Appendix T: Legislation or Other Establishing TRS in the State

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IC 8-1-2.8
Chapter 2.8. Dual Party Relay Services for Hearing Impaired and Speech Impaired Persons

IC 8-1-2.8-1
"ADA" defined
Sec. 1. As used in this chapter, "ADA" refers to the federal Americans with Disabilities Act of 1990 (47 U.S.C. 225).
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-2
"Commission" defined
Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-3
"Dual party relay services" defined
Sec. 3. (a) As used in this chapter, "dual party relay services" means telecommunications transmission services that provide the ability for a person who has a hearing impairment or speech impairment to engage in communication with a hearing person in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services.
(b) The term includes services that enable two-way communication between a person who uses a telecommunications device for individuals who are deaf or other nonvoice terminal and a person who does not use such a device.
As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.28; P.L.99-2007, SEC.31.

IC 8-1-2.8-4
"FCC" defined
Sec. 4. As used in this chapter, "FCC" refers to the Federal Communications Commission.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-5
"Hearing impaired or speech impaired person" defined
Sec. 5. As used in this chapter, "hearing impaired or speech impaired person" means a person who is so certified by a licensed physician, an otolaryngologist, a speech language pathologist, an audiologist, or a qualified state agency.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-6
"Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired" defined
Sec. 6. As used in this chapter, "Indiana Telephone Relay Access

Corporation for the Hearing and Speech Impaired" or "InTRAC" means a corporation formed under IC 23-7-1.1 that meets the requirements of section 18 of this chapter.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-7
"Local exchange access service" defined
Sec. 7. As used in this chapter, "local exchange access service" means telephone exchange access lines or channels that provide local access to the local telecommunications network to effect the transfer of information.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-8
"Local exchange company" defined
Sec. 8. As used in this chapter, "local exchange company" or "LEC" refers to any communications service provider (as defined in IC 8-1-2.6-13(b)) that:
(1) has a certificate of territorial authority on file with the commission; and
(2) is required to provide dual party relay services to hearing impaired and speech impaired persons under federal law.
As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.29.

IC 8-1-2.8-9
"Telephone company" defined
Sec. 9. As used in this chapter, "telephone company" means:
(1) any natural person, firm, association, corporation, or partnership, owning, leasing, or operating any lines, facilities, or systems used in the furnishing of telephone service; and
(2) any common carrier or carrier as those terms are defined in Title IV of the ADA.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-10
Findings and declarations
Sec. 10. The general assembly finds and declares the following:
(1) That it is in the public interest of the state to promptly provide hearing impaired or speech impaired persons with access to telecommunications services that are functionally equivalent to those provided to hearing persons.
(2) That Title IV of the ADA mandates that each telephone company providing telephone service within the state must provide dual party relay services on or before July 26, 1993, to hearing impaired and speech impaired persons within the territorial area or areas it serves in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.
(3) That the most efficient, cost effective, and fair method for LECs to provide dual party relay services to hearing impaired and speech impaired persons and to comply with the federal

mandate without the use of tax revenues is the establishment of the Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired under this chapter.
(4) That the provision of dual party relay services to hearing impaired and speech impaired persons can be enhanced by providing in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices that facilitate access to the dual party relay services.
As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.1; P.L.27-2006, SEC.30.

IC 8-1-2.8-11
Residential and business lines; surcharge

Sec. 11. Beginning on June 1, 1991, the commission shall require each LEC to impose a monthly surcharge in the amount of five cents ($0.05) on each residential and business line (or line equivalent) of its customers to fund and recover costs for developing and providing dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to hearing impaired and speech impaired persons.
As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.2.

IC 8-1-2.8-12
Adjustment of surcharge

Sec. 12. (a) The InTRAC may periodically apply to the commission for an adjustment in the amount of the monthly surcharge that a LEC must impose on its customers under this chapter. Before applying to the commission for such an adjustment, the InTRAC must do the following:

(1) Employ an independent accounting firm to review its surcharge determinations and to review and audit those accounts of the InTRAC and its members relevant to the surcharge.

(2) File with the commission in connection with its application a copy of the report prepared by the accounting firm under subdivision (1).

(b) When the InTRAC applies for an adjustment under this section, the commission may perform audits and tests to verify the calculation of the adjustment. However, the sole purpose of audits and tests by the commission must be to assure that the revenue produced by the surcharge is sufficient to cover the costs incurred by the InTRAC in providing services that meet the requirements imposed on telephone companies by the ADA. The costs incurred by the InTRAC include the following:

(1) Costs for the development, continued operation and improvement of dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to hearing impaired and speech impaired persons.

(2) The administrative costs of the InTRAC.

(3) The amount of reasonable reserves necessary to meet future costs.

(4) The amounts paid by the InTRAC to each LEC to compensate the LEC for collection, inquiry, and other administrative services it provides for the surcharges.

(5) The amounts paid by the InTRAC to each LEC to compensate the LEC for the necessary costs incurred by the LEC in facilitating inter-connection with and effecting use of the dual party relay service for their respective customers.

(c) It is the intent and purpose of this section that the InTRAC shall have available to it at all times sufficient funding to develop, provide for, and maintain dual party relay services that meet or exceed the requirements imposed by the ADA.
As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.3.

IC 8-1-2.8-13
Approval of surcharge adjustment

Sec. 13. Unless the commission disapproves an application by the InTRAC for a surcharge adjustment within ninety (90) days of the application, the commission shall approve the adjustment, and the LEC may charge and collect an adjusted surcharge. However, the commission may not approve an adjustment that results in a monthly surcharge that exceeds forty cents ($0.40) per residential or business line (or line equivalent).
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-14
Monthly bill; collection of surcharge
Sec. 14. A surcharge shall be collected on the regular monthly bill that a LEC sends to each of its customers. The surcharge may be separately identified on customers' bills as a special surcharge for the provision of services, including telecommunications devices as provided in section 10(4) of this chapter, to hearing impaired and speech impaired persons.
As added by P.L.75-1991, SEC.1. Amended by P.L.1-1992, SEC.30; P.L.80-1996, SEC.4.

IC 8-1-2.8-15
Accounting and recovery of costs
Sec. 15. All costs incurred by a LEC as a result of its compliance with the ADA requirements to provide services to hearing impaired and speech impaired persons shall be accounted for separately and recovered as required by the ADA and the FCC.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-16
Exemption from taxes and fees
Sec. 16. The amount of money collected by a LEC in surcharges under this chapter is exempt from all state income taxes and all fees

imposed under IC 8-1-6.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-17
Payments of surcharge
Sec. 17. A LEC that collects a surcharge under this chapter shall pay the amount collected for the surcharge on the terms and in the manner determined under section 21(2) of this chapter to a not-for-profit corporation formed under IC 23-7-1.1 and named "The Indiana Telephone Relay Access Corporation For the Hearing and Speech Impaired". However, no payments under this section may be made to the InTRAC until the following occur:
(1) The InTRAC files with the commission the following:
(A) A certificate of existence issued by the secretary of state that certifies that the InTRAC is in existence under Indiana law.
(B) A certificate in which two (2) authorized officers of the InTRAC certify that the corporation meets the requirements of section 18 of this chapter.
(C) A document executed by an authorized officer of the InTRAC in which the InTRAC agrees to meet the requirements of sections 18 and 21 of this chapter.
(2) Copies of the certificates described in subdivision (1)(A) and (1)(B) have been delivered to each LEC that collects the surcharge required by this chapter.
As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-18
Articles of incorporation
Sec. 18. The articles of incorporation of the InTRAC must provide the following:
(1) The name of the corporation shall be "Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired".
(2) The sole purpose for which the InTRAC shall be organized and operated is to provide at the lowest cost reasonably possible:

(A) on behalf of LECs and the citizens of Indiana; and

(B) in conjunction with LECs;

adequate and dependable dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices to hearing impaired and speech impaired persons within the territorial area in Indiana that LECs serve in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.

(3) The InTRAC must have authority to perform any lawful act that is necessary, convenient, or expedient to accomplish the purpose for which the InTRAC is formed.

(4) No part of the net earnings of the InTRAC may inure to the benefit of any member, director, or officer of the InTRAC, nor

shall any member of the InTRAC receive any earnings from the corporation except as follows:

(A) A member may be an independent contractor, a supplier, a vendor, or an authorized agent of the InTRAC and may receive fair and reasonable compensation for the member's provision of goods or services.

(B) An officer may receive reasonable compensation for services that the officer performs in the officer's capacity as an officer of the InTRAC.

(C) A director may be reimbursed for expenses incurred by the director in the performance of the director's duties.

(5) The InTRAC may not:

(A) make an advancement for services to be performed in the future; or

(B) make a loan of money or property to any director or officer of the corporation.

(6) No member, director, or officer of the InTRAC or any private individual may share in the distribution of any of the assets of the InTRAC upon its dissolution.

(7) If there is a dissolution of the InTRAC, any of the assets of the InTRAC available for distribution shall be distributed to a charity:

(A) selected by the board of directors of the InTRAC; and

(B) having a purpose that includes providing services to hearing impaired and speech impaired persons.

(8) The InTRAC shall have one (1) class of members consisting of those communications service providers that are designated as authorized LECs by the commission.

(9) Each member of the InTRAC shall serve as a member for as long as the commission finds that the member is a LEC. A member's:

(A) right to vote at meetings of the members of the InTRAC; and

(B) right, title, and interest in or to the corporation;

cease on the termination of a member's membership.

(10) Each member present in person or by proxy at a meeting of the members of the InTRAC may cast one (1) vote upon each question voted upon at:

(A) all meetings of the members; and

(B) in any election of a director of the InTRAC.

(11) The board of directors of the InTRAC consists of seven (7) directors selected as follows:

(A) Six (6) directors elected by the members of the InTRAC.

(B) The director of the state office of deaf and hearing impaired services.

(12) The business, property, and affairs of the InTRAC are managed and controlled by the board of directors of the InTRAC.

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.5; P.L.27-2006, SEC.31.

IC 8-1-2.8-19
Articles of incorporation; additional provisions

Sec. 19. The articles of incorporation of the InTRAC may contain provisions in addition to those specified in section 18 of this chapter that:

(1) the members of the InTRAC provide in accordance with IC 23-7-1.1; and

(2) do not violate the provisions required under section 18 of this chapter.

As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-20
Actions in pursuit of purposes

Sec. 20. (a) In pursuit of its purpose, the InTRAC may do the following:

(1) Perform audits and tests of the accounts of a LEC to verify the amounts described in section 12 of this chapter.

(2) Provide by contract dual party relay services to communications service providers operating outside Indiana if the effect of the contract:

(A) is to decrease the amount of surcharges imposed on the customers of members of the InTRAC; and

(B) does not sacrifice the quality of service that InTRAC provides for those customers in the absence of a contract.

(b) The actions described in subsection (a) are examples and are not intended to limit in any way the scope or types of actions that the InTRAC may take in pursuit of its purposes.

As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.32.

IC 8-1-2.8-21
Duties of InTRAC

Sec. 21. The InTRAC shall do the following:

(1) Establish, implement, and administer, in whole or in part, a statewide dual party relay service system. Any contract for the supply or operation of a dual party relay service system or for the supply of telecommunications devices shall be provided through a competitively selected vendor.

(2) Determine the terms and manner in which each LEC shall pay to the InTRAC the surcharge required under this chapter.

(3) Annually review the costs it incurred during prior periods, make reasonable projections of anticipated funding requirements for future periods, and file a report of the results of the review and projections with the commission by May 1 of each year.

(4) Annually employ an independent accounting firm to prepare audited financial statements for the end of each fiscal year of the InTRAC to consist of:

(A) a balance sheet;

(B) a statement of income; and

(C) a statement of cash flow;

and file a copy of these financial statements with the commission before May 2 of each year.

(5) Enter into contracts with any LEC to provide dual party relay services for the LEC, upon request by the LEC. However, the InTRAC:

(A) shall require reasonable compensation from the LEC for the provision of these services;

(B) is not required to contract with its members; and

(C) shall provide dual party relay services to InTRAC members for communications service originating with the members' Indiana customers for no consideration other than the payment to the InTRAC of the surcharges collected by the member under this chapter.

(6) Send to each of its members and file with the governor and the general assembly before May 2 of each year an annual report that contains the following:

(A) A description of the InTRAC's activities for the previous fiscal year.

(B) A description and evaluation of the dual party relay services that the InTRAC provides.

(C) A report of the volume of services the InTRAC provided during the previous fiscal year.

(D) A copy of the financial statements that subdivision (4) requires.

A report filed under this subdivision with the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.6; P.L.28-2004, SEC.72; P.L.27-2006, SEC.33.

IC 8-1-2.8-22

Use of InTRAC services by nonmembers

Sec. 22. If:

(1) a communications service provider that is not a member of InTRAC originates, carries, or terminates, in whole or in part, any telecommunication message that uses the InTRAC's dual party relay services; and

(2) refuses to:

(A) enter into a contract with the InTRAC as provided in section 21(5) of this chapter; or

(B) pay any sums due under such a contract;

the InTRAC may apply to the commission for an order requiring just and reasonable payments or the payments that are due under the contract. The InTRAC may enforce this order in the courts of the state.

As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.34.

IC 8-1-2.8-23

Exemption of InTRAC from commission jurisdiction; affiliated interests

Sec. 23. (a) If the InTRAC meets the requirements of sections 18

and 21 of this chapter, the InTRAC:

(1) is not a public utility;

(2) is not a telephone company or a communications service provider; and

(3) is free from the jurisdiction and oversight of the commission except as specifically provided in this chapter.

(b) The InTRAC is not an affiliated interest (as defined in IC 8-1-2-49). An officer, a director, or a member of the InTRAC may not be construed to be an affiliated interest solely because that person or entity is an officer, a director, or a member of the InTRAC.

As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.35.

IC 8-1-2.8-24

Charitable purposes; exemptions

Sec. 24. If the InTRAC meets the requirements of sections 18 and 21 of this chapter, the InTRAC:

(1) for purposes of all taxes imposed by the state or any county or municipality in Indiana is an organization that is organized and operated exclusively for charitable purposes; and

(2) qualifies for all exemptions applicable to those organizations, including but not limited to those exemptions set forth in IC 6-2.5-5-21(b)(1)(B) and IC 6-1.1-10-16.

As added by P.L.75-1991, SEC.1. Amended by P.L.192-2002(ss), SEC.144.

IC 8-1-2.8-25

Immunity from civil liability

Sec. 25. The following are not liable in any civil action for any injuries or loss to persons or property incurred by any person as a result of any act or omission of any person or entity listed in subdivisions (1) through (3) in connection with the development, adoption, implementation, maintenance, or operation of any system that provides dual party relay services or telecommunications devices, except for injuries or losses incurred as a result of willful or wanton misconduct:

(1) The InTRAC.

(2) A LEC providing dual party relay services.

(3) An employee, a director, an officer, or an agent of an entity listed in subdivision (1) or (2).

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.7; P.L.27-2006, SEC.36.