

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: January 23, 2013

To: The Commission
(Meeting of January 24, 2013)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **Proposed Legislation on the Deaf and Disabled
Telecommunications Program (SB 129 intro January 23,
2013)**¹

RECOMMENDED POSITION: SUPPORT AS SPONSOR

SUMMARY OF BILL:

This proposed measure would extend the sunset provision for collection of the Deaf and Disabled Telecommunications Program (DDTP) surcharge from January 1, 2014 to January 1, 2022.

CURRENT LAW:

Public Utilities (PU) Code 2881 (g) authorizes the commission to establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber's intrastate telephone services. The current surcharge remains in effect until January 1, 2014.

PU Code Sec. 281(k) permits the commission, until January 1, 2014, to make necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded, and that the fund balances are not excessive.

AUTHOR'S PURPOSE:

The purpose of extending the surcharge authority is to ensure the continuance of this vital program. If the surcharge is allowed to expire, then there will be no funds to continue to provide state-mandated Deaf and Disabled Telecommunications Program services, thus impacting the health, safety, and economic well-being of deaf, disabled, and hard of hearing constituents of the program.

If the CPUC does adjust the surcharge as necessary, there result could be an overfunding or underfunding of the program.

¹ Added bill reference number on January 25, 2013 to leg memo.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

This bill should be sponsored for the following reasons:

- 1) This proposed legislation would extend the sunset provision for the DDTP from January 1, 2014 to January 1, 2022 and thus ensure availability of federally mandated ADA required relay services and state CPUC required assistive telecommunication equipment for deaf and disabled persons.
- 2) Extension of the sunsets will ensure that people who are challenged using a standard telephone because of difficulty seeing, hearing, speaking, moving or remembering continue to receive health and safety impacting services connecting them by telephone to emergency, medical , business and other entities.
- 3) If the surcharge is allowed to expire then there will be no funds to continue to provide state mandated Deaf and Disabled Telecommunications Program services, thus impacting the health and safety of Deaf Disabled persons needing to communicate by telephone. Also the state would be out of compliance with federally mandated ADA act.
- 4) Failure to extend the CPUC's ability to adjust the surcharge as needed could result in overfunding or underfunding the program.

SUMMARY OF SUGGESTED AMENDMENTS:

None.

DIVISION ANALYSIS (Communications Division):

The Deaf and Disabled Telecommunications Program (DDTP) is a state-mandated program of the California Public Utilities Commission (CPUC), which provides Californians who are deaf, hard-of-hearing and/or disabled with specialized telephone equipment through the California Telephone Access Program (CTAP). In addition, the DDTP provides telecommunications relay service for deaf users through the California Relay Service (CRS).

The Commission established the DDTP, which was later codified and subsequently expanded through implementation of four legislative mandates. The four legislative mandates are as follows:

- a) PU Code Section 2881 (a) which requires the provision of specialized "telecommunications devices" to deaf or hard-of-hearing individuals;
- b) PU Code 2881 (b) requires the establishment of a dual party relay system, the California Relay Service (CRS), to connect consumers who are deaf or hard-of-hearing with hearing parties;

- c) PU Code 2881 (c) which requires the provision of other specialized telecommunications equipment to consumers with hearing, vision, mobility, speech and cognitive disabilities; and
- d) PU Code 2881 (d) which requires implementation of a program to provide access, as the last funding resort, to a speech-generating device (SGD) to any subscriber who is certified as having a speech disability.

The DDTP is currently funded by a surcharge assessed against all consumers of intrastate telecommunications services, and provides monies for assistive telecommunication devices and relay services.

DDTP program revenues are collected through the DDTP surcharge rate that appears on customer billings as CA Relay Service and Communications Devices Fund. The CPUC periodically adjusts the surcharge after a review of the fund balance. The current DDTP surcharge rate, effective December 1, 2010 is 0.20%.

If the surcharge is not extended, there will be no funds available to continue to provide state-mandated Deaf and Disabled Telecommunications Program services, thus impacting the health and safety of Deaf Disabled persons needing to communicate by telephone.

If the CPUC's ability to adjust the surcharge as necessary expires, the result could be over funding or under funding of the program.

PROGRAM BACKGROUND:

In 1979, legislation was enacted codifying the CPUC's existing program for providing specialized equipment to the deaf and hard of hearing. Specifically, the statute mandated that the CPUC design and implement a program to provide telecommunication devices to deaf and hard-of hearing consumers. This program, now called the Deaf and Disabled Telecommunications Program (DDTP), fulfills four mandated functions:

- Provides telecommunication devices to certified deaf and hard-of- hearing users.
- Provides a dual party relay system, now called the California Relay Service (CRS), to connect TTY users with any other telephone user.
- Provides specialized telecommunications equipment to individuals certified with hearing, vision, speech, cognitive, and mobility disabilities.
- Provides, as a last funding resort, speech generating devices (SGDs) to persons with profound speech disabilities.

The CPUC established a formal structure for the DDTP in 1989 to oversee the operations of the mandated programs, encompassing both the California Telephone Access Program (CTAP), which distributes equipment, and CRS, which provides operators to relay telephone conversations to those who are deaf or hard-of-hearing, or speech-disabled.

The DDTP provides Californians who are deaf and disabled with specialized telecommunications equipment, and with relay services through the California Telephone Access Program (CTAP) and the California Relay Service (CRS), respectively. The CPUC has designed and implemented DDTP/CTAP program has been designed and implemented by the CPUC to provide free telecommunications devices capable of serving the needs of individuals who are deaf or hard-of-hearing, together with a single party line, at no charge additional to the basic exchange rate. Any subscriber who is certified as an individual who is deaf or hard-of-hearing by a licensed physician, surgeon, audiologist, or a qualified state or federal agency, as determined by the Commission, and any subscriber that is an organization representing individuals who are deaf or hearing impaired may receive such a telecommunications device.

The DDTP program also provides free specialized or supplemental telephone communications equipment to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for specialized telecommunications equipment, is provided by a licensed optometrist or physician or surgeon or by a qualified state or federal agency as determined by the Commission.

As required by Public Utilities Code Section 2881, the funds for the DDTP are collected via a surcharge applied to a subscriber's intrastate telecommunications service. The current surcharge rate, effective December 1, 2010 is 0.20%.

DDTP is administered and operated by the Commission with advisory input from two advisory boards (TADDAC and EPAC). Program services and equipment are provided by vendors under contract to the CPUC. The DDTP Administrative Contractor charged with the overall day to day operation of the DDTP is the California Communications Access Foundation (CCAF).

In 2010, the Commission adopted Decision 10-11-033 directed that wireless equipment become a part of Deaf and Disabled Telecommunications Program's California Telephone Access Program (CTAP).

Enactment of AB 136 in 2011 requires the CPUC to add speech generating devices (SGDs) to the Deaf and Disabled Telecommunications Program (DDTP). This part of the program is currently being established.

SAFETY IMPACT:

Extension of the DDTP sunset provision ensures that persons who are hard of hearing and/or disabled have access to universal telephone service which is vital to health and safety of these individuals.

RELIABILITY IMPACT:

No impact.

RATEPAYER IMPACT:

DDTP program revenues are collected through the DDTP surcharge rate that appears on customer billings as CA Relay Service and Communications Devices Fund. The surcharge is set as a percentage of the customer's intrastate billings. The CPUC periodically adjusts the surcharge after a review of the fund balance. The current DDTP surcharge rate, effective December 1, 2010 is 0.20%. If this bill is enacted, California telephone subscribers will continue to pay a monthly surcharge for these programs until January 1, 2022.

FISCAL IMPACT:

No additional staff would be necessary. The DDTP program would continue to be funded until January 1, 2022.

ECONOMIC IMPACT:

The bill ensures that deaf, hard-of-hearing, and /or disabled persons are able to participate in the broader community and economic activities through access to telephone services.

LEGAL IMPACT:

The DDTP provides telecommunications relay service (TRS) for California deaf, hard-of-hearing, and/disabled consumers pursuant to both a state mandate, as set forth in PU Code section 2881(b), but also pursuant to a federal mandate. Indeed, the FCC periodically re-certifies the CPUC's TRS program, most recently in 2012, and the CPUC must submit to the FCC annually logs of consumer complaints about the California TRS program. If the enabling legislation for the DDTP surcharge were allowed to sunset, the CPUC would lose the funding source for the TRS program, and would immediately fall out of compliance with the federal mandate. (This is not true for the DDTP equipment program component, which is not federally-mandated.)

OTHER STATES' INFORMATION:

None.

LEGISLATIVE HISTORY:

The Deaf and Disabled Telecommunications Program consists of several components, each of which is set forth in statute. The statutory history of the program follows:

- In 1979, SB 597 was enacted requiring the CPUC to design and implement a program to provide telecommunication devices to deaf and hard-of-hearing consumers;
- In 1983, SB 244, mandated creation of a dual party relay system, now called the California Relay Service (CRS), to connect users of specialized telecommunications devices with any other telephone user.
- In 1985, SB 60 broadened the provision of specialized telecommunications equipment to individuals certified with hearing, vision, speech, cognitive, and mobility disabilities to the program.
- In 1999, SB 669 created a special fund in the State Treasury dedicated to the DDTP;

- In 2003, SB 168, provided authority for the CPUC to transfer advisory oversight of the program for placing specialized telecommunications devices with public payphones to the DDTP and its advisory committees.
- In 2011, AB 136 mandated creation of a program for the DDTP, as a last funding resort, to provide speech generating devices (SGDs) to eligible users.

STATUS:

Not applicable.

SUPPORT/OPPOSITION:

None on file.

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Amend current PU Code Sections 2881(g) and 2881(k) as follows: (new language underlined)

- 1) "(g) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow providers of the equipment and service specified in subdivisions (a), (b), (c), and (i), to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, ~~2014~~ 2022. The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section."

- 2) "(k) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (g). Until January 1, ~~2014~~ 2022, the commission may make, within the limits set by subdivision (g), any necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive. A fund balance that is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive."