Utility Enforcement Branch and to

its new Telecommunications Fraud Unit for investigation. We contemplate involving the CBOs in this effort to ensure those organizations understand how to report these incidents to the Commission quickly for action. These procedures should be documented in writing and shared with CBOs, carriers, and the public, to ensure an accessible, fair, and transparent referral and investigation process.

Short-Term Action Plan

The Commission should:

- 1.** Initiate a formal proceeding (such as an OIR) to address specific, on-going challenges for LEP and non-English speaking consumers that may require Commission action or promulgation of new rules and regulations. The proceeding should have a defined scope and include a set of possible rules (developed as Immediate Action 1, above) that address the key challenges and problems identified in this report and that will be used to focus comments and stakeholder proposals.
- 2.** In the context of this rulemaking, consider any settlements or voluntary agreements proposed by CBOs and carriers to obviate the need for formal rules. Staff should monitor any collaborative process and corresponding results that carriers and/or CBOs initiate to develop a voluntary carrier code of conduct pertaining to in-language issues and challenges. The current CPI education process may serve as model for this effort.
- 3.** Expand consumer education programs to address identified problems and concerns of LEP communities. Based on CBO input, this should include more in-language materials and materials developed specifically for the comprehension of different languages, cultural and educational groups.

4. Direct staff resources to facilitate forums – including the Regulatory Complaint Resolution Forum (for carriers) and the CBO Action Plan (for community based organizations) – as a means of early identification of in-language problems and challenges on a regular basis (e.g. annually).
5. Without the ability to directly fund CBO activities now, the Commission should explore other avenues for assisting CBOs that work with the Commission on in-language issues, outreach, education, and complaint resolution.

Long-Term Action Plan

The Commission should:

1. Initiate a regular, periodic process to allow for the re-examination of in-language issues as the nature and demographics of California evolve with respect to language and to ensure the Commission's efforts remain current.
2. Explore how in-language programs developed and implemented under D.06-03-013 may inform challenges in the other utility industries in California.

Research Findings

Multilingual Services at the Commission: Many programs mandated by or staffed through the Commission have multilingual components. Recent examples that may serve as models for ongoing Commission education and outreach, discussed below, include the education programs established by the CPI in Decision 06-03-013, and the Universal Lifeline Telephone Service (ULTS) programs. Other current activities that include multilingual requirements or educational components include the Commission's involvement with the California Utilities Diversity Council (CUDC), an organization made up of representatives

of the utility industry, the community, and the Commission's Utility Supplier Diversity Program. CUDC recently proposed a set of language access principles for California utilities; if adopted by the Commission, these principles may assist the Commission and utilities in developing policies and constructive rules for improving service to LEP and linguistically isolated consumers. Past Commission activities that have addressed language-based issues include the Telecommunications Trust Fund (TET), the electricity restructuring education program, and the Telecommunications Consumer Protection Fund, which support education and outreach on various aspects of the telecommunications industry.

Education, Outreach, and Customer Service: The Commission operates in compliance with the Dymally-Alatorre Bilingual Services Act, is monitored by the State Personnel Board, and commits necessary resources to meet the needs of the public in accordance with legal mandates. An ever-increasing number of written consumer materials are available to customers in Spanish, Chinese, and Vietnamese languages, i.e., consumer handbooks, consumer advisory information, and customer complaint forms. Moreover, there are Spanish and Chinese versions of parts of the Commission website, which also includes fact sheets in additional languages. In addition to providing public contact and telephone services to the public in the most commonly spoken languages, the Commission provides, upon request and with at least three days notice, language interpretation services in any language at Public Participations Hearings, Prehearing Conferences, complaint hearings, and any other Commission public forums. In addition, the Commission offers differential pay in accordance with the State Personnel Board Rules and Bilingual Services Act, and has incorporated continuous language training courses into its training goals. The Commission's CAB staff can speak Spanish, Tagalog, Cantonese, and French. The staff also has access to the language line, which serves 150 languages and has been in use for over 10 years.

Enforcement: The Utility Enforcement Branch of the Consumer Protection and Safety Division (CPSD) has investigated possible violations of the state's Public Utilities Code (PU Code) and Commission rules in the telecommunications area and other industries. Some investigations of alleged slamming and cramming by specific telecommunications companies have involved many LEP complainants. Several of the language-related cases identified by enforcement staff have similar characteristics: multiple slamming complaints against a particular carrier, with many reported by LEP consumers, and many of the required Third Party Verification recordings in languages other than English. CPSD relied on its bilingual staff to investigate these cases, and solicited sworn statements in the customers' primary language for use in related formal proceedings. CPSD states that pursuing cases that involve LEP consumers requires resources and activities that may not be required for cases in which most complainants are English proficient. CPSD is increasing its capacity to pursue enforcement actions through creation of the Telecommunications Consumer Fraud Unit, and hiring and training of Utility Enforcement Branch investigators. The Commission will monitor the success of these changes as they are implemented.

Carriers' Multilingual Efforts.: In order to gather information on carrier practices, Commission staff sent survey questions to all certificated telecommunications carriers in California (wireless and wireline) asking for information on their services for and interactions with LEP consumers. Approximately 100 telecommunications carriers out of approximately 1,300 responded to this request for information. Several Commission decisions (including D. 96-10-076 and the recent CPI decision D. 06-03-013) and PU Code Section 2890(b) require some carriers to provide limited information in languages other than English to LEP customers under certain circumstances, such as when they make sales in non-English languages. Other multilingual telecommunications services are initiated by the carriers themselves to better serve their customers or to attract new customers. In general, larger carriers and those serving more diverse areas offer more services in more languages than smaller carriers. Services that may be provided in languages other than English include

marketing and outreach information (such as brochures on understanding your phone bill) and customer service; but carriers generally focus on providing information in the most common non-English languages, believing that this is more cost effective than attempting to provide information in less-common languages. Few carriers provide service contracts or key terms and conditions of service in-language.

Community Based Organizations' Concerns: Based on input received from consumer advocates in written comments and at the four public meetings held around the state to gather information for this report, there is a need for more in-language information and service. Issues discussed at these meetings also suggest a need for increased Commission enforcement of code and rule violations by carriers that target LEP populations, and increased oversight of dealers, agents and resellers that sell telecommunications products and services to LEP consumers under contract with telecommunications carriers. Concerns described by consumer advocates include, but are not limited to:

- A lack of availability of in-language contracts or written statements of key terms and conditions of service for customers initiating service with telecommunications carriers. Lack of these materials makes it more difficult for consumers to be sure that the service they have purchased is what was represented to them during an in-language sale, leaving a potential for fraud or marketing abuse.
- A lack of in-language billing, which similarly makes it difficult for consumers who purchase service based on an in-language interaction to understand their bills and be sure that the service meets their expectations.
- A relative lack (especially historically) of translated consumer education and public outreach (as opposed to marketing) materials from the Commission and carriers.
- A relative lack (especially historically) of high-quality in-language customer service by the Commission and carriers.

- A lack of education and outreach materials developed specifically to address the special situations and concerns of LEP consumers, including materials that are appropriate to the target community reading levels (which may include “low literacy” written materials or spoken-word outreach through radio or television for some language communities), are sensitive to cultural differences, and include information that addresses non-mainstream needs in obtaining in-language service and support.
- Unfair or fraudulent marketing tactics by wireless phone and prepaid phone card dealers or agents (“resellers”) that target vulnerable LEP communities.

As discussed in this report’s recommendations, some of these issues can be addressed fairly immediately through improvements in the development and translation of Commission consumer educational materials, while others require further study to develop appropriate solutions. A few issues, such as allegations of fraud aimed at LEP consumers, will require ongoing attention and will benefit from recent improvements in the Commission’s ability to respond quickly through innovations such as the CPSD Utility Enforcement Branch’s Fraud Hotline and the formation of the Telecom Fraud Unit.

Challenges Facing Consumers With Limited English Skills In The Rapidly Changing Telecommunications Marketplace

I) Introduction and Report Organization

Commission Decision 06-03-013 (“Consumer Protection Initiative” or “CPI”) orders Commission staff to perform a study of the special needs of and challenges faced by California telecommunications consumers with limited proficiency in English (LEP consumers). Study goals specified in this decision include:

- *Verifying the languages needed for consumer education materials and programs.*
- *Identifying and reviewing challenges facing LEP consumers.*
- *Developing strategies for communicating relevant information to LEP populations.*
- *Recommending rules or programs (if appropriate) to improve service to LEP consumers, and estimating the costs (and benefits) of these recommendations.*

The decision contemplates this report serving “both as a short-term action document with respect to potential new rules and education and enforcement programs, but also as a longer-term reference document”². The overall intention of the report will be to identify gaps in the consumer education of and services available to LEP consumers from the Commission

² D.06-03-013, p. 138

and telecommunications companies and, to the extent possible, suggest ways of filling service and consumer education gaps. The CPI decision also notes that LEP customers may be targeted for fraudulent and deceptive communications in their own languages by unscrupulous persons or businesses, and asks that the study assess whether these in-language needs are sufficiently met by the Commission's current education and enforcement efforts.

To meet the study's goals, Commission staff and a language access consultant assembled information on the language demographics of California, services currently available to LEP Californians through the California Public Utilities Commission and telecommunications companies, and the challenges faced by LEP telecommunications consumers. Sources used in the production of this report include census and other demographic data, records of past and current Commission activities, Internet and other research into the language accessibility practices of State and Federal government agencies information, information received from telecommunications carriers, and comments and information provided by community based organizations (CBOs) and consumers groups both in writing and at a series of workshops and public meetings held for this purpose. In response to requests dated August 25, 2006, for an extension of the original 180 day study deadline (September 8, 2006) from stakeholders in this process, Commission Executive Director Steve Larson granted additional time for parties to submit comments on the draft report, and extended the deadline for this staff report until October 5, 2006.

This report does not attempt a cost-benefit analysis of the provision of LEP services. This is both because information on the full costs and benefits of the myriad approaches to providing in-language services was not readily available in the timeframe for this report, and because a more targeted analysis will be possible once the Commission and the staff better define a desired approach to improving language access. Efforts to define this approach and

specific policy options will be included in a comprehensive proposal which will include a set of targeted rules to address the problems and challenges identified in this report, for consideration by the Commission. The purpose of this proposal will be to focus comments and stakeholder proposals in the context of a future Order Instituting Rulemaking (OIR) to address persistent problems facing LEP customers which are unlikely to be solved through education alone.

Next steps in the Commission's focus on this issue will include the development of a set of options for targeted Commission actions that take into account the costs, benefits, and feasibility of solutions to the documented challenges and problems facing LEP consumers. This proposal will also discuss appropriate venues and procedures for further Commission action to implement desirable solutions; staff anticipates that a formal proceeding will be necessary to determine the need for rules and, if rules are appropriate, the specifics of those rules, but is open to efforts carriers and other stakeholders may make to develop voluntary industry standards that address the problems identified in this report. Staff recommends that to the extent possible, solutions that do not require formal Commission action, such as staff initiatives that may be undertaken at the direction of the Commission's executive director and voluntary industry actions, should not be delayed awaiting the results of any forthcoming proceeding.

Part II of this report contains background information on the linguistic demographics of the state of California, including the most commonly spoken languages in the state, and some trends in the growth of various languages in the state. This background section also includes a discussion of language access requirements and activities of other state agencies and an overview of similar requirements for federal government agencies; these requirements provide a context for examining the in-language activities of the Commission and telecommunications companies, and may provide models for additional future actions.

Part III of this report describes existing multilingual education efforts, as well as language-related enforcement activities, and availability and effectiveness of Commission services to LEP consumers.

Part IV focuses on the in-language education, outreach, marketing, and customer service activities of telecommunications companies; information in this section is based primarily on information provided by telecommunications service providers in workshops, comments, and responses to a staff request for information.

Part V of identifies challenges facing LEP consumers, including whether current Commission and carrier education, enforcement, and service actions meet existing language access needs. Staff identified barriers and concerns facing LEP consumers through written comments provided by community based organizations and at a series of public meetings organized in cooperation with and at the request of CBOs, especially Latino Issues Forum.

Part VI summarizes these challenges facing LEP communities identified throughout the report, and provides options to address these challenges (where possible) or to study them further. Parts VII and VIII present recommendations and conclusions, respectively.

II) Background

A. Ethnic and Linguistic Landscape of California

California has become the most ethnically, racially, and linguistically diverse state in the nation with growing immigrant and limited English proficient populations from all around the globe. This complex and richly diverse state represents a demographic transformation without historical precedent. The growth of the population as a whole has increased dramatically, and as recently as 1950, California was home to only 10 million people, or about one out of every 15 U.S. residents. By 1990, the state's population had tripled to almost 30 million. By the year 2000 Californians numbered over 34 million, and by 2004 the population exceeded 36.5 million, or approximately 1 in 8 U.S. residents. The U.S. Census Bureau projects that by 2025 California will be home to 50 million residents with Hispanics representing the largest single ethnic group. This phenomenon affects businesses, government agencies, educational institutions, and communities throughout the state.

When it comes to language diversity, California ranks at the top worldwide with Californians speaking between 179 and 220 languages, according to different popular sources and reports. The ever-changing face of the people who populate California and the languages they speak, including dialects, regionalisms and other variations create unique challenges for the delivery of every kind of service in languages other than English. Adding to the complexity of these challenges are issues of literacy levels and cultural aspects within and among different populations and their communities. In order to best identify appropriate languages for consumer education and for the development of effective strategies of communication, consideration of multiple aspects and data sources is necessary.

It is the intent of the section to provide a variety of demographic data, including trends and characteristics that are important to consider when determining the language access needs of

Californians. This discussion includes but is not limited to the following topics: limited English proficiency; California's ethnic composition; foreign born, immigration and migration trends and numbers; top languages spoken by adult and school age populations; and linguistically isolated households. Some comparisons at the national level are made to serve as a point of reference. U.S. Census Bureau data for 2000 are used unless otherwise noted.

1. Limited English Proficiency

The term "limited English proficient" refers to a person who does not speak and/or read, write, or understand the English language sufficiently to access services to which he or she may be entitled. As of 2000, about 20 percent of California's population -- over 6 million residents experienced difficulty speaking English and it is estimated that those numbers have increased every year to date. Californians' language ability is measured in range from fully bilingual to partially bilingual ("do not speak English well" or "speak English fairly well") to monolingual ("do not speak English at all"). The U.S. Census data measure the levels of "spoken English" and other languages, and not *literacy* (the ability to read and/or write the English language). Inferences regarding literacy levels in any language made from census data are not necessarily reliable and it is important to note that there is no single definition or measure of literacy that can be applied to the entire adult population.

About 40% of Latinos and Asians overall are limited English proficient (LEP). Central Americans (mainly Guatemalans, Hondurans, and Salvadorans), and Southeast Asians (mainly Vietnamese, Thai, and Hmong) are among those who have the highest rates of limited English proficiency and reach nearly 50% LEP. In the countries from which these populations originate, English is not one of the primary languages whereas in the Philippines and regions of Mexico, English is taught in school and spoken to varying degrees (Source: "*California Speaks*", APALC).

A look at California's LEP population by racial and ethnic group and subgroup is provided below.

Figure 1: California's Limited English Proficient Population by Racial and Ethnic Group*			
Rank	Group	Number of Persons	Percent
1	Latino	4,194,494	43
2	Asian	1,515,654	39
3	Native Hawaiian and Other Pacific Islander (NHOPI)	29,802	15
4	Am. Indian or Alaska Native	70,153	12
5	Non-Hispanic White	534,271	3
6	African American	66,444	3
	Total Population	6,277,779	20

*Not all groups are shown and some may overlap. (Source: Census 2000 SF4 PCT42 Household Language by Linguistic Isolation).

Note that in the table of subgroups below, ethnic groups with relatively high percentages of limited English proficient (LEP) speakers also include those who are Taiwanese, Laotian, Korean, Cambodian, Chinese, Armenian, Iranian, Tongan, Japanese, and Samoan.

Figure 2: California's Limited English Proficient Population by <u>Subgroup</u>*			
Rank	Subgroup	Number of Persons	Percent
1	Guatemalan	95,181	63
2	Vietnamese	778,284	62
3	Honduran	19,515	61
4	Hmong	40,179	61
5	Salvadoran	160,169	58

6	Taiwanese	41,776	58
7	Cambodian	43,902	56
8	Laotian	33,569	55
9	Korean	184,434	52
10	Thai	21,468	48
11	Chinese (including Taiwanese)	498,698	48
12	Chinese (excluding Taiwanese)	461,123	47
13	Mexican	3,326,661	44
14	Armenian	76,264	39
15	Iranian	50,878	34
16	Tongan	4,371	32
17	Asian Indian	79,811	25
18	Filipino	231,390	23
19	Japanese	80,484	22
20	Samoan	7,530	17

* Not all subgroups are shown and some may overlap. (Source: Census 2000 SF4 PCT42)

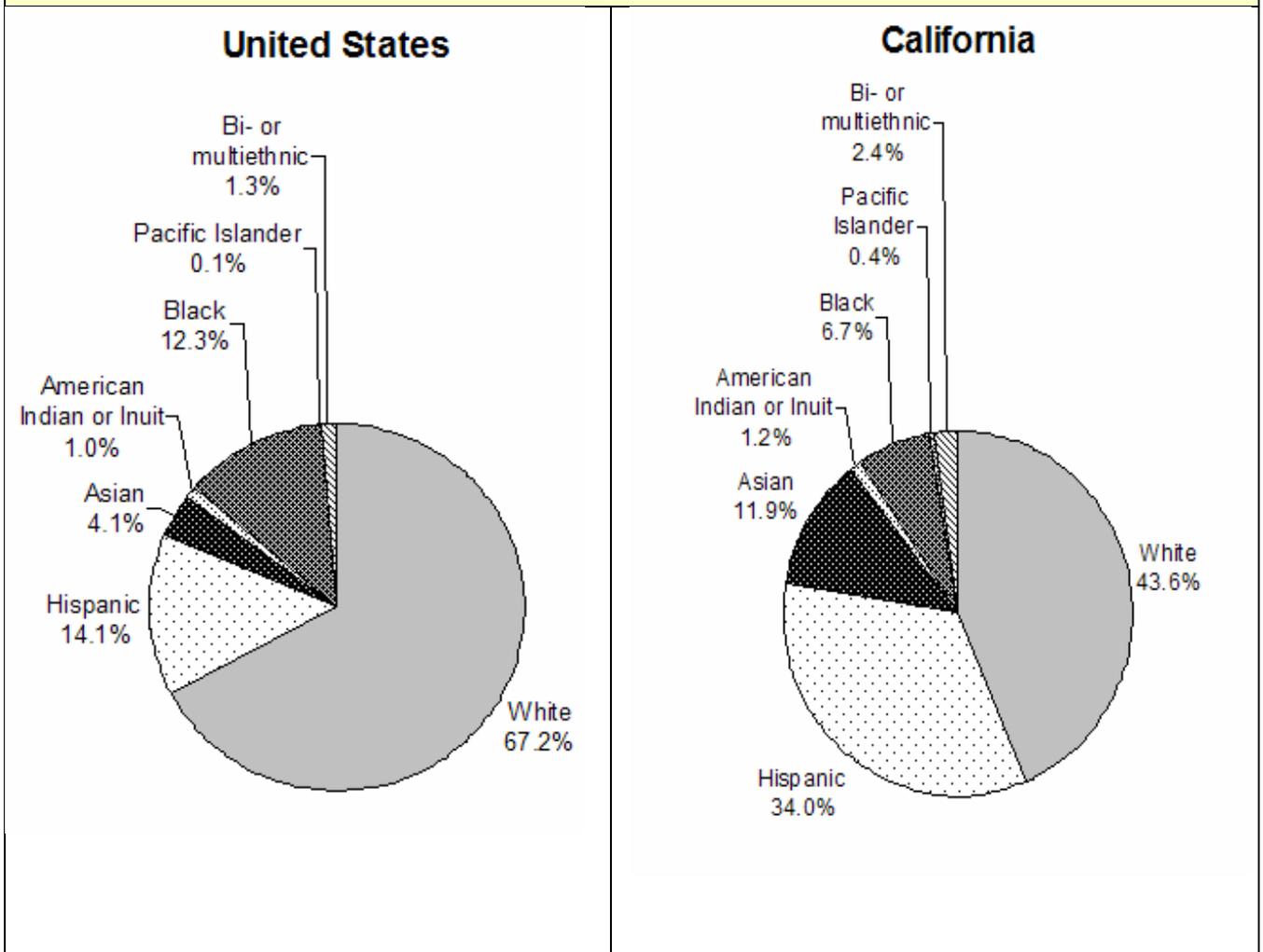
2. Ethnic Profile of California

Figure 3: Ethnic Profile Comparison of California and the United States 2004 Projected		
Ethnic Group	California	United States
White	44.5	67.4
Hispanic	34.7	14.1
Asian	12.1	4.1
Black	6.8	12.3
American Indian or Inuit	1.2	1.0
Pacific Islander	0.4	0.1
Bi- or Multiethnic	2.4	1.3
Total Population	36,500,000	293,700,000

California's ethnic profile is provided to give a general overview of the state's diversity, but does not indicate languages spoken by these groups. As evidenced by these numbers, California's Hispanic population is more than double the national average, and the numbers of Asians, who are the fastest growing population in the state, are nearly three times greater. The percentage of the state's total population for both Asian and Hispanic populations increased from 11.03 to 11.63 percent and 32.51 percent to 34.81 percent, respectively. Together in 2004, these two groups made up 46.44% of the state's total population, outnumbering Whites by 1.82% (Resource: California Department of Finance). At the writing of this report, new data from the U.S. Census indicate that the numbers of Hispanics are growing more rapidly in the Southern states than ever before, however California remains one of the states with the largest concentration of Hispanics.

Comments by the Communities for Telecommunications Rights (CTR) are included here as they highlight important trends and information about the Asian Pacific Islander population. "The Asian Pacific Islander ethnicities represent the most rapidly growing populations and are more linguistically isolated than Latinos...From 1990 to 2000, the Asian population grew as much as 52%, followed by Latinos, who grew 43%. This is compared to the state's total population growth of 14%. The Asian and Pacific Islander population is projected to more than double from 4 to 9 million people between 2000 and 2025."

Figure 4: Population Comparison By Ethnicity—United States vs. California



Within the Hispanic and Asian countries and communities as well as within Middle Eastern, European and other groups, members represent a variety of countries of origin, cultural characteristics including religion, differences in languages and dialects, and other important and distinguishing characteristics. It is to be noted that the ethnic groups mentioned in this report represent those with the highest numbers in California, but do not represent all possible ethnic groups.

3. Foreign Born, Immigrant, and Migrant Trends

Foreign born and migrant trends in California offer different but relevant information when considering languages spoken by Californians. For this section of the report, the following definitions provided by the U.S. Census are used: *Foreign born* persons are those who are not U.S. citizens at birth who are counted by the census, and may be referred to as *immigrants* herein. *Migrants* are those who move into, out of, or within a given area.

Figure 5: Region of Birth of Foreign Born Residents of California - 2000		
Region	Number of Residents	Percentage
Europe	696,578	7.9
Asia	2,918,642	32.9
Africa	113,255	1.3
Oceania	67,131	0.8
Latin America	4,926,803	55.6
North America	141,779	1.6
Total	8,864,188	100

(Source: *The Foreign Born of California, Place of Origin, Region of Residence, Race, Time of Entry and Citizenship*; http://ccsre.standord.edu/reports/report_15.pdf)

A report from the Public Policy Institute of California, *California Counts*, provides relevant information about California’s recent immigrants--or foreign born. Twenty six percent of all Californians are foreign born, with 8 percent (2.8 million) being recent immigrants who arrived between 1990 and 2000. Nearly half of California’s new immigrants were born in Mexico and the next largest country of origin, the Philippines, represented about 7 percent of this group. The overwhelming majority comprising 88.5 percent were born in Latin America or Asia. In descending order, the top ten countries of origin for immigrants arriving between 1990 and 2000 are ranked as follows: Mexico (46.2 %); Philippines (6.8%); Vietnam (4.7%); China (3.8%); India (3.6%); El

Salvador (3.4%); Korea (2.7%); Guatemala (2.4%); Taiwan (1.75); Japan (1.7%) and: Other (22.9%). Due to less time in California, recent immigrants have had less time and fewer opportunities to learn English. The languages most spoken are integrated in a later section on linguistically isolated households.

Figure 6: California Migrant Populations, 2000-2004				
Year	Total Net Migrants	White Migrants	Asian Migrants	Hispanic Migrants
2000	387,984	N/A	N/A	N/A
2001	315,239	151,265	80,317	159,742
2002	292,899	40,690	97,545	188,718
2003	215,228	31,733	91,412	185,482
2004	302,838	7,317	82,591	155,504
Average Annual Increase	302,838	57,751	87,966	172,362

(Note: The net migrant figures above indicate the end mathematical difference between entering and parting migrants. This means that the total number of immigrants per any given year may be greater or less than the number indicated.)

Migrant populations in California are unique in their consumer, educational and other needs and characteristics and are a population that is highly challenging to measure and track. However, they represent a significant number of consumers of telecommunication services, and are therefore included in this section of the report.

There has been a steady increase in the number of migrants for the three ethnic groups represented here--Hispanics, Asians, and Whites. Hispanics have consistently outnumbered all other migrant groups, every year and on average, and make up 60 percent of migrants; they come mainly from Mexico, followed by Central Americans from mainly El Salvador, Guatemala, and Honduras. The next largest group, 29 percent, migrates from Asian countries including Taiwan, Vietnam, Korea, Thailand, China, Cambodia and the Philippines. The numbers of Indo-European and Middle Eastern migrants are lower but have consistently increased over the last decade.

4. Primary Languages Spoken at Home

California is home to more residents over the age of five that speak a language other than English at home than any other state in the nation. In 2000, nearly 40 percent of California residents spoke a language other than English at home indicating an increase from 31.5 percent in 1990. The number of residents that speak a language other than English at home increased from 8.6 million in 1990 to 12.4 million people in 2000, a 44 percent increase over the ten year period. Current trends in migration and ethnic composition indicate the trend has been consistent into 2006. Though ethnic composition and migration numbers do not correspond directly with language proficiency, they do provide a context for understanding the linguistic and cultural differences.

Figure 7: Language Use and English Speaking Ability for Populations 5 Years and Over For the United States and California, 1990			
Area	Population >5 Years	Spoken Language at Home other than English	Percent
United States	230,445,777	31,844,979	13.8
California	27,383,547	8,619,334	31.5

Figure 8: Language Use and English Speaking Ability for Populations 5 Years and Over For the United States and California, 2000			
Area	Population >5 Years	Spoken Language at Home other than English	Percent
United States	262,375,152	46,951,595	17.9
California	31,416,629	12,401,756	39.5

The population over 5 years of age in these tables and the information on English Learners in California schools in the table below do not reflect the exact demographics of those who utilize or need access to telecommunications service in California. These numbers do

provide an indication of the growing number of people whose primary language is not English who may become consumers of these services in years to come.

Figure 9: Statewide English Learners by Language and Grade Level 2005-2006 School Year					
Rank	Language	Enrollment K-6	Enrollment 7-12	Total*	Percentage
1	Spanish	908,010	415,098	1,341,468	85.4
2	Vietnamese	25,192	8,987	34,263	2.2
3	Cantonese	15,881	6,801	22,756	1.4
4	Hmong	13,068	8,828	21,907	1.4
5	Filipino	14,137	7,152	21,464	1.4
6	Korean	10,577	5,419	16,091	1.0
7	Mandarin	7,689	4,751	12,452	0.8
8	Punjabi	5,970	3,151	9,138	0.6
9	Armenian	5,543	2,938	8,655	0.6
10	Khmer	4,824	3,626	8,470	0.5

(Source: California Department of Education)

5. Linguistically Isolated Households in California

“Linguistically isolated household” in the U.S. Census refers to a household in which no member 14 years or older speaks English “very well”. This refers to spoken English and not to literacy, and is a strong predictor of the need for language assistance for adult members of the household.

One quarter of Asian and Latino households are linguistically isolated in comparison to 10 percent of all households in the state. While the younger, school-age populations are learning English, often their parents, guardians, and families do not learn English for a

variety of reasons. Social, cultural, educational, generational, and economic factors impact the degree to which this mostly immigrant population learns English.

Figure 10: Linguistically Isolated Households by Racial and Ethnic Group in California*			
Rank	Group	Households	Percent
1	Asian	314,235	26
2	Latino	657,622	26
3	NHOPI	3,649	7
4	Am. Indian or Alaska Native	11,739	6
5	Non-Hispanic White	130,832	2
6	African American	11,315	1
	Total Linguistically Isolated Households	1,107,222	10

* Not all groups are shown. Groups may overlap. (Source: Census 2000 SF4 PCT42 (Household Language by Linguistic Isolation)).

Figure 11: Linguistically Isolated Households by Subgroup in California*			
Rank	Group	Households	Percent
1	Vietnamese	52,960	44
2	Guatemalan	19,695	43
3	Taiwanese	10,124	42
4	Honduran	3,608	41
5	Korean	49,290	41
6	Salvadoran	30,549	37
7	Hmong	3,998	36
8	Chinese (including Taiwanese)	120,043	34
9	Thai	4,442	34
10	Chinese (excluding Taiwanese)	111,105	34
11	Cambodian	5,779	32

12	Laotian	4,178	32
13	Mexican	500,117	26
14	Armenian	18,289	26
15	Iranian	11,772	20
16	Japanese	27,396	18
17	Tongan	314	12
18	Asian Indian	12,209	11
19	Filipino	29,734	11
20	Samoan	634	6

* Not all subgroups are shown. Subgroups may overlap. (Source: Census 2000 SF4 PCT42 Household Language by Linguistic Isolation).

Based on discussion at the public meetings held for this project, there may be a correlation in some populations between linguistic isolation and low literacy even in the primary language, though detailed information on literacy levels is not available to document this. If this is the case, it may be appropriate to target linguistically isolated populations using oral outreach such as radio, television, and other means, as described later in this report for reaching low literacy populations.

This data alone does not clearly show which languages have the most population living in linguistically isolated households. The information is organized by subgroup, not by language, and shows the number of the total population in each group and the percent of that number that are linguistically isolated. Subgroups may not perfectly match language groups, since some groups may have more than one common language, or multiple groups on the list may speak variations or dialects of the same language. This makes it difficult to draw clear conclusions about which languages (other than Spanish and Chinese) have the greatest number of linguistically isolated households, and even more difficult to use this data by itself to determine the languages most in need of language access assistance. This data may be most useful when looked at along with data on LEP communities and trends of

migration, to get an overall view of the languages spoken by households that may be more comfortable conversing in a language other than English.

B. Government Requirements and Best Practices

1. Dymally-Alatorre Bilingual Services Act of California

The Dymally–Alatorre Bilingual Services Act was enacted in 1973. In passing this Act, the Legislature “found and declared that the effective maintenance and development of a free and democratic society depends on the right and ability of its citizens and residents to communicate with their government and the right and ability of the government to communicate with them.” The Act mandates state agencies to eliminate language barriers that preclude Californians, either because they do not speak or write English or because their primary language is other than English, from having equal access to public services to which they may be entitled. This Act mandates that State and local agencies directly involved in the furnishing of information or the rendering of services to the public must employ a sufficient number of qualified bilingual persons in public contact positions to ensure the provision of information and services to the public in the language of the non- or limited English proficient (LEP) people.

The Act further mandates that every State and local agency that serves a substantial number of non-English speaking people, and provides materials in English explaining services, shall also provide the same type of materials in any non-English language spoken by a substantial number of the public served by the agency. In 1977, the Legislature amended the Act to define “substantial” as five percent or more of the people served by any office or unit. When this threshold is met, departments are required to employ a sufficient number of qualified bilingual staff in public contact positions, translate documents providing information about services, rights and benefits, or identify other appropriate means for meeting the language need of LEP persons.

The Act also requires that each State and local agency conduct a biennial language survey to measure the level of public contact at each local office and facility; report the number of contacts received by language; identify staffing available to provide services; and submit their findings to the State Personnel Board (SPB) by March 31 of each even-numbered year. The results of the survey are compiled by the California State Personnel Board and reported to the Legislature. In addition, the SPB requires state agencies to develop corrective action plans to respond to deficiencies identified by the survey and provide other relevant information to the SPB to substantiate their efforts to ensure equal access to services. The results for each agency are posted on the SPB website, however there is a significant time lag before the public has access to this information.

2. Need for Greater Compliance

The findings of the State Personnel Board as reported to the State Legislature and as a result of the 2001-2002 survey which is the most current available to the public, indicated that state agencies understand and comply with aspects of the Act to varying degrees. Lack of compliance may be due to various factors; departments frequently cited the need for technical assistance, funding and resources for recruiting and retaining multilingual staff, resources for staff development, a centralized system for resources and information, qualified interpreters and translation services, and improved survey tools to assist in their compliance efforts. Other challenges to providing meaningful access to government services and complying with the Act include implementing an effective bilingual fluency testing program, including a central monitoring and enforcement system, and improving access to and knowledge of complaint procedures for the limited English proficient population.

In November, 1999, the California State Auditor's Bureau submitted a report to the Legislature titled "Dymally-Alatorre Bilingual Services Act: State and Local Governments

Could Do More to Address Their Clients' Need for Bilingual Services.” The report concluded that state agencies were not fully complying with the Act and that they could not ensure that they were providing equitable services to clients who required bilingual assistance. The State Personnel Board has worked to address deficiencies by updating and streamlining the biennial language survey methods, by providing more technical assistance and greater oversight of agencies, by forming an advisory group made up of state agency bilingual coordinators and by publishing survey results for all agencies on their website. The Commission’s Bilingual Services Coordinator, described below, participates in the SPB advisory group. The next section of this report will include best practices in complying with the Bilingual Services Act in state government agencies.

C. Best Practices in California State Government Agencies

This section is intended to highlight some state agencies and a University of California medical center that make strong efforts to communicate with their limited-English speaking clients. This list of state agencies providing multilingual services is not comprehensive and is based on the most current information available to the public on the State Personnel Board website and in their publications. The discussion of UC Davis Medical Center, below, provides an initial review of LEP education and services available from health care organizations. As Latino Issues Forum notes in their comments on the staff’s Study Plan from June 2006, “[h]ealth agencies have much experience in outreaching to LEP clients to inform them about vital information affecting their health,” and could be part of a broader review of language access practices of government agencies. One good source for further information may be the California Healthcare Interpreting Association (<http://chia.ws/pages/index.php>). Staff would also welcome additional reports on agency practices from CBOs and others, as suggested in LIF’s comments. Notable language access and information practices of the agencies profiled below include:

- Public distribution of accurate and culturally appropriate documents in commonly encountered languages, through various formats and media.
- Client access to high quality interpretation and translation services.
- Availability and identification of bilingual staff.
- Initial and continuing training of employees in responsibilities to LEP clients.
- Quality control and oversight of bilingual services.

1. Department of Motor Vehicles

The California Department of Motor Vehicles (DMV) has a statewide consumer base and offices throughout the state. The DMV provides printed materials such as the Driver's License Handbook in 33 languages. On their website, the Driver's License Handbook is available in six languages in addition to English (Spanish, Chinese, Korean, Vietnamese, Tagalog, and Russian).

The DMV contracts out for interpreter services. Certified interpreters are not required at hearings for infractions or medical problems, but DMV is required by Government Code 11435.05-.65 to use certified interpreters when there is an administrative hearing (e.g. appealing a DMV decision); a shortage of qualified interpreters in California can make compliance with this requirement challenging. Interpretation assistance is also provided if an LEP client needs instructions on taking the written portion of the exam.

To increase language access, notices of bilingual staff are posted in local offices and bilingual staff members wear badges indicating the languages in addition to English that they speak. The DMV telephone service centers throughout the state provide interpretation

and translation services, and the DMV provides an interactive voice response system primarily in Spanish which refers callers to bilingual staff statewide.

2. Employment Development Department

One of the largest state departments, the state Employment Development Department (EDD) has employees located at hundreds of service locations throughout the state who provide services to millions of Californians each year, including assistance in job placement and referrals, unemployment insurance, disability insurance, employment and training, labor market information, payroll taxes for 17 million California workers.

According to the summary and analysis of the Employment Development Department's bilingual services by SPB, the department does a good job in administering its bilingual services program. The department receives millions of contacts with LEP customers each year, mainly in Spanish, Armenian, Cantonese and Vietnamese. EDD also has employees certified bilingual in 30 different non-English languages including American Sign Language (ASL).

EDD offers multilingual services in hundreds of locations throughout the state via printed forms and publications, telephone inquiries, and their website. Many of EDD's one-stop partnership offices (where clients can receive a variety of state services) provide multilingual services.

Throughout the department's Unemployment Insurance, Disability Insurance and Tax programs, telephone call centers perform initial intake and answer customer inquiries. The call center's toll free telephone number is available in several of the most commonly spoken languages in California. The EDD website contains a number of links to services and

programs in Spanish such as Disability Insurance applications and Unemployment Insurance applications.

EDD also tracks individual customer language preferences and further data on the need for multilingual services. This data helps EDD identify additional strategies to increase access to programs and services. EDD is working with community partners to develop a language access complaint process and to train its employees to ensure they are aware of their responsibilities in providing bilingual services. EDD is developing a process to identify which documents should be translated into languages other than English (LOTEs) and is working to assure that certified interpreters provide services at administrative proceedings.

3. Franchise Tax Board

California's Franchise Tax Board (FTB) collects taxes on behalf of the state of California. FTB is committed to providing meaningful services to English and non-English speaking clients. Multilingual agents are available at the call center to handle over 15 different languages. FTB cannot contract with telephone interpretation services like Language Line³ due to confidentiality issues related to financial information and personal identification such as Social Security numbers, so callers speaking a language other than the ones provided are instructed to provide their own interpreters.

FTB Bilingual Services Program employees monitor calls handled by Spanish speaking operators for quality control, and operators receive periodic training in proper vocabulary, language usage, and telephone etiquette. FTB also has a Spanish language service line and

³ The language line is a telephone service that provides access to interpreters in over 150 languages. Language Line interpreters translate over the phone using a three-way call. Companies and government agencies may contract with the language line to make its services available to clients and consumers.

web page to provide information and assistance on tax issues. The Spanish service line is equivalent to the English service line in all matters concerning tax assistance.

In addition, FTB utilizes volunteer groups from the Korean, Chinese, Vietnamese and Russian communities to assist LEP taxpayers with their returns.

4. California Department of Education

In addition to providing English language development and supplemental educational services to students learning English, the California Department of Education (CDE) is required by state and federal laws (see below) to provide information to parents of limited English proficient (LEP) students in the language they comprehend. Additional state legislation created and championed by the Asian Legislative Caucus has added timelines and additional requirements for providing information to parents of English learners as required by law.

As a result, in 2005 CDE developed and implemented a web-based resource, the Clearinghouse for Multilingual Documents (CMD) that provides information about public elementary and secondary education documents translated into non-English languages by California educational agencies. The CMD helps districts and county offices to locate useful translations of parental notification documents and reduce redundant translation efforts. In so doing, the CMD helps schools meet state and federal requirements for document translation and parental notification, including the requirements in California Education Code Section 48985, the No Child Left Behind Act, and legislation that originated within the Asian Legislative Caucus in 2004.

The California Education Code requires that “when 15% or more of the pupils enrolled in a public school that provides instruction in kindergarten or any grades one through twelve speak a single primary language other than English as determined from CDE census data, all notices, reports or records must be sent to the parent or guardian of any such pupil by the school or district, shall in addition to being written in English, be written in such primary language, and may be responded to in English or the primary language.”⁴ The federal No Child Left Behind law also requires that information (such as academic assessments, reports, school improvement plans, documents related to individual student progress and programs, and state and federal plans and standards) be translated into the language that parents can comprehend.

5. UC Davis Medical Interpreting and Translating Center

Medical institutions that are operated by the state or that receive federal funding are required by law to provide information and services in the languages spoken by their customers. A private facility may choose not to serve this population in which case it does not have to provide services or materials in languages other than English.

The UC Davis Center for Interpreting and Translating offers medical interpreting to hospital clients in 18 languages. Trained medical interpreters know how to convey the meaning in dual languages using specialized terminology, colloquialisms and idioms. They guarantee in-depth understanding, confidentiality, and reliability in the following languages and dialects: Armenian, American Sign Language (ASL), Cambodian, Cantonese, French, Hindi, Hmong, Korean, Lao, Mandarin, Mien, Punjabi, Russian, Spanish, Thai, Ukrainian, Urdu, and Vietnamese.

⁴ California Education Code § 48985

The mission of the UC Davis Center for Interpreting and Translating is to provide clients with a full-range of language-related services of the highest quality and utility, in the most user-friendly manner and at the lowest cost consistent with good value. The UC Davis Medical Center is dedicated to enhancing access to health-care services for linguistically and culturally diverse patient population through professional medical interpretation, translation and cross-cultural communication. Multilingual kiosks are being installed throughout the campus and medical center. These kiosks will provide automated instructions guiding patients and their families and visitors to facilities and office locations in several commonly spoken languages at the touch of a fingertip.

D. Existing In-Language Mandates

1. Relevant Sections of the California State Public Utilities Code

A few mandates exist with respect to in-language issues. First, the California Public Utilities (PU) Code contains some references. Namely, PU Code §2890 (b) states the following regarding solicitation materials and orders for a product or service:

“When a person or corporation obtains a written order for a product or service, the written order shall be a separate document from any solicitation material. The sole purpose of the document is to explain the nature and extent of the transaction. Written orders and written solicitation materials shall be unambiguous, legible, and in a minimum 10-point type. Written or oral solicitation materials used to obtain an order for a product or service shall be in the same language as the written order. [emphasis added] Written orders may not be used as entry forms for sweepstakes, contests, or any other program that offers prizes or gifts.”

PU Code §2889.5 (a) (6) contains additional guidance:

“Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation. When a written subscriber solicitation or other document contains

a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document whose sole purpose is to explain the nature and extent of the action. *If any part of a mailing to a prospective subscriber is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.*[emphasis added]

The Commission may wish to consider further investigation of compliance and enforcement of these code sections. In draft report comments, Staff received limited information from carriers and consumer groups on how carriers are currently complying with these code sections or specific suggestions for rules or enforcement mechanisms to ensure compliance with them. For example, while AT&T provided information on some materials and bills that it produces in languages other than English where there is a business supported justification⁵, it is unclear how these practices comport with PU Code §2889.5(a)(6) and 2890(b). Similarly, there was not much detailed information from other carriers on their in-language material and billing practices and how they relate to the above statutes. In examining the implementation of the above statutes, the Commission may also want to examine other items, such as the suggestion that carriers be afforded discretion as to which languages they provide materials in and the use of objective criteria for adding and deleting languages⁶.

Likewise, the Commission may seek to solicit more information from consumer groups. For instance, the Asian Law Caucus (ALC) cites preliminary pilot study results indicating that consumers with limited English proficiency (LEP) negotiate the price and terms of telecommunications service solely in other languages, but are given contract and other

⁵ AT&T California's Comments on the Draft Report on the Challenges Facing Consumers with Limited English Skills in the Rapidly Changing Telecommunications Marketplace, September 14, 2006, pp. 9-11.

⁶ Id.

written documents only in English at the point of sale.⁷ While ALC calls for development of rules on distribution of in-language materials, it is unclear how the aforementioned PU Code sections relate to this recommendation. Also, comments by the Communities for Telecommunications Rights (CTR) include a recommendation that the Commission require that carriers provide a translation of the key rates, terms and conditions (KRTC) in the language that the telecommunications service was negotiated in by the carrier representative. CTR attaches a one-page KRTC template in English, Spanish, Vietnamese and Chinese as part of its proposal⁸. Similarly, the Watsonville Law Center and the Division of Ratepayer Advocates recommend providing in-language translations of contracts and/or in-language KRTC summaries to consumers when services are marketed in languages other than English⁹. The Commission may want to examine how such proposals relate to compliance with PU Code §2889.5(a)(6) and 2890(b). Moreover, in evaluating the use of these code sections and whether to adopt additional rules or enforcement mechanisms, the Commission may need to examine whether these statutes should be uniformly applicable to all types of telecommunications carriers. Furthermore, it may wish to re-examine and seek updates to party positions on such in-language rules explored earlier in this proceeding¹⁰.

⁷ *Asian Law Caucus' Comments on the CPUC's Staff Draft Report: Challenges Facing Consumers with Limited English Skills in the Rapidly Changing Telecommunications Marketplace*, September 14, 2006, pp. 7-8.

⁸ *The Communities for Telecom Rights' Recommendations and Comments on the Report on Language Issues for California Telecommunications Consumers: Before the Public Utilities Commission of the State of California*, September 14, 2006, pp. 1-6 and attachments.

⁹ See *Division of Ratepayer Advocates Comments on the Staff Draft Report: Facing Consumers with Limited English Skills in the Rapidly Changing Telecommunications Marketplace (Draft Report)*, September 14, 2006 and *Watsonville Law Center Comments on Draft Report: Challenges Facing Consumers with Limited English Skills in the Rapidly Changing Telecommunications Marketplace*, September 14, 2006.

¹⁰ Earlier in R.00-02-004, a proposal for a certain in-language rule was deferred. The proposed rule required service agreements, contracts, bills and notices to be available in each language employed by the carrier in solicitations directed at consumers (see R.00-02-004, Draft Decision mailed July 24, 2003). The Commission crafted the rule in light of PU Code §2890(b). However, carriers responded that the more in-

2. *Relevant Commission Orders*

The Commission adopted a few in-language provisions in Commission decisions in the mid-1990s, however these requirements were later modified. Specifically, the Commission established certain in-language requirements when it opened the state's local telecommunications market to competition. In D.95-07-054, the Commission established interim rules for local exchange service competition in California. In that decision, it required that competitive local exchange carriers (CLCs) making sales in a language other than English provide the customer with a confirmation letter written in the language in which the sale was made describing the services ordered and itemizing all charges which will appear on the customer's bill¹¹. Later, in D.95-12-056, the Commission expanded upon the CLC rules in D.95-07-054 and ordered that:

“CLCs shall inform each new customer, in writing and in the language in which the sale was made, of the availability, terms and statewide rates of Universal Lifeline Telephone Service and basic service. CLCs shall also provide bills, notices and access to bilingual customer service representatives in the languages in which prior sales were made.”¹²

The Commission initially deferred consideration of such a requirement for ILECs to the Universal Service proceeding, R.95-01-020/I.95-01-021 and eventually declined to adopt it for ILECs.

language requirements that they faced, the more likely they (especially small carriers) were to pull back from directing information about their services and products at non-English speaking audiences. Other parties disagreed and suggested other possible solutions. Correspondingly, the Commission decided to defer the finalization of rules on this issue until a later time.

¹¹ See D.95-07-054, Ordering Paragraph 1 and Appendix B: Rule 2. Appendix B established Consumer Protection and Consumer Information Rules for CLCs.

¹² See D.95-12-056, Ordering Paragraph 64 and Appendix C. While D.95-12-056 first adopted the expanded in-language requirement, the Commission later adopted D.95-02-072, Appendix E which amended and replaced the earlier rules adopted in Appendix C of D.95-12-056.

In response to a petition to modify, the Commission modified the in-language requirements previously adopted for CLCs¹³ as part of the local competition docket. Therefore in D.96-10-076, the Commission modified the above requirement regarding confirmation letters, billing and notices. Instead, it required that ILECs and CLCs meet specified requirements when they sell their services in Spanish, Mandarin, Cantonese, Vietnamese, Korean, Japanese, or Tagalog¹⁴. Should the Commission take additional actions regarding in-language issues as part of the Consumer Protection Initiative, it may wish to evaluate how ILECs and CLCs are meeting the modified requirements and whether to extend them to wireless carriers.

¹³ On April 3, 1996, the California Telecommunications Coalition filed a petition to modify the CLC in-language requirements adopted through D.95-04-054, D.95-12-056 and D.96-02-072.

¹⁴ Appendix A of D.96-10-076:

“1. Incumbent LECs and CLCs that sell their services in any of the following seven languages- Spanish, Mandarin, Cantonese, Vietnamese, Korean, Japanese, or Tagalog- shall be required to do the following in those languages in which they sell their services:

- A. Identify and store in a database the language preference (“language preference database”) specified by their customers.
- B. Send Commission-mandated notices, including the universal lifeline service notice with the rates, terms and conditions in language.
- C. Upon initiation of local serve, send the confirmation letter to the customer in the preferred language, setting forth a brief description of the services ordered and itemizing all changes which will appear on the customer’s bill.
- D. Upon initiation of local service and annually thereafter, provide a bill insert to the customer in the preferred language that explains the customer’s bill.
- E. Provide a toll-free number for access to bilingual service representatives in the preferred languages in which the CLC sells its services.

2. Provide *all* residential customers with the Commission-mandated Universal Lifeline Telephone Service notice in the 7 languages identified above and include with the notice toll free telephone numbers for access to bilingual customer service representatives in the languages in which the CLC sells its services from those listed above.

3. All LECs and CLCs are encouraged to provide additional bilingual or in-language services to their customers.”

Furthermore, any modifications or additions that the Commission makes to existing in-language requirements should consider the impact of its recent order regarding the Uniform Regulatory Framework (URF). In August 2006, the Commission adopted D.06-08-030, which granted ILECs and CLCs broad pricing freedoms concerning most telecommunications services, new telecommunications products, bundles of services, promotions, and contracts.

3. Other Government Requirements

The Dymally Alatorre Bilingual Services Act is the main state law applying language requirements to the California Public Utilities Commission, and P.U Code § 2890 (b) and § 2889.5 (a)(6) apply directly to telecommunications companies. In addition, there are other language requirements that apply to aspects of the telecommunications industry, as well as some that do not apply directly to the Commission or the industries it regulates, but may provide valuable models for serving LEP consumers. Several of these requirements are described in this section.

As noted in the comments provided by the Consumer Federation of California on the Commission's Study Plan issued in June 2006, there are California state laws that do not apply directly to the Commission nor telecommunications companies (nor to other regulated industries), but do address the need for specific language requirements to enable LEP consumers to access services of government agencies and private companies. Such laws include sections of the California Civil Code (1632 and 1689.7), Business and Professional Code (11245, 17538.9, 22442), and Insurance code (762).(CFC comments page 12) These sections mandate specific disclosures and actions related to contracts in various industries, when the contracts are negotiated or a sale takes place primarily in a language other than English. Some provisions also offer consumer protections in the event that the company responsibilities are not met. According to CFC, equal protection clauses in state and federal

constitutions are also relevant, generally prohibiting discrimination against any class of individuals by governmental entities.

Public Utilities Code § 453 (b) prohibits public utilities (in this case, wireline carriers) to disadvantage customers on many bases, including national origin. This is similar to Title VI of the federal Civil Rights Act of 1964, which prohibits discrimination based on national origin. Federal Executive Order (E.O.) 13166 specifies that failing to provide services in a person's native language can constitute discrimination on the basis of national origin, prohibited by Title VI. The federal government has guidance for federal agencies to follow to ensure compliance with E.O. 13166 requiring language access for people with limited proficiency in English. These guidelines, discussed in detail on the Website www.lep.gov, describe this Executive Order, which specifically requires "federal agencies to take reasonable steps to provide meaningful access for LEP people to federally conducted programs and activities (essentially, everything the federal government does)," and mandates that "every federal agency that provides financial assistance to non-federal entities must publish guidance on how those recipients can provide meaningful access to LEP persons and thus comply with Title VI and Title VI regulations."¹⁵ The requirements of Title VI also apply to state, local, and private entities that receive federal funding. It is not clear from research on this Web site whether or how the Federal government monitors compliance with Title VI, E.O. 13166, and related regulations, nor what penalties exist for entities that fail to take steps to provide the meaningful access required by these provisions.

Still, the guidance provided on the www.lep.gov Web site contains information on best practices for agencies to follow to facilitate language accessibility, and lists numerous links to state and federal resources. Information on this Web site includes recommendations for

¹⁵ <http://www.lep.gov/lepdoc%20intro.htm>, *Limited English Proficiency Resource Document: Tips and Tools from the Field*, September 24, 2004, U.S. Department of Justice Office of Civil Rights

creating a language assistance policy, and a report that attempts to assess the benefits and costs of compliance with the Executive Order's requirements, and acknowledges the difficulty of quantifying benefits and estimating costs. Specifically, in discussing benefits of providing language access services, an OMB report linked to this Web site states: "While it is not possible to estimate, in quantitative terms, the value of language-assistance services for either LEP individuals or society, we are able to discuss the benefits of the Executive Order qualitatively."¹⁶ Discussing costs, this same report states "Because sufficient information was not available on the cost of providing language-assistance services before and after issuance of the Executive Order, we were unable to evaluate the actual costs of implementing the Executive Order. Instead, this report uses assumptions about different types of language-assistance services that could be provided to the LEP population to assess costs."¹⁷

The federal LEP Web site also provides specific ideas for improving service to LEP persons in various types of work. A more detailed review of the information available on or through this site provides strategies for improving communication with LEP individuals and populations, and may assist in evaluating the effectiveness, costs, and benefits of various options. The approaches outlined on this site, which may be applicable to the Commission or telecommunications industries, include conducting an assessment of the needs for language access services (similar to this study) and responding to the identified needs by improving access. Specific strategies discussed on the LEP.gov Web site for improving language access include the provision of quality translated materials, quick access to interpreters, educational materials to inform LEP individuals of their rights to access government and government-supported services, and increasing resources to facilitate their access. The Commission, CBOs, and carriers may all find useful strategies and resources on

¹⁶ Report To Congress: Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency, March 14, 2002, p. 16.

¹⁷ Ibid. p. 23.

this Web site to improve their service to LEP consumers. Documents and resources available on this Web site include:

- A “know your rights” brochure targeted at LEP individuals and communities
- A brochure explaining the responsibilities of federal agencies and federally assisted programs
- Guidelines for Choosing a language access provider, such as a translation or interpretation service
- A language assistance planning and self-assessment tool
- A document containing “Tips and Tools” for improving language access services
- Links to census information and language access resources

III) In-language Activities of the Commission Related to Telecommunications Service

One important aspect of providing access to telecommunications services for limited English proficient consumers is to ensure that accurate, useful, and understandable information on existing telecommunications services reaches consumers. The Commission's Consumer Protection Initiative requires the Commission to conduct a program of education and outreach to "inform consumers of the significant features of a service, technology, or a market that should affect their decision to purchase." The decision notes that "[c]onsumer education also can help consumers by informing them of the rights that they have under existing laws and regulations." (D. 06-03-013 at 118.) The CPI decision supports increased education because "education may offer a quicker and more robust way to protect consumers than the adoption of regulatory rules that constrain service offerings by imposing a one-size-fits-all model on a complex and fast-moving industry using many different business models.... An education program can be narrowly tailored to address specific problems encountered by identifiable groups of consumers"(D. 06-03-013, page 119). Based on this, information available to all consumers is intended to inform consumers about their rights and what they should know to obtain and maintain needed or desired services, and avoid discontinuation of service or other negative personal or financial consequences, such as harm to credit. This section of this report describes existing educational efforts by the Commission, including the multilingual CPI education initiative and other Commission-led efforts that target LEP consumers, as well as existing multilingual education programs of telecommunications companies, and identifies some related challenges facing LEP consumers.

A. Past and Current Commission Programs Involving Language Access Efforts

Many programs mandated by or staffed through the Commission have multilingual components. Recent examples that may serve as models for ongoing Commission education and outreach, discussed below, include the education programs established by the CPI in Decision 06-03-013, and the Universal Lifeline Telephone Service programs. Other current activities that include multilingual requirements or educational components include the Commission's involvement with the California Utilities Diversity Council (CUDC), the multilingual outreach requirements for utilities offering the California Alternate Rates for Energy program, and the Commission's related Low-Income Needs Assessment. In addition, the Commission's Electric Education Trust and Telco Education Trust Programs, as well as other mandated Telco education programs have been designed and used to educate consumers. This report will focus on the CPI interim education initiative, the ULTS marketing efforts, and the CUDC activities, as the most recent, systematic, and well-developed examples of Commission multilingual activities. This report also outlines the non-English and multilingual services provided through the Commission's bilingual services office and staff throughout the organization.

1. CPI Education Program

The on-going consumer education portion of the Consumer Protection Initiative (CPI) is being implemented with a focus on educating the most vulnerable customers, including those with limited English proficiency. Commission Decision (D.) 06-03-013 ordered Commission Staff to lead the effort to design, implement, maintain and monitor a telecommunications consumer education program in coordination with representatives of consumer groups, community based organizations (CBOs), as well as wireline and wireless telecommunications carriers.¹⁸ The program has three prongs, including one that

¹⁸ The following groups have participated in developing the program along with Commission staff: Asian Law Caucus, Asian Pacific American Legal Center, Communities for Telecom Rights, Consumer Action,

specifically focuses on protecting and educating consumers who communicate best in a language other than English¹⁹.

Work on CPI consumer education began quickly after D.06-03-013 was adopted. In late March 2006, the implementing commissioners and Commission Staff convened a workshop to outline the tasks of the first phase of the program which is to be performed using current Commission resources. As a result, two task forces (content and media outreach) consisting of carriers, community based organizations and consumer groups were created to collaboratively develop materials, design a website, and plan consumer education outreach. A second all-party workshop was held on April 28, 2006, to review the work completed by the task forces and to finalize the timeline for the June 29, 2006 launch of the program. In this first effort of the CPI, it became apparent that the complexities of designing and implementing a linguistically and culturally sensitive outreach and education effort were time and resource intensive.

On June 29, 2006, the Commission launched the first phase of this program, i.e. the telecommunications Consumer Education Initiative²⁰ establishing interim consumer

Greenlining Institute, Latino Issues Forum, The Utility Reform Network, AT&T California, CTIA- The Wireless Association, Comcast Phone of California, LLC, Cricket Communications, Inc., The California Association of Competitive Telecommunications Companies (CalTel), Cingular Wireless, Cox California Telecom LLC d/b/a Cox Communications, Sprint Nextel (i.e. Nextel of California, Inc., Sprint Telephony PCS, L.P., Sprint Spectrum L.P d/b/a Sprint PCS, Sprint Communications Company), Omnipoint Communications, Inc. d/b/a T-Mobile, Verizon California, Inc., Verizon Wireless, and the Small and Midsized Local Exchange Companies (i.e. Calaveras Telephone Company, Cal-Ore Telephone Company, Citizen's Telecommunications Company of California d/b/a Frontier Communications of California, Ducor Telephone Company, Foresthill Telephone Company, Global Valley Networks, Inc., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., SureWest Telephone, The Siskiyou Telephone Company, Volcano Telephone Company, and Winterhaven Telephone Company).

¹⁹ D.06-03-013 at p. 121: "The first prong is a broad-based information campaign that helps all consumers in the face of the complex and ever-changing array of telecommunications choices. The second prong consists of an education program designed to inform consumers of their rights. ... The third prong combines the first two prongs and focuses more on orienting those customers who are non-English or low-English proficiency speaking, seniors, disabled or low-income."

education measures. The centerpiece of the first phase is a new consumer-oriented website, CalPhoneInfo (www.calphoneinfo.com), to inform consumers about their rights and what they should know to achieve and maintain the best telecommunications service to match their individual needs. It features electronic versions of brochures on issues such as understanding phone bills, slamming, cramming, buying wireless telephone service, and tips about phone service (e.g. choosing telecommunications companies and services, prepaid phone cards, and avoiding telephone fraud and misleading ads). The CalPhoneInfo website also includes other informational pieces, "Frequently Asked Questions", "Tips of the Day", "Hot Items", consumer resources, and information on how to file complaints. Website information will be updated as needed.

The brochures, Tips, and Frequently Asked Questions are available in English, Spanish and Chinese – the three most commonly used languages in California. In addition, the Commission is working to provide translations of the brochures in ten more languages which studies indicate are used by consumers that have limited English proficiency. Translations of the brochures are already available on CalPhoneInfo in three of those languages: Korean, Tagalog and Vietnamese.²¹ In the near future, the Commission plans to provide the same information on the website in the remaining seven languages, i.e. in Cambodian, Thai, Hmong, Russian, Armenian, Arabic, and Farsi. Moreover, the brochures on the website are available in large font and audio versions in English and Spanish to aid disabled consumers. These versions of the brochures will soon be available in Chinese.

²⁰ Ordering Paragraph 24 of D.06-03-013 directed Commission Staff to post to the Commission's website the consumer education material developed in the consumer education program within 120 days of the decision issuance. The program launch on June 29th fulfilled that directive.

²¹ As discussed in Section IV below, several CBOs have stated that the language in these current four brochures is complex and not easily understood by some LEP communities.

Early indications show much interest in the Consumer Education Initiative program. As of August 1, 2006, the CalPhoneInfo website has received 24,606 “hits” or inquiries in a little over a month. Brochures and posters about the website and the assistance that the Commission offers to California consumers have been provided to carriers and CBOs, who are voluntarily providing outreach to their customers or community members in various ways (handing out brochures, billing messages, free text messages). Additionally, the Commission’s own outreach efforts are already progressing, with our Consumer Affairs Branch and Public Advisor’s Office providing educational materials to consumers as part of their usual contact with the public.

The second phase of the CPI Consumer Education Initiative is geared toward establishing a permanent consumer education program regarding telecommunications services. This phase of the education effort will build upon the work in the first phase and will include grassroots outreach (particularly for consumers who are disabled or have limited English proficiency) and a mass media campaign to reach consumers who may not have access to the website. Commission Staff has already issued a Request for Proposal (RFP) for a consultant to assist with the outreach component and is developing a RFP for consultant help in designing and implementing the media campaign. Additional brochures, website enhancements, and Commission-sponsored outreach events will also be developed as part of the initial and ongoing programs.

The Commission determined in D.06-03-013 that the education program should be regularly monitored and evaluated in order to develop reliable data on which to base changes to the education program as well as to support any necessary future rulemaking or enforcement action. In that decision, Commission Staff was directed to develop a collaborative forum to contemplate various monitoring and evaluation options and to create an education monitoring and evaluation program based on its review of different features. The

monitoring and evaluation efforts will consist of five fundamental components: design, data collection, analysis, reporting, and evaluation critique. Staff will also provide Commissioners with annual education and evaluation reports.

Correspondingly, preliminary monitoring and evaluation work is already underway. Commission Staff will schedule time to discuss evaluation options in the current Consumer Education Initiative working group forum. Among other items, participants may discuss how to measure the effectiveness of the consumer education program in reaching California consumers who have limited English proficiency and/ or who have special needs, such as consumers with disabilities. Subject to budgeting approval for this year, Commission Staff is seeking one or more consultants to advise Staff on and/or complete some critical evaluation tasks.

2. ULTS Marketing Effort

The Commission's Universal Lifeline Telephone Service (ULTS or California Lifeline) program focuses on low-income California consumers, including those who have limited English proficiency or other specific language needs. California Lifeline was established in 1984²² to comply with the Moore Universal Telephone Service Act (AB 1348, Chapter 1143, Statutes 1983)²³ to provide discounted basic telephone service to low-income households and as a means to achieve universal service by providing affordable residential telephone service to low-income households. In D.94-09-065, the Commission adopted a goal that at least 95% of California households have telephone service irrespective of income-level, ethnicity, or language spoken in the households.²⁴ This goal was reiterated

²² See Decision D.84-11-028.

²³ The Moore Universal Telephone Service Act was codified at Public Utilities Code § 871 et seq.

²⁴ D.94-09-065, page 6.

and incorporated in the Adopted Universal Service Rules approved by the Commission in D.96-10-066, with a specific focus on improving the service subscribership of California customers, including those in low-income, disabled, non-white and non-English speaking households.²⁵ The Commission currently has a rulemaking underway to consider programmatic changes to the California Lifeline program.²⁶

As part of administering California Lifeline, the Commission contracted with Richard Heath and Associates (RHA) to provide marketing and community outreach for the program and to maintain a call center to enroll qualified people. The marketing campaign includes focus on customers with special language needs. The 2004-2005 ULTS Marketing Program began in August 2004 with emphasis on multiple approaches to reach the program's target populations in English, Spanish, and Asian language-specific markets.²⁷ As part of the marketing program, RHA contracted with community based organizations (CBOs) with

²⁵ D.96-10-066, Appendix B. Rule 3.B.3 states:

“It is the objective of the Commission to improve the subscribership rate of basic service to all customer groups, including low income, disabled, non-white, and non-English speaking households, by means of the following mechanisms:

- a. All incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs) shall be responsible for pursuing the objective of achieving a 95% subscribership rate among all customer groups, including low income, disabled, non-white, and non-English speaking households, in their service territories.
- b. ILECs and CLECs shall have the flexibility to develop innovative strategies to contribute to the attainment of this objective.
- c. In service territories where there is a substantial population of non-English speakers, a carrier's efforts to communicate with such customers in their native languages shall be a factor that the Commission considers in assessing each local carrier's contribution to pursuit of universal service targets.”

²⁶ Commission Rulemaking (R.). 06-05-028 initiates a comprehensive review of its Telecommunications Public Policy Programs – California Lifeline, Payphones Programs, Deaf and Disabled Telecommunications Program, and California Teleconnect Fund. It sets out to examine funding, accountability, fulfillment of statutory goals, and proposal to address identified deficiencies in these programs.

²⁷ *The 2004-2005 Lifeline Marketing Campaign Report*. The target populations included the following language-specific markets: 1) English-speaking adults, inclusive of African Americans, Native Americans, Latinos, Asian Americans and Caucasians, 2) Spanish-speaking Latinos, 3) Asian-language-speaking adults, inclusive of Chinese, Koreans, Vietnamese, Filipinos, Hmong, Cambodians, and Laotians, and 4) “social service recipients”. (see p. 21) In addition, community organizations, community partners and agency partners were selected and developed to reach low income households that included hard-to-reach ethnicities, non-English speaking populations, seniors, Native Americans, rural areas, and social service recipients. (see p. 31)

direct experience serving target populations to conduct consumer education and foster transfers to the RHA call center. The marketing program also included development of advertising in English, Spanish and Asian languages²⁸ and public relations activities including those involving non-profit organizations, adult education and ESL instructors, local businesses, and utilities. The second year of the ULTS Marketing Program for 2005-2006 is building on the infrastructure established the previous year. As part of that effort, RHA has executed agreements with 29 CBOs and has identified nine additional geographic areas as the immediate focus for increased outreach to target populations.²⁹

RHA Call Center data also provides some clues on the language needs of the state’s telecommunications consumers. The RHA Call Center provides in-language services to callers in English, Spanish, Cambodian, Cantonese, Hmong, Korean, Lao, Mandarin, Tagalog and Vietnamese. Between July 1, 2004 and June 30, 2005, the RHA call center logged a total of 24,455 calls in their online system and a total of 31,883 calls recorded by the phone system software.³⁰ According to RHA the calls received during that time period were broken down by language and ethnicity as follows³¹:

Figure 12: Calls Received by Language

- 63.08% English
- 26.58% Spanish
- 2.43% Mandarin
- 2.10% Vietnamese
- 1.77% Cantonese
- 1.57% Korean
- 0.93% Hmong
- 0.80% Other
- 0.46% Tagalog
- 0.22% Cambodian
- 0.05% Laotian

²⁸ *The 2004-2005 Lifeline Marketing Campaign Report*, pp. 22-24. The Asian Languages were Mandarin/ Cantonese, Korean, Vietnamese, Tagalog/ Taglish, Hmong, Cambodian, and Laotian.

²⁹ CPUC Contract 03PS5427, 2005-2006 ULTS Marketing Program: First Quarter Report, August 31, 2005-November 15, 2005, p. 1

³⁰ *The 2004-2005 Annual Report Providing a Summary of All ULTS Call Center Activities for the Period July 1, 2004 to June 30, 2005*, p. 1.

³¹ *Id.*, pp. 2-3.

Figure 13: Calls Received by Ethnicity

- 35.29% Latino
- 29.78% African American
- 10.63% Caucasian
- 9.66% No Response
- 4.67% Other
- 3.84% Chinese
- 2.03% Vietnamese
- 1.48% Korean
- 0.95% Hmong
- 0.95% Filipino
- 0.32% Cambodian
- 0.21% Laotian
- 0.13% Russian
- 0.07% Armenian

3. The California Utilities Diversity Council: Purpose and Activities

The California Utilities Diversity Council (CUDC) was established in March, 2003 to be a resource to and to work collaboratively with the California Public Utilities Commission and regulated utility companies. The purpose of the CUDC is to promote and increase diversity within utilities' governance, customer service and marketing, employment, procurement, and philanthropy programs and practices.

Council members represent diverse business communities, consumer advocacy entities, multi-language interests, education, labor, service-disabled veterans, women's business groups, and the utility companies. Members meet monthly and committees in each of the areas described above determine goals and deliverables.

In 2005, in response to the exponentially growing numbers of limited English proficient (LEP) consumers and the growing demands and challenges of this population, CUDC through its Customer Service and Marketing Committee conducted a survey of language policies and practices within the CUDC utility companies and the Commission. While recognizing that diversity goes beyond languages and includes numerous other characteristics, the LEP population presents special challenges that affect every carrier and

the Commission in terms of product development, service delivery, customer satisfaction, human resources, written and spoken communication, health and safety, and profitability.

The survey was conducted voluntarily with the CUDC utility company members and the Commission. It contained questions related to language demographics; customer service and satisfaction; communications strategies and outreach to ethnic communities; availability of translated materials and quality assurance; interpretive services and quality assurance; assessment of multilingual skills; compensation of multilingual staff; language and cultural awareness training; projections of future needs; and greatest challenges. The survey intentionally focused on best practices rather than on deficiencies. The results indicated trends, highlighted outstanding practices, revealed differences and similarities in practices, identified valuable resources, and indicated challenges and areas to be developed or strengthened. The following utility companies responded to the survey: AT&T (formerly SBC); Verizon; Pacific Gas & Electric Company; Southern California Edison; San Diego Gas and Electric Company and Southern California Gas Company; Southern California Water Co.; and San Jose Water Company. Results of the Commission survey are summarized below, and results of the utility company survey are summarized in the Carrier Multilingual Practices section, below.

a. CUDC Language Access Survey Results as Reported by the CPUC

In its response to the CUDC survey last year, the Commission indicated it serves the linguistically and culturally diverse residents of California; the results of the survey are summarized herein, and do not reflect additional, more recent activities in response to the CPI.

The Commission operates in general compliance with the Dymally-Alatorre Bilingual Services Act and is monitored by the State Personnel Board, and commits necessary resources to meet the needs of the public in accordance with legal mandates. An ever-increasing number of written consumer materials, i.e., consumer handbooks, consumer advisory information, and customer complaint forms are available to customers in Spanish, Chinese, and Vietnamese languages. There are Spanish and Chinese versions of parts of the Commission website, which also includes fact sheets in additional languages. In addition to providing public contact and telephone services to the public in the most commonly spoken languages, the Commission provides, upon request and with at least three days notice, language interpretation services in any language at Public Participations Hearings, Prehearing Conferences, complaint hearings, and any other Commission public forums. Similarly, the Commission can also provide assistive listening in several formats including real time captioning, electronic amplification and/or American Sign Language interpretation and Spanish Sign Language interpretation services through contracted vendors. The Commission has also acquired equipment to offer simultaneous on-site interpretation.

The Commission offers differential pay in accordance with the State Personnel Board Rules and Bilingual Services Act, and has incorporated continuous language training courses into its training goals. The Commission identified its greatest challenge as keeping pace with the needs of the public in order to provide useful, clear and accurate information.

b. CUDC Development and Approval of Language Access Principles

This year, the CUDC developed and approved a set of language access principles that are intended to offer consistency and flexibility for all California utilities in their ongoing efforts and challenges in serving their linguistically diverse customers. These principles will be presented to the CPUC for consideration of formal endorsement; if endorsed by the Commission, these principles may assist the Commission and utilities in developing and

enhancing policies, tactics, quality indicators and benchmarks for improving service to LEP and linguistically isolated consumers. The CUDC acknowledges that many utility companies currently operate to varying degrees under some or all of these principles, and that these principles evolved out of the current best practices of its member companies. These principles are intended to accommodate and assist companies that differ in industry services and products, company size, available human and fiscal resources, levels of existing language access services and their respective customer language preferences and needs. CUDC encourages companies to determine their own plan of action and pace of implementation of any or all of these principles. Toward this end, the CUDC is seeking Commission support for the following six principles:

Principle #1

The Language of Business is the Language of the Customer

Principle #2

Emergencies and Public Safety Require Attention in All Languages

Principle #3

Recruit, Train, and Compensate for Multilingual Expertise

Principle #4

Measure and Monitor Multilingual Programs and Customer Satisfaction

Principle #5

Establish and Implement Quality Indicators for Multilingual Programs and Practices

Principle #6

Corporate Culture: Language Services and Expertise are Value Added

These principles, among other things, acknowledge of the importance of recognizing the customer's language, and the need for establishing quality indicators and monitoring customer satisfaction. If adopted by the Commission, these principles can help to inform future Commission policies for improving service to telecommunications consumers.

B. Commission Efforts to Increase Language Access to Agency Services

In addition to the document translations done as part of the CPI and the translations of general consumer information handouts, the Commission has also embarked upon translating key Commission reports, press releases, and decisions that might have an impact upon non-English speaking constituents. These translations are done on an “as requested” basis for Commissioners, our Executive Office, and Commission Divisions.

A major challenge that the Commission faces in all of its document/consumer materials efforts, is ensuring that the translations are correct and accurately reflect the, often technical, and frequently complex, messages we are portraying. The translation firms with which the Commission contracts do not have a good grasp of the technical and industry terms used in Commission documents. Many of the terms, such as “cramming and slamming,” and other coined terminology, have no direct translations in any language.

To overcome this challenge, the Commission uses in-house staff, who are fluent in other languages, to review the translations for accuracy and correct use of terminology. However, the Bilingual Service Office, described in more detail below, is not always able to secure the necessary in-house resources, when they are needed. An example of this is when the Commission sent the “Energy Action Plan, II” out for translation into Chinese, with the intention that the final document would be presented to members of the Chinese government who set energy policy. Because it was a long and technical document, and there was only a short time for the review of the translated version, the Bilingual Services Office split the review of the document up among several of the Commission staff who review Chinese language documents. Only a few of these reviewers had a background in energy and were capable of correcting the technical portions of the translation, and it was difficult to secure these experts’ time as they had critical deadlines to meet with their daily assignments.

The Bilingual Services office is developing a process for assigning and tracking the review of translated documents in this agency. In addition, the Commission is starting an on-going project of creating a “glossary,” in multiple languages, of the technical terms used in Commission documents. These glossaries will be shared internally and with the translation firms with which the Commission contracts so that the translations they produce will be of a higher quality and accuracy.

1. The Commission Bilingual Services Office

The Commission’s Bilingual Services Office (BSO), consisting of a Bilingual Services Coordinator (Coordinator) within the Public Advisor’s Office, addresses the language services needs of the California public. The primary responsibilities of the BSO and its coordinator are to assist limited English proficiency (LEP) residents in their dealings with the Commission, and develop a systematic, organized, and effective way of complying with the Dymally-Alatorre Bilingual Services Act (BSA). As discussed above, the State Personnel Board (SPB) administers the Biennial Bilingual Survey to all state agencies to monitor compliance with the BSA; among other responsibilities, BSO coordinates the Commission’s response to this survey. In addition, the Bilingual Services Office has looked at the scope of work and potential public contact positions in each Commission Division, and is establishing a plan for each division to ensure that all members of the public are treated with fairness and respect and can communicate in the language they choose.

The 2001-02 biennial bilingual survey showed many areas in which the Commission could improve its services to LEP Californians, including a deficit in the number of SPB-certified bilingual public contact staff and the lack of a complaint process for by which the public can language access concerns.³² The initial results of the 2003-04 survey, received recently by

³² 2001-2002 Language Survey Departmental Summary and Analysis of California Public Utilities Commission, in

the Commission, showed improvement in several areas, reflecting the steps taken since 2002 to improve compliance with the Dymally-Alatorre Bilingual Services Act. Training instituted since 2002 includes a plan to ensure that all employees understand their responsibilities under the BSA, through showing the SPB training videos, Your Responsibility under the Dymally-Alatorre Act and How To Use The Language Line (to access 150+ language interpreters in less than a minute). In addition, the Commission now has a pool of 89 people proficient in 23 languages, 43 of whom are certified by SPB, and has established a toll-free language hotline that the public may call to lodge a complaint about language access. The Commission's Consumer Guide lists the language hotline number with an explanation that public members may call and report complaints regarding language assistance.

The SPB Bilingual Survey identifies language access needs by tallying the number of public contacts and identifying which languages exceed a 5% threshold. If this threshold is met for any given language, the Commission must ensure it has staff that speaks that language. According to the 2003-04 survey, this threshold was met for Spanish and Tagalog. Interpretation (verbal communication) is the service most used to assist consumers. The Commission staff assigned to the Consumer Affairs Branch can speak Spanish, Tagalog, Cantonese, and French, and have access to the Language Line, with interpreters in over 150 languages, which has been in use for over 10 years. As described above, the Commission creates and disseminates translated consumer materials to the public, and has contracted with companies that specialize in translation and interpretation services.

Statewide Language Survey Volume 2: 2001-2002 Language Survey Data Tables and Departmental Summary and Analysis Reports, Section B, report 163, page 11.

The results from the 2005-06 survey will serve as a vehicle to determine what areas are deficient in bilingual services and to develop and implement a plan that will greatly improve the provision of non-English language services to the general public of California.

Going beyond the basic requirements of the BSA, the Bilingual Services Coordinator is working with CBOs to develop a set of languages for providing culturally appropriate and translated materials for their specific communities. In addition, the Commission recently purchased equipment enabling it to provide simultaneous interpretation in public meetings held in its auditorium as well as ensuring that service is available in Commission co-sponsored public forums in other venues around the state.

The Commission has incorporated continuous language training courses into its training goals through an Employee Language Training Plan. The Commission is offering free Spanish language courses during the work day. The classes are being offered to staff in public contact positions, especially staff who must communicate with limited English proficient persons, e.g. administrative law judges, attorneys, consumer affairs representatives, and employees of the Consumer Protection and Safety Division and the Office of Ratepayer Advocates. As part of the Commission's five-year training plan, the language courses will be available for other staff including supervisors, managers, and directors.

2. Language Access to Commission Services

Two main units in the Commission have public contact responsibilities. The Commission's Consumer Affairs Branch (CAB) helps consumers resolve disputes with utilities, including complaints about billing and services, and assists consumers who have questions about their utility services. The Public Advisor's Office conducts outreach and assists consumers who

wish to participate in formal Commission proceedings. The CPI Education Initiative summarized herein exemplifies the outreach functions of the Public Advisor's Office; in addition, the Public Advisor's Office provides translated materials, Commission forms, and Web page material, assists consumers in filing formal complaints, and organizes public participation hearings and other public meetings for the Commission.

CAB has bilingual staff that can take calls in several languages, including Spanish, Cantonese, and Tagalog, and pursuant to the CPI decision, is working on hiring more bilingual staff. CAB can take calls in additional languages with the assistance of the Language Line, an outside telephone service that supports over 150 languages. CAB's Interactive Voice Response (IVR) system provides callers with the option to be assisted in English, Spanish, and Chinese. The IVR is set up to route calls from Spanish and Chinese speakers to staff that are proficient in those languages. The IVR tracks the number of calls received, and in what languages they were received. Over the last six months, the large majority of non-English calls through the IVR have been in Spanish (an average of around 4,000 per month for the first several months of 2006), followed by Mandarin, Cantonese, Korean, and Vietnamese, typically with several dozen IVR calls per month.

The CAB database is also set up to track the language in which complaints are made. This allows review of complaints by language, for example, the number of complaints, the number and size of refunds of impounds, and the dispositions of complaints (for customer or utility) by language. A new CAB database, which has been approved and is expected to be in place in 2007, should provide improved information and better tracking of language trends.

Complaints about transportation companies (limousines and household goods movers, for example) come to the Transportation Enforcement Section of the Consumer Protection and

Safety Division. Since this group also has public contact responsibilities, many of the responsibilities and lessons of CAB's bilingual experience may be relevant to the transportation complaint experience.

3. Past Commission-Ordered Programs that Included Language Access Components

Telecommunication Trust Fund (TET): TET was established in 1986, with \$16.5 million in shareholders' fund assessed by the Commission against Pacific Bell (SBC) for marketing abuses. Its purpose is to reduce California consumers' vulnerability to unfair marketing practices through a better understanding of their service and equipment options in an increasingly competitive telecommunications environment.

TET also emphasizes efforts to educate the public regarding telecommunications policies and regulatory issues, as the industry grows increasingly competitive. Because so many of those affected by the former marketing abuses were limited English speakers, as well as low-income or inexperienced consumers, funding emphasis has been on programs serving these and other disadvantaged consumers. TET was a "grand experiment" in consumer education to protect all California consumers through empowerment: that by teaching them to make educated choices and understand new technologies will benefit consumer of every age, ethnic group and economic condition. Since 1986, TET has funded over 180 projects targeted at consumer telecommunication education and use of better technology towards better service. Its goal is to disburse \$3 million per year to promote ratepayer education efforts over the next 5 years.

The Program supported consumer education projects in three general areas:

1. Projects that help consumers particularly (those who are vulnerable to abuse) to understand and use their telephone service and equipment options, and protect themselves by being better informed. Such groups might include recent immigrants and other limited English speakers; low-income, disabled, or rural consumers; consumers with very limited literacy skills; children; and others with educational needs as identified and justified by specific proposals,
2. projects that help California consumers understand how they will be affected by changing technology, services, and regulation of the telecommunications industry in the coming decade. Target groups might include those listed above, other residential customers and small business proprietors, and
3. special innovative projects that enhance Californians' understanding of the telecommunications system. Needs identified by applicant proposals must be capable of being addressed through educational information efforts.

TET utilized creative collaborators in its education campaign efforts. Grantees have delivered services throughout the State to urban and rural communities. They have spread the word in multiple languages: English, Spanish, Chinese, Japanese, Vietnamese, Khmer, Hmong, Lao, Cambodian, Tagalog, and Armenian. Grantees educated their constituents by holding workshops, home visits, classroom instruction, radio, television, satellite on-line, TDD, the CRS and set up a toll free telephone lines.

Electric Restructuring Education Program: D. 97-03-069 authorized the formation of a joint statewide customer education program (CEP) by PG&E, SDG&E and SCE to inform the public about the changes taking place in the electric industry and to provide consumers with information necessary to allow them to compare and select among products and services in the electric market. To begin the process of educating the public about the electric

restructuring, the Commission authorized the establishment of the Electric Restructuring Education Group (EREG). This body would be made up of stakeholders and was established as a non-profit entity to provide oversight in the development and implementation of the CEP. EREG acknowledged the premise that stakeholder representation is one of the basic consumer education principles vital in the success of a public information program. The EREG was composed of representatives from IOUs, CPUC, ORA, consumer advocates, environmental entities, retailers and energy providers. The Commission charged the EREG with the responsibility to devise and implement the CEP in compliance with the CPUC Code Section 392, which meant informing customers of the changes in the electric industry and providing customers with the necessary information to help them make appropriate decisions regarding their electric service.

Electric Education Trust Fund: EET was to take over CEP efforts from the EREG after the implementation of direct access and continue to educate consumers about the changes in the electric market place in the restructured environment. The main focus of the EET program was to ensure that customers, especially people with limited English speaking language/or other disadvantages, have correct, reliable, and easily understood information to help them make informed choices when dealing with professional and sophisticated marketers. Electric Education Trust Fund (EET) education efforts were modeled after TET to ensure independent and multicultural education and advocacy to benefit residential and small business customers. As mentioned in the context of the EREG, this targeted program utilizing grants to CBOs was a small part of the larger outreach and education effort associated with California's electric restructuring. D.97-08-064 authorized \$10 million for a grant program in which the CBOs receive grants to educate their constituents about the changes and choices in the electric industry – this funded a CBO electric education and outreach plan, which was adopted by D.98-12-085.

A total of 111 CBOs and 7 non-CBOs received grants. There were some agencies that did not use all their funds, did not complete their project or withdrew from the program. 105

CBOs and 6 non-CBOs completed their education programs. EET program was extended by SB 477 July 1, 1999 through December 31, 2001.

GeM, a CBO, administered the electric education and Commission outreach project and provided program monitoring and support services to ensure the success of the EET program. They also assisted CBOs with media training to affect successful media outreach and aided in the development of culturally responsive, language appropriate materials. They also developed a plan for the EET sub-committee group for the non-CBO outreach program to deliver services to areas underserved by other CBOs. The non- CBO program is comprised of government agencies designed to cover geographic or ethnic-specific areas with gaps in community-based organization participation.

The collaborative works of the Commission, EET Committee, CBOs and non-CBOs have been well served by the consumer education program. EET was successful in delivering information to the targeted population using the talents and resources of both CBOs and government agencies in the non-community based programs.

Caller ID Consumer Education Program: In Caller ID consumer education program, the Commission issued D. 92-06-065 that allowed the LECs to offer Caller-ID, under a condition that they conducted a comprehensive consumer education program to alert California consumers to the privacy implications of the service. The Commission also further required that the education campaign provide adequate information on the two forms of number blocking available to consumers: per blocking and per line blocking.³³ The goal

³³California was the last state in the nation to implement Caller ID in July, 1996, but was the first to pass a law requiring blocking options to be provided for California consumers in 1989 (AB 1446, 1989 and PU code section 2893). The length of time between the 1989 legislation and 1996 Caller ID implementation provided the Commission to learn from other states' experience in

of the consumer education efforts is to ensure that all Californians are aware of the services and their implications that include understanding their options for maintaining their privacy as a calling party. The Commission mandated that the education campaign be “on-going for as long as the services are being offered”.

The mandated customer education campaign conducted in 1996 was a massive undertaking, unprecedented in its scope and funded largely with ratepayers’ money. The budgeted cost of the education program was \$33 million. Pacific and other LECs ran radio and TV spots and placed full-page ads in major newspapers. They disseminated bill inserts and letters explaining blocking options and privacy implications. Pacific provided toll free numbers for customers to register their blocking choice in several languages.

Phase I of the community education program involved community based organizations educating hard-to-reach consumers. Pacific and GTE formed a partnership to carry out the community education program for Caller-ID Blocking and hired Richard Heath and Associates (RHA), a consulting firm to develop community outreach component of the education campaign.³⁴ RHA administered a competitive grant process to 188 CBOs and domestic violence shelters to reach out into their communities with this important consumer education program. Workshops were held throughout the State. Grantees were trained to reach their constituents with effective educational messages. Educational materials were developed in 24 languages, Braille and American Sign Language. RHA developed a training program approved by Pacific/GTE under the direction of the Commission. A training manual was developed that provided a recommended dialogue by grantees.

implementing Caller ID. It also proved to be the impetus in California approach to consumer education.

³⁴ Final Report: Pacific Bell/GTE Community Education Program for Caller ID Blocking, Lynn Victor, Richard Heath & Assoc., May 20, 1997.

From March 1996 through February 1997, Pacific Bell/GTE Community Education Program for Caller ID Blocking educated over 6 million consumers. Public education was provided through workshops, videos, one-on-one counseling, classroom presentations, teleconference, fact sheets, informational mailers, radio talk shows, consumer affairs televisions shows, comic books, theater presentations, songs, community meetings, religious organizations, newsletters, community newspapers and hotlines. A total of \$4,179,638 was spent in three areas: (1) grants to community organizations; (2) educational materials including video development, translations, printing and shipping of all materials; and (3) administration, training, meetings, travel and conference.

Grantees educated 5,944,033 hard-to-reach consumers and domestic violence victims. 165,003 community leaders were educated, who in turn educated an unknown number of their constituents. In all, 6,109,036 were educated at a cost of just over \$1 per person.

Community Collaborative Agreement (CCA): CCA was created from the merger of Bell Atlantic and GTE California in D.00-03-021. As part of the merger approval, Bell Atlantic executed the CCA with community organizations representing diverse constituencies. The Commission established a Community Collaborative Fund (CCF) for \$25 million over 10 years to increase access to telecommunication services for underserved communities in California. Underserved communities comprise the low-income, ethnic, minority, limited English speaking and disabled communities in various rural, urban, and inner-city regions.

To accomplish this goal, it provides the following: (1) Community Collaborative Fund - \$2.5 million per year for 10 years, funded from the ratepayer allocation of merger benefits. Funds will be used to benefit under-served community access to telecommunications and information services, education, literacy, telemedicine, economic development and

telecommunications advocacy; (2) universal service funds of \$1.3 million per year for three years for GTE/Bell Atlantic to consider other under-served populations such as the disabled and Native Americans to ascertain what issues and policies, including a universal design policy and public-interest pay telephones in these under-served communities; (3) increased its community support for a minimum of 4 years, \$1 million per year will be directed to grants to non-profit CBOs serving the underserved communities; (4) encourage and support their California employees to donate their time and knowledge to non-profit agencies that focus on literacy, education, and technology application programs; (5) maintain or improve the quality of telephone service in California, including the underserved communities, and (6) committed to continue to make diversity a critical component in the recruitment, hiring, career development and promotion of all people including minority, women and disabled employees at all levels to meet the diverse needs of their customers.

A total of 180 grants totaling \$6.9 million were awarded since 2001. This program will expire in 2011.

Telecommunications Consumer Protection Fund (TCPF): The fund was created and authorized by the Commission (D.98-12-084) to finance a customer education program as a result of GTEC marketing practices. The fund was designed to provide consumer education about telecommunications matters to limited or non-English speaking communities. This education campaign targeted ethnic and local media to educate the consumers and direct them to local grantees if they need assistance. Grantees were given media training and briefing packets to work with their own local and ethnic media. The goal was to address telecommunications issues and build a statewide network, which can be used to distribute other types of communications information. This network would also link smaller grassroots organizations with larger, more established groups to share information and technical support beyond the grant period.

Program goals and priorities are to: (1) Support smaller, grassroots organizations, especially in rural, semi-rural or suburban communities; (2) utilize the local ethnic and community media to educate consumers about telecommunications marketing abuses and availability of grantees to assist consumers; (3) provide information, assistance and referral to individual consumers regarding telecommunications grievances or complaints; (4) teach or empower individual consumers to access consumer information on their own and advocate on their behalf; (5) develop the long-term capacity of grassroots, non-profit organizations to provide telecommunications consumer education and assistance to limited-English speaking communities; (6) reduce the duplication of effort in creating and distributing telecommunications consumer materials; (7) develop and support electronic networking and coordination between grassroots community groups and major consumer organizations that will last beyond the grants awarded; and (8) develop the capacity of grassroots organizations serving limited-English speaking communities to serve as representatives and advocates in statewide telecommunications protection, regulation and legislation.

Communities for Telecommunication Rights (CTR): Latino Issues Forum recently obtained a \$38,000 grant (two cycles of one year grants) from the California Consumer Protection Fund to fund its education campaign on the telecommunications for a year. Asian Pacific American Legal Center of Southern California (APALC), LIF and Utility Consumers' Action Network, (UCAN) are the lead agencies that will facilitate grantees through the education, interviewing and complaint process. The CTR project creates data on the telecommunications issues that impact the Latinos and Asian communities and establish a precedent on consumer education program.

The lead agencies conducted their training on October 10, 2003 in which there was participation by 26 CBOs grantees. The education campaign addresses the needs of the

non-English and limited English households and low - income families about their rights as consumers and how they can assert their rights and prevent and act against telecommunications fraud and other abusive practices targeting the Latinos and Asians that have language barriers in addressing their complaint. Their education program will focus on slamming, cramming, payphone, do not call, and do not disconnect service.

LIF is committed to use its website to post the new consumer protection rights and rules adopted by the Commission. Fact sheets and dispute resolution on the consumer protection initiative rules and rights will also be posted. LIF as lead agency to 24 CBOs and Greenlining will disseminate consumer education program notices and other related information “to get the word out” to the local communities and “hard to reach” consumers. Information on the above will be linked to the 24 CBOs’ websites. LIF will replenish the CPI information on their website to educate CBOs and their constituents. CTR has been a major contributor in the implementation of CPI.

C. Commission Enforcement Efforts Related to Language

The Utility Enforcement Branch of the Consumer Protection and Safety Division (CPSD) investigates alleged or apparent violations of the Public Utilities Code, other state laws, and Commission regulations by telecommunications, energy, and water utilities, and other industries regulated by the Commission. These investigations typically involve consumer fraud, false or misleading advertising, bait-and-switch tactics, unfair and unlawful business practices, and unregistered operations. When sufficient evidence of violations is uncovered, the Enforcement Analysts of the Utility Enforcement Branch has a variety of administrative, criminal, and civil remedies to address these problems.

Administrative remedies may be appropriate (and possible) only where the individual or company suspected of being in violation has Commission operating authority, or has applied for it. A decision pending before the Commission may delegate authority to the Utility Enforcement Branch to issue citations, carrying fines of up to \$20,000, which the carrier may choose to either pay, or deny and request a hearing before an Administrative Law Judge (ALJ). CPSD also asks the Commission to open a formal investigation (OII) or may protest a company's application. Unless CPSD and the respondent reach a settlement which is subsequently adopted by the Commission, an OII will result in an evidentiary hearing before an ALJ, and, ultimately, a Commission Decision which may contain sanctions. Sanctions may include fines, orders to pay restitution to consumers, modifications or limitations on operating authority, or denial, suspension or revocation of operating authority.

Most of the provisions of the Public Utilities Code, as well as many laws in other California Codes relevant to persons and companies regulated by the Commission, carry criminal penalties. In addition to Public Utilities Code provisions such as unlawful marketing practices, operations without Commission authority, perjury before the Commission, and contempt of the Commission, the Utility Enforcement Branch's investigations commonly involve crimes contained in other California codes. When appropriate, the Utility Enforcement Branch files reports on such cases with local prosecutors or the California Attorney General's Office with a recommendation for criminal (felony or misdemeanor) or civil prosecution in the appropriate California courts.

In civil actions under the Business and Professions Code (Section 17200) and various provisions of the Public Utilities Code (e.g. Sections 2102 and 5259), the Utility Enforcement Branch may seek injunctive relief from the courts to enjoin individuals and companies from further violations of the law. Also, in addition to or in lieu of criminal prosecution, local prosecutors may elect to civilly prosecute violations of the Public Utilities

Code and other statutes as unfair, unlawful business practices under Section 17200 of the Business and Professions Code.

The CPSD Utility Enforcement Branch has investigated possible violations of Public Utilities Codes and Commission rules, in the telecommunications area and other industries. Some investigations of alleged slamming and cramming by specific telecommunications companies have involved many Limited English Proficient (LEP) complainants. Several of the language-related cases identified by enforcement staff have similar characteristics: multiple slamming complaints against a particular carrier, with many reported by LEP consumers, and many of the required Third Party Verification recordings in languages other than English. CPSD relied on its bilingual staff to investigate these cases, and solicited sworn statements in the customers' primary language for use in related formal proceedings. CPSD states that pursuing cases that involve LEP consumers require resources and activities that may not be required for cases in which most complainants are English proficient. In these cases, CPSD may utilize bilingual staff, and may be required to take additional time explaining the role of the Commission as a regulator, consumer rights, and more specifically the staff role in investigating complaints.

CBOs raised serious issues about possible fraudulent activities by wireless dealers and providers of prepaid phone cards using in-language materials to target specific communities. In addition to enforcement actions that Commission staff are currently undertaking, an effort is underway to develop a better working relationship between CBOs and the Commission's new Telecommunications Fraud Unit to improve investigation of such activities. Enforcement personnel should work swiftly with the CBOs and appropriate law enforcement authorities to deter such fraud. Progress in this area has been made. On September 26, 2006, CBOs met with CPSD to initiate a dialog and to apprise CPSD of the scope of CBO efforts to identify potentially fraudulent or abusive practices.

Provisions of Decision 06-03-013, the Consumer Protection Initiative, call for CPSD to enhance its ability to pursue enforcement actions, which it has done through the creation of a Telecommunications Fraud Unit that directly takes and investigates consumer reports of alleged fraud. CPSD is also working to establish ways to cooperate with local District Attorneys, state Attorneys General, other law enforcement agencies, the FCC, the FTC, and CBOs, to further improve enforcement activities.

IV) Carriers' Multilingual Practices

In order to gather information on carrier practices, Commission staff sent survey questions to all certificated and registered telecommunications carriers in California (wireless and wireline) asking for information on their services for and interactions with LEP consumers. Approximately 100 telecommunications companies responded to this request for information. Many companies stated that they were not able to provide information on LEP customers because they do not track such information or do not provide non-English services. Many companies of varying sizes and with varying business models were able to provide information on their multilingual marketing, education, and outreach services, and the language demographics of their customers. Because some carriers asked that their information be kept confidential, this report will summarize the approaches and types of information offered by the respondents without referring to particular companies by name. The Commission also received three sets of comments from telecommunications carriers or groups of carriers responding to the Commission's study plan, and these comments (see Appendix C) provide some insight into different possible approaches telecommunications companies may take to language access. Four carriers or groups of carriers (CTIA/Joint Wireless carriers, AT&T, Cox Communications, and the Small and Mid-size LECs) also commented on the draft staff report issued on August 21, 2006. Carriers submitting comments expressed their support for a voluntary and collaborative process for resolving the challenges faced by LEP consumers, primarily through cooperation between carriers, CBOs, and the Commission in resolving individual customer complaints. In addition, this study considers the results of the CUDC survey of utility companies mentioned above. Though respondents to this survey represent several different industries in addition to the telecommunications industry, the findings largely agree with information Commission staff received from telecommunications companies, and are relevant to this study because all companies are public utilities serving California residents.

A. CUDC Survey of Company Language Practices

All eight utility companies that responded to the CUDC survey (AT&T, formerly SBC; Verizon; Pacific Gas & Electric Company; Southern California Edison; San Diego Gas and Electric Company and Southern California Gas Company; Southern California Water Co.; and San Jose Water Company) are serving linguistically and culturally diverse customer bases and are projecting continued growth of these populations. The utility companies are committing human and fiscal resources to meet the demands, to provide better services, to grow profitability, and to remain competitive.

All companies provide some level of customer service in at least one language in addition to English, and are either expanding multilingual services or in the case of the smaller companies, considering it. There is awareness, action and appreciation for California's highly diverse population, and some strategic and effective programs in all of the large companies and in some of the smaller ones. One CUDC member expressed urgency in increased attention to recruiting and retention policies that create a management/employee population that reflects the community they serve.

Most companies regularly monitor customer service telephone calls for quality assurance. Several companies utilize third party vendors that provide telephone interpretation in many languages in order to serve all customers who speak languages other than English. All companies indicated that Spanish is spoken by the majority of their limited English proficient (LEP) customers, followed by several Asian languages including Mandarin Chinese, Vietnamese, Korean, Tagalog, and to a lesser degree Indo-European and other less commonly spoken languages. All companies provide some translated materials in Spanish; the larger companies provide numerous materials in the languages most commonly spoken in their service regions.

The majority of respondents provide diversity and cultural awareness training, some with comprehensive training that includes company leadership or diversity champions promoting the value of diversity. Programs include but are not limited to online training, internally produced videos, externally produced videos and other resources, trainer led sessions, advanced management training, and web-based resources. Three of the responding companies offer pay differential for multilingual employees.

Assessment of bilingual proficiency of employees varies from company to company. Methods include using professional language testing by telephone, and in-house role play and interviews. Two companies have no formal assessment. No utility company assesses its applicants or employees for literacy in reading and writing in languages other than English.

Top challenges noted by the majority of companies include a rapidly increasing multilingual and multicultural customer base, the costs of effective programs and services, cultural inclusion, cultural relevance and appropriateness of products and marketing strategies, and human resources staffing and scheduling.

Analysis of the CUDC survey results suggests areas that may warrant further consideration for some companies. These include pay differential for multilingual employees, effective strategies and resources for assessing bilingual proficiency, assessing biliteracy (the ability to read and write in a second language), offering language courses for employees and executives who communicate with LEP customers, and more in-depth cultural awareness that includes American Indian, and other ethnic/cultural groups.

B. Telecommunications Carriers' In-language Activities

Many telecommunications companies provide their own in-language marketing, outreach, and education for their customers and prospective customers. Based on the information

received from carriers, many of these in-language practices are initiated by the companies to better serve their customers or to attract new customers. Other in-language activities are in compliance with state requirements, including past Commission orders.

1. Commission Requirements for In-language Carrier Outreach and Education

Several Commission decisions provide current requirements for in-language outreach and education by telecommunications companies. For example, Decision 96-10-076 requires Competitive Local Exchange Carriers (CLECs) and large Incumbent Local Exchange Carriers (ILECs) to provide specific information to customers in specific languages if they market services in those languages. The languages specified in this decision are limited to the seven languages most commonly spoken in the state at the time of the decision in 1996: Spanish, Mandarin, Cantonese, Vietnamese, Korean, Japanese, and Tagalog (D. 96-10-076).³⁵ Carriers are subject to these requirements if they choose to market their services in these languages, and thus can avoid in-language obligations under this decision by not marketing in-language.³⁶

Several other state laws and regulations, described above and enumerated in the carriers' comments on the LEP Draft Study Plan, also impose obligations on various providers of telecommunications services. A review of these requirements shows that do not apply equally to different types of telecommunications providers (e.g. wireless versus wireline companies, incumbent versus competitive local exchange carriers), which may provide

³⁵ As pointed out in study plan comments from some carriers, these are not the seven languages mentioned for education in the CPI decision, which reflect the seven languages most commonly spoken in the state today: English, Spanish, Chinese, Vietnamese, Korean, Tagalog and Hmong. As discussed above, the current CPI initiative will translate materials into as many as 13 languages.

³⁶ Comments of Small and Mid-size LECs, at 3.

different incentives to provide or not provide in-language outreach, thus affecting the information and services available to LEP populations. For example, at least one carrier stated in the June 26, 2006 workshop that it stopped marketing in some languages due to the fact that such marketing would invoke additional in-language obligations; this carrier noted that it has related unregulated businesses not subject to these requirements that market in additional languages. These and other effects, implications, and associated costs of these regulatory requirements and how it impacts carriers' decisions whether or not to market in language to diverse California LEP communities are an appropriate subject for further Commission study. If regulatory action seems warranted based on that study, staff may recommend a formal proceeding to develop a case record, facilitate discovery and information gathering on costs and benefits of such programs and initiatives, and allow for examinations and verification of information entered into the record.

2. Carrier-Initiated Marketing, Education, and Customer Service Efforts

Carriers responding to the Commission's information request in June and July 2006 described many measures that they take to communicate with their LEP customers. To briefly summarize, common practices include asking whether customers prefer to receive information in a language other than English at the time a customer opens an account, and tracking these language preferences in a carrier database or billing system to enable the carrier to send future information (ranging from written order confirmations to bills, new service offerings, and other information) in the customer's language of choice. Overall, larger carriers are more likely than smaller companies to serve larger linguistic groups (e.g. Spanish, Chinese) with in-house employees, and to use Language Line telephone interpretation services for others. Some larger carriers note that their in-language marketing, education, and services have grown slowly over the past two decades or more, as

state demographics change and the companies attempt to identify and better serve LEP populations.

Three approaches to serving LEP populations seem to be common among telecommunications carriers that serve few customers in the state or operate in a limited geographic area: (1) provide no particular in-language marketing or services; (2) utilize limited marketing and offer some communications in the most commonly spoken non-English languages; or (3) specialize in multicultural, multiethnic, or LEP populations, offering marketing, information, and services in a variety of languages. These different approaches represent different marketing and customer service strategies, and which is chosen by a given carrier seems to depend on the carrier's business model, as well as the actual or perceived need for non-English services in the carrier's main geographic area and the actual or expected costs of serving LEP customers.

Several smaller carriers state that they do not provide non-English educational materials because they do not perceive a need for such services among their particular customer bases. This may be because the geographic service area in which the carrier operates is small and/or the population is overwhelmingly English-speaking. Alternatively, the carrier may not have investigated the linguistic demographics of the area and has not received requests for information in languages other than English. In such cases, carriers point to the costs of tracking language preferences and providing in-language materials and explain that doing so does not appear to be cost-effective because of the apparent lack of LEP customers served by the carrier. These claims are difficult to evaluate at this time because carriers have not provided data in support of their claims, but are explaining their business judgments to date.

Larger carriers similarly cite cost effectiveness to explain why they provide more information in English, Spanish, and other commonly spoken languages such as Mandarin and Cantonese, than in other languages. State demographics support the claims of many

carriers that they have more Spanish-speaking customers than customers speaking any other single language except English, and so Spanish language communications are likely to be more cost-effective than materials in additional languages. Still, many carriers provide confirmation letters, ULTS information, and other educational and marketing materials in up to seven languages.

Larger carriers, and some smaller carriers that specialize in multiethnic customers, also provide in-house customer service in languages other than English, most commonly Spanish, but also several Asian languages, as well as Russian, Armenian, Arabic, and others, and at least one large carrier has several call centers dedicated to serving LEP Spanish-speaking populations. Some carriers have bilingual employees to provide non-English customer service, but have limited staff and hours in which bilingual services are available; callers who do not reach a bilingual staff person or call when bilingual services are unavailable may be asked to leave a message to receive a return call in their language of preference, rather than receiving immediate assistance. Many carriers utilize the Language Line translation services when dealing with customers that do not speak a language supported by carrier staff. Carriers that do not have bilingual staff or utilize the language line suggest that their LEP customers cope with the lack of in-language materials by providing their own translators or interpreters to assist them in shopping for telecommunications services and understanding written and oral communications from their service providers.

3. Carrier Quality Control and Oversight of Bilingual Activities

The level to which carriers engage in quality control over internal bilingual operations also varies throughout the industry. Some companies use internal staff to monitor the quality of in-language customer service, and some carriers contract with third parties to review in-language communications for accuracy and quality. Some of California's largest

telecommunications carriers undertake customer surveys of their Spanish customers to ensure customer satisfaction with in-language services; few companies provide this level of quality control in Asian languages. Smaller carriers that rely on customers to provide their own interpreters or do not translate their materials into languages other than English do not generally have systems in place for monitoring the satisfaction of their LEP customers with in-language service, and do not have quality control monitoring for in-language services.

The Commission did not formally gather data on the manner, frequency, and effectiveness of telecommunications carrier oversight of third party dealers or agents (resellers of a carrier's wireless services, for example), despite the fact that some such dealers focus their advertising and marketing on LEP populations. When possible language-related issues with some dealers were raised by consumer groups in the June 26, 2006 workshop and the four July and August 2006 public meetings related to this project, carrier representatives in attendance were able to provide a brief response. In general, carriers reported that if they become aware of fraud or abusive marketing on the part of one or more dealers, agents or resellers under contract to market their products, the carriers will (and in the past have had occasion to) discontinue contracts with those dealers.

C. Carrier Comments on the August 2006 Draft Staff Report

On September 14, 2006, various carriers (CTIA/Joint Wireless carriers, AT&T, Cox Communications, and the Small and mid-size LECs) submitted a total of four sets of comments on the draft staff report issued on August 21, 2006. As mentioned above, the carriers' comments generally expressed a preference for a voluntary and collaborative process for resolving the challenges faced by LEP consumers, primarily through cooperation between carriers, CBOs, and the Commission in resolving individual customer complaints. Commenting carriers universally asserted that formal rules are neither necessary nor desirable, due to the complexity of the issues facing carriers in serving their LEP customers and the varying characteristics and business models of carriers. AT&T made a few new

proposals for action to improve Commission language access, including that the Commission should appoint a “language Czar” in the Public Advisor’s Office to oversee language access issues, and that the Commission should use objective, consistent, and transparent criteria for adding or deleting languages for future education efforts. Several carriers were supportive of some recommendations of the draft report, such as setting up formal agreements between CBOs and carriers to facilitate CBO advocacy and complaint resolution, and continuing to study LEP challenges and issues. Other recommendations garnered mixed reactions in these comments, and some expressed a desire for clarification of specific proposals from the draft staff report. Commission staff have considered these comments and have revised later sections of this report to address these issues.

V) Challenges and Needs of LEP Telecommunications Consumers

Based on input received from consumer advocates, both in written comments from several CBOs and at the workshops and public meetings held to gather information for this report, staff concludes that there is a need for more in-language information and service. Issues discussed at these meetings also suggest a need for increased and speedier Commission enforcement of fraudulent activities and other PU code and rule violations by unscrupulous persons or companies that target LEP populations, and increased attention on the issue of how to require carriers to have better oversight over dealers, agents or resellers that market telecommunications products and services under contract with telecommunications companies. Some of these issues are best resolved in a focused effort with a formal Commission proceeding, in which parties can develop a formal record and determine the need for, and where appropriate, the specific terms of rules to address ongoing and persistent problems facing LEP consumers.

A. Information Needs

CBO representatives suggested in the public meetings that information available to English-speaking customers, including service contracts, bills, or a confirming document outlining the rates and key terms and conditions of the customer agreement, should be translated into the languages other than English (LOTEs) in which the carrier markets or conducts sales. Such foreign language documents would allow LEP consumers to better understand the products that they purchase, and their rights and responsibilities as a customer. Having materials that clearly state the rates and key terms and conditions (for example, services provided, early termination fees, term length if any, and exceptions and limitations to service) could help to avoid or address many of the problems encountered by CBOs working with LEP populations, which they describe as “a disconnect” between what the consumer believed he or she was buying and what the dealer/agent/reseller or telecommunications

provider believes was sold. CBOs state that in-language contracts or lists of key services and terms would allow customers and consumer advocates to have a reference document that records their service agreements and provide a reference to help answer future questions. A recurring point made at the public meetings is that regardless of the language in which a sale takes place, people do not always remember all they are told accurately, so it is wise to have key information in writing; of course, such information is only useful to a customer if he or she can understand it.

In addition to this need for the translation of documents provided in English to be translated into languages other than English, some participants in the public meetings stated that there is an unmet need for information that addresses the special situations of LEP consumers, is culturally appropriate, and is appropriate to the target audience's reading level. CBOs and some carriers suggested that merely translating "mainstream" information from English is inadequate to serve LEP populations, for several reasons.

First, LEP customers may need different or additional advice than English proficient consumers to assist them in shopping for telecommunications services. In written comments on the study plan, for example, Asian Law Caucus, points out that educational materials sometimes make recommendations that are not helpful to LEP customers (e.g., to read contracts, terms, and conditions, when those are not provided in a language the Asian customer can read), when different advice would be more relevant to these consumers (e.g., to bring a fluent English Speaker, preferably an adult, to interpret and translate when shopping for telephone services)³⁷.

Second, some carrier and Commission information assumes a relatively high (high school or above) reading level, and some knowledge of existing telecommunications terminology and services; CBOs state that these assumptions may not be realistic for some language

³⁷ ALC Study Plan Comments, p. 3.

communities. Some language minorities in the state have average education levels much lower than the overall state average, and in these cases more graphics and fewer words may be more informative. For example, at the Stockton public meeting, it was stated that many migrant workers from Mexico typically have first to third grade educations in their native language. Similarly, the Hmong and Lao communities made similar points about low education levels for some of its population³⁸. In the case of communities with low rates of literacy in both English and their primary language, alternative education methods such as oral radio and television PSA type announcements may be more effective.

Based on CBO comments and the demographics of the state, it may also be appropriate to have information available in additional languages. Rather than considering only the languages that are most commonly spoken in the state of California, or in which the Commission already receives large numbers of complaints, the Commission could consider other languages mentioned by CBOs. Materials in some additional languages that are not among those most commonly spoken statewide may be valuable if the language population has particularly high rates of linguistic isolation (meaning that speakers are less likely to have household members who can assist in English transactions), is growing quickly (e.g. Russian and Armenian³⁹), or is common in a particular geographic area (Cambodian, Hmong, or other Southeast Asian communities in certain parts of the Central Valley).

CBO representatives also noted that despite the best efforts of the Commission and telecommunications companies, the in-language materials that currently exist do not always reach the appropriate customers in time to assist with critical decision-making. Some

³⁸ Source: comment on Cambodian community, Fresno meeting, similar comments on Hmong, Lao and migrant worker communities at Stockton and other public meetings.

³⁹ In its presentation at the June 26, 2006, workshop and elsewhere, AT&T identifies Russian and Armenian as the two languages for which it has the most demand for Language Line services, and two of several languages appropriate for additional outreach.

argued that many purchase their wireless services at “kiosk” type facilities at community gathering places, relying on oral representations of the salesperson. As a result, customers are not always aware of their rights, do not compare rate plans or coverage maps between carriers, and do not always have access to the information that they need to ensure that they purchase the best services for their particular situations. When marketing and sales take place in a language other than English but all written confirmation of the sale is provided in English, it may be difficult or impossible for an LEP consumer to verify that what was purchased matches what was represented by the salesperson or marketing materials. This situation may at best promote misunderstanding and at worst facilitate fraud or abusive marketing practices.

B. Customer Service Needs

In addition to an increase in education, CBOs suggest that consumers would benefit from changes to the customer service systems of the Commission and telecommunications service providers. As mentioned above, many companies offer few if any in-language customer service; this makes it difficult for LEP consumers to resolve billing questions, service complaints, and other issues directly with their service provider. Some companies that offer in-language customer service offer it only during limited hours or on a call-back basis; this may not adequately serve the needs of LEP consumers who have busy or inflexible work schedules or other personal, family, or community commitments. CBOs also pointed to cultural characteristics, such as a communities’ inherent distrust of government, utilities or corporations or a reluctance to complain, which can also lead to difficulties in resolving complaints. Customer service procedures can be improved by making them more accessible to and tolerant of customers with cultural differences.

CBO representatives at two of the public meetings described that this difficulty is exacerbated by a “lack of continuity” in customer service: most companies do not allow customers to deal with a single customer service representative from the initial question or

complaint until the issue is resolved. This increases the efficiency of service providers' call centers, but result in consumers (and CBOs attempting to assist them) having to repeat their questions or concerns during subsequent calls if the issue is not resolved during the first contact. While this issue may seem the same for English speakers as for LEP consumers, it can cause additional hardships for LEP people who need to provide their own interpreter or access the Language Line just to be understood. A further complication may occur if the interpreter (whether provided by the customer, the service provider, or the Language Line) is not familiar with technical terms used in the telecommunications industry.

CBOs also describe their complaint resolution function, assisting LEP and other customers in working with utilities and the Commission's Consumer Affairs Branch to address and solve customer complaints. CBOs associated with Communities for Telecommunications Rights (CTR), in particular, take an active role in working with customers, and tracking the complaints that they receive. CTR and other CBOs also note the difficulties that they experience in dealing with carriers, due to privacy concerns and the CBOs' lack of recognized standing with the carriers to advocate on behalf of specific consumers. In addition, several CBOs express concern in their comments on the draft staff report about the imminent loss of funding for CTR, and the negative effect that this is likely to have on customers who depend on CTR CBOs for this assistance. Both CBOs and carriers support the continuation of CTR funding by the Commission.

C. Enforcement Needs

In the workshops and public hearings, CBOs raised many concerns about fraudulent and abusive activities targeted at LEP telecommunications consumers. These issues include "bait and switch" sales tactics, the misrepresentation of terms of wireless phone contracts or pre-paid phone cards by carrier-authorized and unauthorized agents/dealers/resellers, and other possible scams that involve misleading advertising or bad faith on the part of a carrier

or dealer/agent, reseller. One example given from the APALC involved an advertisement in a Chinese language newspaper for a very low monthly wireless phone rate that include discounts for a rebate available only if the customer stays on the service for a specific time period (e.g. two years) that then never materializes. Though it is true that many of the activities described by CBOs would constitute fraud, abusive marketing, or other statute or rule violations, regardless of the language in which they take place, there is a belief among consumer advocates that LEP populations are more vulnerable because of language barriers. Without a study, it is not possible to know whether such tactics are more common in ethnic media or in-language marketing than in English, but it is clear from the examples shown in our workshops and public meetings that some non-English speakers are susceptible to misunderstandings and unscrupulous practices. CBOs suggest that additional enforcement focused on abusive in-language marketing would be appropriate because LEP customers encountering these schemes may be less likely report or resolve their problems due to a of lack of information on their rights, to a lack of access to in-language customer service, or to cultural differences.

CBOs also recommend that the Commission adopt formal rules, particularly to require in-language disclosures (of contracts or key terms and conditions) when marketing and sales transactions take place in languages other than English. Such rules could empower LEP consumer by providing them with the information necessary for accurate understanding of the terms of any agreement.

D. Comments of CBOs and Consumer Advocacy Organizations on the August 2006 Draft Staff Report

On September 14, 2006, seven sets of comments were submitted by individuals, CBOs, carriers, and consumer advocacy organizations on the draft staff report issued on August 21,

2006⁴⁰. In addition, P-Core, another CBO, provided a background paper on the Filipino language and culture. Most of these comments expressed a strong preference for the initiation of a formal Commission proceeding to address the challenges faced by LEP consumers, and advocated for the adoption of rules to ensure that carriers provide in-language information such as contracts or key terms and conditions of service contracts to LEP, and take responsibility for the actions of dealers or agents that sell their services.

The comments from CTR contained several specific proposals for action to improve language access, including: 1) initiate of a formal proceeding to consider rules; 2) adopt rules that would require carriers that market and conduct sales in the five most commonly spoken languages in the state to provide a statement of key contract terms and conditions at the time of sale to customers purchasing service in those languages; 3) adopt rules mandating in-language billing by carriers for consumers who are marketed and sold services in these languages; 4) adopt rules clarifying carrier responsibility for third party dealers or agents selling their products or services; 5) use California Civil Code § 1632 as a model for language-related rules; 6) continue CTR funding for complaint resolution and outreach activities; 7) improve tracking of language-related complaints; 8) require carriers to track and report on language-related complaints. CTR also requests that the Commission clarify and explain Commission enforcement and complaint resolution by carriers, and take other actions to improve information and service available to LEP consumers from the Commission and carriers. Several CBOs state their belief that education of LEP consumers alone will not be adequate to overcome the problems and challenges faced by LEP consumers, and CTR in particular advocates for affording LEP consumers with the same protections already available to English-speaking consumers. Commission staff have considered these comments, and have revised later sections of this report with them in mind.

⁴⁰ Comments were submitted by CTR, the Watsonville Law Center, Asian Law Caucus, Roy Segovia, Consumer Federation of California, Cox Communications, and the Small and mid-size LECs.

VI) Options for Consideration by the Commission

Section 14 of Decision 06-03-013 states that “in preparation for any regulatory action that may be directed by the study, [the Commission] will open a proceeding specifically designed to address in-language issues” (D.06-03-013, at 138). This staff study has revealed the depth and complexity of issues facing LEP consumers, as well as some general approaches for addressing these issues in the short and long term. Further time and information is required, however, to define specific options and analyze their costs, benefits, anticipated outcomes, and feasibility of options for addressing those challenges. This should begin before a formal proceeding is initiated, to ensure a focused and expeditious response to these problems; many actions can be accomplished quickly and without the need for a formal proceeding. There is also the possibility that the collaborative process that has been guiding CPI implementation may be able to yield voluntary solutions by the carriers in a manner that satisfies the Commission. Still, staff anticipates that a formal proceeding will be necessary to determine the need for rules and, if rules are appropriate, the specifics of those rules, but is open to efforts carriers and other stakeholders may make to develop voluntary industry standards that address the problems identified in this report. Staff further recommends that to the extent possible, solutions that do not require formal Commission action, such as staff initiatives that may be undertaken at the direction of the Commission’s executive director and voluntary industry actions, should not be delayed awaiting the results of any forthcoming proceeding.

A further information gathering process followed by a formal proceeding to determine the necessity for and, if appropriate, specifics of rules that will also address concerns of CBOs for additional time to provide information and do research that better describes and suggests ways to address the challenges facing of LEP consumers. Two parties in their comments on the staff study plan released in June 2006 requested that the due date for the staff report be delayed by two months to allow them to perform their own research and contribute

additional information to this Commission effort. Though such an extension was not granted, staff proposes to continue its information gathering consistent with a goal of presenting the Commission with a set of specific policy options and recommendations in the near future. The following discussion is intended to outline both immediate actions and the possible scope of a formal proceeding, to be based around a staff proposal targeted for later this year.

A. Options for Improving Education

As proposed by the CBOs, the Commission should investigate the actual costs and benefits of providing service contracts, bills, and a confirming document or key rates, terms and conditions of service into the languages in which the telecommunications service provider conducts its sales. As suggested in the comments of CFC, the Commission (and carriers) should learn “the relative cost of providing essential information to a buyer in the language in which wireless service was sold, when compared to amounts spent for marketing telecommunications products in that language,” (CFC study plan comments, at.15) in order to make an informed judgment about the impact on service availability and service quality of encouraging or requiring this practice. Carriers state that the cost of providing in-language services to LEP communities is not equivalent simply to the cost of translating one contract, or a set of terms and conditions; marketing and customer service require staff and technology that support in-language services. Commenters did not provide specific cost data for use in this analysis, however. It is clear from the information provided throughout this study that many of the larger carriers have already incorporated in-language marketing, customer service, and billing into their businesses. What is not clear is how much it would cost for carriers that have already developed infrastructure to support multi-lingual marketing, education and customer service to provide additional services such as billing or contracts to LEP consumers. It is also unclear what guidelines and criteria these carriers use to make decisions on which and how much in-language services to provide.

To the extent possible, the Commission and phone carriers should work to develop new in-language materials that focus on meeting the needs of LEP customers in light of the findings in this study. These materials could include suggestions appropriate to LEP populations, such as reminders to bring an English-proficient adult when shopping for telecommunications services, to ask relevant questions about rates and key terms and conditions, and to ask what in-language customer service is available through a particular provider before entering into a contract. The Commission and carriers should research cultural characteristics relevant to reaching different language populations to ensure that materials are sensitive to cultural differences that may affect the usefulness of the materials to their target populations. The Commission and carriers should bear in mind that such materials should be very simply worded and not rely on overly technical terms should the targeted community have lower literacy rates. The CBO Action Plan ordered in the CPI decision may provide another avenue for the Commission to work with CBOs and a possible structure for ongoing review and evaluation of the effectiveness of these materials. Materials can also be developed as part of future Commission and carrier education programs.

The Commission should also develop ways to ensure that in-language materials reach their intended audiences. Though the Commission already works closely with Community Based Organizations to distribute in-language and other consumer education materials, one finding of this study and of the public outreach done is that the current distribution is not meeting the needs of all LEP communities. Particular efforts should be made towards the linguistically isolated households in California. Options for addressing this issue include contracting with a consultant that specializes in hard-to-reach populations to learn how to distribute materials more effectively, and facilitating distribution by working with more local and regional grass-roots organizations, especially CBOs, that are known and trusted within their communities. Again, the CBO Action Plan may provide a venue for this and structure for review and evaluation of these efforts. Like the development of additional

appropriate materials, improved distribution should take place as part of new and ongoing Commission and phone carrier efforts.

Based on the research already conducted, the Commission should also increase the internal resources available in its own bilingual services office. As the amount of bilingual materials grows, the bilingual services coordinator must ensure that increasing numbers of documents are properly translated, must be prepared to serve increasing numbers of LEP consumers, and must support more multilingual activities in an industry that is constantly evolving new products and services. Currently, only the Bilingual Services Coordinator has formal responsibility for these activities, and it can be difficult to get additional staff to work on language-related projects. Possible options for improving this situation include additional staff in the bilingual services office dedicated to improving language services, and better institutional support to make additional staff available on a project-by-project basis. This is a suggestion that can be implemented quickly via PUC Executive Director action, including CSID work to expand the Commission's Bilingual Services Office during the upcoming fiscal year.

B. Options for Improving Customer Service

There are many possible ways that the Commission and carriers could improve customer service to LEP consumers. Potential options include increasing the number of languages in which customer service representatives can work with consumers, either by increasing in-house bilingual staff or by contracting with outside companies (such as the Language Line) that provide high-quality interpretation services. In addition, both the Commission and many telecommunications providers can institute formal and systematic quality control for calls that take place in languages other than English. An expansion of telephone service hours during which bilingual services are available could also be helpful. The Commission already contemplated this through the expansion of CAB hours ordered in the CPI Decision.

The Commission can encourage carriers to likewise extend hours in which bilingual customer support is available.

A key way of improving customer service to LEP communities came up consistently in the workshops and public meetings held to gather information for this study: better cooperation and communication between CBOs, telecommunications providers, and the Commission. Possible strategies for accomplishing this that were suggested during the course of this study include allowing CBOs to enter into formal relationships (similar to a power of attorney) with carriers that would enable them to advocate on behalf of consumers, and make it easier for carriers to share customer information with CBOs once a customer has given permission for the CBO to act on his or her behalf.

CBOs also lament their lack of resources available to enable them to work with phone consumers. Because CBO funding is often project-based, and specific funding is not available to assist with complaint resolution for LEP telecommunications consumers, it can be difficult for CBOs to dedicate time to these issues vis-à-vis other issues. Consistent funding that would specifically support these consumer education and complaint resolution activities would address this concern of CBOs.

The Commission should investigate the costs and benefits for consumers and telecommunications carriers of offering LEP information and services by companies that currently assume these services are not needed by their customers. While this assumption may be correct in some cases, it is not appropriate to assume that the lack of complaints about language access or requests for language services means that there is no demand for services among a carrier's customer base. As discussed in the public meetings on this topic, consumers who cannot communicate in English may be hesitant to ask for assistance or may be unable to communicate to a carrier when they have a problem. Carriers that do not

currently make available professional interpretation services and depend on customers to provide interpreters from their friends and family could be more proactive in providing interpretation services, possibly through options such as the Language Line, to avoid the high costs of internal staffing and allow LEP customers better and more continuous access to customer service assistance.

In addition, carriers and the Commission should increase their use of culturally appropriate materials, and ensure sensitivity to cultural differences and issues that may influence the effectiveness of outreach and education materials. One way of accomplishing this is to work directly with smaller CBOs that are based in and representative of their communities. As several CBOs pointed out in the public meetings, it is difficult for many agencies to engage in activities beyond those for which they are funded, so the increasing CBO involvement in LEP outreach may require some funding for these organizations. As in the development and distribution of other translated materials, the CBO Action Plan could provide a framework for this effort.

The merits of and methods for increasing in-language customer services, encouraging cooperation among carriers and CBOs, providing funding for CBOs, and expansion other services should be examined in a future staff proposal that will define and evaluate specific options for improving in-language access. Such as proposal will also recommend appropriate procedures for acting on specific recommendations; possible approaches may range from staff implementation (for example, to improve educational materials) to a possible formal Commission proceeding (if new rules or specific regulatory actions are contemplated).

C. Strategies for Improving Enforcement

Carriers wish to expand in-language services only when business factors make such changes worthwhile for the carrier, using demand analyses and similar tools. Documented concerns about fraud, marketing abuse, a relative lack of quality customer service, and other issues raise the possibility that some carriers may need to offer information and services based on something other than market factors. A formal proceeding will allow the Commission to balance these positions and other factors such as carrier size, resources, and customer characteristics in developing rules or standards that protect consumers while allowing businesses the flexibility to determine the extent of their non-English marketing. Such rules could reduce the need for enforcement by empowering consumers (for example, through increased in-language information disclosures), and could assist the Commission in taking enforcement action against carriers that use tactics that are associated with fraud or marketing abuse or that allow third party dealers of their products and services to engage in such activities.

VII) Recommendations

The CPI Order envisioned an enumeration of recommendations regarding language challenges faces by California's telecommunications consumers:

[w]e intend for Commission staff to develop a report that verifies the languages identified for education elsewhere in this decision, reviews the challenges faced by those with limited English proficiency relating to communications services, and enumerates recommendations for effective programs and strategies for communicating relevant information in multiple languages.⁴¹

This report has identified those challenges to a great degree and some specific recommendations can be made. The following enumeration was developed to allow for immediate action by the Commission on some recommendations – and to allow for the consideration of other recommendations in short and long term action plans.

The use of short and long-term action plans will allow issues to be placed into the Commission's schedule based on importance of the issue, stage of development of the issues, and data resources for analysis of the issues. Staff recommends that challenges placed in the short and long-term action plans below can be addressed through a formal proceeding or by utilizing the collaborative processes developed in CPI implementation.⁴² Staff anticipates that a formal proceeding will be necessary to determine the need for rules and, if rules are appropriate, the specifics of those rules, but is open to efforts carriers and other stakeholders may make to develop voluntary industry standards that address the problems identified in this report. To the extent possible, solutions that do not require formal Commission action, such as staff initiatives that may be undertaken at the direction of the

⁴¹ D.06-03-013, p. 138.

⁴² Collaborative processes in the CPI implementation have been developed during the 120-day education/outreach program, the 180-day in-language access study and enforcement workshops.

Commission's executive director and voluntary industry actions, should not be delayed awaiting the results of any forthcoming proceeding.

Recommendations for Immediate Action

The Commission should:

1. Direct staff to prepare a set of possible rules that address the key challenges and problems identified in this report. The staff proposal will be the basis for a future Order Instituting Rulemaking (OIR), in which they will serve as a focus for addressing persistent problems facing LEP telecommunications customers that are unlikely to be solved through education alone. This should not be a "one-size-fits all" proposal, but instead should take into account the different circumstances (such as size, geographic and demographic characteristics of the population served, and services offered) of different telecommunications providers and target rules to provide appropriate protection while allowing flexibility appropriate to these differences.
2. Reconcile the language requirements in various Commission decisions, and also in its programs that have different language requirements (for example, ULTS, CPI, etc.), to ensure that what is learned in this proceeding is applied consistently throughout our current telecommunications programs. This activity should recognize that different programs have different audiences and some differences in requirements may be appropriate. CPI LEP-related recommendations later may be extended to other industries regulated by the Commission, for example energy and water.
3. In coordination with the above recommendation, direct the staff to review all of the Commission's telecommunications-related public outreach and consumer education materials to ensure that they meet the appropriate

comprehension levels (e.g. third grade reading level in the foreign language) of target audiences.

4. Based on current demographic data, add languages with particularly high rates of linguistically isolated households – and – languages with growing or concentrated populations (such as Russian and Armenian) to its list of languages appropriate for consumer education and public outreach.
5. Improve CAB’s tracking ability in the new CAB database scheduled to be on line in 2007 to capture the language in which complaints are filed, and whether the outcomes of complaints differ due to language barriers.
6. Send appropriate language-trained staff from CAB and the Public Advisors Office, in concert with CBOs and carriers, to hold “bill clinics” and other events throughout the state on a regular basis, in order to assist consumers in person in their own communities. Such opportunities for public contact should be planned and organized to encourage public participation through accessible locations and adequate advance public notice, and should take place during hours in which LEP consumers and carrier staff are likely to be available to attend, for example weekday evenings. Activities would include bill clinics, dispute resolution, and consumer education, for example.
7. Set up procedures to rapidly refer cases of suspected fraud, marketing abuse, and other possible violations involving in-language marketing and customer service to the Commission’s Utility Enforcement Branch and new Telecommunications Fraud Unit for investigation. We contemplate involving the CBOs in this effort to ensure those organizations understand how to report these incidents to the Commission quickly for action. These procedures should be documented in writing and shared with CBOs,

carriers, and the public, to ensure an accessible, fair, and transparent referral and investigation process.

Short-Term Action Plan

The Commission should:

1. Initiate a formal proceeding (such as an OIR) to address specific, on-going challenges for LEP and non-English speaking consumers that may require Commission action or promulgation of new rules and regulations. The proceeding should have a defined scope and include a set of possible rules (developed as Immediate Action 1, above) that address the key challenges and problems identified in this report and that will be used to focus comments and stakeholder proposals.
2. In the context of this rulemaking, consider any settlements or voluntary agreements proposed by CBOs and carriers to obviate the need for formal rules. If carriers and/or CBOs initiate a collaborative process, similar to the current CPI process, to develop a voluntary code of conduct by the carriers pertaining to in-language issues and challenges, staff should monitor this process and its results.
3. Expand consumer education programs to address identified problems and concerns of LEP communities. This should include more in-language materials and materials developed specifically for the comprehension of different language, cultural and educational groups, based on input from CBOs.
4. Direct staff resources to facilitate forums – including the Regulatory Complaint Resolution Forum (for carriers) and the CBO Action Plan (for

community based organizations) – as a means of early identification of in-language problems and challenges on a regular basis (e.g. annually).

5. Without the ability to directly fund CBO activities now, the Commission should explore other avenues for assisting CBOs that work with the Commission on in-language issues, outreach, education, and complaint resolution.

Long-Term Action Plan

The Commission should:

1. Initiate a regular, periodic process to allow for the re-examination of issues as the nature and demographics of California evolve with respect to language, to ensure the Commission's efforts remain current.
2. Explore how in-language programs developed and implemented under D.06-03-013 may inform challenges in the other utility industries in California.

VIII) Conclusion

The challenges and issues facing limited English proficient and non-English speaking telecommunications consumers are complex and varied. During the course of this study, staff gathered a great deal of information on language services offered by the Commission and carriers, the challenges faced by LEP consumers in obtaining and maintaining telecommunications services, and the roles played by Community Based Organizations in assisting LEP customers both before they receive service and when they encounter problems with their service.

This report includes the research, conclusions and recommendations that staff has made to date. This report also informs the next steps that the Commission should take and becomes a source document for scoping issues and challenges related to language. The Commission's study of these issues, which is continuing beyond the original 180 day deadline specified in the D. 06-03-013, will include the development of a set of options for targeted Commission actions that take into account the costs, benefits, and feasibility of solutions to the documented challenges and problems facing LEP consumers., This proposal will also discuss appropriate venues and procedures for further Commission action to implement desirable solutions; staff anticipates that a formal proceeding will be necessary to determine the need for rules and, if rules are appropriate, the specifics of those rules, but is open to efforts carriers and other stakeholders may make to develop voluntary industry standards that address the problems identified in this report. The goal of this proposal, targeted for release later this year, will be to provide a focus for the comments and counterproposals of stakeholders in a formal proceeding.

In the short term, the Commission should continue to provide education information in the languages noted in the CPI decision and should add materials available in additional languages as required. The Commission should also facilitate communication processes

between CBOs, carriers, customers and the Commission, to ensure that complaints are addressed adequately and in a timely way, and that enforcement can be brought to bear when appropriate to protect LEP consumers. Again, staff recommends that to the extent possible, solutions that do not require formal Commission action, such as staff initiatives that may be undertaken at the direction of the Commission's executive director and voluntary industry actions, should not be delayed awaiting the results of any forthcoming proceeding.

