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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |

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|  | Public Meeting held May 18, 2017 |
| Commissioners Present: |  |

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| |  | | --- | | Gladys M. Brown, Chairman | | Andrew G. Place, Vice Chairman  John F. Coleman, Jr., Joint Statement, dissenting  Robert F. Powelson, Joint Statement, dissenting  David W. Sweet | |
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| Recalculation of the Pennsylvania  Telecommunications Relay Service Surcharge | M-2017-2582552  M-00900239 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the annual recalculation of the Pennsylvania Telecommunications Relay Service (TRS or Relay)[[1]](#footnote-1) and surcharge funding mechanism (TRS surcharge) as it will apply to residential and business wireline access lines for July 1, 2017 through June 30, 2018. This recalculation is made in accordance with our May 29, 1990 Order at Docket No. M-00900239 (*May 1990 Order*)and subsequent Commission orders and legislation.[[2]](#footnote-2) For the reasons stated herein, the monthly residential and monthly business access line surcharge will remain at $0.08.

**Background**

TRS provides telephone transmission services that allow for qualified persons with a hearing or visual impairment who require appropriate technology in order to access telecommunications services to communicate by wire or radio in a functionally equivalent manner as non-disabled persons. The Commission is charged with designing and implementing the TRS program to meet, at a minimum, the requirements of the Americans with Disabilities Act of 1990 and Section 225 of the Federal Telecommunications Act of 1996, 47 U.S.C. § 225 (*TA96*). In *TA96,* Congress addressed common carrier obligations to provide service to hearing or speech impaired individuals in compliance with federal mandates governing interstate and intrastate telecommunications and state certification that their programs comply with federal mandates.

In addition to providing equipment at no charge to qualified individuals that allows them to engage in telecommunications access on a functionally equivalent basis as non-impaired individuals, the program provides public education so that consumers are more familiar with, and can use, TRS to access the Public Switched Network (PSN), a network that provides telecommunications and broadband access, and other telecommunications services. Currently the TRS surcharge funds three individual programs: Relay (TTY style, Speech-to-Speech, Spanish Relay, and Captioned Telephone Relay Service (CTRS)); TDDP; and the Wireless Equipment Initiative (WEI) two-year pilot program. Additionally, the surcharge funds the PMASP, the TRS Advisory Board activities, and Fund administration costs. Administration of the TRS program is tasked to the Executive Director of the Office of Vocational Rehabilitation (OVR) of the Department of Labor and Industry.

By statute the Commission is charged with annually calculating the TRS program surcharge based on an annual budget. The surcharge in its present form is assessed at $0.08 per wireline residential and business access line per month, or generally $0.96 per year for a typical residential customer. The annual TRS surcharge recalculation is dependent on data from several sources. Local Exchange Carriers (LECs)[[3]](#footnote-3) submit annual wireline access line counts pursuant to 52 Pa. Code § 63.37. The traditional relay provider, Hamilton Relay, Inc.,[[4]](#footnote-4) submitted the estimated minutes of use and charges for July 1, 2017, through June 30, 2018. Hamilton Telephone Company d/b/a Hamilton Telecommunications submitted the estimated minutes-of-use report for CTRS. OVR submitted the 2017-2018 TDDP budget and the 2017-2018 PMASP budget. U.S. Bank,[[5]](#footnote-5) the Fund Administrator, provided a statement of the financial status of the Fund.[[6]](#footnote-6)

**Discussion**

**Surcharge for 2017 – 2018**

As noted above, the WEI is a two-year pilot program. This program was initiated by an order of this Commission in *Petition of Department of Labor & Industry Office of Vocational Rehabilitation for a Proposed Pilot for Distribution of Telecommunications Relay Service Wireless Equipment to People with Disabilities in Pennsylvania, et al.*, Docket No. P-2015-2484229, *et al.* (Order entered July 8, 2015)(*July 2015 Order*), and pursuant to the UTPMAA. Because the UTPMAA includes communications service by wire or radio, we authorized this pilot to acknowledge the evolving landscape of telecommunications services from exclusively traditional landline based wireline facilities to multiple technology-based communications services, including but not limited to wireless and Voice over Internet Protocol services, and to test our need to further our obligations under federal and state law to provide services to the disabled under an increasingly changing technological construct.

Under the pilot WEI, we authorized the conduct and funding of a project designed to test the availability and use of wireless devices by a limited number of eligible Pennsylvanians with disabilities for a limited period. Specifically this test involved the participation of thirty individuals in the first test year, and sixty in the second and final test year. The related wireless devices and education are supported from and distributed to eligible end-users through the existing TDDP. The first thirty eligible individuals received their wireless devices on May 3, 2016. Accordingly, the program will not have completed its two-year pilot until May of 2018.

Further, under the WEI pilot, we built in reporting requirements meant to assess the program. No later than eighteen months after the commencement of the WEI pilot, or by November 2017, the OVR is required to file an interim report with the Commission evaluating the pilot and making recommendations for actions to be taken at the end of the two-year pilot. Sixty days thereafter our Staff is required to submit a report to the Commission including its own recommendations and any recommendations proposed by the OVR on what, if any, action is appropriate.

The estimated and actual access lines assessed to support this TRS program, including the WEI pilot, have declined markedly from 2011 through 2016, from approximately 6.1 million as of December 31, 2011, to approximately 4.7 million 5 years later. Further, the current WEI is funded exclusively by wireline assessments with no contribution from the wireless providers who provide service to WEI consumers, an issue we recognized in authorizing the pilot but for which we then deferred, and continue to defer, action through at least the full conduct of the pilot.[[7]](#footnote-7)

Moreover, the Federal Communications Commission (FCC) has initiated a proposed rulemaking where it contemplates the shifting of certain federal TRS program costs associated with the Internet Protocol Captioned Telephone Service ((IP CTS) – currently considered a jurisdictionally interstate service even though it also has an intrastate component) to the states. Although the FCC has not yet acted on this proposed rulemaking, as recently as May 10, 2017, the FCC issued a Public Notice seeking comments on federal TRS-related rates, including the interstate/intrastate IP CTS. As long as this matter remains open before the FCC, there is a substantial risk for Pennsylvania that the FCC may effectuate a jurisdictional cost shift from the federal to the state level because of the observable growth in IP CTS use.[[8]](#footnote-8)

Given the uncertainties that exist with respect to the nature of the program going forward, the desire to evaluate the carrier assessment pool, and potential cost changes at the federal level, we prefer to take a cautious approach today in setting the TRS surcharge for next year, and for that reason we shall make no change to the current $0.08 per line per month charge. Retention of the current surcharge pending further resolution of these uncertainties ensures that the program will have sufficient resources to support whatever decisions we may make to WEI after the WEI pilot program has been completed, and that we are able to respond to potential significant cost increases to the program should the FCC ultimately allocate certain IP CTS costs currently borne by the federal TRS program to the states.

All TRS surcharge revenues shall continue to be remitted to the Fund Administrator.[[9]](#footnote-9) Because the 2017-18 surcharge will remain at the same monthly rate of $0.08 that was previously approved for the 2016-17 period for each residence and business access line, it will not be necessary for telephone companies to file tariff revisions or supplements as a result of today’s decision. Effective July 1, 2017, the monthly surcharge allocation for each fund account will be as follows:[[10]](#footnote-10)

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| TRS Component | 2017-2018  Percentage of Monthly Surcharge | |
|  | Residence (%) | Business  (%) |
| Relay | 85.0 | 85.0 |
| TDDP | 10.0 | 10.0 |
| PMASP | 5.0 | 5.0 |
| Total Percentage | 100.0 | 100.0 |

**Operations for 2017 – 2018**

We shall continue our active oversight of the operations of the Pennsylvania Telecommunications Relay Service. In accordance with 35 P.S. §§ 6701.3a & 4, we shall continue to collaborate with OVR and its TDDP administrator[[11]](#footnote-11) to ensure adequate funding for distribution of TDDP equipment to qualified Pennsylvanians. Further, we shall continue to assist OVR in its mission to ensure adequate funding for PMASP*.*

**Audits**

On July 7, 2015, the Commission’s Bureau of Audits (Audits) issued the audit report for TDDP and PMASP covering the twelve-month periods ended June 30, 2013, and June 30, 2012, at Docket No. D-2014-2406981.

Audits has also completed the audit of the TRS Program (collection and disbursement of the TRS funds) for the twelve‑month periods ended February 29, 2016, February 28, 2015, February 28, 2014, and February 28, 2013, and the audit report is in the final stages of preparation.

**Service of Paper Copies**

In the past, our practice has been to serve the annual TRS surcharge recalculation order on every LEC in the Commonwealth, in addition to the service providers, Office of Vocational Rehabilitation, Office of Consumer Advocate, Office of Small Business Advocate, Pennsylvania Telephone Association, and the Fund Administrator. As proposed in the TRS Surcharge Recalculation order at Docket No M 2013-2341301, entered May 23, 2013, service of paper copies of the recalculation orders on the LECs will only henceforth be served if there is a change in the TRS surcharge or other provision in the order requiring that the LECs file a tariff change or take other action. As this order does not change the set surcharge rate or require any other tariff changes in response to this order, paper copies will not be served. Additionally, we will continue to publish the recalculation orders in the *Pennsylvania Bulletin* and on the Commission’s website.

**Conclusion**

We have completed the annual recalculation of the TRS Surcharge. The surcharge to be applied beginning July 1, 2017, through June 30, 2018, will remain at $0.08 per month for residential and business access lines. We also note that paper copies of this order will not be served on the LECs as there is no change in the set surcharge rate or to impose new requirements on the LECs requiring tariff changes in response to this Order; **THEREFORE**,

**IT IS ORDERED:**

1. That for the period of July 1, 2017, through June 30, 2018, the monthly TRS surcharge rate shall be $0.08 for residence and business, unless we take further action to revise the TRS surcharge prior to June 30, 2018.

2. That all local exchange carriers are directed to use the attached blank form, which contains the new mailing address, to remit the monthly TRS surcharge collections to U.S. Bank, Institutional Trust & Custody. The entered Order and blank remittance form shall be posted to the PUC web site <http://www.puc.pa.gov>. All local exchange carriers are required to collect and remit the TRS surcharge revenue with the completed remittance form monthly by the 20th of each month.

3. That a copy of this Order be published in the *Pennsylvania Bulletin.*

4. That a copy of this Order be posted to the Commission’s website.

  **BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: May 18, 2017

ORDER ENTERED: June 27, 2017

**REMITTANCE FORM FOR MONTHLY TRS SURCHARGE COLLECTIONS**

Effective July 1, 2017 through June 30, 2018 M-2017-2582552

All local exchange carriers are required to collect and remit the TRS surcharge revenue monthly, by the 20th of each month using the following format for the monthly remittance:

***Pennsylvania TRS Surcharge***

For the Month Ending

Number of **Residential** access lines

X $0.08 per line

Allocated:

TRS Relay 85.0 percent

TDDP 10.0 percent

PMASP 5.0 percent

Number of **Business** access lines

X $0.08 per line

Allocated:

TRS Relay 85.0 percent

TDDP 10.0 percent

PMASP 5.0 percent

Total Remittance

Make check payable to: **Pennsylvania TRS Fund**

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| **Mail Report and payment to**: | ***Wire Instructions:*** |
| U.S. Bank Institutional Trust & Custody  Attn: Dina Buccieri  50 S. 16th Street, Suite 2000  Philadelphia, PA 19102 | **BANK** U.S. Bank N.A  **ADDRESS** 60 Livingston Avenue, St Paul  MN 55107-2292  **ABA** 091 000 022  **BNF** ITC Depository South & East  **ACCOUNT** 173 103 781 832  **OBI** PA Relay  **ATTN**: Dina Buccieri |

**Remittance for**:

Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Utility Code: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact Person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Voice Phone Number: (\_\_\_\_)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ FAX: (\_\_\_\_)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-mail address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Authorized Signature:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *Date:*\_\_\_\_\_\_\_\_\_\_\_\_\_

Please direct any questions regarding the TRS Surcharge remittance to Mr. Eric Jeschke at (717) 783‑3850 or ejeschke@pa.gov.

1. Additional information on TRS may be found at <http://www.puc.pa.gov/utility_industry/telecommunications/telecommunications_relay_service.aspx>. [↑](#footnote-ref-1)
2. *See* Act 34 of 1995, 35 P.S. §§ 6701.1 – 6701.4 (the statutory provisions were amended by Act 181 of 2002 to be more inclusive of persons with disabilities), establishing the Telecommunication Device Distribution Program (TDDP) to be funded by the TRS surcharge and which codified Relay and use of the TRS surcharge funding mechanism; and Act 174 of 2004, 35 P.S. § 6701.3a, which established the Print Media Access System Program (PMASP). PMASP is a reading service for persons with certain vision-related physical disabilities. The law is now called the “Universal Telecommunications and Print Media Access Act” (UTPMAA). [↑](#footnote-ref-2)
3. LECs include both incumbent and competitive local exchange carriers. [↑](#footnote-ref-3)
4. Hamilton Relay, Inc. (Hamilton) holds the TRS Certificate of Public Convenience to provide TRS throughout the Commonwealth of Pennsylvania. The Commission approved Hamilton’s Application filed at A-2014-2447601 by order entered December 4, 2014. [↑](#footnote-ref-4)
5. As a result of mergers, acquisitions, and name changes, Fund administration has been handled by Hamilton Bank (1990), CoreStates Bank N.A. (1995), First Union National Bank (1999), Wachovia Bank, N.A. (2002), and U.S. Bank Institutional Trust & Custody (2006). [↑](#footnote-ref-5)
6. Separate accounts are maintained for the portions of the surcharge allocated to Relay, TDDP, and PMASP. TRS Advisory Board expenses, CTRS, and outreach activities are funded from the Relay account; TRS Fund administration costs are drawn from each respective account. [↑](#footnote-ref-6)
7. As we stated in our *July 2015 Order*: “Certain commenting parties have addressed issues pertaining to the future funding of TDDP wireless device availability on a permanent and statewide basis from the TRS Fund. We are fully cognizant of these issues but will not address them at this time. Rather, we will address them in due course in collaboration with OVR and Temple University [which serves as administrator of the TDDP on behalf of OVR].” *July 2015 Order* at 14. [↑](#footnote-ref-7)
8. *See In re Misuse of Internet Protocol (IP) Captioned Telephone Service, et al.*, CG Docket No. 13-24 *et al.*, (FCC Rel. August 26, 2013), Report and Order and Further Notice of Proposed Rulemaking, *slip op.* FCC 13-118, ¶¶ 131-40, at 62-65. *See also* FCC Public Notice, Rolka Loube Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the 2017-18 Fund Year, CG Docket Nos. 03-123 & 10-51, DA 17-445, May 10, 2017, at 1, 4. [↑](#footnote-ref-8)
9. U.S. Bank Institutional Trust & Custody, Attn: Dina Buccieri, 50 S. 16th Street, Suite 2000, Philadelphia, PA 19102. Remittances are payable to the “PA Relay Service Fund” and designated for Relay. Bank wire instructions can be found on the remittance form. [↑](#footnote-ref-9)
10. The TRS surcharge appears as a single line item on customers’ bills but actually has three components (Relay, TDDP, and PMASP). [↑](#footnote-ref-10)
11. Since January 1, 2007, the TDD program has been administered by Pennsylvania’s Initiative on Assistive Technology, Institute on Disabilities, Temple University. [↑](#footnote-ref-11)