

STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



OFFICE OF FEDERAL &
LEGISLATIVE LIAISON
CINDY B. MILLER
DIRECTOR
(850) 413-6800

Public Service Commission

October 8, 2004

VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: CG Docket No. 03-123, Telecommunications Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Video Relay Services

Dear Ms. Dortch:

Forwarded herewith are comments of the Florida Public Service Commission in the above docket with regard to telecommunications relay service.

Rick Moses at (850) 413-6582 is the primary staff contact on these comments.

Sincerely,

/ s /

Cindy B. Miller
Director

CBM:tf

cc: Honorable Michael K. Powell, Chairman
Honorable Kathleen Q. Abernathy
Honorable Michael J. Copps
Honorable Kevin J. Martin
Honorable Jonathan S. Adelstein
Brad Ramsay, NARUC

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for)	
Individuals with Hearing and Speech Disabilities)	
Video Relay Services)	

**COMMENTS OF THE
FLORIDA PUBLIC SERVICE COMMISSION
IN RESPONSE TO THE FEDERAL COMMUNICATIONS COMMISSION'S
FURTHER NOTICE OF PROPOSED RULE MAKING
REGARDING TELECOMMUNICATIONS RELAY SERVICES**

CHAIRMAN BRAULIO L. BAEZ

COMMISSIONER J. TERRY DEASON

COMMISSIONER LILA A. JABER

COMMISSIONER RUDOLPH "RUDY" BRADLEY

COMMISSIONER CHARLES M. DAVIDSON

Introduction

The Florida Public Service Commission (FPSC) submits these comments in response to the Federal Communications Commission's (FCC's) Report and Order, Order on Reconsideration, and Further Notice of Proposed Rule Making (FNPRM) in CG Docket No. 03-123, released on June 30, 2004. The FPSC has concerns with the proposed rule in terms of the financial impact on the state relay service program and possible statutory conflicts.

The proposed cost recovery method conflicts with Florida Statutes

Florida's ability to provide Telecommunications Relay Service (TRS) under its current state statutes could be adversely impacted if the FCC requires the states to fund the intrastate portion of Video Relay Services (VRS) and Internet Protocol (IP) Relay. Currently, the Florida law has a cap of \$0.25 per line per month on the surcharge for TRS.

Section 427.704(4)(a)(1.), Florida Statutes, states:

[The commission shall] require all local exchange telecommunications companies to impose a monthly surcharge on all local exchange telecommunications company subscribers on an individual access line basis, except that such surcharges shall not be imposed upon more than 25 basic telecommunications access lines per account bill rendered.

Section 427.704(4)(b), Florida Statutes, further states:

[The commission shall] determine the amount of the surcharge based upon the amount of funding necessary to accomplish the purposes of this act and provide the services on an ongoing basis; however, in no case shall the amount exceed 25 cents per line per month.

The current TRS surcharge in Florida is \$0.15 per access line which is used to fund the traditional TRS and equipment distribution system. VRS is an expensive service to provide. The compensation rate for VRS is currently set at \$7.293 per minute.¹ Should the FCC mandate that states

¹FCC, *Order*, Adopted June 30, 2004, (DA 04-1999) at ¶ 53.

pay for the intrastate portion of VRS and IP Relay service, under its current statute, Florida would possibly experience a financial shortfall in relay surcharge revenue. Florida's TRS surcharge rate cap limits its ability to collect additional revenue. The FPSC believes that VRS and IP Relay should continue to be funded by the National Exchange Carrier Association, Inc. (NECA).

IP Relay Fraud

The FPSC is concerned about the states funding IP Relay and incurring unnecessary expenses due to fraud. IP Relay is sometimes being utilized by international users to purchase merchandise from businesses in the United States using fraudulent forms of payment.² Because IP Relay calls are routed over the Internet and originate in a foreign country, it is difficult to determine the originating location and block the calls. Sprint, Florida's contracted TRS provider, indicated that it is able to block the domain address of an international fraudulent call once the source is determined, but the calls are then initiated again from a different domain address. The fraudulent calls last longer than legitimate calls and significantly increase the call volume, and consequently, the expense. Florida's jurisdiction is limited to intrastate calls which makes it difficult for Florida to correct the occurrence of international IP Relay fraud. If the states are required to pay for IP Relay using the percentage of traffic allocation method, the states might also be paying for a percentage of fraudulent international calls.

Since it is difficult at best to determine jurisdictional separation of IP Relay calls, the FPSC believes the best method of providing IP Relay service is to continue funding through the NECA fund.

² MSNBC.com, *Con artists target phone system for deaf*, Bob Sullivan, April 20, 2004.

The potential impact on competition in Florida

Competition in Florida between providers of VRS and IP Relay may be diminished if the FCC mandates that VRS and IP Relay become required services of TRS in order to meet the FCC state certification requirements.

Section 427.704(1), Florida Statutes, in part states:

The commission shall establish, implement, promote, and oversee the administration of a statewide telecommunications access system to provide access to telecommunications relay services by persons who are hearing impaired or speech impaired, or others who communicate with them. The telecommunications access system shall provide for the purchase and distribution of specialized telecommunications devices and the establishment of statewide single provider telecommunications relay service system which operates continuously. . . .[emphasis added]

Should the FCC mandate that VRS and IP Relay become part of TRS, Florida would have only one contracted provider pursuant to its current statute. Therefore, inclusion of VRS and IP Relay in Florida's TRS contract could possibly eliminate competition for these services in Florida because there would not be a funding mechanism for the intrastate portion of the service for any provider other than the one under contract with the FPSC. To this end, the FPSC urges the FCC to not include VRS and IP Relay as mandatory services of TRS.

Alternatively, should the FCC include VRS and IP Relay as mandatory services of TRS or order that the states shall fund the intrastate portion of TRS and/or IP Relay, the FPSC requests that the FCC provide a waiver provision in the rule for states that have statutory conflicts with the proposed rule.

Conclusion

In conclusion, the FPSC believes that VRS and IP Relay should not be included as mandatory relay services and these services should continue to be funded by NECA. While VRS and IP Relay

are of value to relay users, the FPSC has concerns about the cost of providing VRS and the possible fraud associated with IP Relay. The added expense of including VRS and IP Relay as required relay services will possibly exceed the revenue Florida receives under its statutory rate cap for the relay surcharge. Further, the FPSC is concerned that the proposed FCC requirement may present competitive hurdles for relay service in Florida. The FPSC requests that the FCC provide a waiver provision in the rule for states that have statutory conflicts with the proposed rule if the FCC includes VRS and IP Relay as mandatory services of TRS or orders that the states shall fund the intrastate portion of VRS and/or IP Relay.

Respectfully submitted,

CHAIRMAN BRAULIO L. BAEZ

COMMISSIONER J. TERRY DEASON

COMMISSIONER LILA A. JABER

COMMISSIONER RUDOLPH "RUDY" BRADLEY

COMMISSIONER CHARLES M. DAVIDSON

DATED: October 8, 2004