

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Telecommunications BranchRESOLUTION T-14638
October 11, 1991**R E S O L U T I O N**

RESOLUTION T-14638 U.S. SPRINT (U-5112-C). RESOLUTION APPROVING THE DEAF AND DISABLED TELECOMMUNICATIONS ADMINISTRATIVE COMMITTEE'S SELECTION OF U.S. SPRINT AS THE PROVIDER OF THE CALIFORNIA RELAY SERVICE, AND APPROVING U.S. SPRINT'S CONTRACT FOR THE RELAY SERVICE.

BY ADVICE LETTER NO. 74, FILED ON JULY 22, 1991, AS SUPPLEMENTED BY ADVICE LETTER 74A ON AUGUST 13, 1991.

SUMMARY

This Resolution affirms U.S. Sprint (Sprint) as the provider of the California Relay Service (CRS) and approves Sprint's Advice Letter (AL) No. 74A, which includes the contract for provision of CRS service. This is in compliance with Decision (D.) 89-05-060, as modified by D.90-10-040 (I.87-11-031, 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), and Commission Resolution T-14232 which authorized release of the Request for Proposal (RFP) as approved by the Commission. U.S. Sprint estimates that the annual revenue effect of the contract will be between \$17.2 million and \$18.1 million, depending on actual call volume and optional features selected. Three protests were received.

BACKGROUND

To improve communications potential for the deaf and severely hearing-impaired, Senate Bill 244 (Chapter 741, 1983) required the Commission to implement a program to allow direct access to California's public switched telephone network by the deaf and severely hearing-impaired in California. A Commission investigation resulted in the establishment of the CRS. The Commission designated AT&T Communications of California (AT&T) as the relay service provider, and CRS began operating on January 1, 1987. It enables the deaf and hard-of-hearing to have 24-hour contact with other telephone users in California. The CRS operators relay messages between a TDD user and a hearing person.

The relay service, as part of the Deaf and Disabled Telecommunications Program, is being funded by revenues obtained from a surcharge, currently 0.3%, applied on each telecommunication utility's subscriber's billed intrastate telephone services (Public Utilities Code Section 2881). The Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC) is responsible for the day-to-day administration of the program, including reviewing and approving requests for reimbursement by utilities such as AT&T and Pacific Bell for services provided for the program.

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On May 30, 1989 the Commission issued D.89-05-060 on its investigation on the Commission's own motion to determine the feasibility of implementing new funding sources and program reduction in the Deaf and Disabled Program pursuant to Section 2881 of the Public Utilities Code (I.89-05-060). That decision required the DDTPAC to negotiate a contract with AT&T for the provision of relay services. That contract with AT&T was to have changed the treatment of these relay services from a dollar-for-dollar reimbursement to a fixed price arrangement, with correspondingly increased incentives for efficiency.

Efforts by AT&T and the DDTPAC to negotiate a contract for the provision of CRS were unsuccessful. On August 30, 1990, the Division of Ratepayer Advocates (DRA) filed a petition for modification of D.89-05-060. DRA stated that the DDTPAC had started developing an RFP for providing CRS. However, because D.89-05-060 did not specifically state that the DDTPAC could put the relay service out for competitive bid, DRA believed that the Commission should modify the Decision to authorize the DDTPAC to pursue the competitive bidding option. On October 12, 1990 the Commission issued D.90-10-040 granting DRA's petition.

The DDTPAC chairperson appointed an RFP subcommittee of non-utility members in May 1990 to begin work on the RFP. DDTPAC submitted a draft RFP to the Commission's Executive Director on November 5, 1990. The Commission Advisory and Compliance Division (CACD) suggested several modifications to the RFP, which was then approved by the Commission on December 19, 1990 by Resolution T-14232.

The RFP was issued on January 2, 1991. A bidders' conference was held on January 16, 1991 to respond to written questions submitted by recipients of the RFP. By January 23, 1991, letters of intent were submitted to the DDTPAC by four interested parties: AT&T, Sprint, MCI Telecommunications Corporation (MCI), and California Association of the Deaf (CAD). Addendum 1 to the RFP was issued to clarify some of the specifications in the RFP. The original due date for proposals in the RFP (February 15, 1991) was extended to March 8, 1991. Proposals were received from AT&T, MCI, and Sprint.

Over the period March through May 1991 the RFP subcommittee met to review and evaluate the submitted proposals. During the review of each proposal, the subcommittee formulated a list of questions for each of the three bidders, and then mailed the questions, asking for written responses. The subcommittee then met individually with each bidder in a three-hour session to address the questions. Subsequent to the meetings, a few additional questions were also sent to each bidder.

On February 6, 1991 the DDTPAC sent a letter to all bidders of record for the RFP to answer a question which had been raised regarding plans for protest or review of contract award. DDTPAC responded to that question saying that it would forward its recommendation to the Commission. The Commission would then issue a resolution directing the recommended vendor to file its contract with the Commission as an Advice Letter (AL) filing. Once the AL

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was filed, all interested parties would have a period of 20 calendar days to file comments or protests. In May the DDTPAC met with Commission staff to discuss the process of review and approval. At that time the decision was made to make the recommendation and advice letter filing a one-step rather than a two-step process. The DDTPAC was to make its recommendation to the Commission and the successful bidder would then file the proposed CRS contract by advice letter, followed by a 20-day protest period which would be used to protest either the vendor selected by the DDTPAC or the terms of the contract itself. The contract must be approved by Commission resolution.

The final vote to recommend a bidder to the DDTPAC was made by all three voting members of the RFP Subcommittee. The RFP Subcommittee made its recommendation at the June 18, 1991 meeting of the DDTPAC which voted 6 - 0 to accept the recommendation. Three members of the DDTPAC were not allowed to vote due to conflict of interest. The DDTPAC submitted a letter to the Commission's Executive Director on June 21, 1991 recommending Sprint as the relay vendor. The letter indicated that Sprint would file an advice letter shortly to transmit the proposed contract for provision of CRS service.

Sprint filed Advice Letter 74 on July 22, 1991, which was supplemented by 74A on August 13, 1991.

The RFP left a number of issues which needed to be resolved by the Commission. Following is a summary of those open issues:

Open Issue #1: Pricing System

The RFP required bidders to quote a price per call minute for a variety of different scenarios for each of the 5 years of the contract. The original RFP defined a call minute as including the time the calling party is connected to the called party or to an answering machine at the called party's number or to a recorded message or intercept for the called number. A call minute did not include time in queue (call is ringing, waiting for a live answer), call set-up, call wrap-up, or calls that reach numbers that are busy or receive no answer.

The RFP stated that each month the total number of calls and the average call length would be calculated to determine the per call minute price at which the vendor would be reimbursed for that month. The actual total call minutes for the month would be multiplied by the appropriate price per call minute to determine the total amount to be reimbursed to the vendor for that month. (For example, if the relay center received 300,000 calls in one month, averaging 7 minutes in length, and the vendor's per minute price for that scenario was \$1.00, the amount to be reimbursed to the vendor would be $300,000 \times 7 \times \$1.00 = \$2.1$ million.)

All three bidders responded to this original pricing proposal and submitted price quotation sheets for the 42 different scenarios for the five possible contract years. At the time that the RFP subcommittee sent out the initial set of questions to all bidders, bidders were also asked to submit price quotation sheets for an

alternate pricing method which defined a call minute as all minutes that a calling party is connected to the CRS from the time that an operator answers the call until either party hangs up. This definition included incomplete calls (busy, no answer, or wrong number) that do not reach the intended called party and included call set-up and wrap-up. This alternate pricing method would result in more minutes of use being billed each month.

The RFP subcommittee wanted to consider this alternative method because the original pricing methodology based on completed call minutes forced the bidders to estimate the percentages of calls and call minutes that would be incomplete and build those costs into their completed call minute price. Each bidder's estimate of the percentage of calls that would be incomplete was quite different, and that had a significant impact on the overall annual price for the relay service. The RFP subcommittee decided that evaluating prices based on all call minutes, rather than completed call minutes, might be a more equitable way to compare the bidders' offers, because it did not rely on each individual bidder's estimate of incomplete calls, which was factored into their completed call minute price. After evaluating the prices submitted according to the two different methodologies, the RFP Subcommittee determined that the "all call minutes" methodology lead to a better price overall for the DDTPAC than did the "completed call minute" methodology.

Open Issue #2: Typing Speed

The RFP stated a required minimum typing proficiency of 45 words per minute (wpm), but also required the bidders to quote prices for 55 wpm and 65 wpm. Sprint's prices for providing the 55 wpm and 65 wpm typing speeds add 4% and 5% respectively to the total annual price of the contract for each of the five possible contract years. In dollar terms, that amounts to an additional \$760,000 for 55 wpm or an additional \$950,000 for 65 wpm in the first year (assuming interstate service is offered). The Federal Communication Commission's (FCC) proposed minimum requirement for typing speed in their draft regulations to implement the Americans With Disabilities Act (ADA) was 35 wpm, so the RFP's basic requirement of 45 wpm would be in compliance with FCC guidelines. Many users have commented that faster typing speeds are desirable because a fast typist reduces the average length of the call, which reduces the charges to the caller, and also because fast typists enhance CRS's usability with ASCII mode and computer users. The DDTPAC recommended a minimum typing speed of 45 wpm with the final decision left to the Commission.

Open Issue #3: 10 Desirable Functions

There were a total of ten "desirable" items in the RFP. Sprint has proposed to provide six of those 10 items at no additional cost above and beyond the quoted per minute price. Sprint has proposed a total annual price of \$620,000 for the four desirable items which involve costs. One of the non-cost desirable items is to provide interstate relay service at no charge to DDTPAC, which will be addressed in Open Issue #5 below. A second desirable item which requires clarification is "Choice of Long Distance Carrier."

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Sprint's proposal describes a methodology for allowing users the option of having their calls billed by the long distance carrier of their choice (for carriers which choose to participate in the program) at no additional cost to the users or to the program. The DDTPAC recommended providing this option because it is most consistent with the FCC's final regulations implementing the ADA FCC Docket No. 90-571, released July 26, 1991) which state that relay users "shall have access to their chosen interexchange carrier through the (relay service)...to the same extent that such access is provided to voice users." Final approval of this issue rests with the Commission.

Open Issue #4: Desirable - Not Evaluated Functions

The RFP included three functions described as Desirable - Not Evaluated. This category was for functions that need not be offered by the bidder and would not be evaluated as part of the bid submitted. The RFP stated that the DDTPAC would like to consider these functions by the winning bidder after a contract has been awarded.

The three Desirable - Not Evaluated functions included in the RFP were 1) access to 976 and other 900 services, 2) access to local exchange company enhanced services, such as three-way calling, and 3) operator assistance for the deaf and disabled. Sprint's proposal stated that they do not plan to offer access to 976 and other 900 services. Sprint's proposal said they could offer the other two items at an additional cost to cover training and development, but the proposal did not discuss the additional costs. These items have not been evaluated by the DDTPAC and the DDTPAC did not recommend that they be included in this contract at the present time.

Open Issue #5: Interstate Calling

Section IV.B.14 in the RFP encouraged bidders to devise a methodology for relaying interstate calls that originate or terminate in California and charging the user directly for the costs involved. The RFP noted that such a plan would be in effect until the FCC issues regulations defining how interstate calls must be provided and billed, in implementation of the ADA.

Sprint proposed that interstate callers be billed Sprint's discounted toll rates for relay calls and an operator surcharge of either \$1.75 for station-to-station calls or \$3.50 for person-to-person calls. The operator surcharge will cover the minimum cost of relaying interstate calls. Sprint's interstate dual-party relay discount was filed with the FCC on January 15, 1991 and went into effect in February 1991.

In D.87-10-073 this Commission determined that it did not have jurisdiction over interstate calls. That decision arose out of Complaint (C.)86-12-004 filed by CAD and the Deaf Counseling, Advocacy and Referral Agency, Inc. against AT&T to require AT&T as the CRS provider to offer interstate calling. Conclusion of Law No. 4 in D.87-10-073 states as follows: "Because the Commission

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has no jurisdiction over the relay of interstate or international calls the complaint should be dismissed without prejudice."

NOTICE/PROTESTS

Public notice that Sprint filed AL 74 appeared in the California Public Utilities Commission's July 22, 1991 Daily Calendar. In addition, copies of the Advice Letter were mailed to competing utilities and known interested parties. Three protests were received.

MCI's Protest

MCI filed a protest on August 12, 1991 asking that the Commission conduct an independent review of the recommendation of the DDTPAC to contract with Sprint for provision of CRS and a comparative evaluation of the CRS bids submitted by MCI and Sprint prior to final contract approval. The protest indicated that MCI's proposal would save telephone consumers \$30,000,000 over the potential life of the contract, relative to Sprint's proposal. MCI also stated that the alternative pricing plan would be a disservice to all Californians since it would encourage inefficiency on the part of the service provider, and strongly recommended that the initial pricing scenario be utilized.

MCI indicated that the DDTPAC and the Commission could be concerned because MCI has relatively less experience in providing relay services. MCI went on to state that its partner, Telephone Interpreting Service for the Deaf (TISD) has more than six years experience in providing relay services.

MCI proposes establishing two relay centers in California, while Sprint proposes only one. MCI indicated that having two relay centers would provide greater disaster recovery capabilities, increase the labor pool from which to hire qualified employees and create a point-of-presence in two large speech and hearing impaired communities.

MCI further stated that its Women and Minority-Owned [and Disabled Veteran] Business Enterprise (MWDVBE) participation in the bid, which is approximately 50 percent, should be taken into account. Review of Sprint's RFP response showed that Sprint's MWDVBE participation equaled only 5.6 percent of the contract total.

AT&T's Reply Comments to MCI's Protest

AT&T filed reply comments on August 20, 1991 requesting that if the Commission reviews the DDTPAC recommendation of Sprint as the CRS provider, that AT&T's bid be given equal consideration with that of MCI. AT&T stated that the Commission should not take into account the price and performance comparisons that MCI and DRA made in their comments regarding the CRS that AT&T currently provides.

DDTPAC/Sprint's responses to MCI's Protest

DDTPAC responded by outlining the four different categories of functions in the RFP that bidders could respond to: Mandatory, Mandatory-Optional, Desirable, and Desirable - Not Evaluated. In addition to the operational functions, the RFP contained several Administrative Requirements that had to be met by the bidders. The RFP further stated that all of the mandatory requirements (which were evaluated on a Pass/Fail basis) had to be met. MCI failed to meet one Administrative Requirement for audited financial statements for the most recent two years and primary banking source letters of reference for the bidder and for any subcontractor which was expected to receive more than 10 percent of the value of the contract. MCI failed to provide the required financial information for TISD, which MCI proposed to receive approximately 50 percent of the value of the contract.

Evaluation of the Mandatory Requirements revealed that MCI received failing scores on two requirements - Providing Qualified Staff and one of the requirements contained in the section on Procedures for Relaying Communication. Since MCI received failing scores on one Administrative Requirement and two Mandatory Requirements, MCI received zero of the 1000 points available for the administrative and operational requirements. MCI's proposal was removed from the remaining evaluation phases.

On the disaster recovery issue, DDTPAC indicated that Sprint's existing relay network, with three centers nationwide with a fourth to be added soon, would provide more comprehensive disaster recovery capabilities than the two centers within California proposed by MCI.

DDTPAC indicated that MCI claimed greater MWDVBE participation than Sprint. DDTPAC went on to quote from the RFP which states that the MWDVBE goals were included as a guideline rather than a strict requirement. The reason that the percentage participation goals that apply to state contracts were not strictly adhered to was to allow an opportunity for organizations representing the deaf, hard-of-hearing, and speech impaired communities, which are not represented in the state requirements, to participate in the work generated by the CRS contract. The DDTPAC did not intend to rule out other minority groups, it merely intended to ensure that the groups most profoundly affected by the service would have an opportunity to participate in the contract.

Sprint responded to MCI's protest saying that the RFP process was a careful and deliberate process overseen by the Commission. Sprint could not comment on MCI's pricing since Sprint does not have a copy of MCI's pricing information. With regard to MCI's statement that its service and network proposal is superior to that proposed by Sprint, Sprint pointed to its existing relay centers in Texas, Missouri, and North Carolina which could provide for recovery capabilities in the event of a disaster.

With regard to MWDVBE goals, Sprint does not have a copy of MCI's response to the RFP. However, Sprint has identified that over 50%

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of the \$7 million of contract expenses has been identified as MWDVBE or disabled participation.

DRA's Limited Protest

DRA filed a limited protest to AL 74 on August 12, 1991. DRA reiterated the position taken when it was reviewing the draft RFP against the requirement that Spanish-speaking operators be available at all times. DRA obtained information from AT&T indicating that less than one percent of the calls coming into CRS requested a Spanish-speaking operator. DRA was concerned that the hiring of large numbers of bilingual operators would increase program costs. Sprint included this requirement in its base price.

DRA supports setting the typing speed requirement for CRS operators at 45 wpm. To require 55 or 65 wpm would cost an additional one-half to three quarters of a million dollars annually. Since the FCC requirement is 35 wpm, CRS exceeds that requirement.

DRA notes that Sprint's average answer time of 3.3 seconds in two other states is better than the current provider's answer time of 13.4 seconds. DRA notes that Sprint's more advanced technology enables the relay service to automatically switch to the caller's equipment protocol. The new technology is also capable of providing a variety of detailed reports.

DRA reviewed Sprint's pricing proposal and is encouraged by the proposal's reduced costs. The service Sprint wishes to provide is less expensive than the current service.

While DDTPAC indicates nearly \$9 million in cost savings over the cost of the current CRS provider, DRA identified several reasons why those cost savings might not be realized: increased usage, the costs to the DDTPAC of producing a one-time bill insert regarding the change in the "800" number to access CRS, and AT&T close down costs. DRA believes that the AT&T close-down costs will be substantial and DRA therefore recommends that the Commission direct DDTPAC to conduct an audit of AT&T's close-down costs. DRA listed a variety of issues DRA feels should be covered in the audit.

DRA estimates that the total price of the four "Desirable Functions" over the five-year period of the contract is \$3.1 million. DRA protests the inclusion of the four desirable functions (Outreach, Consumer Input, User Assistance, and Operator Training) and recommends that the four priced functions not be purchased at this time. The DDTPAC should be directed to first evaluate the effectiveness of the basic programs and then renegotiate the enhancements with Sprint. DRA requests that AL No. 74 not be approved until the desirable items are removed. DRA recommends that the Commission order Sprint to meet with the DDTPAC and specify which items are included at no additional cost in the "Mandatory Functions" portions of the four desirable items. DRA also recommends that the Commission order DDTPAC to instruct

Sprint to document the costs of the four programs and track their effectiveness.

Sprint has stated that it will absorb the \$400,000 cost of printing a bill insert regarding the change in the 800 number to access CRS. However, Sprint estimates that distribution of the bill insert will be approximately \$895,000. DRA recommends that the Commission order the Local Exchange Companies (LEC) to distribute the bill insert and apply through the DDTPAC for reimbursement of their distribution costs.

DRA commented on the fact that each bidder was asked to provide alternative methods for providing interstate service until the ADA is implemented in July 1993. DRA stated that interstate service is beyond the jurisdiction of DRA and the Commission. DRA suggested that if Sprint wishes to provide interstate service in California, Sprint should file its proposal with the FCC.

DDTPAC/Sprint's responses to DRA's Limited Protest

With response to DRA's recommendation that the Commission order the DDTPAC audit to AT&T's close down costs, the DDTPAC will include costs for such an audit in its 1992 budget which will be submitted to the Commission for approval.

DRA's second recommendation was that the DDTPAC renegotiate the four separately priced "Desirable Functions" with Sprint after DDTPAC has an opportunity to review the basic programs included in the CRS contract at no additional cost. DDTPAC responded that it intends to evaluate the effectiveness of all aspects of Sprint's proposed service on an ongoing basis and under the terms of the RFP will be getting monthly reports to assist in that evaluation. DDTPAC further stated that the desirable items in the RFP were designed to establish a broad-based outreach program, which is critical to ensure that the program reaches all Californians who can benefit from it. DDTPAC endorsed its original recommendation that all desirable items listed in the RFP be included in the CRS contract. The DDTPAC will be able to evaluate both mandatory and desirable outreach efforts simultaneously and make ongoing adjustments to the program if needed.

DRA's third recommendation was that the Commission order Sprint and the DDTPAC to meet to determine which items would be included at no additional cost in the mandatory requirements. DDTPAC is currently in the process of working with Sprint to clarify those issues. DDTPAC agrees with DRA that tracking outreach expenses and monitoring the effectiveness of the different aspects of the program will help in evaluating the outreach program and making adjustments as necessary.

DDTPAC concurred with DRA's recommendation that the Commission order the LECs to distribute the bill inserts announcing the "800" number change and to submit their costs to the DDTPAC for reimbursement. The DDTPAC will be happy to work with Sprint and the LECs on the bill insert distribution.

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Sprint's response to the DRA limited protest indicated that Sprint did not choose to reply to recommendations relating to service options or desirables made by DRA, but deferred to the desires of the DDTPAC and the Commission.

Sprint indicated that they have been working with the DDTPAC to provide more detailed information to clarify the four desirable elements.

Communications Workers of America (CWA) Protest

In a letter dated August 9, 1991, CWA protested the selection of Sprint as the CRS provider. CWA indicated that the current program is providing jobs for approximately 150 union workers who will lose their jobs. They will be replaced by Sprint's employees who are non-union with lower wages and benefits than their union counterparts.

Sprints's Response to CWA's Protest

Sprint replied that it is not an anti-union employer. Sprint respects the rights of its employees to join or not join a union; to date Sprint employees have not chosen union representation. Sprint went on to say that the wages, benefits and working conditions of Sprint employees are competitive with those provided to CWA-represented employees.

Letters in Support of CRS Provider and/or Interstate Service

Letters were received from four organizations supporting the selection of Sprint as the CRS provider and/or requesting that the Commission provide interstate calling capabilities. The organizations included: Greater Los Angeles Council on Deafness, Inc., California Association of the Deaf, Inc., California Center for Law and the Deaf, and California Association of the Deaf News Bureau.

DISCUSSION

Both MCI and AT&T have requested that the Commission review the selection of U.S. Sprint as the provider for the California Relay Service. The Commission made a thorough review of the RFP responses and the process followed by the RFP subcommittee and is satisfied that the review process was fair to all parties involved.

The RFP Subcommittee determined that MCI failed to meet two Mandatory Requirements and one Administrative Requirement. Section V.H. in the RFP includes the following statement: "Failure on any one of the mandatory requirements will result in zero points awarded for all of the mandatory requirements." Based on that, MCI was assigned zero points out of a possible 1000. Since the total number of points possible for desirable functions was only 150, MCI's proposal was not reviewed further because there was no way that MCI could accrue sufficient points to be competitive.

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AT&T received the 1000 points for meeting all Mandatory Requirements. However, in reviewing the desirable functions, the RFP Subcommittee awarded AT&T 75 points, compared to 122 points scored by Sprint. In addition, Sprint's price proposal was less than AT&T's over the five possible years of the contract (based on intrastate service and a typing speed of 45 wpm and purchase of the four desirable cost items).

The system for awarding points is discussed in Section V.H. in the RFP which is titled "Evaluation of Operational Requirements." This statement follows the description of the point system for Mandatory and Desirable functions:

"The total number of performance points for each bidder will be divided into a cost evaluation total which the Evaluation Committee will derive from each bidder's proposed prices for the life of the contract. This will result in an evaluation cost per performance point for each bidder. Contract award will be made to the compliant bidder with the lowest cost-performance ratio."

Commission staff reviewed the cost per performance point for AT&T and Sprint based on either a 3-year and 5-year contract term and found that Sprint had the lowest ratio in both categories, thus fulfilling this RFP requirement.

Two other facts are important to note: Sprint's average answer time is 3.3 seconds in two other states, compared to AT&T's average answer time here in California of 13.4 seconds in 1990. Also, Sprint demonstrated a stronger commitment to placing deaf individuals in management positions at the relay center.

Based on the above information, the Commission sees no reason to overrule the DDTPAC recommendation of Sprint as the CRS provider.

MCI raises the point that its MWDVBE participation in the bid, which is approximately 50 percent, should be taken into account. MCI indicated that only 5.6 percent of Sprint's total contract involved MWDVBE companies. Since MCI's proposal was not considered further after review of the Mandatory Requirements, MCI's MWDVBE participation could not be given consideration.

This Commission is committed to the MWDVBE goals that state contracts must meet. As DDTPAC indicated, the CRS contract is unique, and the Commission recognized the need to target disabled organizations who represent users of the CRS. However, we are concerned that Sprint make every effort to secure the participation of MWDVBE and disability organizations in implementation of this contract. We would also like to see the DDTPAC monitor Sprint's effectiveness in this area.

Two pricing systems have been proposed--the "price per call minute" method which is described in the RFP and the "alternative pricing" method which was suggested after the RFP was released. The alternative pricing system, while allowing more call minutes to be billed, is based on substantially lower rates. A review of both scenarios demonstrates to the Commission's satisfaction that

the alternative pricing methodology would be least costly to the program.

A second open issue is the typing speed to be required for relay operators. All bidders submitted costs for 45/55/65 wpm scenarios. DRA recommended 45 wpm which exceeds ADA requirements. This Commission agrees with DRA that a 45 wpm typing speed be required.

Various parties have touched on the costs associated with distributing a bill insert regarding the new 800 number to access CRS. We would like to see this accomplished at the least expense to California ratepayers and see that involving the LECs has merit. We have determined that it will be most cost effective to have Sprint print the bill inserts and absorb those costs, and to have the LECs distribute the bill inserts, and apply to the DDTPAC for reimbursement for the distribution costs.

DRA asks that AT&T's close-down costs be monitored closely and audited, and we concur that this should be done. The DDTPAC has the responsibility to monitor those costs to assure that they are adequately documented and justified.

Another point made by DRA was that program costs would be increased if bilingual operators are required for each shift. This Commission already looked at the issue at the time the RFP was approved and decided to approve the RFP with the requirement that Spanish-speaking operators be available at all times. DRA had an opportunity to comment at the time the RFP draft was being reviewed, and we see no reason to revisit the issue at this time.

DRA has suggested that four desirable functions with an annual price tag of \$620,000 not be purchased at this time, giving the DDTPAC the opportunity to review what Sprint will provide at no charge under the Mandatory Requirements for each item. DRA further suggested that Sprint and the DDTPAC need to meet to determine which specific functions are covered by the Mandatory Requirements and which are considered desirable, at additional cost.

This Commission concurs with the DDTPAC's response to DRA that the consumer outreach effort is important to ensure that CRS meets the needs of Californians. However, we are troubled at the seeming lack of clarity of what Sprint will provide under the mandatory and desirable functions. The DDTPAC will need to monitor this closely and reimburse Sprint only for those desirable functions which the DDTPAC agrees to accept. If the DDTPAC finds that those items are not performed in a satisfactory manner, DDTPAC should either cancel or renegotiate those items.

The RFP included six other desirable items which Sprint bid at no charge to the DDTPAC. One of the six--interstate service--is discussed below. The other five desirable functions appear to add to the program's effectiveness and should be adopted.

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Three other items in the RFP were categorized as "Desirable - Not Evaluated." Those items are not critical to the successful implementation of CRS and can be deferred.

Interstate service is another open issue. Based on the comments received from interested parties, it is one function which is greatly desired by CRS users. This Commission would like CRS users to be able to make and receive interstate calls; the question is how this can be accomplished. One option is to have Sprint use the tariff it has on file with the FCC to offer interstate service at a set cost to the user.

Another option would be to offer interstate calling funded from the current 0.3% surcharge on intrastate calls. However, in D.87-10-073 this Commission determined that it did not have jurisdiction over interstate calls. That decision arose out of C.86-12-004 filed by CAD and the Deaf Counseling, Advocacy and Referral Agency, Inc. against AT&T to require AT&T as the CRS provider to offer interstate calling. Conclusion of Law No. 4 in D.87-10-073 states as follows: "Because the Commission has no jurisdiction over the relay of interstate or international calls the complaint should be dismissed without prejudice."

While this Commission has no jurisdiction over interstate service, it has authorized the use of surcharge revenues to pay for Operator Services for the Deaf (OSD) calls originating in California. (Those calls have been handled in Washington, D.C. since 1989, following the Loma Prieta Earthquake.) This Commission continues to authorize the use of intrastate revenues to pay for OSD calls. The same rationale applies to authorizing interstate calling capabilities using intrastate surcharge revenues. Sprint has the authority to offer interstate calling under its existing FCC tariff. Since the interstate calls would be relayed from Sprint's relay center, Sprint must keep separate records on interstate calls to provide the Commission with separate data on the costs for interstate calls.

CWA has protested selection of Sprint as the CRS provider because AT&T's relay center employees are unionized. The RFP never addressed the issue, and this Commission does not feel that it is appropriate to address it at this time.

In conclusion, a complex contract requires constant interaction between the parties, in this case Sprint and the DDTPAC. We anticipate that there will be a number of minor issues that arise that the parties must resolve, and that over the course of the contract, it may have to be amended several times. It is not this Commission's intention to involve itself in contract modifications which are minor in nature. Those are best left to the parties responsible for implementation of the contract. However, it is our intent to stay informed of all such minor changes, and to retain our oversight over contract issues which are not minor in nature. In this case, "minor" contract changes will be those which don't increase the DDTPAC's annual budget by more than 1%.

FINDINGS OF FACT

1. The DDTPAC's recommendation of U.S. Sprint as the CRS provider was based on an extensive and thorough review of the RFP responses.
2. Sprint has indicated that it will absorb the costs of printing the necessary customer bill inserts to notify customers about the change in the 800 number to access CRS and other pertinent information about CRS service.
3. It is not cost-effective to have the CRS provider distribute the bill inserts notifying Californians about CRS and the new phone number. That function can be handled more cost effectively by the LECs.
4. Typing speed of 45 wpm is adequate and meets the requirements of ADA.
5. D.86-02-042 required that pertinent information about the California Relay Service be included in future telephone directories.
6. DDTPAC should be allowed to make minor changes/amendments to the CRS contract without Commission approval.
7. It is desirable to implement interstate service in advance of the ADA deadline.
8. While this Commission has determined it does not have jurisdiction over interstate calling, it recognizes that Sprint has a tariff on file with the FCC for providing interstate relay service on a cost per call basis.
9. If interstate calling is implemented from Sprint's California relay center, Sprint must develop a recordkeeping system to ensure that interstate calls are reported to the DDTPAC separately from intrastate calls and that the DDTPAC is not billed for interstate calls.
10. This Commission does not deem it appropriate to address the issue of whether or not the CRS providers' employees be union members. The issue of unionization of relay center employees was not addressed in the RFP.
11. The nine desirable functions [excluding interstate service which is discussed elsewhere] described in the RFP will add to the value of the program.
12. The four desirable functions which are cost items: Outreach, Consumer Input, User Assistance, and Operator Training are critical to the success of implementing CRS and should be included in the contract, to be purchased at the discretion of the DDTPAC at a price no higher than quoted.
13. The three "Desirable - Not Evaluated" items will not be included in this contract. If DDTPAC decides to add any of those

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items, the rules governing contract amendments covered herein will apply.

14. The "Alternative Pricing Based on Per Minute of CRS Usage" is the most cost-effective way of pricing calls.

15. AT&T's close-down costs must be monitored closely and audited by an outside auditing agency under contract to the DDTPAC.

16. The requirement for Spanish-speaking operators was included in the previously-approved RFP and must be part of this contract.

17. MCI's MWDVBE participation was not taken into account in the evaluation process because MCI failed to meet two Mandatory Requirements.

THEREFORE, IT IS ORDERED that:

1. U.S. Sprint is affirmed as the vendor for the California Relay Service.

2. U.S. Sprint's Advice Letter No. 74A, with its accompanying contract filed in compliance with D.91-07-010 and General Order 96-A, Section X.D is hereby approved.

3. The term of this contract shall be for three years, with two one year extensions which must be approved by this Commission, at the recommendation of the Deaf and Disabled Telecommunications Administrative Committee.

4. U.S. Sprint and the DDTPAC are directed to follow all terms and conditions of the RFP as approved in this Advice Letter filing.

5. Except as provided elsewhere in this Resolution, DDTPAC is given the authority to amend this contract, without Commission approval, for changes which on a cumulative basis in a given year do not exceed 1% of the DDTPAC's annual budget. The Commission's Executive Director shall be notified in advance of any proposed contract amendments.

6. The DDTPAC is authorized to approve the payment of intrastate surcharge revenues to U.S. Sprint, pursuant to contract, for completing all calls originating in California.

7. U.S. Sprint is directed to maintain separate records for interstate calls and make those records available to the DDTPAC.

8. The typing speed shall be set at 45 wpm, which exceeds the 35 wpm required by the ADA. Any future requests for change in the typing speed and the increased costs associated with that change will require Commission approval and shall be handled through the DDTPAC's formal budget process with this Commission.

9. The DDTPAC is directed to monitor AT&T's close-down costs closely and to make provision in the DDTPAC's 1992 budget for an outside auditor to audit those costs. DDTPAC shall address all of

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the audit issues raised in DRA's limited protest to AL 74A, dated August 12, 1991.

10. The DDTPAC is given the authority to negotiate the specific activities and costs for each of the four desirable cost items and is also given the authority to purchase the four desirable cost items up to the dollar amount specified in Sprint's response to the RFP. Payment for the desirable items will be on a cost reimbursement basis based on adequate documentation supplied by Sprint. DDTPAC must monitor the desirable items on an ongoing basis and make reports to this Commission.

11. U.S. Sprint is ordered to print a bill insert to notify customers about the new 800 number and other elements regarding the new CRS provider. The form and content of the notice must be approved by the DDTPAC.

12. All Local Exchange Carriers (LECs) in California are ordered to distribute the bill inserts supplied by U.S. Sprint to all their customers. The LECs will be reimbursed by the DDTPAC at cost for distribution of the bill insert.

13. All LECs in California are ordered to comply with D.86-02-042 and provide pertinent information regarding CRS in future telephone directories.

14. The "Alternative Pricing Based on Per Minute of CRS Usage" is to be used to bill calls to CRS.

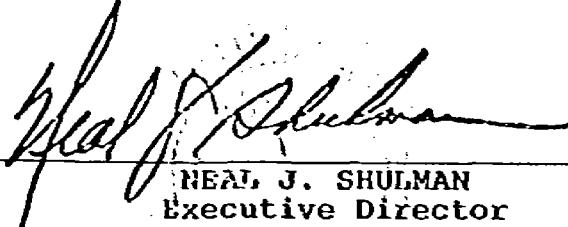
15. U.S. Sprint is directed to allow all of the MWDVBE and other disabled enterprises listed in Exhibit C, Appendix 2 of its RFP response to bid to perform work under this contract. Further, Sprint is directed to make every effort to maximize the participation of MWDVBE and disability organizations in implementation of this contract.

16. The protests filed by MCI and CWA are rejected. The limited protest filed by DRA is accepted in part.

The effective date of this Resolution is today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 11, 1991. The following Commissioners approved it:

JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners


NEAL J. SHULMAN
Executive Director

Commissioner Patricia M. Eckert,
being necessarily absent, did
not participate.