

# PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

TELECOMMUNICATIONS DIVISION

RESOLUTION T-15971

Date: October 25, 1996

## RESOLUTION

### **RESOLUTION T-15971. PROVISIONAL AUTHORITY FOR MCI COMMUNICATIONS (U-5011-C) TO PROVIDE SPEECH TO SPEECH RELAY SERVICE UNDER ITS CALIFORNIA RELAY SERVICE CONTRACT WITH THE DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM ADMINISTRATIVE COMMITTEE.**

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#### **SUMMARY**

By this Resolution, MCI Communications (MCI) and the Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC or DDTP) are authorized to modify their California Relay Service (CRS) contract to provide Speech to Speech Relay Service. The provisional authority will apply for one year, commencing when MCI can begin providing the service.

#### **BACKGROUND**

CRS is a statewide program which, pursuant to Public Utilities Code 2881, provides hearing-impaired and speech-impaired persons 24 hour access to California's existing public switched telephone network. Under the program, persons using telecommunications devices for the deaf (TDDs) communicate with non-TDD users, and vice-versa, through the voice assistance of relay system operators. CRS is available for all intrastate, interstate and international calls that originate and terminate in California, but the program only reimburses certified telecommunications companies for their cost to relay intrastate calls. CRS is funded by a small surcharge applied to all intrastate telephone charges. The DDTP AC, supported by a paid staff, manages the day-to-day operations.

Speech to Speech Service has been offered on trial bases by the DDTP AC through its contract with U.S. Sprint (Sprint), the current CRS provider. The service provides the equivalent of basic dial tone to people whose speech can not be readily understood over the telephone and whose motion disabilities preclude them from typing well enough to use a TDD. By this service, speech disabled persons place their own telephone calls by voice or speech synthesizer through operators, who repeat the words of the caller in real time to the party being called.

Resolution (Res.) T-15933, issued on July 3, 1996, approved MCI's Advice Letters 257 and 257 A to appoint MCI the primary provider of CRS but denied the request for Speech to Speech Service to be provided under the CRS contract. MCI's Advice Letters had been

filed in response to the DDTPAC's recommendation for MCI to be awarded the CRS contract effective October 11, 1996 when the DDTPAC's contract with the current CRS provider expires. Res. T -15933 stated that the results of the second trial should be received and evaluated before Speech to Speech is authorized as a permanent feature of telephone service in California.

By letter to the Executive Director, dated August 26, 1996, the DDTP AC has provided the Commission preliminary results of the second Speech to Speech trial. In the letter, the DDTPAC stresses the need to avoid a loss of telephone access for users who now rely upon it. The DDTP AC requests, in particular, for permission to modify its CRS contract with MCI to be able to provide Speech to Speech as a permanent feature of CRS. The DDTPAC requests, further, that the authority be effective as soon as possible, so that MCI can begin its arrangements to offer the service. MCI has stated it will need 60 days from the effective date of Commission approval to begin providing the service.

On August 29, 1996, the DDTPAC sent the Executive Director a follow-up letter requesting permission to continue providing Speech to Speech through Sprint, until at least 60 days after Commission authority is granted for MCI to provide the service. The letter concludes, that, if the Commission does not grant authority for MCI to provide Speech to Speech Service, the DDTP AC will discontinue the Sprint trial. In making the request, the DDTP AC repeated its concern to avoid a gap in the provision of the service. The Executive Director's reply, dated September 11, 1996, approved extending the current Speech to Speech trial, under the same parameters as it is now provided, pending a Commission determination of this matter.

The DDTPAC continues to collect Speech to Speech data. Additional follow-up information was provided by letter dated September 10, 1996 to the Executive Director for the period through the end of August 1996.

## **DISCUSSION**

There are 100,000 to 200,000 Californians with speech disabilities. However, only a small percentage have moderate speech disabilities (as opposed to minor or severe speech disabilities) and are unable to access CRS by typing on a TDD. The conservative estimate is that there are between 2,000 to 10,000 potential users of Speech to Speech. Two Commission authorized trials have been conducted to examine the feasibility and demand for the service--the first for a thirty day period in November 1995 and the second for a four month period from June 10, 1996 to October 11, 1996.

### **The First Speech to Speech Trial**

Early in 1995, the DDTPAC received the Commission's Executive Director's approval for Sprint to conduct a 30-day trial of Speech to Speech Service at a cost of \$49,000. Sprint

had first estimated the cost of the trial at \$60,000, but was able to later reduce the cost due to savings experienced by planning the California trial simultaneously with a trial in the State of Missouri.

The primary objective of the first trial was to determine the technical and operational feasibility of Speech to Speech on an ongoing basis. The trial was conducted from 1:00 p.m. to 5:00 p.m., Monday through Friday, November 1 through November 30, 1995. Nine agents were provided training in listening to and understanding the speech of various people with speech disabilities and in any call set-up or call handling procedures that were different from regular CRS procedures. Sprint established a separate 800 number for the participants to reach the specially-trained agents.

Highlights of the first trial results are:

- During the thirty day period, 599 inbound and 2,005 outbound calls were placed, resulting in 3.3 outbound calls per inbound call or double the regular CRS 1.5 outbound to inbound call average.
- The average talk time was 18 minutes, about three times the average talk time for traditional CRS calls. Talk time includes call set-up, the time during which the relay agent receives instructions from the caller and provides explanation and assistance to the called party. The call set up times were longer during the trial due to the need for clarification of spoken information.
- Twenty-five people with speech disabilities participated in the trial. Participants were selected through a recruitment and screening process.
- Participants agreed to initiate 10 calls per week and to arrange five calls per week, but actual usage was higher. Use of the service per participant increased each week.
- Participants reported that Speech to Speech Service gave them the ability to use the telephone independently for the first time in their lives.
- Both consumers and operators rated the Speech to Speech calls as "successful" on an overwhelming majority of evaluation forms. Consumers also reported that in the majority of cases, they would not have made the phone call without using Speech to Speech Service.

### **The Second Speech to Speech Trial**

At the conclusion of the November trial, the DDTPAC requested Commission permission to amend its CRS contract with Sprint to offer Speech to Speech as a permanent feature of the CRS. Sprint had quoted the DDTPAC a price of \$3.13 per minute to offer the service, which the DDTPAC calculated to approximate \$42,255 per month, based on an estimate, 750 inbound calls per month and the first trial average of 18 minutes per call.

The Executive Director responded by letter dated April 22, 1996. The letter approved a second trial for a four month period beginning June 10, 1996 and ending October 11, 1996 but pointed out that the estimated cost of the four month trial was less than one percent of

the DDTPAC's 1996 annual budget. Consequently, the DDTPAC could implement the trial on its own after notifying the Commission. The Executive Director further expressed the expectation that, during the trial, data would be gathered on (1) the number of calls placed, (2) the number of customers (identified by telephone numbers) generating calls, (3) the time of day calls are placed, as well as the data typically collected concerning standard relay service and encouraged the DDTPAC's California Relay Service Advisory Committee (CRSAC) to ask Sprint for any other data that would be useful for evaluating the benefits of the service.

The primary focus of the second trial was to determine the demand for Speech to Speech. As a result, the second trial differed from the first in the following respects:

- The participants were not limited to a prescreened and selected group of users. Any person in California with a speech disability could use the service. Users were not required to make a certain number of calls per week, nor were they limited in the number of calls they could make.
- This trial was conducted 24-hours a day, 7 days a week, paralleling the hours of operation of regular CRS service.
- This trial was conducted for a longer period-18 weeks as opposed to 4 weeks.
- A total of 20 agents were trained and participated in call handling.

Preliminary results of the second trial are:

- Similar to regular CRS calls, most Speech to Speech calls are placed during the business day, from 7:00 AM to 7:00 PM and call volumes are higher during the week than on weekends and holidays.
- The number of users is increasing, as measured by the number of unduplicated originating Automatic Number Identifications (ANI) that have used the service since the beginning of the trial. (The number of originating ANIs is used to approximate the number of users because consumers are not required to identify themselves when they call. Some call from both their home and their work places, resulting in more than one ANI per user. Others share telephones, resulting in multiple users per ANI.)
- A total of 388 different ANIs used the service through August 1996, which with 5240 outbound calls equates to about 13.5 outbound calls per ANI.
- The average number of calls per user, over the course of each trial, has increased from 16.1 calls per user to 19.5 calls per user.
- The average talk time for the month of July decreased to 12 minutes in the second trial from 18 minutes in the first trial.

### **The State of Missouri Trial**

The only other experience with Speech to Speech in the country was a trial conducted by Sprint for the State of Missouri in October 1995. The trial was conducted from 7:00 a.m. to 9:00 p.m., seven days a week. Only 42 inbound calls and only 74 outbound calls, 50 were completed calls, the others being no answers and

busy signals. The average talk time was 12.78 minutes. The Missouri Public Service Commission considers its trial to have been unsuccessful and attributes the lack of success to poor constituent outreach.

### Comparisons with other Services

The DDTPAC acknowledges that demand for the service is a key component in evaluating the success of the trial and posits that demand will increase as more people learn about the service and gain experience using it. The DDTP AC points out that it offers other services through CRS which generate relatively low call volumes and serve a limited number of users and, consequently, demand should not be a major factor in the Commission's decision whether to authorize Speech to Speech to be a permanent CRS provision.

- Spanish Relay Service: Spanish CRS calls average around 50 to 55 calls per day (about .2% of total CRS calls), while the Speech to Speech call volumes during the second trial have averaged 62 per day (about .3% of total CRS calls). Trial results indicate that Speech to Speech use is higher than Spanish relay use, even though the speech disabled community is much smaller than the Spanish speaking community in California.
- Braille TDDs: The DDTP provides Braille TDDs and large visual display units to the deaf/blind community, another very small population. Evidence that this community is quite small is illustrated by the fact that at the end of 1995, the program had distributed only 125 of both of these units statewide. The DDTPAC points out that the Braille TDD is the most expensive piece of equipment that it provides, costing about \$6,500 per unit. In this respect, neither the small size of the community nor the cost to serve the community have been a barrier to offering the service.
- Three-Way Calling: Three-Way Calling is a network service offered by the local exchange companies that the DDTP has offered to speech and mobility disabled persons, since before Speech to Speech was developed. With Three-Way Calling, speech disabled consumers can add an individual onto a telephone call who can "voice for" or "interpret" the speech of the speech disabled caller to the called party. It is similar to Speech to Speech in that both permit subscribers to talk to two people in different places at the same time. To date, fewer than 20 people statewide have requested this service through DDTP. However, the DDTP AC does not advocate eliminating Three-Way Calling as a DDTP service, because some consumers may prefer using an interpreter whom they personally select. The DDTP AC, nonetheless, points out that Three-Way Calling places the following burdens on persons with speech disabilities:
  - "Voicers" are generally friends or relatives who understand the speech of the person making the call. The speech disabled caller needs to know the voicer's

- whereabouts and telephone number in order to add him/her onto the call. However, very likely, such voicers are not available 24 hours a day.
- The person assisting with the call may charge for his/her services, meaning that speech disabled callers would incur additional charges to make their telephone calls.
- Three way calling assumes that the speech disabled caller has access to an individual or individuals to perform this function.

**Projected Cost of MCI's Speech to Speech Service**

Speech to Speech was a "mandatory-optional" item in the DDTPAC's Invitation for Bid (IFB) for a new CRS provider. All bidders to provide CRS were required to bid a separate monthly price to provide Speech to Speech, although the decision to purchase of Speech to Speech under the CRS contract was strictly at the DDTP's option. Bidders were told that, if accepted, the bid price would remain constant for the full duration of the contract. The DDTP's decision to purchase would be predominately based on the reasonableness of the bids and on the vendor's compliance with all other applicable IFB requirements. If the DDTP elected to purchase Speech to Speech, it would be from the compliant vendor placing the lowest bid.

Bids to provide regular CRS and Speech to Speech were received from MCI, Sprint and AT&T Communications. All three of the potential vendors were found to be compliant with the IFB. Their monthly bid prices and estimated call volumes to provide Speech to Speech were:

<u>Vendor</u>	<u>Monthly Price</u>	<u>Number of Annual Estimated Calls</u>
AT&T	\$8,102	38,500
MCI	45,000	42,000 -48,000
Sprint	411,695	40,000.

The DDTPAC has provided Commission staff with an analysis of the cost reasonableness the bids, prepared by independent consultants, Hesse, Stobbe & Associates. In the opinion of the consultants "AT&T's price is too low (it is likely a mistake), MCI's is reasonable, and Sprint's is too high (either a mistake or a courtesy bid.)" The consultants Summarize that MCI's bid provides a reasonable first year profit and return on investment, considering that the bid is a fixed amount and therefore contains risk. The consultants note that, if call volume is higher than forecast, costs will increase, without a corresponding increase in revenue. Furthermore, because monthly revenue is fixed, MCI has no profit incentive to promote Speech to Speech. The important implication is that promotion of the service under the current contract will have to be done by the DDTP or others.

Since submitting its bid, A T &T has withdrawn from the process, leaving MCI the lowest cost compliant bidder. Accordingly, the DDTPAC requests authority to purchase Speech to Speech from MCI at its \$45,000 per month bid price. The DDTPAC requests the authority for one year with the flexibility to adjust the rate and method of payment at the conclusion of the year, based on call volumes experience<sup>4</sup>. The DDTPAC points out that the MCI bid is very reasonable, compared to the \$3.13 per session minute rate that is currently being paid to Sprint. The DDTPAC also points out that, by its analysis, MCI's bid to provide Speech to Speech equates to \$.667 per session minute, which is less than its winning bid of \$.669 per conversation minute for regular CRS calls. (Payment on the basis of conversation minutes results in fewer minutes billed.)

### The American's with Disabilities Act

Title IV of the Americans with Disabilities Act (ADA) states that telecommunications relay services must be available "to the extent possible, and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States." (Emphasis added.) The statute defines telecommunications relay services as:

Telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device. (Emphasis added.)

It is clear, that ADA applies to people with speech disabilities and, as such, their communication services must be functionally equivalent to those facilitating voice communication. The legislation only mentions TDDs, but it directs the establishment state and local government regulations that "encourage...the use of existing technology and do not discourage or impair the development of improved technology." Arguably, ADA encourages new methods of access to telecommunications services for disabled individuals and it does not support low level, one-size-fits-all solutions. The conceptualization of Speech to Speech Service came after ADA, but by this analysis, Speech to Speech is the type of "improved technology" that the ADA envisioned and would support.

The ADA was enacted by Congress in 1990, well after the California Legislature established Public Utilities Code 2881 in 1982 and the Commission created the CRS by Decision 86-02-042 in 1986. Although the CRS predates ADA, the DDTP and the

Commission have endeavored that the CRS should meet or exceed minimum ADA and Federal Communications Commission (FCC) requirements. The following are examples features in the CRS contract that exceed FCC mandatory minimum standards:

- Speed of Answer -The CRS contract requires an average daily answer time of 7 seconds. The FCC minimum standards require that 85% of all calls are answered within 10 seconds.
- Intercept Messages -The CRS contract requires the vendor to provide voice and TDD intercept messages if a system failure occurs within the relay switch or on outbound circuits. The FCC minimum standards do not require intercept messages.
- Toll Discounts -The CRS contract requires discounts on intrastate long distance and toll calls to compensate for longer call lengths of TDD calls. The FCC minimum standards require no discounts.
- Spanish-Speaking Operators -The CRS contract requires that operators fluent in Spanish must be available at all times to relay calls in Spanish. The FCC minimum standards do not require Spanish-speaking operators.

### **Staff Analysis and Recommendation**

Speech to Speech seems to be an example of improved technology for disabled persons that was envisioned by the ADA. It provides basic access to people who otherwise would not be able to make a telephone call, independently. Indications from the two California trials are that the service is technically and operationally feasible and that there are consumers for service. The limited size of the market should not be greatly relevant because, as the DDTPAC points out, other-CRS services serve similarly low number of users.

Staff supports the DDTPAC's request to offer Speech to Speech, but recognizes that it is a new concept-not offered anywhere else in the country .In general, staff is concerned that it not be institutionalized in California without comprehensive analysis. More specifically, staff questions the service standards, the program outreach, the sustainability of call volumes, the pricing efficiency and the suitability of technical alternatives. To that end, staff offers the following analysis and recommendations:

- Quality of Service: The Commission received numerous complaints about the quality of service provided during the second trial. The complaints centered on vendor deficiencies, such as inadequate agent training, lack of open lines and long answer times. Staff recommends that the DDTPAC be granted provisional authority to purchase Speech to Speech from MCI for one year because the results of the second trial are compromised to the extent poor service discouraged any consumer from using the service. Ordering Paragraph #7 in Res. T-15828 (DDTP 1996 Annual Budget) states the Commission's expectation that the DDTP AC will establish "standards" for measuring and monitoring the quality of services provided by the program." Staff recognizes that Speech to Speech is a new service, but believes there is enough

information now for rigorous service standards to be applied. Before the provisional period begins, the DDTPAC should delineate steps that ensure consistent high quality of service for Speech to Speech consumers. Staff recommends that the DDTP AC be directed to provide mid-year and end-of-year reports on the level of MCI's compliance with clear and enforced Speech to Speech Service standards. Staff also recommends that any request for a permanent offering of Speech to Speech should include rigorous service standards.

- Sustainability of Demand and Pricing Efficiency: Good measures of demand through the number of users and call volumes are needed to determine the appropriate budget, should there be a permanent offering of Speech to Speech. During the provisional one-year period, MCI should track and bill Speech to Speech calls on a monthly basis, separate from regular CRS billings. Staff recommends that the Commission adopt the DDTPAC's request to adjust the rate and method of payment at the conclusion of the year, based on call volumes experienced. Staff recommends, further, that the DDTP AC explore and advise the Commission on the feasibility of Speech to Speech vendors eventually being compensated on a usage based rate structure, rather than by the current fixed monthly payment.

- Program Outreach: A dedicated outreach effort is critical for Speech to Speech to be effective, because the service is specifically designed to provide access to people with little or no prior experience using the telephone network. Moreover, the DDTPAC consultants, Hesse, Stobbe & Associates had the important observation that, under the terms of the current CRS contract, the vendor of Speech to Speech has a disincentive to promote the service. Revenue to provide Speech to-Speech Service is a fixed monthly amount, but costs to provide the service will increase if call volumes increase thereby reducing profit. Staff recommends, therefore, that the DDTPAC prepare a proposal to provide Speech to Speech outreach as a program area within its administrative structure. The DDTP's proposal should include a budget and job specification(s) of appropriately qualified outreach staff. A complete outreach proposal should be provided to the Commission for review and approval no later than thirty days after the DDTP signs the contract with MCI to provide Speech to Speech. The Speech to Speech outreach program should be operable when provision of the service commences.

- Technical Alternatives: Speech to Speech has promising prospects. It is conceivable, however, that the intended access can be satisfied by alternative, less costly, high quality speech output communication systems. Staff recommends that the DDTP explore new and evolving technologies serving speech disabled people and determine their suitability and cost effectiveness, on a going forward basis. Staff recommends that this analysis be provided to the Commission as part of the DDTP's request to provide Speech to Speech as a permanent service.

## FINDINGS

1. The CRS is not accessible to people with speech disabilities who cannot type on a TDD. Speech to Speech Service provides basic access to the California telephone network for this portion of the speech-disabled population.
2. The DDTPAC and MCI have requested permission to offer Speech to Speech Service as a permanent feature of CRS.
3. The conservative estimate is that there are between 2,000 to 10,000 potential users of Speech to Speech.
4. Two trials of Speech to Speech Service have been conducted, one in November 1995 and the second for a four month period that concluded October 11, 1996. Preliminary analysis is that the service is technically and operationally feasible and there is a demand for the service.
5. The only other experience with Speech to Speech in the country was a trial conducted for the State of Missouri in October 1995. The Missouri Public Service considers its trial to have been unsuccessful and attributes the lack of success to poor constituent outreach.
6. Some of the services now offered through CRS generate relatively low call volumes and serve a limited number of users.
7. MCI's price to provide Speech to Speech is the lowest available through an open and competitive bidding process.
8. Title IV of the Americans With Disabilities Act (ADA) applies to speech disabled persons. The conceptualization of Speech to Speech Service came after ADA, but it is the type of improved technology that the legislation envisioned and would support.
9. Although CRS predates ADA, the DDTP and the Commission have endeavored that the CRS should meet or exceed minimum ADA and Federal Communications Commission (FCC) requirements.
10. Staff supports the DDTPAC's request to offer Speech to Speech, but recognizes that it is a new concept--not offered anywhere else in the country. Staff is concerned that it not be institutionalized in California without comprehensive analysis. More specifically, staff questions the service standards, the program outreach, the sustainability of call volumes, the pricing efficiency and the suitability of technical alternatives.
11. The Commission received numerous complaints about the quality of service during the second trial. A full evaluation of the second trial results has not occurred, however, the results may have been compromised by the poor quality of service provided during the trial.
12. Ordering Paragraph #7 in Res. T-15828 (DDTP 1996 Annual Budget) states the Commission's expectation that the DDTPAC will establish "standards for measuring and monitoring the quality of services provided by the program." Speech to Speech is a new service, but there is enough information now for rigorous service standards to be applied.

13. Good measures of demand through the number of users and call volumes are needed to determine the appropriate budget, should there be a permanent offering of Speech to Speech.
14. A dedicated outreach effort is critical for Speech to Speech to be effective, because the service is specifically designed to provide access to people with little or no prior experience using the telephone network.
15. Under the terms of the current CRS contract, there is a disincentive to promote the service.
16. Speech to Speech Service has promising prospects. It is conceivable, however, that the intended access can be satisfied by alternative, less costly, high quality speech output communications systems.

THEREFORE, IT IS ORDERED that:

1. The Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC) and MCI Communications (MCI) are granted provisional authority to modify their California Relay Service (CRS) contract to provide Speech to Speech at MCI's bid price.
2. The provisional authority shall be for one year commencing with the date MCI can begin offering the service.
3. MCI shall notify customers that it will provide Speech to Speech on a provisional one year basis under this Order and that a permanent offering of Speech to Speech Service is subject to the Commission's determination that the experiment was successful. The notice shall be in the form of a CRS bill insert to all subscribers sent approximately one month before Speech to Speech Service is operational. Individual notice shall be provided during this year to all new subscribers to CRS.
4. During this provisional year, MCI shall track and bill Speech to Speech calls on a monthly basis, separate from regular CRS billings.
5. Before the provisional period begins, the DDTPAC shall delineate steps that it will take to ensure that Speech to Speech consumers will receive consistently high quality of service. The DDTP AC shall provide the Commission with mid-year and end-of-year reports on the level of MCI's compliance with clear and enforced Speech to Speech Service standards. Any request for a permanent offering of Speech to Speech shall include rigorous service standards.
6. The DDTP AC shall prepare a proposal to provide Speech to Speech outreach as a program area within its administrative structure. A complete proposal including budget and job specification(s) of appropriately qualified outreach staff shall be provided to the Commission for review and approval, no later than thirty days after the CRS contract is modified to provide Speech to Speech. The Speech to Speech outreach program shall be operable when provision of the service commences.

7. The DDTP shall present its proposal for a permanent offering of Speech to Speech Service to the Commission no later than ninety days before the end of the MCI provisional service year.

8. The DDTPAC shall consider adjusting the rate and method of payment based on call volumes experienced during the provisional year of service. The DDTPAC shall also explore and advise the Commission on the feasibility of Speech to Speech being compensated on a usage based rate structure, rather than the current fixed monthly payment structure. A cost analysis shall be included in the DDTPAC's request for permanent provision of Speech to Speech Service.

9. The DDTPAC shall explore new and evolving technologies for serving speech disabled persons and shall determine their suitability and cost effectiveness on a going forward basis. This analysis shall be provided to the Commission as part of the DDTPAC's request to provide Speech to Speech on a permanent basis.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 25, 1996. The following Commissioners approved it:

P. GREGORY CONLON  
President  
JESSIE J. KNIGHT, Jr.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners

DANIEL Wm. FESSLER, being  
necessarily absent, did not participate.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division

RESOLUTION T-16031

Date: June 11, 1997

R E S O L U T I O N

RESOLUTION T-16031. TO AUGMENT THE DEAF AND DISABLED TELECOMMUNICATIONS EQUIPMENT AND SERVICE PROGRAMS (PUBLIC UTILITIES CODE SECTION 2881, ET SEQ.) 1997 ANNUAL BUDGET PURSUANT TO DECISION NO. 89-05-060 ON AN INTERIM BASIS.

BY SUPPLEMENTAL FILING ON MARCH 5, 1997 FOR BUDGET AUGMENTATION REQUEST.

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SUMMARY

This Resolution adopts on an interim basis a budget augmentation amount of \$2,915,990 to supplement the interim 1997 Program Budget amount of \$37,765,826 adopted by the Commission on April 9, 1997 in Resolution T-16017 for the Deaf and Disabled Telecommunications Equipment and Service Programs, pursuant to Public Utilities Code Section 2881, et seq. This adopted budget augmentation amount is to provide incentives for the remainder of the year (six months, July through December 1997) for the Deaf and Disabled Telecommunications Program Administrative Committee to attract other California Relay Service providers and possibly improve the service quality of California Relay Services. The adopted budget augmentation of \$2,915,990 is \$1,897,289 or approximately 39.4% less than the \$4,813,279 proposed by the Deaf and Disabled Telecommunications Program Administrative Committee.

BACKGROUND

In compliance with state legislation, the Commission implemented three telecommunications programs for California residents who are deaf, hearing impaired, and disabled:

- o Telecommunications Devices for the Deaf (TDDs) distribution, per Senate Bill (SB) 597 (Chapter 1142, 1979);
- o Dual Party Relay System, using a third-party intervention, to connect persons who are deaf, severely hearing impaired, or speech impaired with persons of normal hearing, per SB 244 (Chapter 741, 1983);
- o Supplemental Telecommunications Equipment for persons who are disabled, per SB 60 (Chapter 585, 1985).

These programs are all funded by the Deaf and Disabled Telecommunications Program (DDTP) Consolidated Budget (Program Budget).

Decision (D.) 89-05-060 (I.87-11-030) established that the annual Program Budget be submitted to the Executive Director and approved by a Commission resolution in accordance with the procedure discussed in the Decision.

On October 1, 1996, the Deaf and Disabled Telecommunications Program Administrative Committee (DDTPAC) filed the proposed 1997 Program Budget that totaled \$37,875,771. On April 9, 1997, the Commission adopted an interim 1997 Program Budget amount of \$37,765,826 (Resolution T-16017).

On March 5, 1997, the DDTPAC submitted a budget augmentation request of \$4,813,279 to increase the rate reimbursed to the current provider of the California Relay Service (CRS), to attract other CRS providers, and to possibly improve the quality of relay service. Resolution T-16017 did not consider this budget augmentation request when the 1997 Program Budget was adopted on an interim basis.

### **MASTER AGREEMENT**

Currently, the DDTPAC has a contract with MCI Telecommunications Corporation (MCI) to provide state-wide dual party telecommunications relay service. The terms and conditions of this contract are specified in an agreement, called the Master Agreement, between the DDTPAC and MCI. MCI is designated as the Primary Contractor with the responsibility of initiating the CRS on a state-wide basis. Other contractors, as alternative providers, may offer CRS under the same terms and conditions of the Master Agreement, but have not elected to do so. As the primary contractor, MCI is able to use the current CRS 800 numbers in its operations.

One of the terms in the Master Agreement is "Compensation". The primary contractor is reimbursed at \$0.699 per conversation minute for calls using MCI's relay service.<sup>1</sup>

Another term is the "Liquidated Damages For Failure To Meet Performance Requirements". There are two performance requirements:

- (1) Excessive Call Blockage: [t]he minimum standard is that no more than a daily average of 1% of all calls to CRS shall receive a busy signal. Liquidated damages are \$2,000 per day for each calendar day the blockage rate requirement is not met.
- (2) Excessive Time to Answer Calls: [t]he minimum standard is that calls to CRS be answered with an average daily answer time of 7 seconds, to assure that 85% of all calls are answered within 10 seconds. Liquidated damages are \$2,000 per day for each calendar day the answer time requirement is not met.<sup>2</sup>

Another term in the Master Agreement is the "Performance Monitoring". The DDTPAC or its duly authorized agent is allowed to monitor, at Contractor's expense, all such activities conducted by the Contractor pursuant to the terms of the Master Agreement. The monitoring may be done on MCI's "internal operating and management procedures, examination of program data, special analyses, on-site checking, or any other reasonable procedure."<sup>3</sup> MCI's main relay service center is located in Riverbank, California serving CRS users. It has also been using other relay service facilities outside of California available to handle Spanish to Spanish relay calls and overflow traffic from California relay users.

#### **NOTICE/PROTEST/COMMENTS**

On March 5, 1997, the DDTPAC mailed a copy of the 1997 Budget Augmentation Request to all parties of record in I.87-11-030. Only Sprint Communications Company L.P. (Sprint) filed comments that supported the budget augmentation request. No protests have been received on the Budget Augmentation Request.

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<sup>1</sup> Page 68 of Master Agreement between MCI and the DDTPAC.

<sup>2</sup> Id., page 75.

<sup>3</sup> Id., page 69.

## **BUDGET AUGMENTATION REQUEST**

On March 5, 1997, the DDTPAC requested that the Commission approve additional funds of \$4,813,270 to supplement its proposed 1997 total Program Budget amount of \$37,875,279. The DDTPAC submitted this separate request in order to address the poor quality of service offered by MCI. The DDTPAC asserts that the augmented budget should attract other CRS providers, thus improving service quality.

In 1996, MCI was selected as the primary provider of CRS by the DDTPAC through a competitive bidding process. On October 12, 1996, MCI began offering CRS after the contract with Sprint, the prior CRS service provider, expired. The DDTPAC indicates that MCI immediately started to receive consumer complaints relating to almost all aspect of CRS services including “operator typing, spelling and grammar skills, users’ inability to use various types of calling cards, users’ inability to use their carrier of choice. ... and incorrect billing for CRS calls.”<sup>4</sup>

The DDTPAC states that the number of complaints about MCI CRS service increased more than five fold, to 832 per month, compared with 146 per month for the previous CRS provider, Sprint.<sup>5</sup> Sprint’s complaint statistics were averaged over a 21-month period. It should be noted that, based on information provided by the DDTPAC, Sprint averaged about 194 complaints per month during the last twelve month period ending October 31, 1996.

The DDTPAC notes that it met with MCI to resolve these complaints. MCI has resolved some of these service problems, but the DDTPAC believes that an unacceptable level of complaints for poor quality of service continue. The DDTPAC has also hired an independent consultant to conduct performance monitoring of the CRS in order to evaluate “MCI’s operating procedures, training and testing procedures, and accuracy of

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<sup>4</sup> March 5, 1997 Budget Augmentation Request, page 3.

<sup>5</sup> Id., page 4.

relayed communications.”<sup>6</sup> This consultant’s report on compliance of MCI with its contractual requirements is expected to be completed by the end of June 1997.

In its Budget Augmentation Request, the DDTPAC proposed a remedy to resolve the current service problems by offering CRS users an opportunity to have other providers complete their CRS calls. The DDTPAC asserts that the “only way to attract providers” is “to increase the reimbursement rate paid to CRS providers above the current level of \$0.699 per conversation minute.”<sup>7</sup> The DDTPAC proposes to increase the reimbursement rate to \$0.89, which was the next lowest rate bid during the competitive bidding process. This new rate of \$0.89 would increase the cost of CRS by \$4,663,279 (SB 244 Telco Expense). Further, the DDTPAC requests an additional \$150,000 for its “administrative outreach budget to perform the statewide customer notice about the new CRS options.”<sup>8</sup> Therefore, the total amount requested by the DDTPAC in this supplemental filing is \$4,813,279.

## **DISCUSSION**

In this section we discuss the DDTPAC’s augmentation budget proposal. As indicated above, the DDTPAC proposes: (1) \$4,663,279 for CRS operations to increase the reimbursement rate paid to the current and new CRS providers; and (2) \$150,000 for statewide customer notification about the new CRS options.

### **CRS Providers**

The Commission is concerned with the continuing problems related to the quality of service during the transition period between different CRS providers, from Sprint to MCI. The Commission is aware of the continued CRS service problems with MCI. Even though the average number of complaints per day has decreased during the last reporting period, the number of complaints is still higher than the previous time period with Sprint. In the approval of the 1997 Program Budget (Resolution T-16017), the Commission directed MCI to initiate service improvements to improve the service quality for CRS

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<sup>6</sup> Id.

<sup>7</sup> Id., page 5.

<sup>8</sup> Id., page 5.

users. MCI has resolved some problems but an unacceptable level of complaints continues.

Besides this directive to MCI, the Commission is now approving a budget augmentation amount of \$2,915,990 for the rest of the year (six months) to provide an opportunity for CRS users to benefit from using other CRS providers. Because we are persuaded that alternative providers will not offer CRS at the contract rate of \$0.699 per conversation minute, we will approve an increased reimbursement rate, not to exceed \$0.89 from the current rate of \$0.699 per conversation minute, subject to the following conditions, discussed below. By limiting the new reimbursement rate to \$0.89 per conversation minute, we effectively eliminate the 5% incremental amount over the new reimbursement rate for those providers that relay less than 300,000 conversation minutes during the first twelve months of providing CRS service. The \$0.89 per conversation minute will apply irrespective of the volume of traffic each provider carries.<sup>9</sup> In addition, we will monitor the service quality of each CRS provider by requiring that the individual CRS providers file a monthly service report, as discussed below, with the Director of Telecommunications Division (TD).

### **Liquidated Damages**

Because of our continuing concern with service quality problems, CRS providers must comply with current service performance requirements as specified in the Master Agreement; however, the liquidated damages will be more than those specified in the Master Agreement, and will apply to those providers seeking the higher reimbursement rate of \$0.89. To change the liquidated damages in the Master Agreement, we authorize the DDTPAC as follows:

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<sup>9</sup> The DDTPAC's Augmentation Request of \$4,663,279 is budgeted for nine months (April through December 1997). We are approving a budget augmentation request amount of \$2,915,990 for six months (July through December 1997). The reduction of \$1,747,289 in budget augmentation request of \$4,663,279 reflects the adjustment of \$1,585,289 of the augmentation request for the time period of April through June 1997 and the adjustment of \$162,000 for the elimination of the 5% incremental increase over the new reimbursement rate of \$0.89

The DDTPAC may negotiate with providers to amend the CRS Master Agreement to raise the reimbursement rate above the level of the rate submitted by the lowest bidder in the original IFB process. The DDTPAC may negotiate an amended CRS Master Agreement that will include the revised liquidated damages set forth below, to be assessed against CRS providers for non-compliance with contract requirements. **If a provider does not agree to this modification, then it will not be eligible for the new reimbursement rate per conversation minute, as discussed herein.**

As mentioned previously, the current liquidated damages in the Master Agreement are \$2,000 for each calendar day of non-compliance with each service performance requirement. We believe the present liquidated damages are insufficient to encourage the current and future CRS providers to provide proper quality of service to their CRS users. Therefore, for those providers requesting the higher reimbursement rate of \$0.89, the Master Agreement should reflect the following liquidated damages:

- (1) The Liquidated Damage should be assessed on every relay center of each CRS service provider for the non-compliance of each service performance requirement. The service performance requirements, as stated on page 75 of the Master Agreement, are "excessive call blockage" and "excessive time to answer calls".
- (2) The Liquidated Damages should be modified from the current \$2,000 per day for each calendar day of non-compliance of each performance requirement to \$2,000 plus an incremental amount of 10% of the additional amount in gross revenue collected between the new reimbursement rate of \$0.89 per conversation minute and the current rate of \$0.699 for the first day of non-compliance of each performance requirement.
- (3) For each additional day of continuous non-compliance of each performance requirement at every relay service center of each CRS provider, the incremental 10% amount (plus the initial \$2,000) will be increased by an amount of 10% of the incremental gross revenues collected per day between the two rates.
- (4) After ten days of continuous non-compliance of each performance requirement, the fine will increase to a maximum of 100% of incremental gross revenue collected per day between the two rates (plus the initial \$2,000 per day).
- (5) Thereafter, for each additional day after the tenth day of continuous non-compliance of each performance requirement for every relay center of each CRS provider, the liquidated damages will be \$2,000 plus 100% of incremental revenues collected per day between the two rates.
- (6) A waiver period of four months from the new liquidated damages is granted to the new alternative CRS providers to allow these providers to bring the quality of CRS up to meet contractual requirements. These alternative providers will pay a flat \$2,000 per day for each calendar day

for non-compliance of each service performance requirement specified in the Master Agreement for the first four months of the contract. After the initial waiver period, the new liquidated damages will apply to these alternative CRS providers.

- (7) The DDTPAC will have the latitude to negotiate for each alternative CRS provider the date on which the revised Liquidated Damages provisions, including the four-month waiver period, will begin to apply. For each alternative provider, that date shall be no later than the date on which the provider begins offering relay services to customers.
- (8) In no event, the total incremental liquidated damages per day for non-compliance of both performance requirements will not exceed the incremental revenues collected by the offending provider.

To illustrate how the revised Liquidated Damages provisions would be used, we offer a hypothetical example. Assuming that MCI handles a volume of 49,187 conversation minutes per day (based upon 70% of the total conversation minutes per day), the liquidated damages at the new reimbursement rate will be \$2,000 plus approximately \$940 for the first day of non-compliance of a performance requirement. The incremental amount is calculated at 10% of incremental gross revenue of \$9,395 collected per day, between the new reimbursement rate and the current rate. For each additional day of continuous non-compliance, the liquidated damages would increase by an incremental amount of approximately \$940 per day for each consecutive day for the same infraction, to a maximum of \$9,400 (plus the initial \$2,000) per day on the tenth day. Thereafter, for each additional day of non-compliance, the total liquidated damage amount would remain at \$11,400 (\$2,000 plus \$9,400) per day until compliance is met.

#### **Customer Base List**

It is the responsibility of the DDTP to monitor the effectiveness of the relay services. For example, the Commission expects the DDTP periodically to assess, through customer surveys, the quality of CRS service offered by contracting carriers. To that end, all providers of CRS services do so with the understanding that subscriber list information, to the extent the CRS provider(s) collect and maintain this data, must be made available to the Commission. The Commission requires only the following

subscriber list information: the customer's name, address, and telephone number.<sup>10</sup> Such information shall be provided, at no charge, to the Commission upon the request of the Commission staff, or upon termination of the Master Agreement contract.

### **Service Monitoring Reports**

In Resolution T-16017, the Commission required that MCI file with the Director of the TD a monthly report listing the number of complaints received during the month along with the type of complaint in a format determined by TD. Any new alternative CRS providers would have to provide a similar report within 30 days after the end of each reportable month. Those reports are to be furnished separately for each relay service center and for total CRS operations.

All CRS providers would have to file with the Director of TD an emergency plan to address quality of service in case of natural disaster and unexpected or unplanned volume of traffic by CRS users. This plan would have to be filed with the Director of the TD, within 90 days after signing the amended Master Agreement.

### **Statewide Customer Notification**

The Commission is concerned with CRS reimbursement will subsidize the marketing efforts of each utility who sell basic service to DDTP customers. As discussed in the Resolution T-16017, which approved the interim 1997 Program Budget, we did not allow the CRS Specialists to do outreach strictly for CRS. Therefore, to be consistent with the Commission policy that the marketing efforts of CRS should be the responsibility of CRS provider(s), we will not approve the additional \$150,000, as requested in the budget augmentation, to inform the CRS users about the new service provider(s). We do not believe that the DDTP program should subsidize the marketing efforts of new service provider(s), who will be able to market relay services to their customers. Furthermore, we believe that the increase in the reimbursement rate for providing relay services, as discussed above, should compensate CRS providers for outreach necessary to market CRS.

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<sup>10</sup> The Commission distinguishes here between the subscriber list information, as defined in Section 222 (f)(3)(A) of the 1996 Federal Telecommunications Act, and the customer proprietary network information (CPNI), as defined in Section 222(f)(1)(A).

## **CONCLUSIONS**

Based upon the above discussion, we will adopt an interim supplement budget amount of \$2,915,990 by increasing the reimbursement rate to \$0.89 per conversation minute which we anticipate will attract other CRS providers and possibly improve the service to CRS users. The DDTPAC will file the amended Master Agreement with the Commission's Executive Director for approval for those CRS providers that will be billing at the new reimbursement rate of \$0.89 per conversation minute. The Commission's Executive Director should approve in writing the amended Master Agreement within fifteen days of filing such agreement by the DDTPAC. Any provider which offers relay service at the reimbursement rate of \$0.699 per conversation minute will be subject to the terms and conditions contained in the Master Agreement, not those contained in the amended Master Agreement.

The DDTPAC anticipates that its independent consultant's report evaluating MCI CRS operations will be issued by the end of June, 1997. The DDTPAC will provide to the Commission's Executive Director the draft copy and the final copy of the consultant's report, and should submit its evaluation of the final report within 30 days of issuance of that report.

We believe that CRS operations may improve as a result of this consultant's study and the inclusion of additional CRS providers. Given that the consultant's report is expected to be issued by the end of June 1997, we believe that adoption of the 1997 supplement Program Budget amount of \$2,915,990 should be on an interim basis to provide us the opportunity to further adjust, if needed, the overall 1997 Program Budget during the course of 1997.

## **CHANGE IN SURCHARGE LEVEL**

Section 2881 (f) of the Public Utilities Code places a cap on the fund balance that should not exceed six months of expected spending requirements. We examined the present fund balance of the DDTP along with the interim approval of the 1997 Program Budget and subsequent augmentation budget amount. We noticed that the funding

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balance will exceed the six months expense requirement if the current surcharge is maintained for the remainder of the year and the interim 1997 Program Budget and supplement augmentation budget are incorporated into DDTP operations. To eliminate the surplus fund balance, the surcharge should be reduced to 0.296% from the present surcharge of 0.36%. However, as discussed in Resolution T-16017, we expect future changes to the 1997 Program Budget that may further change the surcharge requirement. To minimize customer confusion relating to possible future change, we would not change the surcharge factor at this time. We will revisit this issue after the submission of the consultant report on MCI's CRS operation, implementation of recommendations from the management audit report, and possible cost savings resulting from improved efficiencies in DDTP operations as a result of implementation of Commission orders listed in Resolution T-16017.

### **FINDINGS**

1. The DDTPAC requested a budget augmentation of \$4,813,279. This additional amount would be used to increase the rate reimbursed to attract new providers of CRS, and possibly improve the quality of relay service.
2. The DDTPAC's budget augmentation request consists of \$4,663,279 to increase the reimbursement rate for eight months and \$150,000 for statewide customer notification of the new CRS options.
3. The adopted 1997 Program Budget in Resolution T-16017 did not consider the budget augmentation request.
4. No party protested the DDTPAC's budget augmentation request. Sprint filed comments supporting the request.
5. MCI began to provide CRS on October 12, 1996 after the contract with the prior provider, Sprint, expired.
6. The DDTPAC indicates that complaints with MCI's CRS services ranged from grammar mistakes to users' inability to use their carrier of choice. The number of complaints with MCI increased to 832 per month from 146 per month with the previous CRS provider.

7. The DDTPAC has met with MCI but complaints of poor service continue.
8. The DDTPAC has hired a consultant to conduct performance monitoring of MCI's CRS operations. This consultant's report is expected to be issued by the end of June 1997. The DDTPAC will provide to the Commission's Executive Director the draft copy and the final copy of that report, and its evaluation of the final report within 30 days of issuance of that report.
9. The budget augmentation amount of \$2,915,990 for the remaining six months of the year, should be approved to provide an opportunity for CRS users to have the benefits of using other CRS providers.
10. Subscriber list information of DDTP customers under the control or possession of CRS providers should be made available to the Commission upon request, or upon the termination of the Master Agreement.
11. The DDTPAC should negotiate with CRS providers an amended Master Agreement relating to the reimbursement rate, not to exceed \$0.89 per conversation minute, and liquidated damages as discussed on pages 6 through 8 of this resolution. We will limit the increase in the new reimbursement rate to \$0.89 per conversation minute, irrespective of the volume of traffic each provider carries.
12. The approval of the additional budget amount should be subject to the condition that the liquidated damages, as discussed on pages 6 through 8 of this resolution, be changed for every relay center of each CRS provider who will be claiming the reimbursement rate at \$0.89 per conversation minute. In no event, the total incremental liquidated damages per day for non-compliance of both performance requirements should not exceed the incremental revenues collected per day by the offending provider.
13. The new liquidated damages should be waived for the first four months of the contract period for new alternative providers. During the initial waiver period of the contract, these alternative providers will pay a flat \$2,000 per day for each calendar day for non-compliance of each service performance specified in the Master Agreement.
14. The DDTP should not subsidize the marketing efforts of each utility that sells basic service to DDTP customers. The amount of \$150,000 for statewide customer notice is not approved as part of the budget augmentation request.
15. The increase in reimbursement rate for providing relay services should compensate CRS providers for outreach necessary to market CRS.

16. The new alternative providers should file with the Director of Telecommunications Division a monthly service report similar to the one that MCI is to file monthly for its CRS as discussed in Resolution T-16017.

17. All providers should file with the Director of Telecommunications Division an emergency plan to take care of quality of service in case of natural disaster and unexpected or unplanned traffic volume by CRS users.

18. The 1997 Supplement Program Budget should be on an interim basis as we will be examining the consultant report on performance monitoring of MCI's CRS operations and other items mentioned in Resolution T-16017.

19. The surcharge rate of 0.36% should not be changed at the present time.

**THEREFORE, IT IS ORDERED that:**

1. The interim 1997 Program Budget shall be augmented by \$2,915,990 to provide incentive to DDTPAC to attract other CRS providers, increase the reimbursement rate not to exceed \$0.89 per conversation minute, and possibly improve the service quality of CRS. The supplemental adjustment is adopted on an interim basis subject to further Commission action during 1997.
2. The DDTPAC is authorized to negotiate an amended Master Agreement relating to compensation and liquidated damages items under the terms and conditions discussed on pages 6 through 8 of this resolution.
3. We will authorize this augmentation request to provide an opportunity for CRS users to have the benefits of using other CRS providers. The approval of the additional budget amount and the increase in reimbursement rate, not to exceed \$0.89 per conversation minute for CRS shall be subject to the condition that the liquidation damages, as discussed on pages 6 through 8 of this resolution, incorporated in the amended Master Agreement.
4. The DDTPAC shall file with the Commission's Executive Director its amended Master Agreement for those CRS providers that will be billing at a new reimbursement rate. The Commission's Executive Director shall approve in writing the amended Master Agreement within fifteen days of filing such agreement by the DDTPAC.
5. We will not approve the additional \$150,000, as requested by DDTPAC in its budget augmentation, for statewide outreach to inform the CRS users about the new service provider(s). The DDTP program shall not subsidize the marketing efforts of new service providers, who will be able to market their services to the CRS users.

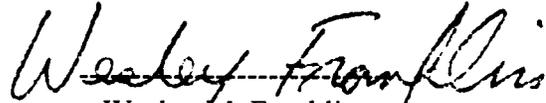
6. The DDTPAC shall file with the Commission's Executive Director a copy of the consultant's draft and final reports on performance monitoring of MCI's CRS operations. Further, DDTPAC shall submit its evaluation of the consultant's final report. Both of these items shall be filed within 30 days from the issuance of the consultant's final reports, respectively.

7. The new alternative providers shall file with the Director of Telecommunications Division a monthly service report similar to the one that MCI is to file for its CRS as required by Resolution T-16017.

8. All providers shall file with the Director of Telecommunications Division, within 90 days after signing the Master Agreement, an emergency plan to take care of quality of service in case of natural disaster and unexpected or unplanned increase in traffic volume by CRS users.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 11, 1997. The following Commissioners approved it.



Wesley M. Franklin  
Executive Director

P. GREGORY CONLON  
President  
JESSIE J. KNIGHT, Jr.  
HENRY M. DUQUE  
RICHARD A. BILAS  
Commissioners

I dissent.

/s/ JOSIAH L. NEEPER  
Commissioner