

April 21, 2005

Jane Gay
Director
Iowa Program for Assistive Technology/Iowa COMPASS
Center for Disabilities and Development
100 Hawkins Drive, Room S295
Iowa City, Iowa 52242-1011

RE: End of the Telecom Project

Dear Ms. Gay:

We are writing to let you know that the Telecommunications Equipment Distribution Systems Reform Project (Telecom Project) has come to an end, and to provide you with a summary of our activities and a project history.

As you know, Telecommunications Access Iowa is the Iowa Utilities Board program that issues vouchers to help individuals who are deaf, hard of hearing, deaf and blind, or speech impaired buy special phone equipment. The Clinical Law Program has spent five years trying to convince the Board and the state legislature to extend program eligibility to Iowans who have difficulty using a standard phone because of motor, mobility, cognitive or other communications impairments. Coming into this semester, we understood that the Spring 2005 General Assembly session would be our final attempt to establish a core plus program in Iowa. Yet we were optimistic about the success of the project and made every effort to generate support from legislators, constituents, and disability advocacy groups.

The phone companies were interested only in forcing wireless carriers to contribute to the Dual Party Relay Assessment, which pays for TAI and Relay Iowa. They convinced the Senate and House commerce committees to sponsor bills that would subject the wireless companies to the annual assessment. We seized this opportunity and proposed an amendment to mandate that TAI provide adaptive equipment vouchers to persons not currently served by the program. Telecom lobbyists vigorously opposed the amendment.

Facing opposition from the telecommunications industry, we knew we needed strong grassroots support to persuade legislators that expanding program eligibility was necessary and beneficial. In the end, despite numerous visits to Des Moines, phone calls,

call-to-arms letters and emails, fact sheets, personal contacts and other efforts, we were not able to garner adequate support, enthusiasm or votes for the amendment. That brought a close all project activities. A brief history and chronicle of the project are provided in the following sections.

Research and Reporting Phase: 2000-2002

The project dates back to the year 2000, when IPAT and the Board asked the Clinical Law Program to examine and review equipment distribution programs that operate in Iowa and in other states. The goal was to explore how TAI could provide adaptive telephone equipment to persons whose communications impairments were not covered under existing law and regulations. From 2000 until 2002, we researched the possibility of expanding TAI eligibility and compared state programs to determine the need, costs, and various possibilities for enhancing TAI. The research phase culminated in 2002 with the publication of our comprehensive report entitled, "Calling on the Iowa Utilities Board to Improve Access for Persons with Disabilities." The Report, Executive Summary and cost projections were presented to the Board, distributed nationwide in alternate formats and posted on the Internet.

Iowa Utilities Board Phase: 2002

The initial goal was to convince the Board to extend eligibility to this new customer base on a trial or ongoing basis using the administrative rulemaking process. The Board rejected that option, convinced that the enabling statute had to be amended first. An attempt was made to persuade the Board to file or endorse legislation to remedy the problem. The Board conducted a public hearing but was unable to reach a consensus on how to fund an adaptive devices program. As a result, the three-member Board decided not to take any action.

Legislative Phase I: 2003-2004

In 2003, encouraged by the disability community, we drafted bills that were filed in the Senate and the House. Senate File 244 was met with sharp resistance by the telephone companies and did not make it out of subcommittee. House File 431 was never assigned to a subcommittee. The Board recommended that we revise the bill's language to harmonize state and federal law and terminology concerning the dual party relay service. We did so and also updated our cost projections, fact sheets and other materials well in advance of the 2004 General Assembly session.

In 2004, Senator Joe Bolkcom and Representative Kraig Paulsen sponsored and championed Senate File 2072 and House File 2300, which included all changes suggested by the Board. Once again, the bills encountered fierce resistance from telephone companies large and small. Neither bill made it out of committee, despite our best attempts to persuade lawmakers that a core plus program would be inexpensive and cost-effective to start and operate. After HF 2300 died, Representative Kraig Paulsen was

able to tack our proposal onto HF 2576, a Ways and Means Committee Bill to establish a news and information service program within the Department for the Blind. This novel strategy drew the attention and ire of phone company lobbyists, but ultimately proved to be unsuccessful.

The primary obstacle to success in 2003 and 2004 was the stiff opposition from telephone companies, who did not want to pay for TAI at all, let alone foot the bill for an expanded program. Industry lobbyists promised to file a bill amending Iowa Code Chapter 477C to require wireless companies to contribute to the dual party assessment fund.

Representative Libby Jacobs and other lawmakers urged us to rethink our approach and ask the private sector, including wireless or other telecommunications companies, to run and fund an adaptive devices program exclusively for persons not covered by TAI.

Private Sector Phase: 2004

At the suggestion of Libby Jacobs, previous Student Legal Interns investigated companies doing business in Iowa that might be interested or involved in assistive or phone technology. Team members conducted market research and spoke with executives from several organizations. In late December, they met with representatives from U.S. Cellular to discuss the business case for U.S. Cellular teaming up with Verizon and other companies to develop an adaptive devices program in Iowa. We furnished them with data, cost projections and other information about TAI and the programs wireless companies operate in New York and other states. Everyone agreed that running separate programs for core and core plus customers would double the costs and administration, duplicate services and make little sense. Brad Stein of U.S. Cellular suggested that we, or a third party vendor such as Sound Clarity, Inc., apply to their private foundations for seed/grant funds for a pilot project. Libby Jacobs also recommended we take that approach.

Brad Stein told us that wireless and phone companies were brokering a deal and a bill to require wireless companies to contribute to the dual party assessment. We saw this as an opportunity to establish a core plus program by amending the funding bill.

Legislative Phase II: 2005

The project was at a critical, and what proved to be a final, juncture this semester. The General Assembly convened on January 10, 2005, which was also the first day of our clinical semester. John, Jordan, and I began by familiarizing ourselves with the history and files of the project, including the complete research report, cost projections, fact sheets and information obtained from equipment distribution programs in other states. We contacted Senator Bolkcom, Representative Paulsen and other bill sponsors and lawmakers. We also kept in touch with lobbyists and representatives from the telecom industry, the Board, and disability advocacy organizations and agencies, and monitored the negotiations between the telephone and wireless companies.

Late in January, SSB 1047 (later SF 264) was introduced before the Senate Commerce Committee and assigned to a subcommittee of Senators Angelo, Bolkcom, Courtney, and Kettering. We prepared for the subcommittee meeting by updating our cost projections and fact sheets and estimated that an expanded TAI voucher program would cost an additional \$30,000 annually and serve an additional 96 customers.

The Senate: We attended the Senate Commerce subcommittee meeting and fielded questions from lawmakers and lobbyists regarding our amendment; how many new customers would be served, what types of equipment these customers would use and how much the equipment would cost, how TAI would certify customers to prevent fraud, and how much the amendment would cost phone companies. The meeting was informal. We were able to answer all of their questions and concerns. Predictably, the telephone and wireless companies were opposed to paying any more money to serve current or new customers. Overall, the meeting went well in that it generated interest and discussion about expanding the program. The presence of Senator Bolkcom at the meeting was definitely a benefit. He introduced us and kept directing the discussion back to our amendment.

The House: The companion bill was introduced before the House Commerce, Regulation, and Labor Committee and assigned to a subcommittee of Representatives May, Watts, and Wise. We prepared for that subcommittee meeting by revising our fact sheets and cost projections to address concerns. Jordan, John and I also called and mailed letters and fact sheets to committee members. In contrast to our experience in the Senate, this subcommittee meeting was formal and less conversational and drew a standing-room-only crowd. The funding bill took center stage and dominated the discussion, even though we defended and explained the amendment and the importance of a core plus program. The subcommittee did not accept or back the amendment and we decided to forgo any further efforts in House and focus exclusively on the Senate.

Back to the Senate: The news in the Senate was not much better. Subcommittee members did not support the amendment; some members were opposed philosophically to having taxpayers or phone companies pay for special phone equipment, others were opposed to big government and still others wanted wireless companies to first pay their fair share of the existing TAI program. To counter some of the opposition, we considered amending the bill to give the Board discretion to start a core plus program, but not require it to do so, and to use \$30,000 from the General Fund to pay for the core plus program. The budget deficit exceeds \$220 million and the likelihood of success for either option was minimal. Senator Bolkcom once again offered to pitch these proposals, however, at this point, we decided to pull the plug on the Telecom project.

On the Bright Side

Although we were unable to expand TAI eligibility or establish an adaptive devices program in Iowa, advocates and agencies have successfully used our research to expand

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coverage or enhance programs in other states. It is somewhat ironic that the number of TAI customers has nearly doubled since we began our campaign to establish an adaptive device voucher program here. People with hearing and speech impairments have reaped the benefits of our activities and the publicity generated by our report, Board hearings and the years of grassroots and legislative advocacy. In addition, other members of the public are now much more aware of the use and importance of assistive technology.

John, Jordan, and I enjoyed working on the project this semester and are grateful for the opportunity. It was a pleasure working with you and we appreciate your support and involvement this semester and throughout the history of the project.

Sincerely,

Jordan Esbrook
Student Legal Intern

John Koeshadi
Student Legal Intern

Mike Cummings
Student Legal Intern