

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17120**

**Petition of the 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**

**Public Meeting held December 20, 2018**  
**2484229-CMR**  
**Docket No. P-2015-2484229**

**Petition of the Pennsylvania Telephone Association Requesting the Commission to Approve Implementation of Pennsylvania Relay Service for the Deaf, Hearing, or Speech Impaired Community within the Commonwealth of Pennsylvania**

**Docket No. M-00900239**

**Recalculation of the Pennsylvania Annual Telecommunications Relay Surcharge**

**Docket No. M-2018-2640814**

**MOTION OF COMMISSIONER NORMAN J. KENNARD**

The Pennsylvania Telecommunications Relay System (TRS) was established by the Pennsylvania Public Utility Commission (Commission) in 1990 pursuant to a petition filed by the Pennsylvania Telephone Association (PTA).<sup>1</sup> TRS and the accompanying equipment program known as the Telecommunications Device Distribution Program (TDDP), were codified in 1995 and later amended in 2004 to be known as the Universal Telecommunications and Print Media Access Act.<sup>2</sup>

By statute, the Department of Labor and Industry's Office of Vocational Rehabilitation (OVR), in cooperation with other State agencies which serve people with disabilities, oversees the implementation and operation of the TDDP. Under the TRS enabling legislation, the Commission's responsibilities include the design and implementation of a telecommunications relay service program, administration of a surcharge, approval of the TDDP budget, and submission of an annual report to the General Assembly.<sup>3</sup> Effective January 1, 2007, program administration of the TDDP was awarded to Temple University through its Institute on Disabilities.

The TRS programs are funded by a monthly surcharge on the jurisdictional, land-based services of the traditional local exchange carriers- that is, on business and residential landline or

---

<sup>1</sup> *PTA Petition re TRS*, Docket No. M-00900239 (Orders entered May 29, 1990 and July 9, 1990).

<sup>2</sup> 35 P.S. §§ 6701.1 – 6701.4.

<sup>3</sup> Act 34 of 1995.

wireline terrestrial wire service lines served by the local exchange companies (LECs). Pursuant to the Commission's regulations, these local exchange carriers are obligated to remit an annual tracking report on revenues and access line counts, for purposes of calculating the next year's surcharge.<sup>4</sup>

By Commission Order, the Bureau of Audits performs an annual audit of the PA TRS Program.<sup>5</sup> Pursuant to a Memorandum of Understanding between the PUC and OVR, dated April 15, 2004,<sup>6</sup> the actual expenditures of the TDDP, funded by the TRS Surcharge, are also subject to audit by the PUC's Bureau of Audits on an ongoing basis.<sup>7</sup>

When originally designed in 1990, the landline telephone and the copper line was the sole source of communication. The market was a monopoly dominated by the incumbent telephone companies. Competition existed only in the devices used (the customer premise equipment) and long-distance calling market. The hearing and sight impaired communities used specially designed equipment that connected via the landline network to live operators that provided interconnectivity and other services such a media reading. In other words, TRS (and TDDP) was designed to create a landline-based solution funded by other land line customers.

Today, the Commission's decision to expand the TDDP program, by funding the distribution of wireless devices to eligible persons with disabilities, marks a landmark step in the evolution of the TRS program. Technology that did not exist in 1990 and 1995 is now the dominant form of telecommunications in our society and we use and rely on its powerful attributes without a second thought. There are many more wireless customers in Pennsylvania than land line. The proliferation of smart phones, wireless tablets and hand-held devices, along with a host of software applications, provides technology platforms with unprecedented access to communications in every imaginable form.<sup>8</sup> Electronic mail, text messaging, voice to text, video calling, and numerous other technological changes have radically changed the landscape for TRS - as today's decision by the Commission clearly reflects.

At the same time, in Pennsylvania and across the nation, consumers are migrating away from wireline service to mobile telecommunications services and "cutting the cord". Consequently, the number of access lines supporting the TRS program have declined

---

<sup>4</sup> 52 Pa. Code § 63.37(a).

<sup>5</sup> Order entered September 11, 1992 at Docket No. M-00900239; See *also TRS Report* by Bureau of Audits, Report of June 14, 2017, Docket No. D-2016-2556222.

<sup>6</sup> Docket No. M-00900239.

<sup>7</sup> See *TDDP and PMASP Report* by Bureau of Audits, Report of June 12, 2015, Docket No. D-2014-2406981.

<sup>8</sup> The FCC recently reported that smartphone device penetration has almost doubled over the past five years, from approximately 42 percent in 2011 to approximately 81 percent in 2016. During 2016, the number of active smartphones in the U.S. increased from 228.3 million to 261.9 million. *Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 17-69, Twentieth Report (September 27, 2017) at ¶ 63.

dramatically - falling from 6.1 million at the end of 2011 to 4.7 million in 2016.<sup>9</sup> These trends in technology and consumer choice offer both challenges and opportunities for the Commission in its task to design and implement a viable and sustainable TRS program.

It is therefore appropriate to take this opportunity to review and assess, in wholesale fashion, the telecommunications relay service program, including the TDDP, that has been in effect for over twenty-five years. The Commission's Bureau of Audits is a ready resource for this work and has both the expertise and experience with the TRS programs and operations to bring to bear, here.

It is also appropriate to seek input from stakeholders, specifically the TRS Advisory Board, in this effort. When I engaged with them, the TRS Board members expressed their interest in convening a task force to review the current TRS programs, explore opportunities for modernization, and provide recommendations and findings to the Commission. (See attached letter from Chairwoman Tyberg.) I thank them for agreeing to undertake this important effort although I also recognize that the expertise and assistance of additional stakeholders is critical to ensuring a comprehensive consideration of the current and future state of TRS in Pennsylvania.

Consequently, I propose that the TRS Task Force include, at a minimum, the TRS Advisory Board members who shall prepare the final TRS Recommendation for the Commission and whose input shall be coordinated through the current Chair of the Board, with assistance from other members as necessary. Additional TRS Task Force members shall include, but not be limited to, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Temple Institute on Disabilities (TIAD), and two members with challenges designated by the TRS Advisory Board including, if possible, a member of the disabled veteran's community, a member of the wireless industry, and a member from Pennsylvania's cable industry. Each member shall have the right to participate as a full member, including voting on any final recommendation or position of the TRS Task Force.

This collective experience and expertise will be invaluable in their review of the changes in technology, trends in declining landlines and alternatives to the current surcharge structure, consumer choice, demographic changes, and ways to leverage readily available technology like smart phones, tablets and the access to the Internet. The task force should also solicit input from TRS and TDDP participants, administrators, consultants, other agencies, and representatives from industry and technology groups, as well consider and highlight other TRS/TDDP programs employed by other states and national groups. It is important that the wireless industry participate.

The TRS Task Force is requested to thoroughly reimagine the whole process – service, device selection and distribution and funding. In view of today's technology and markets, fundamental issues such as the continued need for TRS and conventional TDDP should be considered. Are smart phones ready to occupy the entire space? If not, when will it and over what ti

---

<sup>9</sup> *Recalculation of the Pennsylvania Telecommunications Relay Service Surcharge*, Docket No. M-2017-2582552 (Order entered June 27, 2017) at 4-5.

me frame? How should funding occur? If the equipment is equipped to handle SIM cards, then how should CMRS service be configured?

In concert, the historical review and empirical assessment by the Bureau of Audits and the policy findings and recommendations by the TRS Task Force will assist the Commission in making a fully informed decision as we seek to fashion a more modern, transformative TRS and TDDP program.

**THEREFORE I MOVE THAT:**

1. The Bureau of Audits shall review and summarize the current funding sources for the expansion of the TDDP program to include the distribution of wireless equipment and summarize these sources for the Commission.
2. The Bureau of Audits shall endeavor to create a historical trend analysis of the TDDP and associated TRS Fund over a 25 year period, including the number of devices distributed to consumers as part of the TDDP on an annual basis, the annual budget for relay and TDDP the number of consumers using TRS receiving TDDP devices, the number of wireline access lines reported by Local Exchange Carriers in their Access Line Summary Reports on an annual basis, the number of wireless devices in circulation in Pennsylvania using most recent FCC Information, and the total number of TRS and CTRS minutes of use compensated by the TRS Fund on an annual basis.
3. The Bureau of Audits shall create a prospective financial forecast for the TDDP and associated TRS Fund based upon the most recently completed audits and projections which shall include factors as increases in the population that would increase the number of eligible participants, inflation, a projection of costs based on the general increase in the cost of wireless devices; estimated collections from Local Exchange Carriers over the next 20 years considering the expected decrease in wirelines, and estimated interest earned on banked funds.
4. The Bureau of Audits submit the results of its review to the Commission no later than June 30, 2019.
5. There is hereby created a TRS Task Force responsible for preparing and filing a final Recommendation on TRS for consideration by the Commission.
6. The TRS Task Force shall convene consisting of the members established by the Commission to review and improve the TRS programs, including the TDDP and other related programs, consistent with this Order. The TRS Task Force shall seek participation and input from interested stakeholders including, but not limited to, TRS and TDDP participants, consultants, administrators, other agencies, and representatives from industry and technology groups about the changes in technology, trends in declining landlines and alternatives to the current surcharge structure, consumer choices and trends, demographic changes, and ways to leverage readily available technology like smart phones, tablets and the internet.

7. The TRS Task Force shall consist of the TRS Advisory Board members who shall be responsible for submitting a final TRS Recommendation to the Commission and whose input shall be coordinated through the Chair of the TRS Advisory Board with assistance from other members as necessary. Additional members shall include, but not be limited to, the Office of Consumer Advocate, the Office of Small Business Advocate, the Temple Institute on Disabilities, two members with challenges designated by the TRS Advisory Board including, if possible, a member of the disabled veteran's community, a representative of the Pennsylvania wireless industry, and a representative of the Pennsylvania cable industry. Each member shall have the right to participate as a full member, including voting on any final recommendation or position of the TRS Task Force.
8. The TRS Task Force shall also consider and report on the TRS and TDDP programs adopted by other states and jurisdictions, with a focus on identifying those programmatic aspects that are identified as useful to Pennsylvania's TRS program and therefor recommended by the task force.
9. The Task Force shall present its findings and recommendations to the Commission within nine months from the date of this Order.
10. The initiation of the audit and task force activities contemplated in this Motion will not impede the immediate and permanent implementation of the wireless expansion initiative of the Telecommunications Device Distribution Program as described in Chairman Brown's motion, that the Commission is also concurrently considering.
11. The Office of Special Assistants, in consultation with the Bureau of Technical Utility Services and the Law Bureau, prepare an Opinion and Order consistent with this Motion, and that the entered Order be served upon the Secretary of the Department of Labor and Industry, the Office of Vocational Rehabilitation, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Commission's Telecommunications Relay Service Advisory Board; and
12. A copy of an entered Opinion and Order arising from today's action be published in the *Pennsylvania Bulletin* and posted on the Commission's website.

**Date: December 20, 2018**

  
\_\_\_\_\_  
**NORMAN J. KENNARD**  
**COMMISSIONER**

A. Kay Tyberg

1012 E. Atlantic Avenue Apt. #2 Altoona, PA 16602-6929

570-494-6419/cell-text only aktyberg@gmail.com 570-279-4589/VRS

December 17, 2018

Commissioner Norman J. Kennard  
Public Utility Commission  
Commonwealth Keystone Building  
3<sup>rd</sup> Floor  
400 North Street  
Harrisburg, PA 17120

Dear Commissioner Kennard:

On behalf of the Telecommunications Relay Services/Public Utility Commission (TRS/PUC) Advisory Board, I write to encourage you and the commissioners to promote modernization of services under the preview of the Board.

As you may know, the Institute on Disabilities at Temple University operates the Telecommunication Device Distribution Program (TDDP) administered by the Pennsylvania Office of Vocational Rehabilitation as authorized by Act 34 of 1995. The Institute on Disabilities recently completed a pilot program distributing wireless devices for telecommunication to eligible persons with disabilities. Their final report, previously submitted to the PUC and reviewed by the TRS Advisory Board, details the success and impact of the "Wireless Expansion Initiative" on the lives of Pennsylvanians with disabilities, and includes recommendations for a permanent program. The TRS Advisory Board encourages the creation of a stakeholder group to explore mechanisms that would fund such a

## Hearing Loss Advocate

Advocating and educating the hearing loss community and the public on the rights and needs of individuals with hearing loss.

Compliance

Communication

Education

Patience

Peer Mentoring

Perseverance

Support

Empower, enhance and embrace to live independently and sustain a better quality of life.

program, to bring the TDDP into the 21<sup>st</sup> century and achieve equal access to telecommunications for individuals with disabilities.

May I add in the lives of people with disabilities we face many challenges. Please take a couple of minutes and think what it would be like if you did not have a cell phone, an iPad, laptop, and technology devices to assist you in your daily routine and tasks. This is not about having the latest "gadget" on the market. It is not about having the latest and greatest technology. It is about equal access to function in our society and being able to **communicate** efficiently and effectively with those we interact daily. Achievement and success stories derive from the appropriate tools to communicate.

As chair, I understand the question of funding is likely to be an issue. My philosophy in life is, "If there is a will, there is a way." Our advisory board thank you for listening to this critical need for all.

Respectfully,

*Kay Tyberg*

Kay Tyberg, Chairperson  
TRS/PUC Advisory Board

cc: Alphonse Arnold, PUC  
Amy Goldman, Board Secretary  
Eric Jerschke, PUC

