

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**Recalculation of the Pennsylvania
Telecommunications Relay Service
(TRS) Surcharge**

**Public Meeting held May 18, 2017
2582552-TUS
Docket No. M-2017-2582552**

**MOTION OF CHAIRMAN GLADYS M. BROWN AND
COMMISSIONER DAVID W. SWEET**

The case before us involves an assessment on consumer bills to support Pennsylvania's Telecommunications Relay Service (TRS) program under the Universal Telecommunications and Print Media Access Act, 35 P.S. §§ 6701.2-6701.4 (UTPMAA). 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.

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 devices. Currently the TRS surcharge funds three individual programs: Relay (TTY style,¹ Speech-to-Speech, Spanish Relay, and Captioned Telephone Relay Service (CTRS)); the Telecommunications Device Distribution Program (TDDP); and the Wireless Equipment Initiative (WEI) two-year pilot program. In addition, the surcharge also funds the Print Media Access System Program (PMASP), which provides telephone access to print media access systems for the visually impaired.

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 (TCA-96). In TCA-96, 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. 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 upon an annual budget and information provided by the OVR. 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 consumer. In the recommendation before us,

¹ "TTY" stands for "teletypewriter," one of the original devices for communicating alphanumeric characters over telecommunications networks, with "TTY/TDD" standing for a telecommunications device for the deaf using TTY communication principles. Newton's Dictionary (2002).

staff proposes to reduce that surcharge to \$0.04 per access line per month, or to \$0.48 per access line per year.

The rationale behind the recommendation before us is that based upon the current TRS fund balance, Staff estimates that the existing fund balance may be reduced over a four-year period while still covering annual projected expenses and maintaining a four-month reserve.

The two-year WEI pilot program was initiated by an order of this Commission entered July 8, 2015, pursuant to the UTPMAA.² 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 30 individuals in the first test year, and 60 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 30 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 18 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 2-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. Moreover, 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.³

² *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.

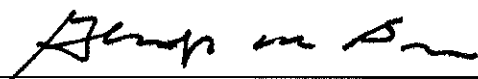
³ As we stated in our Order approving the WEI pilot: "Certain commenting parties have addressed issues pertaining to the future funding of TDDP wireless device availability on a permanent and statewide basis from the TRS Fund. We are fully cognizant of these issues but will not address them at this time. 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 8, 2015 Order at 14.

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.⁴

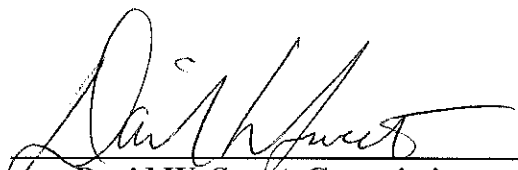
Staff's recommendation would have us make a decision about the WEI pilot and other pending matters in the middle of the assessment period on the thought that if the need for additional funding arises, another adjustment may be made at that time. Given the uncertainties that exist with respect to the 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 recommend no change from the current \$0.08 per line per month charge. Retention of the current surcharge pending further resolution of these uncertainties ensures that the program has the resources to support whatever decisions are made on the WEI pilot and to respond to what could be significant cost increases to the program if the FCC ultimately allocates to the states certain costs currently borne by the federal TRS program.

THEREFORE, WE MOVE THAT:

1. The recommendation be amended consistent with this Motion; and
2. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.



Gladys M. Brown, Chairman



David W. Sweet, Commissioner

Date: May 18, 2017

⁴ *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.