

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for submission of proposals for relay service, beginning in June 2015, for the deaf, hard of hearing, deaf/blind, or speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

DOCKET NO. 110013-TP
ORDER NO. PSC-14-0252-PAA-TP
ISSUED: May 22, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING FLORIDA TELECOMMUNICATIONS RELAY, INC.'S 2014/2015
BUDGET AND MAINTAINING \$0.11 SURCHARGE PER MONTH FOR
TELECOMMUNICATION RELAY SERVICES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Background

The Florida Relay System provides deaf and hard of hearing persons access to basic telecommunications services by using a specialized Communications Assistant that relays information between the deaf or hard of hearing person and the other party to the call. The primary function of the Florida Relay System is accomplished by the deaf or hard of hearing person using a Telecommunications Device for the Deaf where the person using the Telecommunications Device for the Deaf types a message to the Communications Assistant who in turn voices the message to the other party, or a Captioned Telephone which displays real-time captions of the conversation.

The Telecommunications Access System Act of 1991 established a statewide telecommunications relay system which became effective May 24, 1991. The Telecommunications Access System Act (TASA) is authorized under Chapter 427, Florida

Statutes. Section 427.701(1), Florida Statutes, provides that we shall establish, implement, promote, and oversee the administration of the statewide telecommunications access system to provide access to telecommunications relay services by persons who are deaf, hard of hearing or speech impaired, or others who communicate with them. It is estimated that 3 million of the estimated 19 million persons living in Florida have been diagnosed as having hearing loss. This system provides telecommunications service for deaf or hard of hearing persons functionally equivalent to the service provided to hearing persons.

TASA provides funding for the distribution of specialized telecommunications devices and provision of intrastate relay service through the imposition of a surcharge of up to \$0.25 per landline access line per month. Accounts with over 25 access lines are billed for only 25 lines. Pursuant to Section 427.704(4)(a)1, Florida Statutes, a surcharge is collected only from landline access lines.¹

We selected Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by the local exchange telephone companies, to serve as the TASA Administrator. On July 1, 1991, the local exchange telecommunications companies began collecting an initial \$.05 per access line surcharge pursuant to Order No. 24581. Since that time, the surcharge has changed to reflect budgetary needs, but has been maintained at \$0.11 per month since June 2007.

We are vested with jurisdiction over these matters pursuant to Chapter 427, Florida Statutes.

II. Analysis

Minutes of use for traditional Telecommunications Relay Service (TRS) have been declining. AT&T's projections indicate that the traditional minutes will continue to decline during the 2014/2015 fiscal year. Specifically, AT&T projects that TRS minutes of use will decline from 69,679 in July 2014, to 57,505 in June 2015. Traditional relay users are transitioning to the more efficient technologies of Internet Protocol Relay,² Video Relay Service (VRS),³ Captioned Telephone Service,⁴ Internet Protocol Captioned Telephone Service,⁵

¹ FTRI projects a 3.2 percent decrease in landline access lines subject to the relay surcharge for the budget year 2014/2015.

² IP Relay allows people who have difficulty hearing or speaking to communicate through an Internet connection using a computer and the Internet, rather than a TTY and a telephone.

³ VRS is a form of TRS that enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a TRS operator so that the VRS user and the operator can see and communicate with each other in signed conversation. Because the conversation between the VRS user and the operator flows much more quickly than with a text-based TRS call, VRS has become a popular form of TRS.

⁴ A telephone that displays real-time captions of a conversation. The captions are typically displayed on a screen embedded into the telephone base.

⁵ IP captioned telephone service allows the user to simultaneously listen to, and read the text of, what the other party in a telephone conversation has said, where the connection carrying the captions between the service and the user is via an IP addressed and routed link.

Internet Protocol Speech to Speech service,⁶ and Blackberry or Palm wireless devices. The traditional TRS cost as approved in AT&T's contract remains at \$0.76 per session minute.

CapTel Service

CapTel service uses a specialized telephone that provides captioning of the incoming call for a deaf or hard of hearing person. AT&T's projections show that CapTel minutes of use will also decrease during the 2014/2015 fiscal year. Specifically, AT&T projects that CapTel minutes of use will decline from 166,484 in July 2014, to 160,305 in June 2015. The CapTel cost as approved in the AT&T contract remains at \$1.47 per session minute.

FTRI Budget

FTRI's proposed 2014/2015 fiscal year budget was reviewed and adopted by the FTRI Board of Directors on March 10, 2014, prior to filing with this Commission. Our staff sent a data request to FTRI on a number of issues included in its proposed budget. FTRI's responses were filed April 15, 2014, and are included in the docket file.

The proposed budget includes a decrease in expenses of approximately \$1,873,593 from the 2013/2014 Commission-approved budget.⁷ The 2014/2015 budget projects total operating revenues to be \$8,528,177 and total expenses to be \$8,236,702. FTRI believes the Telecommunications Relay surcharge can remain at \$0.11 per access line for the 2014/2015 fiscal year.

AT&T's estimated fiscal year 2014/2015 traditional Telecommunications Relay surcharge minutes of use are 758,792 at a rate of \$0.76 per minute for a total of \$576,682. AT&T's estimated CapTel minutes of use for fiscal year 2014/2015 are 1,964,401 at a rate of \$1.47 per minute for a total of \$2,887,669.

Based on an analysis of the proposed budget, we believe FTRI should have sufficient funds for its 2014/2015 fiscal year budget and reserve. Therefore, the surcharge should be maintained at \$0.11 per month to cover the 2014/2015 budget. A comparison of FTRI's 2013/2014 Commission Approved Budget, FTRI's 2014/2015 Proposed Budget, and the Commission Approved 2014/2015 FTRI Budget is shown below.

⁶ Speech to Speech relay service utilizes a specially trained CA who understands the speech patterns of persons with speech disabilities and can repeat the words spoken by such an individual to the other party to the call. IP STS uses the Internet, rather than the public switched telephone network, to connect the consumer to the relay provider. Instead of using a standard telephone to make the relay call, an IP STS user can use a personal computer or personal digital assistant (PDA) device and, with the installation of softphone application software, can make a voice call via the Internet to the relay provider. The call is initiated by the user clicking on an icon on his or her computer or PDA; the relay user is then connected to a CA over the Internet and tells the CA the number to be dialed; the CA then connects the IP STS user with the called party and relays the call between the two parties.

⁷ These figures do not include the National Deaf-Blind Equipment Distribution Program (NDBEDP) expenses since they are totally reimbursed by grants.

	Commission Approved	FTRI Proposed	Commission Approved
	<u>2013/2014</u>	<u>2014/2015</u>	<u>2014/2015</u>
Operating Revenue:			
Surcharges	\$ 8,270,823	\$ 8,013,558	\$ 8,013,558
Interest Income	41,753	55,787	55,787
NDBEDP ⁸	<u>458,832</u>	<u>458,832</u>	<u>458,832</u>
Total Operating Revenue	\$ 8,771,408	\$ 8,528,177	\$ 8,528,177
Operating Expenses:			
Relay Provider Services	\$ 3,846,539	\$ 3,464,351	\$ 3,464,351
Equipment and Repairs	2,543,446	1,537,932	1,537,932
Equipment Distribution And Training	1,197,390	1,018,089	1,018,089
Outreach	684,503	607,200	607,200
General & Administrative	1,379,585	1,150,298	1,150,298
NDBEDP	<u>458,832</u>	<u>458,832</u>	<u>458,832</u>
Total Expenses	\$ 10,110,295	\$ 8,236,702	\$ 8,236,702
Annual Surplus	(1,338,887)	291,475	291,475
Total Surplus	\$ 11,170,856	\$ 16,077,354	\$ 16,077,354

In regards to the \$0.11 surcharge, it is important to point out that Chapter 427, Florida Statutes, requires that the relay system be compliant with regulations adopted by the Federal Communications Commission to implement Title IV of the Americans with Disabilities Act. The Federal Communications Commission mandates the minimum requirements for services a state must provide, certifies each state program, and periodically proposes changes in the stipulated services. One such proposed change is the possibility of the states funding the intrastate portion of the cost to provide Video Relay Service, Internet Protocol Relay Service, and Internet Protocol Captioned Telephone Service. Traditional relay users are transitioning to these Internet Protocol technologies which are more efficient, and presently being paid through the interstate TRS fund. However, the Federal Communications Commission has stated that this arrangement is only temporary. The Federal Communications Commission believes Title IV and its legislative history make plain that Congress intended that the states be responsible for the cost recovery for intrastate relay services provided under their jurisdiction.⁹

If the Federal Communications Commission were to mandate state funding of Video Relay Service, Internet Protocol Relay Service, and Internet Protocol Captioned Telephone Service, it is estimated that approximately \$32 million would be needed to adequately fund the state program. The Commission, by Order PSC-06-0469-PAA-TP, issued June 1, 2006, in Docket No. 040763-TP, maintained the Florida Telecommunications Relay Service surcharge at \$0.15/month for one year in lieu of a surcharge reduction, to prepare the state

⁸ National Deaf Blind Equipment Distribution Program.

⁹ Federal Communications Commission Report and Order, Order on Reconsideration, and Further Notice of Proposed Rule Making in CG Docket No. 03-123, released on June 30, 2004, FCC 04-137.

Telecommunications Relay Service Fund for assuming intrastate costs of Video Relay Service and Internet Protocol Relay, and to allow time to determine how the costs should be recovered.

As presented in its budget, FTRI's projected reserve account at the end of the 2014/2015 fiscal year would be \$16,077,354. The Federal Communications Commission has acknowledged that should it decide to mandate state funding, such transition would come with a reasonable phase in period of up to several years to provide states with sufficient notice.

Our staff also researched the possibility of a reduction to the relay surcharge this year, but determined it would not be a viable option at this time. The surplus projected in the annual 2014/2015 FTRI budget would only be approximately forty percent of what is needed to reduce the surcharge by one cent. In addition, we believe the total relay surplus fund should be maintained in preparation for the assumption of states assuming the costs of intrastate Internet Protocol relay services.

III. Decision

We have reviewed FTRI's 2014/2015 fiscal year budget request and believe it is reasonable. The current TRS surcharge of \$0.11 should meet FTRI's budget needs for the 2014/2015 fiscal year. Therefore, FTRI's proposed budget operating revenue of \$8,528,177 and budget expenses of \$8,236,702 for the fiscal year 2014/2015, effective July 1, 2014, are approved. The TRS surcharge shall be maintained at \$0.11 per month per access line up to 25 access lines for the fiscal year 2014/2015, effective July 1, 2014. All telecommunications companies shall continue to bill the \$0.11 surcharge for the fiscal year 2014/2015, effective July 1, 2014.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that an annual budgeted operating revenue of \$8,528,177 and annual budget expenses of \$8,236,702 for the fiscal year 2014/2015, effective July 1, 2014, for the Florida Telecommunications Relay, Inc. are hereby approved. It is further

ORDERED that the Telecommunications Relay Service surcharge shall be maintained at \$0.11 per month for the fiscal year 2014/2015 effective July 1, 2014. It is further

ORDERED that all telecommunications companies shall continue to bill the \$0.11 surcharge for the fiscal year 2014/2015 effective July 1, 2014. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall remain open to address all matters related to relay throughout the life of the contract.

By ORDER of the Florida Public Service Commission this 22nd day of May, 2014.

Carlotta S. Stauffer

CARLOTTA S. STAUFFER

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

PHP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 12, 2014.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.