

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: GRACE SEAMAN

DATE: APRIL 2, 2010

RE: 2009 TELECOMMUNICATIONS RELAY SERVICE ANNUAL REPORT;
CASE NO. GNR-T-10-03.

BACKGROUND

Each year the Administrator of the Idaho Telecommunications Relay Service (TRS or relay) files a report detailing the activities and status of the program during the previous year. The Administrator also determines the funding requirements for the following year and submits a recommended budget with the annual report.

In 1992, the Idaho Legislature established the Telecommunications Relay Service Act (TRS Act) in accordance with the federal Title IV of the American with Disabilities Act. The TRS enables citizens who are hearing or speech-impaired the ability to engage in telephone communications “in a manner functionally equivalent to that of individuals without hearing or speech impairments.” *Idaho Code* § 61-1301. Under the Idaho TRS Act, all telephone corporations providing local or long-distance service (not including cellular or VoIP) must provide TRS as set forth in the program and pay into the TRS Fund based upon an allocation methodology adopted by the Commission. *Idaho Code* § 61-1305. Pursuant to TRS Rule 202, the Commission sets the TRS funding levels each year based upon the Administrator’s Annual Report. IDAPA 31.46.02.202.

THE 2009 ANNUAL REPORT

On February 9, 2010, the TRS Administrator, Mr. Robert Dunbar, submitted the 2009 TRS Annual Report and the 2010 TRS Budget for Commission approval. Mr. Dunbar reported the 2009 relay service conversation time, including interstate long distance, totaled 93,165 minutes. This represents a 32% decrease from calendar year 2008. Likewise, \$190,109 for traditional relay service (\$85,114) and

captioned telephone service (CapTel)¹ (\$104,995) service disbursed to the TRS service provider, Hamilton Telecommunications for 2009 were approximately 18% less than 2008. Idaho's TRS fund reimburses Hamilton Telecommunications for processing in-state traditional relay and CapTel calls, while the National Exchange Carrier Association (NECA) reimburses Hamilton for the processing of out-of-state relay as well as intrastate Internet relay (IR) and Internet video relay service (VRS) calls.

Mr. Dunbar reported that traditional relay usage decreased in 2009, while the CapTel usage remained the same as 2008. In 2009, CapTel calls comprised 55% of the total TRS billed minutes compared to 47% in 2008, and traditional relay service comprised 45% of the calls in 2009 compared to 53% in 2008. Since the 2006 introduction of CapTel in Idaho, the increase in CapTel usage has offset the decreases in traditional relay service. CapTel usage, however, appears to have leveled off in 2009.

2009 TRS REVENUE AND EXPENSES

The TRS fund is supported by assessments on local telephone service (residential and business local exchange lines) and billed intrastate long distance (MTS/WATS) minutes. In 2009, the total number of intrastate MTS/WATS minutes reported by the telephone companies was approximately 362,225,880 compared to 325,781,100 in 2008 and the average monthly number of local telephone lines reported for the year was 589,047 compared to 585,958 in 2008. The 2009 annual contribution to the TRS fund totaled \$200,736, a decrease of \$8,631 (4%) from 2008. Contributions from local access lines totaled \$128,291 (64%) and MTS/WATS contributions were \$72,446 (36%). In Order No. 30759, issued on March 26, 2009, the per-line and per-minute assessments remained unchanged at \$0.02 and \$0.0002, respectively. The TRS administrative fees and expenses for 2009 were \$46,605, and included a \$4,000 charge for an audit conducted in late 2008. The 2009 end-of-year balance of the TRS fund was \$369,172. The comparison of the 2009 disbursements and contributions from the previous year are as follows:

<u>TRS Fund Disbursements</u>	<u>2009</u>	<u>2008</u>
Hamilton Telecommunications	\$190,109	\$231,979
Program Administrative Expenses & Fees	<u>46,605</u>	<u>42,099</u>
Total	\$237,714	\$274,078
<u>TRS Revenue Contributions</u>	<u>2009</u>	<u>2008</u>
Local access service providers	\$128,291	\$140,630
MTS/WATS providers	72,446	68,737
Interest earned on funds	<u>34</u>	<u>39</u>
Total	\$200,771	\$209,406

¹ CapTel allows hard-of-hearing users to hear the conversation as well as read the words on the phone's built-in screen. A trained operator "re-voices" the conversation from a caller into the voice recognition technology that converts the words into a text message and provides the CapTel user with a more natural conversation.

2010 TRS BUDGET

Mr. Dunbar estimates the 2010 annual operating expenses to be \$256,355. This budget includes the RFP costs of issuing, evaluating and awarding the new service provider contract that will expire in December 2010.

In the annual report, Mr. Dunbar states that traditional relay usage continued to drop in 2009, reflecting a migration to other technology-based services, and CapTel usage appears to have leveled off. To estimate an adequate fund for 2010, Mr. Dunbar anticipates that both the revenue and usage will remain the same as it was in 2009. If assessment rates remain at the current level, Mr. Dunbar calculates the end-of-year reserve fund will decrease by approximately \$52,000. The Administrator is, however, concerned that should the Commission decide to lower assessment rates to reduce the reserve at a faster pace, smaller companies may determine that contributing to the fund is not worth the effort or the expense to comply. He is also concerned that lowering the rate could accelerate the draw down too quickly after 2010 and thereby exhaust the fund reserve.

If the Commission wishes to change the rates, Mr. Dunbar suggests that the line rate remain the same at \$.02, and the MTS/WATS rate be decreased from \$.0002 to \$.0001. This would result in an estimated 2010 draw down of approximately \$80,000, while a decrease of both rates (\$.02 to \$.01 and \$.0002 to \$.0001) would result in an estimated draw down of approximately \$122,555. These estimates are based on an effective date of May 2010.

The Service Contract Request for Proposal (RFP)

The TRS service contract with Hamilton Telecommunications and CapTel expires on December 1, 2010. The 2010 TRS service provider RFP may see significant changes in service and reporting requirements from those seen in past RFPs. Mr. Dunbar feels major changes are necessitated by the urgent need to minimize the opportunity and protect the state from potential fraud. Mr. Dunbar reports that 2009 saw more than two dozen federal indictments for nationwide fraud in the relay community. More than \$60 million dollars is alleged to have been defrauded from the federal fund. Fortunately, these indictments involved Internet services only, but Mr. Dunbar feels it is prudent to take preventive measures to minimize the possibility of similar activities in Idaho.

ADMINISTRATOR'S 2010 FUNDING RECOMMENDATION

Mr. Dunbar recommends the assessment rates remain unchanged in 2010. Mr. Dunbar reported that the current TRS contribution rates should result in a reduction of the fund reserve by approximately \$51,820. At current rates, the 2010 end-of-year cash balance will be approximately \$317,352. This will

preserve a comfortable cushion for unexpected expenses or changes in relay usage that may arise during the year.

STAFF'S RECOMMENDATION

Staff has reviewed the TRS annual report and agrees with the Administrator's recommendation to maintain the current TRS assessment rates for the following reasons: 1) a significantly revised RFP requirement for a service provider in Idaho may require additional time and incur greater costs for the Administrator; 2) the new service rates with the RFP decision will not go into effect until December 2010, but rates will likely be higher and Staff feels it is best to maintain a status quo until this unknown fact is determined; and 3) Staff sympathizes with the Administrator's concern that lowering the rate may cause some smaller telephone companies to conclude that it is not worth the effort or expense to comply with the TRS fund requirements. Staff, therefore, recommends that the Commission approve both the Administrator's proposal to maintain the current access line and MTS/WATS assessment rates at \$.02 and \$.0002, respectively. Staff also recommends approval of the Administrator's 2009 annual report and the 2010 budget.

COMMISSION DECISION

1. Does the Commission wish to accept the Administrator's recommendation to maintain the current TRS contribution levels adopted in Order No. 30759?
2. Does the Commission wish to accept the annual report and adopt the Administrator's budget for 2010?



Grace Seaman

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