

Comments of Commissioner Rachelle B. Chong
Joint Meeting of the
Deaf and Disabled Telecommunications Program
(TADDAC, EPAC, and CRSAC)
March 22, 2006
Oakland, California

It is a great pleasure to have the opportunity to meet with you at this Joint Meeting of the DDTP. I am glad to see so many folks from the deaf and disabled community, the PUC, and later today, representatives of the wireless phone industry. By having open and frank dialogue, we can make better an important national program that everyone supports wholeheartedly.

FCC Background

I am the newest PUC Commissioner, but the good news is that I am not new to your issues. I was privileged to serve President Bill Clinton as a commissioner of the Federal Communications Commission for over three years in the mid Nineties.

Before I was a Commissioner, I was a telecom regulatory lawyer that practiced before the FCC in Washington D.C. and the CPUC in San Francisco. After my FCC years, I have been a lawyer, start-up general counsel, and an entrepreneur. I have also performed *pro bono work*, as a director for the Legal Services Trust Fund, and as a trustee of the Association of Public Television Stations.

As an FCC commissioner, I worked on many of your issues. As you know, the FCC is very active with your community. Pursuant to the Americans with Disabilities Act, the FCC oversees the nationwide system of telecommunications relay services. TRS has been very successful in allowing people who are not hearing impaired to talk with those with hearing disabilities.

As an FCC Commissioner, I came to share the vision of this program – bringing the benefits of the telecommunications network to all Americans, including those whose disabilities limit their use of the network in traditional ways.

During my FCC tenure, the Telecommunications Act of 1996 was passed by Congress. This was the first major rewrite of the US telecommunications laws in over sixty years. One of the goals of this historic legislation was to promote the availability of telecom services and equipment to people traditionally underserved in telecommunications, including disabled citizens.

This was done via two sections of the 1996 Telecom Act which focused entirely on access by persons with disabilities:

Section 255 requires all manufacturers of telecom equipment and providers of telecom services to ensure that the equipment is designed and developed to be accessible and usable by individuals with disabilities, if readily achievable. The FCC implemented this section in September 1999. This work is very important to ensure there are products and services for your community's unique needs.

Unlike the CPUC, the FCC handles video issues relating to broadcasters and cable regulation. The 1996 Act included Section 713, which aimed to ensure that video services are accessible to individuals with hearing and speech disabilities. It required the FCC to study the level at which video programming is closed captioned, and then establish a timetable for closed captioned

requirements. The FCC is allowed to exempt programming for which the provision of closed captioning would be “economically burdensome.”

In 1997, I remember how difficult it was to balance all the party’s interests when we issued the first FCC Report and Order. The devil was in the details. We set up a transition period requiring video program distributors to close caption their TV programs. The FCC struggled to set up a scheme that provided the benefits of more close captioned programming, while respecting the fact that if we ordered too much, too fast, it could be “economically burdensome” -- with inadvertent negative impacts on certain niche or specialized programming.

The FCC also works to ensure that video providers make local emergency information accessible to those with hearing and vision disabilities. After major emergencies like 9/11 and Hurricane Katrina, the importance of this emergency information is evident in order to warn and therefore protect all of our citizens.

Thanks to the Governor Schwarzenegger, I am now a state PUC commissioner with a different constituency and legislative mandate. Not the nation but just California. . . Not broadcast and cable policy, just intrastate telecommunications. . . Frankly, it’s a little easier than my last job where I had to regulate Howard Stern!

CPUC Issues

Since I joined the CPUC, I have been learning about the *state* programs that serve the deaf and disabled community. This is where the rubber hits the road. Your programs deliver actual services to real Californians.

I will address three topics briefly:

1. What I’ve learned about the Deaf and Disabled Telecommunications Program;
2. Why I see this as a time for optimism;
3. My hope to improve California’s universal service telecommunications programs.

DDTP

Concerning the California DDTP program, I’ve learned several things. First, the program is big by any measure -- \$70 million per year in funds expended, big in minutes of use, big in services offered, and big in range of the equipment provided. Delivering this level of service is a significant accomplishment.

At the FCC, we viewed the California program as one of the leading programs nationally. As I learned about your program from Jack, Helen and Linda at the PUC, it is clear to me why California earned this reputation. For years you have done an excellent job, so my sincere congratulations are due to you for your commitment and dedication to this important program.

The deaf and disabled telecom program has clear federal and state statutory mandates – not to mention broad bipartisan support. Moreover, this is a program through which the Commission serves Californians. As such, I see it as a model for what the California Commission should become.

Permit me to explain this last comment in a little more detail. Among my regulatory goals are (1) providing a positive regulatory environment so that advanced, state-of-the-art communications infrastructure gets built in California, and (2) ensuring that the Commission serves California consumers.

In the past, one could argue that the Commission has seen its primary mission as regulating telephone companies. As telecom competition has grown in California, the Commission should regulate the telcos with a lighter hand. The PUC should shift its focus to serving telecom consumers. For example, the PUC should educate consumers about the new competitive telecom marketplace and their consumer rights. The PUC should also enforce our rules against bad actors who attempt to defraud or mislead telecom consumers. This is what I mean by the Commission serving consumers.

A Cause for Optimism and Concern

Turning now to my second point, I see this as a time for optimism for this program and for all telecom users. Here in California, hardware and software entrepreneurs are quickly developing a range of telecommunications services using Internet protocols.

Voice over Internet Protocol (or "VoIP" as it is called for short) is a new technological advance that is turning telecom on its ear. These new products and services will revolutionize the delivery of telecommunications and broadband services to all Californians.

For the deaf community, video phones -- which will enable callers to see each other and sign directly -- are now becoming a reality. Voice recognition software is now making great leaps. The translation of text to voice and voice to text is becoming a routine application that will provide service to those who are visually and acoustically impaired.

Not only are new services on the horizon, the prices of all telecommunications services are dropping. Long distance prices are falling and my crystal ball says that any price above 2 cents a minute will prove hard to sustain.

Cable companies are adding voice services to their offerings, and true choice for voice is emerging. What is happening for all Californians is sure to benefit the deaf and disabled community as well.

There is, however, some need for caution. As you may know, at present, VoIP phone companies do not pay into the universal service fund program. You might rightly be concerned that this development could eventually lead to less funds for the deaf and disabled programs.

At the end of 2005, California had an estimated 560,000 VOIP subscribers. Projections show that number could reach 2.5 million VOIP subscribers by the year 2009. Analysts believe that about half of these VOIP customers will disconnect their landline phones.

However, there is now a federal bill pending authored by Senator Ted Stevens of Alaska which would require VoIP providers to pay into the universal service fund. This bill bears watching. Overall, I do see a trend towards IP-enabled telecom services, running over the Internet backbone and not just the plain old telephone system. Cable is offering IP voice to customers, and some major Internet companies like Yahoo, EBay and AOL are using VoIP technologies to offer voice to their users.

Thus, a large issue for legislators and regulators will be how to rework our universal service frameworks to take these technology changes into account. We should not be ostriches with heads in the sand on this issue but confront it, and do what is necessary in order to protect important universal service programs which make sense on a going forward basis in this more competitive telecom marketplace.

I understand you are meeting later today with the wireless community, which is wonderful. Wireless phones may help allow unprecedented access to communications networks for your communities. Wireless telecommunications has been a tremendous asset to our nation, as it has increased our efficiency, and literally saves lives every day. I hope your discussions bear fruit.

Improving Your Universal Service Program

Turning now to the last topic for today, my hopes to improve California's universal service programs, including the DDTP.

Starting on April 25th, the PUC will be conducting a workshop on your program in addition to other universal service programs we oversee. I have asked that a rulemaking be commenced so we can improve and update our universal service programs. President Peevey has assigned this proceeding to me. We should ensure that we are providing these programs consistent with our statutory mandates and in ways that serve Californians well.

I hope that you will participate in the April workshop, and comment in the rulemaking proceeding that begins after the workshop. I encourage you to think creatively as we take a fresh look at where we stand in today's more advanced technological world. I challenge you to look to other states, and even other nations, for suggestions for ways to improve our programs.

I also encourage you to remember our State's never ending budget challenges. Please think about ways to ensure the financial stability and integrity of the program. I truly believe that we can work together to fashion a pragmatic program with effective administrative oversight that avoids micromanagement.

In conclusion, I invite you and your representatives to meet with me and my staff. I already have a meeting with TADDAC in early April. My office is the "Aloha" office, and we keep our doors open to the concerns of all Californians.

I have brought my telecom advisors, Robert Haga and Dr. Timothy Sullivan, with me to introduce them. Robert Haga is my Telecom and Legal Advisor working on this important Universal Service proceeding. I believe you know Tim Sullivan, my Senior Telecom and Water Advisor, who previously worked with Commissioner Henry Duque and Commissioner Susan Kennedy on your issues. Please feel free to meet with them. On this and on other telecommunications programs, they will work as a team for me.

Thank you for inviting me to be here with you. I regret that I must return to San Francisco for another meeting, but my advisor Robert will remain with you through the lunch hour. Enjoy your meeting.