

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: June 18, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Compliance (Casey) *[Signature]*
Office of the General Counsel (Tan) *[Signature]*
Division of Service, Safety & Consumer Assistance (Moses) *[Signature]*

RE: Docket No. 040763-TP – Request for submission of proposals for relay service, beginning in June 2005, for the hearing and speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

AGENDA: 06/30/09 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: 07/06/09 - By contract, the Commission is required to notify Sprint of its intent to exercise the requested option period.

SPECIAL INSTRUCTIONS: Anticipate the need for sign language interpreters and assisted listening devices. Please place near the beginning of the agenda or at a time certain to reduce interpreter costs.

FILE NAME AND LOCATION: S:\PSC\RCP\WP\040763.RCM.DOC

Case Background

Relay service is a service that uses specialized operators that interface with hearing impaired individuals for the purpose of accessing telecommunications services and is provided pursuant to Chapter 427, Florida Statutes. According to the Florida Coordinating Council for the

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Deaf and Hard of Hearing's 2009 Report to the Governor, Legislature, and Supreme Court of the State of Florida, there are nearly three million Deaf or Hard of Hearing citizens in Florida.

The current relay provider is Sprint Communications Company L.P. (Sprint). Sprint and the Florida Public Service Commission (FPSC or Commission) signed a contract¹ for the provision of relay services which began on June 1, 2005, for a period of three years ending May 31, 2008. The contract contained options to extend the contract for four additional one-year periods, and required mutual consent of both parties to extend the contract.

On September 11, 2007, the Commission approved the first one-year extension of the Sprint Relay contract beginning June 1, 2008, and ending May 31, 2009. The Commission also approved pricing caps for contract option years two through four which were contained in Sprint's September 6, 2007 letter to the Commission. On June 19, 2008, the Commission approved the second one-year extension of the Sprint Relay contract beginning June 1, 2009, and ending May 31, 2010.

Sprint is required to notify the FPSC of its decision whether to extend the relay contract into the option periods by June 1 the year before the current service expires. By contract, the FPSC is required to notify Sprint of its intent to exercise the requested option period within two months of receipt of Sprint's notification of its desire to extend. Sprint submitted a letter May 6, 2009, notifying the Commission of its desire to extend the contract for the option year beginning June 1, 2010, and ending May 31, 2011.

Section 427.706, Florida Statutes, provides for up to 10 members on an advisory committee to assist the FPSC with the implementation of the Florida Relay System. One member of the advisory committee has recently resigned and a replacement is being recommended.

The purpose of this recommendation is to address the third year option of the Sprint relay contract beginning June 1, 2010, and appoint a replacement committee member who has resigned. The Commission is vested with jurisdiction over these matters pursuant to Chapter 427, Florida Statutes.²

¹ Contract to Provide Telecommunications Relay Service (TRS) to Florida (contract).

² Section 427.704 (1), Florida Statutes, provides: "The commission shall establish, implement, promote, and oversee the administration of a statewide telecommunications access system to provide access to telecommunications relay services by persons who are hearing impaired or speech impaired, or others who communicate with them."

Discussion of Issues

Issue 1: 1 Should the Commission approve the contract option to extend the Sprint Relay contract for one year beginning June 1, 2010?

Recommendation: Yes. Staff recommends that the Commission approve the contract option to extend the Sprint Relay contract for one year beginning June 1, 2010. Rates for traditional telecommunications relay service (TRS)³ should be \$0.85 per session minute and the rate for CapTel captioning service⁴ should be \$1.47 per session minute⁵ for the 2010-2011 contract year. Staff also recommends that the amount of the Sprint performance bond should be \$5,852,937 for the 2010-2011 contract option year. (Casey, Moses, Tan)

Staff Analysis: On May 6, 2009, Sprint submitted a letter notifying the Commission of its desire to extend the Florida Relay contract for the option year beginning June 1, 2010, and ending May 31, 2011. Florida is presently paying \$0.80 per session minute for traditional TRS and \$1.40 per session minute for CapTel captioning service per the existing one-year option contract effective June 1, 2009.

In accordance with the pricing caps agreed to during negotiations of the 2008-2009 contract, Sprint has submitted rates for traditional TRS and CapTel captioning service for the third option year of the contract. These rate caps translate into 2010-2011 contract rates of \$0.85 per session minute for traditional TRS and \$1.47 per session minute for CapTel captioning service.

Staff surveyed other states to determine what other relay programs are paying for their services. Many states have confidential contract clauses which do not allow the rates to be made public. Of states that did share information, staff determined that the average cost of traditional TRS was \$1.09 per session minute, and the average cost for CapTel captioning service was \$1.50 per session minute.

Annual Performance Bond Sprint is proposing that the amount of the annual performance bond be \$5,852,937 for the 2010-2011 contract option year. Paragraph B-56 of the Relay contract states:

³ TRS uses operators, called communications assistants (CAs), to facilitate telephone calls between people with hearing and speech disabilities and other individuals. A TRS call may be initiated by either a person with a hearing or speech disability, or a person without such disability. When a person with a hearing or speech disability initiates a TRS call, the person uses a TTY or other text input device to call the TRS relay center, and gives a CA the number of the party that he or she wants to call. The CA in turn places an outbound traditional voice call to that person. The CA then serves as a link for the call, relaying the text of the calling party in voice to the called party, and converting to text what the called party voices back to the calling party.

⁴ The CapTel phone is a captioned telephone service which uses a telephone that looks similar to a traditional telephone but also has a text display that allows the user, on one standard telephone line, to both listen to the other party speak and simultaneously read captions of what the other party is saying. This way, a typical user of this service, who has the ability to speak and some residual hearing, can both listen to what is said over the telephone and read captions for clarification.

⁵ Session minutes include the entire time that the call is connected to the communication assistant, including the time used to set up the call.

The provider will be required to furnish an acceptable performance bond, certified or cashier's check, or bank money order equal to the estimated total first year price of the contract. The bond shall be in effect for the entire duration of the contract and provided to the FPSC upon execution of the contract.

Staff agrees that the amount of the performance bond should be \$5,852,937, which is the projected contract value for the 2010-2011 contract option year. The entire projected value of the contract would be covered by this performance bond.

Conclusion

Capping the amount of increase for traditional TRS and CapTel captioning service in the remaining contract option years has proven to be very beneficial. While some states are experiencing relay costs of as much as \$1.43 per minute for traditional TRS and \$1.58 per minute for CapTel captioning service, Florida's relay rates for the 2010-2011 contract option year will be \$0.85 per session minute for traditional TRS and \$1.47 per session minute for CapTel captioning service.

Although the Commission has the right to re-bid the relay contract for the 2010-2011 contract year, staff believes that extending Sprint's contract for the third option year is in the public interest. It would keep relay costs down, and be the most economical choice benefiting the state of Florida. Staff surveyed other states and determined that Florida's TRS rates are below the average TRS rates being paid by other states. Therefore, staff recommends that the Commission approve the contract option to extend the Sprint Relay contract for one year beginning June 1, 2010. Rates for traditional TRS service shall be \$0.85 per session minute and the rate for CapTel captioning service shall be \$1.47 per session minute for the 2010-2011 contract year. Staff also recommends that the amount of the Sprint performance bond should be \$5,852,937 for the 2010-2011 contract option year.

Issue 2: Should the Commission approve Mr. Louis J. Schwarz as a TASA advisory committee member to replace Ms. Julia Michalka effective immediately?

Recommendation: Yes, the Commission should approve Mr. Louis J. Schwarz as a TASA advisory committee member to replace Ms. Julia Michalka effective immediately. (Casey, Moses, Tan)

Staff Analysis: Section 427.706, Florida Statutes, provides for up to 10 members on an advisory committee that assists the Commission with the implementation of the relay system. Section 427.706(1)(a), Florida Statutes, requires, to the extent practicable, two deaf persons recommended by the Florida Association of the Deaf (FAD) be included as members of the advisory committee. Ms. Julia Michalka has served in one of the FAD positions, but has submitted her resignation to pursue other opportunities. The FAD has nominated Mr. Louis J. Schwarz to serve as the second FAD representative on the advisory committee.

Mr. Schwarz is senior managing partner of Schwarz Financial Services LLC, which provides financial services for the Deaf in America. He was the first deaf financial professional listed in Who's Who in Finance and Industry. Mr. Schwarz has served the Deaf community for over 40 years through many organizations, and serves as a board member for the National Association of the Deaf Technical and E-911 Committee, the National Emergency Numbers Association Accessibility Committee, the State of Maryland's Governor's Advisory Board on Telecommunication Relay, and the Tri-County Association of the Deaf (Florida).

Staff believes Mr. Schwarz would be a valuable addition to the TASA advisory committee. Staff supports this nomination and recommends that the Commission should approve Mr. Louis J. Schwarz as a TASA advisory committee member to replace Ms. Julia Michalka effective immediately.

Docket No. 040763-TP

Date: June 18, 2009

Issue 3: Should this docket be closed?

Recommendation: No, this docket should not be closed. (Tan)

Staff Analysis: This docket should remain open for the duration of the contract period with Sprint as the relay provider. This docket is used to monitor relay and contract issues that arise during the contract term.