

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY & COMPLIANCE DIVISION RESOLUTION No. T-13060
Telecommunications Branch May 10, 1989

R E S O L U T I O N

RESOLUTION T-13060. ALL LOCAL EXCHANGE COMPANIES (LECs), ORDER DELEGATING EACH COMPANY AUTHORITY TO PROCESS AND DISBURSE TELECOMMUNICATIONS DEVICES FOR THE DEAF (TDDs) TO REQUESTING ORGANIZATIONS SERVING THE DEAF OR SEVERELY HEARING-IMPAIRED OTHER THAN STATE AGENCIES MEETING THE CRITERIA ESTABLISHED BY THE COMMISSION FOR DISBURSEMENT. THE COMMISSION WILL CONTINUE TO PROCESS REQUESTS FROM STATE AGENCIES.

SUMMARY

By this Resolution, Local Exchange Companies (LECs) are to assume the responsibility of processing TDD equipment requests from organizations serving the deaf or the severely hearing-impaired pursuant to Section 2881 (a) and (e) of the Public Utilities Code. The duties include: receiving, analyzing, approving or denying requests for TDD equipment; and disbursing the TDD to organizations that qualify under the guidelines specified herein. The Commission will continue processing requests from state agencies per PU Code Section 2881.1.

Organizations qualify by meeting at least one of the criteria established by the Commission. The Commission and the LECs will use the same criteria that is presently being used by the Commission for analyzing requests. Any deviation from this criteria must first be approved by the Director of the Commission Advisory and Compliance Division (CACD).

BACKGROUND

The Commission has been providing TDDs to organizations serving the deaf community since 1984, per Assembly bill 3369 (1984, Chapter 1741). Funding for this program is provided by the Deaf Equipment Acquisition Fund (D.E.A.F.) Trust. The D.E.A.F. Trust Administrative Committee reimburses all telecommunications companies for all actual costs incurred for this deaf and disabled telecommunications service program from the D.E.A.F. Trust Fund.

As of October 1, 1988, per Resolution T-13005, of July 22, 1988, a surcharge of one-half of one percent has been uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, as a means to fund the D.E.A.F. Trust.

The Commission has authorized disbursement of TDDs to organizations meeting at least one of the following criteria and which request a TDD pursuant to PUC Code Section 2881 (d).

1. Private, non-profit organizations serving the deaf and/or severely hearing-impaired, which are not tax-supported, and whose services to the deaf are more than incidental.
2. Schools for the deaf.
3. Schools that have significant programs for the deaf.
4. State agencies having public contact.
5. Certain organizations under contract with the Department of Rehabilitation and the Department of Social Services. The requesting organization will supply documentation of the contract existing between itself and the state agency to establish eligibility.

DISCUSSION

Currently, the disbursement process is as follows: an organization sends a letter of request to the Commission; the Commission evaluates the request against the established criteria; if it is denied, a letter is sent to the organization denying their request; if it is approved, a letter of approval is sent to the requester and its serving LEC to provide a TDD on loan to that organization as long as it is eligible.

As the Commission has gained experience in administering this program, the general eligibility criteria, as well as the evaluation process, has been refined and clarified. It is necessary to convey the result of the Commission staff's experience so that the LECs will better understand the goals of the Commission in administering the TDD distribution program.

In reference to guideline (1), when reviewing an applicant's request, the following approach has been taken: Of the priorities for the distribution of TDDs to private organizations, the most basic criteria is that the requesting non-profit organization provides services specifically serving the unique needs of the deaf and/or severely hearing-impaired community.

An applicant which has based its request on its provision of services that aid the public in general and subsequently, does serve the deaf community since it is part of the general public, does not qualify as eligible as such provision of service is considered incidental. However, if the deaf or severely

hearing-impaired clientele constitutes a significant segment of the total served, defined as at least ten percent of the total clientele, then the requestor does meet the first criteria and is considered eligible.

Staff has used the ten percent as a benchmark for defining significant programs that serve the deaf and severely hearing impaired. The choice of this proportion is based on the assumption that incidence of deafness in the general population is estimated at one percent. From this Commission staff reasoned that the provision of service to a number of clients that was ten times the normal occurrence of deafness in the population could be called significant.

Currently, when the Commission receives a request for a TDD, staff reviews it to see if the requesting organization is eligible given the information presented in the letter of request. More often than not, the information presented in the letter of request is not sufficient for approving the request and the requesting organization is contacted by telephone and letter to gather additional information. An example of informational request used by staff is included in Attachment A.

Staff gathers such information as:

1. The exact nature of the organization.
2. Its source of funding.
3. The services provided to the deaf and severely hearing impaired and the number of clients served.
4. Services provided to persons who are not deaf or hearing-impaired and the relevant proportion of deaf/severely hearing-impaired clients.
5. The number of telephone lines in service with which a TDD would be used.
6. The number of organization staff who are deaf or severely hearing-impaired.

LECs receiving the responsibility for evaluating the TDD requests of private, non-profit organizations should employ a similar method to that used by the Commission staff.

Should an LEC find that an eligible requesting organization charges substantial fees for its provision of services to the deaf and or severely hearing impaired, such as a non-profit hospital, then the request should be referred back to the Commission staff for evaluation and resolution.

Guidelines (2) and (3) concern the eligibility of schools that are specifically for the deaf or with significant programs for the deaf. The term "school" refers to both public and private schools. A significant program for deaf or severely hearing impaired students has been defined as an established, on-going

supplementary educational program in addition to the mainstreaming of the student into the regular classroom.

The Commission memorandum of March 28, 1986 formally established the guideline extending eligibility to certain tax supported, private organizations under contract with Department of Social Services. The staff memo recommended that a fourth category be added because the previous policy which denied TDDs to tax-supported organizations was unduly broad. Prior to the inclusion of this criterion, independent, tax-supported, non-state agency organizations had been excluded from participating in the Commission's TDD distribution program despite their status as major providers of services to the deaf in the state of California.

The Commission has found a similar situation with non-profit organizations funded by the California State Department of Rehabilitation. Accordingly, guideline (5) reflects this finding and has been revised to allow private non-profit organizations under contract with state agencies specified by this Commission to participate in the TDD distribution program. The Commission authorizes the LEC to require such requesting organizations to provide documentation of such contracts prior to authorization of TDDs. In the future, the Commission may specify additional state agencies and associated private organizations that are to be considered eligible.

Since the Commission initiated this program pursuant to PUC Code 2881 (e), it has encountered requests for additional TDDs from organizations that were already participating in the program. The submittal of supplementary requests has occurred for several reasons. One factor leading to these additional requests was the general reduction in the number of initially approved TDDs as a result of the 1987 funding crisis experienced by the D.E.A.F. Trust. A second observable reason is the growth in the case load of the private non-profit organizations that serve the deaf and severely hearing-impaired that result from the increased accessibility the TDD distribution program has allowed.

As many of the requesting organizations are expanding nationally, it is a concern of CACD staff that these TDDs may be requested for use by an out-of-state affiliated organization. Consequently, it is recommended that the LECs be aware of this concern and acknowledge it within their evaluation process by investigating any requests where placement of a TDD out of state is a reasonable possibility. Requesting specific information about the proposed location, phone number, and contact person for the requested TDD from the applicant prior to approval will suffice.

After the LEC has determined that the requesting organization is indeed eligible since it meets at least one of the above discussed eligibility requirements, the LEC will instruct the applicant that the Commission assumes that the following criteria are met when a TDD is placed in an office and/or agency.

1. Persons trained to use the TDD are available at all duty hours. This includes backup coverage when the designated individuals are out sick, on vacation, etc.

2. Equipment is kept in operating order, plugged in, and ready to use without advanced notice. Generally, this has meant that there must be one telephone line for use with each authorized TDD.

3. The telephone number is widely circulated -- printed on all stationary, on business cards, in the telephone directory, and in any other literature.

4. The TDD remains the property of the D.E.A.F. Trust and is loaned to the recipient organization for as long as the recipient continues to be eligible and has a need for the TDD.

As the Commission requests the LECs to undertake periodic audits of recipient organizations in regards to the effective use and continued need of authorized TDDs, compliance with the criteria outlined above will demonstrate that the TDD is being effectively utilized at the minimal acceptable level.

Because the Commission will no longer be directly involved with the distribution of TDDs to private non-profit organizations or public/private schools serving the deaf and severely hearing impaired, a quarterly report to the Commission of the status of each company's distribution of TDDs will be established. Each LEC will provide a list of those organizations that have requested TDDs, the status of the request as approved or denied, and justification for approval or denial.

For requests that are approved, the LEC will include the name of the recipient organization, its address, the contact person, the number of TDDs issued, and the date of issuance. This information will be used to monitor the growth of the program and to aid in estimating the financial requirements for the D.E.A.F. Trust. Quarterly reporting is necessary to provide the Commission a relatively current record of LEC authorization and denial decisions should any of those decisions be protested.

Eliminating the Commission as the direct contact in the process should reduce the processing time for disbursement as the process is reduced from a two step process to a single step. Having the organization deal directly with the LEC will result in a more efficient handling process. This permits the Commission to serve in a more indirect capacity. Should there be questions in interpreting the established criteria and any deviation from it, written approval is required through the decision of the Director of the Commission Advisory and Compliance Division. Minor deviation from the established criteria requiring approval of the Director of CACD will be considered on an individual case basis. Examples of minor deviation would include requests for short term loans of TDDs for special educational projects or for organizations that serve less than an approximated ten percent of the deaf and/or hearing impaired community as a proportion of their clientele, but do

provide significant and unique services to the deaf and severely hearing-impaired community.

Changes or additions to the general eligibility criteria will be pursued through Commission resolution.

In the past, the California Telephone Association (C.T.A.) has coordinated the distribution of those TDDs authorized by the Commission for the independent telephone companies. The C.T.A. will coordinate the evaluation, authorization, and distribution of TDD requests for the independent telephone companies that wish C.T.A. to continue in that capacity. —

It is necessary for the LECs to file an advice letter with the appropriate tariff rules demonstrating compliance with this order. Staff recommends that the tariff be filed within ninety days of the effective date of this order, effective with regular notice. In this ninety day period, LECs should make any internal changes in training of their staffs to allow for implementation of this order.

FINDINGS

1. All Local Exchange Companies should assume responsibility of processing requests for the disbursement of TDDs to organizations meeting an established criteria. The Commission will continue with the processing of TDD requests of all state agencies, and those organizations which are not clearly defined in the guidelines presented herein.
2. The basic guideline for authorizing a TDD to a requesting organization is that the requesting non-profit organization provide services specifically serving the unique needs of the deaf and/or severely hearing-impaired community in California.
3. An applicant basing its request for a TDD on its provision of service for the public in general and which does not serve the deaf and/or severely hearing-impaired community specifically is not considered eligible for this TDD distribution program unless the percentage of deaf and/or severely hearing impaired constitutes approximately ten percent or more of the total clientele served.
4. Both public and private schools specifically for the deaf or with significant programs for deaf and/or severely hearing-impaired students are considered eligible.
5. A significant school program refers to a formally established, on-going supplementary educational program that is in addition to the mainstreaming of the student into the regular classroom.
6. Certain non-profit, private organizations that serve the deaf and severely hearing-impaired and are under contract with Department of Social Services and the Department of Rehabilitation are eligible for the TDDs provided for by this

program upon the provision of documentation of the agreement with the specified state agency.

7. In the future, the Commission may specify, by resolution, additional state agencies and associated private organizations that are to be considered eligible.

8. Because many of the organizations are expanding nationally, it is a concern of staff that when requests for additional TDDs are submitted that the LECs will request specific information about the proposed location, phone number, and contact person from the applicant prior to authorization of a TDD to assure that the equipment is used to serve the needs of California's deaf and severely hearing-impaired population.

9. Each LEC will provide the Commission a list of those organizations that have requested TDDs, the status of the request as approved or denied, the justification for denial, and update it quarterly. If a request is approved, reported information will include the name of the recipient organization, the address, the telephone number, the contact person, the number of TDDs issued, and the date of issuance.

10. The quarterly reporting of the status of TDD requests by LECs will provide the Commission a record to refer to should any LEC distribution decisions be contested.

11. Eliminating the Commission as the direct contact in the process should greatly reduce the processing time for disbursement.

12. The Director of CACD is authorized to interpret and approve minor deviation from the established criteria of authorization on a individual case basis.

13. Changes or additions to the general eligibility criteria shall be made through resolution or Commission decision.

14. If an eligible organization charges significant fees for its provision of services, the LEC shall refer it back to the Commission for resolution.

15. The California Telephone Association (C.T.A.) may continue to administer the authorization and distribution of TDDs as described herein for the independent telephone companies.

16. We have delegated this responsibility to C.T.A. because of the relatively small number of TDDs that are distributed in the areas served by the independent telephone companies.

THEREFORE, IT IS ORDERED that:

(1). All local exchange companies shall file advice letters and appropriate tariff rules describing this new responsibility of processing TDD requests from schools and private, non-profit,

organizations on regular notice within ninety days of the effective date of this order.

(2). LECs shall be responsible for the processing of TDD requests from all non-profit, private organizations and schools serving the deaf and severely hearing-impaired community. This includes: receiving the request; investigating the request; approving the request if the established requirements are fulfilled or denying the request if not; and the disbursement of the TDDs when approved.

(3). The Commission shall continue processing requests from state agencies, or those organizations not clearly meeting the guidelines described herein.

(4). The criteria used for processing the requests shall be the following and any subsequent changes or addition the Commission should make by resolution or Commission decision thereafter.

1. Private, non-profit organizations serving the deaf or severely hearing-impaired, which are not tax-supported, and whose services to the deaf are more than incidental.

2. Schools for the deaf.

3. Schools that have significant programs for the deaf.

4. Certain organizations under contract with the Department of Rehabilitation and the Department of Social Services. The requesting organization will supply documentation of the contract existing between itself and the state agency to establish eligibility.

(5). If the local exchange company finds that an eligible organization charges substantial fees for its services for the deaf and severely hearing-impaired, the request shall be referred back to the Commission staff for resolution.

(6). Upon determining an organization as eligible, the LEC shall inform the prospective participant that the Commission assumes the following criteria are met upon placement of a TDD:

1. Persons trained to use the TDD are available at all duty hours. This includes backup coverage when the designated individuals are out sick, on vacation, etc.

2. Equipment is kept in operating order, plugged in, and ready to use without advanced notice. Generally, this has meant that there must be one telephone line for use with each authorized TDD.

3. The telephone number is widely circulated -- printed on all stationary, on business cards, in the telephone directory, and in any other literature.

4. The TDD remains the property of the D.E.A.F. Trust and is loaned to the recipient organization for as long as the

recipient continues to be eligible and has a need for the TDD.

(7). Compliance with the criteria outlined above will demonstrate that the TDD is being effectively utilized at the minimal acceptable level in the event that the recipient be audited by an LEC under the direction of the Commission.

(8). Each LECs shall report on a quarterly basis to the Commission as to the status of its TDD disbursement program.

(9). The report to the Commission shall consist of a list of those organizations that have requested TDDs, the status of the request as approved or denied, the justification for denial and/or approval, and will be updated quarterly.


(10). If a request is approved, required reporting information shall include the name, address, and telephone number of the recipient organization, the organization's contact person, the number of the TDDs issued, and the date of issuance.

(11). LECs who suspect that deviation from the established eligibility criteria is warranted must obtain written approval from the Director of the Commission Advisory and Compliance Division.


(12). The Director of the Commission Advisory and Compliance Division is authorized to interpret and approve minor deviations from the established criteria of authorization on a individual case basis.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 10, 1989. The following Commissioners approved it:

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



Executive Director



PUBLIC UTILITIES COMMISSION

100 MARKET STREET
SAN FRANCISCO, CA 94102-3298



June 23, 1989

Attached is Attachment A of Resolution T-13060. It was inadvertently left off the final copy of the resolution. Please add to the file.

Thanks

STATE OF CALIFORNIA

GEORGE DEUKMEJIAN, Governor

PUBLIC UTILITIES COMMISSION

5 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



File No. 597

Date

Name
Company
Address
City/State

Dear:

We have received your request for a free TDD for your organization and have reviewed it. However, we need additional information to determine if you are eligible for a free TDD.

Please provide us with the following information:

1. The exact nature of your organization.
2. Source of funding.
3. Services provided to the deaf community. Number of clients served.
4. Services provided to disabled/handicapped other than deaf or hearing-impaired. Number of clients served.
5. Services provided to persons not handicapped/disabled.
6. Number of telephone lines now in service with which a TDD would be used.
7. Number of staff who would use TDD equipment. If staff works in shifts, please explain.
8. Number of staff who are deaf or severely hearing-impaired.
9. Telephone company (or companies) providing service to your location(s).

Please direct your reply to Richard Fish, Telecommunications Branch, California PUC, 505 Van Ness, San Francisco, CA 94102.

Very truly yours,

KEVIN P. COUGHLAN, Chief
Telecommunications Branch
Commission Advisory and Compliance Division