

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 5, 2004

To: The Commission
(Meeting of May 6, 2004)

From: Alan LoFaso, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1981 (Wolk) - Telecommunications: deaf and disabled telecommunications program.**
As amended April 1, 2004

Legislative Subcommittee Recommendation: Support, if amended.

Summary: This bill would require the Commission to provide eligible Deaf and Disabled Telecommunications program (DDTP) subscribers the option to receive a mobile phone with accessibility features for the disabled similar to those available on specialized or supplemental landline telephones or a mobile data services device (blackberry).

Digest: Existing Law, P.U. Code sec. 2881, authorizes the Commission to design and implement the following DDTP Programs: (a) Telecommunications Devices for the Deaf for the distribution of telecommunications devices for the deaf at no cost to certified deaf and hearing-impaired telephone subscribers, to any school or organization representing the deaf or hearing-impaired and to state agencies with significant public contact, (b) California Relay Service (CRS)— which provides the deaf and hearing impaired with direct access to the public switched telephone network, using a third-party intervention to provide 24-hour contact with any other telephone subscriber, and (c) Telecommunications Devices for the Disabled which provides other specialized telecommunications equipment to consumers with hearing, vision, mobility, speech, and cognitive disabilities.

Existing Law, P.U. Code sec. 2881(d), requires the Commission to establish a surcharge to recover DDTP costs, which is capped a one-half of one percent (.50%) of intrastate telephone revenues (or \$0.005 per dollar), and sunsets on January 1, 2006. Resolution T-16817, adopted January 22, 2004, set the current DDTP surcharge at three tenths of one percent (.30%) (or \$0.003 per dollar), effective February 1, 2004.

Existing Law, P.U. Code sec. 2881(i), requires the commission to continually review and if needed, expand the DDTP program to provide eligible subscribers with access to evolving telecommunications technologies.

Existing Law, P.U. Code sec. 2881.4(a)(4)(d), specifies the intent of the Legislature to deploy in a cost-effective way new and emerging telecommunications technologies to DDTP eligible subscribers.

This bill would require the Commission to provide eligible DDTP subscribers with the option to receive a mobile phone with accessibility features for the disabled similar to those available on specialized or supplemental landline telephones or a mobile data services device.

This bill would include mobile telephone services such as cellular radiotelephone, broadband Personal Communications Services and digital Specialized Mobile Radio.

This bill would prohibit the Commission from increasing the DDTP program's current surcharge rate, established in the most recent resolution (Resolution T-16817), to provide eligible subscribers with the option to receive wireless instead of wireline equipment.

Analysis: In 1979, the DDTP program was created to assist the deaf, hard-of-hearing, and disabled communities to gain access to the public switched telephone network. The program began by providing TeleTypewriters (TTYs) to deaf and hard-of-hearing eligible subscribers. In 1983, the program was 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. Currently, the Commission directly oversees the functions of the DDTP program.

The DDTP program was created as a universal service related program. As specified in Decision (D.) 95-07-050, "[u]niversal service is the idea that all people have access to those telecommunications services necessary for participation in contemporary society...dial tone, and provide access to free operator and emergency services."

The DDTP program provides eligible subscribers a wide array of standard and specialized landline telecommunications equipment to overcome their disabilities to gain access to the telephone network and to emergency 911 services. A licensed physician and surgeon, audiologist, or a qualified state or federal agency certifies subscribers as deaf or hearing-impaired to be eligible for the program.

The DDTP program provides eligible subscribers one standard or specialized landline handset (cordless phone, amplified speaker phone), with the option to receive several specialized devices (TTY, hearing-aid compatible headset), as needed, on a first come first served basis. The program does not provide service for these devices.

The Universal Lifeline Telephone Service (ULTS) Program provides discounted basic landline telephone services for already-owned landline equipment to low-income households (unlimited local calls, 60 local calls per month). The ULTS is the Commission's only public program that provides telecommunications service for already-owned landline telecommunications equipment.

Therefore, the DDTP and ULTS programs serve subscribers in different ways. The DDTP program provides landline telecommunications equipment to eligible deaf and disabled subscribers, while the ULTS provides discounted basic landline service to low-income households for their already-owned landline telecommunications equipment.

AB 1981 would provide eligible subscribers with equipment that is not comparable to the specialized or supplemental landline equipment currently available to subscribers. Although the equipment that AB 1981 would provide is similar because it enables users to access the telephone network, mobile phones and most blackberrys are technologically superior to the standard equipment currently provided by the DDTP program. Moreover, they are very different because they provide users with advanced technologies such as email capabilities, calendar software, games, not found on standard-issued DDTP equipment.

The impact of mobile phones on the DDTP program

Mobile phones would have a significant fiscal impact on the DDTP program. Mobile services sell phones and service as a bundled package. Consumers that commit to long-term contracts (usually 2 years) are either provided with a free phone or one at a discounted price, usually ranging between \$30-50. For the DDTP program to purchase a standard mobile phone outright from a provider, it could cost approximately \$200-300, whereas the typical landline device currently provided cost approximately \$100.

Furthermore, mobile phones are network specific. The chip embedded within each mobile phone only allows the phone to function on the company's network the phone was purchased from. In the event that a customer moves to an area that is not served by their current provider, the DDTP program would be responsible for providing the subscriber with a new mobile phone.

The impact of blackberry's on the DDTP program

Blackberry handheld wireless devices would also have a significant fiscal impact on the DDTP program. Similar to mobile phones, most of these devices are sold as a bundled package with telephone service. Consumers that commit to long-term contracts (usually 2 years) are provided with a blackberry at a discounted price, usually ranging between \$260-350. For the DDTP program to purchase a standard blackberry outright from a provider, it could cost approximately \$400, whereas the typical landline device currently provided cost approximately \$100.

Emergency 911 Service (E911)

One of the aspects of basic service intended to be met by the DDTP program is full access to emergency 911 service (E911). Mobile phone access to E911 is not comparable to E911 access via wireline phones.

E911 was designed to geographically locate a mobile phone subscriber and deliver a call back number to the Public Service Answering Point (PSAP). The PSAP then contacts the appropriate emergency agency. Currently, mobile providers utilize two tracking systems: Triangulation, a system that tracks mobile phone signals sent to multiple towers and calculates the phones whereabouts between those towers and Global Positioning System (GPS), a satellite-based radio navigation system that works with chips embedded in the phones. These tracking systems are not always accurate. Some only work in urban areas where towers exist and some do not work when the signal is lost such as inside a tunnel or building.

TADDAC

On April 20, 2004, the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC) forwarded a letter to the Commission detailing their opposition to AB 1981. TADDAC expressed concerns about the surcharge freeze provision in Section 2 and opposes any means test.

The TADDAC believes that freezing the surcharge rate is an unnecessary restriction that would either discourage eligible recipients from trading in their wireline equipment for wireless equipment or would place the program in jeopardy by authorizing the DDTP program to offer new technologies but be unable to pay for them.

Furthermore, the TADDAC opposes a means test requirement to limit individuals' eligibility for DDTP program equipment. According to the TADDAC letter, the DDTP program has never utilized a means test to qualify individuals and doing so would reduce the service level and distribution of equipment.

Fiscal Impact:

The DDTP has on loan over 500,000 telecommunications devices to over 400,000 eligible subscribers. It provides approximately 100,000 telecommunication devices, including handsets (e.g., cordless phones, amplified big button phones, basic rotary phones) to subscribers per year, of which 35% replace existing devices and the remaining devices serve new subscribers. The remaining 65% of devices are provided to new entrants into the program.

If the 65% of new entrants into the program are estimated¹ to elect to receive wireless instead of wireline equipment from the DDTP program, then the program will be required to purchase 65,000 mobile phones per year, which would likely be offset by 65,000 units of wireline equipment will not need to be purchased. However, mobile phone equipment is likely to be more expensive (see above).

A mobile handset approximately costs (between \$200 - \$300), minus the value of a landline phone (est. cost: \$100): $\$250 - \$100 =$ $\$150/\text{handset replaced}$

DDTP program costs would be increased by $65,000 \times \$150 =$ $\$9,750,000$

Plus, additional interest from other subscribers (5%) $\times 400,000 \times \$250 =$ $\$5,000,000$

$= \$14,750,000.$

However, AB 1981 would prohibit the Commission from raising the current surcharge rate, set at \$0.003 per dollar, to fund any new equipment costs arising from expansion of the program. If the Commission were forced to purchase equipment that is more expensive, AB 1981 would require the Commission to reduce the number of subscribers that can be served by the DDTP program. As the surcharge rate is already statutorily capped, it appears unnecessary for the legislature to further cap the surcharge rate at current levels, particularly if it mandates an expansion of the program that is likely to increase its costs.

Proposed Amendments:

1. AB 1981 should be amended to conform to the contours of the current DDTP Program where only comparable wireless equipment, subject to Commission determination, is provided to eligible subscribers.

Specifically, strike the text on lines 17-18 on page 3, as follows:

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. In lieu of specialized or supplemental telephone communications equipment, a subscriber may instead elect to receive a handset for mobile telephony services or mobile data services, ~~with accessibility features for the disabled that are is comparable to those available on specialized or supplemental telephones~~ specialized or supplemental telephones for non-mobile service.

¹ This analysis assumes that each of these new subscribers would choose mobile phones, while current subscribers would seek to replace old wireline equipment for new wireline equipment. The analysis assumes an additional 5% of equipment purchases from interest generated among existing subscribers.

2. The provision limiting any surcharge increases to \$0.003 per dollar (but retaining the current \$0.005 per dollar overall cap on the program) should be deleted.
These provisions are found on page 5, lines 25-31.

LEGISLATIVE HISTORY

Asm. U&C: 12-0 (Do pass as amended) (3/22/04)

Asm. Approps: referred to suspense file (4/14/04)

SUPPORT/OPPOSITION

Support: California Council of the Blind

Opposition: None on file.

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Date: May 4, 2004

BILL LANGUAGE:

BILL NUMBER: AB 1981 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 1, 2004
AMENDED IN ASSEMBLY MARCH 26, 2004

INTRODUCED BY Assembly Members Wolk and Bates

FEBRUARY 12, 2004

An act to amend Section 2881 of the Public Utilities Code,
relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1981, as amended, Wolk. Telecommunications: deaf and disabled telecommunications program.

Existing law requires the Public Utilities Commission to design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to telephone corporation subscribers who are certified to be disabled, at no charge additional to the basic exchange rate.

This bill would require that ~~subscribers have the option of electing~~ , in lieu of specialized or supplemental telephone communications equipment, a subscriber is authorized to elect to receive a handset for mobile telephony services or mobile data services , as defined, with accessibility features for the disabled that are comparable to those available on specialized or supplemental telephones.

Pursuant to existing law, the commission has adopted a resolution establishing a surcharge rate to implement the Deaf and Disabled Telecommunications Equipment and Service Program (DDTP).

This bill would require that, in implementing the provisions of the bill, the commission not increase the established DDTP surcharge.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as an individual who is deaf or hearing impaired by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to any subscriber that is an organization representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been

previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file prior to certification.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hearing impaired and offices of organizations representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hearing impaired and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hearing impaired. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hearing impaired available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost effective method of providing dual-party relay service to the deaf or hearing impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate.

~~Subscribers shall have the option of electing~~

In lieu of specialized or supplemental telephone communications equipment, a subscriber may instead elect to receive a handset for mobile telephony services or mobile data services, with accessibility features for the disabled that are comparable to those available on specialized or supplemental telephones. The certification, including a statement of visual, hearing, or medical need for specialized telecommunications equipment, shall be provided by a certified audiologist, or a licensed optometrist or physician and surgeon, acting within the scope of practice of his or her license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision. For purposes of the

this subdivision, "mobile telephony services" means commercially available interconnected mobile phone services that provide access to the public switched telephone network (PSTN) via mobile communication devices employing radio wave technology to transmit calls, including cellular radiotelephone, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR). ~~"Mobile telephony services" does not include mobile satellite services or mobile data services used exclusively for the delivery of nonvoice information to a mobile device.~~

For purposes of this section, "mobile data services" means the delivery of nonvoice information to a mobile device.

(d) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly

applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow providers of the equipment and service specified in subdivisions (a), (b), and (c), to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2006. The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(e) The commission shall determine and specify those statewide organizations representing the deaf or hearing impaired that shall receive a telecommunications device pursuant to subdivision (a) or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office.

(f) The commission may direct any telephone corporation subject to its jurisdiction to comply with its determinations and specifications pursuant to this section.

(g) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (d). Until January 1, 2006, the commission shall be authorized to make, within the limits set by subdivision (d), any necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive. A fund balance which is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(h) The commission shall prepare and submit to the Legislature, on or before December 31, 1988, and annually thereafter, a report on the fiscal status of the programs established and funded pursuant to this section and Sections 2881.1 and 2881.2. The report shall include a statement of the surcharge level established pursuant to subdivision (d) and revenues produced by the surcharge, an accounting of program expenses, and an evaluation of options for controlling those expenses and increasing program efficiency, including, but not limited to, all of the following proposals:

(1) The establishment of a means test for persons to qualify for program equipment or free or reduced charges for the use of telecommunication services.

(2) If and to the extent not prohibited under Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336), the imposition of limits or other restrictions on maximum usage levels for the relay service, which shall include the development of a program to provide basic communications requirements to all relay users at discounted rates, including discounted toll-call rates, and, for usage in excess of those basic requirements, at rates which recover the full costs of service.

(3) More efficient means for obtaining and distributing equipment to qualified subscribers.

(4) The establishment of quality standards for increasing the efficiency of the relay system.

(i) 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.

SEC. 2. The commission shall not, as a result of implementation of this act, increase the surcharge rate established in Resolution T-16817, dated February 11, 2004, (Resolution No. T-16817. To

Establish the Deaf and Disabled Telecommunications Equipment and
Service Program (Public Utilities Code Section 2881, et Seq.) 2004-05
Fiscal Year Budget Pursuant to Decision No. 89-05-060).