

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265**

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

**Public Meeting held May 17, 2018
2582552-TUS
Docket No. M-2018-2640814**

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

The case before us involves our annual recalculation of the Telecommunications Relay Service, or TRS, surcharge that supports Pennsylvania's TRS program under the Universal Telecommunications and Print Media Access Act, 35 P.S. §§ 6701.2-6701.4. The purpose of the TRS program is to provide assistance that allows qualified impaired individuals to access telecommunications services by wire or radio in as functionally-equivalent a manner as non-impaired individuals.

Our actions under state law must also satisfy the requirements of the Americans with Disabilities Act of 1990 and Section 225 of the federal Telecommunications Act of 1996. In the federal Telecommunications Act, Congress addressed common carrier obligations to provide service to hearing or speech-impaired individuals, including the requirement of state certification that state programs comply with federal mandates. In addition to providing equipment at no charge to qualified individuals that allows them nondiscriminatory access to telecommunications services, the program also provides public education on use of the network to access telecommunications, broadband access, and other devices and services.

When our TRS program commenced, communications assistance was provided over traditional telecommunications equipment – wireline service through wireline equipment available at fixed locations. In 2015, however, spurred by declining adoption of traditional TRS wireline assistive devices and consumers' increased reliance on wireless technology, the Department of Labor and Industry Office of Vocational Rehabilitation petitioned this Commission to engage in a pilot wireless program – the Wireless Expansion Initiative or WEI.¹

In that program, we undertook to evaluate the feasibility and efficacy of fulfilling our mandate to provide qualified individuals communications assistance in using modern technology. We recognized that wireless and internet-based communications were becoming increasingly essential to consumers, including people with disabilities, and that assistive programs should keep pace. In doing so, we joined commissions in California, Texas, Maryland, Minnesota, Missouri, Colorado, Kansas, Kentucky, New Mexico, and Wyoming on the forefront of moving telecommunications relay assistance into the 21st century. Upon completion and the

¹ *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*, Docket No. P-2015-2484229 (Order entered July 8, 2015).

evaluation of the pilot, our staff is to make a recommendation on its continuation, elimination, or modification.

In this year's report, as in last year's, staff recommends that the TRS surcharge for the next fiscal year be reduced to \$0.04 per line per month from its current rate of \$0.08. The rationale behind staff's recommendation this year is essentially the same as it was last year. That is, staff asserts that the TRS program's combined fund balances exceed their current needs. Staff further estimates that based upon existing expenses the current overall balance may be reduced over a period of five or more years, assuming the combined balance of all other expense elements remains static.

In our order last year, we declined to adopt staff's recommendation because two potentially impactful expense liabilities remained unresolved. First, there was the WEI pilot. The evaluation of this pilot remains, at best, in a state of flux. And we still lack the benefit of our staff recommendation, without which we are hindered in our ability to analyze and determine the direction this program should take.

Second there was a proposed rulemaking pending at the Federal Communications Commission involving Internet Protocol Captioned Telephone Service, or IP-related relay service. This service is currently considered jurisdictionally interstate, but it also has an intrastate component. In this proceeding, which remains open, the FCC is contemplating shifting certain federal IP-related program costs to the states. As long as this matter is pending, Pennsylvania remains under substantial risk that the FCC may effectuate a jurisdictional cost shift from the federal to the state level because of the observable growth in IP-related relay service.

We addressed these two concerns in our order last year. They remain unresolved this year. Additionally, in the intervening year, our TRS provider filed, and then withdrew, a proposed rate increase, giving us reason to believe the provider may seek – as of yet – an undefined increase this year.

A concern raised by this program is its reliance on TRS contributions from wireline customers to support a wireless expansion. This concern is valid, and we would benefit from our staff's analysis of the ability to expand the contribution base beyond the customers of our wireline industry. The objectives of this program, however, are vital to ensuring that modern communications services remain available in a non-discriminatory fashion to all qualified individuals. This is particularly important as communications networks evolve technologically, rendering some traditional devices incompatible with modern networks. Further, no utility-based system of providing customer-support is perfect, and all require that we reasonably balance the interests of those who support the program against those who benefit from it. In the instance of TRS support, the cost, at \$0.96 per year on a per-customer basis, is de minimis, yet the benefits are exponential.

As reported in the program administrator's evaluation, most participants expressed positive life changes from participating in the WEI – from feeling happier, safer, and more independent to “com[ing] alive again after all the discrimination [] experienced [from the] handicap.” We have done far more, and at an equal if not far greater expense, to open our energy

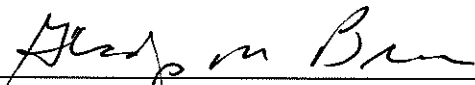
markets to competition and educate and assist those who wish to participate. In fulfilling our statutory mandate to ensure nondiscriminatory telecommunications capability for our most vulnerable population, we must discharge our duties in a manner that is not only financially-responsible but also technologically-effective.

For all these reasons, while we appreciate staff's concerns, we cannot accept their recommendation or the mathematical assumption – that all other expense elements will remain static – built into it.

Accordingly, we reject that recommendation and approve retention of the current \$0.08 per line per month TRS surcharge. 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, 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, and to support a TRS rate increase if proposed by the provider and approved by this Commission.

THEREFORE, WE MOVE THAT:

1. The recommendation be amended consistent with this Motion;
2. The Law Bureau, with the assistance as necessary of the Bureau of Technical Utility Services, prepare an analysis of the ability to expand the contribution base that supports Telecommunications Relay Services; and
3. 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