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Decision 01-07-023 July 12, 2001

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into  
Implementation of Senate Bill 669, Regarding the  
Deaf and Disabled Telecommunications Program.

Rulemaking 00-05-001  
(Filed May 4, 2000)

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## O P I N I O N

### I. Summary

This decision begins the process of implementing the portion of Senate Bill 669 relating to California's Deaf and Disabled Telecommunications Program (DDTP). SB 669, passed by the California Legislature in 1999, makes four basic changes to the DDTP:

- It moves funds for the program from a bank trust fund to the State Treasury and provides that appropriations for the program shall occur through the annual State budget process;
- It codifies the current advisory committee, known as the DDTP Administrative Committee (DDTPAC);
- It provides that the DDTPAC shall "carry out" DDTP activities; and
- It requires the Commission to ensure that the DDTPAC achieves appropriate representation by the consumers of telecommunications services for the deaf and disabled.

We initiated this rulemaking in order to implement SB 669. Our key aim has been to develop a process to ensure that the transition does not interrupt services to deaf and disabled communities. We believe this decision provides solutions that achieve the intent of the law without doing violence to the essential and often intangible qualities that make the program a success.

After this decision was issued in draft form, but before the decision was put to a Commission vote, on May 3, 2001, the Commission's staff submitted its "Report to the California State Legislature by the California Public Utilities Commission pursuant to Senate Bill 669" (SB 669 Report or Report). The SB 669 Report detailed a transition plan for the transfer into the State Treasury of six

funds associated with the telecommunications public purpose programs created and operated by the Commission.

However, with respect to the DDTP, the Report identified a fundamental ambiguity in the provisions of SB 669, relating to whether the approximately 70 DDTP employees – many with specialized skills and experience – must become state employees or may remain outside the employ of the state. The Report noted that, under state law, the State Controller may not pay employees of any entity that is not a state agency, unless those employees are working for an organization under contract to a state agency. (Report at 10.) Currently, the DDTP staff members are not employees of a state agency, but rather of a quasi-governmental entity subject to Commission oversight. In addition, there is currently no contract between the Commission and the DDTP for the provision of services, and SB 669 does not explicitly authorize such a contract. (Report at 10, 13.) On the other hand, SB 669 codifies the existence of the DDTP Administrative Committee, which is authorized to advise the Commission regarding telecommunications programs to serve the deaf and disabled communities, as well as to “carry out” such programs under the Commission’s direction, control, and approval. (Report at 11-13, citing Public Utilities Code Section 278(a)(1).) Consequently, the Report sought legislative guidance and clarification regarding whether the Legislature intends for the DDTP staff to continue to operate outside the employ of the state pursuant to a legislatively-authorized contract or whether the Legislature intends for the DDTP staff employees to become civil service employees of the Commission. (Report at 13-17.)

The existence of the Report and the guidance it seeks from the Legislature dictate a different outcome for portions of this proceeding than was originally

envisioned when the draft decision issued in late 2000. The Legislature's determination of how to transfer the funds for the DDTP program – and how to retain staffing for the program – may have bearing on the mechanics sketched out in the original draft decision. Therefore, we now propose to postpone any decision on the fund transfer and the staffing of the DDTP until the Legislature acts on the questions presented in the Report. This decision now only proposes changes to the committee structure, with other issues - including the ordering of certain studies regarding the adequacy of the DDTP's technology and outreach - postponed for future consideration.

We take the following preliminary steps to implement the portions of the statute not affected by the Report:

**A. Committees**

**1. Voting**

- a. Telephone carriers and California Relay Service (CRS) representatives will no longer hold a voting role on any DDTP Committee.<sup>1</sup> Due to recent efforts to centralize DDTP functions, the carriers no longer provide the same DDTP functions they once did. Thus, the historical basis for allowing the carriers a voting role on the Committees no longer exists. However, because telephone carrier and CRS representatives provide valuable information to the DDTP about technology and equipment, we retain non-voting company slots for them on the Committees.
- b. Commission staff no longer will hold a voting role on any DDTP Committee. Because the Commission votes on the DDTP's budget and other material matters

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<sup>1</sup> There are three DDTP Committees, described in detail in Section II (A) below.

affecting the program, we feel we retain adequate oversight of the Committees without this second area of voting. We retain Commission staff on the Committees as ex officio members due to staff's considerable expertise in the day-to-day workings of the program.

**2. Other Committee representation**

- a. Speech-to-Speech representative. Currently, there is no designated slot on the DDTPAC for a Speech-to-Speech consumer or representative of Speech-to-Speech consumers. Speech-to-Speech is an integral aspect of the DDTP – affording telephone access to thousands of speech-disabled Californians. We designate one slot on the DDTPAC for such a representative.
- b. Disabled community representative. We designate one additional slot on the DDTPAC for a representative of the disabled community.

**B. Other Matters**

We also address a few recurring themes that consumers brought to our attention during this proceeding. We heard several times that consumers – especially those in Southern California – do not feel they are adequately informed of the DDTP services. Moreover, several commenters noted that the DDTP does not always use the latest and best equipment available. When this decision was first issued in draft form, it proposed studies of both of these issues. While we are sympathetic to the concerns raised regarding technological innovation and public outreach, we decline to order any studies at this time. Since January 1, 2001, the DDTP has been operating without any revenues from a surcharge on customer bills. Pending legislation (AB 219) would correct this problem and authorize the DDTP to borrow funds from the California High Cost Fund B (CHCF-B) in order to sustain operations until revenues from a newly

authorized surcharge begins to accrue. Under these unusual circumstances, we find it prudent not to impose on the DDTP any additional spending obligations at this time. We expect to have an opportunity to revisit these issues in a new proceeding to address any legislative clarification that we receive in response to the SB 669 Report.

In addition, we impose a \$5,000 fine on Sprint Corporation for late mailing of the Public Participation Hearing notices for this proceeding.

## **II. Background**

### **A. The DDTP**

The DDTP has assisted the deaf, hard-of-hearing, and disabled communities to gain access to the public switched telephone network since 1979. The program began with mandated distribution of TeleTypewriters (TTYs) to deaf and hard-of-hearing Californians. In 1983, the program expanded to include statewide, 24-hour dual party relay services, and in 1984, the program began to provide telephone equipment other than TTYs to people with functional difficulty using the telephone. Public Utilities Code §§ 2881, 2881.1 and 2881.2 set forth program requirements, and a series of Commission decisions establish the administrative and financial structure of the program.

During the mid-1990s the Commission began opening telephone markets to competition. In order to ensure that the DDTP was competitively neutral, and for the sake of efficiency, the Commission began a process of centralizing many of the DDTP's functions: customer database, customer call center, warehouse, equipment procurement, inventory and distribution, field advisory staff, and customer walk-in centers. Previously, the large telephone companies handled many of these functions. With centralization, a combination of DDTP staff and outside vendors contracted through a competitive bidding

process will provide all DDTP services. The centralization process is currently underway.

The DDTP delivers three types of services:

1. distribution of telecommunications devices for the deaf (TDDs) at no cost to certified deaf and hearing-impaired telephone subscribers, to schools and organizations representing the deaf or hearing-impaired, and to state agencies with significant public contact;
2. the California Relay Service (CRS), which improves the communication potential for deaf and hearing-impaired by providing them direct access to California's public switched telephone network; and
3. The provision of other specialized telecommunications equipment to consumers with hearing, vision, mobility, speech and cognitive disabilities.

Under the program, deaf and hard-of-hearing callers use TTYs, the CRS, amplification devices, devices that provide a visual or vibrating alert that a telephone is ringing, and other equipment. Disabled Californians may obtain a range of products and services including large numeral telephones, headsets and special handsets, as well as Speech-to-Speech relay services for those with difficulty speaking.

An amalgam of entities provides DDTP services. Approximately 70 employees in Oakland perform DDTP functions including financial, social service and administrative oversight, outreach, and staffing of statewide walk-in centers. While DDTP is a Commission-sponsored program, the DDTP staff members are not civil service employees.

Sprint Corporation (Sprint) and MCI WorldCom (WorldCom) have contracts to provide CRS functions. These operations are supported by between 300 and 400 Sprint/WorldCom employees and contractors who serve as relay

and Speech-to-Speech operators. The DDTP has a contract with an outside vendor to staff a central call center employing 50 people. The DDTP also contracts with a vendor to handle equipment distribution; that operation involves 10 employees. Thus, between 400 and 500 people staff the program in one way or another.

Two advisory committees and the DDTPAC advise the Commission. The California Relay Service Advisory Committee (CRSAC) provides input on the operations of the CRS. The Equipment Program Advisory Committee (EPAC) provides advice on the needs for program equipment.

The membership of each DDTP Committee is set forth in separate charters approved by the Commission.<sup>2</sup> The DDTPAC has ten members, all with a vote: four representatives of telecommunications carriers, one Commission representative, one representative of the hard-of-hearing community, one representative of the disabled community, one representative of the late deafened adult community, one representative of the deaf community at large, and one representative of a statewide deaf organization.

The CRSAC has a total of eleven members, seven voting and four non-voting. The seven voting members consist of one hard-of-hearing representative, two deaf representatives, one late deafened adult representative, one speech disabled representative one representative of the hearing community who is well versed in use of the Relay Service, and one CRS provider representative. The

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<sup>2</sup> See, e.g., Decision (D.) 95-06-048, D.94-03-011, D.89-05-060. The current charters for each Committee appear as Appendix A to this decision. Charts showing existing Committee membership and the changes we recommend appear in Section IV(B) below.

four non-voting members are one Commission staff person and three telephone company representatives.

The EPAC consists of ten members, eight voting and two non-voting. The eight voting members consist of three telephone company representatives, one hard-of-hearing community representative, two disabled community representatives, one deaf community representative, and one representative of the senior citizen community. The two non-voting members consist of one Relay Service provider and one Commission staff person.

All California telephone subscribers fund the DDTP through a small surcharge appearing on individual telephone bills. The surcharge is authorized in Pub. Util. Code § 2881(d) and (g); the Commission adjusts the surcharge annually to accommodate the anticipated DDTP budget.<sup>3</sup> Telephone companies collect the surcharge from their customers and remit the money to a public trust fund called the Deaf Equipment Acquisition Fund (DEAF) Trust. Currently, the funds are held in trust under contract with the Bank of America. Under SB 669, telephone companies will remit surcharge revenues to the Commission, which will turn over the revenues to the State Controller. The funds will reside in the State Treasury rather than in a bank trust fund. We defer consideration of the mechanics of this change until after the Legislature acts on the Commission staff's SB 669 Report.

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<sup>3</sup> Pub. Util. Code § 2881(d) provides that the surcharge may not exceed one-half of one percent of a customers' bill.

**B. SB 669**

SB 669 effects changes in the handling of funds for several programs that serve consumers of telecommunications services in California. The only program we address here is the DDTP.

SB 669 makes four significant changes to the Public Utilities Code affecting the DDTP. First, SB 669 moves the DDTP funds to the State Treasury and provides that they may only be expended upon appropriation in the annual State Budget Act. Second, SB 669 codifies the DDTPAC, which consists of voting representatives from the deaf, hard-of-hearing and disabled communities, the Commission, and various telecommunications providers. SB 669 recognizes that the DDTPAC is

an advisory board to advise the commission regarding the development, implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf or disabled, as provided for in [Public Utilities Code] Sections 2881, 2881.1, and 2881.2.<sup>4</sup>

Third, SB 669 provides that the DDTPAC shall “carry out the programs pursuant to the commission’s direction, control, and approval.”<sup>5</sup>

Fourth, SB 669 requires the Commission to ensure that the DDTPAC achieves “appropriate representation by the consumers of telecommunications services for the deaf and disabled.”<sup>6</sup> This provision is consistent with the Commission’s prior strategy of empowering the deaf and disabled community

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<sup>4</sup> Pub. Util. Code § 278(a)(1).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* § 278(a)(2).

by ensuring its representation on an oversight board that has both advisory and operational responsibilities.

Our focus in this proceeding has been on three key areas:

- Ensuring that the DDTPAC adequately represents the various deaf and disabled communities that benefit from the program.
- Retaining and enhancing the extent to which the DDTP is consumer-focused, nimble, and innovative. Because the SB 669 Report the Commission staff prepared poses questions for legislative consideration as to the legality of the current staffing arrangement, we defer consideration of this issue until the Legislature acts on the Report.
- Implementing the transfer of funds to the State Treasury in a way that will not interrupt program services. The DDTP relies on a large number of small vendors, including sign language interpreters, real time captioners,<sup>7</sup> voicers,<sup>8</sup> and small companies that devise specialized equipment for the deaf and disabled. These vendors cannot afford long payment delays. We are concerned that unless they are paid promptly, they will cease working for the program, thereby affecting the DDTP's ability to serve consumers. Once again, in view of the pending Commission staff's SB 669 Report, and the questions it raises for the California Legislature, we defer consideration of this issue to a later date.

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<sup>7</sup> Real time captioning is a process by which a stenographer types what is being said simultaneously with the live presentation. The transcript, or captions, appear on a screen or computer monitor during the presentation, so those with hearing problems may read along with the spoken presentation.

<sup>8</sup> Voicers speak for persons with speech-related disabilities, including persons with cerebral palsy and laryngectomies. They are persons skilled at hearing and interpreting the words of someone with a speech disability.

### III. The Record<sup>9</sup>

We initiated this proceeding in May 2000. We received public input in four ways: in formal written comments, during Public Participation Hearings (PPHs), by letter and e-mail from interested members of the public, and during a day-long workshop held in San Francisco.

#### A. Formal Comments

We received formal written comments from six individuals or entities: The current DDTP Committees,<sup>10</sup> the California Association of the Deaf,<sup>11</sup> the California Coalition of Agencies Serving the Deaf/Hard of Hearing,<sup>12</sup> GTE

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<sup>9</sup> In many places in this section, we comment upon information in the record of this proceeding. These comments are intended as rationale for the conclusions we reach in this decision.

<sup>10</sup> *Opening Comments of the Deaf and Disabled Telecommunications Program Administrative Committee on Behalf of the DDTPAC, CRSAC, and EPAC* (DDTP Committee Opening Comments), filed May 30, 2000; *Reply Comments of the Deaf and Disabled Telecommunications Program Administrative Committee on Behalf of the DDTPAC, CRSAC, and EPAC* (DDTP Committee Reply Comments), filed June 19, 2000 (DDTP Committee Reply Comments).

<sup>11</sup> *Opening Comments of the California Association of the Deaf*, filed May 30, 2000 (CAD Opening Comments); *Reply Comments of the California Association of the Deaf*, filed June 19, 2000 (CAD Reply Comments).

<sup>12</sup> *Reply Comments of California Coalition of Agencies Serving the Deaf/Hard of Hearing, Inc.*, filed July 7, 2000 (Deaf/Hard of Hearing Coalition Comments).

California,<sup>13</sup> Pacific Bell,<sup>14</sup> and Wayne Baker (member of the EPAC).<sup>15</sup> The commenters made the following suggestions:

### **1. DDTP Committee Comments**

The DDTP Committees filed opening and reply comments. They suggested that SB 669 was intended to apply solely to the financial operations of the DDTP, and not to advisory functions. They criticized past Commission performance in approving DDTP budgets and working cooperatively with DDTP program staff, and consequently expressed concern about service interruption should Commission involvement in the program increase. They advocated more cooperative Commission-DDTPAC interaction. They expressed deep concern about the effects on program services should program vendors not receive prompt payment from the State Treasury.

Finally, they suggested increased representation by the disabled community on the DDTP Committees, since the current disabled representatives (one each) on the DDTPAC and EPAC are charged with representing the needs of consumers with speech, vision, motion and cognitive disabilities: “Such a large and diverse group cannot be effectively represented by one individual who simply could not have experience with all of these disabilities. This consumer representative seat may need to be restructured.”<sup>16</sup>

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<sup>13</sup> *Opening Comments of GTE California Incorporated (U 1002 C) in Response to Order Instituting Investigation Into Implementation of Senate Bill 669*, filed May 30, 2000 (GTE Comments).

<sup>14</sup> *Opening Comments [of Pacific Bell] Regarding the Implementation of Senate Bill 669*, filed May 30, 2000 (Pacific Bell Comments).

<sup>15</sup> *Opening Comments of Wayne Baker, Member of the DDTP’s Equipment Program Advisory Committee*, filed May 30, 2000 (Baker Comments).

<sup>16</sup> DDTP Committee Opening Comments, *supra* n.10, at 13.

## 2. CAD Comments

CAD asked that we no longer have utility representatives as members of the DDTP Committees since the DDTP is centralizing its functions. It likewise asked for the removal of Commission employees from the Committees in view of the Commission's already considerable role in voting on DDTP matters.

CAD also asked for additional deaf representation on the Committees, and suggested that under-representation on the Committees has led to under-representation of deaf and hearing-impaired employees on DDTP's staff. While the latter point is beyond the scope of this proceeding to implement SB 669, we believe that the changes we make to the Committees will increase consumer participation.

In its reply comments, CAD recommended creation of a position for a speech-disabled representative: "The CAD . . . agrees with the DDTPAC that because of the specialized needs of consumers who are . . . speech-impaired, it may be appropriate to require their representation in spite of being few in number."<sup>17</sup>

CAD expressed concern about delay in vendor payments, and suggested a revolving fund, a suggestion we adopt here.

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<sup>17</sup> CAD Reply Comments, *supra* n.11, at 2. CAD recommended similar treatment for the deaf-blind. Because there was less support for this position, we will not create a deaf-blind slot at this time. We believe the addition of a new disabled slot will create an opportunity for representation from this community.

CAD also addressed a letter the California State Employees Association (CSEA) submitted to the Commission.<sup>18</sup> CSEA argued that most employees of the DDTP should be civil servants. In rebuttal, CAD argued that most DDTP positions fall within an exception to the civil service requirement and may remain within the DDTP.

### **3. Deaf/Hard of Hearing Coalition Comments**

The Deaf/Hard of Hearing Coalition attested to the long history of consumer control of the DDTP, pointing for support to the independent living movement of the 1960s. The Coalition asked the Commission to reconstitute the DDTP Committees to fully reflect the consumer population they serve. They, as others, recommend removing telephone companies and Commission employees from the Committees. They asserted that “the deaf community should have the greatest representation on the DDTP committees.” While we do not add new deaf representatives to the Committees, our removal of telephone company and Commission representatives as voting members preserves a deaf and hard-of-hearing community voting majority on the DDTPAC and the CRSAC.

### **4. GTE/Pacific Bell Comments**

GTE (now known as Verizon) advocated increasing the level of business expertise represented on the DDTP Committees:

It is evident from a reading of SB 669 that the DDTPAC is responsible for substantial operational, financial, budgeting and administrative functions that benefit the deaf and disabled community. . . . Therefore, GTE believes the Commission should review the make-up of the

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<sup>18</sup> Letter from CSEA, Local 1000, to Public Advisor’s Office, Public Utilities Commission, dated May 22, 2000, contained in the Commission’s correspondence file for this proceeding.

committees to insure that they are constituted in a manner that will bring sufficient knowledge and expertise to bear on the responsibilities before them.<sup>19</sup>

Pacific Bell recommended few changes in current DDTP organization and governance. It suggested that Commission members and telephone companies remain members of the DDTP Committees, stating that “[s]ome utility membership is probably necessary because the utilities will continue to collect the surcharge and should be available to make recommendations on service provisioning.”<sup>20</sup> We agree that telephone company, CRS provider and Commission expertise should remain with the Committees. While these representatives will no longer have voting membership, we expect they will continue to provide valuable information and insight as Committee participants.

#### **5. Wayne Baker Comments**

Wayne Baker, the current disabled community representative to the EPAC, suggested that a different division within this Commission from the Telecommunications Division (TD) interact with the DDTP. He echoed several public comments criticizing the TD and seeking a more positive working relationship with Commission staff. He made the observation that “DDTP is being held accountable for running the Program, but authority to do so has been increasingly restricted.”<sup>21</sup> He strongly recommended retaining consumer control of the program. We retain consumer control of the DDTP in this decision but do

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<sup>19</sup> GTE Comments, *supra* n.13, at 2.

<sup>20</sup> Pacific Bell comments, *supra* n. 16, at 2.

<sup>21</sup> Wayne Baker Comments, *supra* n. 15, at 1.

not pass on which division of the Commission should take responsibility for the changes we mandate.

**B. Public Hearings<sup>22</sup>**

We held PPHs during the month of September 2000 in Oakland, Sacramento, Ontario and San Diego. We had telephone companies serving those areas mail notice of the hearings to all customers,<sup>23</sup> issued press releases and sent word of the hearings to various deaf and disabled groups. Approximately 40 people addressed us at these hearings. We provided sign language interpreters and real time captioners at the PPHs to ensure participation by consumers of DDTP services.

During the hearings, we handed out copies of the legislation as well as a list of questions to which we desired answers.<sup>24</sup> Because of the focused nature of the questioning, we received many responses that were to the point and helpful to our decision.

The public comments - with approximately 40 people commenting - broke out roughly as follows:<sup>25</sup>

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<sup>22</sup> The PPHs were transcribed. Copies of the transcripts are available, for a fee, by calling (415) 703-2288. Callers should cite the proceeding number for this case, R.00-05-001, and give the date of the PPH. The PPHs occurred according to the following schedule: September 5, 2000 – Oakland; September 11, 2000 – Ontario; September 13, 2000 – Sacramento; September 18, 2000 – San Diego. A list of the speakers at the PPHs appears in Appendix B to this decision.

<sup>23</sup> A copy of the text of the bill insert, which the companies sent out in English and Spanish, appears as Appendix C to this decision.

<sup>24</sup> The PPH handout is attached hereto as Appendix D.

<sup>25</sup> All numbers are approximate. Given the small turnout at the PPHs, we do not base our decision exclusively on what we heard there. Nonetheless, a significant percentage of those attending the PPHs were consumers of DDTP services, so we give their thoughts a great deal of credence. By contrast, the majority of the letters we received

*Footnote continued on next page*

1. Committees

Seven commenters felt the telephone companies should be removed from the DDTP Committees, or at least not have a vote.

Six commenters felt Commission staff should be removed from the DDTP Committees, or at least not have a vote.

Eight commenters felt the Commission should add additional deaf and disabled community representation, with three favoring a Speech-to-Speech representative, including Dr. Robert Segalman, the originator of Speech-to-Speech service.

2. Staffing/Program Operations

Most commenters felt the DDTP as currently constituted runs well, is consumer driven and focused, and should not change. A common refrain was “if it ain’t broke, don’t fix it.” Several speakers attributed innovation in DDTP services to consumer input. Others pointed to the fact that California’s program is a model for the nation, and was recently commended by Federal Communications Commission Chairman William Kennard.<sup>26</sup> DDTP staff was consistently praised. Many consumers worried that increasing Commission involvement in the program would slow innovation, lessen the program’s consumer focus, and reduce the high level of service the DDTP currently

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from the public (described in Section III (C), below), were from people who did not claim to be deaf or disabled or familiar with the DDTP.

<sup>26</sup> “Here in California, the California Deaf and Disabled Telecommunications Program Advisory Committee is a model for the nation.” “*The Americans With Disabilities Act: Lessons For The Virtual World*,” Remarks By William E. Kennard, Chairman, Federal Communications Commission, for the 10<sup>th</sup> Anniversary of the Americans with Disabilities Act, Los Angeles Convention Center, Los Angeles, California, June 19, 2000 (as Prepared for Delivery). The speech is available at <http://www.fcc.gov/commissioners/kennard/speeches.html>.

delivers. However, because the SB 669 Report addresses questions about the legality of the DDTP's current staffing arrangement to the Legislature, it is appropriate to defer consideration of this issue until the Legislature acts.

There were a few criticisms of the current program. Because some relate to program services, we mention them here. We heard several times that there is not enough consumer outreach about DDTP's services, especially in the Southern part of the state. Public commenters specifically referred to a need to enhance outreach about the Speech-to-Speech program, and to increase the amount of educational and informational material the DDTP distributes.

A second recurring theme focused on equipment. Several consumers noted that innovation in DDTP services does not move quickly enough. One commenter noted that North Carolina and Texas have launched Video Relay Service (VRS), while California has not. Others commented about outdated or consistently malfunctioning equipment. Still others suggested more use of pilot programs to test new equipment.

### 3. Fiscal Matters

Commenters almost universally expressed concern about how the program would be affected by the movement of funds from a bank trust fund – which the DDTPAC under Commission supervision controls – to the State Treasury. Suggestions included implementing a revolving fund for small vendor payments and payments to non-profit entities; studying other programs in State government that work with significant numbers of outside contractors (*e.g.*, the California courts and the Department of Rehabilitation); and using an electronic funds transfer system to speed vendor payments. One speaker noted that it is usually the individual State agency, and not the Controller's office, which causes

payment delays. As noted previously, we defer consideration of this issue pending legislative consideration of the Commission staff's SB 669 Report.

**C. Other Public Comment<sup>27</sup>**

The public responded to the bill inserts noted in Section III (B) primarily by sending letters and emails to the Commission. We received approximately 400 letters and e-mails.

Perhaps because of the brevity of the bill inserts, many of the comments reflected a misunderstanding of our authority to alter the legislation. The vast majority of commenters objected to transfer of the funds to the State Treasury. Since the transfer is legislatively mandated, we have no power to change this outcome.

Almost an equal number of commenters expressed concern that the State Treasury would "raid" the DDTP funds and use them for purposes other than the DDTP. However, SB 669 provides very explicitly that DDTP funds are dedicated to the DDTP and to no other purpose:

Moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.<sup>28</sup>

Subdivision (a), referenced in the foregoing section, refers to the DDTP. Further bolstering this conclusion is Section 281: "Any revenues that are

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<sup>27</sup> The letters and e-mails discussed in this section are available in the Correspondence file for this proceeding, contained in the Commission's Central Files.

<sup>28</sup> Cal. Pub. Util. Code § 278(c).

deposited in funds created pursuant to this chapter [the chapter establishing the DDTP fund and other “public purpose” funds] shall not be used by the state for any purpose other than as specified in this chapter.”<sup>29</sup> Thus, we are confident that the DDTP fund created in SB 669 is a dedicated fund for the exclusive use of the DDTP and its administration.

Other comments focused more on the DDTP. Commenters consistently praised the program, lauded program staff, and urged us not to make any significant changes. One DDTP consumer stated: “Please keep the DDTP’s current governance and structure. . . Program customers must continue to be in charge . . . If it ain’t broke, don’t fix it!” An independent living organization stated: “To maintain continued success of the program, consumers must continue to be in charge.” To the extent individuals or groups commented on program specifics, virtually all comments favored little governance or organizational change. We heard many times that the consumer-focused nature of the program is what makes it work, and just as often that making the program more clearly a “government bureaucracy” would harm, not help, deaf and disabled consumers.

#### **D. Workshop**

On October 2, 2000, the Commission held a workshop in San Francisco to examine more closely how to effect the changes SB 669 requires. Almost 30 people participated. Both sign language interpreters and real time captioners were present throughout the day.<sup>30</sup>

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<sup>29</sup> *Id.* § 281.

<sup>30</sup> While the workshop was not formally transcribed, a real time captioner was present. The captioned text was saved in a computer file and furnished to the Commission. We

*Footnote continued on next page*

Workshop participants included members of the current DDTP staff, DDTP Committee members, representatives of the parties who filed formal comments in this proceeding, consumers of deaf and disabled services, deaf/disabled community leaders and telephone company representatives. Commissioner Henry Duque presided over the workshop, and Strategic Planning Division staff person Mark Vandervelden served as moderator.

The workshop focused on accommodating the fiscal changes required by SB 669, constituting the DDTP Committees so as to “achieve appropriate representation [on the DDTP Administrative Committee] by the consumers of telecommunications services for the deaf and disabled.”

1. Committees

The workshop participants were asked whether there is a need to change the composition of the three DDTP Committees. Several parties expressed support for removing telephone companies and Commission staff as voting members of the Committees, including the telephone companies themselves. Pacific Bell’s representative stated: “Pacific Bell does not feel like it needs a voting presence on the Committee in order to provide technical expertise. . . .” GTE/Verizon’s representative stated: “I think it would be good to have the telcos represented [on the Committees] but not necessarily have a voting – a voting [sic].” WorldCom’s representative stated: “It would eliminate

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will not make the transcript a part of the record of this proceeding since it was not formally created. However, if anything we say here is inconsistent with what workshop participants recall, they should feel free to point out the inconsistency in comments on this decision. A list of workshop participants appears in Appendix B hereto.

the possibility of conflict of interest on the part of the telcos by their not being voting members of the Committee.”

Other suggestions on Committee composition (with the suggesting party in parentheses) included the following:

- a. Increase deaf representation on the DDTPAC. (CAD). CAD expressed concern that because of the voting slots currently allotted to telephone companies and other non-consumers, deaf consumers currently are a minority on the DDTPAC. With the changes we make today, deaf and hard-of-hearing consumers will represent a majority of voting members of the DDTPAC.
- b. Add a Speech-to-Speech representative to the DDTPAC: “I had trouble getting the Committee to take speech disabled issues seriously.” (Dr. Robert Segalman). We agree with this suggestion.
- c. Change the slot on the DDTPAC for a “statewide deaf organization” to a “consumer” slot, on the theory that organizations are not “consumers.” (Tom Davinroy). We do not see a basis for this change. Presumably, an organization brings the perspective of its constituents, leveraging the one allotted slot into a slot representative of the views of many. We see this as a benefit, not a detriment.
- d. Increase disabled representation on the DDTPAC, which currently has one disabled representative: “I don’t know how we can expect one disabled consumer to represent vision, speech, mobility, manipulation and cognition.” (John Darby). We agree that one disabled slot on the DDTPAC is insufficient to represent this diverse group of disabled consumers, and increase the representation by two slots, one of which shall be a Speech-to-Speech representative and the other a disabled representative.

- e. Increase the business expertise on the DDTPAC by adding two outside business representatives from non-utility and non-consumer groups. We would tend to concur with John Darby, who commented that while business expertise is important to the Committees, the \$100 *per diem* limit for Committee members may deter people with such expertise from serving.
  - f. Rethink the entire Committee structure from the bottom up. Retool the Committees so they pass on policy matters rather than gathering factual information and doing day-to-day decision making about the DDTP. (WorldCom and CAD). We do not think we have an adequate record to make such sweeping changes.
  - g. Add a non-voting member to the EPAC with expertise in new technology. (Pacific Bell) An alternate suggestion was to add such a position to the DDTP staff. We believe the examination of equipment and technology issues we prescribe in this decision is a better place to consider this issue.
2. Staffing/Program Operations<sup>31</sup>

Workshop participants expressed concern that placing all or most of the operational responsibility for the DDTP within the Commission would contradict the language in SB 669 empowering the DDTPAC to “carry out” the program.<sup>32</sup> As one participant put it: “How can [the] Administrative Committee

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<sup>31</sup> We defer consideration of the issues in this section until the Legislature acts on the SB 669 Report.

<sup>32</sup> “There is hereby created the Deaf and Disabled Telecommunications Program Administrative Committee, which is an advisory board . . . to carry out the programs pursuant to the commission’s direction, control and approval.” Cal. Pub. Util. Code § 278(a)(1).

carry out programs if it has no authority over the employees providing the services?”

Participants also expressed concern at the ability of the Commission to replicate DDTP staffing. A DDTP staff person explained that one-third of current DDTP employees are deaf or disabled. She stated that the rest of the staff, except 5-10%, are conversant in American Sign Language, children of deaf adults, or parents of deaf or disabled children. She expressed concern that the Commission might not be able to hire such a diverse staff or a staff with the skill and sensitivity to work closely with a deaf and disabled population.

A CAD representative made the point that since the DDTP is a Commission program – even though DDTP staff members are not members of the civil service and are not technically employed by this Commission – leaving DDTP employees in charge of all DDTP functions is consistent with the intent of the legislation. That is, the “Commission” will still have oversight over the program even though the program staff resides elsewhere: “I don’t know why somebody else in the Commission has to do this . . . if the DDTP is part of the Commission.”

Commission legal staff responded to this point by noting that the Commission had been advised by various State control agencies and the Attorney General’s office that the manner in which the funds were presently being administered was not legal. She advised that State civil service staff must perform financial oversight functions such as approving fund disbursements. The SB 669 Report addresses this issue comprehensively, and we defer consideration of how to staff the DDTP until the Legislature acts on that Report.

3. Fiscal Matters<sup>33</sup>

Representatives of the DDTP attending the workshop explained the current process for approving invoices. Currently, vendors submit their invoice to the DDTP's Executive Director. She takes the invoices to the DDTPAC once a month, which reviews them, approves them if appropriate, signs a letter authorizing payment, and sends the letter to the Bank of America, which then pays the invoice. Invoices submitted by the 15<sup>th</sup> of the month are reviewed and, if appropriate, approved during the first week of the following month.

One DDTP representative assumed that with the transfer of funds to the State Treasury, the DDTPAC would continue to review invoices and recommend payment, but would then send them to the Commission for review. The Commission would then forward the invoices to the Controller, which would in turn make payment in accordance with the provisions of the Prompt Payment Act, California Government Code § 927 *et seq.*<sup>34</sup>

Several participants voiced support for a continuation of this practice, at least with a portion of the DDTP funds, which would be characterized as a revolving fund. Some suggested that the DDTP use the

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<sup>33</sup> While we recite the contents of the proceeding record in this decision, we defer consideration of the fiscal issues while the State Legislature acts on the Commission staff's SB 669 Report.

<sup>34</sup> The Prompt Payment Act requires the State Controller to pay properly submitted, undisputed invoices within 45 days, or else face late payment penalties. Cal. Gov't Code § 927(b). The state agency authorizing payment has 30 of these 45 days to do so, and the Controller has the remaining 15 days to issue a check. *Id.* § 927.4. Penalties range from 0.25 percent of the amount due per calendar day (if the payee is a small business or non-profit with a contract less than \$500,000), to a variable interest rate, tied to the rate the State receives on its own investments, for large businesses. *Id.* § 927.6(a) & (b).

revolving fund to pay small vendors; others suggested the DDTP be allowed a revolving fund to cover a certain number of months of operational expenses.

The DDTP's Executive Director made the suggestion that Commission staff and the DDTPAC review invoices at the same time so as to expedite the review process.

#### **IV. Discussion**

##### **A. Summary**

We do not believe it would be appropriate to completely revamp the DDTP or its Committees at this time, primarily due to the pendency of the unresolved issues raised by SB 669 Report. Thus, our decision takes two preliminary steps toward implementing the SB 669 issues the Report does not address:

- Retains telephone companies, equipment vendors, Relay Service providers and Commission staff on the Committees, but without a voting role, and
- Increases representation on the Committees of the disabled community.

##### **B. Committee Structure**

We agree that the telephone companies' (and CRS providers') key contribution to the Committee is their technical and operational knowledge. Thus, we will retain the telephone company (and CRS) slots on the Committees, but make them non-voting slots. The telephone companies and other companies with expertise in the evolution of telecommunications technology should retain a role in the DDTP. As one workshop participant stated:

One of the reasons why this is among if not the most successful program of its kind in the country is because there has over the last 20 years been an ongoing working partnership between the

[telecommunications] carriers and the community being served. And it would be, I think, tragic to lose that partnership. . . . As it stands now, it's kind [of] an imposed partnership because people have voting rights on subcommittees and so on and so forth. . . . *[T]here ought to be some way [sic] we can effect a mechanism that effectively deals with potential conflict of interest [presented if the carriers have a vote, but] gives those who benefit the program some real representation and keeps this program on the cutting edge, technologically.* (Emphasis added.)

We believe the best way of retaining the technological edge and yet reducing the concerns of those who believe the telephone companies should not have a voting role is to retain telephone company representation on the Committees as non-voting members. While there was some concern expressed (although not by the companies themselves) that losing the vote would lessen the companies' impact, on balance we believe our solution is the best one.

We believe the following Committee structure will best accomplish the goals of SB 669. That is, it will meet the legislative mandate for a Committee structure "to advise the commission regarding the development, implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf or disabled . . . ." <sup>35</sup> The structure will also allow the Committees to "achieve appropriate representation by the consumers of telecommunications services for the deaf and disabled." <sup>36</sup>

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<sup>35</sup> Cal. Pub. Util. Code § 278(a)(1).

<sup>36</sup> *Id.* § 278(a)(2).

**1. DDTPAC**

Based on the record of this proceeding, we make the following changes to the DDTPAC (italicized items represent changes):

| <b>Current</b>                              | <b>Voting?</b> | <b>New</b>                                  | <b>Voting?</b> |
|---|----------------|---|----------------|
| 1. Hard-of-hearing                          | Yes            | 1. Hard-of-hearing                          | Yes            |
| 2. Disabled                                 | Yes            | 2. Disabled                                 | Yes            |
| 3. Late deafened adult                      | Yes            | 3. Late deafened adult                      | Yes            |
| 4. Deaf community at large                  | Yes            | 4. Deaf community at large                  | Yes            |
| 5. Statewide deaf organization              | Yes            | 5. Statewide deaf organization              | Yes            |
| 6. Pacific Bell                             | Yes            | 6. Pacific Bell                             | <i>No</i>      |
| 7. GTE California/Verizon                   | Yes            | 7. GTE California/Verizon                   | <i>No</i>      |
| 8. California Telephone Assn.               | Yes            | 8. California Telephone Assn.               | <i>No</i>      |
| 9. Relay Service Provider                   | Yes            | 9. Relay Service Provider                   | <i>No</i>      |
| 10. Commission Executive Director appointee | Yes            | 10. Commission Executive Director Appointee | <i>No</i>      |
|   |                | <i>11. Disabled</i>                         | <i>Yes</i>     |
|   |                | <i>12. Speech-to-Speech</i>                 | <i>Yes</i>     |

**2. CRSAC**

We make one change to the CRSAC to remove the CRS provider's vote:

| <b>Current</b>         | <b>Voting?</b> | <b>New</b>             | <b>Voting?</b> |
|------------------------|----------------|------------------------|----------------|
| 1. Hard-of-hearing     | Yes            | 1. Hard-of-hearing     | Yes            |
| 2. Speech-Disabled     | Yes            | 2. Speech-Disabled     | Yes            |
| 3. Late deafened adult | Yes            | 3. Late deafened adult | Yes            |
| 4. Deaf                | Yes            | 4. Deaf                | Yes            |

|                                     |     |                                     |     |
|-------------------------------------|-----|-------------------------------------|-----|
| 5. Deaf                             | Yes | 5. Deaf                             | Yes |
| 6. Hearing (well-versed in CRS use) | Yes | 6. Hearing (well-versed in CRS use) | Yes |
| 7. Pacific Bell                     | No  | 7. Pacific Bell                     | No  |
| 8. GTE California/Verizon           | No  | 8. GTE California/Verizon           | No  |
| 9. California Telephone Assn.       | No  | 9. California Telephone Assn.       | No  |
| 10. Relay Service Provider          | Yes | 10. Relay Service Provider          | No  |
| 11. Commission staff person         | No  | 11. Commission staff person         | No  |

**3. EPAC**

We also remove the telephone company votes from the EPAC:

| <b>Current</b>                | <b>Voting?</b> | <b>New</b>                    | <b>Voting?</b> |
|-------------------------------|----------------|-------------------------------|----------------|
| 1. Hard-of-hearing            | Yes            | 1. Hard-of-hearing            | Yes            |
| 2. Disabled                   | Yes            | 2. Disabled                   | Yes            |
| 3. Deaf                       | Yes            | 3. Deaf                       | Yes            |
| 4. Senior citizen             | Yes            | 4. Senior citizen             | Yes            |
| 5. Pacific Bell               | Yes            | 5. Pacific Bell               | No             |
| 6. GTE California/Verizon     | Yes            | 6. GTE California/Verizon     | No             |
| 7. California Telephone Assn. | Yes            | 7. California Telephone Assn. | No             |
| 8. Relay Service Provider     | No             | 8. Relay Service Provider     | No             |
| 9. Commission staff person    | No             | 9. Commission staff person    | No             |
| 10. Disabled                  | Yes            | 10. Disabled                  | Yes            |

Pursuant to Pub. Util. Code § 271(c), the quorum requirement for each committee shall be a majority of committee members (including both voting

and non-voting members). Pursuant to § 271(e), however, those entitled to act (*i.e.*, vote) on any measure before the committee differ from those constituting a quorum. A majority of those present must vote on any such measure.

As John Darby pointed out in comments on the draft decision, this fact may lead to anomalies if the quorum consists of a large number of non-voting members. This anomaly is in part due to the statute itself, which identifies a quorum as simply “a majority of the numbers of members of each board,” without requiring that they be voting members.<sup>37</sup> Section 271(e), however, provides that the affirmative vote of the majority of those members present (without specifying that those members must be voting members) is required to pass any measure.

The only way we believe we can resolve this quandary is to require that a majority of all voting members of each committee is required to pass any measure. Thus, it will be essential that attendance by voting members of the committees be mandatory.

Thus, the following will be quorum and voting requirements for each committee:

- DDTPAC
  - Quorum 7
  - Voting Majority 4
- CRSAC
  - Quorum 6
  - Voting Majority 4

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<sup>37</sup> Pub. Util Code § 271(c).

- EPAC

|                 |   |
|-----------------|---|
| Quorum          | 6 |
| Voting Majority | 3 |

**C. Additional Issues**

1. Technological Innovation and Outreach

During the course of the proceeding, we received input in two issues that we believe deserve comment and further evaluation. First, several commenters expressed concern at the slowness of technological innovation at the DDTP. We are required to keep abreast of technological advances in the delivery of DDTP services. Pub. Util. Code § 2881(i) provides:

In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech and interpretation of information, the commission shall perform ongoing assessment of, and if appropriate, expand the scope of the program to allow for additional access capability consistent with evolving telecommunications technology.

We also had some indication from deaf and disabled participants in the proceeding that the DDTP should beef up its outreach efforts, especially in Southern California. Several commenters indicated they were unaware of the details of the program and expressed a desire for educational materials and other information. Clearly, we cannot be effective in serving the community if the community does not know we exist.

While we are sympathetic to the concerns raised regarding technological innovation and public outreach, we decline to order any follow-up studies of these issues at this time. Since January 1, 2001, the DDTP has been operating without any revenues from a surcharge on customer bills. Pending legislation (AB 219) would correct this problem and authorize the DDTP to borrow funds from the California High Cost Fund B (CHCF-B) in order to

sustain operations until revenues from a newly authorized surcharge begins to accrue. Under these unusual circumstances, we find it prudent not to impose on the DDTP any additional spending obligations at this time. We expect to have an opportunity to revisit these issues in a new proceeding to address any legislative clarification that we receive in response to the SB 669 Report.

## 2. PPH Issues

CAD pointed out in its comments that there were two issues the draft decision did not address regarding the PPHs. First, it notes that Sprint acknowledged mailing the PPH notices late. Second, CAD refers to a problem with sign language interpretation at the San Diego PPH. We address both issues below.

On November 8, 2000, Sprint conceded in a response to an Administrative Law Judge (ALJ) Ruling dated October 12, 2000 that it had mailed the PPH notices after the deadline prescribed in an earlier ALJ Ruling. Sprint offered voluntarily to pay \$5,000 to the Deaf and Disabled Telecommunication Fund or another fund to benefit the deaf and disabled community. We believe this payment should instead be treated as a fine. Sprint should pay the fine to the General Fund of the State of California because it is not in the nature of reparations to victims of funds unlawfully collected.<sup>38</sup>

Sprint shall make each employee/agent involved with preparing and mailing the PPH notices aware of this decision, and make an Advice Letter filing indicating that it has done so, and explaining the steps it will take in the future to ensure timely mailing of Commission-ordered bill inserts or other

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<sup>38</sup> See, e.g., D.98-12-075, 1998 Cal. PUC Lexis 1016 at \* 70-71 (fines are paid to the State of California).

items. Sprint shall also disclose this portion of the decision to the assigned ALJ to any other proceeding requiring bill inserts/mailings initiated within two years of mailing of this decision.

On CAD's second issue, it appears the sign language interpreter at the San Diego PPH may have provided inadequate translation. The Assigned ALJ informed the Commission's Public Advisor staff of the problem immediately after the PPH, and asked staff to ensure that any Commission provided interpreter is adequately trained and certified. In addition, the ALJ, at CAD's request, furnished CAD the transcript of the PPH for review. CAD responded that it would pass the transcript on to deaf people who attended the PPH. The ALJ received no further communication from CAD or anyone else on this issue.<sup>39</sup> Nonetheless, we are well aware of the need for adequate interpretation of Commission proceedings and will continue to strive to ensure that we meet this need.

## **V. Conclusion**

The moderate changes we prescribe in this decision are a start at implementing SB 669. We are deferring action on the fiscal and staffing issues raised in SB 669 and made the subject of this proceeding until the California Legislature gives the Commission guidance in response to the May 3, 2001 SB 669 Report.

## **VI. Comments on Draft Decision**

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the

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<sup>39</sup> Relevant e-mail messages appear as Appendix E to this decision.

Rules of Practice and Procedure. The following parties filed comments: California Association of the Deaf/California Coalition of Agencies Serving the Deaf/Hard of Hearing (CAD/Coalition); the DDTPAC; John L. Darby; and Hale Zukas. We also received comments from respondent WorldCom, Inc. and non-party Richard Nelson Matthews of Self Help for Hard of Hearing People. We received reply comments from CAD/Coalition. We considered all of these comments in reaching this decision.

### **Findings of Fact**

1. Local telephone company representatives and the primary CRS provider representative currently hold voting slots on the DDTPAC. The local telephone company representatives hold non-voting slots on the CRSAC, and the primary CRS provider representative holds a non-voting slot on the EPAC.

2. The DDTP has been undergoing a process of centralization whereby incumbent telephone companies will not necessarily provide DDTP equipment distribution.

3. In view of the centralization of DDTP services away from traditional telephone companies, the historic rationale for granting such companies voting rights on the DDTP Committees is eroding.

4. GTE/Verizon, Pacific Bell and WorldCom did not oppose having non-voting positions on the DDTP Committees rather than voting positions.

5. It is appropriate to retain the GTE/Verizon, Pacific Bell, California Telephone Association and CRS provider slots on the DDTP Committees as non-voting positions. Such representatives provide valuable insight into the state of current technology, telephone network operations, possible innovations and the like.

6. It is no longer necessary for GTE/Verizon, Pacific Bell, California Telephone Association and the CRS provider representative to have voting status on any DDTP Committee.

7. There is currently only one representative of the disabled community on the DDTPAC. That representative is charged with representing the interests of consumers with needs related to vision, speech, mobility, manipulation and cognition.

8. It is reasonable to add a second representative of the disabled community to the DDTPAC.

9. There is no representative of the Speech-to-Speech service on the DDPTAC. Given the importance of Speech-to-Speech service to speech disabled consumers, it is reasonable to designate a new slot on the DDTPAC as a Speech-to-Speech position.

10. The other disabled representative slots on the DDPTAC (the one existing slot and the new slot we create here) should not be filled with a consumer of Speech-to-Speech services, given that we are adding a new Speech-to-Speech slot.

11. A current voting slot exists on the CRSAC for a representative of the CRS provider. Because the CRS representative contributes valuable insight into the program, the slot should continue to exist, but as a non-voting position.

12. The EPAC currently has two slots for representatives of the disabled community.

13. The new quorum and voting majority numbers for each committee will be:

- DDTPAC

Quorum                    7

Voting Majority        4

- CRSAC
  - Quorum 6
  - Voting Majority 4
- EPAC
  - Quorum 6
  - Voting Majority 3

14. Sprint did not timely mail the PPH notices for this proceeding.

**Conclusions of Law**

1. SB 669 codifies the current advisory committee for the DDTP, known as the DDTPAC.
2. SB 669 provides that the DDTPAC shall “carry out the programs pursuant to the commission’s direction, control, and approval.”
3. SB 669 requires the Commission to ensure that the DDTPAC achieves “appropriate representation by the consumers of telecommunications services for the deaf and disabled.”
4. The Commission approved the current DDTP Committee structure, and has the power to alter it.
5. The changes we make in the DDTP Committee structure are in keeping with SB 669’s requirement of “appropriate representation by the consumers of telecommunications services for the deaf and disabled.”

**O R D E R**

**IT IS ORDERED** that:

1. Within 60 days of mailing of this decision, the Commission, through the Deaf and Disabled Telecommunications Program (DDTP) staff, shall amend the DDTP Committee Charters to reflect the changes we make in the composition

and quorum and voting requirements of the DDTP Administrative Committee (DDTPAC), the California Relay Service (CRS) Advisory Committee (CRSAC) and the Equipment Program Advisory Committee (EPAC), and submit the amended Charters to the Commission's Telecommunication Division (TD) for approval. The TD is hereby delegated the authority to approve such Charter amendments as long as they conform to this decision. If the Charter amendments differ in any way from this decision, or if there is a question as to whether they are conforming, the Commission shall approve the Charter amendments. The submission shall also describe how the DDTP proposes to implement the ordered changes in Committee membership.

2. Sprint Corporation (Sprint) shall, within 30 days of mailing of this decision, pay \$5,000 to California's General Fund as a fine for mailing late the Public Participation Hearing (PPH) notices in this proceeding. Sprint shall make each employee/agent involved with preparing and mailing the PPH notices aware of this decision, and make an Advice Letter filing indicating that it has done so, and explaining the steps it will take in the future to ensure timely mailing of Commission-ordered bill inserts or other items. Sprint shall also disclose this portion of this decision to the assigned Administrative Law Judge to any other proceeding requiring bill inserts/mailings and initiated within two years of mailing of this decision.

3. This proceeding is closed.

This order is effective today.

Dated July 12, 2001, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
RICHARD A. BILAS  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners

R.00-05-001 ALJ/SRT/k47

**See CPUC Formal File For Appendix A**

**APPENDIX B  
(Page 1)**

**Public Participation Hearings – R.00-05-001  
September 2000  
Speakers**

**Oakland, September 5, 2000**

Ms. Huong Lien To

Mr. Joe Partansky

Ms. Patricia Boese, President, East Bay Self Help for Hard of Hearing<sup>40</sup>

Mr. Tony Papalia

Ms. Shelly Bergum, Executive Director, DDTP

Mr. John Darby, Chair DDTPAC

Mr. Michael Koeller, Late-Deafened Adult representative, DDTPAC

Mr. Wayne Baker, Disabled and Speech disabled representative, EPAC

Mr. Tom Davinroy

Mr. Rob Roth, Executive Director, Deaf Counseling Advocacy and Referral Agency (DCARA)

Mr. Winston Ching

Ms. Sharon Shafran

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<sup>40</sup> Organizations for identification only.

**APPENDIX B**  
**(Page 2)**

Ms. Dana Mulvany, member, EPAC

Ms. Jackie Brand

Ms. Deborah Kaplan, Executive Director, World Institute on Disability

Mr. Ed Joseph

Ms. Laura Brewer

**Ontario, September 11, 2000**

Ms. Grace Tiessen, Vice President, Self Help for Hard of Hearing People  
California

Mr. Phil Kaplan, President, Self Help for Hard of Hearing People, San  
Fernando Valley

Ms. Sandi Streeter

Ms. Betty Coombs

Mr. William Py

Ms. Linda Hardy, Co-Director, Mojave Deaf Services, Victorville

Mr. Willis Mimms

Mr. Brian French

Mr. Mario Muller

**Sacramento, September 13, 2000**

Dr. Robert Segalman, national founder, Speech-to-Speech services

Ms. Judy Viera

Mr. Bill Stobbe

**APPENDIX B**  
**(Page 3)**

Mr. Steve Birdlebough

Ms. Sally Davis

Mr. Earl Boynton

Mr. Joseph Ossman

“Tim”

**San Diego, September 18, 2000**

Ms. Barbara Yates

Mr. Al George

Ms. Joan Ireland

Mr. Tom Galey

Mr. Seymour Bernstein

Mr. Elias Papazis

Ms. Lee Ellis

**APPENDIX B  
(Page 4)**

**Workshop – R.00-05-001  
October 2, 2000  
Participants**

Commissioner Henry Duque

Mark Vandervelden, CPUC Division of Strategic Planning

Mr. John Darby, Hard Of Hearing Community Representative, DDTPAC

Ms. Margo Friedrich, Verizon and Verizon DDTPAC Representative

Ms. Katy Lindsay, AT&T

Mr. Ken Kresse, California Association For The Deaf

Mr. Richard Ray

Ms. Dorothy Brookover

Mr. Galen Fisher

Mr. Tony Papalia, Coalition Of Agencies Serving The Deaf And  
Hard Of Hearing

Mr. Wayne Baker, Disabled Communities representative, EPAC

Ms. Alana Beal, WorldCom

Mr. Bob Ingram, WorldCom Project Manager, CRS; member, DDTPAC  
and CRSAC

Pat Chow, WorldCom

Ms. Melissa Anes, Cooper White & Cooper law firm

Ms. Sylvia Batson, Citizens Communication

Mr. Michael Purcell, Pacific Bell; voting member, DDTPAC

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**(Page 5)**

Ms. Pam Garza, Pacific Bell

Ms. Juliet Petrencs, Pacific Bell

Mr. Frank Bustillos, Pacific Bell

Ms. Mary Vanderpan, Attorney, Pacific Bell

Mr. Steve Schuppert, Pacific Bell

Mr. John Schweizer, Pacific Bell

Dr. Richard Panzer, Self Help for Hard of Hearing People, Napa

Ms. Susanne Paradis, DDTP Administrative and Human Resources  
Manager

Ms. Shelley Bergum, DDTP Executive Director

Mr. Tom Davinroy, Association of Late Deafened Adults (ALDA)

Mr. Bob Segalman, Department Of Rehabilitation; Founder, Speech-To-  
Speech

Mr. Hale Zukas

Ms. Helen Mickiewicz, Attorney, CPUC

Mr. Mike Koeller

**(END OF APPENDIX B)**

**APPENDIX C**  
**(Page 1)**

A MESSAGE FROM THE CALIFORNIA PUBLIC UTILITIES COMMISSION:

WHAT RULES ARE NEEDED TO IMPLEMENT NEW LEGISLATION CONCERNING TELECOMMUNICATIONS SERVICES FOR THE DEAF AND DISABLED?

Recently, the California Legislature enacted legislation (SB 669) that may require changes to the Deaf and Disabled Telecommunications Program (DDTP). The legislation does two things: (1) it creates the DDTP Administrative Committee; and (2) it requires that funds for the DDTP be held by the State Treasury rather than in a bank trust fund. The California Public Utilities Commission (Commission) is now conducting proceedings to implement SB 669 and requests your input.

Details of the rulemaking are available at [HTTP://www.cpuc.ca.gov](http://www.cpuc.ca.gov) or from the Commission's Public Advisor. Express your opinion at the Commission's public participation hearings (dates below). If you cannot attend, write or email your views to the Commission's Public Advisor:

California Public Utilities Commission  
Public Advisor's Office  
505 Van Ness Avenue, Room 5203  
San Francisco, CA 94102  
[public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)

California Public Utilities Commission  
Public Advisor's Office  
320 West 4<sup>th</sup> Street, Suite 500  
Los Angeles, CA 90013

PUBLIC PARTICIPATION HEARINGS:

September 5, 2000      Elihu Harris State Building Auditorium  
1515 Clay Street  
Oakland, California

**APPENDIX C**  
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|                    |  |
|--------------------|--|
| September 11, 2000 | Ontario Convention Center<br>2000 Convention Center Way<br>Ontario, California             |
| September 13, 2000 | Employment Development Department Auditorium<br>722 Capitol Mall<br>Sacramento, California |
| September 18, 2000 | Scottish Rite Center<br>1895 Camino Del Rio South<br>San Diego, California                 |

All public participation hearings begin at 6:30 p.m. Sign language interpreters, captioning, voicing and disabled access at all locations. For other reasonable accommodations, contact the Commission's Public Advisor (contact information above) no later than five business days before each public participation hearing.

**(END OF APPENDIX C)**

**APPENDIX D**

(Page 1)

**Deaf and Disabled Telecommunications Program (DDTP)  
California Public Utilities Commission  
Public Participation Hearings  
September 2000**

Commissioner: Henry Duque

Administrative Law Judge: Sarah R. Thomas, [srt@cpuc.ca.gov](mailto:srt@cpuc.ca.gov)

Commissioner Duque's Advisors: Timothy Sullivan and Lynne McGhee

Staff: Mark Vandervelden

Public Advisor: Rosalina White, [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)

**Introduction**

In 1999, the California Legislature passed a law relating to the Deaf and Disabled Telecommunications Program (DDTP) and several other programs not relevant to this proceeding. The law, known as Senate Bill 669, now appears in the California Public Utilities Code. (See attachment for full text of the law.) The California Public Utilities Commission (CPUC) is responsible to implement SB 669 and desires your input.

**Description of SB 669**

SB 669:

- 1) Requires funds for the DDTP be held in the State Treasury (instead of a bank trust fund as is currently done), and

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- 2) Creates the DDTP Administrative Committee (DDTPAC) as an advisory board for the CPUC to help develop, implement, and administer programs providing telecommunications services and equipment to the deaf or disabled.

Note: The CPUC created the DDTPAC prior to the passage of SB 669. SB 669 codifies the DDTPAC's existence.

**Questions**

The CPUC would like your input on the following questions. Feel free to address other issues about the DDTP at the Hearing, but be aware that the CPUC also desires your input on the issues raised below:

1. Does the DDTPAC's structure ensure that it achieves "appropriate representation by the consumers of telecommunications services for the deaf and disabled"?
  - a. Does the CPUC need to alter the composition of the DDTPAC to ensure "appropriate representation by the consumers of telecommunications services for the deaf and disabled"?
  - b. Are there groups that should be represented on the DDTPAC that are not included?
2. Are there groups represented on the DDTPAC that should not be?
  - a. Should the DDTPAC continue to have utility representatives as members?
  - b. Should the DDTPAC continue to have Commission employees as members?

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3. Should there be changes in how the DDTPAC advises the CPUC? If so, what changes?
4. What can the CPUC do to ensure that the DDTPAC has the authority and resources needed to “carry out the programs pursuant to the [CPUC’s] direction, control, and approval?”
5. Are there things the CPUC can do to make sure that transfer of DDTP funds into the State Treasury does not cause delay in payment of DDTP vendors or interruptions in service to DDTP consumers? What changes are necessary in CPUC procedures to ensure timely payment of vendors and to avoid the disruption of services to the deaf and disabled community?

**Attachment – SB 669**

The portion of Senate Bill 669 relating to the DDTP now appears in California Public Utilities Code Sections 270-278. Those Sections are reproduced below. The most important Sections for today’s Public Participation Hearing are Section 270(a)(4) and 278.

**270.**

-  (a) The following funds are hereby created in the State Treasury:  
...
-  (4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.  
...
- (b) Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act.

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- (c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity.
- (d) Notwithstanding Section 7550.5 of the Government Code, on or before July 1, 2000, the Public Utilities Commission, in consultation with the Department of Finance, shall report to the Governor and the Legislature regarding a transition plan for programs associated with funds to be established within the State Treasury, as specified in subdivision (a). The transition plan report shall include information regarding the annual revenue to be deposited in, and the annual estimated expenditure for, each fund specified in subdivision (a). Advisory committees created by Section[ ] . . . 278 . . . shall provide information and input to the commission in development of the specified transition plan.

**271.** For each advisory board created pursuant to this chapter all of the following are applicable:

- (a) The commission shall establish the number of, and qualifications for, persons to serve as members of each board, and shall appoint the members of each board. In determining the qualifications of persons who will serve as members of each board, the commission shall consider the purpose of the program, and shall attempt to achieve balanced public participation, for each board. The membership of each board shall reflect, to the extent possible, and consistent with existing law, the ethnic and gender diversity of the state.
- (b) Each board shall determine, subject to approval by the commission, the time, location, and number of monthly meetings for each board.
- (c) A majority of the number of members of each board constitutes a quorum.

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- (d) A board cannot act at a meeting without the presence of a quorum.
- (e) The affirmative vote of a majority of those members present at the meeting of a board is necessary in order to pass any motion, resolution, or measure.
- (f) The commission shall determine for each board whether the board members shall receive expense reimbursement pursuant to Section 19820 of the Government Code and a per diem allowance, as specified in Section 11564.5 of the Government Code, or as established by the commission. Each member of a board who is not a commission or public utility employee, or who is not otherwise compensated by an employer for service on the board, shall be entitled to make a claim for and to receive a per diem allowance, if authorized by the commission. Each member of a board who is not a public utility employee, or who is not otherwise reimbursed by an employer for expenses incurred when serving on the board, shall be entitled to make a claim for and to receive expense reimbursement, if authorized by the commission. The commission shall allow all reasonable expense and per diem claims. The payments in each instance shall be made only from the fund that supports the activities of the board and shall be subject to the availability of money in that fund. The claims shall be filed by the board with the commission.

**273.** Each advisory board created pursuant to this chapter shall do both of the following:

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- (a) Submit an annual budget to the commission. Within 90 calendar days after receiving a board's annual budget, the commission shall either accept, accept with conditions, or reject the submitted budget.
- (b) Notwithstanding Section 7550.5 of the Government Code, submit, in accordance with procedures established by the commission, a report that shall describe the activities of the board during the prior reporting period. The report shall be submitted on an annual or more frequent basis, as ordered by the commission.

**274.** The commission may on its own order, whenever it determines it to be necessary, conduct financial audits of the revenues required to be collected and submitted to the commission for each of the funds specified in Section 270. The commission may on its own order, whenever it determines it to be necessary, conduct compliance audits on the compliance with commission orders with regard to each program subject to this chapter. The commission shall conduct a financial and compliance audit of program-related costs and activities at least once every three years. The first three-year period for a financial and compliance audit commences on January 1, 2000. The second and subsequent three-year periods for financial audits commence three years after the completion of the prior financial audit. The second and subsequent three-year periods for compliance audits commence three years after the completion of the prior compliance audit. The commission may contract with the Bureau of State Audits or the Department of Finance for all necessary auditing services. All costs for audits shall be paid from the fund that supports the activities of the board audited and shall be subject to the availability of money in that fund.

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 **278.**

- (a) (1) There is hereby created the Deaf and Disabled Telecommunications Program Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of programs to provide specified telecommunications services and equipment to persons in this state who are deaf or disabled, as provided for in Sections 2881, 2881.1, and 2881.2, and to carry out the programs pursuant to the commission's direction, control, and approval.
- (b) In addition to the membership qualifications established by the commission pursuant to subdivision (a) of Section 271, the commission shall establish qualifications for persons to serve as members of the Deaf and Disabled Telecommunications Program Administrative Committee to achieve appropriate representation by the consumers of telecommunications services for the deaf and disabled.
- (c) All revenues collected by telephone corporations in rates authorized by the commission to fund the programs specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the commission, and the commission shall transfer those moneys to the Controller for deposit in the Deaf and Disabled Telecommunications Program Administrative Committee Fund. In addition, those revenues that are collected pursuant to subdivision (d) of Section 2881 shall be

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accounted for separately, as required by subdivision (b) of Section 2881.2, and deposited in the fund created by the commission pursuant to subdivision (b) of Section 2881.2.

- (d) Moneys appropriated from the Deaf and Disabled Telecommunications Program Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

**281.** Any revenues that are deposited in funds created pursuant to this chapter shall not be used by the state for any purpose other than as specified in this chapter.

**(END OF APPENDIX D)**