



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 12-8

December 20, 2012

Petition of the State 911 Department for Approval of Request for Response to Procure
Telecommunications Relay Service and Captioned Telephone Relay Service.

ORDER

APPEARANCES:

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For: Petitioner

I. INTRODUCTION

The Department of Telecommunications and Cable (“Department”) grants the State 911 Department’s (“911 Department”) request for approval of its request for response (“RFR”) to procure telecommunications relay service and captioned telephone relay service. For the reasons discussed below, the Department finds that the RFR is structured to solicit a bid that is both economically feasible and adequate to meet the needs of individuals requiring telephone relay service (“TRS”) and captioned telephone service (“CapTel”)¹ as set forth in G. L. c. 166, § 15E.

II. PROCEDURAL HISTORY

On October 18, 2012, the 911 Department petitioned the Department to approve the release of a RFR to procure telecommunications relay service and captioned telephone relay service pursuant to G. L. c. 166, § 15E. *See* Petition of the State 911 Department for Approval of Request for Response to Procure Telecommunications Relay Service and Captioned Telephone Relay Service, D.T.C. 12-8 (“Petition”) at 1. Notice of a public hearing published in the Boston Globe and Springfield Republican newspapers on November 27, 2012. *See* State 911 Department Proof of Publication Letter, D.T.C. 12-8 Docket Sheet (“Docket”) at 1. The Department held the public hearing on December 11, 2012.

At the December 11 hearing, the Department accepted into the record a letter of support for the RFR from the Massachusetts Commission for the Deaf and Hard of Hearing. *See* Letter of Heidi L. Reed, Commissioner of the Massachusetts Commission for the Deaf and Hard of Hearing (“MCDHH”), D.T.C. 12-8 (“MCDHH Letter”) at 1 (Dec. 7, 2012). Apart from the MCDHH Letter and a brief statement made by the 911 Department, the Department has received no additional testimony, and no parties intervened in this case. *See* Docket at 1.

¹ Because CapTel service and TRS are both required by Massachusetts statute, the remainder of this order will refer to “TRS” and “CapTel” service combined as simply “TRS.”

III. ANALYSIS

The Communications Act of 1934, as amended, requires common carriers providing voice transmission services to offer TRS via the 711 dialing code as a toll free call. *See* 47 C.F.R. § 64.603 (requiring telecommunications services for hearing-impaired and speech-impaired individuals); G. L. c. 166, § 15E (granting the 911 Department responsibility for providing TRS in Massachusetts). A carrier is deemed compliant with this requirement if it provides relay service through a state program certified with the Federal Communications Commission (“FCC”). *See* 47 C.F.R. § 64.603(c) (mandating carrier provisions of TRS).

Massachusetts has certified a state relay program that meets the minimum requirements set out in 47 C.F.R. §64.605, and has codified the Massachusetts TRS requirements as G. L. c. 166, § 15E. The 911 Department currently provides TRS through a third-party contract and wishes to solicit bids for the provision of TRS after the contract expiration on June 30, 2013. *See Petition of Verizon New England d/b/a Verizon Mass. for Approval of its Request for Proposals to Provide Dual-Party Relay Serv. in Mass.*, D.T.C. 07-4 at 4 (Nov. 13, 2007). In turn, the Department is responsible for the review and approval of the RFR. G. L. c. 166, § 15E(e) (“Prior to the implementation of such [TRS] services, the [911] department and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the [D]epartment of [T]elecommunications and [C]able’s review and approval seeking competitive bids from qualified vendors to provide the aforementioned [TRS] services.”).

The 911 Department’s RFR seeks bids from any provider capable of meeting the specifications set forth therein. The principal requirements are that the contractor provide full-service; confidential statewide TRS, and CapTel service, including all of the facilities, equipment, software, circuits, telephone service, staff, training; and other various functions

necessary to meet the requirements of 47 U.S.C. § 225 and G. L. c. 166A, § 15E. *See* RFR at § 8 (Performance and Contract Specifications). The RFR seeks to contract with a single entity to provide this service for a term of at least three years, with the option for two twelve-month extensions. *Id.* at § 6. The RFR requires bids to be quoted in conversation minutes rates which shall remain fixed for the life of the contract. *Id.* at § 7. Moreover, the RFR encourages contractors to provide TRS services from a facility located within Massachusetts, and using Massachusetts employees. *Id.* at § 8.1.1. Finally, as required by statute, the MCDHH has reviewed the RFR, and has given its unqualified endorsement. *See* MCDHH Letter at 1.

When evaluating a RFR such as the one before the Department, a standard of reasonableness is applied. *See* D.T.C. 07-4 at 7; *New England Tel. & Tel. Co. d/b/a NYNEX*, D.P.U. 95-54 at 4; *New England Tel. & Tel. Co. d/b/a Bell-Atlantic Mass.*, D.P.U. 98-73 at 4. The standard of reasonableness requires the Department to balance the desire to maintain a low cost to ratepayers with due regard for reliability and quality that are consistent with the public interest. *See* D.T.C. 07-4 at 7. For the reasons discussed below, the 911 Department's RFR satisfies that standard.

As the RFR was developed in conjunction with the MCDHH, the Department is confident that it will meet the needs of the Deaf, hard-of-hearing, late-deafened, and deaf-blind, for telecommunications access. *See* MCDHH Letter. In addition to meeting the FCC's minimum requirements for TRS, the RFR also contains extensive customer service requirements, complaint resolution procedures, and detailed performance measurements designed to ensure a high level of quality and reliability. *See* RFR at §§ 8 (incorporating by reference all current and future FCC standards and regulations for providing TRS services as minimum requirements required by the RFR); 8.1.20 & 21 (TRS Reliability and Traffic Standards); 8.2.4 (CapTel

Service Standards); 8.3.1 & 3 (General Service Support Standards and Consumer Complaints); 9.1 & 2 (Contractor Performance Measures and Liquidated Damages). The RFR also includes liquidated damages for failure to maintain specific minimum quality standards. *Id.* at § 9.2. In addition, the RFR contemplates incorporation of new technologies into the program over the contract term to improve the overall level of service and capability. *Id.* at § 8.3.11. The Department finds that because the RFR meets or exceeds the FCC's TRS requirements, and because the RFR is supported by the Deaf and hard of hearing community, the RFR will likely result in a contract that is in the public's best interest.

Further, it is apparent that the RFR was drafted with an eye towards finding the lowest cost to ratepayers for the services required. The RFR is structured as an open bid. The Department finds this reasonable, as the open bid format maximizes the opportunity for capable providers to compete for the contract. Moreover, the RFR calls for a three-year term, with two options to extend the contract for a single year each. *See* RFR at § 6. As the Department has previously found, multiple year contracts for TRS services tend to yield better prices and attract more bidders. *See* D.T.C. 07-4 at 9 (approving as reasonable a RFR incorporating a five-year term for TRS services). As detailed in the RFR, the ultimate evaluation of bids will consider more than price. *See* RFR at § 13 (listing evaluation criteria). However, given the public interest in providing a high quality TRS service, the RFR is reasonably designed to maximize the opportunity of obtaining such service at a fair price.

IV. ORDER

After notice, hearing, and due consideration, it is

ORDERED: That the State 911 Department Request for Response to Procure Telecommunications Relay Service and Captioned Telephone Relay Service, filed with the Department on October 18, 2012, is hereby approved.

By Order of the Department,

/s/Geoffrey G. Why _____
Geoffrey G. Why
Commissioner

RIGHT OF APPEAL

Appeals of any final decision, order or ruling of the Department of Telecommunications and Cable may be brought pursuant to applicable federal and state laws, including G. L. c. 25, § 5, and G. L. c. 166A, § 2.