

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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.

DOCKET NO. 040763-TP
ORDER NO. PSC-10-0152-PAA-TP
ISSUED: March 15, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER REMOVING ROAMING FOR FLORIDA CAPTEL PHONES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

Chapter 427, Florida Statutes, established the Telecommunications Access System Act of 1991 (TASA) to meet the needs of the nearly three million deaf, hard-of-hearing, deaf-blind, and speech-impaired citizens who live in Florida. The state legislature established the telecommunications access system to provide equitable basic access to the telecommunications network for individuals who are deaf, hard of hearing, speech impaired, or dual sensory impaired. Pursuant to TASA, the Florida Public Service Commission (Commission or FPSC) is responsible for establishing, implementing, promoting, and overseeing the administration of a statewide telecommunications access system to provide access to telecommunications relay services by people who are deaf, hard of hearing or speech impaired and those who communicate with them. To that end, the FPSC directed the local exchange companies (LECs) to form a not-for-profit corporation, known as Florida Telecommunications Relay, Inc. (FTRI). Under oversight by the FPSC, FTRI fulfills some of the requirements of TASA by providing for the

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distribution of specialized equipment required for telecommunications services to the deaf, hard of hearing, speech impaired, and dual sensory impaired and for outreach in the most cost-effective manner. By Order No. PSC-09-0362-PAA-TP, issued May 26, 2009, we approved a Fiscal Year 2009-2010 budget of \$11,206,146 for FTRI, the administrator of the Florida relay program. This new budget allowed us to maintain the Telecommunications Relay Service (TRS) surcharge at \$0.11 per month per local exchange company access line for the fiscal year 2009-2010, effective July 1, 2009.

Sprint Communications Company, L.P. (Sprint) has been the relay service provider for Florida since June 2000. On June 30, 2009, we approved a third year contract option with Sprint for the 2010-2011 contract option year. Sprint provides traditional relay service¹ and CapTel service² for the Florida Relay program. In this Order we address CapTel "Roaming" which allows a user to take a CapTel phone out of state and maintain the ability to use it. We are vested with jurisdiction over these matters pursuant to Chapter 427, Florida Statutes.³

II. Analysis

FTRI has 1,917 active CapTel phones on loan to consumers in Florida as of December 2009. CapTel minutes of use in Florida continue to show a slow steady increase while traditional relay minutes of use continue to decline. For 2009, CapTel service averaged 208,238 minutes per month. At the current charge of \$1.40 per minute, the average CapTel service cost to Florida is 291,533 per month or \$3,498,396 per year.

¹ Traditional Relay service provides the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech services, video relay services and non-English relay services.

² When using CapTel service, the captioned telephone user dials the number he or she wishes to call. The user is automatically connected to a captioned telephone relay operator at the TRS facility. The specialized TRS facility equipment, in turn, automatically connects the captioned telephone user's line to a second outgoing line from the TRS facility to the called party. The captioned telephone user does not need to dial an 800 or 711 exchange to reach the TRS facility and set up the call, nor is there any interaction with the relay operator (by either party to the call). The relay operator, instead of typing what the called party says, repeats what the called party says into a computer and voice recognition technology automatically transcribes it from the relay operator's voice into text, which is then transmitted directly to the user. The use of voice recognition technology allows the captions to appear on the captioned telephone nearly simultaneously with the called party's spoken words. Throughout the call, the relay operator is completely transparent and does not participate in the call by voicing any part of the conversation.

³ 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."

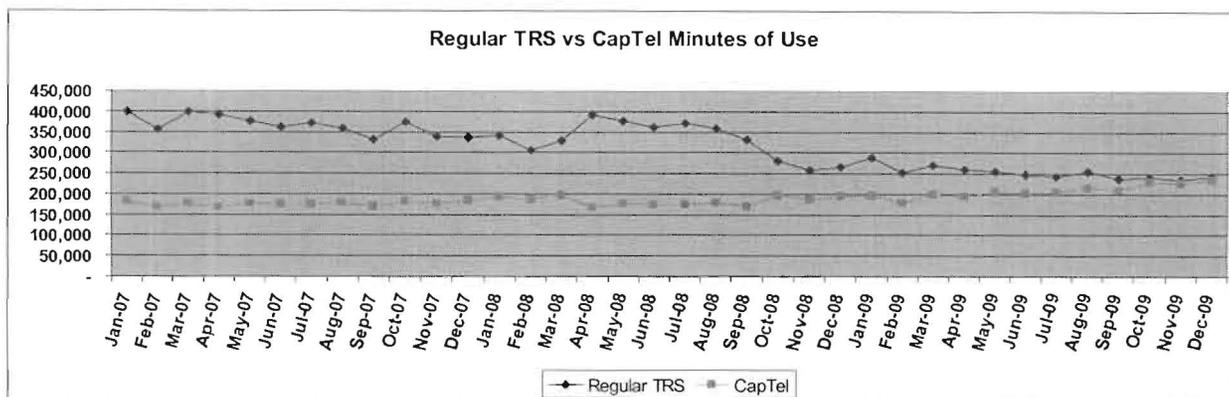


Table A – 2009 Florida Traditional TRS Minutes of Use versus Florida CapTel Minutes of Use

Roaming generally refers to the use of a telephone in a different state other than the one where you live. In this case, we address instances of the CapTel phone being issued and paid for by Florida and subsequently used outside the state of Florida. CapTel roaming and billing rules are different than the billing rules used by traditional TRS which uses the two points of a call for billing. Each CapTel phone has an electronic serial number (ESN) on the bottom of it which is used for billing purposes. No matter where the CapTel phone is located geographically, the billing goes to the state in which the ESN is registered. As an example, a CapTel user who had a phone issued in Florida could go to Illinois, plug the CapTel phone in and make intrastate calls within Illinois. The intrastate calls made with that phone while in Illinois (at \$1.40 per minute) are billed to Florida when roaming is allowed because the CapTel phone is registered in Florida. This proves costly when you consider many part-time residents spend half their time in other states and half their time in Florida. All interstate CapTel phone calls are paid by the Federal TRS fund.

The roaming rules were established based on the state’s requirements at a time when only a limited number of states supplied CapTel service. Some states wanted to be sure their constituents could continue to use CapTel if they were traveling or while at work in another location. Others believed they could not support their users while they were out of the state. Today, virtually all states provide CapTel service. States have three options regarding CapTel Roaming:

1. **Unrestricted Roaming:** The state will pay for CapTel minutes for any registered CapTel Phone when in or out of the state. This allows CapTel users to use their CapTel phones when they travel.
2. **Restricted Roaming:** The state will only accept CapTel minutes when one leg of the call is in the state. A CapTel user could travel out of state with their CapTel phone but can only use it for calls made back to their home state. Note: calls that cross a state boundary will be classified as Interstate Minutes

on the reports for the home state but the state does not pay for the minutes. Those minutes are billed to the NECA Interstate TRS Fund.

- 3. No Roaming:** A state will not be billed for any minutes when the CapTel phone is outside the state boundaries. The user is not allowed to use their CapTel phone when traveling out of state except in states that allow guests.

Guest options address whether Florida will allow CapTel users from other states to come into Florida and use their CapTel phone for intrastate calls and have Florida pay for the calls if their home state does not allow roaming. If a state does not allow guests, the state will only pay for minutes made from a CapTel phone registered in the state. States have two options regarding Guest Options:

- 1. Allow Guests:** The state will pay for CapTel minutes for users that have traveled into the state. A state is only billed for guest minutes if the registered state will not pay for the call and it is not an interstate call.
- 2. No Guests:** The state will only pay for minutes made from a CapTel phone registered in the state. If a state elects to not allow guests and the phone is registered to a state that does not support unrestricted roaming then the CapTel phone cannot make intrastate calls while traveling (within a "No Guest" state).

Florida is presently a state which allows unrestricted roaming and allows guests. Sprint has historically stated that if a state allows unrestricted roaming and guests, it would amount to less than one-half percent of their CapTel minutes of use. Because many residents split their time between Florida and another state depending on the season, Sprint was asked to research exactly how many CapTel minutes are billed to Florida because Florida presently allows unrestricted roaming and guests. Sprint responded that approximately seven percent of CapTel Florida minutes paid by Florida are due to the unrestricted roaming and guest options. This means that CapTel unrestricted roaming and the allowing of guests costs Florida an average of \$20,407 per month or \$244,888 per year.

We find the financial impact to the Florida relay program and ultimately Florida consumers is too great at this time to allow unrestricted roaming and guests, and Florida should not be billed for any minutes when the CapTel phone is used outside the state boundaries. Presently, there are twenty-seven states that restrict CapTel roaming.

III. Decision

The Sprint contract provides that we may, at no cost to the State of Florida, elect to stop providing roaming service. This would not prevent a seasonal resident CapTel user from taking

the CapTel phone with them and registering it with the state where they will be residing.⁴ In that case, the intrastate CapTel minutes of use would be billed to the state the CapTel user is registered in at the time rather than billed to Florida. When that part-time resident returns to Florida, they can re-register the CapTel phone with Florida while in Florida, and Florida would be responsible for the intrastate costs. We find that no roaming or guests should be allowed for CapTel users. Our staff will work with Sprint and FTRI to inform all CapTel users in the state of the change to the roaming and guest options. We find it appropriate that no roaming or guests shall be allowed for Florida CapTel service.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida's CapTel service no longer allows Roaming or Guest Options. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, 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.

By ORDER of the Florida Public Service Commission this 15th day of March, 2010.



ANN COLE
Commission Clerk

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⁴ Changing the registration of the CapTel phone is an easy process whereby the user simply calls a toll-free number at CapTel customer service to notify CapTel of their desire to change registration to another state. The ESN number is then assigned to the new state and roaming and guest rules of the new state are initiated.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 5, 2010.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.