

State of Florida



## Public Service Commission

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

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**DATE:** April 23, 2009

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Regulatory Compliance (Casey)  
Office of the General Counsel (Tan)  
Division of Service, Safety & Consumer Assistance (Moses)

**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:** 05/05/09 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Edgar

**CRITICAL DATES:** None

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

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

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### Case Background

The Florida Relay System (FRS) provides hearing impaired persons access to basic telecommunications services by using a specialized communications assistance operator (CA) that relays information between the hearing impaired person and the other party of the call. The primary function of the FRS is accomplished by the hearing impaired person using a

Telecommunications Device for the Deaf (TDD) which has a keyboard and screen. The person using the TDD types a message to the CA who in turn voices the message to the other party. The reverse of this process completes messages to the hearing impaired person. This is how the term “relay” originated.

The Telecommunications Access System Act of 1991 (TASA) established a statewide telecommunications relay system and became effective May 24, 1991. It is authorized under Chapter 427, Florida Statutes. Section 427.701(1), Florida Statutes, provides that the Florida Public Service Commission (FPSC or Commission) 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 hearing impaired or speech impaired, or others who communicate with them. Three million of the estimated 18.6 million persons living in Florida have been diagnosed as having a hearing impairment. This system provides telecommunications service for hearing impaired 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. Florida does not impose a TRS surcharge on VoIP or wireless provider lines as the federal TRS program does. By statute, it is only collected from landline access lines. Accounts with over 25 access lines are billed for only 25 lines.

Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by the local exchange telephone companies (LEC), was named by the FPSC to serve as the TASA administrator. On July 1, 1991, the LECs 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 and is currently \$0.11.

Section 427.706, Florida Statutes, provides for up to 10 members on an advisory committee to assist the FPSC with the implementation of the Florida Relay System. Two members of the advisory committee have recently resigned and two replacements are being recommended. The purpose of this recommendation is to approve FTRI’s 2009-2010 proposed budget and appoint replacement committee members for those who have resigned.

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

### **Discussion of Issues**

**Issue 1:** Should the Commission approve FTRI's proposed budget as outlined in Attachment A for the fiscal year 2009-2010, effective July 1, 2009, and should the Commission maintain the current Telecommunications Relay Service (TRS) surcharge of \$0.11 per month?

**Recommendation:** Staff recommends that the Commission approve FTRI's proposed budget operating revenue of \$11,206,146, and proposed budget expenses of \$11,496,251 as outlined in Attachment A for the fiscal year 2009-2010, effective July 1, 2009. Staff also recommends that the TRS surcharge be maintained at \$0.11 per month for the fiscal year 2009-2010, effective July 1, 2009. The Commission should order the incumbent local exchange companies, competitive local exchange companies, and shared tenant providers to continue to bill the \$0.11 surcharge for the fiscal year 2009-2010, effective July 1, 2009. (Casey, Moses, Tan)

**Staff Analysis:** As shown in Table A, the trend for minutes of use for traditional TRS has been declining. Sprint Relay, Florida's current relay provider, projects that the traditional TRS minutes will continue to decline at a rate of approximately 2.3 percent per month in 2009-2010. Traditional relay users are transitioning to the more efficient technologies of IP Relay,<sup>1</sup> Video Relay Service<sup>2</sup> (VRS), CapTel captioning service, IP Captioned Telephone Service<sup>3</sup> (IP CTS), IP Speech to Speech service<sup>4</sup> (IP STS), and Blackberry or Palm wireless devices.

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<sup>1</sup> 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.

<sup>2</sup> Video Relay Service 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

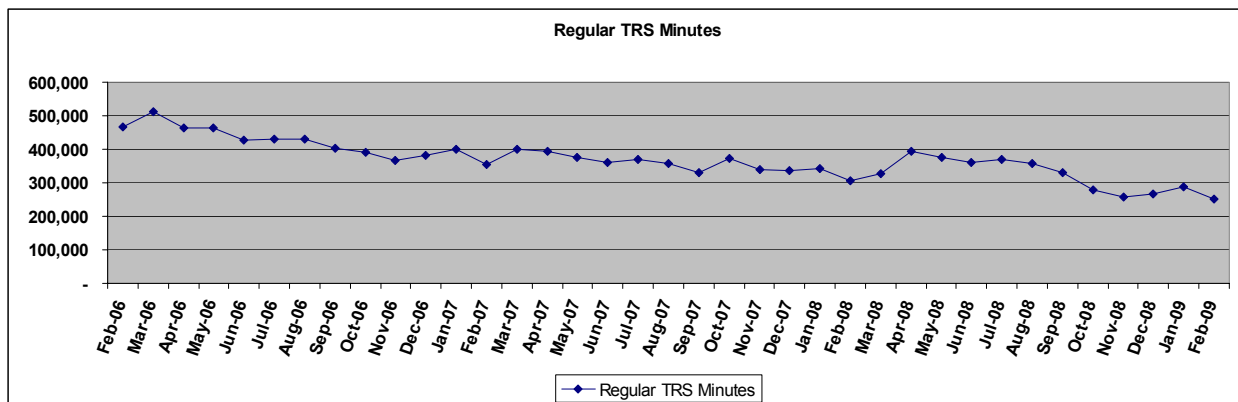


Table A – Florida Traditional TRS Minutes February 2006 – February 2009

**VRS and IP Relay**

The relay users who use IP Relay and VRS are presently having their relay minutes of use paid through the interstate TRS fund. However, the Federal Communications Commission (FCC) has stated that this arrangement is only temporary. The FCC believes Title IV of the Americans with Disabilities Act<sup>5</sup> and its legislative history make it clear that Congress intended that the states be responsible for the cost recovery for intrastate relay services provided under their jurisdiction.<sup>6</sup>

In November 2007, the FCC reiterated its goal of allocating VRS and IP Relay costs by intrastate and interstate to have states assume the cost of intrastate VRS and IP Relay. In order FCC 07-186,<sup>7</sup> the FCC stated that Section 225 of the Telecommunications Act provides that the costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, and the costs caused by the provision of intrastate TRS shall be recovered from the intrastate jurisdiction. In footnote 15 of that Order, the FCC noted, “The issue of separation of costs relating to the provision of IP Relay and VRS is pending pursuant to the FNPRM in the 2004 TRS Report & Order.”

Historically, there was no means available to automatically determine the geographic location of IP Relay and VRS calls; therefore, there was no way to determine if a particular IP Relay or VRS call was interstate or intrastate. In a June 2008 order,<sup>8</sup> the FCC approved IP STS

<sup>5</sup> Title IV of the Americans with Disabilities Act requires that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

<sup>6</sup> 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.

<sup>7</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, FCC 07-186, Released November 19, 2007.

<sup>8</sup> In the Matter of Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; CG Docket No. 03-123; Speech-to-Speech and Internet Protocol (IP) Speech-to-Speech Telecommunications Relay Services; CG Docket No. 08-15; FCC 08-149, adopted June 11, 2008, released June 24, 2008.

service allowing reimbursement from the federal TRS fund stating “We note that this is consistent with the present treatment of the other Internet-based forms of TRS – VRS, IP Relay, and IP CTS – and the fact that because one link of the call is made via the Internet it is generally not possible to determine if a particular call is interstate or intrastate.”

Also in June 2008, the FCC released an order<sup>9</sup> adopting a system for assigning users of IP Relay and VRS ten-digit telephone numbers linked to the North American Numbering Plan (NANP). The order requires that the telephone number assignments be “geographically appropriate NANP numbers.” The ten-digit numbering system for IP Relay and VRS had to be implemented no later than December 31, 2008. Staff believes that instituting a ten-digit numbering system for IP Relay and VRS is the FCC’s initial step in determining whether those services are provided through interstate or intrastate routing. Since the beginning and ending points of calls will now be known, the cost burden of intrastate IP Relay and VRS calls could be assigned to the states. IP CTS and IP STS are new services which the FCC has not extended 10-digit numbering to as yet.

Presently the VRS compensation rate is \$6.74 per minute for the first 50,000 minutes per month, \$6.47 per minute for 50,001 minutes to 500,000 minutes per month, and \$6.27 per minute over 500,000 minutes per month. The National Exchange Carriers Association (NECA), which is the FCC national fund administrator for TRS, has maintained a file of IP Relay and VRS terminating minutes by state since July 2005. Using the latest six-month’s NECA data, Florida averaged 354,815 VRS terminating minutes per month. Using the last intrastate/interstate relay cost allocation used by the FCC for the two-line CapTel phone as an estimate, states would be responsible for 89% of the VRS costs or approximately \$24,631,796 per year for Florida. Both intrastate and interstate VRS costs are presently being paid from the federal TRS Fund.

The IP Relay compensation rate is currently \$1.29 per minute, compared to the traditional TRS compensation rate of \$0.75 per minute (\$0.80 per minute after June 1, 2009). Using the latest six-month’s NECA data, Florida averaged 218,661 IP Relay terminating minutes per month. Using the last FCC intrastate/interstate relay cost allocation as an estimate, states would be responsible for 89% of the IP Relay costs or approximately \$3,004,363 per year for Florida. Both intrastate and interstate IP Relay costs are also presently being paid from the federal TRS Fund.

The FCC has not formally opined on the time frame when the IP Relay and VRS costs will shift to the states or what the intrastate/interstate cost allocation will be, but when it does happen, additional funding through statutory changes may have to be pursued because of the statutory cap of \$0.25 per access line for TRS in Florida. Staff estimates that the total monthly responsibility of intrastate IP Relay and VRS costs would be approximately \$2,303,013 per month or \$27,636,159 annually.

The \$27,636,159 additional IP Relay and VRS costs could increase the annual budget for Florida TRS to over \$39 million and likely exceed the current \$0.25 cap per access line allowed by statute. If this happens, a legislative change may be necessary to either increase the present

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<sup>9</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No.03-123, FCC 08-151, adopted June 11, 2008, Released June 24, 2008.

TRS cap for local exchange company lines or have all carriers such as wireless and VoIP providers charge the surcharge as the federal TRS program does. Another alternative is to have the FCC fund the entire relay program. The timeline for a legislative change may impair the stability of the Florida TRS fund. To keep the Florida legislature advised as to the FCC proposal for states to absorb the costs of intrastate VRS and IP Relay costs, the last four Commission annual Relay Reports to the President of the Senate and the Speaker of the House of Representatives have included information and updates on the FCC proposal.

In order to minimize the impact of this change on the Florida TRS Fund, the Commission took action in the 2006-2007 FTRI budget year by maintaining a \$0.15 per month TRS surcharge to create a reserve to handle the initial costs of the intrastate VRS and IP Relay cost burden.<sup>10</sup> It is estimated that this will provide a reserve in the Florida TRS fund of \$19,160,544 by the end of the current fiscal year in June 2009. Interest earned on this amount should increase the reserve amount enough to accommodate the initial intrastate VRS and IP Relay costs should the FCC make a decision in the next fiscal year.

**CapTel Service**

CapTel service, which is a telephone that provides captioning of the incoming call for a hearing impaired person, has had its minutes of use steadily increase over the past year. The average minutes per month for the latest six months increased by 8,676 minutes compared to the previous six month’s average minutes. Sprint Relay projects that the CapTel minutes of use will increase 3.95 percent for the 2009-2010 fiscal year. The CapTel cost as approved in the current Sprint Relay contract is \$1.37 per minute (\$1.40 per minute after June 1, 2009). Table D shows the historical CapTel minutes of use from February 2006, through February 2009.

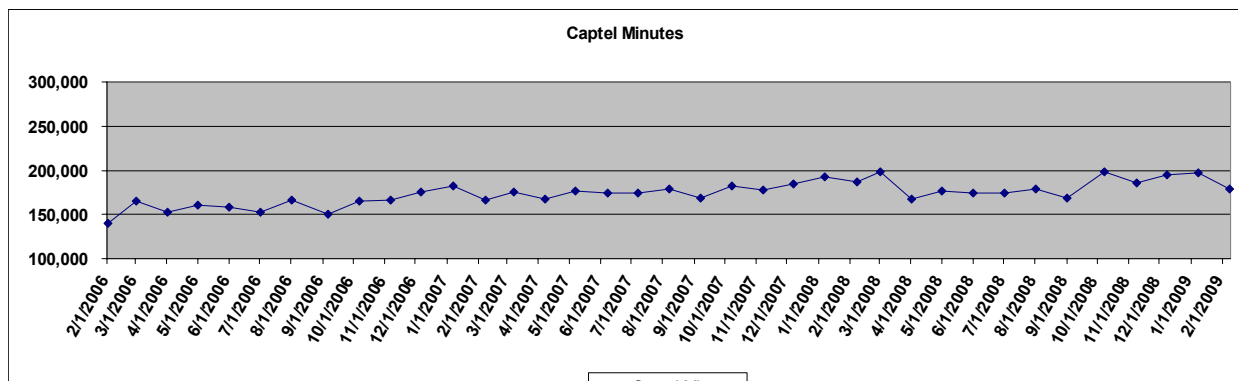


Table B – CapTel minutes of use February 2006 – February 2009

<sup>10</sup> Docket No. 040763-TP, Order PSC-06-0469-PAA-TP, issued June 1, 2006. Effective July 1, 2007, the surcharge was lowered from \$0.15 to \$0.11 by Order PSC-07-0457-PAA-TP, issued May 29, 2007.

### **FTRI Budget**

The FTRI 2009-2010 fiscal-year budget was reviewed and approved by the FTRI Board of Directors<sup>11</sup> on March 27, 2009, prior to the filing of its budget with the FPSC. The proposed budget includes a decrease in expenses of approximately \$1.3 million from the 2008-2009 budget year. The budget projects total revenues to be \$11,206,146 and total expenses to be \$11,496,251. FTRI believes that the TRS surcharge can remain at \$0.11 per access line for the 2009-2010 fiscal year. The revenue shortfall of \$290,105 would be covered through the surplus account.

Estimated minutes of use of traditional relay service for the 2009-2010 fiscal year shows a decrease of approximately 2.3 percent per month while the estimated minutes of use of CapTel captioning service show an increase of approximately 3.95 percent for the year. Netting the reduction in traditional TRS minutes with its per minute cost and the increase in CapTel minutes with its per minute cost provides an overall reduction in relay provider services of \$1,000,031 for the 2009-2010 budget year.

After analysis of the proposed budget, staff believes FTRI should have sufficient funds for its 2009-2010 fiscal-year budget and will have ample monies in the reserve account to address the initial cost of implementing VRS and IP Relay should that mandate occur. Therefore, staff believes that the surcharge should be maintained at \$0.11 per month to cover the FTRI 2009-2010 budget. A comparison of the FTRI 2008-2009 approved budget and the FTRI 2009-2010 proposed budget is shown below.

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<sup>11</sup> Tom McCabe - President, Mike Griffis - Vice President, Cecil Bradley - Treasurer, Doc Horton - Legal Counsel, James Forstall - Executive Director, Stan Greer, Demetria Clark, Harvey Spears, James White.

	<u>FTRI Budget</u>	
	<u>Proposed</u> <u>2009-2010</u>	<u>Current</u> <u>2008-2009</u>
Operating Revenue:		
Surcharges	\$10,990,455	\$11,574,081
Interest Income	<u>215,691</u>	<u>653,587</u>
Total Operating Revenue	\$11,206,146	\$12,227,668
Operating Expenses:		
Relay Provider Services	\$ 5,520,973	\$ 6,521,004
Equipment and Repairs	2,581,422	2,630,306
Equipment Distribution And Training	1,131,588	1,289,299
Outreach	911,344	956,542
General & Administrative	<u>1,350,924</u>	<u>1,396,389</u>
Total Expenses	\$11,496,251	\$12,793,540
Deficit	(290,105)	
Projected Surplus at June 30, 2010	\$18,870,439	

### **Conclusion**

Staff has reviewed FTRI's 2009-2010 fiscal year budget request and believes it is reasonable. Staff also believes the Commission's actions to minimize the impact of funding the intrastate costs of VRS and IP Relay have provided sufficient reserve in the TRS Fund to allow enough time for legislators to make any necessary changes which may be needed to the TRS statute. The current TRS surcharge of \$0.11 should meet FTRI's budget needs for the 2009-2010 fiscal year. Therefore, staff recommends that the Commission approve FTRI's proposed budget operating revenue of \$11,206,146, and proposed budget expenses of \$11,496,251 as outlined in Attachment A for the fiscal year 2009-2010, effective July 1, 2009. Staff also recommends that the TRS surcharge be maintained at \$0.11 per month for the fiscal year 2009-2010, effective July 1, 2009. The Commission should order the incumbent local exchange companies, competitive local exchange companies, and shared tenant providers to continue to bill the \$0.11 surcharge for the fiscal year 2009-2010, effective July 1, 2009.



**Issue 2:** Should the Commission approve Ms. Julia Michalka and Mr. Jonathan Ziev as advisory committee members to replace Mr. Isaac Abenchan and Ms. Mary Moore effective immediately?

**Recommendation:** Yes, the Commission should approve Ms. Julia Michalka and Mr. Jonathan Ziev as advisory committee members to replace Mr. Isaac Abenchan and Ms. Mary Moore effective immediately. (Moses, Casey)

**Staff Analysis:** Section 427.706, Florida Statutes, provides for up to 10 members on an advisory committee that assists the Commission with the implementation of the relay system. Section 427.706(1)(a), Florida Statutes, requires, to the extent practicable, two deaf persons recommended by the Florida Association of the Deaf be included as members of the advisory committee. Mr. Isaac Abenchan and Ms. Mary Moore have served in these positions, but have submitted their resignations to pursue other opportunities. As shown in Attachment B, the Florida Association of the Deaf has nominated Ms. Julia Michalka and Mr. Jonathan Ziev to serve on the advisory committee. Ms. Michalka is involved in many community organizations such as the “Train the Trainer” program and Volunteer Florida. Mr. Ziev is a deaf business owner who is on the board of several non-profit organizations and stays involved with telecommunication needs for the deaf. Staff believes Ms. Julia Michalka and Mr. Jonathan Ziev would be valuable additions to the advisory committee.

Staff supports these nominations and recommends that the Commission should approve Ms. Julia Michalka and Mr. Jonathan Ziev as advisory committee members to replace Mr. Isaac Abenchan and Ms. Mary Moore effective immediately.

Docket No. 040763-TP

Date: April 23, 2009

**Issue 3**: Should this docket be closed?

**Recommendation**: No, this docket should not be closed. (Tan)

**Staff Analysis**: This docket should remain open for the duration of 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.

Docket No. 040763-TP  
April 23, 2009

Attachment A



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March 27, 2009

Mr. Rick Moses. Chief of Quality Service