

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 19, 2007

TO: Office of Commission Clerk (Cole)

FROM: Division of Competitive Markets & Enforcement (Moses, Casey)
Office of the General Counsel (Tan, Wiggins) *TW PKW*

RE: Docket No. 040763-TP – Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

AGENDA: 07/31/07 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: 08/01/07 - Contract option year notification requirement due to Sprint.

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\040763.RCM.DOC

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Case Background

Relay service is a service that uses specialized operators that interface with hearing impaired individuals for the purpose of accessing telecommunications services and is provided pursuant to Chapter 427, Florida Statutes. The current relay provider is Sprint Communications Company L.P. (Sprint). Sprint and the Florida Public Service Commission (FPSC or

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Commission) signed a contract¹ for the provision of relay services which began on June 1, 2005 for a period of three years ending May 31, 2008.

The contract contains options to extend the contract for four additional one year periods, and requires mutual consent by both parties to extend the contract. Sprint is required to notify the FPSC of its desire to or not to extend the contract into the option periods by June 1 the year before the current service expires. The FPSC is required to notify Sprint of its intent to exercise the requested option period within two months of receipt of Sprint's notification of its desire to extend. Sprint submitted a letter June 1, 2007 notifying the Commission of its desire to extend the contract for the option year beginning June 1, 2008. Sprint filed a revised notification letter on June 21, 2007 which included some contract options for the Commission to consider.

The purpose of this recommendation is to address the one year contract option period beginning June 1, 2008, and recommend two new advisory board members.

The Commission is vested with jurisdiction over these matters pursuant to Chapter 427, Florida Statutes.

¹ Contract to Provide Telecommunications Relay Service (TRS) to Florida (contract)

Discussion of Issues

Issue 1: Should the Commission exercise the contract option to extend the Sprint Relay contract for one (1) year beginning June 1, 2008?

Recommendation: Staff recommends that the Commission exercise the contract option to extend the Sprint Relay contract for one (1) year beginning June 1, 2008. (Moses, Casey, Tan)

Staff Analysis: On June 21, 2007, Sprint filed its revised letter of intent to exercise the one (1) year contract option period beginning June 1, 2008. Sprint offered to maintain the current \$0.75 per session minute charge for traditional relay service² and \$1.37 per minute for CapTel service³ if the following service offering adjustments⁴ are implemented:

- 1) Florida Relay Service will be processed on the Sprint Relay Network and the Florida relay center will be eliminated.
- 2) Outreach will be handled solely by Florida Telecommunications Relay Incorporated (FTRI) and Sprint will no longer provide a Florida Account Manager or outreach funding.
- 3) Florida quality will be managed under Sprint Relay's Quality Program and Florida will not have a dedicated quality manager for Florida specific testing (including independent third party typing evaluations and CapTel testing).
- 4) The Florida contract, which is presently managed by the Florida Account Manager located in Jacksonville, will be managed by the Sprint Relay Program Management team with support from the Florida Account Executive located in Texas.
- 5) Sprint will provide an annual Performance Bond in the amount of the projected contract value for the 2008/2009 period in the amount of \$6,840,000.

Florida Relay Center

Section B-3 of the existing contract with Sprint states that "The provider shall be required to locate a relay center in the state of Florida." The issue of whether to require a relay center in the state of Florida was first initiated during the request for proposal (RFP) process in 1991. At that time, the Advisory Committee⁵ recommended that such a mandate should be

² Telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services.

³ The CapTel phone is a captioned telephone service which uses a telephone that looks similar to a traditional telephone but also has a text display that allows the user, on one standard telephone line, to both listen to the other party speak and simultaneously read captions of what the other party is saying. This way, a typical user of this service, who has the ability to speak and some residual hearing, can both listen to what is said over the telephone and read captions for clarification.

⁴ The adjustments which will necessitate contract amendments are addressed in Issue two of this recommendation.

⁵ Section 427.706, Florida Statutes, provides for up to 10 members of an advisory committee that assists the Commission with the implementation of the relay system.

included in the RFP. The Commission agreed and included the mandate in the RFP which was issued in 1991.

A Florida-specific relay center issue was addressed again by this Commission in 1996 when it was time to issue the next RFP. While the Commission did not mandate that the center be located in Florida, it was decided that up to 100 points could be awarded if a Provider chose to locate within the State. The points were awarded based on the amount of traffic handled within the State (e.g., if the Provider handled 95% of its Florida traffic within Florida, it was awarded 95 points).

The 1999 RFP also included a mandate that the relay center be located in Florida. An additional requirement was added that the provider be required to handle a minimum of 80% of its Florida traffic at its Florida center. However, the points system approved in 1996 was eliminated and the issue of having a Florida relay center was included as a pass or fail item in the RFP.

The 2004 RFP eliminated the requirement that 80% of all Florida traffic be handled by the relay center located in Florida to allow the provider more flexibility in the event of heavy traffic volumes which would result in fewer blockages and hold times. It also allowed the provider flexibility in the event of an emergency such as a hurricane to reroute traffic to other centers without the need of seeking Commission approval for a waiver of the 80% requirement.

Staff believes it is no longer necessary to locate a relay center in the state of Florida. Although it would be preferable to maintain the relay center jobs here in Florida, staff cannot justify an expenditure of \$3.4 million requested by Sprint to maintain a Florida-specific relay center. Sprint has thirteen other relay centers across the country, and with today's technology, there should be no loss of quality by routing Florida relay calls to other relay centers. The thirteen other Sprint relay centers are currently used as back-ups when the Florida center becomes congested with calls or a disaster or other emergency occurs. Therefore, staff believes that the Commission should approve the elimination of the Florida relay center from section B-3 of the contract.

Outreach

Sprint's offer includes a provision that outreach will be handled solely by Florida Telecommunications Relay Incorporated⁶ (FTRI) and Sprint will no longer provide a Florida Account Manager or outreach funding. A Florida Account Manager was not a requirement of the RFP issued by the Commission. Section B-54 of the RFP stated:

⁶ In accordance with Section 427.704(2), Florida Statutes, "the commission shall designate as the administrator of the telecommunications access system a corporation not for profit organized for such purposes and incorporated pursuant to chapter 617. For the purposes of this part, the commission may order telecommunications companies to form such a corporation not for profit." At the direction of the FPSC, the Florida telecommunications companies formed Florida Telecommunications Relay, Inc. (FTRI) as the statewide non-profit organization that administers the Specialized Telecommunications Equipment Distribution Program for citizens of Florida who are Deaf, Hard of Hearing, Deaf/Blind and Speech Impaired. In accordance with Section 427.705(1), Florida Statutes, FTRI is also responsible for the education and promotion of the Florida Relay Service.

The bidder should explain the responsibilities and functions that a full time account manager would provide to the relay service. No additional evaluation points will be awarded based on a proposal to provide an account manager. The proposed charge for the account manager should be separately stated in the price proposal.

Sprint's bid included the following:

Sprint will provide an Account Manager who will reside in the State of Florida to work with the FPSC and the community. An in-state Florida Account Manager will ensure that community feedback is addressed quickly and that Sprint is active in the community and available to respond to issues. The position will coordinate with Florida Telecommunications Relay, Inc. but will mainly be responsible for representing Sprint and enhancing communications concerning the services provided and the individuals utilizing those services. The in-state Account Manager is offered to Florida at no additional cost.

The Sprint Account Manager works on all aspects of Sprint relay services in Florida including video relay service (VRS)⁷, IP-Relay⁸, and wireless devices for the deaf and hard-of hearing, all of which are not presently under the purview of this Commission. Staff believes a Florida-specific account manager is not necessary because Sprint has had a Relay Account Executive assigned to oversee the Florida relay contract since the Commission first awarded the contract to Sprint, and service to relay customers should not be affected.

Sprint's June 21 offer also includes a provision that Sprint will no longer provide outreach funding. Florida relay outreach funding is also not a requirement of the contract. Sprint had volunteered to earmark \$10,000 annually for FTRI outreach activities in Florida. Historically, Sprint contributed \$2,500 in 2006, and \$4,375 in 2007 towards FTRI outreach activities. By statute, FTRI implements outreach activities for Florida Relay. Section 427.705(1)(b), Florida Statutes, provides that the administrator shall "administer advertising and outreach services as required by the Commission, either directly or through contract with third parties, or a combination thereof." FTRI includes monies for outreach activities in each of its annual budgets which are approved by the Commission. For the 2007-2008 fiscal year, the Commission approved \$779,544 for FTRI outreach activities in Florida. Staff believes the funding of outreach activities by Sprint, although beneficial, has been minimal and FTRI's outreach efforts provided for in FTRI's budget is sufficient to promote Florida relay.

⁷ VRS is a form of Telecommunications Relay Service 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.

⁸ 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.

Florida Quality

Sprint's June 21 offer states that Florida quality will be managed under Sprint Relay's Quality Program and Florida will not have a dedicated quality manager for Florida specific testing (including independent third party typing evaluations and CapTel testing).

The RFP for the current contract did not contain any provision for a Florida-specific Quality Manager for relay. Sprint's bid included the following:

Sprint will provide a Florida Quality Manager, at no additional charge to the state, to ensure that all quality assurance activities are fully implemented and that operational issues are understood and addressed quickly. This is a unique provision never before provided to any other State. The Florida Quality Manager will reside in Florida, be located in the Jacksonville Relay Center, work closely with the Center's Location Manager, Trainer, Account Manager and the FPSC Contract Administrator, and will be available to work directly with the Florida community.

Staff believes eliminating the Florida-specific Quality Manager should not have a negative effect on the quality of service received by the users of Florida Relay. Sprint must still meet the quality-of-service requirements contained in the contract whether it employs a Florida-specific Quality Manager or not.

Sprint had been conducting independent third party typing evaluations to insure typing speed requirements were being met. Staff also conducts testing of the relay system to ensure Sprint meets the quality of service requirements contained in the contract. Section B, Paragraph seven of the RFP requires Sprint to make a minimum of 150 test calls per month using prepared scripts that reflect a typical conversation and calling through the relay system the same as other live calls shall be completed by the provider. Originally, typing tests to insure typing speed requirements were completed in a classroom-type setting instead of on live calls.

Staff also brought to Sprint's attention a problem with CapTel service accuracy to the attention of Sprint. Users were experiencing a number of errors and corrections in the transcription. As a result, in addition to the typing testing mentioned above, Sprint initiated a CapTel testing program which includes 100 test calls being conducted each month. CapTel service has been improved, but staff is still monitoring the Sprint test results along with conducting staff test calls.

Staff believes elimination of the Florida-specific typing and CapTel testing by Sprint will not hinder the quality of relay service in Florida. Sprint will continue typing and CapTel testing on an overall network basis. Sprint must still meet the quality-of-service requirements contained in the contract and staff will continue to conduct test calls to insure service quality.

Florida Contract Management

Sprint's June 21 offer states that the Florida Contract will be managed by the Sprint Relay Program Management team with support from the Florida Account Executive located in

Texas. Presently, the Florida Account Manager located in Jacksonville manages the contract. Staff does not believe this will affect the performance of the contract in any way.

Annual Performance Bond

The amount of the performance bond provided by Sprint for the original contract was \$10,000,000. Because of the decrease in minutes of use for traditional relay service, Sprint requested that the amount of the performance bond be reduced to \$6,840,000 for the contract option year. Paragraph B-56 of the Relay RFP states that:

The provider will be required to furnish an acceptable performance bond, certified or cashier's check, or bank money order equal to the estimated total first year price of the contract. The bond shall be in effect for the entire duration of the contract and provided to the FPSC upon execution of the contract.

Staff has no objection to reducing the amount of the performance bond to \$6,840,000 for the 2008/2009 contract year since the entire projected value of the contract would be covered by this reduction.

CapTel Service

Sprint is not proposing an increase in the per minute cost of CapTel service for the option contract year, but it is proposing elimination of the tiered rate structure⁹ which staff estimates will cost Florida \$140,924 for the 2008-2009 contract option year. Staff researched the cost and use of CapTel service and determined Florida is the largest user of CapTel service and is receiving the lowest rate for the service at \$1.37 per minute. Over 80% of Sprint's CapTel pricing across the nation is over \$1.40 per minute.

Conclusion

Sprint provided the proposed adjustments to the contract at staff's request in order to minimize any increase in the cost of providing Florida relay service. In lieu of adjustments or increases to the contract, the Commission has the option of re-bidding the contract and leaving the existing contract in force until June 1, 2008 should it choose to do so.

Staff believes that Sprint's June 21, 2007, offer for the contract extension period beginning June 1, 2008, which maintains the current \$0.75 per session minute charge for traditional relay service and \$1.37 for CapTel relay service is an equitable arrangement for all parties. Therefore, staff recommends that the Commission exercise the contract option to extend the Sprint Relay contract for one (1) year beginning June 1, 2008.

⁹ The CapTel tiered rate structure was approved by Commissioners at the January 4, 2005 agenda conference as a part of the Sprint contract. The present CapTel tiered rate structure is as follows: < 100,000 minutes per month, \$1.40 per minute; 100,000 – 200,000 minutes per month, \$1.37 per minute; 200,000 – 300,000 minutes per month, \$1.33 per minute; and, > 300,000 minutes per month, \$1.30 per minute.

Issue 2: Should the Commission modify Section B, Paragraph 3, Section B, Paragraph 7, and Section B, Paragraph 56 of the Request for Proposal (RFP) as shown in the type-and-strike of staff's analysis and incorporate the change by reference into the relay contract with Sprint as Amendment 3?

Recommendation: If the Commission approves Issue 1, staff recommends that the Commission approve the proposed changes to Section B, Paragraph 3; Section B, Paragraph 7; and Section B, Paragraph 56 of the RFP as shown below in the type-and-strike of staff's analysis and incorporate the changes into the contract with Sprint as Amendment 3, effective June 1, 2008 upon the signature of the Commission's Executive Director and Sprint. (Moses, Casey)

Staff Analysis: Section B, Paragraph 3 of the RFP is incorporated into the Florida contract by reference and includes Florida-specific relay center requirements. Staff proposes to strike the RFP language as shown below:

3. Term of Contract

Service shall begin on June 1, 2005. The term of the contract will be an initial three year period. Upon mutual agreement between the FPSC and the provider, the contract may allow for the term to be extended for up to four additional one year periods. The provider shall notify the Florida Public Service Commission of its desire to extend service by June 1 the year before the current service period expires. For example, if the contract service period is due to expire on May 31, 2008, the provider should notify the FPSC by June 1, 2007 that it desires a one year extension of service.

~~The provider shall be required to locate a relay center in the state of Florida.~~

The current testing requirement as stated in the Florida contract with Sprint is stated in Section B, Paragraph 7 of the RFP which is incorporated into the contract by reference. Staff proposes to strike the language as shown below:

7. Minimum Communications Assistant (CA) Qualifications/Testing

The provider shall adequately supervise and train its employees to always be courteous, considerate, and efficient in their contact and dealings with its customers and the public in general, and shall conduct periodic evaluations to ensure that courteous service is being rendered.

Bidders shall specify how they plan to demonstrate that CAs meet all necessary proficiency requirements. CAs shall be able to quickly and accurately type TDD relay messages. The provider shall use valid, unbiased tests for CAs on subjects including, but not limited to:

- a. Competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech disability cultures, languages and etiquette. CAs must possess clear and articulate voice communications.
- b. A high school diploma or grade equivalent diploma. In addition, each candidate shall pass a high school level English comprehension and grammar test before being considered for employment.
- c. A minimum typing speed of 60 words per minute on live relay calls. Technological aids may be used to reach the required typing speed. ~~A minimum of 150 test calls per month using prepared scripts that reflect a typical conversation and calling through the relay system the same as other live calls shall be completed by the provider to ensure compliance with this requirement. A copy of the test results shall be provided monthly to the FPSC contract manager.~~ The method to be used to determine the typing speed is as follows. Start timing the CA when the CA begins to type the message to the TTY user. Count the number of characters including spaces and divide that number by five to determine the number of words per minute. It shall be the objective of the provider to test each CA at least once yearly. If a CA does not meet the 60 wpm requirement, the CA shall be taken off of live relay calls until further training and compliance can be accomplished...
- d. Ethics, e.g., how a CA deals with situations he may encounter.
- e. Confidentiality.

Any person who has not passed these tests shall not be utilized as a CA.

The current Performance Bond requirement as stated in the Florida contract with Sprint is stated in Section B, Paragraph 56 of the RFP which is incorporated into the contract by reference. Staff proposes to strike the language as shown below:

56. Performance Bond

The provider will be required to furnish an acceptable performance bond, certified or cashiers check, or bank money order equal to the estimated total ~~first~~ year price of the contract for the option year.¹⁰ The bond shall be in effect for the entire duration of the contract and provided to the FPSC upon execution of the contract.

To be acceptable to the FPSC as surety for performance bonds, a Surety Company shall comply with the following provisions:

The Surety Company shall be admitted to do business in the state of Florida.

¹⁰ A \$10 million performance bond remains in effect until June 1, 2008. Sprint is proposing a performance bond in the amount of \$6,840,000 for the option year beginning June 1, 2008.

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The Surety Company shall have been in business and have a record of successful continuous operations for at least five (5) years.

The Surety Company shall have minimum Best's Policy Holder Rating of A and Required Financial Rating of VIII from Best's Key Rating Guide.

A Florida Licensed Resident agent who holds a current Power of Attorney from the Surety Company issuing the bond shall sign all bonds.

Section 14 of the contract provides that the agreement may not be modified except by a formal amendment executed by the authorized representatives of both Sprint and the FPSC. Therefore, staff recommends that the Commission approve the proposed changes to Section B, Paragraph 3; Section B, Paragraph 7; and Section B, Paragraph 56 of the RFP as shown above in the type-and-strike of staff's analysis and incorporate the changes by reference into the contract with Sprint as Amendment 3 effective upon the signature of the Commission's Executive Director and Sprint.

Issue 3: Should the Commission approve Mr. Joe Naulty, and Mr. Isaac Abenchuchan as Advisory Committee members to replace Ms. Kathy Zarate and Mr. Chris Wagner, effective immediately? (Moses, Casey)

Recommendation: Yes, the Commission should approve Mr. Joe Naulty and Mr. Isaac Abenchuchan, as Advisory Committee members to replace Ms. Kathy Zarate and Mr. Chris Wagner effective immediately. (Moses, Casey)

Staff Analysis: Section 427.706, Florida Statutes, provides for up to 10 members of an Advisory Committee that assists the Commission with the implementation of the relay system. Section 427.706(1)(c), Florida Statutes, requires, to the extent practicable, one deaf and blind person recommended by the Coalition for Persons with Dual Sensory Disabilities serve as a member of the advisory committee. Mr. Harry Anderson, who has served in this position for a number of years, submitted his resignation on March 20, 2007. By Order PSC-07-0457-PAA-TP, issued May 29, 2007, the Commission approved Ms. Kathy Zarate to serve as a representative for the deaf and blind on the advisory committee to replace Mr. Anderson. Unfortunately, because of the amount of time she is spending on other projects, she has informed staff that she is now unable to serve on the TASA advisory committee at this time.

Mr. Joe Naulty has been nominated to serve as a representative for the deaf and blind to replace Ms. Kathy Zarate on the advisory committee. Mr. Naulty represents the deaf-blind community on the Florida Coordinating Council for the Deaf and Hard of Hearing, and is the Vice-President of the Florida Deaf-Blind Association (FDBA).

Section 427.706(1)(a), Florida Statutes, requires, to the extent practicable, the advisory committee shall include two deaf persons recommended by the Florida Association for the Deaf (FAD). Currently, one of those positions is held by Mr. Chris Wagner who recently resigned his position as President of FAD to enter private industry. Mr. Jimmy Peterson, the new President of FAD, has recommended Mr. Isaac Abenchuchan to replace Mr. Wagner on the advisory committee. Mr. Abenchuchan is retired from U.S. Postal Service, lives in Jacksonville, and is a member of Florida Association of the Deaf. He is a graduate of the Florida School for the Deaf and Gallaudet University.

Staff supports these nominations and recommends that the Commission approve Mr. Joe Naulty and Mr. Isaac Abenchuchan as Advisory Committee members to replace Ms. Kathy Zarate and Mr. Chris Wagner effective immediately. Their knowledge and experience should be very beneficial as members of the Advisory Committee.

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Issue 4: Should this docket be closed?

Recommendation: No. This docket should remain open for the duration of the contract. (Tan, Wiggins)

Staff Analysis: No. This docket should remain open for the duration of the contract. This docket is used to monitor relay and contract issues that arise during the contract term.