# PENNSYLVANIA

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held December 20, 2018

Commissioners Present:

Gladys M. Brown, Chairman

Andrew G. Place, Vice Chairman, Statement, Dissenting

Norman J. Kennard

David W. Sweet

John F. Coleman, Jr.

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| 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 | Docket No. P-2015-2484229 |
| Petition of the Pennsylvania Telephone Association Requesting the Commission to Approve Implementation of Pennsylvania Relay Service for 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 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

By this Opinion and Order, we shall create a Task Force (TRS Task Force) to undertake a comprehensive review of the existing Pennsylvania Telecommunications Relay Service (TRS) and the associated Telecommunications Device Distribution Program (TDDP).

**Background**

 The Pennsylvania Telecommunications Relay Service (TRS) was established by the Pennsylvania Public Utility Commission (Commission) in 1990 pursuant to a petition filed by the Pennsylvania Telephone Association (PTA).[[1]](#footnote-1) TRS and the accompanying equipment distribution 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.[[2]](#footnote-2)

 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.[[3]](#footnote-3) 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 jurisdictional, land-based services of local exchange carriers – that is, on business and residential landline or wireline terrestrial lines served by the local exchange carriers (LECs). Pursuant to the Commission’s regulations, these LECs are obligated to remit an annual tracking report on revenues and access line counts, for purposes of calculating the next year’s surcharge.[[4]](#footnote-4)

By Commission Order, the Bureau of Audits periodically performs an audit of the PA TRS Program.[[5]](#footnote-5) Pursuant to a Memorandum of Understanding between the Commission and OVR, dated April 15, 2004,[[6]](#footnote-6) the actual expenditures of the TDDP, funded by the PA TRS Surcharge, are also subject to audit by the Bureau of Audits on an ongoing basis.[[7]](#footnote-7)

**Discussion**

When the TRS Program was 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 premises equipment) and the 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 as media reading. In other words, the TRS (and TDDP) was designed to create a landline-based solution funded by other landline customers.

Today, our 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 PA TRS. 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. Today, there are many more wireless than landline customers in Pennsylvania. The proliferation of smart phones, wireless tablets, hand-held devices, along with a host of software applications provide technology platforms with unprecedented access to communications in every imaginable form.[[8]](#footnote-8) Electronic mail, text messaging, voice to text, video calling, and numerous other technological changes have radically changed the landscape for TRS – as today’s concurrent decision by the Commission to establish a permanent wireless distribution program 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 contributing to the PA TRS Fund have declined dramatically – falling from 6.1 million at the end of 2011 to 4.7 million in 2016.[[9]](#footnote-9) These trends in technology and consumer choice present both challenges and opportunities for the Commission in its task to design and implement a viable and sustainable PA TRS Fund.

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

It is also appropriate to seek input from stakeholders, specifically the PA TRS Advisory Board, in this effort. When engaged, the PA TRS Advisory 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.[[10]](#footnote-10) We thank them for agreeing to undertake this important effort, although we also recognize that the expertise and assistance of additional stakeholders is critical to ensuring a comprehensive consideration of the current and future state of the PA TRS in Pennsylvania.

Consequently, we propose that the TRS Task Force include, at a minimum, the PA TRS Advisory Board members who shall prepare the final PA TRS Recommendation for the Commission and whose input shall be coordinated through the current Chair of the Board, or her successor, with assistance from other members as necessary. Additional PA 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), a member of the wireless industry, a member from Pennsylvania’s cable industry, and two members with challenges designated by the TRS Advisory Board, including, if possible, a member from the disabled veteran’s community. Each member shall have the right to participate as a full member and be entitled to a vote 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 as consider and highlight other TRS/TDDP programs employed by other states and national groups. It is important that the wireless industry participate.

We request that the TRS Task Force 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 they be ready and over what time 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 this Commission in making a fully informed decision as we seek to fashion a more modern, transformative TRS and TDDP Program.

**III. Conclusion**

Based on the forgoing, we shall create a PA TRS Task Force who shall convene to examine the present and future of the PA TRS and the TDDP Program; **THEREFORE,**

 **IT IS ORDERED:**

1. That the Bureau of Audits shall review and summarize the current funding sources for the expansion of the Telecommunication Device Distribution Program to include the distribution of wireless equipment and summarize these sources for the Commission.

2. That the Bureau of Audits shall endeavor to create a historical trend analysis of the Telecommunications Device Distribution Program and associated Pennsylvania Telecommunications Relay Service Fund over a twenty-five (25)-year period, including the number of devices distributed to consumers as part of the Telecommunication Device Distribution Program on an annual basis, the annual budget for relay and Telecommunication Device Distribution Program, the number of consumers using the Pennsylvania Telecommunications Relay Service receiving devices through the Telecommunication Device Distribution Program, 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 Pennsylvania Telephone Relay Service and Captioned Telephone Relay Service minutes of use compensated by the Telephone Relay Service Fund on an annual basis.

3. That the Bureau of Audits shall create a prospective financial forecast for the Telecommunication Device Distribution Program and associated Pennsylvania Telephone Relay Service Fund based upon the most recently completed audits and projections which shall include factors such as increases in the population that would increase the number of eligible participants, inflation, a projection of costs based on the general increases in the cost of wireless devices; estimated collections from Local Exchange Carriers over the next twenty (20) years considering the expected decrease in wirelines, and estimated interest earned on banked funds.

4. That the Bureau of Audits shall submit the results of its review to the Pennsylvania Public Utility Commission no later than six months from the date of this Order.

5. That a Pennsylvania Telephone Relay Service Task Force is hereby created, and which shall be responsible for preparing and filing a final Recommendation on the Pennsylvania Telephone Relay Service for consideration by the Commission.

6. That the Pennsylvania Telephone Relay Service Task Force shall convene consisting of members established by the Commission to review and improve the Telephone Relay Service programs, including the TDDP and other related programs, consistent with this order. The Telecommunications Relay Service 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. That the TRS Task Force shall consist of the Pennsylvania TRS Advisory Board members who shall be responsible for preparing and submitting a final Pennsylvania Telephone Relay Service Recommendation to the Pennsylvania Public Utility Commission and whose input shall be coordinated through the current Chair of the Telephone Relay Service Advisory Board, or her successor, 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, including, if possible, a member of the disabled veteran’s community, designated by the Pennsylvania Telephone Relay Service Advisory Board, 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 Pennsylvania Telephone Relay Service Task Force.

8. That the Pennsylvania Telephone Relay Service Task Force shall also consider and report on the Pennsylvania Telephone Relay Service and Telecommunication Device Distribution Programs adopted by other states and jurisdictions, with a focus on identifying those programmatic aspects that are identified as useful to the Pennsylvania Telephone Relay Service and therefore recommended by the task force.

9. That the Pennsylvania Telephone Relay Service Task Force shall present its findings and recommendations to the Commission within nine (9) months from the date of this Opinion and Order.

10. That the initiation of the audit by the Bureau of Audits and the activities of the Pennsylvania Telephone Relay Service Task Force contemplated in this Opinion and Order will not impede the immediate and permanent implementation of the wireless expansion initiative of the Telecommunication Device Distribution Program as described in our concurrently entered Opinion and Order at Docket Nos. P‑2015-2484229, M-00900239, and M-2018-2640814.

11. That a copy of this Opinion and Order shall be served upon the Secretary of the Department of Labor & Industry, the Office of Vocational Rehabilitation, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Telecommunications Relay Service Advisory Board.

12. That a copy of this Opinion and Order shall be published in the *Pennsylvania Bulletin* and posted on the Commission’s website*.*

 **BY THE COMMISSION,**

 Rosemary Chiavetta

 Secretary

(SEAL)

ORDER ADOPTED: December 20, 2018

ORDER ENTERED: February 27, 2019

1. 1 *PTA Petition re TRS*, Docket No. M-00900239 (Orders entered May 29, 1990 and July 9, 1990). [↑](#footnote-ref-1)
2. *See* Act 34 of 1995, 35 P.S. §§ 6701.1 – 6701.4; *Also see* Act 174 of 2004, 35 P.S. §6701.3a. [↑](#footnote-ref-2)
3. Act 34 of 1995. [↑](#footnote-ref-3)
4. 52 Pa. Code § 63.37(a). [↑](#footnote-ref-4)
5. Order entered September 11, 1992 at Docket No. M-00900239; *See also TRS Report* byBureau of Audits, Report of June 14, 2017, Docket No. D-2016-2556222. [↑](#footnote-ref-5)
6. Docket No. M‑00900239. [↑](#footnote-ref-6)
7. *See A Report on the Telecommunication Device Distribution Program and Print Media Access System Program Audits for the Twelve-Month Period Ended June 30, 2015 and June 30, 2012,* Docket No. D-2014-2406981. [↑](#footnote-ref-7)
8. 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. [↑](#footnote-ref-8)
9. *Recalculation of the Pennsylvania Telecommunications Relay Service Surcharge,* Docket No. M-2017-2582552 (Order entered June 27, 2017) at 4-5. [↑](#footnote-ref-9)
10. *See* Letter from TRS Advisory Board Chairwoman Tyberg (December 17, 2018), attached to Commissioner Kennard Motion approved on December 20, 2018, Docket Nos. P-2015-2484229 and M-00900239. [↑](#footnote-ref-10)