

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: May 5, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Moses, Casey)
Office of the General Counsel (Rojas)

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: 05/17/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Anticipate the need for sign language interpreters and assistive listening devices. Place near the beginning of the agenda or at a time certain to reduce interpreter costs.

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

Case Background

The Telecommunications Access System Act of 1991 (TASA) became effective May 24, 1991 and is found in Part II, Chapter 427, Florida Statutes. 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 \$.25 per access line per month. Accounts with over 25 lines are billed for only 25 lines.

Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by the local exchange telephone companies, was named by the Commission to serve as the TASA administrator. On July 1, 1991, the Local Exchange Companies (LECs) began collecting an initial \$.05 per access line surcharge pursuant to Order No. 24581. Since that time, the surcharge has changed and is currently \$.15.

In June 2000, the Commission executed a contract with Sprint to provide the relay service that TASA requires. Based upon previous Commission decisions, the current contract expires June 1, 2005.

In January, 2005, the Commission executed a contract with Sprint to provide the relay service starting June 1, 2005.

The Commission is vested with jurisdiction over this matter pursuant to Chapter 427, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve FTRI's proposed budget (Attachment A) for the fiscal year 2005-2006 effective July 1, 2005, and retain the TASA surcharge at the current amount of \$.15?

Recommendation: Yes. (Moses, Casey)

Staff Analysis: FTRI's budget request projects that total revenues at the current \$.15 surcharge is sufficient to fund FTRI's planned programs for the upcoming fiscal year. The budget projects total revenues of \$17,114,765 and total expenses of \$18,399,840. The difference will be drawn from a surplus account which is projected to be \$3,458,395 at the end of fiscal year 2004-2005.

Staff has reviewed FTRI's budget request and believes it is reasonable. FTRI has decreased its budget request for many of the items. Two of the five budget categories are projected to be less than the Commission - approved amounts in the budget last year. The largest increase in the projected expenses is the cost of the relay system minutes of use. Under the new contract effective June 1, 2005, the cost will increase from \$.73 to \$.75 per minute. This projected expense is \$1,223,935 higher than last year. The minutes of use for regular relay calls is projected to be 8,879,743 which will be 5% less than last year's 9,347,104 minutes of use. A reduction in the cost of Captel service under the new contract offsets some of the increase in cost for the regular relay service minutes of use.

Accordingly, staff recommends that the Commission approve a 2005-2006 fiscal year FTRI budget of \$18,399,840 as requested in Attachment A, effective July 1, 2005, and that the TASA surcharge remain at \$.15.

Issue 2: Should the Commission continue to include in its Order regarding FTRI's budget, the requirement that FTRI may not move amounts between the five categories of costs in excess of 10% of the category from which the funds are being moved, without prior Commission authorization?

Recommendation: Yes. The Commission should maintain the requirement that FTRI may not move amounts between the five categories of costs in excess of 10% of the category from which the funds are being moved, without prior Commission authorization. (Moses, Casey)

Staff Analysis: FTRI, in its cover letter submitting its proposed 2005/2006 budget, proposes to eliminate the verbiage regarding Commission authorization prior to moving amounts between categories greater than 10% which has been included in each of the Commission Orders approving FTRI's annual budgets. FTRI states that:

While such language may have served a purpose at the time it was initially propounded in 1991, the need for and potential benefit of such language has diminished over the years. The limitation as currently written only applies to movement of amounts between budget categories and serves only to limit the flexibility of FTRI in performing its duties as the Administrator of TASA. So long as the surcharge is not affected, there should be no limitation on movement of amounts from one category to another.

The language instituting the requirement regarding movement of funds between categories was included in a staff recommendation addressing FTRI's 1993-1994 proposed budget. Issue three of that recommendation recommended that FTRI's 1993-1994 proposed budget be approved, with the understanding that the budget would be broken down into five categories: Relay Expenses, Equipment & Repairs, Equipment Distribution & Training, Outreach, and General & Administrative. Staff also recommended that FTRI should not expend any greater amount within any of the five categories than budgeted without prior Commission approval.

By Order No. PSC-93-0995-FOF-TP, issued July 7, 1993, in Docket No. 910496-TP, In Re: Implementation of Florida Telecommunications Access System Act of 1991, the Commission approved FTRI's 1993-1994, proposed budget requiring that the budget be grouped into the five categories listed above. In addition, the Order provided that "FTRI may move amounts between these five categories not to exceed 10 percent of the category from which the funds are being moved, without prior Commission authorization." Since that time, staff has included that verbiage in the annual recommendations addressing FTRI's annual budgets, and the Commission has approved the language in each of the annual Orders approving FTRI's budget.

FTRI believes that the existing verbiage regarding movement of funds between categories is "unnecessary, impractical, and outdated language." It is the view of the FTRI board that "spending priority go to pay for the relay and equipment distribution and, should it be necessary to transfer funds from other accounts to maintain these programs, FTRI should have that flexibility without any unnecessary delay."

Using FTRI's proposed 2005-2006 budget as an example, under the current requirement for movement of funds, FTRI would be free to move \$935,759 from Category I, \$482,236 from Category II, \$217,350 from Category III, \$73,156 from Category IV, and \$131,352 from Category V (\$1,839,853 in total) without prior Commission approval. Staff believes the current requirement for movement of funds allows FTRI the flexibility it needs to move a significant amount of monies between categories without Commission approval.

Staff also believes that the Commission must retain its responsibility to oversee the monies used by FTRI. Section 427.705(2), Florida Statutes, states "The Commission shall have the authority to establish fiscal and operational requirements for the administrator to follow in order to ensure that the administrative costs of the system are reasonable."

Staff opines that the requirement of prior Commission approval of movement of funds greater than 10% from a category is a useful instrument in overseeing the administration of the funds to ensure reasonableness, and does not believe this requirement poses a burden to FTRI. Furthermore, staff believes that the Commission should be involved in any movement of monies greater than 10% because of the significance of the amounts. As the Florida Relay program has developed over the years, the FTRI budget has increased to over \$18 million dollars, making the 10% requirement even more material. Therefore, staff recommends that the Commission should maintain the requirement that FTRI may not move amounts between the five categories of costs in excess of 10% of the category from which the funds are being moved, without prior Commission authorization.

Issue 3: Should this docket be closed?

Recommendation: No, this docket should not be closed. If the Commission approves staff's recommendation in Issue 1, the result will be a Proposed Agency Action Order, which will become final upon issuance of a Consummating Order, if no person whose substantial interests are affected timely files a protest. (Rojas)

Staff Analysis: This docket should remain open during the contract period with Sprint as the relay provider. This docket is used to monitor relay and contract issues that arise during the contract term.

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