

Decision 89 05 060 MAY 26 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)  
motion to determine the feasibility )  
of implementing New Funding Sources )  
and Program Reductions in the Deaf )  
and Disabled Program Pursuant to )  
Section 2881 of the Public Utilities )  
Code. )

ORIGINAL

I.87-11-031  
(Filed November 25, 1987)

Mailed

MAY 30 1989

(See Appendix A for appearances.)

OPINION

On November 25, 1987, the Commission approved Resolution T-12056 which directed that this proceeding be opened to address expense reductions and expanded revenue sources recommended by the Commission Advisory and Compliance Division (CACD) in its "Report on the Funding Problems Involving Deaf and Disabled Telecommunications Services", dated November 13, 1987. Respondents of the telecommunications industry were invited to address 13 issues contained in the Order Instituting Investigation (OII) to enable the Commission to determine the most effective methods to maintain a viable telecommunications program for the deaf and disabled community. These issues are set forth in Appendix C.

Following notice, public hearings were held on January 5-6, 1988, on Issues 1, (whether the policy that a PBX trunk was equivalent to 10 Centrex lines be continued and whether a PBX trunk should be surcharged at ten times the prevailing Centrex rate?), and 2, (How to define a telephone line for purposes of

Public Utilities Code<sup>1</sup> Section 2881(d) ), and Interim Opinion, in Decision (D.) 88-05-065, was issued on May 25, 1988.

Testimony on Issue 3 was received in public hearings February 17, 1988. While an interim decision on Issue 3 was being prepared, legislation was introduced in Senate Bill (SB) 2268 to amend Section 2881. Since the pending legislation would affect Issue 3 and several other issues in the OII, a decision on Issue 3 was withheld and further formal hearings on the remaining issues were stayed pending legislative action on SB 2268.

SB 2268 was signed by the Governor on June 30, 1988 and went into immediate effect. The bill amends Section 2881 by changing the Deaf Equipment Acquisition Fund (DEAF) Trust recovery mechanism from a per line surcharge to a percentage surcharge on all intrastate telephone service other than one-way radio paging and universal telephone service. A cap of 1/2% was placed on the amount of the surcharge. As a result of the legislation, Interim D.88-05-065, which addressed Issues 1 and 2 of the OII was superseded and the pending decision on Issue 3 became moot.

During hearings on February 17, 1988, it was agreed by all parties that it was no longer necessary to consider Issues 4 and 5 of the OII (concerning whether a portion of a TDD subscriber's monthly basic access charge be remitted to the fund and whether a charge for California Relay Service calls be implemented) since they related to financial matters being considered in the pending legislation. In the meantime, workshops began on March 2, 1988 and continued periodically until June 2, 1988, attempting to resolve the remaining issues of the OII which were not addressed in SB 2268.

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<sup>1</sup> All references are to the Public Utilities Code unless otherwise indicated.

Hearings were held in San Francisco on March 22, in Los Angeles on March 29, and in Sacramento on March 24, 1988 to receive statements and testimony from the deaf, hearing impaired, and disabled members of the public as well as from the general public.

On April 13, 1988, DRA filed a motion to expand the scope of the OII to include a number of new issues. Comments were received and after consideration of the motion and the comments, we issued D.88-07-033 on July 8, 1988 expanding the scope of investigation. The additional issues are set forth in Appendix D.

Informal workshops on the added issues were held from July 18, 1988 to August 12, 1988, and resulted in the submission of a Stipulated Agreement and Report on September 6, 1988. The stipulation addressed all issues in Appendix D with the exception of Issues II.A.3 (Are there more cost-effective and efficient ways of obtaining and distributing equipment other than through a utility-run program?), and II.A.4 (Should distribution of equipment and related activities be awarded to contractors by competitive bid?).

Participants representing the majority (DRA, telephone utilities, DEAF Trust Administration Committee) submitted their recommendations on these two issues in their Stipulated Agreement and Report while participants representing Self Help for Hard of Hearing People (SHHH), Hearing Society for the Bay Area, Inc., and California Association of the Deaf (CAD) (referred to collectively as Objectors) filed a joint objection to the Stipulated Agreement and Report on Issues II.A.3 and II.A.4. All participants agreed that since the disputed two issues did not involve questions of fact, no formal evidentiary hearings on issues were necessary. Discussion of these disputed issues will be detailed elsewhere in this decision.

The Stipulation and Report, and discussion of the issues set forth in the original OII, along with the recommendations of the participants follow:

(Issues 1-5 have been resolved by enactment of SB 2268.)

**Issue 6 - Should a voucher system be implemented for the individual customer purchase of TDD and handicapped supplemental equipment with warranty?**

This issue was discussed and considered extensively in the workshops. Many of the participants believe that since Section 2881 requires telephone corporations to "provide a telecommunications device capable of servicing the needs of the deaf or severely hearing impaired...", the implementation of a voucher system which would provide the subscriber with a piece of paper may require legislative change since a piece of paper is not a telecommunications device.

Several issues were raised during discussion; namely, what is a voucher system? Who would run the voucher system? How would parties be reimbursed for any costs incurred in administering the voucher system? What services would be included in a voucher system?

Concerns for rural customers and the difficulty they might experience in learning how to use the equipment without hands-on training were expressed as was some concern that customers may become victims of the marketplace under a voucher system.

In considering any savings which may be realized under a voucher system, it was agreed that if TDD's were no longer distributed through the utilities, utility service centers would still need to remain open to distribute SB 60 equipment (specialized or supplemental telephone equipment for certified disabled subscribers). Thus, any potential savings would be significantly less if only SB 597 equipment (TDD's) were removed from utility service centers and distributed through a voucher system. Any comparisons with voucher systems in other states may also be inappropriate since all other systems were set up in the initial phases of the programs and no historical data exists on

transitional costs. Furthermore, equipment distribution is significantly greater in California than in any other programs.

Other concerns raised were: requiring a voucher for SB 597 equipment but not for SB 60 equipment may be considered discriminatory; how would the utilities handle embedded equipment base if we adopted a voucher system; and who would be responsible for repairs.

CAD expressed interest in a voucher system and raised the concept of having non-profit organizations handle the distribution of equipment in conjunction with a voucher system. CAD canvassed the eight Department of Social Services agencies in the state and interest was expressed by six of the agencies in providing a TDD distribution program under the auspices of CAD. CAD also proposed an equipment distribution system that fit within a nonprofit framework but which would require a complete restructuring of the existing equipment distribution system.

#### Participants' Recommendation

Because a voucher system was a small aspect of CAD's proposal and was lacking in any detailed analysis, it was decided that the proposal went beyond the intended scope of Issue 6 in the investigation. The participants agreed that it was premature to decide on the appropriateness of a voucher system for either TDD or supplemental equipment at this time and that the matter could be revisited in the expanded OII workshops within the context of Issue II.A.1 and/or II.A.2.

#### Issue 7 - Should repair/maintenance costs of TDD and supplemental handicapped equipment be borne by the recipient?

All participants believe that the maintenance and repair of the equipment is an integral part of providing the equipment and that these costs should be borne by the DEAF Trust. Shifting repair/maintenance responsibility from the DEAF Trust to the recipient would be inappropriate for the following reasons:

1. Customer choice of equipment distributed by the local exchange companies is limited and as a result, customers have little or no opportunity to select equipment which either better meets their needs or which may have a better repair record than that which is being distributed by the utilities.
2. Repair/maintenance costs of equipment provided by the program are currently being paid for by the program and are, in essence, part of the package.
3. Many participants in the program have a lower income level than the California average income. In addition, subscribers in the program often have very high medical and special care expenses. Since repair and maintenance costs can be substantial, often in excess of \$100 for TDDs, shifting the burden of repair/maintenance costs which is currently provided by the Trust, could result in the loss of use of the equipment when it fails.

Since TDD equipment generally has a usable life in excess of the warranty, proper maintenance can be a long-term economy for the DEAF Trust. Consideration was given to the availability of repair by vendors of TDD equipment versus the availability of repair by vendors of supplemental telecommunications equipment. There is far more opportunity for repair by vendors of TDD equipment in California than for the repair of supplemental telecommunications equipment because many of the vendors of SB 60 equipment are not located in California.

Participants' Recommendation

Participants recommend that repair/maintenance costs of TDDs and supplemental telecommunications equipment continue to be the responsibility of the Trust.

**Issue 8 - Should the number of Trust-provided TDD and supplemental equipment items be limited to one per individual?**

Currently, Pacific Bell, GTE California, Inc. (GTEC) and the California Telephone Association (CTA) (which distributes telecommunications equipment for the smaller independent telephone companies) generally provide only one TDD per certified residential subscriber. In some instances, a second TDD is provided to subscribers who are owners of a business and need a TDD for use in their business or to employers who need a TDD for an employee. Requests for a second TDD are carefully reviewed by the local exchange companies to determine if a second TDD is justified. The number of second TDDs furnished by the utilities is relatively low in relation to the total number of TDDs distributed. As an example, 27 GTEC subscribers have received two TDDs out of 3,586 TDDs distributed.

Similarly, the local exchange companies have, in rare instances, provided some subscribers with more than one set of supplemental telecommunications equipment. For residences, dual equipment is given out solely for mobility impaired customers.

**Participants' Recommendation**

The workshop participants recommend that the current policy of distributing only one TDD to a certified subscriber be continued, except in justified instances where a certified residential subscriber may require a second TDD at the place of employment. Equipment distributed under SB 60 should likewise be limited to one set except where circumstances justify a need for more than one set.

**Issue 9 - Should AT&T's Operator Services Division [for the Deaf] expenses be eliminated from Trust reimbursement?**

Separate accounting is required for each program administered by the DEAF Trust. Operator Services for the Deaf is currently accounted for as an expense of the SB 597 program. The Commission authorized the reimbursement of telephone companies

for the costs of Operator Services for the Deaf in D.92603. A clear legislative intent to provide services is found in SB 244. The stated purpose of the bill is to make available "reasonable access to all phases of public telephone service to deaf or severely hearing-impaired subscribers." More than half of Operator Services for the Deaf expenses are for relaying directory assistance calls, a service reasonably encompassed by SB 244.

Operator Services for the Deaf expenses are a portion of AT&T's total expenses for providing telecommunication services for deaf/hearing-impaired/disabled subscribers. The funding mechanism for the recovery of Operator Services for the Deaf expenses for calls originating in California is the DEAF Trust surcharge. According to AT&T, no other state has a specific mechanism for recovery of Operator Services for the Deaf expenses and such expenses are recovered through AT&T's general rates. AT&T indicated it will be going to state legislators outside of California to lobby for legislative change which will allow for the collection of Operator Services for the Deaf expenses through a specific cost recovery mechanism, such as the DEAF Trust.

Discussions addressed whether there may be cost savings which could be achieved by providing the Directory Assistance function of Operator Services for the Deaf for California originated calls through the California Relay Service. AT&T will conduct a study to determine the cost of providing Directory Assistance on Operator Services for the Deaf, the cost of providing Directory Assistance on California Relay Service, and the operational impact of providing Directory Assistance on California Relay Service vs. Operator Services for the Deaf. AT&T will submit this study to the DEAF Trust Administration Committee.

#### Participants' Recommendation

The participants recommend that the current policy of allowing AT&T to be reimbursed by the DEAF Trust for Operator



Services for the Deaf expenses for calls originating in California be continued.

Issue 10 - Should Senate Bill 927 (distribution of TDD's to State agencies and organizations with substantial programs for the Deaf) be repealed or amended?

SB 927 directs each telephone company to provide telecommunications equipment capable of serving the needs of the deaf or severely hearing-impaired, to any subscriber which is an agency of state government which the Commission determines serves a significant portion of the deaf or severely hearing-impaired population and to an office located in the State Capitol for purposes of access by the deaf or severely hearing-impaired to members of the Legislature.

Discussions on this issue determined that requests for TDD's under SB 927 have been fairly limited. Data indicates that fewer than 200 TDD's have been authorized to state agencies.

Participants' Recommendation

Because legislative action would be required to amend or repeal SB 927, the workshop participants recommend that no action be taken at this time and that the legislation be allowed to become inoperative on July 1, 1989 and repealed on January 1, 1990. It is also recommended that thereafter, the DEAF Trust continue to maintain all TDDs distributed under SB 927. It is also recommended that the criteria used in reviewing requests for this equipment by CACD should be tightened. More stringent criteria should include:

1. Full justification of the need of such equipment.
2. The elimination of blanket distribution to multiple agency locations. State agencies should justify the need for TDD's requested for each office site.
3. A review of TDD equipment currently available at the requesting agency.

**Issue 11 - Should expenses for billing inquiries by a TDD user be eliminated from Trust reimbursement?**

The participants believe this type of expense is a normal utility operating expense and has no direct relationship to whether or not the calling customer is also participating in the Deaf and Disabled Equipment program. Responses to data requests, received from all independent telephone companies in California, show that they are not billing the DEAF Trust for expenses related to billing inquiries. Most companies indicated that billing inquiries from deaf and disabled customers are not separately identified. However, the participants agreed that any expenses resulting from customer inquiries which relate specifically to the Deaf and Disabled Program are, and should continue to be, charged to the Trust.

**Participants' Recommendation**

The current policy of not charging the Trust for billing inquiries from deaf/hearing impaired/disabled customers should be continued.

**Issue 12 - Should AT&T and Pacific Bell be allowed to allocate corporate overhead loadings over and above those overheads related to employee benefits and payroll taxes?**

Discussion of the participants revolved around Section 2881(d) which allows telephone corporations "...to recover costs as they are incurred...". Since corporate overhead is part of the total costs incurred by the operating companies of providing the Deaf and Disabled Program, the participants agreed that such overhead loadings should be recovered.

Corporate loading factors are developed within the industry using standard accounting practices. The operating companies reported that overhead loading factors applied in connection with implementing their requirements under Section 2881 are consistent with those loading factors which are applied to all other similar activities performed by the employees of each

utility. The issue whether the current level of corporate overhead loadings is appropriate was raised during the workshop but it was determined that this issue was outside the scope of this OII.

A question of how much profit is included in the loading factors was raised during the workshops and it was pointed out that the loading factors are a ratio to total wage base and are developed based on standard accounting practices in which profit is not included. Corporate loading factors are applied to wage and salary dollars only and are not applied to other expenses such as buildings or equipment. There is no profit in corporate loading factors and the utilities are simply made whole when reimbursed for their costs.

#### Participants' Recommendation

The current policy of allowing the telephone operating companies to be reimbursed for corporate overhead loadings on wage and salary dollars for implementing Section 2881 should be continued.

Issue 13 - Should a means test or income criteria be established for receiving a TDD or supplemental telecommunications equipment or for California Relay Center (California Relay Service) usage?

The participants believe that Section 2881(b) states that reasonable access should be available for "...all phases of public telephone service to deaf or severely hearing-impaired telephone subscribers" and that imposition of a means test would inhibit reasonable access to telephone service in conjunction with the California Relay Service. In testimony received during the formal proceedings, AT&T witness, Beverly A. Thorman, stated that "use of the California Relay Service is a daily occurrence that potentially involves every member of the calling public...". The participants thus believe that if a means test or income criteria were required, determining whether the calling party qualifies for a subsidy would be difficult, if not impossible, for the operator at the California Relay Service to ascertain. It was also the consensus

that all expenses associated with determining the calling party's eligibility would be charged to the Trust and such expenses could exceed any savings substantially.

SB 60 requires telephone corporations to provide supplemental telecommunications equipment to meet the needs of the disabled at no charge additional to the basic exchange rate. In addition to requiring medical certification of disability, the legislation directed the Commission to study the feasibility of establishing an income criteria for determining a subscriber's eligibility to receive specialized or supplemental telephone equipment. In I.86-07-031, D.87-04-027, the Commission determined that it was not appropriate to set income criteria for receiving supplemental telecommunications equipment since the establishment of a personal income criteria would discriminate in favor of persons whose income is below a specific level, and would ignore the higher living costs disabled persons incur because of their individual disability.

The Commission was not directed to examine the feasibility of establishing a means test or income criteria for distribution of TDDs under SB 597 and the inconsistencies between SB 60 and SB 597 in regards to the requirement of examining the feasibility of implementing a means test raises the problem of possible discrimination.

The implications of a means test with and without full funding by the Legislature was discussed by the participants and under both scenarios, the participants agreed that a means test would be awkward and difficult to administer equitably, and would result in excessive administrative costs. If a means test were to be required by either the Legislature or the Commission, several issues would need to be addressed before developing such a program. Major items which would have to be considered include:

1. A change to the legislation to impose a means test for TDD distribution since Section 2881(c) allows for a means test for

supplemental equipment while Section 2881(a), which pertains to TDDs, does not allow for an income criteria for eligibility.

2. Deaf, hearing-impaired, and the disabled have different income needs, depending on their physical problems. Determining real disposable income after taking into consideration medical bills and attendant costs, for example, would have to be done on a case-by-case basis. Developing a standard income range to determine eligibility would be difficult if not impossible.
3. Unlike the Universal Lifeline program which provides discounts for standardized services (with standardized costs), supplemental telecommunications equipment is provided for a wide range of disability types and severity at varying costs.
4. A major concern was raised as to the treatment of the large embedded equipment base. How do we treat those customers who are already participating in the program? Dual treatment could result in charges of discrimination.

A means test also raises the disparity between income levels for the deaf/hearing-impaired community and the general population in California. The most recent data available (1983) indicates the median annual income for the general population in California was \$21,479 while the hearing-impaired community had a median annual income of \$11,738.<sup>2</sup> In addition, 61% of hearing-impaired families had annual incomes of less than \$15,000 while only 32% of the general California population had annual family

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<sup>2</sup> Marcus T. Delk, Jr., and Jerome D. Schein, Deaf People in California: Demographics and Communication Needs. May 1983, p. 18.

incomes of less than \$15,000. Currently, while 11% of the telephone subscribers in California participate in lifeline, 16% of the deaf telephone subscribers participate in the program. These facts reflect that the deaf/hearing-impaired community is comprised of more low-income families than the general population.

In terms of the disabled community, current data is not available. In the 1975 Census Bureau, U.S. Department of Commerce, Current Population Report, however, 45% of the general population had annual incomes over \$15,000 while only 21% of the disabled population had annual incomes over \$15,000. During the same survey period, 12% of the general population had annual incomes under \$5,000 while 33% of the disabled population had annual incomes under \$5,000. DRA, who obtained this data, does not have any reason to believe this disparity has changed.

Additionally, the current inability to quantify either the costs of implementing a means test or the savings from such a program raised concerns. The fact that such a large percentage of the deaf/hearing-impaired/disabled subscribers have significantly lower income levels than other subscribers suggests that a means test may not yield any real savings to the Trust. The costs associated with determining income eligibility may be greater than any benefits which may be realized.

A final issue is the administration of a means test. Use of the Universal Lifeline Telephone Service Program as a model for the deaf and disabled program was discussed and the consensus was that the lifeline income criteria may not be appropriate for this program and a completely new income criteria may be needed. Eligibility may have to be determined on a case-by-case basis, especially for the supplemental telecommunications equipment. In terms of the equipment needs of the deaf and disabled program as forecasted for 1988, 54% of the total equipment expenses will be attributed to supplemental telecommunications equipment, with the remainder attributed to TDD equipment.

Special consideration must be given to real disposable income. Deaf/hearing-impaired/disabled customer groups have unusual expenses which must be deducted from disposable income to determine real disposable income.

The organizations representing the deaf/hearing-impaired/disabled customers are concerned that members of their communities are generally nonassertive and the imposition of a means test or income criteria would make access to equipment provided under SB 60 or SB 597 more burdensome on the subscriber and participation will be inhibited, contrary to our stated goal of universal access to the network.

The costs/benefits of developing or implementing a means test or income criteria were not quantified during workshop meetings although various types of possible programs were discussed. It was agreed that the more complex the program design, the greater the associated expenses would be.

#### Participants' Recommendation

The participants recommend that a means test not be required for use of the California Relay Service. In addition, all parties agreed that a means test should not be required to establish eligibility for TDDs or supplemental telecommunications equipment. The participants believe that any requirement for a means test for TDDs would be inconsistent with SB 597.

If this recommendation is not accepted by the Commission, and it is determined that a means test is necessary, DRA recommends the following:

1. No means test should be applied for the use of the California Relay Service.
2. Change the legislation to require a means test for TDDs as well as for supplemental equipment.
3. Income eligibility should be based on self-certification, similar to the Lifeline program. This would be the least intrusive method of determining income eligibility.

4. Certification of need for telecommunications equipment should be done once at the time of initial equipment request, along with medical certification.
5. Income should be reviewed in more detail than is done in the current Lifeline program in an attempt to determine real disposable income. This review would allow for adjustments to income due to excessive medical expenses, attendant costs, or other disability related expenses. The same criteria of 150% of federal poverty level, as is used in the Lifeline program, could be used to determine income eligibility (after adjustments for the Deaf and Disabled Equipment program).

ISSUES ADDED IN D.88-07-031. EXPANDING THE OII

Eighteen issues were added to the original OII in response to concerns raised by various organizations representing the deaf/hearing-impaired and disabled communities, by individuals, and by DRA. These issues deal with DEAF Trust administration and staffing, operational considerations, and consideration of the development of a General Order and are set forth in Appendix D.

Part I - Trust Administration and Staffing

Many of the issues placed under this section are interrelated and so are discussed collectively rather than individually. Those issues include:

- Issue 1.a. - What are the functions of the DEAF Trust Administration?
- Issue 1.b. - Is the structure and make-up of the DEAF Trust Administration appropriate?
- Issue 4. - What is the most effective management and staffing structure for the DEAF Trust?



Issue 5.a. - Define the responsibilities of the Equipment Standardization Committee.

Issue 5.b. - How should this committee interrelate with DEAF Trust activities and with the DEAF Trust Administration?

Issue 6 - Should an Advisory Committee consisting of consumers and utility members be established to make recommendations to the Commission regarding changes in telecommunications equipment or service for the deaf/hearing-impaired/disabled telecommunications consumer?

Participants' Recommendations to Issues 1-6

All participants agreed that significant changes should be made to the composition, responsibilities, and appointment procedures relating to the DEAF Trust Administration. Currently the DEAF Trust Administration is comprised of three utility representatives and one representative from the deaf/hearing-impaired/disabled community. The utility representatives are selected by their companies and serve indefinite terms. The community representative is selected by deaf and disabled organizations who confer among themselves and notify the DEAF Trust Administration of their nominee. The community representative serves a one-year term. The workshop participants recommend adoption of the following proposed reorganization.

The DEAF Trust Administration should be renamed the Deaf and Disabled Telecommunications Program Administrative Committee. The structure of the new Committee should be as follows:

1. The Deaf and Disabled Telecommunications Program Administrative Committee should contain nine voting members consisting of four utility representatives, four consumer representatives, and the Commission Executive Director or designee.

2. The utility members should consist of one each from the two largest local exchange companies, one from the small local exchange companies, and one from the provider of the California Relay Service.
3. The consumer members should consist of one representative from the hard of hearing community, one from the disabled community, and two from the deaf community (one representing a statewide organization and one representing the deaf community at large).

#### Advisory Committees

The Deaf and Disabled Telecommunications Program Administrative Committee should have two permanent advisory committees. The current Equipment Standardization Advisory Committee should be retained, but its name, composition, responsibilities, and member appointment procedures should be changed. A second advisory committee, the California Relay Service Advisory Committee should be formed.

#### Equipment Program Advisory Committee

1. The Equipment Standardization Advisory Committee should be renamed the Equipment Program Advisory Committee. The Equipment Program Advisory Committee voting members should consist of three utility representatives and four consumer representatives. Two non-voting members, one from the provider of the California Relay Service and one from the Commission staff (as designated by the Executive Director), should also participate on the Equipment Program Advisory Committee.
2. The utility representation should include one member each from the two largest local exchange companies and one member from the small local exchange companies.

3. The consumer representation should include two disabled representatives, one hard of hearing representative and one deaf representative.

**California Relay Service Advisory  
Committee - Composition**

The California Relay Service Advisory Committee voting members should consist of one representative from the provider of the California Relay Service and four consumer members, one from the speech-impaired community, one from the hard of hearing community, one from the deaf community and one from the hearing community with significant experience in use of the relay service.

In addition, one representative each from the two largest local exchange companies, one representative from the small local exchange companies and one representative from the Commission staff (as designated by the Executive Director) should participate on the California Relay Service Advisory Committee in a non-voting capacity.

**Advisory Committees - Additional members and  
committees and Provision for Alternates**

The advisory committees should have the flexibility to expand their memberships to include other consumer representatives, such as from the deaf-blind and the deafened communities, as they are needed. The selection of any additional committee members should be subject to DEAF Trust Administration Committee and Commission approval. Any proposed revision in the voting structure due to additional consumer representatives shall be developed by the Deaf and Disabled Telecommunications Program Administrative Committee and submitted to the Commission for approval. The Deaf and Disabled Telecommunications Program Administrative Committee shall have the flexibility to create ad hoc task forces as needed. If the DEAF Trust Administration Committee believes there is

a need to appoint other permanent committees, it should seek Commission approval to establish them.

Each advisory committee should develop in its charter provisions for providing alternate member representation.

#### Support Staff

Currently, the staff support is provided to the DEAF Trust Administration Committee by employees of Pacific Bell. Since the Chairman of the DEAF Trust Administration Committee is a representative of Pacific Bell, the staffing support arrangement seemed appropriate. Incidental support, such as telephones, electricity, and the availability of copy machines is also provided by Pacific Bell.

Under the proposed new structure, independent support staff would be hired or contracted by the Deaf and Disabled Telecommunications Program Administrative Committee with qualifications being established by the Deaf and Disabled Telecommunications Program Administrative Committee. Deaf and Disabled Telecommunications Program Administrative Committee support staff, which includes staff used in support of the advisory committees, will not be employed by any of the organizations or utilities represented on the committees. In addition, support staff will not be employed by, or represent the interest of, any vendors or distributors who are currently involved, or who have the potential to be involved, in providing equipment and/or services for the Program. The utilities may provide technical assistance on an as-needed basis.

In recruiting to fill support staff positions, every effort should be made to hire staff from the deaf/hard of hearing/disabled community.

**RESPONSIBILITIES AND FUNCTIONS OF THE COMMITTEES  
AS SET FORTH IN THE STIPULATION**

**Deaf and Disabled Telecommunications  
Program Administrative Committee**

In its current form, the DEAF Trust Administration has a very limited number of functions in its charter. The DEAF Trust Administration was established to perform the services required to administer the Trust Fund including the receipt, investment and disbursement of program surcharge funds.

More specifically, the Committee was directed, pursuant to D.92603, to secure the services of an attorney, review and approve requests for expense reimbursement, recommend surcharge rate changes, invest excess funds, retain the services of a Bank Trustee, cause an annual audit of the financial statements by an independent CPA firm, and file an annual report with the Commission.

D.87-04-027 added the functions of maintaining records of equipment the Trust owns, appointing public members to the Equipment Standardization Advisory Committee, and adopting a standard equipment list for the disabled programs as recommended by the Equipment Standardization Advisory Committee.

The Deaf and Disabled Telecommunications Program Administrative Committee would maintain all of the functions of the current DEAF Trust Administration (except for the appointment of Equipment Standardization Advisory Committee public members) and the scope of its functions would be expanded as described below.

**Modification and Expansion of Current Functions**

The Deaf and Disabled Telecommunications Program Administrative Committee would review and approve monthly program expense claims for reimbursement in accordance with the pre-approved annual budget. (The process for pre-approval of the annual budget is discussed under Issue 7a and 7b.) Utility representatives would be prohibited from voting when it is their

company's claim for monthly program expense reimbursement and their company's individual annual budget proposal which is under consideration. The utilities would have full voting rights on all other issues before the Deaf and Disabled Telecommunications Program Administrative Committee, including, but not limited to, pre-approval of the total annual budget.

The Deaf and Disabled Telecommunications Program Administrative Committee functions would be expanded to include the ability to make program change recommendations to the Commission which have policy and/or budgetary implications. These recommendations would be initiated within the Deaf and Disabled Telecommunications Program Administrative Committee or would be submitted to the Deaf and Disabled Telecommunications Program Administrative Committee by the advisory committees.

For those program changes which do not have significant policy and/or budgetary implications, the Deaf and Disabled Telecommunications Program Administrative Committee would make decisions, unless any individual Deaf and Disabled Telecommunications Program Administrative Committee member believes a Commission decision is required. Any proposal or recommendation that would constitute a major policy change or cause expenditures beyond the approved annual budget should be submitted to the Commission for approval.

The Deaf and Disabled Telecommunications Program Administrative Committee in conjunction with the Commission Executive Director, would develop a process for submittal of proposals and recommendations to the Commission for Commission approval.

#### Advisory Committees

All advisory committees would have the discretion to request that utilities represented on the committees implement proposals and recommendations that have no budgetary or policy impact without DEAF Trust Administration Committee or Commission

approval. The advisory committees would report such activities to the Deaf and Disabled Telecommunications Program Administrative Committee in the form of meeting minutes.

#### Equipment Distribution Program

The Equipment Standardization Advisory Committee was established pursuant to D.87-04-027 for the purpose of recommending and updating, as new technology is developed, a Standard Equipment List of Telecommunication Equipment for the disabled community and developing procedures for the evaluation of new products. The functions of the Equipment Standardization Advisory Committee were later expanded, pursuant to D.87-10-077, to provide policy recommendations to the Deaf and Disabled Telecommunications Program Administrative Committee on all issues related to Trust-funded programs. The parties recommend that the functions of the Equipment Program Advisory Committee be expanded to include policy recommendations relating to both equipment and service quality in the equipment distribution program. Parties see the Equipment Program Advisory Committee's role in recommending policy changes as an extremely important function of the Equipment Program Advisory Committee and, as a result of the proposed structural changes, this function should be emphasized.

#### Relay Service

The California Relay Service Advisory Committee would make recommendations to the Deaf and Disabled Telecommunications Program Administrative Committee on California Relay Service and Operator Services for the Deaf service quality and efficiency matters, including procedures for the conduct of calls, and an effective means of implementation.

Appointments/Qualifications/Terms/Honorarium/  
Charters/DEAF Trust Administration Committee  
Relationship to Commission

DEAF Trust Administration Committee - Appointments

Nominations by the respective organizations/utilities, or by individuals for the Deaf and Disabled Telecommunications Program Administrative Committee members would be submitted to and approved by the Commission.

Advisory Committees - Appointments

Nominations for advisory committee members would be submitted to the Deaf and Disabled Telecommunications Program Administrative Committee which would then make its recommendations to the Commission which will make the actual appointments.

Solicitation of Nominations

Parties recommend that nominees for the Deaf and Disabled Telecommunications Program Administrative Committee, Equipment Program Advisory Committee, California Relay Service Advisory Committee, and any other permanent committees meet certain requirements which include professional and/or technical expertise. Qualifications for members of the advisory committees would be determined by the Deaf and Disabled Telecommunications Program Administrative Committee. The consumer nominees should be able to demonstrate organizational and/or other ties to the constituency they are representing. In addition, consumer nominees should not be employed by, or represent the interests of, any vendors or distributors who are currently involved, or who have the potential to be involved, in providing equipment and/or services for the program.

For all committees, every effort would be made to encourage consumer participation from a wide variety of groups. At a minimum, all organizations of record in I.87-11-031 should be invited to submit nominations, to be accompanied by a list of the nominees' qualifications. Parties recommend that organizations



submitting nominees have a governing board with a majority (51%) of deaf, hard of hearing, and/or disabled persons.

Terms of Appointment

For all committees, the terms of appointment should be staggered, with one third of the members to be appointed each year. Initial appointments will be made for terms of one, two or three years. Thereafter members will be appointed for term of three years. A member may be reappointed, but should be limited to two consecutive full terms. The Deaf and Disabled Telecommunications Program Administrative Committee should develop procedures for the replacement of members who are unable to serve their full term.

The terms of appointment for members of any other permanent committees the Deaf and Disabled Telecommunications Program Administrative Committee decides to create would be determined by the Deaf and Disabled Telecommunications Program Administrative Committee, subject to Commission approval.

Honoraria and Reimbursement for Expenses

The Stipulation and Report contains the following language:

"Pursuant to adopted Commission policy and procedures, some committee members may receive an honorarium as well as the reimbursement of reasonable expenses incurred while serving on the Deaf and Disabled Telecommunications Program Administrative Committee and other committees. The amount of the honorarium and level of expense reimbursement set forth by Commission policy and procedures shall be included in the Deaf and Disabled Telecommunications Program Administrative Committee charter. These expenses will be a specific line item on the Deaf and Disabled Telecommunications Program Administrative Committee annual budget and shall be paid out of the D.E.A.F. Trust Fund." (Stipulation and Report, pp. 12 - 13).

The Commission does not accept this portion of the stipulation. To date the Commission has authorized reimbursement

for their expenses, but no honoraria or per diem allowance (Resolution F-621, issued November 9, 1988).

Reimbursement for service on the committees established as a result of this decision will be limited to expense reimbursement, consistent with Resolution F-621. If the Commission issues guidelines for further reimbursement of Commission established committee members, the Deaf and Disabled Telecommunications Program Administrative Committee charter may be amended to reflect current Commission policies and procedures.

#### CHARTERS

The Deaf and Disabled Telecommunications Program Administrative Committee, Equipment Program Advisory Committee, California Relay Service Advisory Committee, and any other permanent committees should develop charters to be submitted to the Commission for approval. The Deaf and Disabled Telecommunications Program Administrative Committee would review Equipment Program Advisory Committee, California Relay Service Advisory Committee, and any other permanent committee charters which should include policies and provisions consistent with applicable state law to ensure that committee meetings are open to the public, that advance notice of the time, place and agenda of the meeting is made, and that time for public input is included in the agenda.

#### RELATIONSHIP OF DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM ADMINISTRATIVE COMMITTEE AND COMMISSION AS SET FORTH IN THE STIPULATION

The Deaf and Disabled Telecommunications Program Administrative Committee should not have the authority to order the utilities to do anything. The Commission has the sole authority to order the utilities to carry out program policy changes and shall provide direction to the utilities regarding the implementation of the program.

Issue 2 - Has there been fiscal or program mismanagement or abuse of the Trust Fund by the DEAF Trust Administration?

Participants' Recommendation

Based on information provided in the workshops during these proceedings, there is no evidence of fiscal or program mismanagement or abuse by the DEAF Trust Administration. No action need be taken.

Issue 3 - What safeguards can and should be developed to eliminate any real or perceived mismanagement of the Trust?

The participants believe that the most effective safeguard to eliminate any real or perceived mismanagement is continuing strong consumer participation in the general oversight and development of policy related to the program. The restructuring of the DEAF Trust Administration, establishment of the permanent committees to include increased representation of consumers on the committees, the restructuring of the advisory committees with the opportunity for the committees and the general public to get proposals and recommendations before the Deaf and Disabled Telecommunications Program Administrative Committee and Commission, annual budget review and approval by the Commission with opportunity by the public for comments, and open public meetings and noticing of meetings will go a long way to preclude any real or perceived mismanagement of the Trust.

In addition to consumer participation, the proposal will correct any perceptions that have developed in the past resulting from the limited role of the existing DEAF Trust Administration. Apparently, some sectors of the public thought that the DEAF Trust Administration was responsible not only for administration but also for program oversight and operations. In fact, the responsibilities for program policy and operations oversight had not been specifically defined.

### Participants' Recommendation

Adoption of the recommended restructuring of the Trust provides the necessary safeguards to eliminate any real or perceived mismanagement. This will focus attention on the program by increasing consumer participation, expanding the role of the Deaf and Disabled Telecommunications Program Administrative Committee, by delegating to the Deaf and Disabled Telecommunications Program Administrative Committee and to the advisory committees the responsibility for investigating and evaluating policy and operational issues pertaining to the program and making recommendations to the Commission, and by providing the Deaf and Disabled Telecommunications Program Administrative Committee with an adequate professional staff to handle its increased responsibilities. ✓

### Discussion

After some reflection and study of the settling parties' comments, we find that the expanded administrative structure they have proposed is potentially workable. Also, it is apparent that the new structure reflects the desires of a broad range of program beneficiaries to have an input into decisions that affect their ability to use the system. We will adopt the recommended structure, but monitor its actual workings closely. We encourage parties to help make this structure work, because if it does not we will be forced to seek alternative approaches to fulfill the functions for which it is intended.

Our review of the comments also helped us to recognize that our concerns regarding the administrative structure relate more to accountability for the sound and prudent use of the Trust's resources, including the assurance that the potential for conflicts of interest is minimized. We are not convinced by the parties' assertions that greater consumer participation will generally serve this function.

The Commission has a responsibility to see that the Trust uses its resources efficiently to reach beneficiaries with

genuinely useful services. The organizational changes proposed by the parties primarily address the latter concern. However, this structure would still leave utility representatives with the lead role in overseeing the Trust's operations and finances. In order to assure that resources are being used effectively, we must have a periodic critical review of utility activities in implementing the program. Although we have no reason to doubt the integrity and capabilities of utility representatives who serve in the administrative structure, it is unreasonable to place them in the position of overseeing their own companies.

To some extent, we are venturing into new ground here. We have not promulgated specific prudence or reasonableness standards for DEAF Trust activities, nor have we defined how such standards might be enforced. Indeed, we attribute much of the program's success to date to the good-faith efforts of utilities genuinely interested in making the service work. However, we have seen one formal complaint related to alleged problems with procurement, and we would prefer to develop a better system of accountability now. It is usually easier to develop such a system in advance of the need for it.

We see two needs. First, we must define a standard of care or behavior to which participating utilities should be held. Second, we must refine the administrative structure to provide for the regular and independent assessment of the degree to which that standard is being upheld. In meeting these needs, we wish to emphasize that the current spirit of cooperation and openness is far preferable to one of acrimony; protracted or bitter disputes can only harm the program and the subscribers it serves. Still, we owe the public the continued assurance that their monies are being spent properly.

We would like the parties to address these issues in the same constructive manner they have approached the other questions in the OII. We will direct CACD to schedule a workshop involving

all interested parties, and prepare a Workshop Report for the Commission identifying the agreements that are reached as well as any unresolved issues that would require a hearing. Parties should give particular attention to a definition of the standard of care, a periodic and independent means to assure that the standard is being met, and specific definitions of the roles and obligations in this regard of utility, subscriber and Commission staff representatives throughout the administrative structure. Our intent will be to modify the administrative structure to provide for this accountability with as few changes as may be needed to do so. In preparing recommendations parties should note two program modifications we are ordering elsewhere in this decision: (1) that a contract be developed with AT&T for operation of the California Relay Service and Operator Services for the Deaf, and (2) that utilities develop and implement a full competitive bidding program for all equipment by May 1, 1990.

For now, the new structure should be implemented as described in the Stipulation and Report. To the extent further modifications are necessary they will be ordered in a subsequent Commission decision.

Issue 7a - What is the appropriate process for review of the Trust's annual budget for the program (equipment and California Relay Service) submitted to the Commission for approval?

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Issue 7b - What is the appropriate process for the review of monthly expense reports submitted to the Trust for reimbursement?

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#### Participants' Recommendation

The following structure should be established for the approval of the annual calendar year budget of the program and annual determination by the Commission of the surcharge authorized under Section 2881.

The proposed individual annual budgets for each of the three programs described in Section 2881 would be submitted to the

Deaf and Disabled Telecommunications Program Administrative Committee annually by each utility implementing the program services using Deaf and Disabled Telecommunications Program Administrative Committee developed a standard format. The Deaf and Disabled Telecommunications Program Administrative Committee should determine the annual deadline for submittal of the proposed utility budgets.

The Deaf and Disabled Telecommunications Program Administrative Committee would review the proposed utility budgets as well as the Deaf and Disabled Telecommunications Program Administrative Committee's own annual budget and compile all these budgets into a proposed annual budget for formal submission to the Commission for approval. Deaf and Disabled Telecommunications Program Administrative Committee's review should determine compliance with Deaf and Disabled Telecommunications Program Administrative Committee budget procedures, funding availability, and consistency with program policy as approved by the Commission. The Deaf and Disabled Telecommunications Program Administrative Committee should develop formal recommendations to the Commission as to action the Deaf and Disabled Telecommunications Program Administrative Committee proposes the Commission take on the proposed annual budget.

The Commission will establish the annual date the proposed annual budget must be formally submitted to the Commission for approval. Submission of the proposed annual budget for Commission approval should be transmitted by letter to the Executive Director. The Deaf and Disabled Telecommunications Program Administrative Committee, in conjunction with CACD, would develop a format for the submission and accompanying approval of the annual budget as follows:

The deadline for submittal by all telephone corporations in California of their preliminary revenue estimate for each year that will be subject to the program surcharge should be March 15 of

the preceeding year. Each telephone corporation's projected revenues should be processed as a filing which is considered to be proprietary information. The aggregate forecasted revenue base would be public information. The total estimated revenue base for the Program surcharge will be provided to the Deaf and Disabled Telecommunications Program Administrative Committee by CACD. The Deaf and Disabled Telecommunications Program Administrative Committee would work with CACD on establishing the appropriate deadline date for the submittal of finalized projected revenues by the telephone corporations in California.

Schedule for Filing Proposed Annual Budget

1. On the annual date approved by the Commission, the Deaf and Disabled Telecommunications Program Administrative Committee would formally file the proposed annual budget along with its recommendations and serve it on all parties appearing on Appendix B of this decision.
2. Within 15 days of the annual budget filing date, interested parties would file any comments on the proposed annual budget.
3. Within 15 days after filing comments, interested parties would file any reply comments.
4. Within 30 days after the deadline for filing reply comments the Commission would issue a resolution setting forth the adopted annual budget of the Program (which shall include a contingency factor). This resolution shall also include the adopted statewide customer billing surcharge required to fund the Program budget.

Process for Approval of Monthly Program Expense Claims

The Deaf and Disabled Telecommunications Program Administrative Committee would develop a format on which the utilities may submit such monthly program expense claims. Copies of monthly program expense claims should be submitted by the Deaf ✓



and Disabled Telecommunications Program Administrative Committee to CACD for its review. Monthly program expense claims submitted by the utilities should be reviewed for consistency with the approved annual budget and approved by the Deaf and Disabled Telecommunications Program Administrative Committee. Utility members on the Deaf and Disabled Telecommunications Program Administrative Committee would not vote on the individual expense claims submitted by the utility they represent. ✓

## Part II - Operational Considerations

### A. Equipment

Issue 1 - Are there more efficient ways of obtaining and distributing equipment to eligible subscribers within the current utility-run program?

Although the utilities believe they are running the equipment programs as efficiently as possible, other parties believe there may be more efficient ways of obtaining and distributing equipment within the current utility-run program.

### Participants' Recommendation

Because this issue will require a detailed study and analysis of efficiencies and costs, parties recommend that this issue be referred to and studied by the Equipment Program Advisory Committee. The issue of what efficiencies can be achieved through centralized purchasing of equipment should be given priority consideration by the Equipment Program Advisory Committee. It was not determined whether these activities should be part of a utility-run program or a program run by a non-utility. The Equipment Program Advisory Committee would also consider, but not be limited to, the following proposals:

1. A voucher system for purchase of TDDs.
2. More efficient ways to handle the certification process and forms.
3. Mail delivery of equipment versus home visits.

4. Increased distribution points for equipment.
5. Responsibility for TDD battery replacement, and extended warranties for TDDs.

Issue 2 - Should subscriber eligibility for free or subsidized equipment be limited or graduated based on income or some other measure of ability to pay? If so, how should such standards be established and administered?

Participants' Recommendation

The participants recommend that there be no means test established for receiving free equipment under the program.

Issue 3 - Are there more cost-effective and efficient ways of obtaining and distributing equipment other than through a utility-run program?

Issue 4 - Should distribution of equipment and related activities be awarded to contractors by competitive bid?

Participants representing CAD, SHHH, and Hearing Society of the Bay Area (HSBA) (jointly referred to as Objectors) believe these two issues are interrelated and have filed a joint objection to the agreement and recommendations filed by the majority on these issues. They agree that an evidentiary hearing on these two issues is not necessary and that a determination can be made on the basis of the argument in their filed objection.

Majority Position

Although the majority (the utilities, the DEAF Trust Administration, and DRA) believe the utilities are obtaining and distributing equipment as efficiently as possible, they are not opposed to further study of these issues and believe the issues should be referred to the Equipment Program Advisory Committee for further study.

The majority believes that providing the equipment through other than an utility-run program may require a legislative

change. Section 2881(a), which applies only to TDDs, states in relevant part:

"The Commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device...."

DRA and the utilities agree that it will be necessary to change the above language through legislation if TDDs are no longer provided through a utility-run program. After Equipment Program Advisory Committee studies these issues and submits its conclusions and recommendations to the Commission, if the Commission determines that Program changes should be implemented that would necessitate a language change to Section 2881, the Commission should sponsor legislation to achieve the desired change.

Some aspects of the equipment program are currently contracted out by the utilities to various vendors and service providers through varying competitive procurement processes set up by the individual utilities. The purpose of competitive bidding is to achieve cost efficiencies and economies. These processes should continue. The Equipment Program Advisory Committee should study whether it would be feasible to put other aspects of the equipment program up for competitive bid.

If the TDD distribution and related activities such as collection and verification of certification forms and administration were put out to bid, there would be a need for legislative action, as discussed above. Furthermore, if the TDD distribution is not provided through a utility-run program, then the utilities would have limited obligations with respect to the TDD distribution program and therefore the recommended changes in the administrative/advisory committee structure discussed above may need to be completely changed.

Recommendation of Majority

This issue should be referred to the Equipment Program Advisory Committee for further study.

Objectors' Position

The Objectors believe that the joint recommendations of the majority give insufficient emphasis to the competitive bid process, which they believe is one of the recognized mechanisms for achieving quality services. It is their opinion that carefully constructed performance specifications, aggressive bid solicitation and equitable contract award criteria have significant potential for a more cost-effective program.

They would like community based, nonprofit corporations to have the opportunity to bid on the equipment program. According to the Objectors, many of these publicly or privately funded nonprofit organizations are controlled and substantially staffed by deaf, hard of hearing and other disabled people and many have been delivering similar services and equipment, including TDDs and other telecommunications aids, to hearing-impaired and other disabled people for many years.

Objectors believe the present monopolistic situation is characterized by its lack of incentives to control costs. Although total revenue limits have been placed on the Trust by the Legislature and these limits have generated cost concerns, the initial utility response to the recent fiscal crisis has centered on service cutbacks rather than on an aggressive search for long term cost efficiencies. They point to the virtual cessation of outreach and awareness efforts regarding the SB 60 equipment distribution program. They are also unaware of any outreach efforts on behalf of the program to distribute TDDs to state agencies pursuant to SB 227 (subsequently extended by SB 927, effective July 30, 1987) and that relatively few TDDs have been distributed to state agencies. They also contend that during the recent fiscal crisis, requests for TDDs by private deaf service organizations, made pursuant to AB 3369, have met with arbitrary cuts in the numbers of TDD's approved. They point out that curtailment of California Relay Service services were applied when

a request went out to all TDD users to voluntarily restrict their relay usage to "essential" calls.

Appropriate program expenditures are reimbursable. However, the Objectors state they are unaware of any reimbursement requests that have been denied in whole or in part since the inception of the DEAF Trust and, as far as they are aware, Trust expenditures have never been subject to any prudence review. Acknowledging that an annual budget approval process may help somewhat in controlling total DEAF Trust expenditures, the primary benefit, as seen by the Objectors, is in improved planning, and not in promoting cost effectiveness.

The Objectors believe that the present utility-run distribution program locks the DEAF Trust into labor rates and corporate overhead loadings which appear relatively high in comparison to those being experienced by community based nonprofit organizations.

They believe another major drawback to the present system is the lack of an effective external incentive to provide high quality customer service. They point out that distribution of TDDs to deaf service organizations has experienced delays of up to many months.

The Objectors recommend awarding distribution contracts by a formal competitive sealed bid process. They contend that this procedure will control costs while ensuring high quality services. They point to the fact that the smaller local exchange companies have contracted through the California Telephone Association with an independent contractor for almost all of their equipment distribution activities and that GTEC and Pacific Bell have contracted with an independent business for shipping, warehousing, testing and repair of TDDs distributed to deaf subscribers served by them. They further point out that awarding contracts to non-utilities is found in the distribution and relay programs of other

jurisdictions and that distribution of TDDs by telephone companies is the exception rather than the rule.

The Objectors state that providing a chance for community based nonprofit organizations to distribute equipment has other benefits. They believe that substantial involvement of deaf, hard of hearing and disabled people at both the staff and management levels in the delivery of services targeted to this population is an important feature in a successful program. According to the Objectors, the local exchange companies' record of hiring deaf and hard of hearing people to distribute Trust equipment has been limited to the lowest staff levels. They believe that employing disabled people in these programs also helps the general employment situation for this population. They believe that if community based nonprofit organizations were awarded equipment distribution contracts, members of the deaf/hard of hearing/disabled community would be well represented in carrying them out.

They agree with the majority that under Section 2881(a) the utilities must have some responsibility for distributing TDDs. They believe, however, that this requirement can be accomplished by other than telephone corporations, through contracts let by the local exchange companies jointly or through the CTA.

Objectors' Recommendation

The Objectors seek an order from the Commission to direct the current or any newly constituted Deaf and Disabled Telecommunications Program Administrative Committee to:

1. Develop one or more bidding options based on performance specifications for distributing TDDs and/or other specialized equipment, one of which would be as comprehensive in scope as possible, including, but not limited to, procurement, warehousing, shipping, repair, and outreach, customer training, and distribution through walk-in centers and field representatives,

2. Solicit letters of intent to bid from a broad range of potential bidders, including at least the local exchange companies and all other parties on the initial service list of this OII,
3. Conduct a formal competitive bidding process upon receipt of notification that more than one organization intends to submit a bid, and
4. Award the contract(s) to the lowest bidder(s) in time for the contract(s) to begin no later than January 1990.

In the alternative, the Objectors would not be adverse to an order which would direct the Deaf and Disabled Telecommunications Program Administrative Committee to develop bidding options and then would direct the local exchange companies, either jointly or through the CTA, to solicit letters of intent, conduct a formal bidding process, and award the contract(s). The Commission would retain control, just as it does now, over the Deaf and Disabled Telecommunications Program Administrative Committee and the contracts into which it enters in order to carry out its administrative responsibilities. Objectors believe this alternative would maintain consistency with the requirement in Section 2881(a) of the PU Code which requires "each telephone corporation" is to provide TDDs to deaf subscribers.

#### Response of Majority to Objections

DRA points out that the only difference between the position of the Majority and the Objectors is that the Majority wants the Equipment Program Advisory Committee to study putting some or all aspects of the Equipment Program out to bid and that if a bid process is determined to be feasible, to put a detailed proposal before the Commission while the Objectors want the Commission to order that all aspects of the equipment procurement and distribution programs be put out to bid immediately.

Majority participants believe that the Section 2881(a) language is specific about the telecommunications device being provided by the local exchange companies and that awarding the procurement and distribution of TDDs to any party other than a telephone corporation would be a violation of the Public Utilities Code. Furthermore, because the local exchange companies are responsible for the equipment procurement and distribution programs (with some aspects of the programs subcontracted out), the Commission has the authority to oversee the management of the programs to assure service quality and efficient operation. If the programs were operated by firms other than utilities, the Commission's authority could be reduced or removed.

DRA does not believe it is prudent to allow non-utility firms to operate the programs unless a procedure is established to ensure the Commission's continued full authority to maintain oversight of the management of the program. DRA does not reject the possibility that less expensive program operation could be achieved by competitive bidding but believes further detailed study is needed.

GTEC contends that Objectors' arguments are confusing, unfounded and incorrectly characterize both the current in-place system for obtaining and distributing the equipment in question.

GTEC states that it has eight years' experience distributing TDDs and over a decade of experience distributing other telecommunications aids to the deaf and disabled communities. Except for the Deaf Counseling Advocacy Referral Agency in Northern California, nonprofit community service agencies such as Greater Los Angeles Council on Deafness, SHHH, and the Hearing Society have four or less years' experience selling equipment and no experience distributing and tracking the equipment as required under the SB 597 programs. Such agencies may also have budget restrictions that would not allow them to continue running these programs during a funding crisis such as the one recently experienced by the local



exchange companies during which money for reimbursement of expenses was temporarily withheld by the DEAF Trust.

GTEC has competitively bid out a portion of the distribution functions for which it is still responsible and, from 1983 to the present, the subcontractor has not lost or been unable to account for even one item. GTEC believes that to throw out a program such as GTEC's that is already in place, is staffed by deaf employees and is running efficiently, in order start a whole new program from scratch, would not benefit the program in terms of efficiency or service and would not benefit the deaf community in any way. GTEC contends that a non-utility program would likely mean doubling of costs in many instances since the GTEC Special Needs Center would still be required to be in operation under SB 60, as well as under SB 597 to do tracking and telephone service requests which would still need to be handled by the local exchange companies.

GTEC believes each local exchange company should be accountable to its deaf and disabled subscribers and to the Commission for the program it runs, whether using its own employees or an independent contractor or subcontractor.

The major restructuring of the Deaf and Disabled Telecommunications Program Administrative Committee and the creation of the consumer oriented advisory committees will provide the mechanism for the deaf community, including the objecting consumer groups with significant opportunity for oversight and the means to continually improve the programs.

Pacific Bell and the workshop participants, other than the Objectors, felt it was critical to involve the Equipment Program Advisory Committee, Deaf and Disabled Telecommunications Program Administrative Committee and ultimately the Commission in a decision which could potentially and radically change the entire structure and entity involvement in this program and that insufficient evidence had been presented during the workshops to do

other than defer such an important issue to the Equipment Program Advisory Committee for evaluation and recommendation.

Pacific contends that the objections of the Objectors are simply inadequate to support the Commission order they request and that it is necessary to study the current equipment distribution program and procurement practices used by the telephone utilities to implement the program before deciding whether such extensive changes in this program may be desirable.

#### Discussion

Competitive bidding is one of the most contentious issues in this OII. In part, we believe that the controversy is related to the nature of some of the organizations participating in the OII. We have utilities that are experienced in procuring and distributing equipment to program subscribers; these utilities believe that they have been acting prudently and professionally in these activities. We also have a range of organizations that work with, represent and assist the deaf, hard-of-hearing, and disabled communities. While these organizations cannot easily be characterized as a group, many seem to feature non-profit activities often staffed by members of the communities they serve. At least some of these organizations have successful experience in running programs on small budgets emphasizing the participation of community members. It is easy to understand how that background could lead parties to suggest potential alternatives to utility-run programs.

We believe that it is appropriate to distinguish procurement from distribution in this discussion. Procurement involves a small number of utilities obtaining equipment from vendors in a business context. Competitive bidding is a typical means of procuring equipment, and vendors can be substituted or added relatively easily and quickly provided that bidding standards are kept current. Distribution involves the maintenance of a dependable network of representatives with experience in meeting the needs of numerous individual subscribers. It is not so

straightforward to substitute one provider of these services for another, nor to develop the experience and personal contacts needed to reach subscribers effectively.

We are not convinced by the Objectors' proposal to bid out all program elements; as the above would indicate, we believe that distribution functions could be unduly disrupted by that process. However, we are convinced that all equipment procurement can and should be performed by competitive bid. Even in cases where sole-source procurement is now unavoidable due to the specialized nature of the equipment, the availability of bid specifications may have a beneficial effect in stimulating other vendors to develop suitable products. We will direct Pacific Bell, GTEC, and the California Telephone Association to develop and implement a full competitive bidding program for all subscriber equipment before May 1, 1990. We will permit CTA and/or its member small telephone utilities to arrange joint competitive-bid procurement with Pacific Bell or GTEC if they desire.

In rejecting the recommendation for full competitive bidding for distribution we still want to recognize the important point made by the Objectors. While we agree with the Majority that § 2881(a) would not permit equipment distribution completely independent of the utilities, we believe that there is latitude for the utilities to utilize non-profit and community-based organizations as part of their distribution programs. GTEC commented on its own favorable experience with subcontractors. We encourage the utilities to work with community and non-profit groups to involve them, where feasible, in distribution and related functions. Through such collaboration some additional cost savings might be achieved along with the benefits of closer relationships between the utilities, subscribers, and the organizations that serve and represent them.

**B. California Relay Service**

**Issue 1 - Should limitations be imposed on the use of the California Relay Service to reduce costs to the trust fund and, if so, what types and to what extent?**

Prior to any discussion on limitations, the workshop participants examined and discussed the factors which have impacted the costs associated with SB 244 which directed the Commission to design and implement a program to provide a dual party relay system which would provide telephone service access to all deaf and severely hearing impaired subscribers.

Based on the original Joint System Design Report placed before the Commission in 1985, call volumes for the California Relay Service were estimated at approximately 50,000 calls per month in 1987, increasing to 55,000 calls per month in 1988. However, by March 1987, call volumes of approximately 125,000 calls per month were being recorded. By January 1988, call volumes had reached 200,000 calls per month. By July 1988, call volumes increased to over 240,000. This is over four times the original 1988 call volume estimate. The lack of good data during the development of the California Relay Service, as well as the demonstrated need for and success of the California Relay Service help explain why the current call volumes significantly exceed the original estimates. During the development of the California Relay Service, there was no comparable 24-hour, statewide relay service in existence in the country and therefore no historical data on which to base call volume estimates.

In March 1988, a letter was sent by the Trust to all TDD recipients of the SB 597 program in the state requesting voluntary restraint of their use of the California Relay Service due to the funding crisis. As a result of voluntary restraint, call volumes decreased in April compared to March but subsequently call volumes increased again.

Since the inception of California Relay Service, AT&T has been realizing efficiencies in providing the service. The cost per call was estimated at \$12.00 in the Joint System Design Report. In 1987, the average cost per call was only \$6.38. For the first six months of 1988, the average cost per call dropped to \$5.77. In addition, AT&T has held back on the hiring of new operators during the funding crisis.

As a result of all of the above, coupled with the reduction in customer outreach, total program expenses are currently below budget. Originally, the estimated 1988 budget for the initial program was \$32 million. The most recent estimate of the 1988 total program expense is \$27 million. Almost half of this difference is attributable to the California Relay Service.

#### Participants' Recommendation

The participants believe that the issue of what type and to what extent limitations or other restrictions, if any, should be placed on the use of the California Relay Service should be referred to the California Relay Service Advisory Committee. Along with examining the viability of imposing limitations or other restrictions on the use of the California Relay Service, the California Relay Service Advisory Committee should examine proposals for ways to increase efficiency and/or reduce costs of the California Relay Service. Any proposals for imposing limitations or other restrictions on the use of the California Relay Service or implementing efficiency measures should be accompanied by cost-benefit analyses. Each proposal should also contain an analysis of the impact on individual users, including TDD and non-TDD users.

The California Relay Service Advisory Committee should make this matter a priority issue and should focus its review of this issue by examining potential efficiencies along with potential limitations or other restrictions. Limitations or other restrictions should be imposed only as a last resort. All

evaluations and conclusions should be submitted by the DEAF Trust Administration Committee to the Commission for decision.

Discussion

The parties would refer this issue to an advisory committee for further study. By its inclusion in the OII, we had hoped to study and decide the issue here. The Legislature specifically requested this review in PU Code § 2881(f)(2).

The relay service's costs are closely related to how much it is used. Substantial increases in usage were a predominant factor in causing the funding crisis we recently experienced. Of course, the relay center is the essential core of the service, and we should expect to spend substantial sums on its operation if we are to provide significant benefits to subscribers.

Clearly, no one has intended that subscribers pay the full costs of the relay center and we do not adopt that view. The evidence on typical incomes for the deaf and hearing-impaired shows that such a requirement would cause undue hardship on subscribers. On the other hand, there are some who will use a free service up to the point where it is offering them very little value despite the cost paid by others. While we have no evidence that subscribers are abusing the service, we recognize that the potential exists. The Legislature has also expressed its clear concern that program monies be spent effectively, a directive we interpret as requiring an effort on our part to discourage excessive or frivolous use.

In further hearings we wish to hear evidence regarding typical usage patterns for the relay service along with proposals for reasonable means to discourage excessive use. These proposals should be tailored so as not to affect most of the usage by most of the subscribers; in other words, we wish to set limits that would constrain abuse rather than everyday usage. Rather than strict quantity limits, we believe that pricing might be a better approach; for example, relay center usage could be free up to a certain number of minutes per month, with a per-minute charge

applying thereafter. AT&T's comments provided some potentially helpful examples of these options, and the Legislature also pointed in this direction in § 2881(f)(2). We also wish to hear evidence regarding good reasons why particular subscribers might make unusually heavy use of the relay center, such as for employment. It may be appropriate to provide specific exceptions or higher usage limits in such cases. The proposals should also address the use to be made of any monies that might be collected; our initial preference would be to reduce the need for program funding from other sources.

For now, we will follow the recommendation of the parties and impose no usage limits until we have heard these issues more fully on the record.

Issue 2 - Should limitations on the free or subsidized use of the California Relay Service be based on the ability of subscribers to help pay its costs? If so, how should such limitations be established and administered?

#### Participants' Recommendation

Participants discussed this issue under Issue 13 of the original OII issues and recommended that no means test should be required for use of the California Relay Service. After further discussion on the issue, the parties continue to agree that no means test should be imposed.

Issue 3 - What can be done to increase the Efficiency of the California Relay Service?

Under the proposed structure of the California Relay Service Advisory Committee, recommendations on ways to increase the efficiency of the California Relay Service is one of the committee's main functions/responsibilities. During the workshop discussions, several issues were discussed which relate to the efficiencies of the California Relay Service. These issues relate to permitting automatic switching from ASCII/Baudot for incoming calls instead of manual switching as is done currently. AT&T researched the technical requirements and costs associated with

implementing the ASCII/Baudot change. The cost of the change is approximately \$3,100.

A second efficiency discussed by the workshop participants is the issue of multi-mode (voice/hearing through). This service feature allows deaf/hard of hearing persons to speak for themselves if they are able and speech-impaired persons to listen to the conversation. Some parties believe this service feature could save money for the program and the calling party by reducing the call time. In addition, some parties believe the customers will be less dependent on the California Relay Service operator and, further, that this service feature will dramatically increase the quality of communication.

Participants' Recommendation

AT&T should be ordered immediately to implement those changes which would be required for the California Relay Service to automatically switch from ASCII/Baudot for incoming calls. AT&T shall make every effort to take full advantage of this service feature.

AT&T should also be ordered to conduct a cost-benefit analysis of implementing the multi-mode service feature with the results being reported to the DEAF Trust Administration Committee within 60 days of the effective date of this decision.

The following issues, which may also have efficiency implications for the California Relay Service, should be referred to the California Relay Service Advisory Committee for its consideration and recommendations:

1. Typing speed/spelling proficiency of California Relay Service operators,
2. ANI (Automatic Number Identification) and AMA (Automatic Message Accounting),
3. Responsiveness to differing communication needs of the deaf population.



### Discussion

As a first step, we see no problem in implementing the recommendations proposed by the parties.

In its comments, AT&T proposes that many of the concerns raised in the Assigned Commissioner's ruling could be resolved if AT&T were to negotiate a contract with the Deaf and Disabled Telecommunications Program Administrative Committee by which AT&T would provide the California Relay Service and Operator Services for the Deaf. This contract could provide for a fixed price for services rendered and thereby give AT&T an additional incentive for efficient performance. A contract would also address the issue of reasonableness in California Relay Service and Operator Services for the Deaf operations by specifying a reasonable price for these services and offering no reimbursement for additional costs.

In reply comments, the California Association of the Deaf (CAD) questions AT&T's arguments and states that it would prefer competitive bidding for these services. CAD objects to the creation of a contract with AT&T, arguing that any subsequent cost savings would accrue to AT&T and not to ratepayers.

Both AT&T and CAD make convincing arguments. A contract with AT&T would change the treatment of these services from a dollar-for-dollar reimbursement to a fixed price, with correspondingly increased incentives for efficiency. Alternatively, an open competitive bid might bring even lower costs, although we are not convinced that such a process is feasible now. We see the development of a contract with AT&T as a useful exercise in itself; periodic renegotiation of the contract would be the means by which efficiency savings would flow back to ratepayers. We also see a linkage between the proposals of AT&T and CAD, as the development of a contract with AT&T is a potential precursor to open competitive bidding. A service must be clearly defined in contractual terms before it can be let out for bid, and we believe that the development of these terms will take some time and effort for these services. We also have no evidence of current

problems that would suggest the need to seek an immediate alternative to AT&T.

We will direct that the Deaf and Disabled Telecommunications Program Administrative Committee negotiate such a contract with AT&T and present it to the Commission in an advice letter for approval by Resolution. This contract should specify in some detail what services are to be provided in which manner, and should use industry-standard terms and descriptions to the extent possible. We prefer that the contract's term not exceed three years. When that contract expires we will reconsider our options, including whether to accept competitive bids for these services.

Issue 4 - Is it economically feasible and would it be efficient to establish a northern California Relay Service?

The original site selection and subsequent expansion of the California Relay Service center was made by AT&T pursuant to Commission orders. In addition to possible network cost savings, there is a second underlying issue which was not apparent when the question of a northern center was raised. The issue is access to 800 numbers. Originally, parties believed that this problem was solely a result of routing all the California Relay Service calls made through a southern California hub. However, the problem may also involve the fact that some 800 numbers have blockages assigned to them as requested by the 800 number subscriber.

Participants' Recommendation

The California Relay Service Advisory Committee should study the feasibility of a northern California Relay Service at its own discretion.

AT&T should be ordered to explore ways of resolving the 800 access issue and shall report to the DEAF Trust Administration Committee within 60 days.

Issue 5 - Should both intraLATA and interLATA operator services be provided through California Relay Service?

The workshop participants interpret the question as addressing the issue of whether Directory Assistance should be provided through the California Relay Service. AT&T conducted a preliminary study to evaluate the economic efficiency of providing Directory Assistance through the California Relay Service. Based on the results of this study, there did not appear to be significant cost savings in moving Directory Assistance from Operator Services for the Deaf to the California Relay Service. The results of the study indicated that the attendant time to provide the service in either the Operator Services for the Deaf environment or the California Relay Service environment is approximately the same. In addition, there has been no expressed desire by customers to have the Directory Assistance service moved to the California Relay Service.

Participants' Recommendation

In the normal course of business, AT&T should take an engineering look at the cost-benefits of the manner of providing Directory Assistance services to TDD users.

Issue 6 - Can and should "multiple-mode" (voice/hearing through ASCII) be made available through California Relay Service?

This issue was covered by the recommendation in Issue 3 above.

Part III - General Order

Issue 1 - Should a General Order to impact utilities only be developed to address the following?

- a. Standards and quality of service of California Relay Service or other Operator Services for the Deaf?
- b. Equipment Standards?

c. Types of equipment approved for purchase and distribution under the deaf and disabled program?

The consensus is that it is not clear at this time whether a general order is the appropriate vehicle for implementing changes to the Program. Although standards for Operator Services for the Deaf are technically covered under General Order 133, Operator Services for the Deaf call volumes are, and have been well below the threshold for reporting requirements, and AT&T does not currently file reports on this service. (The threshold for reporting requirements, is an average business day volume of 2,000 or more calls. The current estimate for the average number of Operator Services for the Deaf calls per month in 1988 is 14,981, or less than 500 calls per day.)

AT&T, as the current provider of Operator Services for the Deaf, has agreed to begin providing separate reports for the Operator Services for the Deaf, similar to those currently provided to the Commission for Traffic Service Position System. The Operator Services for the Deaf reports will be provided in conjunction with the compliance report for Traffic Service Position System, the next one being provided for the third quarter of 1988.

Participants' Recommendation

Rather than limiting the Deaf and Disabled Telecommunications Program Administrative Committee's, California Relay Service Advisory Committee's and Equipment Program Advisory Committee's options at this time, Deaf and Disabled Telecommunications Program Administrative Committee should have the discretion to recommend to the Commission the appropriate vehicle to consider changes in the Program.

The California Relay Service Advisory Committee should review the Traffic Service Position System reports provided by AT&T and may make recommendations to the Deaf and Disabled Telecommunications Program Administrative Committee Trust

Administration Committee for service quality standards for Operator Services for the Deaf.

California Relay Service standards and quality of service issues should be addressed by the California Relay Service Advisory Committee, as discussed in Part I under Relay Service.

Discussion

The efforts of the participants in the workshop meetings towards reaching a stipulated agreement on the issues have resulted in a saving of time which would have been otherwise consumed in protracted formal hearings on the issues. With specific exceptions, the recommendations on all undisputed issues are reasonable and should be adopted.

As to the disputed issues in the expanded OII with specific exception, we consider the recommendation of the majority to be reasonable at this time since we will be adopting the recommended restructuring of the program and we believe the disputed issues should be referred to the Equipment Program Advisory Committee for further study and recommendations as recommended by the majority.

As described in the preceeding discussion, we take exception to the unanimous or majority conclusions of the parties regarding issues of the DEAF Trust administrative structure, potential limits on usage of the California Relay Service, competitive bidding for equipment, and efficiency measures to improve California Relay Service operations. Our conclusions regarding these exceptions are described above and reflected in the findings, conclusions and ordering paragraphs that follow.

But for these exceptions we adopt the unanimous conclusion of the parties on all undisputed issues and the majority view regarding the disputed issues.

We would like to emphasize that we are proceeding cautiously regarding those areas of the settlement we are not now adopting. Our conclusion regarding competitive bidding falls

within the range of the views presented by the Majority and the Objectors. The contract with AT&T for operations of the California Relay Service was addressed in the substantive opening and reply comments called for by the Assigned Commissioner's Ruling; also, it would not become effective until it is reviewed and approved in a Commission Resolution pursuant to GO 96-A. We are asking for further evidence from the parties via a workshop and a hearing on the other two issues, those of potential limits on use of the California Relay Service and adding greater accountability to the DEAF Trust administrative structure. The matter of potential usage limits would have been referred by the parties for further committee study; we are taking an alternative procedural course by going directly to a hearing. We are adopting the administrative structure proposed by the parties, but with a request that the parties work out an additional feature to be added to that structure. In all other respects we are adopting the settlement as proposed. We believe that this course is fair to the parties and their interests.

Findings of Fact

1. After holding formal hearings on Issues 1 and 2 of the original OII and issuing an interim decision, further formal hearings in the OII were suspended during legislative consideration of the Deaf and Disabled Telecommunications Program Administrative Committee Trust fiscal crisis.

2. While formal hearings were suspended, informal workshops were held among the participants in the investigation to discuss and attempt to resolve those issues of the OII which were not being addressed in the pending legislation.

3. While the workshops were continuing, SB 2268 was enacted which, among other things, alleviated the fiscal crisis by authorizing the Commission to impose a percentage surcharge on the telephone bills of subscribers instead of the previously imposed flat rate of a maximum of ten cents per subscriber line. The

legislation also made Issues 3, 4 and 5 of the original OII moot by its provisions.

4. The workshop participants unanimously reached agreement on all the remaining issues contained in the original OII and submitted their stipulated agreement along with their recommendations to the Commission.

5. Except for two issues contained in the expanded OII, agreement was unanimously reached on the other issues and the participants submitted a stipulated agreement with recommendations to the Commission. As to the two disputed issues, the majority submitted their agreement and recommendations and the Objectors submitted their objections as well as their recommendations.

6. All the participants agree that the disputed issues involve questions of law or policy and that formal hearings are not necessary. All agree that the Commission can reach a decision based on the written positions submitted by the parties.

7. The recommendations contained in the stipulated agreement covering those issues set forth in the original OII are reasonable.

8. The modified DEAF Trust administrative structure proposed by the workshop participants does not provide enough administrative accountability to ensure that Trust monies are spent appropriately and effectively.

9. The recommendation of the workshop participants regarding potential limits on usage of the California Relay Service does not satisfy the Commission's obligation to review the issue under Public Utilities Code Section 2881(f)(2).

10. A public hearing will be needed to develop information on the record for the Commission to review the issue of potential usage limits for the California Relay Service.

11. A contract between the DEAF Trust and AT&T regarding California Relay Service and Operator Services for the Deaf operations will assist in further reducing the cost of these

services and will permit the option of later competitive bidding for these services.

12. Commission review and approval of the contract between AT&T and the DEAF Trust under GO 96-A will be necessary to make the contract valid and will be helpful in reviewing the contract's terms and conditions to assure they are in the interest of the ratepayers and subscribers to DEAF Trust services.

13. Competitive bidding by utilities for equipment to be purchased for distribution to subscribers is a reasonable business practice that may reduce the cost and increase the availability of such equipment.

14. With the exceptions noted in the preceeding discussion and findings, the recommendations of the majority with respect to the disputed issues set forth in the expanded OII are reasonable and the recommendations of the Objectors with respect to those issues are unreasonable.

15. With the exceptions noted in the preceeding discussion and findings, the recommendations of the workshop participants with respect to the undisputed issues in the expanded OII are reasonable.

#### Conclusions of Law

1. The Commission should hold a public hearing to solicit facts and proposals regarding potential limits on the usage of the California Relay Service as described in the preceeding discussion and findings of fact.

2. The Commission should order its CACD to hold a further workshop to resolve issues regarding accountability and the DEAF Trust administrative structure as described in the preceeding discussion and findings of fact.

3. As described in the preceeding discussion and findings of fact, the Commission should order the DEAF Trust Administrative Committee to conduct negotiations with AT&T regarding a contract for the operations of the California Relay Service and Operator



Services for the Deaf and to bring said contract before the Commission for review and approval pursuant to GO 96-A.

4. The Commission should order all utilities to begin procuring equipment for distribution to subscribers by means of competitive bidding before May 1, 1990 consistent with the preceeding discussion and findings of fact.

5. Except as noted in the preceeding findings and conclusions of law, the disputed issues are a matter of law or policy rather than fact.

6. The Commission should adopt the recommendations determined as reasonable in the preceeding findings of fact, and the Commission should take further action consistent with the preceding findings of fact and conclusions of law.

ORDER

IT IS ORDERED that:

1. The recommendations determined as reasonable and set forth in this decision are adopted.

2. CACD shall hold a workshop regarding further administrative accountability measures for the DEAF Trust. This workshop shall be conducted within 90 days of the effective date of this decision, and a workshop report shall be submitted to the Commission and workshop participants within 30 days of the completion of the workshop.

3. The DEAF Trust Administration is renamed the Deaf and Disabled Telecommunications Program Administrative Committee. ✓

4. The California Relay Advisory Committee is hereby created.

5. The Equipment Standardization Advisory Committee is renamed the Equipment Program Advisory Committee.

6. Nominations for members of the Deaf and Disabled Telecommunications Program Administrative Committee Trust Administration Committee, California Relay Service Advisory Committee, and Equipment Program Advisory Committee shall be submitted to the Commission's Executive Director within 45 days of the effective date of this order. CACD, the existing DEAF Trust Administration and any other interested workshop participants shall work together to develop qualifications to be set out in the initial solicitation for nominees. The notice of solicitation for nominations shall be mailed to the updated notice list as set forth in Appendix B.

7. Within 75 days of the effective date of this order, the Commission's Executive Director will appoint the members of the Deaf and Disabled Telecommunications Program Administrative Committee.

8. Within 30 days of the appointment of the members of the Deaf and Disabled Telecommunications Program Administrative Committee shall submit its recommendations for appointment of members to the California Relay Service Advisory Committee and Equipment Program Advisory Committee.

9. Within 30 days of the submittal of the recommendations by the Deaf and Disabled Telecommunications Program Administrative Committee, the members of the California Relay Service Advisory Committee and Equipment Program Advisory Committee shall be appointed by the Commission's Executive Director.

10. Within 60 days of the appointment of members to the Deaf and Disabled Telecommunications Program Administrative Committee by the Commission's Executive Director, it shall submit its proposed charter for Commission approval.

11. Within 60 days of the appointment of members to the California Relay Service Advisory Committee and Equipment Program Advisory Committee by the Commission, the Deaf and Disabled Telecommunications Program Administrative Committee shall submit

the California Relay Service Advisory Committee's and Equipment Program Advisory Committee's proposed charters (approved by the Deaf and Disabled Telecommunications Program Administrative Committee) to the Commission's Executive Director for approval.

12. Until the new charters are adopted, any existing charters shall remain in effect. Until a new monthly program expense claim approval process is submitted by Deaf and Disabled Telecommunications Program Administrative Committee and approved by the Commission, the existing monthly expense claim approval processes shall remain in effect. The Deaf and Disabled Telecommunications Program Administrative Committee shall submit its proposed expense approval process to the Commission's Executive Director within 120 days of this order. Until the budget approval process is adopted, annual budgets shall be approved by the Commission by Resolution.

13. Existing support staff shall be used until the transition is complete and the Deaf and Disabled Telecommunications Program Administrative Committee hires new support staff pursuant to the criteria set forth in the committee structure contained in this decision.

14. The Commission shall hold an evidentiary hearing regarding potential measures for limiting use of the California Relay Service consistent with the preceeding discussion, findings of fact and conclusions of law. The Commission shall hold a prehearing conference to be noticed by order of the assigned administrative law judge, who shall also have authority to establish and modify a schedule for filing and serving testimony and briefs.

15. All utilities that purchase equipment for distribution to subscribers as part of the DEAF Trust's programs shall put into place a competitive bidding program for purchases of such equipment on or before May 1, 1990 consistent with the preceeding discussion, findings of fact and conclusions of law.

16. Consistent with the preceeding discussion, findings of fact and conclusions of law, the Deaf and Disabled Telecommunications Program Administrative Committee shall open negotiations with AT&T to conclude a contract between the DEAF Trust and AT&T for operating the California Relay Service and Operator Services for the Deaf. The term of the contract shall not exceed three years, and the technical specifications of the services to be provided shall be spelled out clearly using industry-standard terms to the extent possible. This contract shall not become effective until approved in a Commission Resolution. The Deaf and Disabled Telecommunications Program Administrative Committee shall report to the Commission on its progress in this negotiation on October 1, 1989 if a contract has not been concluded by that date. The AT&T representative on the Deaf and Disabled Telecommunications Program Administrative Committee shall not participate in these negotiations.

17. Within 60 days of the effective date of this order, AT&T shall submit its study to the Deaf and Disabled Telecommunications Program Administrative Committee on the cost of providing Directory Assistance on Operator Services for the Deaf, the cost of providing Directory Assistance on California Relay Service, and the operational impact of providing Directory Assistance on California Relay Service compared to providing it on Operator Services for the Deaf.

18. Within 60 days of the effective date of this order, AT&T shall submit to Deaf and Disabled Telecommunications Program Administrative Committee its cost-benefit analysis of implementing a multi-mode service feature in the California Relay Service.

This order is effective today.

Dated MAY 26 1989, at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Victor Weisner, Executive Director

APPENDIX A

List of Appearances

Respondents: Pelavin, Norberg, Harlick & Beck, by Alvin H. Pelavin, Jeffrey F. Beck, and Lizbeth Morris, Attorneys at Law, and Sheila Thomson, for California Telephone Association; Kenneth K. Okel, Kathleen S. Blunt, and James A. Garriss, Attorneys at Law, for GTE California, Incorporated; Randolph Deutsch, Attorney at Law, for AT&T Communications of California, Inc.; Orrick, Herrington & Sutcliffe, by Robert Gloistein, Attorney at Law, for Continental Telephone Company of California; and Bonnie Packer, Attorney at Law, for Pacific Bell.

Interested Parties: Jackson, Tufts, Cole & Black, by William H. Booth, Attorney at Law, for Tele-Communications Association; William G. Irving, for the County of Los Angeles; J. Kendrick Kresse, Attorney at Law, for the California Association of the Deaf; Graham & James, by David J. Marchant, Martin A. Mattes, and Michael P. Hurst, Attorneys at Law, for Bay Area Cellular Telephone Company; Peter A. Casciato, Attorney at Law, for Paging Network of San Francisco, Inc. and Paging Network of Los Angeles, Inc.; Warren A. Palmer, Attorney at Law, for Metromedia Company and Affiliates; Dinkelspiel, Donovan & Reder, by David M. Wilson, Attorney at Law, for Allied Radiotelephone Utilities of California; Michael F. Willoughby, Attorney at Law, for Krown Research, Inc.; and Armour, St. John, Wilcox, Goodin & Schlotz, by James D. Squeri, Attorney at Law, for GTE Mobilnet of San Francisco.

Division of Ratepayer Advocates: Robert Cagen and Ira Kalinsky, Attorneys at Law, and Karen Miller.

(END OF APPENDIX A)

MASTER LIST

I.87-11-031

REVISED 10/13/88

DOC. I.D. #L02448

APPENDIX B

Page 1

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APPENDIX B  
Page 2

A. \_\_\_\_\_  
C. \_\_\_\_\_  
I.87-11-031 \_\_\_\_\_  
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DECISION NO. \_\_\_\_\_  
NO. OF PAGES \_\_\_\_\_  
BILLING CODE \_\_\_\_\_  
DEC. SIGNED \_\_\_\_\_  
(CONFERENCE DATE) \_\_\_\_\_

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(END OF APPENDIX B)



APPENDIX C  
Page 1

(Original I.87-11-031)

We are asking that all parties address the following questions in order to enable the Commission to determine the most effective methods to retain a viable program:

1. Should the policy that a PBX trunk constitutes 10 Centrex subscriber lines be continued and should a PBX trunk be surcharged at ten times the prevailing Centrex surcharge rate?
2. How should a telephone line be defined for purposes of Public Utilities Code Section 2881(d)?
3. Should the monthly surcharge be applied to the customers of radiotelephone and cellular companies?
4. Should a portion of a Telecommunications Device for the Deaf (TDD) subscriber's monthly basic access charge be remitted to the Fund?
5. Should a charge be implemented for California Relay Service Center calls?
6. Should a voucher system be implemented for the individual customer purchase of TDD and handicapped supplemental equipment with warranty?

APPENDIX C  
Page 2

7. Should repair/maintenance costs of TDD and supplemental handicapped equipment be borne by the recipient?
8. Should the number of Trust-provided TDD and supplemental equipment items be limited to one per individual?
9. Should AT&T's Operator Services Division expenses be eliminated from Trust reimbursement?
10. Should Senate Bill 927 (distribution of TDDs to state agencies) and organizations with substantial programs for the Deaf) be repealed or amended?
11. Should expenses for billing inquiries by a TDD user be eliminated from Trust reimbursement?
12. Should AT&T and Pacific Bell be allowed to allocate corporate overhead loadings over and above those overheads related to employee benefits and payroll taxes?
13. Should a means test or income criteria be established for receiving a TDD or supplemental telecommunications equipment or for California Relay Center usage?

(END OF APPENDIX C)

APPENDIX D

Page 1

(Expanded OII D.88-07-033)

I. A Trust Fund Administration and Staffing

- 1.a. What are the functions of the trust administration (TA)?
- b. Is the structure and makeup of the TA appropriate?
2. Has there been fiscal or program mismanagement or abuse of the trust fund by the TA?
3. What safeguards can and should be developed to eliminate any real or perceived mismanagement of the trust?
4. What is the most effective management and staffing structure for the D.E.A.F. trust?
- 5.a. Define the responsibilities of the Equipment Standardization Committee?
- b. How should this committee interrelate with D.E.A.F. trust activities and with the TA?
6. Should an Advisory Committee consisting of consumers and utility members be established to make recommendations to the Commission regarding changes in telecommunications equipment or services for the deaf/hearing-impaired/disabled telecommunications consumer?
- 7.a. What is the appropriate process for review of the trust's annual budgets for the program (equipment and CRS) submitted to the Commission for approval?
- b. What is the appropriate process for the review of monthly expense reports submitted to the trust for reimbursement?

APPENDIX D  
Page 2

II. Operational Considerations

A. Equipment

1. Are there more efficient ways of obtaining and distributing equipment to eligible subscribers within the current utility-run program?
2. Should subscriber eligibility for free or subsidized equipment be limited or graduated based on income or some other measure of ability to pay? If so, how should such standards be established and administered?
3. Are there more cost-effective and efficient ways of obtaining and distributing equipment other than through a utility-run program?
4. Should distribution of equipment and related activities be awarded to contractors by competitive bid?

B. California Relay Service

1. Should limitations be imposed on the use of the CRS to reduce costs to the trust fund and, if so, what types and to what extent?
2. Should limitations on the free or subsidized use of the CRS be based on the ability of subscribers to help pay its costs? If so, how should such limitations be established and administered?
3. What can be done to increase the efficiency of the CRS?
4. Is it economically feasible and would it be efficient to establish a northern CRS?
5. Should both intraLATA and interLATA operator services be provided through the CRS?
6. Can and should "multiple-mode" (voice/hearing through, ASCII) be made available through CRS?

APPENDIX D  
Page 3

III. A General Order

1. Should a General Order to impact utilities only be developed to address the following:

- a. Standards and quality of service of CRS or other Operator Services for the Deaf (OSD)?
- b. Equipment standards?
- c. Types of equipment approved for purchase and distribution under the deaf and disabled program?
- d. Other matters deemed appropriate for inclusion in a general order?

(END OF APPENDIX D)

Decision \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own  
motion to determine the feasibility  
of implementing New Funding Sources  
and Program Reductions in the Deaf  
and Disabled Program Pursuant to  
Section 2881 of the Public Utilities  
Code.

I.87-11-031  
(Filed November 25, 1987)

(See Appendix A for appearances.)

O P I N I O N

On November 25, 1987, the Commission approved Resolution T-12056 which directed that this proceeding be opened to address expense reductions and expanded revenue sources recommended by the Commission Advisory and Compliance Division (CACD) in its "Report on the Funding Problems Involving Deaf and Disabled Telecommunications Services", dated November 13, 1987. Respondents of the telecommunications industry were invited to address 13 issues contained in the Order Instituting Investigation (OII) to enable the Commission to determine the most effective methods to maintain a viable telecommunications program for the deaf and disabled community. These issues are set forth in Appendix C.

Following notice, public hearings were held on January 5-6, 1988, on Issues 1, (whether the policy that a PBX trunk was equivalent to 10 Centrex lines be continued and whether a PBX trunk should be surcharged at ten times the prevailing Centrex rate?), and 2, (How to define a telephone line for purposes of

Public Utilities Code<sup>1</sup> Section 2881(d).), and Interim Opinion, in Decision (D.) 88-05-065, was issued on May 25, 1988.

Testimony on Issue 3 was received in public hearings February 17, 1988. While an interim decision on Issue 3 was being prepared, legislation was introduced in Senate Bill (SB) 2268 to amend Section 2881. Since the pending legislation would affect Issue 3 and several other issues in the OII, a decision on Issue 3 was withheld and further formal hearings on the remaining issues were stayed pending legislative action on SB 2268.

SB 2268 was signed by the Governor on June 30, 1988 and went into immediate effect. The bill amends Section 2881 by changing the Deaf Equipment Acquisition Fund (DEAF) Trust recovery mechanism from a per line surcharge to a percentage surcharge on all intrastate telephone service other than one-way radio paging and universal telephone service. A cap of 1/2% was placed on the amount of the surcharge. As a result of the legislation, Interim D.88-05-065, which addressed Issues 1 and 2 of the OII was superseded and the pending decision on Issue 3 became moot.

During hearings on February 17, 1988, it was agreed by all parties that it was no longer necessary to consider Issues 4 and 5 of the OII (concerning whether a portion of a TDD subscriber's monthly basic access charge be remitted to the fund and whether a charge for California Relay Service calls be implemented) since they related to financial matters being considered in the pending legislation. In the meantime, workshops began on March 2, 1988 and continued periodically until June 2, 1988, attempting to resolve the remaining issues of the OII which were not addressed in SB 2268.

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<sup>1</sup> All references are to the Public Utilities Code unless otherwise indicated.

Hearings were held in San Francisco on March 22, in Los Angeles on March 29, and in Sacramento on March 24, 1988 to receive statements and testimony from the deaf, hearing impaired, and disabled members of the public as well as from the general public.

On April 13, 1988, DRA filed a motion to expand the scope of the OII to include a number of new issues. Comments were received and after consideration of the motion and the comments, we issued D.88-07-033 on July 8, 1988 expanding the scope of investigation. The additional issues are set forth in Appendix D.

Informal workshops on the added issues were held from July 18, 1988 to August 12, 1988, and resulted in the submission of a Stipulated Agreement and Report on September 6, 1988. The stipulation addressed all issues in Appendix D with the exception of Issues II.A.3 (Are there more cost-effective and efficient ways of obtaining and distributing equipment other than through a utility-run program?), and II.A.4 (Should distribution of equipment and related activities be awarded to contractors by competitive bid?).

Participants representing the majority (DRA, telephone utilities, DEAF Trust Administration Committee) submitted their recommendations on these two issues in their Stipulated Agreement and Report while participants representing Self Help for Hard of Hearing People (SHHP), Hearing Society for the Bay Area, Inc., and California Association of the Deaf (CAD) (referred to collectively as Objectors) filed a joint objection to the Stipulated Agreement and Report on Issues II.A.3 and II.A.4. All participants agreed that since the disputed two issues did not involve questions of fact, no formal evidentiary hearings on issues were necessary. Discussion of these disputed issues will be detailed elsewhere in this decision.

The Stipulation and Report, and discussion of the issues set forth in the original OII, along with the recommendations of the participants follow:



(Issues 1-5 have been resolved by enactment of SB 2268.)

**Issue 6 - Should a voucher system be implemented for the individual customer purchase of TDD and handicapped supplemental equipment with warranty?**

This issue was discussed and considered extensively in the workshops. Many of the participants believe that since Section 2881 requires telephone corporations to "provide a telecommunications device capable of servicing the needs of the deaf or severely hearing impaired...", the implementation of a voucher system which would provide the subscriber with a piece of paper may require legislative change since a piece of paper is not a telecommunications device.

Several issues were raised during discussion; namely, what is a voucher system? Who would run the voucher system? How would parties be reimbursed for any costs incurred in administering the voucher system? What services would be included in a voucher system?

Concerns for rural customers and the difficulty they might experience in learning how to use the equipment without hands-on training were expressed as was some concern that customers may become victims of the marketplace under a voucher system.

In considering any savings which may be realized under a voucher system, it was agreed that if TDD's were no longer distributed through the utilities, utility service centers would still need to remain open to distribute SB 60 equipment (specialized or supplemental telephone equipment for certified disabled subscribers). Thus, any potential savings would be significantly less if only SB 597 equipment (TDD's) were removed from utility service centers and distributed through a voucher system. Any comparisons with voucher systems in other states may also be inappropriate since all other systems were set up in the initial phases of the programs and no historical data exists on

transitional costs. Furthermore, equipment distribution is significantly greater in California than in any other programs.

Other concerns raised were: requiring a voucher for SB 597 equipment but not for SB 60 equipment may be considered discriminatory; how would the utilities handle embedded equipment base if we adopted a voucher system; and who would be responsible for repairs.

CAD expressed interest in a voucher system and raised the concept of having non-profit organizations handle the distribution of equipment in conjunction with a voucher system. CAD canvassed the eight Department of Social Services agencies in the state and interest was expressed by six of the agencies in providing a TDD distribution program under the auspices of CAD. CAD also proposed an equipment distribution system that fit within a nonprofit framework but which would require a complete restructuring of the existing equipment distribution system.

#### Participants' Recommendation

Because a voucher system was a small aspect of CAD's proposal and was lacking in any detailed analysis, it was decided that the proposal went beyond the intended scope of Issue 6 in the investigation. The participants agreed that it was premature to decide on the appropriateness of a voucher system for either TDD or supplemental equipment at this time and that the matter could be revisited in the expanded OII workshops within the context of Issue II.A.1 and/or II.A.2.

#### Issue 7 - Should repair/maintenance costs of TDD and supplemental handicapped equipment be borne by the recipient?

All participants believe that the maintenance and repair of the equipment is an integral part of providing the equipment and that these costs should be borne by the DEAF Trust. Shifting repair/maintenance responsibility from the DEAF Trust to the recipient would be inappropriate for the following reasons:

1. Customer choice of equipment distributed by the local exchange companies is limited and as a result, customers have little or no opportunity to select equipment which either better meets their needs or which may have a better repair record than that which is being distributed by the utilities.
2. Repair/maintenance costs of equipment provided by the program are currently being paid for by the program and are, in essence, part of the package.
3. Many participants in the program have a lower income level than the California average income. In addition, subscribers in the program often have very high medical and special care expenses. Since repair and maintenance costs can be substantial, often in excess of \$100 for TDDs, shifting the burden of repair/maintenance costs which is currently provided by the Trust, could result in the loss of use of the equipment when it fails.

Since TDD equipment generally has a usable life in excess of the warranty, proper maintenance can be a long-term economy for the DEAF Trust. Consideration was given to the availability of repair by vendors of TDD equipment versus the availability of repair by vendors of supplemental telecommunications equipment. There is far more opportunity for repair by vendors of TDD equipment in California than for the repair of supplemental telecommunications equipment because many of the vendors of SB 60 equipment are not located in California.

Participants' Recommendation

Participants recommend that repair/maintenance costs of TDDs and supplemental telecommunications equipment continue to be the responsibility of the Trust.

Issue 8 - Should the number of Trust-provided TDD and supplemental equipment items be limited to one per individual?

Currently, Pacific Bell, GTE California, Inc. (GTEC) and the California Telephone Association (CTA) (which distributes telecommunications equipment for the smaller independent telephone companies) generally provide only one TDD per certified residential subscriber. In some instances, a second TDD is provided to subscribers who are owners of a business and need a TDD for use in their business or to employers who need a TDD for an employee. Requests for a second TDD are carefully reviewed by the local exchange companies to determine if a second TDD is justified. The number of second TDDs furnished by the utilities is relatively low in relation to the total number of TDDs distributed. As an example, 27 GTEC subscribers have received two TDDs out of 3,586 TDDs distributed.

Similarly, the local exchange companies have, in rare instances, provided some subscribers with more than one set of supplemental telecommunications equipment. For residences, dual equipment is given out solely for mobility impaired customers.

Participants' Recommendation

The workshop participants recommend that the current policy of distributing only one TDD to a certified subscriber be continued, except in justified instances where a certified residential subscriber may require a second TDD at the place of employment. Equipment distributed under SB 60 should likewise be limited to one set except where circumstances justify a need for more than one set.

Issue 9 - Should AT&T's Operator Services Division [for the Deaf] expenses be eliminated from Trust reimbursement?

Separate accounting is required for each program administered by the DEAF Trust. Operator Services for the Deaf is currently accounted for as an expense of the SB 597 program. The Commission authorized the reimbursement of telephone companies

for the costs of Operator Services for the Deaf in D.92603. A clear legislative intent to provide services is found in SB 244. The stated purpose of the bill is to make available "reasonable access to all phases of public telephone service to deaf or severely hearing-impaired subscribers." More than half of Operator Services for the Deaf expenses are for relaying directory assistance calls, a service reasonably encompassed by SB 244.

Operator Services for the Deaf expenses are a portion of AT&T's total expenses for providing telecommunication services for deaf/hearing-impaired/disabled subscribers. The funding mechanism for the recovery of Operator Services for the Deaf expenses for calls originating in California is the DEAF Trust surcharge. According to AT&T, no other state has a specific mechanism for recovery of Operator Services for the Deaf expenses and such expenses are recovered through AT&T's general rates. AT&T indicated it will be going to state legislators outside of California to lobby for legislative change which will allow for the collection of Operator Services for the Deaf expenses through a specific cost recovery mechanism, such as the DEAF Trust.

Discussions addressed whether there may be cost savings which could be achieved by providing the Directory Assistance function of Operator Services for the Deaf for California originated calls through the California Relay Service. AT&T will conduct a study to determine the cost of providing Directory Assistance on Operator Services for the Deaf, the cost of providing Directory Assistance on California Relay Service, and the operational impact of providing Directory Assistance on California Relay Service vs. Operator Services for the Deaf. AT&T will submit this study to the DEAF Trust Administration Committee.

#### Participants' Recommendation

The participants recommend that the current policy of allowing AT&T to be reimbursed by the DEAF Trust for Operator

Services for the Deaf expenses for calls originating in California be continued.

Issue 10 - Should Senate Bill 927 (distribution of TDD's to State agencies and organizations with substantial programs for the Deaf) be repealed or amended?

SB 927 directs each telephone company to provide telecommunications equipment capable of serving the needs of the deaf or severely hearing-impaired, to any subscriber which is an agency of state government which the Commission determines serves a significant portion of the deaf or severely hearing-impaired population and to an office located in the State Capitol for purposes of access by the deaf or severely hearing-impaired to members of the Legislature.

Discussions on this issue determined that requests for TDD's under SB 927 have been fairly limited. Data indicates that fewer than 200 TDD's have been authorized to state agencies.

Participants' Recommendation

Because legislative action would be required to amend or repeal SB 927, the workshop participants recommend that no action be taken at this time and that the legislation be allowed to become inoperative on July 1, 1989 and repealed on January 1, 1990. It is also recommended that thereafter, the DEAF Trust continue to maintain all TDDs distributed under SB 927. It is also recommended that the criteria used in reviewing requests for this equipment by CACD should be tightened. More stringent criteria should include:

1. Full justification of the need of such equipment.
2. The elimination of blanket distribution to multiple agency locations. State agencies should justify the need for TDD's requested for each office site.
3. A review of TDD equipment currently available at the requesting agency.

Issue 11 - Should expenses for billing inquiries by a TDD user be eliminated from Trust reimbursement?

The participants believe this type of expense is a normal utility operating expense and has no direct relationship to whether or not the calling customer is also participating in the Deaf and Disabled Equipment program. Responses to data requests, received from all independent telephone companies in California, show that they are not billing the DEAF Trust for expenses related to billing inquiries. Most companies indicated that billing inquiries from deaf and disabled customers are not separately identified. However, the participants agreed that any expenses resulting from customer inquiries which relate specifically to the Deaf and Disabled Program are, and should continue to be, charged to the Trust.

Participants' Recommendation

The current policy of not charging the Trust for billing inquiries from deaf/hearing impaired/disabled customers should be continued.

Issue 12 - Should AT&T and Pacific Bell be allowed to allocate corporate overhead loadings over and above those overheads related to employee benefits and payroll taxes?

Discussion of the participants revolved around Section 2881(d) which allows telephone corporations "...to recover costs as they are incurred...". Since corporate overhead is part of the total costs incurred by the operating companies of providing the Deaf and Disabled Program, the participants agreed that such overhead loadings should be recovered.

Corporate loading factors are developed within the industry using standard accounting practices. The operating companies reported that overhead loading factors applied in connection with implementing their requirements under Section 2881 are consistent with those loading factors which are applied to all other similar activities performed by the employees of each

utility. The issue whether the current level of corporate overhead loadings is appropriate was raised during the workshop but it was determined that this issue was outside the scope of this OII.

A question of how much profit is included in the loading factors was raised during the workshops and it was pointed out that the loading factors are a ratio to total wage base and are developed based on standard accounting practices in which profit is not included. Corporate loading factors are applied to wage and salary dollars only and are not applied to other expenses such as buildings or equipment. There is no profit in corporate loading factors and the utilities are simply made whole when reimbursed for their costs.

#### Participants' Recommendation

The current policy of allowing the telephone operating companies to be reimbursed for corporate overhead loadings on wage and salary dollars for implementing Section 2881 should be continued.

Issue 13 - Should a means test or income criteria be established for receiving a TDD or supplemental telecommunications equipment or for California Relay Center (California Relay Service) usage?

The participants believe that Section 2881(b) states that reasonable access should be available for "...all phases of public telephone service to deaf or severely hearing-impaired telephone subscribers" and that imposition of a means test would inhibit reasonable access to telephone service in conjunction with the California Relay Service. In testimony received during the formal proceedings, AT&T witness, Beverly A. Thorman, stated that "use of the California Relay Service is a daily occurrence that potentially involves every member of the calling public...". The participants thus believe that if a means test or income criteria were required, determining whether the calling party qualifies for a subsidy would be difficult, if not impossible, for the operator at the California Relay Service to ascertain. It was also the consensus



that all expenses associated with determining the calling party's eligibility would be charged to the Trust and such expenses could exceed any savings substantially.

SB 60 requires telephone corporations to provide supplemental telecommunications equipment to meet the needs of the disabled at no charge additional to the basic exchange rate. In addition to requiring medical certification of disability, the legislation directed the Commission to study the feasibility of establishing an income criteria for determining a subscriber's eligibility to receive specialized or supplemental telephone equipment. In I.86-07-031, D.87-04-027, the Commission determined that it was not appropriate to set income criteria for receiving supplemental telecommunications equipment since the establishment of a personal income criteria would discriminate in favor of persons whose income is below a specific level, and would ignore the higher living costs disabled persons incur because of their individual disability.

The Commission was not directed to examine the feasibility of establishing a means test or income criteria for distribution of TDDs under SB 597 and the inconsistencies between SB 60 and SB 597 in regards to the requirement of examining the feasibility of implementing a means test raises the problem of possible discrimination.

The implications of a means test with and without full funding by the Legislature was discussed by the participants and under both scenarios, the participants agreed that a means test would be awkward and difficult to administer equitably, and would result in excessive administrative costs. If a means test were to be required by either the Legislature or the Commission, several issues would need to be addressed before developing such a program. Major items which would have to be considered include:

1. A change to the legislation to impose a means test for TDD distribution since Section 2881(c) allows for a means test for

supplemental equipment while Section 2881(a), which pertains to TDDs, does not allow for an income criteria for eligibility.

2. Deaf, hearing-impaired, and the disabled have different income needs, depending on their physical problems. / Determining real disposable income after taking into consideration medical bills and attendant costs, for example, would have to be done on a case-by-case basis. Developing a standard income range to determine eligibility would be difficult if not impossible.
3. Unlike the Universal Lifeline program which provides discounts for standardized services (with standardized costs), supplemental telecommunications equipment is provided for a wide range of disability types and severity at varying costs.
4. A major concern was raised as to the treatment of the large embedded equipment base. How do we treat those customers who are already participating in the program? Dual treatment could result in charges of discrimination.

A means test also raises the disparity between income levels for the deaf/hearing-impaired community and the general population in California. The most recent data available (1983) indicates the median annual income for the general population in California was \$21,479 while the hearing-impaired community had a median annual income of \$11,738.<sup>2</sup> In addition, 70% of hearing-impaired families had annual incomes of less than \$15,000 while only 32% of the general California population had annual family

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<sup>2</sup> Marcus T. Delk, Jr., and Jerome D. Schein, Deaf People in California: Demographics and Communication Needs. May 1983, p. 18.

incomes of less than \$15,000. Currently, while 11% of the telephone subscribers in California participate in lifeline, 16% of the deaf telephone subscribers participate in the program. These facts reflect that the deaf/hearing-impaired community is comprised of more low-income families than the general population.

In terms of the disabled community, current data is not available. In the 1975 Census Bureau, U.S. Department of Commerce, Current Population Report, however, 45% of the general population had annual incomes over \$15,000 while only 21% of the disabled population had annual incomes over \$15,000. During the same survey period, 12% of the general population had annual incomes under \$5,000 while 33% of the disabled population had annual incomes under \$5,000. DRA, who obtained this data, does not have any reason to believe this disparity has changed.

Additionally, the current inability to quantify either the costs of implementing a means test or the savings from such a program raised concerns. The fact that such a large percentage of the deaf/hearing-impaired/disabled subscribers have significantly lower income levels than other subscribers suggests that a means test may not yield any real savings to the Trust. The costs associated with determining income eligibility may be greater than any benefits which may be realized.

A final issue is the administration of a means test. Use of the Universal Lifeline Telephone Service Program as a model for the deaf and disabled program was discussed and the consensus was that the lifeline income criteria may not be appropriate for this program and a completely new income criteria may be needed. Eligibility may have to be determined on a case-by-case basis, especially for the supplemental telecommunications equipment. In terms of the equipment needs of the deaf and disabled program as forecasted for 1988, 54% of the total equipment expenses will be attributed to supplemental telecommunications equipment, with the remainder attributed to TDD equipment.

Special consideration must be given to real disposable income. Deaf/hearing-impaired/disabled customer groups have unusual expenses which must be deducted from disposable income to determine real disposable income.

The organizations representing the deaf/hearing-impaired/disabled customers are concerned that members of their communities are generally nonassertive and the imposition of a means test or income criteria would make access to equipment provided under SB 60 or SB 597 more burdensome on the subscriber and participation will be inhibited, contrary to our stated goal of universal access to the network.

The costs/benefits of developing or implementing a means test or income criteria were not quantified during workshop meetings although various types of possible programs were discussed. It was agreed that the more complex the program design, the greater the associated expenses would be.

#### Participants' Recommendation

The participants recommend that a means test not be required for use of the California Relay Service. In addition, all parties agreed that a means test should not be required to establish eligibility for TDDs or supplemental telecommunications equipment. The participants believe that any requirement for a means test for TDDs would be inconsistent with SB 597.

If this recommendation is not accepted by the Commission, and it is determined that a means test is necessary, DRA recommends the following:

1. No means test should be applied for the use of the California Relay Service.
2. Change the legislation to require a means test for TDDs as well as for supplemental equipment.
3. Income eligibility should be based on self-certification, similar to the Lifeline program. This would be the least intrusive method of determining income eligibility.

4. Certification of need for telecommunications equipment should be done once at the time of initial equipment request, along with medical certification.
5. Income should be reviewed in more detail than is done in the current Lifeline program in an attempt to determine real disposable income. This review would allow for adjustments to income due to excessive medical expenses, attendant costs, or other disability related expenses. The same criteria of 150% of federal poverty level, as is used in the Lifeline program, could be used to determine income eligibility (after adjustments for the Deaf and Disabled Equipment program).

ISSUES ADDED IN D.88-07-031, EXPANDING THE OII

Eighteen issues were added to the original OII in response to concerns raised by various organizations representing the deaf/hearing-impaired and disabled communities, by individuals, and by DRA. These issues deal with DEAF Trust administration and staffing, operational considerations, and consideration of the development of a General Order and are set forth in Appendix D.

Part I - Trust Administration and Staffing

Many of the issues placed under this section are interrelated and so are discussed collectively rather than individually. Those issues include:

- Issue 1.a. - What are the functions of the DEAF Trust Administration?
- Issue 1.b. - Is the structure and make-up of the DEAF Trust Administration appropriate?
- Issue 4. - What is the most effective management and staffing structure for the DEAF Trust?

- Issue 5.a. - Define the responsibilities of the Equipment Standardization Committee.
- Issue 5.b. - How should this committee interrelate with DEAF Trust activities and with the DEAF Trust Administration?
- Issue 6 - Should an Advisory Committee consisting of consumers and utility members be established to make recommendations to the Commission regarding changes in telecommunications equipment or service for the deaf/hearing-impaired/disabled telecommunications consumer?

Participants' Recommendations to Issues 1-6

All participants agreed that significant changes should be made to the composition, responsibilities, and appointment procedures relating to the DEAF Trust Administration. Currently the DEAF Trust Administration is comprised of three utility representatives and one representative from the deaf/hearing-impaired/disabled community. The utility representatives are selected by their companies and serve indefinite terms. The community representative is selected by deaf and disabled organizations who confer among themselves and notify the DEAF Trust Administration of their nominee. The community representative serves a one-year term. The workshop participants recommend adoption of the following proposed reorganization.

The DEAF Trust Administration should be renamed the DEAF Trust Administration Committee. The structure of the new DEAF Trust Administration Committee should be as follows:

1. The DEAF Trust Administration Committee should contain nine voting members consisting of four utility representatives, four consumer representatives, and the Commission Executive Director or designee.

2. The utility members should consist of one each from the two largest local exchange companies, one from the small local exchange companies, and one from the provider of the California Relay Service.
3. The consumer members should consist of one representative from the hard of hearing community, one from the disabled community, and two from the deaf community (one representing a statewide organization and one representing the deaf community at large).

#### Advisory Committees

The DEAF Trust Administration Committee should have two permanent advisory committees. The current Equipment Standardization Advisory Committee should be retained, but its name, composition, responsibilities, and member appointment procedures should be changed. A second advisory committee, the California Relay Service Advisory Committee should be formed.

#### Equipment Program Advisory Committee

1. The Equipment Standardization Advisory Committee should be renamed the Equipment Program Advisory Committee. The Equipment Program Advisory Committee voting members should consist of three utility representatives and four consumer representatives. Two non-voting members, one from the provider of the California Relay Service and one from the Commission staff (as designated by the Executive Director), should also participate on the Equipment Program Advisory Committee.
2. The utility representation should include one member each from the two largest local exchange companies and one member from the small local exchange companies.

3. The consumer representation should include two disabled representatives, one hard of hearing representative and one deaf representative.

**California Relay Service Advisory  
Committee - Composition**

The California Relay Service Advisory Committee voting members should consist of one representative from the provider of the California Relay Service and four consumer members, one from the speech-impaired community, one from the hard of hearing community, one from the deaf community and one from the hearing community with significant experience in use of the relay service.

In addition, one representative each from the two largest local exchange companies, one representative from the small local exchange companies and one representative from the Commission staff (as designated by the Executive Director) should participate on the California Relay Service Advisory Committee in a non-voting capacity.

**Advisory Committees - Additional members and  
committees and Provision for Alternates**

The advisory committees should have the flexibility to expand their memberships to include other consumer representatives, such as from the deaf-blind and the deafened communities, as they are needed. The selection of any additional committee members should be subject to DEAF Trust Administration Committee and Commission approval. Any proposed revision in the voting structure due to additional consumer representatives shall be developed by the DEAF Trust Administration Committee and submitted to the Commission for approval. The DEAF Trust Administration Committee shall have the flexibility to create ad hoc task forces as needed. If the DEAF Trust Administration Committee believes there is a need to appoint other permanent



committees, it should seek Commission approval to establish them.

Each advisory committee should develop in its charter provisions for providing alternate member representation.

#### Support Staff

Currently, the staff support is provided to the DEAF Trust Administration Committee by employees of Pacific Bell. Since the Chairman of the DEAF Trust Administration Committee is a representative of Pacific Bell, the staffing support arrangement seemed appropriate. Incidental support, such as telephones, electricity, and the availability of copy machines is also provided by Pacific Bell.

Under the proposed new structure, independent support staff would be hired or contracted by the DEAF Trust Administration Committee with qualifications being established by the DEAF Trust Administration Committee. DEAF Trust Administration Committee support staff, which includes staff used in support of the advisory committees, will not be employed by any of the organizations or utilities represented on the committees. In addition, support staff will not be employed by, or represent the interest of, any vendors or distributors who are currently involved, or who have the potential to be involved, in providing equipment and/or services for the Program. The utilities may provide technical assistance on an as-needed basis.

In recruiting to fill support staff positions, every effort should be made to hire staff from the deaf/hard of hearing/disabled community.

RESPONSIBILITIES AND FUNCTIONS OF THE COMMITTEES  
AS SET FORTH IN THE STIPULATION

Deaf and Disabled Telecommunications  
Program Administrative Committee

In its current form, the DEAF Trust Administration has a very limited number of functions in its charter. The DEAF Trust Administration was established to perform the services required to administer the Trust Fund including the receipt, investment and disbursement of program surcharge funds.

More specifically, the Committee was directed, pursuant to D.92603, to secure the services of an attorney, review and approve requests for expense reimbursement, recommend surcharge rate changes, invest excess funds, retain the services of a Bank Trustee, cause an annual audit of the financial statements by an independent CPA firm, and file an annual report with the Commission.

D.87-04-027 added the functions of maintaining records of equipment the Trust owns, appointing public members to the Equipment Standardization Advisory Committee, and adopting a standard equipment list for the disabled programs as recommended by the Equipment Standardization Advisory Committee.

The DEAF Trust Administration Committee would maintain all of the functions of the current DEAF Trust Administration (except for the appointment of Equipment Standardization Advisory Committee public members) and the scope of its functions would be expanded as described below.

Modification and Expansion of Current Functions

The DEAF Trust Administration Committee would review and approve monthly program expense claims for reimbursement in accordance with the pre-approved annual budget. (The process for pre-approval of the annual budget is discussed under Issue 7a and 7b.) Utility representatives would be prohibited from voting when it is their company's claim for monthly program expense

reimbursement and their company's individual annual budget proposal which is under consideration. The utilities would have full voting rights on all other issues before the DEAF Trust Administration Committee, including, but not limited to, pre-approval of the total annual budget.

The DEAF Trust Administration Committee functions would be expanded to include the ability to make program change recommendations to the Commission which have policy and/or budgetary implications. These recommendations would be initiated within the DEAF Trust Administration Committee or would be submitted to the DEAF Trust Administration Committee by the advisory committees.

For those program changes which do not have significant policy and/or budgetary implications, the DEAF Trust Administration Committee would make decisions, unless any individual DEAF Trust Administration Committee member believes a Commission decision is required. Any proposal or recommendation that would constitute a major policy change or cause expenditures beyond the approved annual budget should be submitted to the Commission for approval.

The DEAF Trust Administration Committee in conjunction with the Commission Executive Director, would develop a process for submittal of proposals and recommendations to the Commission for Commission approval.

#### Advisory Committees

All advisory committees would have the discretion to request that utilities represented on the committees implement proposals and recommendations that have no budgetary or policy impact without DEAF Trust Administration Committee or Commission approval. The advisory committees would report such activities to the DEAF Trust Administration Committee in the form of meeting minutes.

### Equipment Distribution Program

The Equipment Standardization Advisory Committee was established pursuant to D.87-04-027 for the purpose of recommending and updating, as new technology is developed, a Standard Equipment List of Telecommunication Equipment for the disabled community and developing procedures for the evaluation of new products. The functions of the Equipment Standardization Advisory Committee were later expanded, pursuant to D.87-10-077, to provide policy recommendations to the DEAF Trust Administration on all issues related to Trust-funded programs. The parties recommend that the functions of the Equipment Program Advisory Committee be expanded to include policy recommendations relating to both equipment and service quality in the equipment distribution program. Parties see the Equipment Program Advisory Committee's role in recommending policy changes as an extremely important function of the Equipment Program Advisory Committee and, as a result of the proposed structural changes, this function should be emphasized.

### Relay Service

The California Relay Service Advisory Committee would make recommendations to the Deaf Trust Administration Committee on California Relay Service and Operator Services for the Deaf service quality and efficiency matters, including procedures for the conduct of calls, and an effective means of implementation.

### Appointments/Qualifications/Terms/Honorarium/ Charters/DEAF Trust Administration Committee Relationship to Commission

#### DEAF Trust Administration Committee - Appointments

Nominations by the respective organizations/utilities, or by individuals for the DEAF Trust Administration Committee members would be submitted to and approved by the Commission.

#### Advisory Committees - Appointments

Nominations for advisory committee members would be submitted to the DEAF Trust Administration Committee which would

then make its recommendations to the Commission which will make the actual appointments.

Solicitation of Nominations

Parties recommend that nominees for the DEAF Trust Administration Committee, Equipment Program Advisory Committee, California Relay Service Advisory Committee, and any other permanent committees meet certain requirements which include professional and/or technical expertise. Qualifications for members of the advisory committees would be determined by the DEAF Trust Administration Committee. The consumer nominees should be able to demonstrate organizational and/or other ties to the constituency they are representing. In addition, consumer nominees should not be employed by, or represent the interests of, any vendors or distributors who are currently involved, or who have the potential to be involved, in providing equipment and/or services for the program.

For all committees, every effort would be made to encourage consumer participation from a wide variety of groups. At a minimum, all organizations of record in I.87-11-031 should be invited to submit nominations, to be accompanied by a list of the nominees' qualifications. Parties recommend that organizations submitting nominees have a governing board with a majority (51%) of deaf, hard of hearing, and/or disabled persons.

Terms of Appointment

For all committees, the terms of appointment should be staggered, with one third of the members to be appointed each year. Initial appointments will be made for terms of one, two or three years. Thereafter members will be appointed for term of three years. A member may be reappointed, but should be limited to two consecutive full terms. The DEAF Trust Administration Committee should develop procedures for the replacement of members who are unable to serve their full term.

The terms of appointment for members of any other permanent committees the DEAF Trust Administration Committee decides to create would be determined by the DEAF Trust Administration Committee, subject to Commission approval.

Honoraria and Reimbursement-for Expenses

The Stipulation and Report contains the following language:

"Pursuant to adopted Commission policy and procedures, some committee members may receive an honorarium as well as the reimbursement of reasonable expenses incurred while serving on the DEAF Trust Administration Committee and other committees. The amount of the honorarium and level of expense reimbursement set forth by Commission policy and procedures shall be included in the DEAF Trust Administration Committee charter. These expenses will be a specific line item on the Deaf Trust Administration Committee annual budget and shall be paid out of the D.E.A.F. Trust Fund." (Stipulation and Report, pp. 12 - 13).

The Commission does not accept this portion of the stipulation. To date the Commission has authorized reimbursement for their expenses, but no honoraria or per diem allowance (Resolution F-621, issued November 9, 1988).

Reimbursement for service on the committees established as a result of this decision will be limited to expense reimbursement, consistent with Resolution F-621. If the Commission issues guidelines for further reimbursement of Commission established committee members, the DEAF Trust Administration Committee charter may be amended to reflect current Commission policies and procedures.

CHARTERS

The DEAF Trust Administration Committee, Equipment Program Advisory Committee, California Relay Service Advisory Committee, and any other permanent committees should develop charters to be submitted to the Commission for approval. The Deaf

Trust Administration Committee would review Equipment Program Advisory Committee, California Relay Service Advisory Committee, and any other permanent committee charters which should include policies and provisions consistent with applicable state law to ensure that committee meetings are open to the public, that advance notice of the time, place and agenda of the meeting is made, and that time for public input is included in the agenda.

RELATIONSHIP OF DEAF TRUST ADMINISTRATION  
COMMITTEE AND COMMISSION AS SET FORTH IN THE STIPULATION

The DEAF Trust Administration Committee should not have the authority to order the utilities to do anything. The Commission has the sole authority to order the utilities to carry out program policy changes and shall provide direction to the utilities regarding the implementation of the program.

Issue 2 - Has there been fiscal or program mismanagement or abuse of the Trust Fund by the DEAF Trust Administration?

Participants' Recommendation

Based on information provided in the workshops during these proceedings, there is no evidence of fiscal or program mismanagement or abuse by the DEAF Trust Administration. No action need be taken.

Issue 3 - What safeguards can and should be developed to eliminate any real or perceived mismanagement of the Trust?

The participants believe that the most effective safeguard to eliminate any real or perceived mismanagement is continuing strong consumer participation in the general oversight and development of policy related to the program. The restructuring of the DEAF Trust Administration, establishment of the permanent committees to include increased representation of consumers on the committees, the restructuring of the advisory committees with the opportunity for the committees and the general public to get proposals and recommendations before the DEAF Trust Administration Committee and Commission, annual budget review and

for their expenses, but no honoraria or per diem allowance (Resolution F-621, issued November 9, 1988).

Reimbursement for service on the committees established as a result of this decision will be limited to expense reimbursement, consistent with Resolution F-621. If the Commission issues guidelines for further reimbursement of Commission established committee members, the Deaf and Disabled Telecommunications Program Administrative Committee charter may be amended to reflect current Commission policies and procedures.

#### CHARTERS

The Deaf and Disabled Telecommunications Program Administrative Committee, Equipment Program Advisory Committee, California Relay Service Advisory Committee, and any other permanent committees should develop charters to be submitted to the Commission for approval. The Deaf and Disabled Telecommunications Program Administrative Committee would review Equipment Program Advisory Committee, California Relay Service Advisory Committee, and any other permanent committee charters which should include policies and provisions consistent with applicable state law to ensure that committee meetings are open to the public, that advance notice of the time, place and agenda of the meeting is made, and that time for public input is included in the agenda.

#### RELATIONSHIP OF DEAF TRUST ADMINISTRATION COMMITTEE AND COMMISSION AS SET FORTH IN THE STIPULATION

The Deaf and Disabled Telecommunications Program Administrative Committee should not have the authority to order the utilities to do anything. The Commission has the sole authority to order the utilities to carry out program policy changes and shall provide direction to the utilities regarding the implementation of the program.



approval by the Commission with opportunity by the public for comments, and open public meetings and noticing of meetings will go a long way to preclude any real or perceived mismanagement of the Trust.

In addition to consumer participation, the proposal will correct any perceptions that have developed in the past resulting from the limited role of the existing DEAF Trust Administration. Apparently, some sectors of the public thought that the DEAF Trust Administration was responsible not only for administration but also for program oversight and operations. In fact, the responsibilities for program policy and operations oversight had not been specifically defined.

Participants' Recommendation

Adoption of the recommended restructuring of the Trust provide the necessary safeguards to eliminate any real or perceived mismanagement. This will focus attention on the program by increasing consumer participation, expanding the role of the DEAF Trust Administration Committee, by delegating to the DEAF Trust Administration Committee and to the advisory committees the responsibility for investigating and evaluating policy and operational issues pertaining to the program and making recommendations to the Commission, and by providing the DEAF Trust Administration Committee with an adequate professional staff to handle its increased responsibilities.

Issue 7a - What is the appropriate process for review of the Trust's annual budget for the program (equipment and California Relay Service) submitted to the Commission for approval?

Issue 7b - What is the appropriate process for the review of monthly expense reports submitted to the Trust for reimbursement?

Participants' Recommendation

The following structure should be established for the approval of the annual calendar year budget of the program and annual determination by the Commission of the surcharge authorized under Section 2881.

The proposed individual annual budgets for each of the three programs described in Section 2881 would be submitted to the DEAF Trust Administration Committee annually by each utility implementing the program services using DEAF Trust Administration Committee developed a standard format. The DEAF Trust Administration Committee should determine the annual deadline for submittal of the proposed utility budgets.

The DEAF Trust Administration Committee would review the proposed utility budgets as well as the DEAF Trust Administration Committee's own annual budget and compile all these budgets into a proposed annual budget for formal submission to the Commission for approval. DEAF Trust Administration Committee's review should determine compliance with DEAF Trust Administration Committee budget procedures, funding availability, and consistency with program policy as approved by the Commission. The DEAF Trust Administration Committee should develop formal recommendations to the Commission as to action the DEAF Trust Administration Committee proposes the Commission take on the proposed annual budget.

The Commission will establish the annual date the proposed annual budget must be formally submitted to the Commission for approval. Submission of the proposed annual budget for Commission approval should be transmitted by letter to the

Participants' Recommendation

Adoption of the recommended restructuring of the Trust provide the necessary safeguards to eliminate any real or perceived mismanagement. This will focus attention on the program by increasing consumer participation, expanding the role of the Deaf and Disabled Telecommunications Program Administrative Committee, by delegating to the Deaf and Disabled Telecommunications Program Administrative Committee and to the advisory committees the responsibility for investigating and evaluating policy and operational issues pertaining to the program and making recommendations to the Commission, and by providing the Deaf and Disabled Telecommunications Program Administrative Committee with an adequate professional staff to handle its increased responsibilities.

Discussion

After some reflection and study of the settling parties' comments, we find that the expanded administrative structure they have proposed is potentially workable. Also, it is apparent that the new structure reflects the desires of a broad range of program beneficiaries to have an input into decisions that affect their ability to use the system. We will adopt the recommended structure, but monitor its actual workings closely. We encourage parties to help make this structure work, because if it does not we will be forced to seek alternative approaches to fulfill the functions for which it is intended.

Our review of the comments also helped us to recognize that our concerns regarding the administrative structure relate more to accountability for the sound and prudent use of the Trust's resources, including the assurance that the potential for conflicts of interest is minimized. We are not convinced by the parties' assertions that greater consumer participation will generally serve this function.

The Commission has a responsibility to see that the Trust uses its resources efficiently to reach beneficiaries with

Executive Director. The DEAF Trust Administration Committee, in conjunction with CACD, would develop a format for the submission and accompanying approval of the annual budget as follows:

The deadline for submittal by all telephone corporations in California of their preliminary revenue estimate for each year that will be subject to the program surcharge should be March 15 of the preceeding year. Each telephone corporation's projected revenues should be processed as a filing which is considered to be proprietary information. The aggregate forecasted revenue base would be public information. The total estimated revenue base for the Program surcharge will be provided to the DEAF Trust Administration Committee by CACD. The DEAF Trust Administration Committee would work with CACD on establishing the appropriate deadline date for the submittal of finalized projected revenues by the telephone corporations in California.

Schedule for Filing Proposed Annual Budget

1. On the annual date approved by the Commission, the DEAF Trust Administration Committee would formally file the proposed annual budget along with its recommendations and serve it on all parties appearing on Appendix B of this decision.
2. Within 15 days of the annual budget filing date, interested parties would file any comments on the proposed annual budget.
3. Within 15 days after filing comments, interested parties would file any reply comments.
4. Within 30 days after the deadline for filing reply comments the Commission would issue a resolution setting forth the adopted annual budget of the Program (which shall include a contingency factor). This resolution shall also include the adopted statewide customer billing surcharge required to fund the Program budget.

Process for Approval of Monthly Program Expense Claims

The DEAF Trust Administration Committee would develop a format on which the utilities may submit such monthly program expense claims. Copies of monthly program expense claims should be submitted by the DEAF Trust Administration Committee to CACD for its review. Monthly program expense claims submitted by the utilities should be reviewed for consistency with the approved annual budget and approved by the DEAF Trust Administration Committee. Utility members on the DEAF Trust Administration Committee would not vote on the individual expense claims submitted by the utility they represent.

Part II - Operational Considerations

A. Equipment

Issue 1 - Are there more efficient ways of obtaining and distributing equipment to eligible subscribers within the current utility-run program?

Although the utilities believe they are running the equipment programs as efficiently as possible, other parties believe there may be more efficient ways of obtaining and distributing equipment within the current utility-run program.

Participants' Recommendation

Because this issue will require a detailed study and analysis of efficiencies and costs, parties recommend that this issue be referred to and studied by the Equipment Program Advisory Committee. The issue of what efficiencies can be achieved through centralized purchasing of equipment should be given priority consideration by the Equipment Program Advisory Committee. It was not determined whether these activities should be part of a utility-run program or a program run by a non-utility. The Equipment Program Advisory Committee would also consider, but not be limited to, the following proposals:

1. A voucher system for purchase of TDDs.
2. More efficient ways to handle the certification process and forms.

3. Mail delivery of equipment versus home visits.
4. Increased distribution points for equipment.
5. Responsibility for TDD battery replacement, and extended warranties for TDDs.

Issue 2 - Should subscriber eligibility for free or subsidized equipment be limited or graduated based on income or some other measure of ability to pay? If so, how should such standards be established and administered?

Participants' Recommendation

The participants recommend that there be no means test established for receiving free equipment under the program.

Issue 3 - Are there more cost-effective and efficient ways of obtaining and distributing equipment other than through a utility-run program?

Issue 4 - Should distribution of equipment and related activities be awarded to contractors by competitive bid?

Participants representing CAD, SHHH, and Hearing Society of the Bay Area (HSBA) (jointly referred to as Objectors) believe these two issues are interrelated and have filed a joint objection to the agreement and recommendations filed by the majority on these issues. They agree that an evidentiary hearing on these two issues is not necessary and that a determination can be made on the basis of the argument in their filed objection.

Majority Position

Although the majority (the utilities, the DEAF Trust Administration, and DRA) believe the utilities are obtaining and distributing equipment as efficiently as possible, they are not opposed to further study of these issues and believe the issues should be referred to the Equipment Program Advisory Committee for further study.

The majority believes that providing the equipment through other than an utility-run program may require a legislative change. Section 2881(a), which applies only to TDDs, states in relevant part:

"The Commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device...."

DRA and the utilities agree that it will be necessary to change the above language through legislation if TDDs are no longer provided through a utility-run program. After Equipment Program Advisory Committee studies these issues and submits its conclusions and recommendations to the Commission, if the Commission determines that Program changes should be implemented that would necessitate a language change to Section 2881, the Commission should sponsor legislation to achieve the desired change.

Some aspects of the equipment program are currently contracted out by the utilities to various vendors and service providers through varying competitive procurement processes set up by the individual utilities. The purpose of competitive bidding is to achieve cost efficiencies and economies. These processes should continue. The Equipment Program Advisory Committee should study whether it would be feasible to put other aspects of the equipment program up for competitive bid.

If the TDD distribution and related activities such as collection and verification of certification forms and administration were put out to bid, there would be a need for legislative action, as discussed above. Furthermore, if the TDD distribution is not provided through a utility-run program, then the utilities would have limited obligations with respect to the TDD distribution program and therefore the recommended changes in the administrative/advisory committee structure discussed above may need to be completely changed.

Recommendation of Majority

This issue should be referred to the Equipment Program Advisory Committee for further study.

Objectors' Position

The Objectors believe that the joint recommendations of the majority give insufficient emphasis to the competitive bid process, which they believe is one of the recognized mechanisms for achieving quality services. It is their opinion that carefully constructed performance specifications, aggressive bid solicitation and equitable contract award criteria have significant potential for a more cost-effective program.

They would like community based, nonprofit corporations to have the opportunity to bid on the equipment program. According to the Objectors, many of these publicly or privately funded nonprofit organizations are controlled and substantially staffed by deaf, hard of hearing and other disabled people and many have been delivering similar services and equipment, including TDDs and other telecommunications aids, to hearing-impaired and other disabled people for many years.

Objectors believe the present monopolistic situation is characterized by its lack of incentives to control costs. Although total revenue limits have been placed on the Trust by the Legislature and these limits have generated cost concerns, the initial utility response to the recent fiscal crisis has centered on service cutbacks rather than on an aggressive search for long term cost efficiencies. They point to the virtual cessation of outreach and awareness efforts regarding the SB 60 equipment distribution program. They are also unaware of any outreach efforts on behalf of the program to distribute TDDs to state agencies pursuant to SB 227 (subsequently extended by SB 927, effective July 30, 1987) and that relatively few TDDs have been distributed to state agencies. They also contend that during the recent fiscal crisis, requests for TDDs by private deaf service



organizations, made pursuant to AB 3369, have met with arbitrary cuts in the numbers of TDD's approved. They point out that curtailment of California Relay Service services were applied when a request went out to all TDD users to voluntarily restrict their relay usage to "essential" calls.

Appropriate program expenditures are reimbursable. However, the Objectors state they are unaware of any reimbursement requests that have been denied in whole or in part since the inception of the DEAF Trust and, as far as they are aware, Trust expenditures have never been subject to any prudence review. Acknowledging that an annual budget approval process may help somewhat in controlling total DEAF Trust expenditures, the primary benefit, as seen by the Objectors, is in improved planning, and not in promoting cost effectiveness.

The Objectors believe that the present utility-run distribution program locks the DEAF Trust into labor rates and corporate overhead loadings which appear relatively high in comparison to those being experienced by community based nonprofit organizations.

They believe another major drawback to the present system is the lack of an effective external incentive to provide high quality customer service. They point out that distribution of TDDs to deaf service organizations has experienced delays of up to many months.

The Objectors recommend awarding distribution contracts by a formal competitive sealed bid process. They contend that this procedure will control costs while ensuring high quality services. They point to the fact that the smaller local exchange companies have contracted through the California Telephone Association with an independent contractor for almost all of their equipment distribution activities and that GTEC and Pacific Bell have contracted with an independent business for shipping, warehousing, testing and repair of TDDs distributed to deaf subscribers served

by them. They further point out that awarding contracts to non-utilities is found in the distribution and relay programs of other jurisdictions and that distribution of TDDs by telephone companies is the exception rather than the rule.

The Objectors state that providing a chance for community based nonprofit organizations to distribute equipment has other benefits. They believe that substantial involvement of deaf, hard of hearing and disabled people at both the staff and management levels in the delivery of services targeted to this population is an important feature in a successful program. According to the Objectors, the local exchange companies' record of hiring deaf and hard of hearing people to distribute Trust equipment has been limited to the lowest staff levels. They believe that employing disabled people in these programs also helps the general employment situation for this population. They believe that if community based nonprofit organizations were awarded equipment distribution contracts, members of the deaf/hard of hearing/disabled community would be well represented in carrying them out.

They agree with the majority that under Section 2881(a) the utilities must have some responsibility for distributing TDDs. They believe, however, that this requirement can be accomplished by other than telephone corporations, through contracts let by the local exchange companies jointly or through the CTA.

Objectors' Recommendation

The Objectors seek an order from the Commission to direct the current or any newly constituted DEAF Trust Administration Committee to:

1. Develop one or more bidding options based on performance specifications for distributing TDDs and/or other specialized equipment, one of which would be as comprehensive in scope as possible, including, but not limited to, procurement, warehousing, shipping, repair, and

outreach, customer training, and distribution through walk-in centers and field representatives,

2. Solicit letters of intent to bid from a broad range of potential bidders, including at least the local exchange companies and all other parties on the initial service list of this OII,
3. Conduct a formal competitive bidding process upon receipt of notification that more than one organization intends to submit a bid, and
4. Award the contract(s) to the lowest bidder(s) in time for the contract(s) to begin no later than January 1990.

In the alternative, the Objectors would not be adverse to an order which would direct the DEAF Trust Administration Committee to develop bidding options and then would direct the local exchange companies, either jointly or through the CTA, to solicit letters of intent, conduct a formal bidding process, and award the contract(s). The Commission would retain control, just as it does now, over the DEAF Trust Administration Committee and the contracts into which it enters in order to carry out its administrative responsibilities. Objectors believe this alternative would maintain consistency with the requirement in Section 2881(a) of the PU Code which requires "each telephone corporation" is to provide TDDs to deaf subscribers.

#### Response of Majority to Objections

DRA points out that the only difference between the position of the Majority and the Objectors is that the Majority wants the Equipment Program Advisory Committee to study putting some or all aspects of the Equipment Program out to bid and that if a bid process is determined to be feasible, to put a detailed proposal before the Commission while the Objectors want the

Commission to order that all aspects of the equipment procurement and distribution programs be put out to bid immediately.

Majority participants believe that the Section 2881(a) language is specific about the telecommunications device being provided by the local exchange companies and that awarding the procurement and distribution of TDDs to any party other than a telephone corporation would be a violation of the Public Utilities Code. Furthermore, because the local exchange companies are responsible for the equipment procurement and distribution programs (with some aspects of the programs subcontracted out), the Commission has the authority to oversee the management of the programs to assure service quality and efficient operation. If the programs were operated by firms other than utilities, the Commission's authority could be reduced or removed.

DRA does not believe it is prudent to allow non-utility firms to operate the programs unless a procedure is established to ensure the Commission's continued full authority to maintain oversight of the management of the program. DRA does not reject the possibility that less expensive program operation could be achieved by competitive bidding but believes further detailed study is needed.

GTEC contends that Objectors' arguments are confusing, unfounded and incorrectly characterize both the current in-place system for obtaining and distributing the equipment in question.

GTEC states that it has eight years' experience distributing TDDs and over a decade of experience distributing other telecommunications aids to the deaf and disabled communities. Except for the Deaf Counseling Advocacy Referral Agency in Northern California, nonprofit community service agencies such as Greater Los Angeles Council on Deafness, SHHH, and the Hearing Society have four or less years' experience selling equipment and no experience distributing and tracking the equipment as required under the SB 597 programs. Such agencies may also have budget restrictions

that would not allow them to continue running these programs during a funding crisis such as the one recently experienced by the local exchange companies during which money for reimbursement of expenses was temporarily withheld by the DEAF Trust.

GTEC has competitively bid out a portion of the distribution functions for which it is still responsible and, from 1983 to the present, the subcontractor has not lost or been unable to account for even one item. GTEC believes that to throw out a program such as GTEC's that is already in place, is staffed by deaf employees and is running efficiently, in order start a whole new program from scratch, would not benefit the program in terms of efficiency or service and would not benefit the deaf community in any way. GTEC contends that a non-utility program would likely mean doubling of costs in many instances since the GTEC Special Needs Center would still be required to be in operation under SB 60, as well as under SB 597 to do tracking and telephone service requests which would still need to be handled by the local exchange companies.

GTEC believes each local exchange company should be accountable to its deaf and disabled subscribers and to the Commission for the program it runs, whether using its own employees or an independent contractor or subcontractor.

The major restructuring of the DEAF Trust Administrative Committee and the creation of the consumer oriented advisory committees will provide the mechanism for the deaf community, including the objecting consumer groups with significant opportunity for oversight and the means to continually improve the programs.

Pacific Bell and the workshop participants, other than the Objectors, felt it was critical to involve the Equipment Program Advisory Committee, DEAF Trust Administration Committee and ultimately the Commission in a decision which could potentially and radically change the entire structure and entity involvement in

this program and that insufficient evidence had been presented during the workshops to do other than defer such an important issue to the Equipment Program Advisory Committee for evaluation and recommendation.

Pacific contends that the objections of the Objectors are simply inadequate to support the Commission order they request and that it is necessary to study the current equipment distribution program and procurement practices used by the telephone utilities to implement the program before deciding whether such extensive changes in this program may be desirable.

**B. California Relay Service**

**Issue 1 - Should limitations be imposed on the use of the California Relay Service to reduce costs to the trust fund and, if so, what types and to what extent?**

Prior to any discussion on limitations, the workshop participants examined and discussed the factors which have impacted the costs associated with SB 244 which directed the Commission to design and implement a program to provide a dual party relay system which would provide telephone service access to all deaf and severely hearing impaired subscribers.

Based on the original Joint System Design Report placed before the Commission in 1985, call volumes for the California Relay Service were estimated at approximately 50,000 calls per month in 1987, increasing to 55,000 calls per month in 1988. However, by March 1987, call volumes of approximately 125,000 calls per month were being recorded. By January 1988, call volumes had reached 200,000 calls per month. By July 1988, call volumes increased to over 240,000. This is over four times the original 1988 call volume estimate. The lack of good data during the development of the California Relay Service, as well as the demonstrated need for and success of the California Relay Service help explain why the current call volumes significantly exceed the original estimates. During the development of the California Relay

Service, there was no comparable 24-hour, statewide relay service in existence in the country and therefore no historical data on which to base call volume estimates.

In March 1988, a letter was sent by the Trust to all TDD recipients of the SB 597 program in the state requesting voluntary restraint of their use of the California Relay Service due to the funding crisis. As a result of voluntary restraint, call volumes decreased in April compared to March but subsequently call volumes increased again.

Since the inception of California Relay Service, AT&T has been realizing efficiencies in providing the service. The cost per call was estimated at \$12.00 in the Joint System Design Report. In 1987, the average cost per call was only \$6.38. For the first six months of 1988, the average cost per call dropped to \$5.77. In addition, AT&T has held back on the hiring of new operators during the funding crisis.

As a result of all of the above, coupled with the reduction in customer outreach, total program expenses are currently below budget. Originally, the estimated 1988 budget for the initial program was \$32 million. The most recent estimate of the 1988 total program expense is \$27 million. Almost half of this difference is attributable to the California Relay Service.

#### Participants' Recommendation

The participants believe that the issue of what type and to what extent limitations or other restrictions, if any, should be placed on the use of the California Relay Service should be referred to the California Relay Service Advisory Committee. Along with examining the viability of imposing limitations or other restrictions on the use of the California Relay Service, the California Relay Service Advisory Committee should examine proposals for ways to increase efficiency and/or reduce costs of the California Relay Service. Any proposals for imposing limitations or other restrictions on the use of the California

Relay Service or implementing efficiency measures should be accompanied by cost-benefit analyses. Each proposal should also contain an analysis of the impact on individual users, including TDD and non-TDD users.

The California Relay Service Advisory Committee should make this matter a priority issue and should focus its review of this issue by examining potential efficiencies along with potential limitations or other restrictions. Limitations or other restrictions should be imposed only as a last resort. All evaluations and conclusions should be submitted by the DEAF Trust Administration Committee to the Commission for decision.

Issue 2 - Should limitations on the free or subsidized use of the California Relay Service be based on the ability of subscribers to help pay its costs? If so, how should such limitations be established and administered?

#### Participants' Recommendation

Participants discussed this issue under Issue 13 of the original OII issues and recommended that no means test should be required for use of the California Relay Service. After further discussion on the issue, the parties continue to agree that no means test should be imposed.

Issue 3 - What can be done to increase the Efficiency of the California Relay Service?

Under the proposed structure of the California Relay Service Advisory Committee, recommendations on ways to increase the efficiency of the California Relay Service is one of the committee's main functions/responsibilities. During the workshop discussions, several issues were discussed which relate to the efficiencies of the California Relay Service. These issues relate to permitting automatic switching from ASCII/Baudot for incoming calls instead of manual switching as is done currently. AT&T researched the technical requirements and costs associated with implementing the ASCII/Baudot change. The cost of the change is approximately \$3,100.



A second efficiency discussed by the workshop participants is the issue of multi-mode (voice/hearing through). This service feature allows deaf/hard of hearing persons to speak for themselves if they are able and speech-impaired persons to listen to the conversation. Some parties believe this service feature could save money for the program and the calling party by reducing the call time. In addition, some parties believe the customers will be less dependent on the California Relay Service operator and, further, that this service feature will dramatically increase the quality of communication.

Participants' Recommendation

AT&T should be ordered immediately to implement those changes which would be required for the California Relay Service to automatically switch from ASCII/Baudot for incoming calls. AT&T shall make every effort to take full advantage of this service feature.

AT&T should also be ordered to conduct a cost-benefit analysis of implementing the multi-mode service feature with the results being reported to the DEAF Trust Administration Committee within 60 days of the effective date of this decision.

The following issues, which may also have efficiency implications for the California Relay Service, should be referred to the California Relay Service Advisory Committee for its consideration and recommendations:

1. Typing speed/spelling proficiency of California Relay Service operators,
2. ANI (Automatic Number Identification) and AMA (Automatic Message Accounting),
3. Responsiveness to differing communication needs of the deaf population.

Issue 4 - Is it economically feasible and would it be efficient to establish a northern California Relay Service?

The original site selection and subsequent expansion of the California Relay Service center was made by AT&T pursuant to Commission orders. In addition to possible network cost savings, there is a second underlying issue which was not apparent when the question of a northern center was raised. The issue is access to 800 numbers. Originally, parties believed that this problem was solely a result of routing all the California Relay Service calls made through a southern California hub. However, the problem may also involve the fact that some 800 numbers have blockages assigned to them as requested by the 800 number subscriber.

Participants' Recommendation

The California Relay Service Advisory Committee should study the feasibility of a northern California Relay Service at its own discretion.

AT&T should be ordered to explore ways of resolving the 800 access issue and shall report to the DEAF Trust Administration Committee within 60 days.

Issue 5 - Should both intraLATA and interLATA operator services be provided through California Relay Service?

The workshop participants interpret the question as addressing the issue of whether Directory Assistance should be provided through the California Relay Service. AT&T conducted a preliminary study to evaluate the economic efficiency of providing Directory Assistance through the California Relay Service. Based on the results of this study, there did not appear to be significant cost savings in moving Directory Assistance from Operator Services for the Deaf to the California Relay Service. The results of the study indicated that the attendant time to provide the service in either the Operator Services for the Deaf environment or the California Relay Service environment is

approximately the same. In addition, there has been no expressed desire by customers to have the Directory Assistance service moved to the California Relay Service.

Participants' Recommendation

In the normal course of business, AT&T should take an engineering look at the cost-benefits of the manner of providing Directory Assistance services to TDD users.

Issue 6 - Can and should "multiple-mode" (voice/hearing through ASCII) be made available through California Relay Service?

This issue was covered by the recommendation in Issue 3 above.

Part III - General Order

Issue 1 - Should a General Order to impact utilities only be developed to address the following?

- a. Standards and quality of service of California Relay Service or other Operator Services for the Deaf?
- b. Equipment Standards?
- c. Types of equipment approved for purchase and distribution under the deaf and disabled program?

The consensus is that it is not clear at this time whether a general order is the appropriate vehicle for implementing changes to the Program. Although standards for Operator Services for the Deaf are technically covered under General Order 133, Operator Services for the Deaf call volumes are, and have been well below the threshold for reporting requirements, and AT&T does not currently file reports on this service. (The threshold for reporting requirements, is an average business day volume of 2,000 or more calls. The current estimate for the average number of

Operator Services for the Deaf calls per month in 1988 is 14,981, or less than 500 calls per day.)

AT&T, as the current provider of Operator Services for the Deaf, has agreed to begin providing separate reports for the Operator Services for the Deaf, similar to those currently provided to the Commission for Traffic Service Position System. The Operator Services for the Deaf reports will be provided in conjunction with the compliance report for Traffic Service Position System, the next one being provided for the third quarter of 1988.

#### Participants' Recommendation

Rather than limiting the DEAF Trust Administration Committee's, California Relay Service Advisory Committee's and Equipment Program Advisory Committee's options at this time, DEAF Trust Administration Committee should have the discretion to recommend to the Commission the appropriate vehicle to consider changes in the Program.

The California Relay Service Advisory Committee should review the Traffic Service Position System reports provided by AT&T and may make recommendations to the DEAF Trust Administration Committee for service quality standards for Operator Services for the Deaf.

California Relay Service standards and quality of service issues should be addressed by the California Relay Service Advisory Committee, as discussed in Part I under Relay Service.

#### Discussion

The efforts of the participants in the workshop meetings towards reaching a stipulated agreement on the issues have resulted in a saving of time which would have been otherwise consumed in protracted formal hearings on the issues. The recommendations on all undisputed issues are reasonable and should be adopted.

As to the disputed issues in the expanded OII, we consider the recommendation of the majority to be reasonable at this time since we will be adopting the recommended restructuring

of the program and we believe the disputed issues should be referred to the Equipment Program Advisory Committee for further study and recommendations as recommended by the majority. We shall adopt the recommendation of the majority.

Findings of Fact

1. After holding formal hearings on Issues 1 and 2 of the original OII and issuing an interim decision, further formal hearings in the OII were suspended during legislative consideration of the DEAF Trust fiscal crisis.

2. While formal hearings were suspended, informal workshops were held among the participants in the investigation to discuss and attempt to resolve those issues of the OII which were not being addressed in the pending legislation.

3. While the workshops were continuing, SB 2268 was enacted which, among other things, alleviated the fiscal crisis by authorizing the Commission to impose a percentage surcharge on the telephone bills of subscribers instead of the previously imposed flat rate of a maximum of ten cents per subscriber line. The legislation also made Issues 3, 4 and 5 of the original OII moot by its provisions.

4. The workshop participants unanimously reached agreement on all the remaining issues contained in the original OII and submitted their stipulated agreement along with their recommendations to the Commission.

5. Except for two issues contained in the expanded OII, agreement was unanimously reached on the other issues and the participants submitted a stipulated agreement with recommendations to the Commission. As to the two disputed issues, the majority submitted their agreement and recommendations and the Objectors submitted their objections as well as their recommendations.

6. All the participants agree that the disputed issues involve questions of law or policy and that formal hearings are not

necessary. All agree that the Commission can reach a decision based on the written positions submitted by the parties.

7. The recommendations contained in the stipulated agreement covering those issues set forth in the original OII are reasonable.

8. The recommendations of the majority with respect to the disputed issues set forth in the expanded OII are reasonable and the recommendations of the Objectors with respect to those issues are unreasonable.

9. The recommendations of the workshop participants with respect to the undisputed issues in the expanded OII are reasonable.

Conclusions of Law

1. The Commission should adopt the recommendations determined as reasonable in the findings of fact set forth above.

2. As no formal hearings are necessary and the disputed issues are a matter of law or policy rather than of fact, the decision should be made effective today.

O R D E R

IT IS ORDERED that:

1. The recommendations determined as reasonable and set forth in this decision are adopted.

2. The DEAF Trust Administration is renamed the DEAF Trust Administration Committee.

3. The California Relay Advisory Committee is hereby created.

4. The Equipment Standardization Advisory Committee is renamed the Equipment Program Advisory Committee.

5. Nominations for members of the DEAF Trust Administration Committee, California Relay Service Advisory Committee, and Equipment Program Advisory Committee shall be submitted to the Commission's Executive Director within 45 days of the effective

date of this order. CACD, the existing DEAF Trust Administration and any other interested workshop participants shall work together to develop qualifications to be set out in the initial solicitation for nominees. The notice of solicitation for nominations shall be mailed to the updated notice list as set forth in Appendix B.

6. Within 75 days of the effective date of this order, the Commission's Executive Director will appoint the members of the DEAF Trust Administration Committee.

7. Within 30 days of the appointment of the members of the DEAF Trust Administration Committee, the DEAF Trust Administration Committee shall submit its recommendations for appointment of members to the California Relay Service Advisory Committee and Equipment Program Advisory Committee.

8. Within 30 days of the submittal of the recommendations by the DEAF Trust Administration Committee, the members of the California Relay Service Advisory Committee and Equipment Program Advisory Committee shall be appointed by the Commission's Executive Director.

9. Within 60 days of the appointment of members to the DEAF Trust Administration Committee by the Commission's Executive Director, the DEAF Trust Administration Committee shall submit its proposed charter for Commission approval.

10. Within 60 days of the appointment of members to the California Relay Service Advisory Committee and Equipment Program Advisory Committee by the Commission, the DEAF Trust Administration Committee shall submit the California Relay Service Advisory Committee's and Equipment Program Advisory Committee's proposed charters (approved by the DEAF Trust Administration Committee) to the Commission's Executive Director for approval.

11. Until the new charters are adopted, any existing charters shall remain in effect. Until a new monthly program expense claim approval process is submitted by DEAF Trust Administration Committee and approved by the Commission, the existing monthly

expense claim approval processes shall remain in effect. DEAF Trust Administration Committee shall submit its proposed expense approval process to the Commission's Executive Director within 120 days of this order. Until the budget approval process is adopted, annual budgets shall be approved by the Commission by Resolution.

12. Existing support staff shall be used until the transition is complete and the DEAF Trust Administration Committee hires new support staff pursuant to the criteria set forth in the committee structure contained in this decision.

13. The California Relay Service Advisory Committee shall evaluate limitations or other restrictions that shall be imposed on the use of the California Relay Service, consistent with the response to Issue 1 in Part IV of the expanded OII. The California Relay Service Advisory Committee shall make this a priority issue. Within 60 days of the appointment of members to the California Relay Service Advisory Committee, the California Relay Service Advisory Committee shall submit to the DEAF Trust Administration Committee for formal submittal to the Commission, a proposal of the scope and time frame of the evaluation. The evaluation and proposals shall be submitted to the Commission's Executive Director for action.

14. Within 60 days of the effective date of this order, AT&T shall submit its study to the DEAF Trust Administration Committee on the cost of providing Directory Assistance on Operator Services for the Deaf, the cost of providing Directory Assistance on California Relay Service, and the operational impact of providing Directory Assistance on California Relay Service compared to providing it on Operator Services for the Deaf.



Discussion

As a first step, we see no problem in implementing the recommendations proposed by the parties.

In its comments, AT&T proposes that many of the concerns raised in the Assigned Commissioner's ruling could be resolved if AT&T were to negotiate a contract with the Deaf Trust Administrative Committee by which AT&T would provide the California Relay Service (CRS) and Operator Services for the Deaf (OSD). This contract could provide for a fixed price for services rendered and thereby give AT&T an additional incentive for efficient performance. A contract would also address the issue of reasonableness in CRS and OSD operations by specifying a reasonable price for these services and offering no reimbursement for additional costs.

In reply comments, the California Association of the Deaf (CAD) questions AT&T's arguments and states that it would prefer competitive bidding for these services. CAD objects to the creation of a contract with AT&T, arguing that any subsequent cost savings would accrue to AT&T and not to ratepayers.

Both AT&T and CAD make convincing arguments. A contract with AT&T would change the treatment of these services from a dollar-for-dollar reimbursement to a fixed price, with correspondingly increased incentives for efficiency. Alternatively, an open competitive bid might bring even lower costs, although we are not convinced that such a process is feasible now. We see the development of a contract with AT&T as a useful exercise in itself; periodic renegotiation of the contract would be the means by which efficiency savings would flow back to ratepayers. We also see a linkage between the proposals of AT&T and CAD, as the development of a contract with AT&T is a potential precursor to open competitive bidding. A service must be clearly defined in contractual terms before it can be let out for bid, and we believe that the development of these terms will take some time and effort for these services. We also have no evidence of current

15. Within 60 days of the effective date of this order, AT&T shall submit to DEAF Trust Administration Committee its cost-benefit analysis of implementing a multi-mode service feature in the California Relay Service.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

Services for the Deaf and to bring said contract before the Commission for review and approval pursuant to GO 96-A.

4. The Commission should order all utilities to begin procuring equipment for distribution to subscribers by means of competitive bidding before May 1, 1990 consistent with the preceeding discussion and findings of fact.

5. Except as noted in the preceeding findings and conclusions of law, the disputed issues are a matter of law or policy rather than fact.

6. The Commission should adopt the recommendations determined as reasonable in the preceeding findings of fact, and the Commission should take further action consistent with the preceding findings of fact and conclusions of law.

ORDER

IT IS ORDERED that:

1. The recommendations determined as reasonable and set forth in this decision are adopted.

2. CACD shall hold a workshop regarding further administrative accountability measures for the DEAF Trust. This workshop shall be conducted within 90 days of the effective date of this decision, and a workshop report shall be submitted to the Commission and workshop participants within 30 days of the completion of the workshop.

3. The DEAF Trust Administration is renamed the Deaf and Disabled Telecommunications Program Administrative Committee Trust Adminstration Committee.

4. The California Relay Advisory Committee is hereby created. ✓

5. The Equipment Standardization Advisory Committee is renamed the Equipment Program Advisory Committee. ✓

APPENDIX A

List of Appearances

Respondents: Pelavin, Norberg, Harlick & Beck, by Alvin H. Pelavin, Jeffrey F. Beck, and Lizbeth Morris, Attorneys at Law, and Sheila Thomson, for California Telephone Association; Kenneth K. Okel, Kathleen S. Blunt, and James A. Garriss, Attorneys at Law, for GTE California, Incorporated; Randolph Deutsch, Attorney at Law, for AT&T Communications of California, Inc.; Orrick, Herrington & Sutcliffe, by Robert Gloistein, Attorney at Law, for Continental Telephone Company of California; and Bonnie Packer, Attorney at Law, for Pacific Bell.

Interested Parties: Jackson, Tufts, Cole & Black, by William H. Booth, Attorney at Law, for Tele-Communications Association; William G. Irving, for the County of Los Angeles; J. Kendrick Kresse, Attorney at Law, for the California Association of the Deaf; Graham & James, by David J. Marchant, Martin A. Mattes, and Michael P. Hurst, Attorneys at Law, for Bay Area Cellular Telephone Company; Peter A. Casciato, Attorney at Law, for Paging Network of San Francisco, Inc. and Paging Network of Los Angeles, Inc.; Warren A. Palmer, Attorney at Law, for Metromedia Company and Affiliates; Dinkelspiel, Donovan & Reder, by David M. Wilson, Attorney at Law, for Allied Radiotelephone Utilities of California; Michael F. Willoughby, Attorney at Law, for Krown Research, Inc.; and Armour, St. John, Wilcox, Goodin & Schlotz, by James D. Squeri, Attorney at Law, for GTE Mobilnet of San Francisco.

Division of Ratepayer Advocates: Robert Cagen and Ira Kalinsky, Attorneys at Law, and Karen Miller.

(END OF APPENDIX A)

MASTER LIST

I.87-11-031

REVISED 10/13/88

DOC. I.D. #L02448

APPENDIX B

Page 1

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APPENDIX B  
Page 2

A. \_\_\_\_\_

C. \_\_\_\_\_

I.87-11-031 \_\_\_\_\_

R. \_\_\_\_\_

DECISION NO. \_\_\_\_\_  
NO. OF PAGES \_\_\_\_\_  
BILLING CODE \_\_\_\_\_  
DEC. SIGNED \_\_\_\_\_  
(CONFERENCE DATE) \_\_\_\_\_

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(END OF APPENDIX B)

APPENDIX C  
Page 1

(Original I.87-11-031)

We are asking that all parties address the following questions in order to enable the Commission to determine the most effective methods to retain a viable program:

1. Should the policy that a PBX trunk constitutes 10 Centrex subscriber lines be continued and should a PBX trunk be surcharged at ten times the prevailing Centrex surcharge rate?
2. How should a telephone line be defined for purposes of Public Utilities Code Section 2881(d)?
3. Should the monthly surcharge be applied to the customers of radiotelephone and cellular companies?
4. Should a portion of a Telecommunications Device for the Deaf (TDD) subscriber's monthly basic access charge be remitted to the Fund?
5. Should a charge be implemented for California Relay Service Center calls?
6. Should a voucher system be implemented for the individual customer purchase of TDD and handicapped supplemental equipment with warranty?

APPENDIX C  
Page 2

7. Should repair/maintenance costs of TDD and supplemental handicapped equipment be borne by the recipient?
8. Should the number of Trust-provided TDD and supplemental equipment items be limited to one per individual?
9. Should AT&T's Operator Services Division expenses be eliminated from Trust reimbursement?
10. Should Senate Bill 927 (distribution of TDDs to state agencies) and organizations with substantial programs for the Deaf) be repealed or amended?
11. Should expenses for billing inquiries by a TDD user be eliminated from Trust reimbursement?
12. Should AT&T and Pacific Bell be allowed to allocate corporate overhead loadings over and above those overheads related to employee benefits and payroll taxes?
13. Should a means test or income criteria be established for receiving a TDD or supplemental telecommunications equipment or for California Relay Center usage?

(END OF APPENDIX C)



APPENDIX D  
Page 1

(Expanded OII D.88-07-033)

I. A Trust Fund Administration and Staffing

- 1.a. What are the functions of the trust administration (TA)?
- b. Is the structure and makeup of the TA appropriate?
2. Has there been fiscal or program mismanagement or abuse of the trust fund by the TA?
3. What safeguards can and should be developed to eliminate any real or perceived mismanagement of the trust?
4. What is the most effective management and staffing structure for the D.E.A.F. trust?
- 5.a. Define the responsibilities of the Equipment Standardization Committee?
- b. How should this committee interrelate with D.E.A.F. trust activities and with the TA?
6. Should an Advisory Committee consisting of consumers and utility members be established to make recommendations to the Commission regarding changes in telecommunications equipment or services for the deaf/hearing-impaired/disabled telecommunications consumer?
- 7.a. What is the appropriate process for review of the trust's annual budgets for the program (equipment and CRS) submitted to the Commission for approval?
- b. What is the appropriate process for the review of monthly expense reports submitted to the trust for reimbursement?

APPENDIX D  
Page 2

II. Operational Considerations

A. Equipment

1. Are there more efficient ways of obtaining and distributing equipment to eligible subscribers within the current utility-run program?
2. Should subscriber eligibility for free or subsidized equipment be limited or graduated based on income or some other measure of ability to pay? If so, how should such standards be established and administered?
3. Are there more cost-effective and efficient ways of obtaining and distributing equipment other than through a utility-run program?
4. Should distribution of equipment and related activities be awarded to contractors by competitive bid?

B. California Relay Service

1. Should limitations be imposed on the use of the CRS to reduce costs to the trust fund and, if so, what types and to what extent?
2. Should limitations on the free or subsidized use of the CRS be based on the ability of subscribers to help pay its costs? If so, how should such limitations be established and administered?
3. What can be done to increase the efficiency of the CRS?
4. Is it economically feasible and would it be efficient to establish a northern CRS?
5. Should both intraLATA and interLATA operator services be provided through the CRS?
6. Can and should "multiple-mode" (voice/hearing through, ASCII) be made available through CRS?

APPENDIX D  
Page 3

III. A General Order

1. Should a General Order to impact utilities only be developed to address the following:
  - a. Standards and quality of service of CRS or other Operator Services for the Deaf (OSD)?
  - b. Equipment standards?
  - c. Types of equipment approved for purchase and distribution under the deaf and disabled program?
  - d. Other matters deemed appropriate for inclusion in a general order?

(END OF APPENDIX D)