|  |  |
| --- | --- |
| State of FloridapscSEAL | Public Service CommissionCapital Circle Office Center ● 2540 Shumard Oak BoulevardTallahassee, Florida 32399-0850-M-E-M-O-R-A-N-D-U-M- |
| DATE: | June 24, 2022 |
| TO: | Office of Commission Clerk (Teitzman) |
| FROM: | Office of Industry Development and Market Analysis (Williams, Fogleman)Office of the General Counsel (Imig, Tan) |
| RE: | Docket No. 20220046-TP – Commission approval of Florida Telecommunications Relay, Inc.'s fiscal year 2022/2023 proposed budget. |
| AGENDA: | 07/07/22 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate |
| COMMISSIONERS ASSIGNED: | All Commissioners |
| PREHEARING OFFICER: | La Rosa |
| CRITICAL DATES: | None |
| SPECIAL INSTRUCTIONS: | Anticipate the need for sign language interpreters and assisted listening devices. Please place near the beginning of the agenda to reduce interpreter costs. |

 Case Background

The Telecommunications Access System Act of 1991 (TASA) established a statewide telecommunications relay system. Section 427.704(1), Florida Statutes (F.S.), provides that the Florida Public Service Commission (Commission) shall establish, implement, promote, and oversee the administration of the statewide telecommunications access system to provide access to telecommunications relay services by persons who are deaf, hard of hearing or speech impaired. TASA provides for the purchase and distribution of specialized telecommunications devices as defined in Section 427.703(11), F.S. As defined by Section 427.703(16), F.S., this system provides telecommunications service for deaf or hard of hearing persons functionally equivalent to the service provided to hearing persons.

The telecommunications access system provides deaf or hard of hearing persons access to basic telecommunications services by using a specialized Communications Assistant that relays information between the deaf or hard of hearing person and the other party to the call. The primary function of the telecommunications access system is accomplished by the deaf or hard of hearing person using a Telecommunications Device for the Deaf (TDD). The person using the TDD types a message to the Communications Assistant who in turn voices the message to the other party or types the message to a Captioned Telephone which displays real-time captions of the conversation.

Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by the local exchange telephone companies, was selected by the Commission to serve as the telecommunications access system administrator. FTRI is primarily responsible for the purchase and distribution of specialized telecommunications equipment. As part of this process, FTRI contracts with other organizations to assist in the distribution of equipment and provide customer training on the proper use of the equipment and the relay service. FTRI also conducts marketing to raise awareness of available specialized equipment and related relay service. Relay services are paid for by FTRI as part of its responsibilities. The current relay service provider selected by the Commission is Sprint Communications Company, L.P. (Sprint), a subsidiary of T-Mobile.

FTRI, as the TASA Administrator, is funded through the Telecommunications Relay Service (TRS) surcharge. This surcharge was capped by the Florida Legislature at a maximum of $0.25 per landline access line per month. The Florida Legislature also limited collection of the surcharge to only the first 25 lines of each account. Only local exchange telecommunications companies are required to collect and remit this surcharge to FTRI. The initial TRS surcharge was set at $0.05 per access line per month.[[1]](#footnote-1) Since then, the Commission has changed the surcharge to meet FTRI’s budgetary needs. The monthly surcharge is currently $0.10 per access line.

As part of its oversight responsibilities for the telecommunications access system, the Commission reviews and approves a budget submitted by FTRI on an annual basis. On February 25, 2022, FTRI submitted for approval its proposed Fiscal Year 2022/2023 budget. On May 24, 2022, FTRI submitted an amendment to its proposed budget to add a third Distribution Program Coordinator (DPC) position. Attachment A is FTRI’s amended proposed budget for Fiscal Year 2022/2023. FTRI also compared its proposed budget to the Commission-approved budget, as well as the estimated revenue and expenses, for Fiscal Year 2021/2022. FTRI’s estimated revenue and expenses were based on actual data from the first two quarters and estimated data for the third and fourth quarters of the current fiscal year.

Staff sent data requests to FTRI on a number of issues included in its Fiscal Year 2021/2022 estimate of expenses and its proposed Fiscal Year 2022/2023 budget. FTRI’s responses to staff’s data requests are included in the docket file. On May 9, 2022, FTRI filed third quarter financial information. With this updated information, staff formulated its own estimated expenses for Fiscal Year 2021/2022. Staff’s estimate is reflected in Attachment B.

This recommendation addresses FTRI’s proposed budget and recommended TRS surcharge for Fiscal Year 2022/2023. The TRS surcharge is the only rate the Commission establishes for telecommunications companies. The Commission is vested with jurisdiction pursuant to Chapter 427, F.S.

Discussion of Issues

Issue 1:

 Should the Commission approve Florida Telecommunications Relay, Inc.'s proposed budget as presented in Attachment A for Fiscal Year 2022/2023, effective August 15, 2022?

Recommendation:

 No. Staff recommends the Commission modify FTRI’s proposed budget expense of $3,753,703 to increase relay service expense by $208,042, and approve a total budget expense of $3,961,745 for Fiscal Year 2022/2023. (Williams, Fogleman, Imig, Tan)

Staff Analysis:

**Traditional Telecommunications Relay Service**

The traditional TRS cost to FTRI as approved in the Sprint contract is currently $1.60 per session minute. Sprint’s projections indicate that traditional minutes will decrease by 4 percent from the current fiscal year during Fiscal Year 2022/2023. Traditional relay users are transitioning to the following services:

* Internet Protocol (IP) Relay[[2]](#footnote-2)
* Video Relay Service (VRS)[[3]](#footnote-3)
* IP Captioned Telephone Service[[4]](#footnote-4)
* Internet Protocol Speech-to-Speech (STS) Service[[5]](#footnote-5)
* Wireless Service[[6]](#footnote-6)

**CapTel Service**

The CapTel cost to FTRI as approved in the Sprint contract is currently $1.67 per session minute. CapTel service uses a specialized telephone that provides captioning of the incoming call for a deaf or hard of hearing person. Sprint’s projections show that CapTel minutes of use will decline by 10 percent from the current fiscal year during Fiscal Year 2022/2023. CapTel users are transitioning to Internet Protocol Captioned Telephone Service and wireless services.

**Florida Telecommunications Relay, Inc. Budget**

Attachment A reflects FTRI’s Fiscal Year 2022/2023 proposed budget, as amended, which was reviewed and adopted by FTRI’s Board of Directors prior to filing with the Commission. FTRI submitted its original budget on February 25, 2022, projecting total expenses of $3,692,151. On May 24, 2022, FTRI submitted an amended budget projecting total expenses of $3,753,703, reflecting the addition of a third DPC position.

Sprint’s forecasted Fiscal Year 2022/2023 traditional TRS minutes of use are 851,208. Sprint’s forecasted CapTel minutes of use are 237,981. FTRI’s total estimated expense for TRS and CapTel for Fiscal Year 2022/2023 is $1,551,319. For comparison, the Fiscal Year 2021/2022 Commission-approved budget reflected traditional TRS minutes of 890,468 and CapTel minutes of 263,681. The total expense for TRS and CapTel for Fiscal Year 2021/2022 was $1,647,753.

**Analysis**

Staff developed an estimate of FTRI’s expenses for Fiscal Year 2021/2022. This data is presented in Attachment B. Staff used actual data from the first three quarters of Fiscal Year 2021/2022, and took an average of those three quarters to estimate the fourth. Staff’s estimates were then used as one element in evaluating FTRI’s proposed budget. Attachment B also includes FTRI’s budgeted information for comparison purposes. Staff also analyzed past Commission-approved FTRI budgets to identify and evaluate ongoing cost reduction measures.

As discussed in staff’s recommendation addressing FTRI’s Fiscal Year 2021/2022 proposed budget, Fiscal Years 2020/2021 and 2021/2022 were out of the norm due to the COVID-19 pandemic. FTRI experienced significant reductions in equipment distributed, consumer inquiries, and related expense, which it attributed to the pandemic. As a result, FTRI’s support for its Fiscal Year 2021/2022 budget request was based largely on pre-pandemic levels instead of Fiscal Year 2020/2021. The Fiscal Year 2022/2023 proposed budget is also impacted by COVID-19.

Below is staff’s review of selected items from FTRI’s proposed budget expense by category.

**Category I – Relay Services**

Category I captures expenses for traditional TRS and CapTel service currently provided by Sprint. The relay service expenses are calculated using the minutes of use as projected by Sprint and relay service contract rates. The proposed budget presented $1,551,319 in relay service expense. However, staff determined that the calculation used the previous contract rates of $1.35 for TRS and $1.69 for CapTel. The correct contract rates are $1.60 for TRS and $1.67 for CapTel, which when applied to the forecasted minutes of use increases relay service expense by $208,042, resulting in total expense of $1,759,361.

**Category II – Equipment & Repairs**

Category II expenses reflect the purchase of equipment to be distributed to clients and the repairs that FTRI must make to keep the equipment in working order. FTRI has requested $376,705 for Fiscal Year 2022/2023. FTRI used contract pricing for equipment multiplied by the number of units it plans to order over the course of the year. These contracts for equipment between FTRI and equipment vendors are separate from the contract for relay service approved by the Commission. FTRI’s proposed budget represents a $396,530 decrease in expense from the current Commission-approved budget.

FTRI’s Fiscal Year 2021/2022 Commission-approved budget for equipment and repairs was $773,235. FTRI’s estimated fiscal year-end expenses are $453,985. Staff’s estimated expense is $415,017. FTRI explained that due to the continuing impact of COVID-19 and limited distribution by Regional Distribution Centers (RDCs), equipment distribution continues to be disrupted. FTRI does not anticipate equipment distribution to return to pre-COVID levels over the next 18-24 months.

Staff recommends approval of FTRI’s budgeted amount for equipment and repairs. However, staff believes FTRI should continue to pursue efforts to expand the distribution of equipment to pre-COVID levels.

**Category III – Equipment Distribution & Training**

Category III reflects the cost of distributing equipment throughout the state and the training of consumers in the use of that equipment. FTRI’s proposed budget requests $220,720 for distribution and training, which reflects a $342,228 decrease in expense from the current Commission-approved budget.

**Regional Distribution Centers**

Expenses related to RDCs are the largest component of Category III expenses. FTRI’s proposed budget for RDCs is $202,446, which is $329,172 lower than the current Commission-approved budget. Consistent with its explanation for Category II Equipment & Repairs, FTRI explains that COVID-19 continued to impact RDC expense.

In support of its Fiscal Year 2020/2021 proposed budget, FTRI indicated that it intended to “expand the quantity of Regional Distribution Centers (RDCs) while working with the existing RDCs to evaluate and implement a business model that enables them to provide FTRI services at break-even.” Staff did not recommend approval of FTRI’s proposed Fiscal Year 2020/2021 RDC expense of $664,128. However, in consideration of FTRI’s intent to increase the number of RDCs, and recognizing the importance of adequately funding equipment distribution channels, staff recommended, and the Commission-approved continued funding at FTRI’s estimated 2019/2020 expense level of $535,647.

FTRI indicated, as part of its Fiscal Year 2020/2021 budget request, that the fee per service structure was not financially performing at a break-even point for the RDCs. FTRI contracts with the non-profit RDCs to perform equipment distribution and training throughout Florida. The amount of funds for FTRI’s contracts with RDCs varies based on the number of clients they assist. More funds are provided for connecting a new client, while fewer funds are provided to assist existing clients in the system.

The Commission determined that FTRI did not present sufficient cost detail regarding the compensation to RDCs and their associated costs. The Commission concluded that additional information was needed to confirm the appropriate reimbursement rate FTRI pays RDCs. The Commission requested FTRI provide a financial break-even analysis related to the RDC fee structure and present the results to the Commission with its Fiscal Year 2021/2022 proposed budget filing. The analysis was not included with that proposed budget filing.

In response to a staff data request regarding the break-even analysis, FTRI stated that only three of the twenty-three RDCs responded. FTRI explained that it did not believe the information received was sufficient to provide a meaningful analysis. FTRI further responded that the pandemic made it difficult to determine RDC break-even. FTRI requested a postponement of the analysis until a more normal business environment returned.

FTRI was ordered to submit the RDC break-even analysis with its Fiscal Year 2022/2023 budget filing. FTRI submitted its break-even analysis to the Commission as ordered. FTRI reported that RDC survey responses provided an average cost per center of $41,531. Using that as a break-even amount in the proposed budget would result in RDC expense of $913,682, which is almost double the amount in FTRI’s current Commission-approved budget. In its report to the Commission, FTRI concluded that “[a]fter reviewing the data, it is apparent that using services rendered in 2020-2021 the fees per service would have to be increased to an amount that may not be feasible to pay.”

FTRI acknowledged in its report that it will continue to discuss and evaluate RDC compensation. FTRI did increase RDC per service fees in its proposed Fiscal Year 2022/2023 budget. As stated earlier, the impact of COVID-19 continues to affect RDC service levels, resulting in lower over-all expense for this category. FTRI’s estimated current fiscal year-end RDC expense is $123,136, and its proposed Fiscal Year 2022/2023 RDC expense is $202,446. Staff believes FTRI’s proposed budget for Category III expense is reasonable for budgeting purposes and provides FTRI flexibility while continuing to negotiate fees with the RDCs.

**Category IV – Outreach**

Outreach efforts are designed to promote FTRI’s equipment distribution services and to raise awareness about Florida relay service. FTRI’s proposed Fiscal Year 2022/2023 outreach budget remains unchanged from the current Commission-approved outreach budget.

FTRI employs various forms of communication in its outreach strategy. FTRI plans to continue advertising in newspapers using free-standing insert ads (flyers) in markets where effective. However, FTRI acknowledges that it has witnessed rapid changes in the newspaper industry. In response, FTRI will utilize other print tools such as direct mail post cards and coupon book advertisements. FTRI also plans to continue expanding its digital marketing campaign, including increased use of banner ads on websites, as well as targeted email and social media campaigns.

The Commission has previously encouraged FTRI to research and consider more technologically advanced and cost-effective forms of outreach. Most recently, the Commission discussed FTRI exploring improvements to its website. The Commission encouraged FTRI to consider adding an online chat function to help with customer inquiries, as well as the creation of an online consumer portal similar to what is utilized by the Florida Department of Children and Families. Through such a portal, consumers could enter personal qualifying information and be automatically advised of available equipment and directed to the appropriate RDC for service.

FTRI has included implementation of the chat function, termed “FTRI Chat”, in its proposed Fiscal Year 2022/2023 budget. In response to a staff data request, FTRI explained that once approved, it will need to spend the first few months developing this project with its outside platform provider. FTRI also explained that the new chat function will require weeks of testing before it becomes operational. FTRI has included funding for a new position related to this new feature in its employee expense for Fiscal Year 2022/2023. The position will be responsible for handling and responding to chat inquiries, along with assisting other FTRI staff as needed. The position will work with FTRI DPCs and the Equipment Distribution Program (EDP) Manager in providing customer assistance. Staff believes FTRI’s proposed budget for Category IV expense is reasonable.

**Category V – General & Administrative**

Category V reflects expenses associated with FTRI’s operations, such as office and furnishings, employee compensation, contracted services (auditors, attorney and computer consultants), computers, and other operating expenses. FTRI is proposing $1,069,309 for Fiscal Year 2022/2023, which represents a $138,168 increase in Category V expense from the current Commission-approved budget. Employee compensation expense represents the largest increase in this category at $82,935, which includes the newly created FTRI Chat position and the third DPC position. FTRI’s justification for the FTRI Chat position was discussed in Category IV.

FTRI explained in its amended budget filing that there is an urgent need to support the two current DPCs and the EDP Manager who have been inundated with an increased number of service calls in recent months. FTRI states that more customers have chosen to call FTRI directly rather than visit local RDCs. FTRI further points out that the number of RDCs have declined in the past year. FTRI states that when compared to the beginning of the current fiscal year, FTRI has seen a 14 percent increase in the number of new service calls. In addition to handling calls, DPCs process applications, equipment orders, and shipment of telecommunications equipment to customers. Staff believes FTRI’s Category V expenses are reasonable.

**Conclusion**

Staff recommends the Commission modify FTRI’s proposed budget expenses of $3,753,703 to increase relay service expense by $208,042, and approve a total budget expense of $3,961,745 for Fiscal Year 2022/2023.

Issue 2:

 Should the Commission approve FTRI’s request to reduce the Telecommunications Relay Service (TRS) surcharge to $.07 per month?

Recommendation:

 Yes. Staff recommends the Commission approve FTRI’s request to reduce the surcharge to $0.07. Staff recommends the Commission order all local exchange companies to bill the $0.07 TRS surcharge for Fiscal Year 2022/2023. (Williams, Fogleman, Imig, Tan)

Staff Analysis:

 Based on current industry trends, FTRI estimates that access lines will decrease at the rate of approximately seven percent from the current fiscal year as more consumers transition from landline phones. Holding the TRS surcharge constant, a decrease in access lines results in a decrease in revenues to support FTRI’s activities. FTRI’s proposal to reduce the TRS surcharge from $0.10 to $0.07 per access line places further downward pressure on revenues.

If approved, FTRI’s proposed surcharge is expected to generate $2,769,749 in revenue. Compared to staff’s recommended budget expense amount, this represents a $1,190,475 shortfall for Fiscal Year 2022/2023. Staff estimates that FTRI’s revenue less expenses at the current fiscal year-end will result in a surplus of $716,151, which will be added to the operating account for 2022/2023. FTRI proposes that the remaining shortfall be covered by drawing from the reserve account, as the Commission has similarly approved in recent years. FTRI’s reserve account after the proposed reduction would be approximately $15 million.

The reserve account represents funds that were originally set aside in anticipation that the Federal Communications Commission (FCC) might delegate intrastate costs associated with Video Relay Service (VRS) and Internet Protocol Caption Telephone Service (IP-CTS) to states. FTRI explained that based on its review and understanding, there is no indication that the FCC will delegate VRS and IP-CTS authority to states in the foreseeable future. Given the overall size of the surplus account, and the expected surplus from the current fiscal year, staff believes a reduction in the surcharge is reasonable. Staff notes that leaving the surcharge at the current $0.10 would result in estimated revenue of $3,956,784, which is nearly identical to the recommended budget expense amount for Fiscal Year 2022/2023.

**Conclusion**

Staff recommends the Commission approve FTRI’s request to reduce the surcharge to $0.07. Staff recommends the Commission order all local exchange companies to bill the $0.07 TRS surcharge for Fiscal Year 2022/2023.

Issue 3:

 Should this docket be closed?

Recommendation:

 If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Imig, Tan)

Staff Analysis:

 At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.









1. Order No. 24581, issued May 24, 1991, in Docket No. 910496-TP, *In re: Implementation of Florida Telecommunications Access System Act of 1991*. [↑](#footnote-ref-1)
2. IP Relay allows people who have difficulty hearing or speaking to communicate using a computer and the Internet, rather than a Text Telephone (TTY) and a telephone line. [↑](#footnote-ref-2)
3. VRS enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a TRS operator so that the VRS user and the operator can see and communicate by signed conversation. [↑](#footnote-ref-3)
4. IP captioned telephone service allows users to simultaneously listen and read the text of what the other party in a telephone conversation has said, where the connection carrying the captions between the service and the user is via an IP addressed and routed link. [↑](#footnote-ref-4)
5. STS service utilizes a specially trained Communications Assistant who understands the speech patterns of persons with speech disabilities and can repeat the words spoken by such an individual to the other party to the call. IP STS uses the Internet, rather than the public switched telephone network, to connect the consumer to the relay provider. [↑](#footnote-ref-5)
6. Wireless services offer applications such as text, instant messaging, and video chat. [↑](#footnote-ref-6)