

Appendix K:
Legislation or Other Establishing TRS
in the State

PSC ORDER
FOR TRS

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Ser
Commission held in the City
Albany on April 28, 1987

COMMISSIONERS PRESENT:

Anne F. Mead, Chair
Harold A. Jerry, Jr.
Gail Garfield Schwartz

Case: 26158 - In the Matter of the Rules and Regulations of the Public Service Commission 16 NYCRR Chapter VI, Telephone and Telegraph Corporations, Subchapter A, Service, Part 603 - Service Standards -- Proceeding on motion of the Commission to adopt a proposed rule and regulation requiring the establishment of a Statewide Telephone Relay System for individuals with hearing and/or speech impairments.

MEMORANDUM, ORDER, AND RESOLUTION ADOPTING
REGULATIONS TO ESTABLISH A STATEWIDE TELEPHONE
RELAY SYSTEM FOR INDIVIDUALS WITH HEARING AND/OR
SPEECH IMPAIRMENTS

Issued 5/13/87

By the Commission:

Introduction

On October 6, 1986, we issued a notice of proposed rulemaking to add a subdivision (c) to 16 NYCRR Section 603.2.^{1/} As proposed, the section would require all telephone corporations to provide a system permitting telephone communications, on a 24 hour basis, between hearing and/or speech impaired individuals and

^{1/} The notice was issued after we had requested comments on the concept of developing a statewide relay system. In addition, the Consumer Services Division had organized a task force composed of representatives of the hearing impaired community and New York Telephone Company, Rochester Telephone Corporation, and AT&T Communications of New York, Inc. which developed a plan for a model relay system.

those with normal hearing and speech. The relay system would consist of a center or centers, accessible on a toll-free basis, which would complete telephone calls between individuals who communicate by means of a TTY (Teletypewriter) or TDD (Telecommunications Device for the Deaf) and individuals who communicate by means of a telephone. A TTY/TDD user would ask an operator at the center to complete a call to a non-TTY/TDD user and vice versa. The operator would establish the call between the calling and called party and act as the "translation point."

We requested comments on the proposed rule be submitted by November 14, 1986. Seventy-four responses were received from various entities including six telephone companies, two legislators and twenty-four organizations representing the hear and/or speech impaired community.^{1/} In addition, public statement hearings were held in Albany, New York City and Rochester on December 17, 1986, January 22, 1987, and January 29, 1987, respectively, at which 83 individuals made statements.

Discussion

All comments, written and oral, endorsed the concept of a statewide telephone relay system. The commentators, however, differed concerning how the system should be funded and who should be responsible for its operation."

1/ A complete list of persons and organizations who submitted written comments can be found in Appendix 1.

Advocates for the hearing impaired community strongly endorsed the concept of a telephone company operated, 24 hour statewide relay system. The Southern Tier Independence Center, the New York School for the Deaf, the National Technical Institute for the Deaf, and the Resource Center for Independent Living, Inc., among others, stated that the hearing or speech impaired community was entitled to the same access and use of the telephone network as those without such impairments, and, thus, the system should provide service comparable to the existing network. They contended that users should be able to complete intrastate and interstate calls and that charges for calls should be rendered on a point of origin to point of termination basis. With respect to operation of the system, advocate groups stressed that telephone companies should operate the relay system since they possess the required technical expertise to assure reliable service and employ professional operators who can best provide the confidentiality and anonymity a relay system should have. Such groups further maintained that the companies could easily acquire the additional expertise necessary to operate the system. Those groups which addressed the question of funding stated that the costs associated with the relay system should be shared by all telephone ratepayers since the system will facilitate communications between the hearing and speech impaired and the non-impaired and because usage should not carry financial disenfranchisement. Comments were also offered which suggested that an advisory board comprised of

individuals from the hearing and speech impaired community should be established to provide input for operator training, problem solving and future enhancements.

For the most part, while the telephone companies supported the concept of a relay system, they argued that telephone companies do not have the expertise to operate the system. On the issue of funding a relay system, the utilities had no common proposal. Continental Telephone Company of New York, Inc. stated that the main source of funding should be the state government and through it all the taxpayers in New York. Rochester Telephone Corporation maintained that the most equitable means for allocating the cost is through a modest uniform surcharge on each access line in the state. New York Telephone Company did not express an opinion as to the funding mechanism it preferred.

While the local exchange companies did not express interest in operating the system, AT&T Communications of New York, Inc., (AT&T) submitted comments in which it stated that it would consider being the implementor of a relay system in New York under a basic structure similar to California's.^{1/} AT&T proposed that the system should be funded through tax dollars or, as in California, by a surcharge on local telephone access lines. AT&T

^{1/} A brief description of the California system is attached as Appendix 2.

further proposed that the management and administration of the funds should be accomplished by an independent agency, unaffiliated with AT&T, as is the case in California.

Based on the comments received, we have concluded that the need for a statewide telephone relay system has been demonstrated. At present, individuals with hearing and speech impairments who must use TTYs and TDDs are effectively denied general use of the telephone network because they are limited to communicating with those who also possess TTYs/TDDs while the vast majority of non-impaired telephone customers generally do not own or have available to them such equipment. We believe that speech and hearing impaired individuals of New York should be given access to and use of the telephone network, within the limits of reasonableness and practicality, comparable to that provided to persons of normal hearing and speech.

We have reviewed the alternative suggestions for operating and funding the system and have developed guidelines which are designed to ensure the availability of a reliable system providing comparable service and reasonable charges. To that end, we will direct that the system incorporate the following standards.

Operation

For efficiency, ease and economies of scale, we believe that a statewide relay system should be operated by one entity with experience in telecommunications. The proposed regulation stated that all telephone corporations shall be responsible for insuring the provision of a statewide relay system and several telephone companies have asked for clarification with respect to the meaning of "all telephone corporations." The regulation we will adopt will make it incumbent on the local exchange companies to be responsible for ensuring that the relay service is provided. However, we envision that the local exchange companies will work together and contract with a qualified entity to operate the system. The entity may be chosen either from among themselves or from among other organizations with experience in telecommunications. Because of its offer to consider being the implementor of a relay system in New York and given its experience as a statewide relay system operator in California, AT&T may be the most logically positioned entity to be the system operator. The local exchange companies shall explore with AT&T, and any other interested, qualified company, the provision of this service.

Operational Service Standards

The system should provide a level of service comparable to that provided by the existing network consistent with the following service standards:

- A. The relay system shall operate 24 hours a day.
- B. The relay system shall provide for intrastate and interstate communication; however, either the calling or called party must be located in New York.^{1/}
- C. In general, service parameters shall track existing parameters as closely as reasonably achievable. The allowable blockage rate standard shall be the same as that used on the regular network. This standard provides one call blockage for every 100 call attempts. Other standards for operator service as contained in 16 NYCRR Section 603.12(d), (f)(2) (iii) and (3) shall apply. Appendix 3 sets forth the pertinent paragraphs.

^{1/} This qualification will ensure that the telephone ratepayers of New York do not fund a relay system that would bypass a New York resident and benefit only out of state residents.

Funding

The cost of operating the system shall be treated as normal operating expenses to the local companies.^{1/}

The costs shall be assessed against the individual local exchange companies based on the ratio of each company's number of access lines to total statewide access lines for all local exchange companies. The costs shall include those associated with the actual operation of the relay system, including a return on investment in the system as approved by us.

User Charges

Charges for calls shall be from point of origination to point of termination and be independent of the routing that must be accomplished through the relay system. Assessing charges consistent with the method in general use is a corollary of offering access to and use of the network comparable to that provided to persons of normal hearing and speech. With the exception of untimed local message units, charges should be no less than 50%^{2/} and no more than 100% of the currently tariffed

1/ Recovery shall be made by each local exchange company in the context of a formal tariff filing. The method of recovery including rate structure, will be subject to Commission approval.

2/ A discount of 50% is currently offered by all local exchange companies and many toll carriers in New York but is applied only to outgoing calls placed by an individual who communicates by means of a TTY/TDD or similar device and is certified as having a speech or hearing impairment.

the appropriate level of the charges within these parameters once the system is designed and the cost of the system has been determined.

Community Input

Relay
Advisory
Board →

Given the introduction of this new service, an advisory board, comprised of representatives of the operating entity, New York Telephone Company, Rochester Telephone Corporation, the New York State Telephone Association, Staff and the hearing and speech impaired community shall be established. With respect to the hearing and speech impaired community, the initial representatives to the board should be the same individuals who have been prominently involved in Case 26158: Paul Taylor of the National Technical Institute for the Deaf, Albert Hlibok of the Empire State Association of the Deaf, Inc., and Joel Ziev of the New York Society for the Deaf.^{1/} A representative from one of the organizations within New York which currently operates a local or regional relay system should also be included. The advisory board would function as a user group, providing guidance in such areas as operator training, problem solving, and future enhancements.

1/ These three people have consented to serve on this board.

Supervision

The local exchange companies shall file annually a report concerning the operation of the system and a simplified financial report. Any contract between the relay system operator and the local exchange companies shall be subject to our review and approval to ensure that the costs are not unduly burdensome to ratepayers.

Conclusion

We believe the standards outlined above which address the system's operation, operational service parameters, funding, user charges, community input, and supervision are consistent with the regulation we will adopt. Furthermore, we believe that the commenting parties have not shown that any changes to the proposed rule are required. However, we do believe that the January 1, 1988 effective date of the rule as stated in the proposed resolution is no longer viable. In light of California's experience we will require the relay system to be operational by no later than January 1, 1989.

THE COMMISSION ORDERS:

1. All local exchange companies are directed to meet with AT&T Communications of New York, Inc., consult with one another and submit for approval an agreed upon design and plan for implementation of a statewide relay system within 90

days after the issuance of this Memorandum, Order and Resolution. The design and plan shall incorporate the standards discussed above, include a proposed contract, and address the following: (a) cost estimate, including startup costs and annual operating expenses, (b) location of facilities, (c) types of equipment, (d) proposed staffing levels, and (e) operator training.

2. This proceeding is continued.

By the Commission,

(SIGNED)


JOHN J. KELLIHER
Secretary

Commentors

<u>Individual</u>	<u>Group</u>
Lester G. Stiel	AT&T Communications of New York, Inc.
Michael Flynn	New York Telephone Company
Josephine Trubeck & Donald Boecke	Rochester Telephone Corp. & Highland, Sylvan Lake & Ausable Valley Tel. Comp
Frank J. Miller	Continental Telephone Company of NY, I
Peter H. Feehan	Deposit Telephone Company, Inc.
William C. Swaile	ALLTEL New York, Inc., Clymer Telephon Company
✓ Keith J. Roland	Empire Assoc. of Long Distance Telephone Companies
Fred Dievendorf	Rochester Center for Independent Living
Denise Ann McQuade & Gil Kireclik	Independent Living for the Handicapped Inc., Brooklyn, NY
Maria Dibble	Southern Tier Independence Center, Binghamton, NY
Joan Gunderson	Resource Center for Accessible Living, Inc., Kingston, NY
David Eichenauer	Assistance & Information for the Disabl (AID), Corning, NY
Roman Kazragis	Utica Civic Association of the Deaf
Philip E. Cronlund	New York State School for the Deaf, Rome, NY
Mr. Taras B. Denis & Mia Kelley-Bock	New York School for the Deaf, White Plains, NY
Jacqueline Schertz & Matthew Starr	Monroe County Association for the Heari Impaired, Rochester, NY
Paul L. Taylor & Mindy Hopper	National Technical Institute for the De (NTID), Rochester, NY
James Kemp	NTID Student Congress, Rochester,

Alice Solazzo & Joan Ostrowski	Buffalo Civic Association for the Deaf
Greg M. Puhlmann	Resource Center for Independent Living Inc., Utica, NY
Richard Manley	Westchester County Office for the Disabled White Plains, NY
Paul Feiner	Westchester County Board of Legislators White Plains, NY
Beverly Levine	City of Yonkers Office for the Handicapped
Margaret B. Culhane	Chautauqua County Council on the Disabled Mayville, NY
Ronald C. Tocci	85th Assembly District, New Rochelle and Port Chester, NY
Peter J. O'Donoghue	Queens Task Force for the Disabled of Borough President's Office, Queens County NY
Bruce G. Blower	Suffolk County Office of Handicapped Services, Central Islip, NY
Richard M. Switzer, Burton Schwartz and Judy Loza	State Education Department, Office Vocational Rehabilitation
William Forrester & Ed O'Donnell	Goodwill Industries of Greater New York Inc., Astoria, NY
Charles J. Guarasci	United Cerebral Palsy Association, Oneonta, NY
Ruth R. Green	New York League for the Hard of Hearing New York, NY
Robert Monzon	Audionics Corp., New York, NY & Spring Valley, NY
Sister Joanne Feulner, Kimberly H. Cooper & Denise Rodriguez-Salazar	St. Francis de Sales School for the Deaf Brooklyn, NY

Oscar Cohen	Lexington School for the Deaf, Jackson Heights, NY
Frances Rolino and Suzanne J. Gelber, M.A.	United Cerebral Palsy Association of Greater Suffolk, Inc., Commack, NY
Leonard G. Zwick	Rochester School for the Deaf represent the 4201 Association of Schools
Michael A. Schwartz	
William Abrams, Sr.	
Linda Mosca, R.N.	
Michael A. Chatoff	
Farley Warshaw	
James E. & Catherine B. Boardman.	
Catherine J. Edwards	
Alice Schwartz Chabora, D.D.S., Ph.D.	
Richard and Doris Naiman	
James N. O'Gorman	
C. Kirk Rhein, Jr.	
David Leigh	
Frank Rakowski	
Louis A. Susca, Ph.D., M.D.	
Paul Liebold.	
Peter L. Berger	
Mr. P. DeBellis	
Kenneth S. Rothschild	
Robert S. Cole	

Mrs. Judith Kastan

Leonard S. Van Vechten

Kenneth Spooner

M. Specht

Diane Ng

Virginia Penna

David Altschul

Howard L. Tagg

Vernon and Jo Ellen Bonse

James W. Byrne, Sr.

California - In September 1979, a law went into effect which gave the Public Utilities Commission (PUC) the power to establish a rate recovery mechanism to allow telephone corporations to provide, at no additional charge to the basic exchange rate, TTYs/TDDs to any subscriber certified as deaf or severely hearing impaired.

In 1983, legislation was passed which required the PUC to design and implement a program to require each telephone corporation to provide a dual party relay system. Pacific Bell, General Telephone of California, and AT&T Communications of California Inc. were given until January 1, 1987, to implement the system. The PUC has announced the start-up of a 24 hour system on January 1, 1987. The facility is located in Woodland Hills, north of Los Angeles, and operated by AT&T with 130 operators. The rate recovery mechanism must not exceed 3 cents per month for each subscriber line.

Access to the system is by means of an 800 number. The system can accommodate only intrastate calls.

Part 603.12Paragraph

(d)

Each utility shall establish practices for operators and representatives with the objective of providing efficient and pleasing service to consumers. Its procedures shall provide that operators and representatives be trained to be courteous, considerate and efficient in handling all matters and to comply with the provisions of the Communications Act of 1934, as amended, in maintaining the secrecy of communications.

(f) (2) (iii)

90.8 and 92.9 percent of toll and assistance calls answered within 10 seconds; and

(f) (3)

An "answer" shall mean that the operator or representative is ready to render assistance and/or ready to accept the information necessary to process the call. An acknowledgement that the customer is waiting on the line shall constitute an "answer."

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Resolution By the Commission

[Pursuant to Statutory Authority of Public Service
Law Sections 91(1), 94(2), 97(2)]

Case 26158 - In the Matter of the Rules and
Regulations of the Public Service Commission 16 NYCRR
Chapter VI, Telephone and Telegraph Corporations,
Subchapter A, Service, Part 603 - Service Standards
-- Proceeding on motion of the Commission to Adopt a
proposed rule and regulation requiring the
establishment of a Statewide Telephone Relay System
for individuals with hearing and/or speech
impairments.

At a session of the Public Service Commission held
in the city of Albany on April 28, 1987, the Commission,
by unanimous vote of its members present,

RESOLVED:

1. That the provisions of Section 202(1) of the
State Administrative Procedure Act and Section 101-a(2) of the
Executive Law having been complied with, Title 16, Chapter VI,
Subchapter A, Part 603, Section 603.2 of the Official Compilation
of Codes, Rules, and Regulations of the State of New York is
amended, effective immediately, by the addition of a new
subdivision (c) to read as follows:

All telephone corporations, either individually
or in concert with other telephone corporations operating within
the state, shall be responsible for insuring the provision of a
relay system to enable communications between hearing-impaired,
and/or speech-impaired individuals who must use non-voice terminal

devices, and persons of normal hearing and/or speech. The system which shall be operational by January 1, 1989, shall operate on a 24 hour basis. Calls placed through the relay system shall be billed at rates which would assure reasonable access and are not unduly burdensome to those who require the use of the relay system. Costs associated with implementation and operation of the system shall be considered part of the telephone corporation's normal operating costs and recovered through rates.

All telephone corporations shall provide annual bill inserts to advise all customers of this service. Pertinent information regarding the relay system shall be included in telephone directories.

2. That the Secretary to the Commission shall file a copy of this resolution with the Secretary of State.

customer for a limited period of time to introduce a present or potential customer to a service not previously received by the customer.

6. The commission shall provide that any net decrease in a telephone corporation's real property tax expense resulting from the provisions of a chapter of the laws of nineteen hundred eighty-seven phasing out the taxation of certain property subject to such tax shall inure to the benefit of the ratepayers of such corporation.

7. The commission shall provide that any net decrease in a telephone company's real property tax expense resulting from the provisions of the chapter of the laws of nineteen hundred ninety-five which added this subdivision shall inure to the benefit of the ratepayers of such company.

(Added L.1910, c. 673, § 3; amended L.1911, c. 124; L.1920, c. 957; L.1921, c. 134, § 65; L.1930, c. 775; L.1970, c. 270, § 4; L.1984, c. 613, § 2; L.1985, c. 742, § 1; L.1987, c. 416, § 8; L.1989, c. 154, § 4; L.1991, c. 711, § 1; L.1993, c. 423, § 1; L.1995, c. 676, § 2; L.1996, c. 517, § 1; L.1998, c. 162, § 4, *et. July 7, 1998*; L.2003, c. 106, § 32, *et. July 1, 2003*.)

1 So in original. Probably should read "directory".
2 So in original. (Second period inadvertently added.)

Historical and Statutory Notes

L.2003, c. 106 legislation

Subd. 3-a. L.2003, c. 106, § 32, added subd. 3-a.

L.2003, c. 106, §§ 1, 1-a, provide:

"§ 1. Legislative findings and intent. The legislature recognizes that the individuals who are members of the military make a tremendous sacrifice, especially in times like these when our military personnel are in many locations throughout the world and here in New York fighting against terrorism. This sacrifice is just as real for the men and women who comprise our reserve armed forces and state organized militia. For those who are not full-time active duty in the military, but instead are called to active duty as a member of the reserve armed forces or state organized militia, the rest of their lives must be put on hold to accommodate that

service. However, such military personnel continue to be responsible for their own well-being and the well-being of their families and they must still face the obligations that exist in their everyday lives. Steps have been taken to ease some of the burdens that these brave men and women encounter, to allow them to focus their full energy on defending our country; however, the legislature recognizes that more must be done to ensure that military personnel engaged in active duty are not troubled by their obligations at home. In addition, the legislature recognizes that members of the military should not be discriminated against based upon their military status in areas such as housing, employment and education.

"§ 1-a. Short title. This act shall be known as the 'Patrol Plan'."

Legislative Histories

L.2003, c. 106: For Legislative, Executive or Judicial memorandum relating to this law, see McKinney's 2003 Session Laws of New York, p. 1664.

Research References

Encyclopedias

NY Jur. 2d, Public Utilities § 8, Nondiscrimination as to Services and Facilities.

NY Jur. 2d, Public Utilities § 48, Generally.

NY Jur. 2d, Public Utilities § 64, Generally; Power to Fix or Regulate.

NY Jur. 2d, Telecommunications § 29, State Regulatory Power, Generally; Public Service Commission — Specific Powers and Duties.

NY Jur. 2d, Telecommunications § 46, Unjust Discrimination in Rates and Charges Prohibited.

NY Jur. 2d, Telecommunications § 47, Special Rates and Charges for Certain Customers.

NY Jur. 2d, Telecommunications § 48, Special Rates and Charges for Certain Customers.

NY Jur. 2d, Telecommunications § 49, Generally.

NY Jur. 2d, Telecommunications § 53, Factors Affecting Rates or Charges.

NY Jur. 2d, Telecommunications § 55, Generally.

NY Jur. 2d, Telecommunications § 56, Suspension of Rate or Charge, Pending Hearing.

NY Jur. 2d, Telecommunications § 57, Temporary Rate or Charge, Pending Hearing.

NY Jur. 2d, Telecommunications § 58, When Hearing is Required.

NY Jur. 2d, Telecommunications § 60, Burden of Proof.

NY Jur. 2d, Telecommunications § 75, Tariff Schedules; Review.

Forms

McKinney's Forms, Selected Consol. Law, Public Service Law § 5 Form 2, 2. Petition in Article 78 Proceeding to Annul Order of Public Service Commission Directing Manner in Which Telephone Company Releases Toll-Billing Information...

McKinney's Forms, Selected Consol. Law, Public Service Law § 91 Form 4, Complaint and Petition in Suit in Equity and in Article 78 Proceeding to Review Public Service Commission's Determination Regarding Rates and Refunds.

McKinney's Forms, Selected Consol. Law, Public Service Law § 91 Form 6, Petition in Article 78 Proceeding to Annul Determination of Approval of Affinity Group-Based Cellular Telephone Discount Tariffs.

Treatises and Practice Aids

Carmody-Wait, 2d § 145:774, Reviewability of Public Service Commission Determinations — by Parties Other than the Regulated Utility.

Carmody-Wait, 2d § 145:799, Review Where Hearing is Discretionary.

Notes of Decisions

Filed rate doctrine 11
correctional facilities maintained by the Department of Correctional Services (DOCS) arose directly from their payment of filed rate that was approved by Public Service Commission (PSC). "Filed rate doctrine" applied to bar recipients' suit against state, challenging its exclusive telephone services agreement with provider. Bullard v. State (3 Dept. 2003) 307 N.Y.S.2d 371. Public Utilities ⇨ 190
Where alleged inquiry of recipients of collect telephone calls from inmates at

§ 92-a. Special telephone equipment for hearing impaired persons

[Eff. until June 1, 2008, pursuant to L.2003, c. 62, pt. H1, § 4. See, also, Public Service Law § 92-a, post.]

1. The commission shall require any regulated landline telephone corporation providing local exchange service to sell or lease special telecommunication equipment to a person certified as hearing impaired where the addition of such equipment is necessary to enable such person to access and utilize the local exchange network. The sale of such equipment shall be at an amount not to exceed the actual purchase price by the corporation and the lease of such equipment shall be at a rate to be determined by the commission. Any person who leases such equipment shall be permitted to apply the lease payments toward the equipment's purchase.

2. The commission shall authorize the establishment of the New York telecommunication relay service center. In developing a request for proposals to provide telecommunication relay service the commission shall include the following minimum provisions:

(a) The New York telecommunication relay service center shall be located

(b) A minimum of eighty percent of all calls utilizing telecommunications relay service must be routed to and through the New York telecommunications relay service center; and

(c) A contract to provide telecommunications relay service shall be renewable for up to five years, and the commission shall be empowered to promulgate and adopt all regulations required to implement the terms of this subdivision. (Added L.1987, c. 487, § 1; amended L.2003, c. 62, pt. H1, § 3, eff. May 15, 2003, deemed eff. April 1, 2003.)

§ 92-a. Special telephone equipment for hearing impaired persons

Eff. June 1, 2008 pursuant to L.2003, c. 62, pt. H1, § 4. See, also, Public Service Law § 92-a, ante.

The commission shall require any regulated landline telephone corporation providing local exchange service to sell or lease special telecommunication equipment to a person certified as hearing impaired where the addition of such equipment is necessary to enable such person to access and utilize the local exchange network. The sale of such equipment shall be at an amount not to exceed the actual purchase price by the corporation and the lease of such equipment shall be at a rate to be determined by the commission. Any person who leases such equipment shall be permitted to apply the lease payments toward the equipment's purchase.

(Added L.1987, c. 487, § 1; amended L.2003, c. 62, pt. H1, § 3, eff. May 15, 2003, deemed eff. April 1, 2003.)

Historical and Statutory Notes

L.2003, c. 62 legislation
L.2003, c. 62, pt. H1, § 3, designated the existing text as subd. 1, and added subdivision 2 relating to the establishment of a telecommunications relay service center.
L.2003, c. 62, pt. H1, § 4, provides: "§ 4. This act shall take effect on April 1, 2003, provided, however, if this act shall become a law after such date it shall take effect immediately [May 15, 2003; see note below] and shall be deemed to have been in full force and effect on and after April 1, 2003, provided, further, that section three of this act [amending Public Service Law § 92-a] shall expire on June 1, 2008."

Research References

Encyclopedias
NY Jur. 2d, Telecommunications § 29, State Regulatory Power, Generally; Public Service Commission — Specific Powers and Duties.
NY Jur. 2d, Telecommunications § 82, Service for the Hearing-Impaired.

§ 92-b. Telephone deposits and payment plans for the elderly

Research References

Encyclopedias
NY Jur. 2d, Telecommunications § 29, State Regulatory Power, Generally; Public Service Commission — Specific Powers and Duties.

§ 92-c. Customer service requirements for alternate operator service providers and COCOT service providers

1. For the purposes of this section:

(a) The term "alternate operator service provider" means a telecommunications company, other than a local exchange company, which provides operator

(b) The term "COCOT service provider" means any person or corporation which resells service by means of a customer owned or leased currency or credit operated telephone.

2. Every alternate operator service provider shall arrange to have conspicuously displayed on, or in the immediate vicinity of, any telephone or telephone equipment which automatically accesses the alternate operator service provider's network and where its services are made available either to the public or transient end users, information which the commission shall prescribe which shall include, but not be limited to:

(a) The identity of the alternate operator service provider that will make the charge for any calls placed from such telephone or telephone equipment;

(b) A statement that any inter-exchange long distance carrier can be accessed by following dialing instructions or access codes provided by such other carriers;

(c) A toll free number which the caller can use to obtain information on the rates, terms or conditions for a call;

(d) A statement that, upon the request of the caller, the operator servicing the call will provide rate information; and

(e) A toll free number to call for resolution of a billing or service complaint.

3. Every COCOT service provider shall conspicuously display on, or in the immediate vicinity of, its telephones or telephone equipment made available for public use, information which the commission shall prescribe which shall include, but not be limited to:

(a) The identity of the COCOT service provider, and, where applicable, the alternate operator service provider that will make the charge for any calls placed from such telephone or telephone equipment;

(b) A statement that any inter-exchange long distance carrier can be accessed by following dialing instructions or access codes provided by such carriers;

(c) A toll free number which the caller can use to obtain information on the rates, terms or conditions for a call;

(d) A statement that, upon the request of the caller, the operator servicing the call will provide rate information;

(e) A toll free number to call for resolution of a billing or service complaint; and

(f) Where applicable, a notice that additional charges are imposed by the COCOT service provider, or the owner of the place where the COCOT is located, for the use of the telephone or telephone equipment for the placing of a call.

4. If any display or sign, as required by this section, is removed or defaced by vandals, the commission shall consider such facts in determining any penalty provided for in this article.

5. Upon the caller's connection to its service, an alternate operator service provider shall announce to the caller the identity of the provider handling the operator assisted call and, upon request of the caller, quote the rates, terms or conditions for such call.

6. If an alternate operator service provider is technically unable to complete a call from its point of origin, or transfer a call so that it is billed from its point of origin, such provider shall provide the following options to the caller and then obtain the caller's consent:

(a) offer to transfer the call, upon the caller's request, at no charge to the

Filed Session of April 17, 2002
Approved as Recommended
and so Ordered
By the Commission

JANET HAND DEIXLER
Secretary

Issued and Effective April 19, 2002

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

April 2, 2002

TO: THE COMMISSION

FROM: OFFICE OF COMMUNICATIONS

SUBJECT: CASE 01-C-1842 - Petition of the New York State
Telecommunications Association, Inc. for Approval of
Modification #7 to the Contract with Sprint
Communications Company, L.P. to Provide Relay Service
to the Hearing Impaired.

CASE 01-C-1897 - Petition of New York State Targeted
Accessibility Fund for Transfer of Operational
Responsibility and Oversight Authority of the New York
State Telephone Relay Service.

SUMMARY OF

RECOMMENDATION: Staff recommends that approval be granted for
the New York State Telecommunications
Association, Inc. to extend the current contract
for two years for the provision of telephone
relay service for the hearing impaired. This
recommendation will extend the contract with
Sprint Communications Company, L.P. to June 30,
2004, at the current price. Further, it is
recommended that oversight authority of the New
York State Telephone Relay Service be
transferred from the New York State
Telecommunications Association, Inc. to the New
York State Targeted Accessibility Fund.
Finally, it is recommended that the Commission
accept the limitation of liability language as
proposed in Modification #7.

INTRODUCTION

On November 21, 2001, the New York State
Telecommunications Association, Inc. (NYSTA), filed a
modification (Modification #7) to the contract for the provision

of telephone relay service (TRS). TRS is a telephone relay service that allows hearing-impaired consumers to communicate by telephone to anyone by using operators and teletypewriters. This service is currently provided under contract by Sprint Communications Company, L.P. (Sprint). NYSTA is proposing three changes to the current contract:

- 1) To extend the current contract for an additional three years to June 30, 2005 at the current price.
- 2) To allow the administration of the New York State Telephone Relay Services (TRS) to be assigned to the New York State Targeted Accessibility Fund (TAF).
- 3) To approve a modification to the contract that will limit the liability clause in the relay contract.

In a related matter, on December 5, 2001, TAF petitioned the Commission for transfer of oversight authority of the TRS from NYSTA to TAF. This petition requested that the operational responsibility of TRS be transferred from the Incumbent Local Exchange Carriers (ILECs) to all Local Exchange Carriers (LECs). These two petitions have been linked together as they both impact the operation of TRS, and a decision on either petition has consequences that affect the other petition. For example, the contract extension was requested to allow TAF to assimilate its new responsibilities before having to prepare a Request for Proposal (RFP) for a new contract.

BACKGROUND

From 1989 to 1997, intrastate telephone relay service for persons with hearing and speech disabilities was provided pursuant to a contract between AT&T Communications, Inc. (AT&T), and NYSTA.¹ In anticipation of the contract's expiration

¹ In 1987, the Commission required that LECs provide TRS so that consumers with hearing and speech disabilities could communicate via telephone in a functionally equivalent manner to non-disabled customers. With Commission approval, the LECs agreed, under the auspices of NYSTA, to contract for TRS with one TRS provider (See Case 26158 - Memorandum, Order, and Resolution Adopting Regulations to Establish a Statewide Telephone Relay System for Individuals with hearing and/or Speech Impairments (issued May 13, 1987.)

in 1997, NYSTA, Sprint and MCI Telecommunications Corporation L.P. (MCI) each filed petitions seeking approval of different alternatives for TRS in New York State. In disposing of the petitions, the Commission directed NYSTA to submit for Commission approval a Request for Proposals (RFP).²

After publishing a modified RFP in November 1996, and accepting sealed bids in response, NYSTA's Board of Directors announced that it accepted Sprint's offer to provide TRS. On March 28, 1997, NYSTA filed with the Secretary an executed contract for the provision of TRS. The contract committed Sprint to a three-year term as provider of New York TRS from an in-state call center. Sprint began providing TRS on August 1, 1997. On May 2, 2000, NYSTA filed an agreement with Sprint that extended the three-year contract for one year, from July 1, 2000 through June 30, 2001. This contract was then extended for an additional year and will expire on June 30, 2002.

Targeted Accessibility Fund

The Targeted Accessibility Fund (TAF) was established by Commission Order on June 2, 1998³ and is administered by the New York Access Settlement Pool. The operation and funding of TAF supports programs which include TRS, E911, and Lifeline. TAF is governed by an Advisory Board that is designed to represent all segments of the telecommunications industry, as well as public interest groups. The TAF manual was approved by the Commission and establishes membership on the TAF Advisory Board as follows:

- One large IXC, to be AT&T
- One medium IXC
- One small IXC
- One large ILEC (Verizon)
- One medium ILEC

² Order Authorizing RFP for New York State's Telephone Relay Service (issued January, 1996) (the January order).

³ Opinion and Order Establishing Access Charges for New York Telephone Company and Instituting a Targeted Accessibility

- One small ILEC
- One CLEC
- One cable company that has telecom operations
- Two consumer group representatives, CPB and PULP

New York State Telecommunications Association, Inc.

NYSTA has a membership that includes 44 telecommunications companies and more than 100 associate members. The 44 members consist of all of the ILECs as well as AT&T, Sprint, and Time Warner. The focus of NYSTA is to promote open networks, open competition, equitable universal service, and transition to a rational cost recovery system. NYSTA has been the organization responsible for overseeing and administering TRS since TRS was established in 1987.

COMMENTS

On January 18, 2002 the Commission issued a Notice inviting comments on the NYSTA and TAF petitions. Comments supporting the petition to extend the current Sprint contract for three years were submitted by Sprint, State Senator John A. DeFrancisco, and Verizon. WorldCom, Inc (Worldcom) commented in opposition to the three-year contract extension while expressing a preference for a one-year contract extension. There were no comments on the proposed modification to limit the liability of each company, a provision would limit the liability of each company to its own portion of the contract.

WorldCom and NYSTA supported the petition to transfer the oversight and operational responsibility of TRS, while Verizon opposed the transfer. TAF submitted comments supporting its petition and rebutting Verizon's comments. Verizon responded to TAF's rebuttal.

Contract Extension

The petition notes that the current contract with Sprint expires on June 30, 2002. Further, it states that NYSTA chose to request an extension of the current contract as it has

been in discussion with TAF about transferring oversight of TRS. NYSTA contends that, given these discussions, it is logical to extend the current contract and focus on a possible transfer of oversight authority. Additionally, NYSTA is not aware of any dissatisfaction with the current operation of TRS, and consequently sees no need to seek a new TRS provider based on operational issues.

Verizon, Sprint, and Senator DeFransisco commented that the current service provided by Sprint is excellent and cost efficient. Sprint and Senator DeFransisco emphasized that the three-year extension would provide sufficient time to negotiate a new contract. Further, they stated that a contract extension would continue the economic benefits to the Syracuse employment market with over 300 workers being employed at the center.

WorldCom commented that a one-year extension should be sufficient time to prepare an RFP, evaluate it, and award a new contract for TRS. It noted that it provides TRS in several centers, including the nation's largest such center in California. WorldCom further contends that there are numerous new features that are not in the current Sprint contract and more improvements are being developed. WorldCom maintains that, if the extension is approved, many of these new enhancements will not be used in New York for three years. Thus, WorldCom concludes that expediting contract negotiations will allow New Yorkers to benefit from competitive bidding and enhanced services on a more timely schedule.

Sprint countered WorldCom's comments contending that it has continually had strong incentives to provide superior relay service and enhancements throughout the term of its contract. Furthermore, Sprint documents numerous enhancements it has provided during the current contract and reiterates its support of TRS in New York.

Transfer Oversight and Operational Responsibility

WorldCom supports the transfer of oversight to TAF. It notes that TAF has full industry representation; TAF already has funding responsibility for TRS; and the TAF advisory board has consumer representation. WorldCom contends that these elements

make TAF a more neutral and efficient organization to oversee TRS. NYSTA submitted a letter endorsing the TAF proposal to seek administrative authority for TRS.

Verizon submitted comments contending that the transfer of oversight and operational responsibility should be rejected. Verizon contends that Commission regulations require that LECs be responsible for the provision of TRS and Commission regulations would have to be changed if LECs are to be relieved of "operational responsibility" for TRS. Verizon further states that the ILECs bear the great bulk of TRS funding, yet they only have three seats on the TAF board. Thus, Verizon is concerned that the ILECs, which have the vast majority of the state's customers, will have a minority representation on the TAF board.

Verizon also contends that there is an inherent conflict of interest as the IXCs on TAF will have a role in determining the terms under which they would compete and would have considerable influence in selecting the TRS vendor.

Finally, Verizon disagrees with TAF's recommendation of tariffing TRS. Verizon believes that each local exchange carrier is responsible for providing TRS to its customers and, as such, it should be allowed to sign a contract with any TRS vendor. Verizon believes that providing TRS by tariff promotes one statewide TRS at the expense of the option for individual contracts.

TAF replied that Verizon incorrectly believed that the petition requested a transfer of operational responsibility and oversight authority to TAF. The petition requests a transfer of oversight authority to TAF, and a transfer of operational responsibility from the ILECs to all LECs. Further, TAF states that operational responsibility entails the responsibility for provisioning and proper functioning of TRS. TAF believes that this is the responsibility of all LECs and notes that Verizon's comments even indicate that the operational responsibility has been imposed on all LECs.

TAF points out that it is a logical choice to oversee TRS as it has full representation and is a neutral organization that is overseen by the Commission. TAF refutes Verizon's

contention that having the IXCs on the TAF board may create conflict with any future bidding as TAF would prevent any bidding carriers from overseeing the bidding process. It mentions that AT&T and Sprint are also members of NYSTA, so that any potential for conflict exists in either organization. Finally, TAF maintains that providing service under a tariff will be more practical than trying to get every carrier to sign a TRS contract.

DISCUSSION

While there are considerable merits to a three-year contract extension, such a long extension has the effect of avoiding the bidding process. The last bidding for TRS was conducted in 1996 after which Sprint began service under this contract on August 1, 1997. In sum, there has not been a bidding process for TRS in six years and a three-year extension would increase that interval to nine years. Considering the fast pace of technological advances and the Commission's commitment to competition, WorldCom's request for an earlier RFP process is reasonable. Nevertheless, transferring oversight authority to a new organization and preparing a new RFP as well as bid evaluations in a one-year period may be ambitious. It is our opinion that a two-year contract extension strikes a balance between the promotion of equitable competition and the need for transitioning to a new entity while maintaining stable operations.

TAF's petition requests a transfer of operational responsibility for TRS from the ILECs to all LECs. It is our opinion that this is not necessary as the Commission has stated that all providers of local exchange service have a responsibility for universal service.⁴ It also appears that the

⁴ Case 94-C-0095 - Proceeding on the Motion of the Commission to Examine Issues Relating to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market (Order issued February 10, 1994).

commenting parties agree on this concept. However, if there is any confusion in this regard, this memorandum should serve to clarify that all LECs have the operational responsibility for TRS.

TAF's petition also requests the transfer of oversight authority from NYSTA to TAF. Both of these parties are directly involved and concur with this transfer. WorldCom also supports the transfer. Verizon is the only party that opposes the transfer, basing its opposition on its contention that the transfer will shift the balance of oversight power from the ILECs to the IXCs. Verizon contends that this power shift is unreasonable as the ILECs have both the major share of customers and the major share of financial support for TRS.

Verizon's opposition focuses on the makeup of TAF's Advisory Board. The Advisory Board, however, was crafted by the Commission to represent the industry and the public in funding TRS as well as E911, and Lifeline.⁵ Further, Verizon's comments should be tempered by the fact that many of the TAF Advisory Board members are both interexchange carriers and CLECs and, as such, represent both interests. Finally, any TRS contract or contract changes must be reviewed and approved by the Commission to ensure that they serve the needs of New Yorkers.

Verizon's contention that tariffing TRS would prevent a LEC from establishing its own TRS contract is incorrect. Any company can tariff TRS and any LEC can order that service either through that tariff or by contract. Moreover, tariffing TRS service has the advantage of eliminating the difficult process of getting numerous companies to sign contracts.

In sum, Verizon has not provided any compelling reasons why the transfer of oversight authority should not be approved. The two parties directly involved in the transfer support the transfer. Accordingly, oversight for TRS should be transferred to TAF.

⁵ Opinion No. 98-10. Opinion and Order Establishing Access Charges for New York Telephone Company and Instituting a Targeted Accessibility Fund (issued June 2, 1998).

The proposed language modification limiting a company's liability states that each individual company is only responsible for its own weighted portion of the contract. This clarification is reasonable as it addresses the concerns of small companies that have signed the TRS contract.

RECOMMENDATION

It is recommended that:

1. Oversight authority of telephone relay service (TRS) should be transferred from New York State Telecommunications Association, Inc. to the New York State Targeted Accessibility Fund on a schedule to be worked out between the parties;
2. the current contract for TRS with Sprint Communications Company, L.P. should be extended for two years from June 30, 2002 to June 30, 2004;
3. the limited liability language contained in Modification #7 should be approved; and
4. the cases be continued.

Respectfully submitted,

WAYNE CORNELIUS
Policy Analyst III

JOHN COLEMAN
Utility, Supervisor
Telecom

SAUL ABRAMS
Staff Counsel

APPROVED:

ROBERT LA MARCHE
Chief Utility
Communications Programs

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on July 19, 2006

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Patricia L. Acampora
Maureen F. Harris
Robert E. Curry, Jr.
Cheryl A. Buley

CASE 06-C-0524 – In the Matter Concerning Captioned Telephone Service

ORDER DIRECTING THAT CAPTIONED TELEPHONE
SERVICE BE MADE AVAILABLE IN NEW YORK

(Issued and Effective July 25, 2006)

INTRODUCTION

In this order, the Commission takes steps to ensure that captioned telephone service be made available in New York. Specifically, the Commission directs the Targeted Accessibility Fund of New York, Inc. (TAF) to negotiate with Sprint Communications, L.P. (Sprint), the state's Telecommunications Relay Service (TRS) provider, an arrangement by which Sprint would make captioned telephone service available in New York as of January 1, 2007, and that Sprint modify its tariff with the Commission necessary to reflect the terms of such arrangement. Additionally, the Commission directs TAF in its negotiations with Sprint to take steps to ensure that the introduction of captioned telephone equipment initially be limited to no more than 300 telephones per month and that the cost of the service be no more than the national average cost of the service in states where such service already is available.

BACKGROUND

New York's Telecommunications Relay Service

New York's Public Service Law (PSL) §92-a requires the Commission to take certain steps to foster the ability of the state's hearing-impaired and speech-impaired residents to communicate across the Public Switched Telephone Network.¹ That section also authorizes the establishment of the New York telecommunications relay service center. From 1989 to 1997, AT&T Communications, Inc. (AT&T) provided New York's TRS for the hearing-impaired pursuant to a contract between AT&T and the New York State Telecommunications Association (NYSTA). NYSTA executed a contract with Sprint Communications Company, L.P. (Sprint) to provide TRS service on the expiration of AT&T's contract. Sprint began providing TRS in New York on August 1, 1997.

In Opinion No. 98-10, the Commission ordered the establishment of the Targeted Accessibility Fund of New York, Inc. (TAF) to fund certain public interest telecommunications programs including the state's TRS program.² On April 19, 2002, the Commission approved a second extension³ of the Sprint contract and authorized transferring oversight authority of the state's TRS program from NYSTA to TAF.⁴ Sprint is the current TRS provider in New York under agreement with TAF. Pursuant to such

¹ PSL §92-a requires "any regulated landline telephone corporation providing local exchange service" to provide whatever equipment may be necessary to allow the hearing-impaired to "access and utilize the local exchange network."

² Case 94-C-0095, Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Transition to Competition in the Local Exchange Market, Opinion No. 98-10, Order Establishing Access Charges for New York telephone Company and Instituting a Targeted Accessibility Fund (issued June 2, 1998) (Opinion No. 98-10).

³ The original Sprint contract was for three years but was extended by NYSTA for an additional year pursuant to an agreement filed with the Commission in May 2000.

⁴ Case 01-C-1897 *et al.*, Petition of the Targeted Accessibility Fund for Transfer of Operational Responsibility and Oversight Authority of the New York State Telephone Relay Service, Untitled Order (issued April 19, 2002).

agreement, Sprint has a tariff on file with the Commission concerning its provision of TRS.⁵

Under its tariff, Sprint provides access to the hearing- and/or speech-impaired to a telephone relay center. Sprint's current service permits telephone communications via a Telecommunications Device for the Deaf (TDD) or a Teletypewriter (TTY). Sprint's current tariff makes no provision for the use of "captioned telephone service" in New York.

Captioned Telephone Service

Captioned telephone service allows users to receive word-for-word captions of their telephone conversations on a special phone's built-in screen so that the person may read the words spoken by the other party virtually in real-time. It is different than TDD or TTY in that the user of captioned telephone may listen to the conversation while using the device, and thus the service is marketed more to those retaining some hearing but who may find relying solely on the voice of the other party to be difficult.

Over the past year, we received numerous inquiries regarding the possibility of making captioned telephone available in New York. Following up on these inquiries, Staff sent a letter to TAF in December 2005 requesting an evaluation of the costs and benefits of amending the current TRS contract with Sprint to provide for captioned telephone service. By letter dated February 24, 2006, TAF noted that currently captioned telephone service is available by only one company, Ultratec, Inc., via its service named CapTel. TAF estimated a higher Conversation Minute of Use charge for CapTel service versus the traditional TRS rate. TAF also estimated that the cost of a new CapTel phone would be between \$100 to \$300 more than a traditional TTY.⁶

⁵ Sprint Communications Company, L.P., New York P.S.C. Tariff No. 6.

⁶ A captioned telephone user must purchase a special phone that uses CapTel's proprietary technology to receive captions. TAF estimates the cost to the user for purchasing a CapTel phone as between \$300-\$500 versus the current cost to the purchaser of \$200 for a TTY phone.

Regarding cost projections, TAF estimated an increase in TAF costs of approximately \$1.4 million for the first year of service.⁷

On May 5, 2006, a Notice Soliciting Comments on captioned telephone service was issued. The Notice summarized TAF's findings and asked interested parties to comment generally on making captioned telephone service available in New York. Comments were due June 2, 2006.

Parties' Comments

In response to the Notice, over 100 individuals sent letters expressing their support for the introduction of captioned telephone service to New York. Each of the individuals urged the Commission to take whatever steps may be necessary to bring captioned telephone service to New York. Individuals noted that captioned telephone service increases the quality of life for the hearing-impaired and improves employment opportunities.⁸ Many of the individual respondents also noted that captioned telephone is available in other states. Additionally, several associations, including those representing the hearing-impaired, expressed support for bringing captioned telephone service to the State.

Sprint, New York's current TRS provider, also filed comments in support of captioned telephone service in New York. Sprint noted that it currently provides captioned telephone service in other states and noted that customer input has been extremely positive. Ultratec, Inc., owner of the CapTel brand, reiterated the benefits of

⁷ The cost to TAF of the captioned telephone services relates to the costs of handling relay calls and is tied indirectly to the number of CapTel phones in operation. The CapTel phones are only available from a company called Weitbrecht Communications. Many states have limited the monthly distribution of these phones. For example, a state may allow only 50 phones to be sold to its residents per month. Residents of those states that have "applied" to receive a CapTel phone after the imposed limit has been reached are put on a waiting list.

⁸ Several commentators cited an unemployment rate of over 50% among individuals who are hard of hearing.

captioned telephone and noted that it has received hundreds of inquiries from New York residents seeking CapTel service.

NYSTA, Verizon New York and Time Warner were the only parties that expressed reservations about bringing captioned telephone service to New York. NYSTA and Time Warner expressed opposition to any Commission order that would mandate captioned telephone service. NYSTA asserted that the Commission should defer any decision until the Federal Communications Commission (FCC) issues its own findings in its current proceeding that is addressing whether to mandate captioned telephone relay service nation-wide,⁹ and commented that mandating the use of a proprietary technology would subject New York's telecommunications carriers to monopoly pricing.¹⁰ NYSTA also expressed concern about the lack of redundancy associated with what is currently a single captioned telephone relay service with only one center that is located in Madison, Wisconsin. Finally, NYSTA expressed concern that mandating captioned telephone service may violate current state law.¹¹

Time Warner indicated its support of NYSTA's comments. Time Warner noted that, notwithstanding its position, should the Commission decide to implement captioned telephone service in New York, the funding mechanism for such service must be competitively-neutral.

Verizon New York stated that it "takes no position on the advisability of making captioned telephone service available in New York,"¹² but states that there has

⁹ NYSTA Comments, p.1.

¹⁰ NYSTA Comments, p.4.

¹¹ NY PSL §92-a(2) requires that the New York TRS center be located in Syracuse, New York. Section 92-a (2) (b) requires a minimum of 80% of all calls utilizing telecommunications relay service to be "routed" to and through the New York TRS center. The provisions of PSL §92-a (2) regarding the location of New York's TRS center in Syracuse, as well as the requirement for routing 80% of the state's TRS calls there, will expire as of June 1, 2008. Thereafter, §92-a provides no specific requirements as to the location of any such TRS center, nor as to any routing requirements for the state's TRS calls.

¹² Verizon New York Comments, p.1.

not been a showing that substantial need for captioned telephone service exists or that existing internet or relay service is insufficient to meet the needs of New York's hearing-impaired individuals.¹³

DISCUSSION

The Hearing Loss Association of New York estimates that there are 2 million New York residents suffering from some hearing loss. For many of these residents, while they may still have some hearing, they find it difficult to communicate by telephone through voice alone, but resist using the current state TRS service because they feel that the obstacles provided by traditional TDD and TTY equipment are too great for them to want to use it and that such equipment does not provide for functional equivalency to telephonic communication. Captioned telephone offers these individuals the opportunity to communicate by voice and supplement any hearing difficulties through the reading of near real-time captions. Based on the foregoing, and the numerous comments we have received in support from hearing-impaired individuals, as well as associations committed to the hearing-impaired, we find that the need for captioned telephone service has been adequately demonstrated. We also decline to await an FCC decision as this matter is clearly one of state-interest as its effect will be limited only to the New York TRS program as administered by TAF.

We also find that PSL §92-a does not prohibit the action we take today. There has been no showing that the use of captioned telephone service will violate any of requirements of §92-a. First, Sprint continues to operate the call center in Syracuse for the state's TRS program. Second, even if the calls allotted to captioned telephone service are considered TRS calls for the purposes of §92-a's routing requirement, there has been no demonstration by any party that introducing captioned telephone in New York will create a situation whereby less than 80% of state TRS calls are routed through the Syracuse TRS center. Third, as discussed below, we are establishing a limitation on the number of phones introduced per month, as has been done in other states adopting

¹³ Verizon New York Comments, fn.1.

captioned telephone service. This limitation will help achieve the intent of any routing requirements of §92-a.

The introduction of captioned telephones to states is often limited on a per month basis. Such limitation achieves multiple purposes such as allowing the manufacturer to keep supply in accord with demand, allowing the CapTel relay center to provide adequate operator resources for typing captions and allowing the state TRS provider to adequately account for costs. Of states that limit CapTel phones, we understand that California currently provides the previous highest limit of 200 phones per month. Accordingly, we direct TAF that in negotiating to provide captioned telephone equipment to New York residents, such phones should initially be limited in distribution to no more than 300 phones per month. To the extent that such a limit proves unnecessary, or that such limit may be raised, we would expect the state's TRS provider or TAF to report back to us so that we may revisit this issue in the future.

As to the potential for monopoly pricing, we are aware that there is only one provider of captioned telephone service currently operating. In ordering TAF to negotiate with Sprint to provide CapTel to New York residents, we direct TAF to ensure that New York residents do not pay for such service more than the national average of the amount paid by residents of the other states wherein CapTel is already available. Moreover, we are only ordering TAF to negotiate with Sprint to make captioned telephone service available in New York, not specifically CapTel. To the extent that CapTel may, in the future, be subject to competition, TAF and the state's TRS provider are free to explore any options those potential competitors may present for future arrangements.

Finally, we find that any concerns regarding redundancy do not outweigh the public interest in making captioned telephone available to the residents of New York.

CONCLUSION

Based on the foregoing, the Commission finds that making captioned telephone available in New York is in the public interest and that the need for such service has been adequately demonstrated by the record. We direct TAF to negotiate

with Sprint an agreement to make captioned telephone available to New York residents as of January 1, 2007. We also direct TAF that it should limit the initial distribution of captioned telephones to New York residents to no more than 300 per month, and to ensure that the cost of the service to New York residents will be no higher than the national average charged for the same service in other states wherein it is available. We also direct TAF to report its progress to the Department of Public Service Staff no later than December 1, 2006. Finally we direct Sprint to amend its tariff for New York Relay Services to reflect the availability of captioned telephone service.

It is ordered:

1. The Targeted Accessibility Fund of New York, Inc. is directed to negotiate with New York's current Telecommunications Relay Service provider, Sprint Communications, L.P., to make provision for captioned telephone service in New York consistent with this order.
2. This proceeding is continued in accordance with the foregoing.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

Public Service

* § 92-a. Special telephone equipment for hearing impaired persons. 1. The commission shall require any regulated landline telephone corporation providing local exchange service to sell or lease special telecommunication equipment to a person certified as hearing impaired where the addition of such equipment is necessary to enable such person to access and utilize the local exchange network. The sale of such equipment shall be at an amount not to exceed the actual purchase price by the corporation and the lease of such equipment shall be at a rate to be determined by the commission. Any person who leases such equipment shall be permitted to apply the lease payments toward the equipment's purchase.

2. The commission shall authorize the establishment of the New York telecommunications relay service center. In developing a request for proposals to provide telecommunications relay service the commission shall include the following minimum provisions:

(a) The New York telecommunications relay service center shall be located within the municipality of Syracuse, New York;

(b) A minimum of eighty percent of all calls utilizing telecommunications relay service must be routed to and through the New York telecommunications relay service center; and

(c) A contract to provide telecommunications relay service shall be renewable for up to five years, and the commission shall be empowered to promulgate and adopt all regulations required to implement the terms of this subdivision.

* NB Effective until June 1, 2018

* § 92-a. Special telephone equipment for hearing impaired persons. The commission shall require any regulated landline telephone corporation providing local exchange service to sell or lease special telecommunication equipment to a person certified as hearing impaired where the addition of such equipment is necessary to enable such person to access and utilize the local exchange network. The sale of such equipment shall be at an amount not to exceed the actual purchase price by the corporation and the lease of such equipment shall be at a rate to be determined by the commission. Any person who leases such equipment shall be permitted to apply the lease payments toward the equipment's purchase.

* NB Effective June 1, 2018

Appendix L:
2008 Recertification Renewal Letter
from the FCC



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

News Media Information 202-418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 08-1673
Released: July 16, 2008

NOTICE OF CERTIFICATION OF STATE TELECOMMUNICATIONS RELAY SERVICE (TRS) PROGRAMS

CG DOCKET NO. 03-123

Notice is hereby given that the applications for certification of Telecommunication Relay Services (TRS) programs of the states¹ listed below have been granted, pursuant to Title IV of the Americans with Disabilities Act (ADA), 47 U.S.C. § 225(f)(2), and section 64.606(b) of the Commission's rules.² On the basis of the state applications, the Consumer & Governmental Affairs Bureau (Bureau) has determined that:

- (1) The TRS program of the states meet or exceed all operational, technical, and functional minimum standards contained in section 64.604 of the Commission's rules;³
- (2) The TRS programs of the listed states make available adequate procedures and remedies for enforcing the requirements of the state program; and
- (3) The TRS programs of the listed states in no way conflict with federal law.

The Bureau also has determined that, where applicable, the intrastate funding mechanisms of the listed states are labeled in a manner that promotes national understanding of TRS and does not offend the public, consistent with section 64.606(d) of the Commission's rules.⁴

Because the Commission may adopt changes to the rules governing relay programs, including state relay programs, the certification granted herein is conditioned on a demonstration of compliance with any additional new rules that are adopted by the Commission. The Commission will provide guidance to the states on demonstrating compliance with such rule changes.

In response to the *Public Notice* released seeking comment on the applications for certification of state TRS programs,⁵ the Commission received 84 comments, all of which address Speech-to-Speech

¹ For purposes of this proceeding, the term "states" refers to states, U.S. territories, and the District of Columbia where applicable.

² 47 C.F.R. § 64.606(b).

³ 47 C.F.R. § 64.604.

⁴ 47 C.F.R. § 64.606(d).

⁵ *Applications for Certification as Certified State Telecommunications Relay Service (TRS) Programs Filed; Pleading Cycle Established for Comment on Applications*, CG Docket No. 03-123, Public Notice, DA 08-60 (Jan. 10, 2008).

(STS) outreach.⁶ As part of their applications for certification, states were required to submit specific examples of all outreach activities, including those targeted to users and receivers of STS services. We reviewed each of the outreach plans submitted by the states in conjunction with each of the applications listed below and found them to be in compliance with the Commission's requirements. The Bureau reminds states receiving certification herein of their continued obligation to engage in outreach activities, or to ensure that their contracted TRS providers conduct outreach in accordance with 47 C.F.R. § 64.604(c)(3).⁷

This certification, as conditioned herein, shall remain in effect for a five year period, beginning July 26, 2008, and ending July 25, 2013, pursuant to 47 C.F.R. § 64.606(c). One year prior to the expiration of this certification, July 25, 2012, the states may apply for renewal of their TRS program certification by filing documentation in accordance with the Commission's rules, pursuant to 47 C.F.R. §§ 64.606(a) and (b).

STATES APPROVED FOR CERTIFICATION

File No: TRS-46-07

Alabama Public Service Commission
State of Alabama

File No: TRS-19-07

Department of Commerce
State of Alaska

File No: TRS-47-07

Arkansas Deaf and Hearing Impaired
State of Arkansas

File No: TRS-02-07

Commission for the Deaf and Hard of Hearing
State of Arizona

File No: TRS-32-07

California Public Utilities Commission
State of California

File No: TRS-23-07

Colorado Public Utilities Commission
State of Colorado

File No: TRS-48-07

Connecticut Department of Public Utility
State of Connecticut

File No: TRS-35-07

Delaware Public Service Commission
State of Delaware

⁶ Each comment was directed to a specific state program, and requested that the Commission review the STS outreach activities of the specified state prior to granting certification. The Commission received the following number of comments regarding the following states: California- 36, Colorado- 2, Georgia- 1, Hawaii- 4, Illinois- 5, Kansas- 2, Massachusetts- 1, Minnesota- 1, Montana- 5, Nebraska-1, New Jersey- 1, New Mexico- 1, New York- 3, Ohio- 2, Oregon- 2, Pennsylvania- 1, South Carolina- 2, South Dakota- 1, Vermont- 1, Virginia- 3, Washington- 1, Wisconsin- 8.

⁷ See 47 C.F.R. § 64.604(c)(3) Public Access to Information. This rule states, “[c]arriers, through publication in their directories, periodic billing inserts, placement of TRS instructions in telephone directories, through directory assistance services, and incorporation of TTY numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and use of all forms of TRS. Efforts to educate the public about TRS should extend to all segments of the public, including individuals who are hard of hearing, speech disabled, and senior citizens as well as members of the general population. In addition, each common carrier providing telephone voice transmission services shall conduct, not later than October 1, 2001, ongoing education and outreach programs that publicize the availability of 711 access to TRS in a manner reasonably designed to reach the largest number of consumers possible.”

File No: TRS-49-07
Public Service Commission
District of Columbia

File No: TRS-51-07
Georgia Public Service Commission
State of Georgia

File No: TRS-43-07
Idaho Public Service Commission
State of Idaho

File No: TRS-08-07
Indiana Telephone Relay Access Corporation
State of Indiana

File No: TRS-07-07
Kansas Relay Services, Inc.
State of Kansas

File No: TRS-13-07
Louisiana Relay Administration Board
State of Louisiana

File No: TRS-33-07
Telecommunications Access of Maryland
State of Maryland

File No: TRS-54-07
Michigan Public Service Commission
State of Michigan

File No: TRS-55-07
Mississippi Public Service Commission
State of Mississippi

File No: TRS-56-07
Telecommunications Access Program
State of Montana

File No: TRS-25-07
Relay Nevada
State of Nevada

File No: TRS-45-07
New Jersey Board of Utilities
State of New Jersey

File No: TRS-16-07
New York State Department of Public Service
State of New York

File No: TRS-50-07
Florida Public Service Commission
State of Florida

File No: TRS-22-07
Hawaii Public Utilities Commission
State of Hawaii

File No: TRS-10-07
Illinois Commerce Commission
State of Illinois

File No: TRS-03-07
Iowa Utilities Board
State of Iowa

File No: TRS-52-07
Kentucky Public Service Commission
Commonwealth of Kentucky

File No: TRS-53-07
Maine Public Utilities Commission
State of Maine

File No: TRS-34-07
Department of Telecommunications and Energy
Commonwealth of Massachusetts

File No: TRS-39-07
Minnesota Department of Commerce
State of Minnesota

File No: TRS-15-07
Missouri Public Service Commission
State of Missouri

File No: TRS-40-07
Nebraska Public Service Commission
State of Nebraska

File No: TRS-42-07
New Hampshire Public Service Commission
State of New Hampshire

File No: TRS-14-07
Commission for the Deaf and Hard of Hearing
State of New Mexico

File No: TRS-30-07
Department of Health and Human Service
State of North Carolina

File No: TRS-12-07
Information Technology Department
State of North Dakota

File No: TRS-57-07
Oklahoma Telephone Association
State of Oklahoma

File No: TRS-58-07
Pennsylvania Bureau of Consumer Services
Commonwealth of Pennsylvania

File No: TRS-59-07
Division of Public Utilities and Carriers
State of Rhode Island

File No: TRS-60-07
Department of Human Services
State of South Dakota

File No: TRS-17-07
Texas Public Utility Commission
State of Texas

File No: TRS-09-07
Utah Public Service Commission
State of Utah

File No: TRS-04-07
Department of the Deaf and Hard of Hearing
Commonwealth of Virginia

File No: TRS-06-07
Public Service Commission of West Virginia
State of West Virginia

File No: TRS-18-07
Division of Vocational Rehabilitation
State of Wyoming

File No: TRS-37-07
Public Utilities Commission of Ohio
State of Ohio

File No: TRS-36-07
Oregon Public Utilities Commission
State of Oregon

File No: TRS-28-07
Telecommunications Regulatory Board
Puerto Rico

File No: TRS-11-07
South Carolina Office of Regulatory Staff
State of South Carolina

File No: TRS-20-07
Tennessee Regulatory Authority Services
State of Tennessee

File No: TRS-61-07
Virgin Islands Public Services Commission
U.S. Virgin Islands

File No: TRS-44-07
Vermont Department of Public Service
State of Vermont

File No: TRS-27-07
Office of the Deaf and Hard of Hearing
State of Washington

File No: TRS-01-07
Wisconsin Department of Administration
State of Wisconsin

The full text of this document and filings will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. These documents and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact the duplicating contractor at their website: www.bcpweb.com or call 1-800-378-3160. Filings may also be viewed on the Consumer & Governmental Affairs Bureau's, Disability Rights Office homepage at http://www.fcc.gov/cgb/dro/trs_by_state.html.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). This *Public Notice* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb/dro>.

For further information regarding this *Public Notice*, contact Diane Mason, Consumer and Governmental Affairs Bureau, Disabilities Rights Office (202) 418-7126 (voice), (202) 418-7828 (TTY), or e-mail Diane.Mason@fcc.gov.

- FCC -

Appendix M:

TRS RFP

ISSUE DATE 07-29-03

RFP/Official Issue/ Update #3

(Changes to page 24 “Customer Profile” to add Speed Calling.)

TARGETED ACCESSIBILITY FUND OF NEW YORK, Inc

(TAFNY)

REQUEST FOR PROPOSAL

TO PROVIDE

TELECOMMUNICATIONS

RELAY SERVICE

IN THE

STATE OF NEW YORK

PREFACE

Provision of Intrastate Telecommunications Relay Service, (TRS), in New York State is currently the responsibility of the Local and Long Distance Telephone Carriers operating within the State. Actual provision of TRS is currently under contract with Sprint and USA Relay whose TRS Center (TRSC) is located in Syracuse, NY. TRS is funded by assessments on the Telephone Carriers under the administration of the Targeted Accessibility Fund of New York State (TAFNY).

In January 1996, the New York State Public Service Commission issued an order directing the Telephone Companies of New York to solicit bids from potential Telecommunication Relay Service Providers (TRSPS). The current contract with Sprint / USA Relay will expire on June 30, 2004, and this RFP is issued to select a provider for service, beginning with a phased cutover commencing on June 18, 2004, with full statewide service by July 1, 2004. The initial duration of the contract will be 4 years, with a first possible extension of 3 years and a second possible extension of 2 years.

The attached RFP is issued by TAFNY on behalf of the Telephone Carriers of New York State, and all questions concerning the RFP or replies to the RFP must be addressed to TAFNY. After receipt and review by TAFNY, a recommendation will be sent to the New York State Public Service Commission for final approval.

As a respondent to this RFP, each bidder will be required to submit a reply (see bidder response forms TAB 6).

The primary TRS Center shall be physically located within the geographic municipality of Syracuse, New York, as directed by New York State Law.

The TRS provider will be paid by TAFNY, subject to and only out of monies received by TAFNY from assessments levied upon Telephone Carriers pursuant to orders of the New York State Public Service Commission.

TAFNY RFP
TO PROVIDE TELECOMMUNICATIONS RELAY SERVICE
IN THE STATE OF NEW YORK

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OVERVIEW

On April 28, 1987, the New York State Public Service Commission resolved and ordered that "all telephone corporations, either individually or in concert with other telephone corporations operating within the state, shall be responsible for insuring the provision of an Intrastate Relay system to enable communications between hearing impaired, and/or speech impaired individuals who must use non voice terminals . . ." (See Commission Orders in TAB 10).

Pursuant to this Order, each of the Local Exchange Companies (LEC'S) operating in New York State, under the auspices of the New York State Telephone Association, Inc. (NYSTA) entered into an agreement with AT&T Communications of New York, Inc. (AT&T) to operate this Relay Service. The terms of this agreement commenced on January 1, 1989 and lasted until July 1, 1997 when an RFP selected the current provider Sprint / USA Relay. The current contract with Sprint / USA Relay expires on June 30, 2004. In its later order dated April 19, 2002, the PSC ordered TRS responsibility to be turned over from NYSTA, to TAFNY, which is issuing this RFP.

KEY EVENTS AND DATES

EVENTS

DATES

DRAFT RFP AND TARIFF SENT TO PSC	MAY 15 2003
PSC APPROVES DRAFT RFP	JUL 23 2003
CONSULTANT UPDATES DRAFTS AS NEEDED	JUL 24 2003
MAILING RFP	JUL 30 2003
OPEN VENDOR QUESTION SESSION (11AM EST)	SEP 05 2003
BID CLOSING DATE (3 PM EST)	OCT 03 2003
ANNOUNCE BIDDERS OF RECORD on TAF WEB SITE (4PM EST)	OCT 06 2003
AD HOC COMMITTEE RECOMMENDATION	OCT 23 2003
TAF BOARD RECOMMENDATION TO PSC	NOV 06 2003
PUBLIC SERVICE COMMISSION REVIEW COMPLETE	DEC 17 2003
BID AWARD ANNOUNCEMENT (4 PM EST)	ON PSC ORDER DATE
RFP WINNER FILES TRS TARIFF	4 DAYS AFTER PSC ORDER DATE
TARIFF APPROVED	JAN 00 2004
BEGIN SERVICE	JUL 01 2004

Note

The service to be provided by the TRSP, and the terms and conditions, will be set forth in a legally binding tariff to be filed by the TRSP and approved by the New York State Public Service Commission. That tariff will require any telephone corporation (as defined in the Public Service Law) to contribute to TAFNY pursuant to orders of the New York State Public Service Commission. A copy of that tariff is contained in Tabs 1 thru 5 of this RFP. The effective date of the tariff will be from July 1, 2004 until the expiration of the initial service period on June 30, 2008. The tariff effective dates can be extended twice, upon mutual agreement between the TRSP and TAF. Extension agreements must take place 12 months prior to expiration of the contracted periods (June 2007 and June 2009). The initial duration of the contract will be 4 years, with a first possible extension of 3 years and a second possible extension of 2 years.

Tabs 1 through 5 contain a draft tariff as part of this RFP. The winning bidder will be required to file this tariff and have it approved by the PSC prior to becoming the TRSP for New York State. It may be necessary to make certain non substantive changes to the draft tariff before submitting it to the PSC. Any changes made to the draft tariff will require approval by TAFNY. It is intended that these changes will be minimal and only needed to clarify the draft tariff version and place it in acceptable tariff language without changing any of the basic requirements specified in this RFP. The key dates on page 4 allow only a few business days for these changes and if the winner's tariff is not approved by TAFNY in time for submission to the PSC, it will result in a forfeit of the winning bid approval. Many of the items shown in the tariff between curved brackets () are already identified as items that may be deleted from the final tariff. Other changes will be dependent on each bidders approach to providing TRS functions.

GENERAL REQUIREMENTS

This Request for Proposal (RFP) is being issued by the Targeted Accessibility Fund of New York State (TAFNY) for the Local and Long Distance Carriers of New York and the New York State Public Service Commission, for intrastate Telephone Relay Service (TRS) in the State of New York. TAFNY is the sole point of contact concerning this RFP and all communications must be done through their offices at:

The Targeted Accessibility Fund of New York State

Attn: Mr. L. Piazza

Suite 650

100 State Street

Albany, NY 12207

Telephone (518) 443 2806

PURPOSE

This RFP is issued in order to enable the Telephone Carriers of N.Y. State and the Targeted Accessibility Fund of New York State (TAFNY) to select a provider of Telecommunications Relay Service (TRS) for their New York State consumers. The system will provide full time service for 24 hours per day, 7 days per week. This intrastate service will meet the needs of the deaf, hard of hearing and speech-impaired consumers, for their telephone communications requirements. The service must also be economically feasible and shall be designed to work under the requirements of the following:

1. Orders of the New York State Public Service Commission
2. Requirements of the FCC as set out in 47 CFR 64.601, et seq., in affect from time to time.
3. Performance specifications and network configurations as given herein.
4. Department of Justice requirements concerning equal access.
5. Telecommunications Act of 1996
6. Any New York State PSC, FCC or Department of Justice Orders for TRS in effect during this RFP process.
7. The TRSP will be required to maintain FCC Certification at all times, and will be obligated to comply with all applicable Federal and State requirements governing TRS, now existing or becoming effective during the term of the contract.

This RFP will serve as the vehicle for a sole source provider selection as ordered by the NYS Public Service Commission. As a respondent to this RFP, each bidder will be required to submit eight copies of their reply (See TAB 6) for operating a TRSC within the State of New York.

REQUIREMENTS AND SPECIFICATIONS

For a bid to be considered, it must meet all the requirements specified in the draft tariff and supporting documents listed under TABS 1 thru 10 of this RFP. Any additional enhancements will be considered as going beyond the required specifications and will, along with the quoted price for Conversation Minutes of Use (CMOU), be considered by the review team.

The Review Team will examine each reply to this RFP and recommend its conclusions to the New York State Public Service Commission. The Review team consists of members of the Telephone Industry in New York State, excluding any companies, which may submit responses to the RFP, and will keep all reply documentation and price quotes in confidence, subject to discussions below.

RFP Registration Process includes a written reply letter from a bidder stating the bidder's intention to submit a proposal. That will cause the bidder to be registered as a participant and enable it to receive any updates to the RFP and an invitation to the open Q & A session that will be held according to the schedule contained in this RFP. The bidder's registration letter should include the company letterhead, a contact name, phone number; Fax number and "E" mail address. The letter should contain its intention to reply to the RFP and a short history specifying the extent of the bidders experience in providing TRS service. Only those companies with at least a two-year history of TRS experience in New York or elsewhere will be able to participate in this RFP process. Your letter must contain reference names, phone numbers and U.S. mail addresses of contacts associated with your previous TRS experience.

Questions that arise after the registration date and prior to or after the open Q & A session can be sent by "E" Mail to SPEDX2000@AOL.Com. These questions will be answered by "E" mail to all registered participants.

Proposals may be modified or withdrawn by the bidder in writing only up to the established bid closing date after which the last proposal received from each bidder will be considered final.

A proposal submitted in response to the RFP shall constitute a binding offer, which shall be an irrevocable offer for a period of 120 days. Acknowledgment of this condition shall be indicated by the signature of the bidder or an officer of the bidder legally authorized to execute binding obligations. The terms and conditions will be the Tariff section of this RFP when it is filed by the winner of the RFP and approved by the New York State Public Service Commission. Such tariff will be revised for non-substantive purposes by the winning bidder in connection with, and subject to the approval of TAFNY and the PSC. No additional contract will be made other than the binding result of the Tariff once it is filed by the winning company. All conditions contained in the Tariff will become effective upon approval by the PSC.

Pricing must be firm. NO ESTIMATES ARE ALLOWED. All prices must reflect requirements set forth herein.

TAFNY reserves the right to accept or reject any and all proposals and to waive informalities and minor irregularities in proposals received and to accept or reject any portion of them. TAFNY has the right to withdraw the RFP at any time prior to or after the submission of bids, and in TAFNY's sole discretion, to seek further proposals from any party, using the same or modified requirements.

TAFNY reserves the right to accept or reject any or all proposals, at any time, for any reason.

The NYS Public Service Commission will have final approval authority over the selection.

The Review Team intends to make a selection by the Key Date shown on page 4 of this RFP. Upon selection, a Letter of Intent will be issued by TAFNY and the attached Tariff can be submitted by the winner and eventually approved by the New York State Public Service

Commission as indicated under Key Dates. If through no fault of TAFNY this date is not met, TAFNY may elect to cancel the Letter of Intent, or extend the effective date of the contract.

TAFNY reserves the right to make a selection without further discussion of proposals received but reserves the right to contact bidders for additional clarification and to request modifications or resubmission of any item from individual bidders, without any obligation to make similar requests of any other bidder. Therefore, it is important that each technical and price proposal be submitted in the most complete and accurate manner possible. It should be noted that selection based on price is not the only consideration. TAFNY will make a selection of the vendor that has the best overall compliance with all requirements herein, including price. In this regard, bidders should refer to the specific evaluation criteria itemized in the attached Tabs, which will be used to determine compliance with each requirement. Bidders should pay particular attention to requirements related to service quality and for TAFNY's ability to audit that service quality in an efficient manner. With all standards met, a bidder will be in compliance for selection as the TRSP. If any TAFNY member company submits a proposal for this RFP, representatives from said company will not participate in the Ad Hoc Committee for Relay, which will evaluate all bid offerings.

The approved Tariff will be the only contract used for the provision of TRS as a result of this RFP. That Tariff will be submitted to the New York State Public Service Commission by the winner of this RFP, and become binding with regard to service criteria and cost recovery to the Bid Winner, TAFNY and the New York State PSC.

TAFNY assumes no liability in any fashion or of any kind with respect to this RFP or any matters related thereto. All prospective service providers and their assigns or successors, by their participation in the RFP process, shall indemnify, save and hold TAFNY directors, officers, partners, principles, employees, attorneys and agents, free and harmless from all suits, causes of action, debts, rights, judgments, claims, demands, accounts, damages, costs, losses and expenses of whatsoever kind in law or equity, known and unknown, foreseen and unforeseen, arising from or out of this RFP and/or any subsequent acts related thereto, including, but not limited to, the selection of a service provider and any action brought by an unsuccessful prospective service provider, and the actual operation (or failure thereof) of the TRS.

The laws and regulations of the State of New York shall govern in connection with the formation, performance and the legal enforcement of any resulting Tariff for TRS.

All statistical and fiscal information contained in the RFP and its appendices, including amendments and modifications thereto, reflects the best estimated information available to the TAFNY at the time of RFP preparation. No inaccuracies in such data shall constitute a basis for change of the payments to the bidder or a basis for legal recovery of damages, whether actual, consequential or punitive.

News releases and public or private announcements pertaining to the contract award or TRS operations shall not be made without prior written approval from TAFNY.

Bidders of Record are participants who have submitted a final sealed bid to TAFNY by 3:00 PM EDT on the bid closing date shown on page 4 of this RFP.

In the event it becomes necessary **to revise any part of this RFP**, an addendum will be provided to each Bidder of Record recorded as receiving the original RFP. Bidders will be allowed a maximum of five (5) days for addenda and supplements to update their proposals.

Eight (8) copies of a bidders proposal must be submitted and sealed in a package clearly marked "Confidential Bid -- New York Relay Service" and showing bidder's name. One copy of each bid must be clearly marked "Master Copy". In addition, one "E" mail copy in MS Word must also be sent.

Proposals are to be submitted by certified mail or courier to:

The Targeted Accessibility Fund of New York State
Attn: Mr. L. Piazza
Suite 650
100 State Street
Albany, NY 12207
Telephone (518) 443 2806

The electronic copy should be sent to: lpiazza@nypool.org

To be considered, final proposals must be received on or before 3:00 p.m. EDT of the bid closing date. No proposals will be accepted after this time. Bidders mailing proposals shall allow sufficient mail delivery time for receipt of their proposal by the time specified.

Late proposals will not be accepted. It is the responsibility of the bidder to insure that the proposal is received by 3:00 PM EDT on or before the bid closing date.

TAFNY will announce confirmation of bids received at 4:00 PM EDT on the Bid closing date shown on page 4, via U.S. Mail, and Fax, to each of the bidders of record and the PSC. No public announcement of the bidders of record will be made.

PROPRIETARY / CONFIDENTIAL INFORMATION

TAFNY will treat all proposals received as proprietary documents to be used solely for the purpose of TAFNY's evaluation of bids. TAFNY will not provide copies of proposals to the Telephone Carriers or bidders. All other proposal copies, except one archive copy of each, will be destroyed after completion of the evaluation. However, selected information and data from each proposal may be quoted, extracted, summarized or paraphrased in TAFNY's written report of the bid evaluation to the PSC with a request that certain information be treated as proprietary under PSC rules. The ultimate decision as to whether such information will receive proprietary

or trade secret status rests with the PSC. This report will not be rendered to any other party, but will be retained in TAFNY's own files along with archive proposal copies for a period of two years or until such time as may be required to deliver it in any legal or regulatory proceeding. Bidders are advised to limit the proprietary information in their bid to as little as possible.

Any information from RFP replies that TAFNY may provide to the Public Service Commission will be accompanied by a request for trade secret protection under New York State Public Service Commission Regulations Section 6.3-1. These copies will not necessarily identify the bidders by name. The ultimate decision rests with the PSC who will then give final approval to one bid for sole source provider.

BIDDING COMPANY

If a bidder is owned or controlled by one or more parent companies, the name, main office address and tax identification number of each parent company shall be provided on the cover sheet of the proposal. If a bidding company is independently owned, the name, main office address and tax identification number of the bidding company shall be provided on the cover sheet of the proposal.

SUBCONTRACTORS

Planned use of subcontractors shall be clearly indicated and explained in the proposal, including terms of any subcontract. Bidders must include a copy of any proposed subcontracts with the proposal, if available.

All subcontracts must comply with the bidder certification requirement in TAB 6. The prime contractor shall be responsible for contract performance whether or not subcontractors are used. The only contract responsibility for TRS will be with the prime contractor.

FINANCIAL HISTORY

To allow TAFNY to evaluate the financial responsibility of the bidding company, the following items shall be submitted with the proposal for the bidding company and its parent company.

Audited Financial Statement or SEC Form 10K Report for the most recent two (2) years, including at a minimum:

- Statement of income and related earnings
- Cash flow statement
- Balance sheet
- Opinion concerning finances from a Rating Company (i.e. Moody's).
- Contingent liabilities

BIDDER CERTIFICATIONS

Each person signing a submitted proposal certifies that he/she is the person in the bidder's organization responsible for, and authorized to make, decisions as to the prices quoted.

BIDDER EXPERIENCE

Bids should contain information regarding bidder's experience including reference names for existing TRS customers.

PRICE QUOTES

Only Conversation Minute of Use (CMOU) price quotes will be accepted for this bid. Cost per call and flat rate quotes will not be considered.

START UP TRANSITION PLAN

The bidder shall provide a plan for implementing the service, which has been proposed. The plan should include details on how the phased transition from the existing TRSP to the new TRSP will be accomplished. Bidders shall include a time line with critical dates for major steps in the implementation process from RFP award to start date and for the first year after service has started.

NYPSC TARIFF FOR TRS

Section 1 - GENERAL

Telecommunications Relay Service (TRS) is provided by The New York Relay Service (NYRS). The New York Relay Service began in 1989 and provides intrastate telephone communications service between hearing and speech impaired individuals and non-impaired individuals. Any end user from New York State can call the NYRS and utilize the Relay Communications Assistant or CA, also known as a Relay Operator, who will facilitate a telephone conversation between the voice telephone callers, and a non-voice telephone caller who uses a text telephone (TTY) or Personal Computer (PC) in place of a telephone. The CA will type all words spoken by the voice caller to the TTY caller and in turn, voice all words typed by the TTY caller to the voice caller.

The NYRS is operated by a TRSP (TRS Provider), which is compensated for its service by the Telephone Carriers of NYS through an assessment mechanism administered by the Targeted Accessibility Fund of New York State (TAFNY).

The NYRS is located in Syracuse, New York and can be reached toll free by anyone dialing the following numbers:

- | | | |
|-------------------|--------------|---|
| • ANY CALLER | 711 (OR) | Call the numbers below only for the TRS Service listed. (don't dial 711) |
| • VOICE CALLS | 800 421 1220 | |
| • BAUDOT TTY | 800 662 1220 | |
| • ASCII PC or TTY | 800 584 2849 | |
| • VCO CALLS | 877 826 6977 | |
| • HCO CALLS | 800 662 1220 | |
| • BRAILLE TTY | 800 662 1220 | |
- SPANISH TO SPANISH 877 662 4886
 - SPEECH TO SPEECH 877 662 4234
 - 900 CALLS TRSP provides #
 - Relay Inquiry Line Voice 800 664 6349
 - Relay Inquiry Line Text 800 835 5515

Questions, comments and complaints about Relay Service can be directed to the Relay Inquiry Line on 800 664 6349 (voice) or 800 835 5515 (text).

Telephone Directory Listings of the numbers shown above for access to **Relay** and the **Inquiry Line** are the responsibility of the TRSP. The TRSP will make statewide arrangements for these numbers (except the 900 number) to be placed in all Telephone Company Directories as part of the cost of being the sole source provider of TRS in NYS. The right to utilize these numbers and the 800 type routing number used for 711 (not shown), will be returned to TAFNY **upon expiration of this Tariff which is four years from its effective date unless extended for two possible extensions of 3 and 2 years each that can be recommended by TAFNY and approved by the PSC.**

Types of TRS Calls - The NYRS completes intrastate calls and is operational 24 hours a day, 7 days a week. Interstate and international TRS calls can be made by calling the same numbers listed above but is not covered by this tariff. Such calls may be handled by the same CA's at the TRSC but these calls and associated costs associated with interstate TRS are the responsibility of the TRSP (TRS Provider) and not the Telephone Carriers of NYS. No compensation is paid by Telephone Carriers of NYS for the handling of interstate TRS calls.

Internet Protocol (IP) and Video Relay service is not currently available from the New York Relay.

Any type of call can be placed through the New York Relay except for local / regional Pay per Call Services and Group Bridging services. **Calls to 900 numbers can be made** by dialing the special 900 Relay Access number listed in this tariff.

Conference Calls can be joined via Relay using the CA as the voice on the call but the NYRS is not a conference hosting service.

Payphone calls can be made via the NYRS. Local coin calls are free. Toll calls can be billed to a calling card, prepaid Card or major credit card in lieu of coins. Payphone toll calls can also be billed collect or to a third party. The caller is responsible to know if a call is a toll call and be aware of rates charged by the issuer of his or her calling or prepaid cards when they are used for Relay calls.

Cost and Charges: There is no cost to the user of the NYRS for the service itself, separate and apart from normal toll or message unit charges, which are the responsibility of the user. Costs for the TRS service are paid for by the Local and Long Distance Carriers in NYS. Calls made via the NYRS are charged to the TRS caller at the same rates encountered as if the call were direct dialed from the caller's home or business phone, without the use of Relay Services. Applicable message unit or toll charges normally encountered on a direct dialed call will be billed to a caller placing the call via Relay. Calls through the NYRS may be billed to a third number only within NYS. Any call can be billed to any carriers calling card, pre paid Card or major credit card if the card issuing company has made arrangements with the NYRS.

A caller to the Relay will have the option to specify the carrier of choice for any toll or regional call made from the Relay Center to the called party. The TRSP may carry such calls or the caller may specify a different carrier, in which case the TRSP will deliver the call to the other carrier for termination as long as that carrier has complied with all requirements and established a network presence at the Access Tandem serving the TRSC.

Section 2 – DEFINITIONS

The following definitions apply to this Tariff:

1. **AMERICAN SIGN LANGUAGE (ASL)** - a visual language based on hand shape, position, movement, and orientation of the hands in relation to each other and the body.
2. **ASCII** - an acronym for American Standard Code for Information Inter-exchange which employs an eight-bit code and can operate at any standard transmission baud rate including 300, 1200, 2400, and higher.
3. **BAUDOT** - A seven-bit code, only five of which are information bits. Baudot is used by most text telephones to communicate at a 45.5 - baud rate.
4. **BRaille TTY** - A text telephone using Braille in place of a screen display, for users that are deaf and blind.
5. **SPEECH TO SPEECH** - A TRS Service using a separate 800 type number which allows certain Speech Disabled callers to access a specially trained Relay Operator who can interpret the speech patterns and relay the voiced words to the non impaired party.
6. **SPANISH RELAY** - Same as standard TRS service but with access to an Operator trained in Spanish. This TRS offering is for Spanish to Spanish callers only and is not a translation service.
7. **SUPER BAUDOT** - The same as Baudot but with speed of transmission up to 120 WPM and the ability to interrupt during transmission.
8. **TURBO BAUDOT** - The same as Baudot but with speed of transmission up to 120 WPM and the ability to interrupt during transmission.
9. **900 RELAY** - Same as regular Relay but with a special 900 access number for persons using a TTY to call 900 numbers.
10. **INTEREXCHANGE CARRIER - (IC)** common carrier engaged in Inter-LATA and Intra-LATA communications.
11. **LOCAL EXCHANGE CARRIER - (LEC)** Common Carrier engaged in Intra-LATA communication.
12. **CLEC** - A term describing a competing LEC.
13. **CMOU - CONVERSATION MINUTES OF USE** - Refers to the conversation time associated with a TRS call after the called party has answered.
14. **COMMUNICATIONS ASSISTANT (CA)** a person who transliterates conversation from text to voice and from voice to text between two TRS users.
15. **RELAY OPERATOR** - Same as a CA. Use of the term Relay Operator has helped reduce "Hang Up's" by hearing people who receive a Relay call. The term Operator must be used on all outbound calls from NYR with the existing outbound greeting message.
16. **DEAF PERSON** - any person with a significant degree of hearing loss, present in both ears, that precludes using the telephone in a normal manner. Said person must rely on intermediary and or electronic or mechanical devices for telecommunications.
17. **HARD OF HEARING** - those persons who cannot hear well but are not deaf.
18. **HEARING CARRY OVER (HCO)** - a modified form of TRS where a person with the speech impairment is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech impairment.

19. **OPERATOR SERVICE FOR THE DEAF (OSD)** – OSD provides an Operator function for TTY to TTY callers who need a temporary assist from an Operator for certain call types including Text to Text DDD calls, Station and Person to Person calls, Emergency Interrupt, Calling Card and general Operator Assistance. OSD is currently provided by the Telephone Carriers of NYS and is not part of TRS. This feature which requires “Call Release” is provided by the NY Relay.
20. **VIDEO RELAY SERVICE (VRS)** – Video Relay Service is the same as TRS except that a PC equipped with video is used by the hearing impaired caller who, after logging on to the TRSC, uses ASL to converse with the CA. The CA then completes the call to the non hearing-impaired party in voice. (VRS is not offered by this tariff.)
21. **VOICE CARRY OVER (VCO)** - a modified form of TRS where a person with a hearing impairment is able to speak directly to the other end user, in reply, the CA types the spoken words from the other party to the VCO user.
22. **TELECOMMUNICATION RELAY SERVICE (TRS)** – Telephone transmission services that provide the ability for an individual who has a hearing or speech impairment 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 impairment to communicate using voice communication services by wire or radio. TRS includes services that enable two-way communication between an individual who uses a text telephone or other non-voice terminal device and an individual who does not.
23. **TRSC** - Telecommunication Relay Service Center (site)
24. **TEXT TELEPHONE (TTY or TT)** - machine that employs graphic communication in the transmission of coded signals through a wire or radio communications system. TTY supersedes the term "TDD" or "telecommunications device for the deaf".
25. **TRSP** - Telecommunications Relay Service Provider who provides TRS service via a TRS Center. The TRSP can also be a LEC or Private Company that has arrangements with IC's or LEC's to provide TRS.
26. **TRS CALLER ID** – TRS providers with an ability to send an **incoming Caller ID** or a **Caller ID Blocking** signal on outbound TRS calls making the service comparable as normal network calls thus insuring the caller's awareness of Caller ID status. (See Tab 3 item 17)
27. **Two Line VCO or HCO**- Enabling a TRS user who has two telephone lines to establish two connections via Relay facilitating faster conversation by the VCO or HCO user.
28. **INTERNET PROTOCOL (IP) RELAY** - IP Relay is a TRS service accessed via the Internet and is not a service provided under this tariff.
29. **The Auxiliary Relay Service (ARS)** - A contracted company reporting to TAFNY and the Telephone Carriers of NYS. ARS serves as a central point of contact for the Carriers and acts as a General Inquiry Line for information, questions, comments, assistance and complaints from end users, concerning TRS.

Note: Mixtures of the above type service are provided by this tariff. As an example, VCO to HCO, TTY to TTY, STS to STS or even STS to TTY. All mixtures are current requirements of the FCC and are provided under this tariff.

Section 3 - TRS SERVICE REQUIREMENTS

COMMUNICATIONS ASSISTANT (CA) STANDARDS

- A. **MINIMUM CA QUALIFICATIONS** -- The TRSP guarantees that CA's are able to quickly and efficiently relay messages between users of the relay service. CA's meet the following proficiency requirements, which include but are not limited to:
- Competent skills in English grammar equivalent to beginning college level grammar. The same applies to Spanish and Speech to Speech for those CA's manning those TRS positions.
 - A minimum typing speed of sixty (60) words per minute.
 - Competent spelling skills equivalent to quickly and easily spell words comparable to a beginning college level conversation.
 - An ability to understand deaf and hard of hearing people who use limited English.
 - An ability to both translate limited written English to full written English. Conversations or relay verbatim, at the callers specific request. . The TRSP can demonstrate how they train operators to translate these calls. Furthermore, the TRSP has documentation to indicate at what level they consider operators to be fully trained in this capacity.
 - Familiarity with hearing and speech disability culture, language and etiquette.
 - Neutral accent capability predominant among total force of CA's.
- B. **CA TRAINING** -- The TRSP has a detailed CA training plan to demonstrate how ongoing CA training is provided. The provisions for CA training include, but are not limited to, ASL style and grammar, hearing and speech disability culture, language and etiquette, needs of individuals who are speech/hearing impaired, and operation of relay telecommunications equipment. Training includes both simulated and live on-line call handling. **(In New York State, CA's are known primarily as Relay Operators.)** The term Operator is used on all outbound greetings along with the existing NYR greeting message which may only be altered with approval of TAFNY. Appropriate portions of in-service training for CA's shall be provided by experts from the deaf, hard of hearing and speech impaired communities in the field of language interpreting, ASL and deaf culture and speech impairment. Alternatively, the TRSP can demonstrate that such expertise exists on staff.

- C. **PROCEDURES FOR RELAYING COMMUNICATION** -- A CA is prohibited from intentionally altering a relayed conversation and must relay all conversation verbatim unless the relay user specifically requests translation.
- a) TTY users may instruct the CA to voice in Standard English or word for word typed by the TTY user.
 - b) CA's shall, when necessary, to the best of their abilities, let the TTY user know the non-TTY user's tone of voice.
 - c) CA's shall keep the user informed on the status of the call, such as dialing, ringing, busy, and disconnected or on hold.
 - d) The TTY user shall have the option of telling the CA what aspects of the call that he/she will handle. For example, the TTY user may request to introduce relay services to the called party, rather than have the operator do it.
 - e) The CA shall type to the TTY user or verbalize to the non-TTY user, verbatim, what is said when the call is first answered and at all times during the conversation, unless either party specifically requests otherwise.
 - f) When the CA needs to explain Relay to a hearing user, the CA shall also type "Explaining Relay" for the benefit of the TTY user. Conversely, when the CA needs to explain Relay to a TTY user, the CA will inform the hearing user that the CA is explaining Relay.
 - g) Upon request by the user, the CA shall not announce a call as a Relay call, permitting the caller to provide an explanation, if any.
 - h) The CA shall have the option to inform the called party that the caller has Hearing or Speech impairment unless the caller asks otherwise.
 - i) When speaking for the TTY user, the CA shall adopt a conversational tone of voice appropriate to the type of call being made.
 - j) CA's shall indicate to the TTY user if another person (hearing) comes on line.
 - k) All comments directed to either party by an operator shall be relayed. These comments shall be typed in parentheses, e.g., "(Will you accept a collect call?)" All comments directed to the CA by either party shall also be relayed, e.g., "Yes, I'll accept the collect call."
 - l) To correct a typing error, CA's shall not backspace, but continue in a forward direction by typing "xx" (common TTY convention for error) and then typing the word correctly. When necessary, CA's shall verify spelling of proper nouns, numbers and addresses that are spoken.
 - m) The CA will stay on the line until the Calling Party has terminated the call with an SKSK or a disconnect and will remain on line until the SKSK is given or spoken to the Called Party.
 - n) If necessary to process a complaint or compliment, the call will be transferred to a supervisor. CA's shall not counsel, advise or interject personal opinions or additional information into any relay call. CA's shall not hold personal conversations with anyone calling the TRS even if prompted by callers.
 - o) Callers shall not be required to give their full name or the full name of the party they are calling. Names shall not be recorded in any form

without the permission and knowledge of the caller (except for billing purposes).

p) It is understood that, for some calls, having the full name would help facilitate the call. The CA may ask for that information and explain how it may facilitate their call. However, the CA shall not refuse to make a call if the callers do not wish to give full names.

q) The called Relay party has the right to refuse a Relay call if they request the calling number of the calling party and the calling party refuses to divulge that information.

r) CA's will uniformly recognize an "s" typed by a TTY user at the beginning of a call to indicate that the user is speech impaired.

s) CA's will leave messages on answering machines or other voice processing systems if the voice or TTY caller activates one while actually making the call. When necessary, additional calls to the same announcement machine or voice mail will be made until a complete message is left, at no additional expense to the caller for such attempts.

D. The TRSP has procedures for fulfilling the requirement of subsection "p" (above) and the procedures include the following steps:

a) The CA will inform the caller when an answering machine has been reached.

b) The CA will ask the caller if he wishes to leave a message.

c) The CA will leave the caller's message, either by voice or by TTY.

d) The CA will confirm to the caller that the message has been left.

e) The caller will only be charged for one call regardless of the number of redials required for leaving a message.

f) CA's will retrieve messages from voice processing systems and relay a TTY message to a voice user or a voice message to a TTY user. The TRSP has procedures for handling this requirement, and the procedures shall include methods for obtaining any necessary system access codes from the user and statements regarding confidentiality of that information. Retrieval of messages is considered a TRS function as long as the TRS caller remains on the line during message retrieval.

E. **HANDLING OF OBSCENITY DIRECTED TO THE CA** -- CA's don't have to tolerate obscenity directed at them. The TRSP has plans that specify how a CA should handle such situations. An acceptable approach can send callers using obscenities directed at the CA to a supervisor who will determine why the caller is using obscenity and explain to the caller that this is inappropriate. As an alternative, the CA can send the abusive caller to a prerecorded announcement stating that it is not permissible to use abusive language to a CA and that when the caller is ready, they can re-dial the Relay to make a call.

F. **CA IDENTIFICATION** -- At the start of a call a CA shall identify themselves by a Relay Operator identification number (not by name). The TRSP has a method, which will allow identification of the CA in the event a

complaint is filed or a user wants to praise the work of the CA. The term Relay Operator instead of CA is a required for all outbound calls.

- G. **CALLER PROVIDED INFORMATION** -- The TRSP must provide information on how calls will be processed when ANI is not available to the CA's position. Such call handling can include Calling Card or Reverse Charges etc.
- H. **SPEECH-TO-SPEECH REQUIREMENTS** -- During Speech-to-Speech Relay Calls, the Speech Disabled party's voice is not to be passed along to the non speech disabled party, unless a specific request is made by either party to hear both the Operator (CA) and the Speech Disabled party's voices at the same time.
- I. **THE NEW YORK RELAY** is the only name used to describe this TRS service for New York State. The service is paid for by the Telephone Carriers of New York State and the TRSP will always identify the Service as the New York Relay and never by the TRSP'S own company name. This name identification holds true for all contact with the public, on TRS calls, in meetings, in media or mail advertising, Web Sites, Telephone Directory advertising and in any public or private communications including signs or brochures at the TRS site or in any public venue where the TRSP is representing the N.Y. Relay Service. The provider of TRS is prohibited from using any brand name in connection with this service. TRS service shall be referred to as "New York Relay", without any brand name added to or substituted for that term.
- J. **COMMUNITY OUTREACH** -- The TRS provider has a community and business outreach program to educate all people about the relay service. The TRSP can demonstrate to TFNY how it maintains a continuing outreach program and can provide an outline of the major points to be included in the outreach program. Outreach programs include, but are not limited to, media advertisements, meetings with user communities, distribution of informational pamphlets describing how to use the relay service, wallet cards, and the FCC Payphone Relay plan, etc. The TRSP does produce all Community Outreach plans as part of this tariff and in accordance with the Branding requirements addressed above.
- K. **CONSUMER INPUT** -- Users of TRS shall have advisory input on the quality of service. The TRSP takes part in the State process that already exists for this purpose under the auspices of the New York State TRS Advisory Board. As part of their function, the Advisory Board meets with consumers around the State for evaluation of TRS service and suggestions to be incorporated into the policies of the relay center. Service evaluations shall not come only from those directly or indirectly involved in operating the relay center. This does not preclude the TRSP from conducting additional internal or external evaluations.
- L. **CUSTOMER COMPLAINTS** -- Customer complaints are handled promptly with immediate responses to correct any complaint caused by TRS personnel or technical problems within the TRSC or subtending networks owned or leased by the TRSP. Complaints that involve any of the LEC's, CLEC's or

IC's in New York State are referred to them directly or to the Auxiliary Relay Service who represent them on TRS matters. Legitimate complaints must be reported to the FCC twice each year or more frequently as the FCC dictates, with copies of the reports sent to the New York State PSC and the Auxiliary Relay Service. Customer complaints may be reported directly by TRS users or Auxiliary Relay Service and should not be permitted to exceed 25 per month on average except for months in which disastrous type situations beyond the control of the TRS occur. Any situations, which may impact service levels, should be reported immediately to Auxiliary Relay Service or TAF.

Section 4 -- TRS TECHNICAL OPERATION REQUIREMENTS

OVERVIEW -- This section of the tariff lists and describes the specific operational functions performed by the TRS. The operational functions listed here are the elements, which will be evaluated as technical service criteria, binding under the life of this Tariff. (Each function or requirement listed will be labeled as met or exceeded in TAB 6 of the RFP for Relay Service.) The categories of functions are as follows:

- A. **MANDATORY** – items B thru T are specific operational functions or requirements that are offered by the TRSP as part of their service. Failure to provide any of the mandatory requirements will automatically violate the tariff.
- B. **NUMBER REQUIREMENTS** -- All reference to 800, 888, 877, 711 and 900 numbers in this tariff infer that the costs associated with such numbers are included in the CMOU price.
- C. **LOCATION** – **A primary location in Syracuse, NY** with sufficient CA’s available for NYS calls. This location will handle an average of 80% of daily traditional TRS calls. Other TRSC sites in NY or any state can handle 20% of the calls and all Spanish or Speech to Speech Relay calls.
- D. **HOURS OF OPERATION** -- The Relay Center is operational with full service 24 hours per day, 365 days each year.
- E. **CALL CARRIAGE** -- The Relay Center processes all New York State intrastate calls under terms of this PSC Tariff. Interstate calls are the responsibility of Interexchange Carriers (IC) according to FCC directives and are not part of this Tariff. However, customers can dial tariff 711 and 800 type numbers for access to both intra and interstate calls from the same TRSC established in this Tariff. All intra-LATA calls except Coin Sent Paid are returned to the LEC’s or CLEC’s for billing unless the calling party requests a different Carrier for intra-LATA Toll or inter-regional calls.
- F. **Intrastate** -- Intrastate inter-LATA calls must be in compliance with all applicable regulations, throughout the life of this Tariff.
- G. **PROVIDING QUALIFIED STAFF** -- The TRSP provides training to ensure that CA’s effectively meet the specialized communications needs of individuals with hearing and speech impairments. CA’s have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech impairment culture, language and etiquette. The TRSP also complies with all federal, state and local equal opportunity laws including but not limited to Executive Order 11758, dated January 15, 1974, and Part 60-741 of the Code of Federal Regulations.
- H. **CHARGES TO PERSONS ORIGINATING CALLS TO RELAY CENTER** -- Persons placing calls through the Relay Center will not be billed additional charges for services provided by the TRSP. Such persons will be charged the appropriate rates for a call, as stated in their carrier’s tariff and be billed as a call between the originating customer and the called party.

Completed calls which are inter LATA in nature will be billed to the originating caller by the carrier completing the call from the Relay Center to the called party. (The TRSP will provide confirmation of this fact as shown in TAB 7, and confirm how customers will receive their inter-LATA telephone charges.) Completed calls which are intra LATA can be completed by the TRSP but EMR billing records of these calls will be returned to the to the originating caller's local exchange provider. The charges for such calls shall be billed to the originating caller by such caller's local exchange provider, and all monies collected shall remain with such local exchange provider. No separate charge shall be assessed against persons originating calls through 711 or the toll free telephone numbers to the Relay Center. The TRSP is responsible, as a cost of doing business, for all costs associated with the 711 and the toll free 800 type and 900 numbers used to access the Relay Center.

I. **CONFIDENTIALITY OF CALLS** -- Consistent with the obligations of common carrier operators, all calls shall be confidential and shall remain confidential. No written or electronic script shall be kept beyond the duration of the call. CA and supervisory personnel shall not reveal information about any call, except the minimum necessary for billing purposes, including the information described below. CA's are required to sign a pledge of confidentiality which, consistent with the obligations of common carrier operators, promises not to disclose the identity of any callers or fellow relay operators or any information learned during the course of relaying calls, either during the period of employment as an operator or after termination of employment. When training new CA's by the method of sharing past experience, trainers shall not reveal any of the following information:

- Name, gender, or age of parties of any call
- Originating or terminating points of any call
- The content of the information conveyed

CA's will not discuss, even among themselves or their supervisors, any names or specifics of any relay call, except as required in the course of resolving complaints. To clarify how to process a particular call, CA's may discuss the general situation with which they need assistance with in order to clarify how to process a particular type relay call. CA's are trained to ask questions about procedures without revealing names or specific information that will identify the caller.

Watching or listening to actual calls by anyone other than the CA is prohibited except for training or monitoring for quality.

The TRSP has written policies they use to preserve confidentiality. Such policies include protocols that employees are directed to use to prevent unintentional disclosure of relayed conversations. A copy of the Confidentiality Policy has been provided to TAFNY.

A CA or supervisor who, after investigation, is found to have violated the confidentiality rules and regulations shall either be terminated immediately or be given a warning and automatically terminated the second time a violation occurs.

The TRSP is restricted to collecting only that personal information necessary to provide and bill for the relay service being rendered. This information shall not be used for any other purpose, unless, under standard operating practices, the information is necessary to respond to a customer complaint or as required by law, to cooperate with legitimate governmental investigations.

Customer Profiles -- A PC based customer profile is available to any TRS user who wants to have a record of such call characteristics as:

- A preferred Long Distance Carrier or Regional Carrier
- Speed Calling Numbers
- A preferred type of service such as VCO, HCO or 2 Line Service
- Relay call block request.
- Preferred greeting to be used by a CA
- Any new items developed after this Tariff is issued which will improve the use of TRS for the caller.

OTHER PROFILE USE: The aforementioned Customer Profile can contain certain information provided by the LEC's, CLEC's or IC's including:

- Call restrictions placed on a caller for non-payment of Long Distance, Regional or Local service when such data is submitted by Auxiliary Relay Service, an agent for TAFNY, or through the TRSP's own Customer Service group on behalf of a carrier.
- Blocking requests for harassing calls when provided through Auxiliary Relay Service, TRSP Customer Service and, or local police.
- Any normal Customer Profile requests as described above, when provided by Auxiliary Relay Service. Data required to satisfy a customer complaint when requested by Auxiliary Relay Service and consistent with privacy issues described in this section.

All profile data is considered LEC property to be given to a new TRSP upon expiration of this Tariff.

- J. **EMERGENCY CALLS** – 911 type emergency calls should be dialed directly but under current FCC requirements, the NYTRS has satisfactory procedures for receiving, transmitting and tracking emergency calls. CA's are trained to forward such calls to appropriate Public Service Answer Points (PSAP'S). An emergency plan satisfactory to the LEC'S was made available to TAFNY prior to the service date. This plan includes a 911-type database to permit a

CA to direct an emergency call to an appropriate PSAP (as directed by the FCC). (Details concerning 911 procedures and database planned for use must be included in the RFP response. This database will become the property of any future TRSP at the end of the TRS Tariff period.)

- K. **EQUIPMENT** -- The TRSP furnished all necessary telecommunications equipment and software. The transmission circuits meet or exceed FCC inter-exchange performance standards for circuit loss and noise. Telecommunications equipment including CA terminals are capable of receiving and transmitting in both Baudot and ASCII codes, with Baudot as the primary setting and are able to access and be accessed by computers of up to standard baud rates via ASCII codes. Standard Baudot or Turbo Baudot are both accepted by the TRSC. The TRSC is capable of automatically identifying incoming Text Telephone signals as Baudot, ASCII, or voice. Speech to Text automation may be used as part of this tariff offering.
- L. **AUTOMATIC NUMBER IDENTIFICATION (ANI) AND ii CODES**
The TRSP provides that ANI and Class of Service identification such as ii digits (for Coin, Inmate, or Hotel/Motel) is seen by the CA on all incoming calls.
- M. **FACILITIES AND NETWORK COMPLETIONS** -- TRS operates every day, 24 hours a day. TRS has redundant features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use. Adequate network facilities are provided for TRS so that with the projected call volume, the probability of a busy response due to network congestion is functionally equivalent to what a voice caller would experience using the voice telephone network. Current standards allow for network blockage of not more than one call in 100 [PO1 in the Poisson Probability Table].
- N. **VCO, HCO, 2 LINE, BRAILLE, SPANISH, SPEECH TO SPEECH, 900**
The TRS provider shall provide these required specialty Relay services.
- O. **USAGE** -- No restrictions shall be placed on the length or number of calls placed by customers through the relay center. Sequence calling and calls of any duration will be permitted during both peak and non-peak periods during each day of operation.
- P. **BRANDING** -- All public contact, including Marketing, Outreach, Complaints and Inquiries, require the TRSP to brand the contact by identifying the TRS as the New York Relay Service. At no time will the TRSP use such encounters to advertise their own brand name.
- Q. **AVERAGE ANSWER TIME** -- The TRS is designed to provide call answer performance standards that meet or exceed applicable FCC and PSC standards in effect. The current FCC standard is that 85% of all calls will be answered in less than 10 seconds.
- R. **AVERAGE CALL HOLDING TIME** – The TRS and CA’s will be technically and administratively proficient to maintain the current

average call holding time of 4.5 minutes for all calls other than Speech to Speech.

- S. **CALLER ID** -- The TRSP provides for Caller ID and complies with New York State regulations regarding this service. The TRSP uses an SS7 Platform to recognize blocked CNI calls from the calling party. The TRSP has explained to TAFNY how Caller ID is provided to meet Caller ID blocking requirements established by the New York State PSC. The TRSP will have provided outreach to the public before activating this service.

- T. **711 VOICE RESPONSE SYSTEM** has been provided to answer all 711 calls with a mechanized voice asking the caller to, "Touch 1 for a Relay Operator." If the caller touches "1" they will be answered in voice by a Relay CA. A TTY caller will not hear the announcement and after five (5) seconds will default to a CA answering in Baudot. A Computer caller will not recognize the Baudot and after five (5) seconds will be answered by a CA in ASCII. If the caller does not recognize ASCII, the call will revert back to a live CA and a Voice answer.

- U. **FCC Certification** -
The TRSP will be required to maintain FCC Certification at all times, and will be obligated to comply with all applicable Federal and State requirements governing TRS, now existing or becoming effective during the term of the contract.

- V. The TRSC uses an SS7 platform.

Section 5 -- CUSTOMER BILLING

The following regulations apply to customer billing on calls made through The New York Relay Service.

- A. **INTRASTATE LONG DISTANCE AND TOLL CALL BILLING --** Intrastate inter and intra-LATA calls placed through the TRS are billed at no more than the rate that would apply if the calls had been placed without the use of the TRS Center. This rate includes any applicable discounts offered to TTY users by the TTY user's long distance carrier or by the local Telephone Company for an intra-LATA toll or local call. All charges to the calling customer must state on the bill that this was a TRS call.
- B. **INTERSTATE CALL BILLING --** Interstate TRS calls fall under FCC regulations but are expected to be the same as those shown for intrastate as shown in A. (above). All interstate and intrastate calls will be handled at the same TRS site with access via the existing 711 or 800 or 900 TRS access numbers. **The IN STATE TRSC requirement does not apply to Spanish or Speech to Speech Relay Service.**
- C. **BILLING FOR LONG DISTANCE SERVICES --** Calls for Long Distance IXC's other than the default IXC of the TRSP will be handed off to the IXC requested by the TRS caller initiating the call. The hand off will be in a FGD format via an Access Tandem serving the TRSC location. The TRSP will be responsible to notify all IXC and Regional Carriers of the requirements needed for them to have a presence at the required Access Tandem. If Carriers make a choice not to participate with a presence at that Tandem, the caller can complain directly to the Carrier, the FCC or to the PSC if the Carrier is Regional Carrier. Once handed off to another Carrier, that Carrier is expected to treat the billing as if it were a direct dialed call and apply any TRS or TTY discounts they normally offer. To choose a Carrier, the caller can request the Carrier selection on a per call basis by informing the CA or have the choice put in his or her Customer Profile at the TRSC
- D. **BILLING ARRANGEMENTS FOR LOCAL AND REGIONAL CALLS** NYRS is able to handle any type of call normally provided by common carriers including collect, coin, person-to-person, calls to or from hotel rooms, and calls charged to a third party. Charges can be made to any New York local exchange carrier or inter-exchange carrier calling card as long as the carrier meets industry protocol including an EMR interface for billing. Callers will never be billed by NYRS but rather by their Carrier or Calling Card, Charge Card or Pre Paid Card. Information needed for billing will be passed from the TRSP to the Local and Regional Carriers in a standard "EMR" format for local and Regional calls even though the calls may be completed over the TRSP's own network. The Local and Regional Carriers can determine from the EMR records if any message unit or toll charges apply

to the calls and then bill the caller on their normal monthly bill showing the call as a TRS call, and applying any applicable discounts for TRS or TTY calls, even though the actual call was completed via the TRSP network.

E. **CALL BILLING RECORD** -- EMR records for toll billing are sent from the TRSP to the local or Regional Carrier for Intra LATA calls and include, at a minimum, the following:

- Telephone number or credit card number to be billed (NPA-prefix-line number) (NPA-NXX-ABCD)
- Originating telephone number (NPA-NXX-ABCD) Terminating telephone number (NPA-NXX-ABCD)
- Date
- Start time (the time the calling party is initially connected to the called party or to an answering machine at the called party's number or to a recorded message.
- End time (the time when either the called party or the calling party hangs up)
- Indication that the call was a TRS call.

Call time is to the full second (the time in between start time and end time). The billing system records are automated and data between the TRSP and the other Local and Regional Carriers are sent automatically on a daily basis. The TRSP is responsible for any incorrect or missing EMR billing even if such records were damaged or lost by any subcontractors used in the billing process.

COMPENSATION TO TRS PROVIDER

The TRS provider submits a single bill each month to TAFNY in Suite 650 at 100 State Street, Albany, NY 12207. That bill is based upon the Conversation Minutes of Use (CMOU) handled by the TRS Center for the previous month for all intrastate calls. The bill contains the total CMOU and the dollar value due in compensation based on the amount agreed to between the TRSP, TAFNY and the PSC at the time this tariff was submitted for approval. For information purposes, the bill will also contain the interstate call volumes handled by the NYRC even though they are not covered by this tariff. At the time the bill is submitted, traffic data for the month is also provided to TAFNY from the TRSP as agreed to at the time this tariff was submitted for approval and shall include the traffic items (shown in Tab 8 of the RFP) agreed to at the time this tariff was filed.

Compensation will be paid to the TRS provider in the form of one check from TAFNY on behalf of the Local and Long Distance Telephone Carriers of NY. A check will be issued to the TRSP within 45 days of receipt of its bill.

AMOUNT OF COMPENSATION FOR BILLED CMOU's

Payment will be made based upon the dollar amount agreed to between the TRSP and TAFNY and the PSC at the time the TRSP was awarded the service. That dollar amount per CMOU will remain confidential between TAFNY, the PSC and the TRSP, subject to any requirement of law. The CMOU will also be subject to a monthly discount based on the following:

- Full payment per CMOU when average monthly average Call Duration is 4.5 and 5.0 minutes or less.
- Payment per CMOU reduced by 10% when monthly average Call Duration is between 5.0 and 6.0 minutes.
- Payment per CMOU reduced by 25% when monthly average Call Duration is 6.1 minutes or greater.

NOTE: When Average Call duration exceeds 6.0 minutes for two consecutive months, TAFNY and the PSC reserve the right to cancel and nullify the Tariff agreement with the TRSP as a violation of service criteria. The same cancellation policy holds true for two consecutive months in which customer complaints or Answer Time Results exceed the limits of this Tariff.

AUDIT PROVISIONS

No other compensatory payment will be made for TRS service other than the agreed to monthly CMOU payment. Every year, at the expense of the TRSP (at a cost not to exceed \$10,000), TAFNY reserves the right to audit all information necessary to insure the accuracy of the CMOU billing and all traffic statistics. These audits will be limited to one per year or more often, at the expense of TAFNY. The auditors will be members or representatives of TAFNY. The timing and duration of the audit will be mutually agreed upon by the TRSP and TAFNY.

END OF TARIFF

BIDDER EVALUATION FORM

(To be completed by bidder)

Bidders Name:

Bidders CMOU Quote \$

Bidder Years of Experience

Place an "X" in the Comply or Exceed Column below

<u>CATEGORY</u>	<u>COMPLY</u>	<u>EXCEED</u>
-----------------	---------------	---------------

REQUIREMENTS IN TAB 1

REQUIREMENTS IN TAB 2

REQUIREMENTS IN TAB 3

REQUIREMENTS IN TAB 4

REQUIREMENTS IN TAB 5

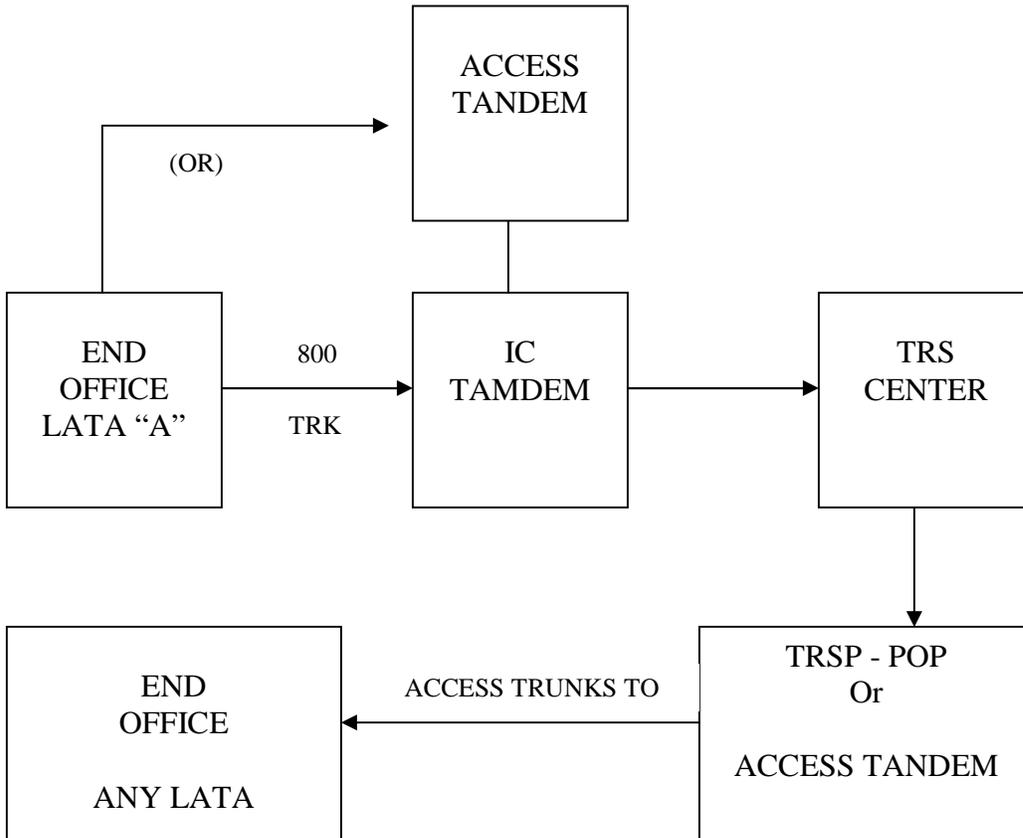
REQUIREMENTS IN TAB 7

REQUIREMENTS IN TAB 8

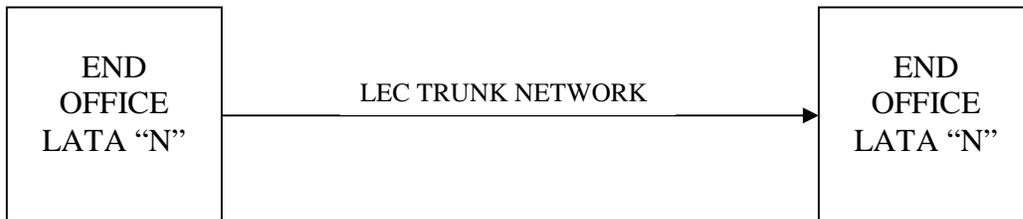
Attach this form to the actual reply from your company and send eight (8) copies of the entire package to the Targeted Accessibility Fund of New York State, Attn: Mr. L. Piazza, Suite 650, 100 State Street, Albany, NY 12207, Telephone (518) 443 2806.

CALL FLOW DIAGRAM FOR TRS RFP

NETWORK DIAGRAM



BILLING DIAGRAM FOR INTRA LATA CALLS



SUBSCRIBER'S LEC IS TO BILL FOR ALL INTRA LATA CALLS UNLESS TRS CALLER REQUESTS ANOTHER CARRIER FOR INTRALATA TOLL OR INTER REGIONAL CALLS.

INTER-LATA CALLS ARE TO BE BILLED BY THE TRSP DEFAULT CARRIER UNLESS CALLER REQUESTS A CARRIER OF CHOICE.

TRAFFIC DESIGN DATA FOR INTRASTATE TRS

2002 TOTAL COMPLETED CALLS (Outgoing Intrastate calls in which CA services were used) ESTIMATED 2,300,000

2002 CONVERSATION MINUTES OF USE (Intrastate) ESTIMATED 9,000,000

YEARLY CMOU GROWTH RATE

ESTIMATED = Negative (-10 %) ANNUALLY (2004 THRU 2007)

2003 AVERAGE HOLDING TIME

ESTIMATED = <5.0 MINUTES

LATA CALLS	VOLUME SPREAD	PERCENT INTER STATE AND PERCENT INTERNATIONAL IS NOT PART OF THIS RFP. COMBINED, THEY WOULD ADD ABOUT 10% TO TOTAL TRS CALLS
LATA	% VOLUME	
*METRO	60	INTRASTATE TRAFFIC FLOW
POUGH	04	
ALBY	04	
SYRC	04	
ROCH	22	
BUFF	04	
BING	02	
		PERCENT INTER LATA 05.0 %
		PERCENT INTRA LATA 95.0 %

*

METRO	SPLIT	% VOLUME
METRO	212	12
METRO	718	25
METRO	516	15
METRO	914	08

TRSP REQUIRED DATA REQUIREMENTS

REQUIRED FROM THE TRSP MONTHLY ALONG WITH MONTHLY CMOU AND PEG COUNTS

- A. Monthly CMOU by LATA and by Area Code
- B. Monthly TMOU by LATA and by Area Code
- C. Monthly Completed Outgoing Calls by LATA
- D. Monthly Incoming Call Attempts by LATA and by Area Code
- E. Monthly Incoming Call Attempts by LATA and Area Code **for 711 only**
- F. Monthly Completed Calls by LATA and Area Code **for 711 only**
- G. Monthly Completed Outgoing Calls for Voice – (Peg & % of Total)
- H. Monthly Completed Outgoing Calls for Baudot – (Peg & % of Total)
- I. Monthly Completed Outgoing Calls for Turbo Code -- (Peg & % of Total)
- J. Monthly Completed Outgoing Calls for ASCII- (Peg & % of Total)
- K. Monthly Completed Outgoing Calls by 900 – (Peg & % of Total)
- L. Monthly Completed Outgoing Calls by Spanish – (Peg & % of Total)
- M. Monthly Completed Outgoing Calls by Speech to Speech – (Peg & % of Total)
- N. Monthly CMOU for intrastate – inter LATA
- O. Monthly CMOU for inter State Calls
- P. Monthly MOU for international Calls
- Q. Monthly Busy and Ring – No Answer by Area Code and LATA
- R. Monthly Abandoned Calls by Area ode and LATA
- S. Monthly Volumes and CMOU by Area Code and LATA of Termination.
- T. Average daily and monthly blockage rate.

- U. Average daily and monthly answer time and range of answer times for the month.
- V. Average daily and monthly number of calls in queue (caller is receiving a ringing, waiting to be answered by a CA), average length of time in queue.
- W. Average daily and monthly length of call, broken down into call set-up and duration.
- X. Total daily and monthly number of call information to include the following:
 1. AVERAGE CALL DURATION.
 2. NUMBER OF SEQUENCE CALLS.
 3. NUMBER OF DIRECTORY ASSISTANCE CALLS.
 4. CALLS TO THE SAME NUMBER THAT EXCEED VOLUMES OF FIFTY 50) EACH MONTH (directory, social security admin, etc.).
 5. NUMBER OF COMPLAINTS, COMMENDATIONS AND INQUIRIES ABOUT TRS SERVICE.
 6. OTHER CALL TYPES i.e. VCO/ HCO/BRAILLE, etc. (peg and % of).
 7. NUMBER of CA's ON DUTY by HOUR and DAY of week.

The TRSP shall provide to TAFNY the above written reports on a monthly basis. More frequent or more detailed reports shall also be made available upon request.

All of the above [A thru X] shall be reported to TAFNY no later than 15 calendar days after the close of each month.

The TRSP will have submitted the reporting format that will be used to provide all of the above information before the tariff is filed.

The TSP must include information on its capability to provide ad hoc reports including new information in the TRSP system database or new formats for existing information.

Annually, the TRSP must provide historical and forecasted usage figures.

Any additional data not specified above required by regulatory bodies after the TRSP is approved as the provider.

The TRSP shall provide monthly summary reports regarding numbers of complaints received and topic areas of the complaints.

NON-DISCLOSURE AGREEMENT

Page 1 of 2

This agreement is effective June 11, 2003 between the Targeted Accessibility Fund of New York State (TAFNY) having a place of business at Suite 650, 100 State Street, Albany, NY 12207, and the Bidders and New York State Public Service Commission (PSC) involved in the RFP process issued by TAFNY for Telecommunications Relay Service (TRS) in the State of New York.

TAFNY and the bidders involved in the TRS RFP plan to submit certain material they may consider proprietary information to TAFNY and the PSC for the purpose of evaluating RFP replies, and these parties desire to maintain confidentiality of such information. The parties signing this Non-Disclosure Agreement will agree to the following protection for the information supplied in their bid or bid replies:

1. TAFNY, the Public Service Commission and the Bidders of Record agree that all information provided in the RFP process for TRS will be treated as proprietary and not made privy to any other party other than those members of TAFNY, the PSC or the Bidders of Record who participate in the RFP, subject to any requirements of applicable law.
2. The PSC, TAFNY and the Bidders of Record agree that any additional consultant or agency required to complete the RFP bid process will do so only after becoming signatories to this non disclosure agreement and compliant with the proprietary needs of the participants.
3. The PSC and TAFNY also agree not to disclose the status or progression of the RFP process to any party, until the award process is complete.
4. The PSC, TAFNY and any other signatory to this agreement will not disclose any information relative to the terms and price of bids, even after the award, except to announce the winning bidders or bidder, by name, after the award process has been completed, except as otherwise required by law.
5. The Bidders and TAFNY will provide proprietary information as needed to the New York State Public Service Commission for the purpose of their evaluation and approval of the recommended bidders in this RFP process. However, such information may be supplied with all reference of the bidders names withheld (MASKED), by TAFNY.
6. This agreement does not bind any party to the agreement to buy or sell any product or service relative to this agreement. It is intended only to provide security to that information that the signatories consider proprietary.

7. The PSC, and TAFNY agree to give each other, and all participants, immediate notice of any request for disclosure or release of any proprietary information, or any requirement of any court or government agency to information contained in the RFP or RFP returns, which is considered proprietary.

8. Each bidder of record agrees to stamp individual pages of its bid replies and associated documents that it considers proprietary with respect to this agreement.

9. TAFNY will destroy all copies of each bidder's reply, except one for record, and any others, which may be forwarded to the PSC, after the awards for the bid, have been made. The one copy will be safeguarded and stored by TAFNY for a period of time required by State Law that is in effect at the Bid Closing Date.

10. This agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York.

PARTIES TO AGREEMENT:

NAME, TITLE and

<u>COMPANY</u>	<u>PRINTED</u>	<u>SIGNATURE</u>	<u>DATE</u>
NY Targeted Accessibility Accessibility Fund (TAFNY)	Louis Piazza Manager		
Sagamore Publications	William J. Darcy Owner/Consultant		

PUBLIC SERVICE COMMISSION ORDERS

(7 PAGES ATTACHED)

Filed Session of April 17, 2002
Approved as Recommended
and so Ordered
By the Commission

JANET HAND DEIXLER
Secretary
Issued and Effective April 19, 2002

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

April 2, 2002

TO: THE COMMISSION
FROM: OFFICE OF COMMUNICATIONS
SUBJECT: CASE 01-C-1842 - Petition of the New York State
Telecommunications Association, Inc. for Approval of
Modification #7 to the Contract with Sprint
Communications Company, L.P. to Provide Relay Service
to the Hearing Impaired.

CASE 01-C-1897 – Petition of New York State Targeted
Accessibility Fund for Transfer of Operational
Responsibility and Oversight Authority of the New York
State Telephone Relay Service.

SUMMARY OF

RECOMMENDATION: Staff recommends that approval be granted for
the New York State Telecommunications
Association, Inc. to extend the current contract
for two years for the provision of telephone
relay service for the hearing impaired. This
recommendation will extend the contract with
Sprint Communications Company, L.P. to June 30,
2004, at the current price. Further, it is
recommended that oversight authority of the New
York State Telephone Relay Service be
transferred from the New York State
Telecommunications Association, Inc. to the New
York State Targeted Accessibility Fund.
Finally, it is recommended that the Commission
accept the limitation of liability language as
proposed in Modification #7.

INTRODUCTION

On November 21, 2001, the New York State Telecommunications Association, Inc.
(NYSTA), filed a modification (Modification #7) to the contract for the provision
CASES 01-C-1842 and 01-C-1897

of telephone relay service (TRS). TRS is a telephone relay service that allows hearing-impaired consumers to
communicate by telephone to anyone by using operators and teletypewriters. This service is currently provided
under contract by Sprint

Communications Company, L.P. (Sprint). NYSTA is proposing three changes to the current contract:

- 1) To extend the current contract for an additional three years to June 30, 2005 at the current price.

2) To allow the administration of the New York State Telephone Relay Services (TRS) to be assigned to the New York State Targeted Accessibility Fund (TAF).

3) To approve a modification to the contract that will limit the liability clause in the relay contract.

In a related matter, on December 5, 2001, TAF petitioned the Commission for transfer of oversight authority of the TRS from NYSTA to TAF. This petition requested that the operational responsibility of TRS be transferred from the Incumbent Local Exchange Carriers (ILEC's) to all Local Exchange Carriers (LEC's). These two petitions have been linked together as they both impact the operation of TRS, and a decision on either petition has consequences that affect the other petition. For example, the contract extension was requested to allow TAF to assimilate its new responsibilities before having to prepare a Request for Proposal (RFP) for a new contract.

BACKGROUND

From 1989 to 1997, intrastate telephone relay service for persons with hearing and speech disabilities was provided pursuant to a contract between AT&T Communications, Inc. (AT&T), and NYSTA.¹ In anticipation of the contract's expiration

1 In 1987, the Commission required that LEC's provide TRS so that consumers with hearing and speech disabilities could communicate via telephone in a functionally equivalent manner to non-disabled customers. With Commission approval, the LEC's agreed, under the auspices of NYSTA, to contract for TRS with one TRS provider (See CASE 26158 - Memorandum, Order, and Resolution Adopting Regulations to Establish a Statewide Telephone Relay System for Individuals with hearing and/or Speech Impairments (issued May 13, 1987.)

CASES 01-C-1842 and 01-C-1897

in 1997, NYSTA, Sprint and MCI Telecommunications Corporation L.P. (MCI) each filed petitions seeking approval of different alternatives for TRS in New York State. In disposing of the petitions, the Commission directed NYSTA to submit for Commission approval a Request for Proposals (RFP).²

After publishing a modified RFP in November 1996, and accepting sealed bids in response, NYSTA's Board of Directors announced that it accepted Sprint's offer to provide TRS. On March 28, 1997, NYSTA filed with the Secretary an executed contract for the provision of TRS. The contract committed Sprint to a three-year term as provider of New York TRS from an in-state call center. Sprint began providing TRS on August 1, 1997. On May 2, 2000, NYSTA filed an agreement with Sprint that extended the three-year contract for one year, from July 1, 2000 through June 30, 2001. This contract was then extended for an additional year and will expire on June 30, 2002.

Targeted Accessibility Fund

The Targeted Accessibility Fund (TAF) was established by Commission Order on June 2, 1998³ and is administered by the New York Access Settlement Pool. The operation and funding of TAF supports programs which include TRS, E911, and Lifeline. TAF is governed by an Advisory Board that is designed to represent all segments

of the telecommunications industry, as well as public interest groups. The TAF manual was approved by the Commission and establishes membership on the TAF Advisory Board as follows:

- One large IXC, to be AT&T
- One medium IXC
- One small IXC
- One large ILEC (Verizon)
- One medium ILEC

-
- 2 Order Authorizing RFP for New York State's Telephone Relay Service (issued January, 1996) (the January order).
 - 3 Opinion and Order Establishing Access Charges for New York Telephone Company and Instituting a Targeted Accessibility

CASES 01-C-1842 and 01-C-1897

- One small ILEC
- One CLEC
- One cable company that has telecom operations
- Two consumer group representatives, CPB and PULP

New York State Telecommunications Association, Inc.

NYSTA has a membership that includes 44 telecommunications companies and more than 100 associate members. The 44 members consist of all of the ILEC's as well as AT&T, Sprint, and Time Warner. The focus of NYSTA is to promote open networks, open competition, equitable universal service, and transition to a rational cost recovery system. NYSTA has been the organization responsible for overseeing and administering TRS since TRS was established in 1987.

COMMENTS

On January 18, 2002 the Commission issued a Notice inviting comments on the NYSTA and TAF petitions. Comments supporting the petition to extend the current Sprint contract for three years were submitted by Sprint, State Senator John A. DeFrancisco, and Verizon. WorldCom, Inc (Worldcom) commented in opposition to the three-year contract extension while expressing a preference for a one-year contract extension. There were no comments on the proposed modification to limit the liability of each company, a provision would limit the liability of each company to its own portion of the contract. WorldCom and NYSTA supported the petition to transfer the oversight and operational responsibility of TRS, while Verizon opposed the transfer. TAF submitted comments supporting its petition and rebutting Verizon's comments. Verizon responded to TAF's rebuttal.

Contract Extension

The petition notes that the current contract with Sprint expires on June 30, 2002. Further, it states that NYSTA chose to request an extension of the current contract as it has

Fund, Opinion No. 98-10 (issued June 2, 1998).

CASES 01-C-1842 and 01-C-1897

been in discussion with TAF about transferring oversight of TRS. NYSTA contends that, given these discussions, it is logical to extend the current contract and focus on a possible transfer of oversight authority. Additionally, NYSTA is not aware of any dissatisfaction with the current operation of TRS, and consequently sees no need to seek a new TRS provider based on operational issues.

Verizon, Sprint, and Senator DeFransisco commented that the current service provided by Sprint is excellent and cost efficient. Sprint and Senator DeFransisco emphasized that the three-year extension would provide sufficient time to negotiate a new contract. Further, they stated that a contract extension would continue the economic benefits to the Syracuse employment market with over 300 workers being employed at the center.

WorldCom commented that a one-year extension should be sufficient time to prepare an RFP, evaluate it, and award a new contract for TRS. It noted that it provides TRS in several centers, including the nation's largest such center in California. WorldCom further contends that there are numerous new features that are not in the current Sprint contract and more improvements are being developed. WorldCom maintains that, if the extension is approved, many of these new enhancements will not be used in New York for three years. Thus, WorldCom concludes that expediting contract negotiations will allow New Yorkers to benefit from competitive bidding and enhanced services on a more timely schedule.

Sprint countered WorldCom's comments contending that it has continually had strong incentives to provide superior relay service and enhancements throughout the term of its contract. Furthermore, Sprint documents numerous enhancements it has provided during the current contract and reiterates its support of TRS in New York.

Transfer Oversight and Operational Responsibility

WorldCom supports the transfer of oversight to TAF. It notes that TAF has full industry representation; TAF already has funding responsibility for TRS; and the TAF advisory board has consumer representation. WorldCom contends that these elements

CASES 01-C-1842 and 01-C-1897

make TAF a more neutral and efficient organization to oversee TRS. NYSTA submitted a letter endorsing the TAF proposal to seek administrative authority for TRS.

Verizon submitted comments contending that the transfer of oversight and operational responsibility should be rejected. Verizon contends that Commission regulations require that LEC's be responsible for the provision of TRS and Commission regulations would have to be changed if LEC's are to be relieved of "operational responsibility" for TRS. Verizon further states that the ILEC's bear the great bulk of TRS funding, yet they only have three seats on the TAF board. Thus, Verizon is concerned

that the ILEC's, which have the vast majority of the state's customers, will have a minority representation on the TAF board. Verizon also contends that there is an inherent conflict of interest as the IXCs on TAF will have a role in determining the

terms under which they would compete and would have considerable influence in selecting the TRS vendor.

Finally, Verizon disagrees with TAF's recommendation of tariffing TRS. Verizon believes that each local exchange carrier is responsible for providing TRS to its customers and, as such, it should be allowed to sign a contract with any TRS vendor.

Verizon believes that providing TRS by tariff promotes one statewide TRS at the expense of the option for individual contracts.

TAF replied that Verizon incorrectly believed that the petition requested a transfer of operational responsibility and oversight authority to TAF. The petition requests a transfer of oversight authority to TAF, and a transfer of operational responsibility from the ILEC's to all LEC's. Further, TAF states that operational responsibility entails the responsibility for provisioning and proper functioning of TRS. TAF believes that this is the responsibility of all LEC's and notes that Verizon's comments even indicate that the operational responsibility has been imposed on all LEC's.

TAF points out that it is a logical choice to oversee TRS as it has full representation and is a neutral organization that is overseen by the Commission. TAF refutes Verizon's

CASES 01-C-1842 and 01-C-1897

contention that having the IXCs on the TAF board may create conflict with any future bidding as TAF would prevent any bidding carriers from overseeing the bidding process. It mentions that AT&T and Sprint are also members of NYSTA, so that any potential for conflict exists in either organization. Finally, TAF maintains that providing service under a tariff will be more practical than trying to get every carrier to sign a TRS contract.

DISCUSSION

While there are considerable merits to a three-year contract extension, such a long extension has the effect of avoiding the bidding process. The last bidding for TRS was conducted in 1996 after which Sprint began service under this contract on August 1, 1997. In sum, there has not been a bidding process for TRS in six years and a three-year extension would increase that interval to nine years. Considering the fast pace of technological advances and the Commission's commitment to competition, WorldCom's request for an earlier RFP process is reasonable. Nevertheless, transferring oversight authority to a new organization and preparing a new RFP as well as bid evaluations in a one-year period may be ambitious. It is our opinion that a two-year contract extension strikes a balance between the promotion of equitable competition and the need for transitioning to a new entity while maintaining stable operations.

TAF's petition requests a transfer of operational responsibility for TRS from the ILEC's to all LEC's. It is our opinion that this is not necessary as the Commission has stated that all providers of local exchange service have a responsibility for universal service.⁴ It also appears that the

4 CASE 94-C-0095 - Proceeding on the Motion of the Commission to Examine Issues Relating to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market (Order issued February 10, 1994).

CASES 01-C-1842 and 01-C-1897

commenting parties agree on this concept. However, if there is any confusion in this regard, this memorandum should serve to clarify that all LEC's have the operational responsibility for TRS.

TAF's petition also requests the transfer of oversight authority from NYSTA to TAF. Both of these parties are directly involved and concur with this transfer. WorldCom also supports the transfer. Verizon is the only party that opposes the transfer, basing its opposition on its contention that the transfer will shift the balance of oversight power from the ILEC's to the IXCs. Verizon contends that this power shift is unreasonable as the ILEC's have both the major share of customers and the major share of financial support for TRS.

Verizon's opposition focuses on the makeup of TAF's Advisory Board. The Advisory Board, however, was crafted by the Commission to represent the industry and the public in funding TRS as well as E911, and Lifeline.⁵ Further, Verizon's comments should be tempered by the fact that many of the TAF Advisory Board members are both interexchange carriers and CLEC's and, as such, represent both interests. Finally, any TRS contract or contract changes must be reviewed and approved by the Commission to ensure that they serve the needs of New Yorkers.

Verizon's contention that tariffing TRS would prevent a LEC from establishing its own TRS contract is incorrect. Any company can tariff TRS and any LEC can order that service either through that tariff or by contract. Moreover, tariffing TRS

service has the advantage of eliminating the difficult process of getting numerous companies to sign contracts.

In sum, Verizon has not provided any compelling reasons why the transfer of oversight authority should not be approved. The two parties directly involved in the transfer support the transfer. Accordingly, oversight for TRS should be transferred to TAF.

-
- 5 Opinion No. 98-10. Opinion and Order Establishing Access Charges for New York Telephone Company and Instituting a Targeted Accessibility Fund (issued June 2, 1998).

CASES 01-C-1842 and 01-C-1897

The proposed language modification limiting a company's liability states that each individual company is only responsible for its own weighted portion of the contract. This clarification is reasonable as it addresses the concerns of small companies that have signed the TRS contract.

RECOMMENDATION

It is recommended that:

1. Oversight authority of telephone relay service (TRS) should be transferred from New York State Telecommunications Association, Inc. to the New York State Targeted Accessibility Fund on a schedule to be worked out between the parties;
2. the current contract for TRS with Sprint Communications Company, L.P. should be extended for two years from June 30, 2002 to June 30, 2004;
3. the limited liability language contained in Modification #7 should be approved; and
4. the case be continued.

Respectfully submitted,

WAYNE CORNELIUS
Policy Analyst III

JOHN COLEMAN
Utility, Supervisor
Telecom

SAUL ABRAMS
Staff Counsel

APPROVED:

ROBERT LA MARCHE
Chief Utility
Communications Programs

END OF RFP

Appendix N: Current NY Tariff

PSC NO: 7 - TELEPHONE
Sprint Communications Company L.P.
Initial Effective Date: 07/01/04

Leaf: 1
Revision: 0
Superseding Revision: 0

TARIFF SCHEDULE
APPLICABLE TO
TELECOMMUNICATIONS RELAY SERVICE (TRS)
WITHIN
THE STATE OF NEW YORK
ISSUED BY
SPRINT COMMUNICATIONS COMPANY L.P.

New York State Public Service Commission
New York P.S.C. Tariff No. 7

This tariff contains the regulations and rates applicable for the furnishing of Telecommunications Relay Service provided by Sprint Communications Company, L.P. ("Sprint") within the State of New York. This tariff is on file with the New York State Public Service Commission.

Issued in Compliance with order in Case 03-C-1647, dated January 20, 2004

Issued by: Warren D. Hannah, Director of Tariffs, Overland Park, Kansas

PSC NO: 7 - TELEPHONE
Sprint Communications Company L.P.
Effective Date: 05/06/11

Leaf: 2
Revision: 3
Superseding Revision: 2

TELECOMMUNICATIONS RELAY SERVICE

APPLICATION OF TARIFF

This tariff sets forth the service offerings, rates, terms and conditions applicable to the furnishing of Telecommunications Relay Service (TRS) services by Sprint Communications Company L.P. (Sprint), hereinafter referred to as the Company, to Customers within the state of New York. Services are furnished subject to the terms and conditions set forth herein.

(D)

(D)

Pursuant to Commission Order Case 10-C-0649, issued and effective March 18, 2011, Sprint and Targeted Accessibility Fund (TAF) of New York, Inc. have negotiated an agreement to make Telecommunications Relay Service (TRS) and Captioned Telephone Service available to New York residents through June 30, 2013.

(C)

(C)

Issued by: State Tariffs, Overland Park, Kansas

TELECOMMUNICATIONS RELAY SERVICE

EXPLANATION OF SYMBOLS

When changes are made on any tariff page, a revised page will be issued canceling the tariff page affected; such changes will be identified through the use of the following symbols:

- C - To signify a "Change" in existing rate or regulation.
- D - To signify a "Deletion/Discontinuance" of rates, regulations, and/or text.
- I - To signify a rate "Increase."
- M - To signify matter "Moved/Relocated" within the tariff with no change to the material.
- N - To signify "New" text, regulation, service, and/or rates.
- R - To signify a rate "Reduction."
- T - To signify a "Text Change" in tariff, but no change in rate or regulation
- Z - To signify a correction.

The above symbols will apply except where additional symbols are identified at the bottom on an individual page.

Issued in Compliance with order in Case 03-C-1647, dated January 20, 2004

Issued by: Warren D. Hannah, Director of Tariffs, Overland Park, Kansas

TELECOMMUNICATIONS RELAY SERVICE

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Issued in Compliance with the order in Case 06-C-0524, dated July 25, 2006 (T)

Issued by: State Tariffs, Overland Park, Kansas (T)

TELECOMMUNICATIONS RELAY SERVICE

1. GENERAL

Telecommunications Relay Service (TRS) is provided by The New York Relay Service (NYRS). The New York Relay Service began in 1989 and provides intrastate telephone communications service between hearing and speech impaired individuals and non-impaired individuals. Any end user from New York State can call the NYRS and utilize the Relay Communications Assistant or CA, also known as a Relay Operator, who will facilitate a telephone conversation between the voice telephone callers, and a non-voice telephone caller who uses a text telephone (TTY) or Personal Computer (PC) in place of a telephone. The CA will type all words spoken by the voice caller to the TTY caller and in turn, voice all words typed by the TTY caller to the voice caller.

The NYRS is operated by a TRSP (TRS Provider), which is compensated for its service by the Telephone Carriers of NYS through an assessment mechanism administered by the Targeted Accessibility Fund of New York State (TAFNY).

The NYRS is located in Syracuse, New York and can be reached toll free by anyone dialing the following numbers:

* VOICE/TTY/VCO/HCO/ASCII	711 (OR)	
* TTY/VCO/HCO/Braille Toll Free	800-662-1220	
* Voice Toll Free	800-421-1220	
* VCO Toll Free	877-826-6977	
* ASCII Toll Free	800-584-2849	
* Spanish to Spanish	877-662-4886	
* Speech to Speech	877-662-4234	
* Captioned Telephone Incoming	877-243-2823	(N)
* CapTel SM Customer Service	888-269-7477	(N)
* Customer Service		
Toll Free 24 Hour Voice/TTY/ASCII/VCO	800-676-3777	
* General Inquiries (TTY) Toll Free	800-835-5515	
* General Inquiries (Voice) Toll Free	800-664-6349	

Questions, comments and complaints about Relay Service can be directed to the Relay Inquiry Line on 800 664 6349 (voice) or 800 835 5515 (text).

Issued in Compliance with the order in Case 06-C-0524, dated July 25, 2006 (T)

Issued by: State Tariffs, Overland Park, Kansas (T)

TELECOMMUNICATIONS RELAY SERVICE

1. GENERAL (Continued)

Telephone Directory Listings of the numbers shown above for access to Relay and the Inquiry Line are the responsibility of the TRSP. The TRSP will make statewide arrangements for these numbers (except the 900 number) to be placed in all Telephone Company Directories as part of the cost of being the sole source provider of TRS in NYS. The right to utilize these numbers and the 800 type routing number used for 711 (not shown), will be returned to TAFNY upon expiration of this Tariff which is four years from its effective date unless extended for two possible extensions of 3 and 2 years each that can be recommended by TAFNY and approved by the PSC.

Types of TRS Calls - The NYRS completes intrastate calls and is operational 24 hours a day, 7 days a week. Interstate and international TRS calls can be made by calling the same numbers listed above but is not covered by this tariff. Such calls may be handled by the same CA's at the TRSC but these calls and associated costs associated with interstate TRS are the responsibility of the TRSP (TRS Provider) and not the Telephone Carriers of NYS. No compensation is paid by Telephone Carriers of NYS for the handling of interstate and international TRS calls.

Internet Protocol (IP) and Video Relay service is not currently available from the New York Relay.

Any type of call can be placed through the New York Relay except for local / regional Pay per Call Services and Group Bridging services. Calls to 900 numbers can be made by dialing the special 900 Relay Access number listed in this tariff.

Conference Calls can be joined via Relay using the CA as the voice on the call but the NYRS is not a conference hosting service.

Payphone calls can be made via the NYRS. Local coin calls are free. Toll calls can be billed to a calling card, prepaid Card or major credit card in lieu of coins. Payphone toll calls can also be billed collect or to a third party. The caller is responsible to know if a call is a toll call and be aware of rates charged by the issuer of his or her calling or prepaid cards when they are used for Relay calls.

Issued in Compliance with order in Case 03-C-1647, dated January 20, 2004

Issued by: Warren D. Hannah, Director of Tariffs, Overland Park, Kansas

TELECOMMUNICATIONS RELAY SERVICE

1. GENERAL (Continued)

Cost and Charges: There is no cost to the user of the NYRS for the service itself, separate and apart from normal toll or message unit charges, which are the responsibility of the user. Costs for the TRS service are paid for by the Local and Long Distance Carriers in NYS. Calls made via the NYRS are charged to the TRS caller at the same rates encountered as if the call were direct dialed from the caller's home or business phone, without the use of Relay Services. Applicable message unit or toll charges normally encountered on a direct dialed call will be billed to a caller placing the call via Relay. Calls through the NYRS may be billed to a third number only within NYS. Any call can be billed to any carriers calling card, pre paid Card or major credit card if the card issuing company has made arrangements with the NYRS.

A caller to the Relay will have the option to specify the carrier of choice for any toll or regional call made from the Relay Center to the called party. The TRSP may carry such calls or the caller may specify a different carrier, in which case the TRSP will deliver the call to the other carrier for termination as long as that carrier has complied with all requirements and established a network presence at the Access Tandem serving the TRSC.

1.1 Caption Service

New York Relay Captioned Telephone Service is an enhanced Voice Carry Over (VCO) service that provides both audio and text captioning of the second party's telephone conversation. Captioned Telephone Service is intended for users who are Deaf or Hard of Hearing and able to communicate verbally. It requires a special Captioned Phone to utilize the service. The requirements for Captioned Telephone Service will meet all existing FCC requirements for this service. However, many existing Tariff requirements for other traditional Relay services are not applicable to Captioned Telephone Service and have been waived by the FCC.

(N)

(N)

(M)

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(M) Material previously appearing on this page now appears on Leaf 7E.

Issued in Compliance with the order in Case 06-C-0524, dated July 25, 2006 (T)

Issued by: State Tariffs, Overland Park, Kansas (T)

TELECOMMUNICATIONS RELAY SERVICE

1. GENERAL (Continued)

(N)

1.1 Caption Service (Continued)

This Captioned Telephone Service will be known as New York Relay Captioned Telephone Service ("CTS"). This initial service requires a CapTel Telephone set in order to access the service. To the extent that other competitive captioned telephone services become available, this tariff will be modified to include them. Using the CapTel Telephone the user simply picks up the receiver and dials the number they want to call. While they are dialing, the CapTel Captioned Phone automatically connects to the Captioned Telephone Call Center which is located in Wisconsin. The dialed number is transmitted through the Call Center and when the called party answers, the call center remains on the line and transcribes the called party's conversation into captions that appear on the caller's CapTel telephone. The CTS call appears like a standard telephone call to the called party; there is no interaction with the Call Center. Both parties speak directly to the other.

The term for the provision of captioned telephone service shall begin on January 1, 2007, after which the service will be coterminous with the New York Relay contract, subject to the availability of funds, unless earlier terminated by the TAFNY or Sprint in accordance with the termination provisions contained in the basic contract. This service is being considered as part of the traditional relay service being offered by the New York Relay.

(N)

TELECOMMUNICATIONS RELAY SERVICE

1. GENERAL (Continued)

(N)

1.1 Caption Service (Continued)

Sprint's provision of the captioned telephone service shall meet all minimum standard requirements mandated by the FCC for Enhanced VCO Service. The requirements for Enhanced VCO include most requirements for standard TRS but include a few waivers because they do not apply. As new FCC requirements are mandated, Sprint and TAF may renegotiate the terms of this Agreement as needed to insure compliance is maintained and file such amended agreement with the New York State Public Service Commission.

Requirements for standard TRS that received waivers for captioned telephone service are:

- STS Requirements
- HCO Requirements
- Minimum Requirements for Relay Operators
- Interpretation of typewritten ASL
- Oral-to-type tests (replace with oral-to-text tests)
- Not refusing single or sequential calls
- Gender preferences
- Interrupt Functionality
- Call Release
- ASCII and Baudot Access

Sprint's provision of Captioned telephone service includes:

- 24 hours-a-day, 7 days-a-week accessibility
- Toll Free number for placing an English language captioned call to a CapTel user. This number is 877-243-2823.
- Customer Service (888-269-7477) is available from 8:00 AM to 5:00 PM CST, Monday – Friday.
- Spanish language service between the hours of 7:00 AM to 11:00 PM CST, 7 days-a-week, 365 days-a-year. The toll free number for placing a Spanish-to-Spanish captioned call to a CapTel user is 877-243-2823.

(N)

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Issued by: State Tariffs, Overland Park, Kansas

TELECOMMUNICATIONS RELAY SERVICE

1. GENERAL (Continued)

(N)

1.1 Caption Service (Continued)

Sprint's provision of Captioned telephone service includes: (Continued)

- An average speed-of-answer of 10 seconds or less for 85% of calls on a daily basis
- Compliance with P.01 GOS
- Access to a caller's chosen IXC
- Routing of emergency calls to the appropriate Public Safety Answering Point (PSAP)
- Caller ID (if the user subscribes to this service through their LEC)
- Two Line CapTel – an enhanced CapTel service in which the user subscribes to two phone lines (at user's expense) that provides full functionality for all LEC-based services

Alternate billing arrangements include:

- 101 XXXX
- Calling Card Calls
- Operator Assisted Calls
- Collect Calls
- Person-to-Person Calls
- Third Party Calls
- Pay-per-call services (user must set up a customer profile to permit this functionality otherwise Sprint will be the default provider)
- Carrier-of-Choice (user must set up a customer profile to permit this service otherwise this service comes pre-blocked with each instrument)

911 Emergency Calls and 711 Relay Calls

CTS calls made to either of these abbreviated dialing codes are not captioned. Upon dialing 911 or 711, the CapTel Captioned phone defaults to standard VCO phone status. These calls do not go through the CapTel Call Center. Instead, they go directly to the emergency service or relay service. The CTS caller will communicate verbally but the called service will respond only in typed text.

(N)

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TELECOMMUNICATIONS RELAY SERVICE

1. GENERAL (Continued)

(N)

1.1 Caption Service (Continued)

900 Pay-Per-Call

To make a 900 call the CTS user must first call CapTel customer service and arrange to approve the line to make 900 calls. After that is arranged, 900 numbers may be accessed and captioned via a CapTel phone.

Operator Calls

Dial "O" operator calls by default will terminate to the state default LD Operator instead of your local phone company operator. To select an Operator or your choice, call CapTel and pre-subscribe to an IC. Once pre-subscribed, Dial "O" calls will route to your appropriate LD Operator.

Long Distance Calls

Long distance calls made with a CapTel Phone will be charged. These charges will be billed by your pre-subscribed long distance carrier. If no pre-subscription is selected, the long distance calls will default to Sprint as the carrier.

Billable Calls

Regional Toll calls and Message Unit Calls are not billable with the initial offering of CapTel Captioned Service. Billable calls will include all calls that exceed a 40 mile radius from the original call location.

Incoming calls to a Captioned Phone will require the caller to dial the Captioned Telephone Center first by calling 888-801-7210 and at the automated voice prompt, dial the 10 digit number of the CTS user. Callers can also dial 711 and have the NY Relay complete the call to the CTS user. Compensation to the contract provider for CTS will only be for calls originating and terminating within New York State.

(N)

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TELECOMMUNICATIONS RELAY SERVICE

1. GENERAL (Continued) (N)

1.1 Caption Service (Continued)

That compensation will be based on CMOU and the dollar amount will remain confidential between TAFNY, the PSC and the CTS provider, subject to any requirement of the law.

Section 5.5 of Sprint's Tariff to provide TRS for the State of New York, Call Billing Record, is not available for the provision of Captioned Telephone Service. (N)

2. DEFINITIONS (M)

900 Relay - Same as regular Relay but with a special 900 access number for persons using a TTY to call 900 numbers. To obtain the 900 number, call the Relay Inquiry Line or the Relay CA.

AMERICAN SIGN LANGUAGE (ASL) - a visual language based on hand shape position, movement, and orientation of the hands in relation to each other and the body.

ASCII - an acronym for American Standard Code for Information Inter-exchange which employs an eight-bit code and can operate at any standard transmission baud rate including 300, 1200, 2400, and higher.

BAUDOT - A seven-bit code, only five of which are information bits. Baudot is used by most text telephones to communicate at a 45.5 - baud rate. (M)

(M) Material currently appearing on this page formerly appeared on Leaf 7.

Issued in Compliance with the order in Case 06-C-0524, dated July 25, 2006

Issued by: State Tariffs, Overland Park, Kansas

TELECOMMUNICATIONS RELAY SERVICE

2. DEFINITIONS (Continued)

BRAILLE TTY - A text telephone using Braille in place of a screen display, for users that are deaf and blind.

CAPTEL (CapTel) - Captioned Telephone, is a trademark of UltratecSM, Inc. (N)

CAPTIONED TELEPHONE SERVICE (CTS) – A term used to describe an enhanced Voice Carry over service which, in addition to providing text display on the call, also permits the voice to be heard depending on the user’s ability to hear. (N)
|
(N)

CLEC - A term describing a competing LEC.

CONVERSATION MINUTES OF USE (CMOU) - Refers to the conversation time associated with a TRS call after the called party has answered.

COMMUNICATIONS ASSISTANT (CA) - A person who transliterates conversation from text to voice and from voice to text between two TRS users.

DEAF PERSON - Any person with a significant degree of hearing loss, present in both ears, that precludes using the telephone in a normal manner. Said person must rely on intermediary and or electronic or mechanical devices for telecommunications.

HARD OF HEARING - Those persons who cannot hear well but are not deaf.

HEARING CARRY OVER (HCO) - A modified form of TRS where a person with the speech impairment is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech impairment.

INTEREXCHANGE CARRIER (IC) - Common Carrier engaged in InterLATA and IntraLATA communications.

INTERNET PROTOCOL (IP) RELAY - IP Relay is a TRS service accessed via the Internet and is not a service provided under this tariff.

LOCAL EXCHANGE CARRIER (LEC) - Common Carrier engaged in IntraLATA communication.

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TELECOMMUNICATIONS RELAY SERVICE

2. DEFINITIONS (Continued)

OPERATOR SERVICE FOR THE DEAF (OSD) – OSD provides an Operator function for TTY to TTY callers who need a temporary assist from an Operator for certain call types including Text to Text DDD calls, Station and Person to Person calls, Emergency Interrupt, Calling Card and general Operator Assistance. OSD is currently provided by the Telephone Carriers of NYS and is not part of TRS.

RELAY OPERATOR - Same as a CA. Use of the term Relay Operator has helped reduce "Hang Up's" by hearing people who receive a Relay call. The term Operator must be used on all outbound calls from NYR with the existing outbound greeting message.

SPANISH RELAY - Same as standard TRS service but with access to an Operator trained in Spanish. This TRS offering is for Spanish to Spanish callers only and is not a translation service.

SPEECH TO SPEECH - A TRS Service using a separate 800 type number which allows certain Speech Disabled callers to access a specially trained Relay Operator who can interpret the speech patterns and relay the voiced words to the non impaired party.

TELECOMMUNICATION RELAY SERVICE (TRS) – Telephone transmission services that provide the ability for an individual who has a hearing or speech impairment 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 impairment to communicate using voice communication services by wire or radio. TRS includes services that enable two-way communication between an individual who uses a text telephone or other non-voice terminal device and an individual who does not.

TEXT TELEPHONE (TTY or TT) - Machine that employs graphic communication in the transmission of coded signals through a wire or radio communications system. TTY supersedes the term "TDD" or "telecommunications device for the deaf".

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Issued by: Warren D. Hannah, Director of Tariffs, Overland Park, Kansas

TELECOMMUNICATIONS RELAY SERVICE

2. DEFINITIONS (Continued)

THE AUXILIARY RELAY SERVICE (ARS) - A contracted company reporting to TAFNY and the Telephone Carriers of NYS. ARS serves as a central point of contact for the Carriers and acts as a General Inquiry Line for information, questions, comments, assistance and complaints from end users, concerning TRS.

TRS CALLER ID – TRS providers with an ability to send an incoming Caller ID or a Caller ID Blocking signal on outbound TRS calls making the service comparable as normal network calls thus insuring the caller's awareness of Caller ID status.

TRSC - Telecommunication Relay Service Center (site)

TRSP - Telecommunications Relay Service Provider who provides TRS service via a TRS Center. The TRSP can also be a LEC or Private Company that has arrangements with IC's or LEC's to provide TRS.

TURBO BAUDOT - The same as Baudot but with speed of transmission up to 120 WPM and the ability to interrupt during transmission.

TWO LINE VCO OR HCO - Enabling a TRS user who has two telephone lines to establish two connections via Relay facilitating faster conversation by the VCO or HCO user.

VIDEO RELAY SERVICE (VRS) – Video Relay Service is the same as TRS except that a PC equipped with video is used by the hearing impaired caller who, after logging on to the TRSC, uses ASL to converse with the CA. The CA then completes the call to the non hearing-impaired party in voice. (VRS is not offered by this tariff.)

VOICE CARRY OVER (VCO) - A modified form of TRS where a person with a hearing impairment is able to speak directly to the other end user, in reply, the CA types the spoken words from the other party to the VCO user.

Note: Mixtures of the above type service are provided by this tariff. As an example, VCO to HCO, TTY to TTY, STS to STS or even STS to TTY. All mixtures are current requirements of the FCC and are provided under this tariff. The Call Release feature is provided for temporary TTY to TTY connects.

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TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS

3.1 Communications Assistant (CA) Standards

3.1.1 Minimum Qualifications

The TRSP guarantees that CA's are able to quickly and efficiently relay messages between users of the relay service. CA's meet the following proficiency requirements, which include but are not limited to:

- a. Competent skills in English grammar equivalent to beginning college level grammar. The same applies to Spanish and Speech to Speech for those CA's manning those TRS positions.
- b. A minimum typing speed of sixty (60) words per minute.
- c. Competent spelling skills, which includes the ability to quickly and easily spell words comparable to a beginning college level conversation.
- d. An ability to understand deaf and hard of hearing people who use limited English.
- e. An ability to both translate limited written English to full written English. Conversations or relay verbatim, at the caller's specific request. The TRSP can demonstrate how it trains operators to translate these calls. Furthermore, the TRSP has documentation to indicate at what level it considers operators to be fully trained in this capacity.
- f. Familiarity with hearing and speech disability culture, language and etiquette.
- g. Neutral accent capability predominant among total force of CA's.

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TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS (Continued)

3.1 Communications Assistant (CA) Standards (Continued)

3.1.2 CA Training

The TRSP has a detailed CA training plan to demonstrate how ongoing CA training is provided. The provisions for CA training include, but are not limited to, ASL style and grammar, hearing and speech disability culture, language and etiquette, needs of individuals who are speech/hearing impaired, and operation of relay telecommunications equipment. Training includes both simulated and live on-line call handling. (In New York State, CA's are known primarily as Relay Operators.) The term Operator is used on all outbound greetings along with the existing NYR greeting message which may only be altered with approval of TAFNY. Appropriate portions of in-service training for CA's shall be provided by experts from the deaf, hard of hearing and speech impaired communities in the field of language interpreting, ASL and deaf culture and speech impairment. Alternatively, the TRSP can demonstrate that such expertise exists on staff.

3.1.3 Procedures for Relaying Communication

A CA is prohibited from intentionally altering a relayed conversation and must relay all conversation verbatim unless the relay user specifically requests translation.

- a. TTY users may instruct the CA to voice in Standard English or word for word typed by the TTY user.
- b. CA's shall, when necessary, to the best of their abilities, let the TTY user know the non-TTY user's tone of voice.
- c. CA's shall keep the user informed on the status of the call, such as dialing, ringing, busy, and disconnected or on hold.

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TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS (Continued)

3.1 Communications Assistant (CA) Standards (Continued)

3.1.3 Procedures for Relaying Communication (Continued)

- d. The TTY user shall have the option of telling the CA what aspects of the call that he/she will handle. For example, the TTY user may request to introduce relay services to the called party, rather than have the operator do it.
- e. The CA shall type to the TTY user or verbalize to the non-TTY user, verbatim, what is said when the call is first answered and at all times during the conversation, unless either party specifically requests otherwise.
- f. When the CA needs to explain Relay to a hearing user, the CA shall also type "Explaining Relay" for the benefit of the TTY user. Conversely, when the CA needs to explain Relay to a TTY user, the CA will inform the hearing user that the CA is explaining Relay.
- g. Upon request by the user, the CA shall not announce a call as a Relay call, permitting the caller to provide an explanation, if any.
- h. The CA shall have the option to inform the called party that the caller has Hearing or Speech impairment unless the caller asks otherwise.
- i. When speaking for the TTY user, the CA shall adopt a conversational tone of voice appropriate to the type of call being made.
- j. CA's shall indicate to the TTY user if another person (hearing) comes on the line.
- k. All comments directed to either party by an operator shall be relayed. These comments shall be typed in parentheses, e.g., "(Will you accept a collect call?)" All comments directed to the CA by either party shall also be relayed, e.g., "Yes, I'll accept the collect call."

TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS (Continued)

3.1 Communications Assistant (CA) Standards (Continued)

3.1.3 Procedures for Relaying Communication (Continued)

- l. To correct a typing error, CA's shall not backspace, but continue in a forward direction by typing "xx" (common TTY convention for error) and then typing the word correctly. When necessary, CA's shall verify spelling of proper nouns, numbers and addresses that are spoken.
- m. The CA will stay on the line until both parties have terminated the call.
- n. If necessary to process a complaint or compliment, the call will be transferred to a supervisor. CA's shall not counsel, advise or interject personal opinions or additional information into any relay call. Furthermore, the CA's shall not hold personal conversations with anyone calling the TRS even when prompted by callers.
- o. Callers shall not be required to give their full names or the full name of the party they are calling. This information shall not be recorded in any form without the permission and knowledge of the caller (except for billing purposes).
- p. It is understood that, for some calls, having the full name would help facilitate the call. The CA may ask for that information and explain how it may facilitate their call. However, the CA shall not refuse to make a call if the callers do not wish to give full names.
- q. The called Relay party has the right to refuse a Relay call if they request the calling number of the calling party and the calling party refuses to divulge that information.

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TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS (Continued)

3.1 Communications Assistant (CA) Standards (Continued)

3.1.3 Procedures for Relaying Communication (Continued)

- r. CA's will uniformly recognize an "s" typed by a TTY user at the beginning of a call to indicate that the user is speech impaired.
- s. CA's will leave messages on answering machines or other voice processing systems if the voice or TTY caller activates one while actually making the call. When necessary, additional calls to the same announcement machine or voice mail will be made until a complete message is left, at no additional expense to the caller for such attempts.

3.1.4 The TRSP has procedures for fulfilling the requirement of subsection "p" (above) and the procedures include the following steps:

- a. The CA will inform the caller when an answering machine has been reached.
- b. The CA will ask the caller if he wishes to leave a message.
- c. The CA will leave the caller's message, either by voice or by TTY.
- d. The CA will confirm to the caller that the message has been left.
- e. The caller will only be charged for one call regardless of the number of redials required for leaving a message.

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TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS (Continued)

3.1 Communications Assistant (CA) Standards (Continued)

3.1.4 The TRSP has procedures ... (Continued)

- f. CA's will retrieve messages from voice processing systems and relay a TTY message to a voice user or a voice message to a TTY user. The TRSP has procedures for handling this requirement, and the procedures shall include methods for obtaining any necessary system access codes from the user and statements regarding confidentiality of that information. Retrieval of messages is considered a TRS function as long as the TRS caller remains on the line during message retrieval.

3.1.5 Handling of Obscenity Directed to the CA

CA's don't have to tolerate obscenity directed at them. The TRSP has plans that specify how a CA should handle such situations. An acceptable approach can send callers using obscenities directed at the CA to a supervisor who will determine why the caller is using obscenity and explain to the caller that this is inappropriate. As an alternative, the CA can send the abusive caller to a prerecorded announcement stating that it is not permissible to use abusive language to a CA and that when the caller is ready, they can re-dial the Relay to make a call.

3.1.6 CA Identification

At the start of a call a CA shall identify himself by a Relay Operator identification number (not by name). The TRSP has a method, which will allow identification of the CA in the event a complaint is filed or a user wants to praise the work of the CA. The term Relay Operator instead of CA is a required for all outbound calls.

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TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS (Continued)

3.1 Communications Assistant (CA) Standards (Continued)

3.1.7 Caller Provided Information

The TRSP must provide information on how calls will be processed when ANI is not available to the CA's position. Such call handling can include Calling Card or Reverse Charges etc.

3.1.8 Speech-To-Speech Requirements

During Speech-to-Speech Relay Calls, the Speech Disabled party's voice is not to be passed along to the non speech disabled party, unless a specific request is made by either party to hear both the Operator (CA) and the Speech Disabled party's voices at the same time.

3.1.9 THE NEW YORK RELAY is the only name used to describe this TRS service for New York State. The service is paid for by the Telephone Carriers of New York State and the TRSP will always identify the Service as the New York Relay and never by the TRSP'S own company name. This name identification holds true for all contact with the public, on TRS calls, in meetings, in media or mail advertising, Web Sites, Telephone Directory advertising and in any public or private communications including signs or brochures at the TRS site or in any public venue where the TRSP is representing the N.Y. Relay Service. The provider of TRS is prohibited from using any brand name in connection with this service. TRS service shall be referred to as "New York Relay", without any brand name added to or substituted for that term.

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TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS (Continued)

3.1 Communications Assistant (CA) Standards (Continued)

3.1.10 Community Outreach

The TRS provider has a community and business outreach program to educate all people about the relay service. The TRSP can demonstrate to TAFNY how it maintains a continuing outreach program and can provide an outline of the major points to be included in the outreach program. Outreach programs include, but are not limited to, media advertisements, meetings with user communities, distribution of informational pamphlets describing how to use the relay service, wallet cards, and the FCC Payphone Relay plan, etc. The TRSP does produce all Community Outreach plans as part of this tariff and in accordance with the Branding requirements addressed above.

3.1.11 Consumer Input

Users of TRS shall have advisory input on the quality of service. The TRSP takes part in the State process that already exists for this purpose under the auspices of the New York State TRS Advisory Board. As part of their function, the Advisory Board meets with consumers around the State for evaluation of TRS service and suggestions to be incorporated into the policies of the relay center. Service evaluations shall not come only from those directly or indirectly involved in operating the relay center. This does not preclude the TRSP from conducting additional internal or external evaluations.

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TELECOMMUNICATIONS RELAY SERVICE

3. TRS SERVICE REQUIREMENTS (Continued)
- 3.1 Communications Assistant (CA) Standards (Continued)
- 3.1.12 Customer Complaints

Customer complaints are handled promptly with immediate responses to correct any complaint caused by TRS personnel or technical problems within the TRSC or subtending networks owned or leased by the TRSP. Complaints that involve any of the LEC's, CLEC's or IC's in New York State are referred to them directly or to the Auxiliary Relay Service who represent them on TRS matters. Legitimate complaints must be reported to the FCC twice each year or more frequently as the FCC dictates, with copies of the reports sent to the New York State PSC and the Auxiliary Relay Service. Customer complaints may be reported directly by TRS users or Auxiliary Relay Service and if 25 or more complaints are received in a given calendar month, this may warrant review and consideration of the matter by TAFNY except for months in which disastrous type situations beyond the control of the TRS occur. Any situations, which may impact service levels, should be reported immediately to Auxiliary Relay Service or TAF.

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TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS

This section of the tariff lists and describes the specific operational functions performed by the TRS. The operational functions listed here are the elements, which will be evaluated as technical service criteria, binding under the life of this Tariff. The categories of functions are as follows:

4.1 Mandatory

Items 4.1 to 4.22 are specific operational functions or requirements that are offered by the TRSP as part of their service. Failure to provide any of the mandatory requirements will automatically violate the tariff when the failures result in excessive complaints.

4.2 Number Requirements

Any costs incurred in establishing 800, 888, 877, 711 and 900 numbers for access to TRS are the responsibility of the TRSP and are included in the CMOU price.

4.3 Location

A primary location in Syracuse, NY with sufficient CA's available for NYS calls. This location will handle an average of 80% of daily traditional TRS calls. Other TRSC sites in NY or any state, can handle 20% of the calls including Captioned Telephone Service and all Spanish or Speech to Speech Relay calls.

(N)

4.4 Hours of Operation

The Relay Service is operational with full service 24 hours per day, every day of the year.

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TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS (Continued)

4.5 Call Carriage

The Relay Center processes all New York State intrastate calls under terms of this PSC Tariff. Interstate calls are the responsibility of Interexchange Carriers (IC) according to FCC directives and are not part of this Tariff. However, customers can dial 711 or 800 type numbers for access to both intra and interstate calls from the same TRSC established in this Tariff. All intra-LATA calls except Coin Sent Paid are returned to the originating callers LEC or CLEC for billing unless the calling party requests a different Carrier for intra-LATA Toll or inter-regional calls.

4.6 Intrastate

Intrastate inter-LATA calls must be in compliance with all applicable regulations, throughout the life of this Tariff.

4.7 Providing Qualified Staff

The TRSP provides training to ensure that CA's effectively meet the specialized communications needs of individuals with hearing and speech impairments. CA's have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech impairment culture, language and etiquette. The TRSP also complies with all federal, state and local equal opportunity laws including but not limited to Executive Order 11758, dated January 15, 1974, and Part 60-741 of the Code of Federal Regulations.

Issued in Compliance with order in Case 03-C-1647, dated January 20, 2004

Issued by: Warren D. Hannah, Director of Tariffs, Overland Park, Kansas

TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS (Continued)

4.8 Charges to Persons Originating Calls to Relay Center

Persons placing calls through the Relay Center will not be billed additional charges for services provided by the TRSP. Such persons will be charged the appropriate rates for a call, as stated in their carrier's tariff and be billed as a call between the originating customer and the called party. Completed calls which are interLATA in nature will be billed to the originating caller by the carrier completing the call from the Relay Center to the called party. Completed calls which are intraLATA can be completed by the TRSP but EMR billing records of these calls will be returned to the originating caller's local exchange provider. The charges for such calls shall be billed to the originating caller by such caller's local exchange provider, and all monies collected shall remain with such local exchange provider. No separate charge shall be assessed against persons originating calls through 711 or the toll free telephone numbers to the Relay Center. The TRSP is responsible, as a cost of doing business, for all costs associated with the 711 and the toll free 800 type and 900 numbers used to access the Relay Center.

4.9 Confidentiality of Calls

Consistent with the obligations of common carrier operators, and subject to all applicable provisions of law, all calls shall be confidential and shall remain confidential. No written or electronic script shall be kept beyond the duration of the call. CA and supervisory personnel shall not reveal information about any call, except the minimum necessary for billing purposes, including the information described below. CA's are required to sign a pledge of confidentiality which, consistent with the obligations of common carrier operators, promises not to disclose the identity of any callers or fellow relay operators or any information learned during the course of relaying calls, either during the period of employment as an operator or after termination of employment. When training new CA's by the method of sharing past experience, trainers shall not reveal any of the following information:

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TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS (Continued)

4.9 Confidentiality of Calls (Continued)

- a. Name, gender, or age of parties of any call
- b. Originating or terminating points of any call
- c. The content of the information conveyed

CA's will not discuss, even among themselves or their supervisors, any names or specifics of any relay call, except as required in the course of resolving complaints. To clarify how to process a particular call, CA's may discuss the general situation with which they need assistance in order to clarify how to process a particular type relay call. CA's are trained to ask questions about procedures without revealing names or specific information that will identify the caller.

Watching or listening to actual calls by anyone other than the CA is prohibited except for training or monitoring for quality.

The TRSP has written policies to preserve confidentiality. Such policies include protocols that employees are directed to use to prevent unintentional disclosure of relayed conversations. A copy of the Confidentiality Policy has been provided to TAFNY.

A CA or supervisor who, after investigation, is found to have violated the confidentiality rules and regulations shall either be terminated immediately or be given a warning and automatically terminated the second time a violation occurs.

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TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS (Continued)

4.9 Confidentiality of Calls (Continued)

The TRSP is restricted to collecting only that personal information necessary to provide and bill for the relay service being rendered. This information shall not be used for any other purpose, unless, under standard operating practices, the information is necessary to respond to a customer complaint or as required by law, to cooperate with legitimate governmental investigations.

Customer Profiles -- A PC based customer profile is available to any TRS user who wants to have a record of such call characteristics as:

- a. A preferred Long Distance Carrier or Regional Carrier
- b. A preferred type of service such as VCO, 2 Line Service or HCO
- c. Relay call block request.
- d. Preferred greeting to be used by a CA
- e. Any new items developed after this Tariff is issued which will improve the use of TRS for the caller.
- f. Speed Calling List
- g. Blocked Numbers
- h. Language Preferences

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TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS (Continued)

4.9 Confidentiality of Calls (Continued)

Other Profile Use: The aforementioned Customer Profile can contain certain information provided by the LEC's, CLEC's or IC's including:

- a. Call restrictions placed on a caller for non-payment of Long Distance, Regional or Local service when such data is submitted by Auxiliary Relay Service, an agent for TAFNY, or through the TRSP's own Customer Service group on behalf of a carrier.
- b. Blocking requests for harassing calls when provided through Auxiliary Relay Service, TRSP Customer Service and, or local police.
- c. Any normal Customer Profile requests as described above, when provided by Auxiliary Relay Service. Data required to satisfy a customer complaint when requested by Auxiliary Relay Service and consistent with privacy issues described in this section.

All profile data is considered LEC property to be given to a new TRSP upon expiration of this Tariff.

4.10 Emergency Calls

911 type emergency calls should be dialed directly but under current FCC requirements, the NYTRS has satisfactory procedures for receiving, transmitting and tracking emergency calls. CA's are trained to forward such calls to appropriate Public Service Answer Points (PSAP'S). An emergency plan satisfactory to the LEC'S was made available to TAFNY prior to the service date. This plan includes a 911-type database to permit a CA to direct an emergency call to an appropriate PSAP (as directed by the FCC).* This database will become the property of any future TRSP at the end of the TRS Tariff period.

* Sprint will continue to direct an emergency call to the nearest PSAP pending the FCC's review on how TRSP providers should direct an emergency call to the appropriate PSAP. Sprint will comply with the FCC's final determination regarding the direction of calls to PSAPs.

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TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS (Continued)

4.11 Equipment

The TRSP furnishes all necessary telecommunications equipment and software necessary to facilitate a telephone conversation between the voice telephone callers and a non-voice telephone caller who uses a text telephone (TTY) or Personal Computer (PC) in place of a telephone. The transmission circuits meet or exceed FCC inter-exchange performance standards for circuit loss and noise. Telecommunications equipment including CA terminals are capable of receiving and transmitting in both Baudot and ASCII codes, with Baudot as the primary setting and are able to access and be accessed by computers of up to standard baud rates via ASCII codes. Standard Baudot or Turbo Baudot are both accepted by the TRSC. The TRSC is capable of automatically identifying incoming Text Telephone signals as Baudot, ASCII, or voice. Speech to Text automation may be used as part of this tariff offering.

4.12 Automatic Number Identification (ANI) and II Codes

The TRSP provides that ANI and Class of Service identification such as ii digits (for Coin, Inmate, or Hotel/Motel) is seen by the CA on all incoming calls.

4.13 Facilities and Network Completions

TRS operates every day, 24 hours a day. TRS has redundant features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use. Adequate network facilities are provided for TRS so that with the projected call volume, the probability of a busy response due to network congestion is functionally equivalent to what a voice caller would experience using the voice telephone network. Current standards allow for network blockage of not more than one call in 100 [PO1 in the Poisson Probability Table].

4.14 VCO, HCO, 2 Line, Braille, Spanish, Speech to Speech, 900

The TRS provider shall provide these required specialty Relay services.

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TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS (Continued)

4.15 Usage

No restrictions shall be placed on the length or number of calls placed by customers through the relay center. Sequence calling and calls of any duration will be permitted during both peak and non-peak periods during each day of operation.

4.16 Branding

All public contact, including Marketing, Outreach, Complaints and Inquiries, require the TRSP to brand the contact by identifying the TRS as the New York Relay Service. At no time will the TRSP use such encounters to advertise their own brand name.

4.17 Average Answer Time

The TRS is designed to provide call answer performance standards that meet or exceed applicable FCC and PSC standards in effect. The current FCC standard is that 85% of all calls will be answered in less than 10 seconds.

4.18 Average Call Holding Time

The TRS and CA's will be technically and administratively proficient to maintain the current average call holding time of 4.5 minutes for all calls other than Speech to Speech.

4.19 Caller ID

The TRSP provides for Caller ID and complies with New York State regulations regarding this service. The TRSP uses an SS7 Platform to recognize blocked CNI calls from the calling party. The TRSP has explained to TAFNY how Caller ID is provided to meet Caller ID blocking requirements established by the New York State PSC. The TRSP will have provided outreach to the public before activating this service.

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TELECOMMUNICATIONS RELAY SERVICE

4. TRS TECHNICAL OPERATION REQUIREMENTS (Continued)

4.20 711 Voice Response System

711 VOICE RESPONSE SYSTEM has been provided to answer all 711 calls with a mechanized voice asking the caller to, "Touch 1 for a Relay Operator." If the caller touches "1" they will be answered in voice by a Relay CA. A TTY caller will not hear the announcement and after five (5) seconds will default to a CA answering in Baudot. A Computer caller will not recognize the Baudot and after five (5) seconds will be answered by a CA in ASCII. If the caller does not recognize ASCII, the call will revert back to a live CA and a Voice answer.

4.21 FCC Certification

The TRSP will be required to maintain FCC Certification at all times, and will be obligated to comply with all applicable Federal and State requirements governing TRS, now existing or becoming effective during the term of the Tariff.

4.22 The TRSC uses an SS7 platform.

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TELECOMMUNICATIONS RELAY SERVICE

5. CUSTOMER BILLING

The following regulations apply to customer billing on calls made through the New York Relay Service.

5.1 Intrastate Long Distance and Toll Call Billing

Intrastate inter and intra-LATA calls placed through the TRS are billed at no more than the rate that would apply if the calls had been placed without the use of the TRS Center. This rate includes any applicable discounts offered to TTY users by the TTY user's long distance carrier or by the local Telephone Company for an intra-LATA toll or local call. All charges to the calling customer must state on the bill that this was a TRS call.

5.2 Interstate Call Billing

Interstate TRS calls fall under FCC regulations but are expected to be the same as those shown for intrastate as shown in A. (above). All interstate and intrastate calls will be handled at the same TRS site with access via the existing 711 or 800 or 900 TRS access numbers.

5.3 Billing for Long Distance Services

Calls for Long Distance IXC's other than the default IXC of the TRSP will be handed off to the IXC requested by the TRS caller initiating the call. The hand off will be in a FGD format via an Access Tandem serving the TRSC location. The TRSP will be responsible to notify all IXC and Regional Carriers of the requirements needed for them to have a presence at the required Access Tandem. If Carriers make a choice not to participate with a presence at that Tandem, the caller can complain directly to the Carrier, the FCC or to the PSC if the Carrier is Regional. Once handed off to another Carrier, that Carrier is expected to treat the billing as if it were a direct dialed call and apply any TRS or TTY discounts they normally offer. To choose a Carrier, the caller can request the Carrier selection on a per call basis by informing the CA or have the choice put in his or her Customer Profile at the TRSC.

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TELECOMMUNICATIONS RELAY SERVICE

5. CUSTOMER BILLING (Continued)

5.4 Billing Arrangements for Local and Regional Calls

NYRS is able to handle any type of call normally provided by common carriers including collect, person-to-person, calls to or from hotel rooms, and calls charged to a third party. Local coin calls are free. Charges can be made to any New York local exchange carrier or inter-exchange carrier calling card as long as the carrier meets industry protocol including an EMR interface for billing. Callers will never be billed by NYRS but rather by their Carrier or Calling Card, Charge Card or Pre Paid Card. Information needed for billing will be passed from the TRSP to the Local and Regional Carriers in a standard "EMR" format for local and Regional calls even though the calls may be completed over the TRSP's own network. The Local and Regional Carriers can determine from the EMR records if any message unit or toll charges apply to the calls and then bill the caller on their normal monthly bill showing the call as a TRS call, and applying any applicable discounts for TRS or TTY calls, even though the actual call was completed via the TRSP network.

5.5 Call Billing Record

EMR records for toll billing are sent from the TRSP to the local or Regional Carrier for Intra LATA calls and include, at a minimum, the following:

- a. Telephone number or credit card number to be billed (NPA-prefix-line number) (NPA-NXX-ABCD).
- b. Originating telephone number (NPA-NXX-ABCD) Terminating telephone number (NPA-NXX-ABCD).
- c. Date
- d. Start time (the time the calling party is initially connected to the called party or to an answering machine at the called party's number or to a recorded message).

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TELECOMMUNICATIONS RELAY SERVICE

5. CUSTOMER BILLING (Continued)

5.5 Call Billing Record (Continued)

- e. End time (the time when either the called party or the calling party hangs up).
- f. Indication that the calls was a TRS call.

Call time is to the full second (the time in between start time and end time). The billing system records are automated and data between the TRSP and the other Local and Regional Carriers are sent automatically on a daily basis. The TRSP is responsible for any incorrect or missing EMR billing even if such records were damaged or lost by any subcontractors used in the billing process.

6. COMPENSATION TO TRS PROVIDER

The TRS provider submits a single bill each month to TAFNY in Suite 650 at 100 State Street, Albany, NY 12207. That bill is based upon the Conversation Minutes of Use (CMOU) handled by the TRS Center for the previous month for all intrastate calls. The bill contains the total CMOU and the dollar value due in compensation based on the amount agreed to between the TRSP, TAFNY and the PSC at the time this tariff was submitted for approval. For information purposes, the bill will also contain the interstate call volumes handled by the NYRC even though they are not covered by this tariff. At the time the bill is submitted, traffic data for the month is also provided to TAFNY from the TRSP as agreed to at the time this tariff was submitted for approval and shall include the traffic items agreed to at the time this tariff was filed.

Compensation will be paid to the TRS provider in the form of one check from TAFNY on behalf of the Local and Long Distance Telephone Carriers of NY. A check will be issued to the TRSP within 45 days of receipt of its bill.

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Issued by: Warren D. Hannah, Director of Tariffs, Overland Park, Kansas

TELECOMMUNICATIONS RELAY SERVICE

6. COMPENSATION TO TRS PROVIDER (Continued)

6.1 Amount of Compensation for Billed CMOU's

Payment will be made based upon the dollar amount for CMOU as outlined in the Memorandum of Understanding between TAFNY and Sprint filed under confidential status at the Commission. That dollar amount per CMOU will remain confidential between TAFNY, the PSC and the TRSP, subject to any requirement of law.

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The CMOU will also be subject to a monthly discount based on the following:

- a. Full payment per CMOU when average monthly average Call Duration is 4.5 and 5.0 minutes or less.
- b. Payment per CMOU reduced by 10% when monthly average Call Duration is between 5.0 and 6.0 minutes.
- c. Payment per CMOU reduced by 25% when monthly average Call Duration is 6.1 minutes or greater.

6.2 Right to Terminate TRSP for Failure to Meet Standards

When Average Call duration exceeds 6.0 minutes for two consecutive months, TAFNY and the PSC reserve the right to cancel and nullify the Tariff agreement with the TRSP as a violation of service criteria. The same cancellation policy holds true for two consecutive months in which customer complaints or Answer Time Results exceed the limits of this Tariff or the TRSP fails to comply with any material obligation or performance requirement set forth in this Tariff.

Issued in Compliance with the order in Case 06-C-0524, dated July 25, 2006

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TELECOMMUNICATIONS RELAY SERVICE

6. COMPENSATION TO TRS PROVIDER (Continued)

6.3 Audit Provisions

No other compensation will be paid to the TRS service other than the agreed to monthly CMOU payment. Every year, at the expense of the TRSP (at a cost not to exceed \$10,000), TAFNY reserves the right to audit all information necessary to insure the accuracy of the CMOU billing and all traffic statistics. TAFNY shall have the right to conduct additional audits, at any time, at its expense. The auditors will be members or representatives of TAFNY. The timing and duration of the audit will be mutually agreed upon by the TRSP and TAFNY.

6.4 Assessments on Telecommunications Carriers to Fund TRS

Pursuant to the terms of Opinion 98-10 issued by the New York State Public Service Commission in Cases 94-C-0095 and 28425 on June 2, 1998, all regulated telecommunications carriers operating in New York State are required to pay to TAF, at such times as TAF shall require, an assessment based on each such carriers relative regulated intrastate, gross revenue, net of payments made to other carriers, Such assessments shall be determined by TAF and used to fund TRS and other programs specified by the Public Service Commission.

Issued in Compliance with order in Case 03-C-1647, dated January 20, 2004

Issued by: Warren D. Hannah, Director of Tariffs, Overland Park, Kansas

Appendix O: TAF Order 98-10

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

OPINION NO. 98-10

- CASE 94-C-0095 - Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market
- CASE 28425 - Proceeding on Motion of the Commission as to the Impact of the Modification of Final Judgment and the Federal Communications Commission's Docket 78-72 on Provision of Toll Service in New York State

OPINION AND ORDER ESTABLISHING ACCESS CHARGES
FOR NEW YORK TELEPHONE COMPANY AND
INSTITUTING A TARGETED ACCESSIBILITY FUND

Issued and Effective: June 2, 1998

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

COMMISSIONERS:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett

CASE 94-C-0095 - Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market

CASE 28425 - Proceeding on Motion of the Commission as to the Impact of the Modification of Final Judgment and the Federal Communications Commission's Docket 78-72 on Provision of Toll Service in New York State

OPINION NO. 98-10

OPINION AND ORDER ESTABLISHING ACCESS CHARGES
FOR NEW YORK TELEPHONE COMPANY AND
INSTITUTING A TARGETED ACCESSIBILITY FUND

(Issued and Effective June 2, 1998)

BY THE COMMISSION:

INTRODUCTION

The core issue in this phase of these proceedings is the level of the carrier access charges¹ levied by New York Telephone Company d/b/a Bell Atlantic-New York (New York Telephone) on toll or interexchange carriers for origination and termination of calls upon its local network. Access to this network is essential for any long-distance carrier doing business in New York State. The genesis of this phase was the interexchange carriers' claim, supported by the Consumer Protection Board (CPB), that excessive access charges inflate intrastate toll rates, constrain toll growth, and give New York Telephone an unfair competitive advantage as it fully enters the

¹ An access charge is a charge made by a local exchange carrier for use of its local exchange facilities for a purpose such as the origination or termination of traffic that is carried to or from a distant exchange by an interexchange carrier.

toll market. For its part, New York Telephone proposed a revenue-neutral rate redesign, eliminating time-of-day discounts and instituting a new presubscribed line charge.

Another core issue concerns the creation of a Targeted Accessibility Fund (TAF), to support Lifeline, E911, and Telecommunications Relay Service (for the hearing impaired), on an explicit, competitively neutral basis. Carriers propose to recover TAF outlays through a surcharge on customer bills.

Upon review of the evidence presented, the recommended decision and the parties' exceptions, we conclude that promoting competition and improving economic efficiency require an immediate reduction in New York Telephone's carrier access charges, in a manner that precludes any impact on basic local service rates, and that passes these savings on to toll customers as toll carriers have pledged to do.¹ As to design of New York Telephone's access charges, the time-of-day discounts will be retained and proposals to institute a presubscription charge are rejected. Finally, the Targeted Accessibility Fund will be established, without the surcharge.

BACKGROUND

The Competition II Proceeding

In the Competition II Opinion and Order,² we established principles for a universal service policy for residential customers. Among other things, we identified the following as attributes of basic local telephone service:

1. Single party access line
2. Access to local/toll calling
3. Local usage
4. Tone dialing
5. Access to emergency services
6. Access to assistance services
7. Access to telecommunications relay services

¹ See Cases 96-C-0603 et al., Proposed Bell Atlantic/NYNEX Merger, Opinion No. 97-8 (issued May 30, 1997), p. 31.

² Case 94-C-0095, Opinion No. 96-13 (issued May 22, 1996).

8. Directory listing
9. Privacy protections.

We charged the parties with developing details to implement an explicit, competitively neutral, targeted funding mechanism to support programs such as Lifeline, emergency services (911), and the Telecommunications Relay Service. With regard to affordable rates, we reasserted the long-standing policy to ensure that basic services are affordably priced, noting that the incentive rate plans for New York Telephone and Rochester Telephone afforded such rates to 95% of the local telephone customers in the State. Finally, we initiated a further phase of that proceeding to consider the overall level of interexchange carrier access charges and universal service funding.

On June 10, 1996, we further charged the next phase of these proceedings to make recommendations related to the definition of basic service and its universal availability, and carrier access levels and rate design, in the context of the transition to competition. We also charged this phase with addressing whether basic service is priced below its cost and, if so, to what extent must it remain priced below cost to maintain universal service. Finally, the instituting order consolidated Cases 94-C-0095 and 28425, for the purposes of reaching a permanent solution to the designated carrier problem and of examining carrier access costs.

Procedural History

The interexchange carriers viewed the central issue as the level of intrastate carrier access charges levied by New York Telephone, and sought an immediate, substantial reduction of these charges to their incremental cost, proffering cost studies and testimony to bolster their allegations. New York Telephone, in contrast, asserted that its rates, including access charges, were determined on a company-wide basis, without regard to the cost of particular services; that the Commission had no authority

to reduce access charges below the levels established in its Performance Regulatory Plan (PRP);¹ and, therefore, that there were no evidentiary issues. The Bell Atlantic/NYNEX merger and the state approval determinations, along with the continuing federal judicial and administrative litigation under the Telecommunications Act of 1996 (the Act), punctuated the schedule of this phase.

On November 26, 1996 Administrative Law Judge Eleanor Stein delineated four issues to be decided in this phase. The first, and most immediate, concerned an interim extension of the Designated Carrier Plan (DCP), regarding pooling and independent companies' access charges which had been arrived at by the parties and approved, with clarifications, in September 1996.² The second group of issues concerned universal service funding and comprised two distinct undertakings: the Targeted Accessibility Fund and a possible second fund, if necessary, to ensure affordable basic rates for companies not under long-term incentive plans. This inquiry implicated another issue, controversial among the parties at the time, as to whether any revenues from such a fund should be available to New York Telephone to indemnify it against any diminution of its interexchange access revenues. The third issue concerned the level and design of interexchange access charges; and the fourth entailed an examination of the discount rate the Commission was to establish, pursuant to the Act, for schools, libraries, and rural health care providers.³ Working committees of the parties, facilitated by Staff, were formed to address

¹ A seven-year performance-based incentive regulatory plan for New York Telephone was adopted in August 1995. Case 92-C-0665, Performance-Based Incentive Regulatory Plan, Opinion No. 95-13 (issued August 16, 1995).

² Cases 94-C-0095 et al., Order Adopting Agreement With Clarifications (issued September 18, 1996).

³ 47 U.S.C. §254.

collaboratively the discounts for schools, libraries,¹ and rural health facilities, and the TAF.

In January 1997, parties filed comments concerning the impact of the Act and FCC regulations on interstate access charge issues. In February 1997, an effort was made to facilitate joinder of issue among the parties, in light of the complexity of the concerns before the group and the range of viewpoints, by having the parties offer off-the-record presentations of their general views on the advisability of reforming carrier access charges in the environment of full service and network element competition.

Parties indicated concern that our determination in Cases 95-C-0657 et al. (the Network Elements proceeding), regarding costs for network elements, would affect the testimony they intended to file in these proceedings and the method and outcome of the costing inquiry in the access charge context. Subsequently, the litigation schedule in this case was revised to accommodate the Network Elements proceeding decision schedule. Parties were informed that testimony should identify and assign costs to those aspects of any remaining network elements, if any, that, taken in conjunction with those already assigned a price by the Commission, constitute the package defined by the Commission as basic local exchange service. In June 1997, AT&T Communications of New York, Inc. (AT&T) moved for streamlining the litigation process by appointment of a special master to determine cost issues; New York Telephone and MCI Telecommunications Corporation (MCI) opposed the request,

¹ The working group on schools and libraries discounts became the New York Committee for Schools and Libraries, which arrived at a consensus plan. Following several hundred comments upon the plan, and a final determination by the Federal Communications Commission (FCC) adopting a plan for universal service support for schools, libraries and rural health care providers, we adopted discounts for services for schools and libraries tracking the federal plan. (Cases 94-C-0095, et al. Opinion No. 97-11, issued June 25, 1997).

preferring the existing litigation process, and the AT&T request was denied.

The parties proceeded to file testimony, responsive testimony, and pretrial briefs. An on-the-record evidentiary hearing was held in August 1997, producing a transcript consisting of 1,097 pages; 51 exhibits were admitted into evidence. Following the hearing, Staff¹ requested additional information from the parties concerning rate design, local exchange cost studies, and interexchange carrier flow-through of any carrier access charge reductions. Moreover, as a result of issues that came to light at the hearing, an August 27, 1997 ruling by Judge Stein required parties to modify their cost studies to reflect four concerns: exclusion of toll usage costs and revenues from basic service; inclusion of flat rate usage costs and revenues; modification of local usage costs resulting from identification of intrabuilding (central office) calls; and inclusion of retail costs associated with basic local service. Accordingly, revised cost studies, and comments on those studies, were filed in November 1997. Finally, comments, briefs, and reply briefs were filed by New York Telephone, AT&T, MCI, Sprint, ALLTEL New York (ALLTEL), CPB, Time Warner Communications Holdings, Inc. (Time Warner), Frontier Telephone of Rochester, Inc. (Frontier), WorldCom, Inc. (WorldCom), Empire Association of Long Distance Telephone Companies, Inc. (Empire/ALLTEL), Small Company Group, and Bell Atlantic Mobile, Inc. (Bell Atlantic Mobile).

On January 23, 1998, a Recommended Decision was issued. Initial and/or reply briefs on exception were filed by AT&T, Bell Atlantic, Bell Atlantic Mobile, CPB, Frontier, Taconic Telephone Corp., MCI, New York Clearing House Association (NYCHA), Small Company Group, Sprint, ALLTEL, and Time Warner.

¹ Department of Public Service Staff did not act as a party in this phase of the proceedings. An Advisory Staff team was coordinated by Daniel Martin and Angelo Rella.

The FCC Access Charge Order

The Telecommunications Act of 1996 (the Act) mandated that federal and state universal service support mechanisms should be "specific, predictable, and sufficient"¹ and that implicit subsidies had to be made explicit "to the extent possible."² In May 1997, the FCC reduced the level of access charges somewhat and, with perhaps greater impact, redesigned those rates, both to identify implicit universal service subsidies and to better align the charges with the way the costs are incurred.³

In its order, the FCC lowered total carrier access charges by \$1.7 billion nationwide. Roughly one fifth of these access charge reductions, approximately \$350 million, result from actual reductions to local exchange company access revenues, achieved by lowering those companies' price caps. The balance of the reduction is funded by increases to multiple line business and non-primary residential line rates, and through various other shifts of recovery of non-traffic sensitive costs from usage to flat rate charges. The FCC did not reduce interstate access charges to incremental cost; indeed, its reductions were, in absolute amounts, modest, to avoid feared disruptive effects on ratepayers and the affected local exchange companies. Instead, it adjusted interstate access rates to more closely align charges with costs, and relied on competition to further drive down the price of access in the marketplace.

The FCC recognized that states were initially responsible for identifying implicit intrastate subsidies.⁴ As a practical matter, however, the FCC action imposed considerable pressure on states to act for, without reductions in intrastate

¹ 47 U.S.C. §254(b)(5).

² 47 U.S.C. §254(e).

³ CC Docket No. 96-262, First Report and Order (released May 16, 1997) (the Access Charge Order).

⁴ Ibid., ¶¶ 10-13.

access charges, a call from New York City to Buffalo might eventually cost more than a call from New York City to San Francisco.

NEW YORK TELEPHONE'S ACCESS CHARGE LEVELS

The Parties' Contentions

New York Telephone argued current carrier access charges were reasonable. In the eyes of the interexchange carriers, however, they are excessive in comparison to the cost of providing switched access; and the interexchange carriers and CPB urged us immediately to reduce them to incremental cost. More specifically, the interexchange carriers took the position that rates for carrier access should be reduced to the Total Element Long Run Incremental Cost (TELRIC) for local access, on the ground that the identical network elements provide the identical functions in providing these two services: they are distinguished only by their purpose, not by any technical difference.¹ This position was succinctly summed up by its proponents as: "A minute [of access] is a minute is a minute."

New York Telephone offered numerous indications that competition is vibrant in both the local or switched access and toll markets, and that mandated access charge reductions are unnecessary. Time Warner and ALLTEL concurred. MCI, AT&T, and Sprint refuted this showing with their own demonstrations that only a small fraction of switched access lines are offered by competitors of New York Telephone. Time Warner, on the other hand, asserted that the market forces should be relied on to put downward pressure on access charges.

¹ The possible applicable statutory standards, costing approaches, and models were reviewed in Cases 95-C-0657 et al., Network Elements, Opinion No. 97-2 (issued April 1, 1997).

The Recommended Decision

In the recommended decision, the Judge found, with respect to New York Telephone, that (1) carrier access charges are at least three times the incremental cost of providing access; (2) on a forward-looking basis, the revenues associated with the provision of basic local service cover the costs of providing that service;¹ (3) under certain circumstances the disparity between the cost and price of carrier access can be anti-competitive; and (4) toll customers are unduly burdened by pricing access so far above cost.²

Based on these findings, the recommended decision called for a reduction in New York Telephone's access charges of \$120 million annually. The recommended decision suggested that toll carriers be ordered to flow these savings through to the broad range of their residential and business customers and to so indicate on customers' bills.

The recommended decision identified certain revenues that could be made available to allow New York Telephone to recover some of this loss. First, the revenue impact under the recommended decision would be moderated by applying \$23 million of revenues resulting from an increase in federal payments to New York Telephone in support of the Lifeline program; by our order, those revenues are now being deferred.³ Second, the recommended decision suggested we approve the proposal of the industry

¹ All cost studies were done on a forward-looking, not embedded, cost basis. On exceptions, New York Telephone and AT&T challenge some aspects of the analysis contained in the Staff Cost Report comparing basic local service costs and revenues. Although some of these exceptions will be granted, the net effect of these adjustments does not alter this finding.

² The recommended decision also recommended determinations concerning independent companies' access revenues. Because revenue losses are at issue, and several of these companies have requested ice-storm related relief, these issues have been severed for consideration of those impacts.

³ Cases 94-C-0095 et al., Universal Service and Access Charges, Order Directing Deferral (issued December 24, 1997).

collaborative process to establish a Targeted Accessibility Fund to support Lifeline, E911, and other services, and to add a surcharge to end-user bills to match each company's payment into that Fund. All regulated carriers would pay into the fund, based on a percentage of their intrastate revenues. Carriers providing the services would recover their net costs from the fund. The surcharge would generate an additional \$48 million in New York Telephone revenues. These payments would cover New York Telephone's TAF-related expenses which are currently being recovered through the company's rates, and offer the opportunity to reduce the company's access charges by that amount. The Judge recommended that New York Telephone could seek recovery for the balance of the access charge revenue reduction by demonstrating that it had complied with the standards established in the merger determinations.¹

The Parties' Exceptions

1. Policy Exceptions

a. In General

New York Telephone excepts only to \$49 million of the proposed \$120 million reduction, while observing that the recommended decision does not account for associated toll revenue reductions resulting from the need to lower its toll and individual calling plan rates to compete with interexchange

¹ Cases 96-C-0603 et al., NYNEX/Bell Atlantic Merger Petition, Order Approving Proposed Merger (issued March 21, 1997); Opinion No. 97-8 (issued May 30, 1997). The recommended decision also offered an alternative approach, pursuant to the two orders approving the Bell Atlantic/NYNEX merger: the reduction of access charges to forward-looking cost if New York Telephone failed to establish, in the near future, that its conduct has promoted competition, its customers have benefitted, and consumers have shared in the merger cost savings. Most parties take exception to this approach; MCI would read the alternative as proposing a subsequent access charge reduction in addition to that recommended by the Judge. On reply, New York Telephone urges rejection of this proposal. We decline to adopt it, as an immediate, partial reduction more appropriately addresses the need for economic efficiency and competitiveness.

carriers' reduced rates. It suggests new price ceilings should reflect any offset from the TAF, calculated as an exogenous revenue increase under the PRP. Time Warner excepts more broadly, asserting the record demonstrates that immediate reductions will disrupt competitor local carriers' revenues and business plans.

AT&T, Sprint, MCI, WorldCom, and CPB continue to urge an immediate full reduction to forward-looking cost. AT&T points out that the Judge recommended the \$120 million reduction as a minimum and characterizes this recommendation as conservative, arguing that the record supports at least an additional \$100 million reduction. Further, AT&T urges that the current access charge regime be replaced with a single, forward-looking, cost-based integrated rate structure, pricing carrier access and exchange access identically. Sprint views the recommended decision as a step in the right direction but believes the record and recommended decision findings support immediate full reduction to cost. It suggests, as an alternative, that we accept the recommended decision's reduction for now but set a schedule for a transition to access charges to forward-looking cost no later than the earlier of New York Telephone's interLATA entry or January 1, 2001.

In reply, New York Telephone reiterates its preference for a market-driven approach and asserts that no access charge reductions should be ordered until it is in the long distance market. In addition, it counters the views of AT&T and WorldCom that it would not be harmed financially by this loss of revenue.

b. Competitive Impacts

On exceptions, New York Telephone contends no party presented evidence to warrant any access charge reduction, and excepts to such proposed reduction as exceeds the revenues suggested for recovery.

New York Telephone also excepts to two of the findings supporting the recommended access charge reductions; in its view the record indicates market forces should be allowed to set

access charges.¹ It excepts to the findings that current access rates burden toll customers and give New York Telephone an unfair market advantage. New York Telephone asserts that the discrepancy between incremental cost and service prices results from shared fixed costs and is not evidence of inefficient pricing. In support, it notes prices in the highly competitive toll market incorporate roughly a 400% markup over incremental cost. Additionally, New York Telephone contests whether moving only one price toward incremental cost maximizes efficiency for a regulated firm, with its interrelated service prices, each with its own associated incremental costs. Finally, New York Telephone argues that it is the toll markup, not the disproportion between price and cost for access, that prejudices toll customers. On reply, CPB counters that excessive carrier access charges distort investment decisions and harm efficient toll competition.

New York Telephone also excepts to the recommended decision's finding that it may enjoy an anti-competitive advantage.² In support of its exception it adduces that the opportunity cost of selling access to toll carriers ensures it includes the contribution foregone from not selling access to a toll carrier in its profitability calculations for its intraLATA toll service.

¹ New York Telephone also excepts to the absence of consideration of the impact on its toll rates of a \$120 million access charge reduction (New York Telephone's Brief on Exceptions, p. 5, n. 3), and urges that if it estimates toll revenue impacts in its compliance filing, it be permitted to do so in conformance with the PRP methodology.

² New York Telephone excepts to the recommended decision's conclusion that the incumbent local exchange carrier is advantaged by the difficulties and delays inherent in policing imputation, asserting this conclusion is unsupported by the record and contrary to recent precedent.

c. The Merger Standards

The Administrative Law Judge found that the Commission, in the merger determinations, so modified the PRP as to allow reconsideration of New York Telephone's access charge levels to maximize competition and efficiency, and substituted a new standard for recovery for that agreed to by New York Telephone in the PRP. In agreeing to the terms and conditions attendant upon the Commission's approval of the merger, she continued, New York Telephone effectively waived its objection to consideration of its access charge levels in this phase of these proceedings. And while the Judge accepted New York Telephone's view of the standards for modification of access charges--i.e., that access charge reductions may be required if necessary to promote competition or improve economic efficiency¹--she rejected New York Telephone's restrictive interpretation of the efficiency test, which limits it to the efficiency of New York Telephone. She found more reasonable and analytically useful the broader interpretation offered by the interexchange carriers: that we consider overall market efficiencies.

New York Telephone excepts to both the interpretation and the application of the merger standard. It excepts to the recommended decision interpretation of "improve efficiency" in the merger order to refer to market efficiency, reiterating its view that its own efficiency is what is at issue. In addition, it excepts to the conclusion that access charge reductions are necessary to improve market efficiency, the threshold under the merger orders. Sprint interprets the recommended decision to provide for reductions only if and when New York Telephone fails to meet the merger standards and, on reply, New York Telephone urges that interpretation.

¹ Cases 96-C-0603 et al., Proposed Bell Atlantic/NYNEX Merger, Opinion No. 97-8 (issued May 30, 1997).

d. Flow-through

CPB urges adoption of its proposal that all toll customers share in the flow-through of access charge reductions, and calls for monitoring of toll prices to prevent subsequent toll price increases. Sprint stands by its flow-through pledge, although asserting that the intensely competitive toll market will force flow-through even without regulatory oversight and seeking the latitude to decide where to apply reductions. But Sprint opposes the suggested requirement that access charge reduction flow-throughs be reflected on customers' bills, on the grounds that such bill entries are unnecessary, difficult to calculate under the various calling plans, expensive, and confusing to customers.

NYCHA and SIA assert, on reply, that their experience at the FCC indicates that only an explicit statement on end-user bills will ensure access charge reduction flow-through. CPB urges rejection of Sprint's request for discretion in directing the flow-through, reasserting the importance of flowing through reductions to all customers.

2. Exceptions as to the
Staff Cost Report

a. Introduction

We have recognized that contribution from non-traffic sensitive access charges served the objective of keeping down monthly charges for subscriber access to the system and promoting universal subscription to telephone company networks. Indeed, there was little or no dispute in these proceedings that the common regulatory practice has been to encourage or require local telephone companies to price services other than basic local service at profit maximizing levels in order to exact contribution from those services to hold down the rates for basic service.

In the instituting order, we mandated this phase of these proceedings to address whether or not, in fact, basic local service was subsidized by access charges. In defining this

inquiry for New York Telephone's costs and rates, the starting places were the definition of basic local service in the Competition II opinion and the costs assigned to the network elements considered in Cases 95-C-0657 et al.

New York Telephone argued consistently that the use of forward-looking cost studies for this purpose is an irrelevant exercise, inasmuch as it is entitled to recover in rates not only the forward-looking but the fully embedded costs of providing basic service, and it prepared the cost studies under protest. The interexchange carriers responded that the Act's requirement of explicit, competitively neutral universal service support compels the use of forward-looking cost models.

The Administrative Law Judge concluded that were the purpose of this exercise to set rates for New York Telephone's basic local service, its challenge to the use of TELRIC, as defined in the Network Elements proceedings, might be valid. But because we mandated this inquiry into the costs of basic local service in order to establish whether there is a subsidy for those costs, she considered forward-looking costs appropriate for this analysis.

At the Judge's request and in collaboration with her, Staff carried out an exhaustive review of the materials prepared by the parties, and the Judge adopted this Staff Cost Report. The principal conclusion of the Staff Cost Report was that the examination of New York Telephone's basic local service costs and revenues on a forward-looking basis reveals that revenues roughly equal costs.

b. General Exceptions

New York Telephone excepts to the use of TELRIC for identifying the cost of basic local service, asserting that while the recommended decision purports to use TELRIC only to determine universal service funding needs, it bases a rate reduction on TELRIC findings.

Further, New York Telephone excepts to drawing the conclusion that if there is no basic local service subsidy, there

is no universal service justification for access charges above incremental cost. It argues that if basic local service does not contribute proportionately to shared fixed and common costs, that shortfall must be made up by other services.

As to the general exceptions concerning the use of TELRIC, New York Telephone notes that "[n]o disagreement exists in the case concerning the proper economic test for a subsidy: a service receives a subsidy if the additional revenue the firm receives because it supplies the service fails to cover the additional costs that the firm incurs to provide the service."¹ But it asserts its rates must be set based on total costs, not only forward-looking but embedded, and that the recommended decision in fact used TELRIC analysis not for universal service purposes but for setting rates. MCI replies that the recommended decision properly used forward-looking costs to determine whether local service needs a future subsidy from other services.

The exception regarding the use of TELRIC is denied. The Staff Cost Report is not the basis for the recommended rate reduction, but illustrates the long-standing subsidy debate. New York Telephone does not claim it cannot cover TELRIC costs at the rate recommended here. Nor do the data indicate otherwise. Indeed, as to the specific Staff Cost Report cost and revenue inclusions and exclusions, these determinations on exceptions result in increasing the adjusted contribution to local service from a positive \$8 million to a positive \$85 million, approximately 3% of local service revenues.

c. Specific Exceptions

i. Inclusion of Interstate
Access Charge Revenues

New York Telephone argues the Staff Cost Report improperly included \$218.5 million of interstate access charge revenues from the carrier common line (CCL) charge. In its view, attributing revenues from a non-local service, that is,

¹ New York Telephone's Brief on Exceptions, p. 10.

interstate toll, to basic local service is inappropriate because (1) the revenues are uncertain; (2) the CCL charge is associated causally with interstate, not local service; and (3) only the revenue associated with supplying basic local service should be considered in measuring incremental revenue from supplying an additional basic local service unit.

AT&T, supported by CPB, defends the Staff Cost Report's inclusion of these revenues on the grounds that Staff was required to include the revenues associated with the 25% of loop costs allocated to the interstate jurisdiction because it included 100% of the cost of the local loop, without recognizing jurisdictional separations.

The exception is denied. Although the CCL revenues are generated from a rate imposed on toll usage, and thus are derived from toll service, it is important to recognize that, in the long run, the level of revenues collected is tied to the level of basic service costs; these revenues are intended by the FCC to cover a portion of the cost of the local loop. Furthermore, even if the CCL revenues were ignored, basic service revenues would still roughly equal the cost of providing basic service, falling short of those costs by less than 5%.

ii. Non-recurring Charges

MCI claims Staff's analysis is erroneous in that it, like New York Telephone's cost studies, includes the expenses for non-recurring charges but fails to incorporate the revenues associated with the expenses. MCI is incorrect. New York Telephone filed revised cost studies with its Initial Brief that included \$152 million of non-recurring revenues, which were included in Staff's adjusted local service contribution studies. MCI's exception is denied.

iii. Cost Estimates for Local Switching

New York Telephone excepts to Staff's approach to estimating the cost of local switching, asserting that it violated the fundamental rule that rate computation must be consistent with rate application. New York Telephone also contends that the cost of an intraoffice call equals the cost for the originating plus terminating portions of an interoffice call; in Staff's view, the relevant cost of an intraoffice call equals half the cost of an interoffice call.

On reply, AT&T asserts the only record data setting forth a specific method for calculating these costs is AT&T's cost study documentation in the Resale/Network Elements Proceeding. It charges New York Telephone's workpapers fail to support its claim that the minutes used to determine local switching unit costs were developed according to its exception, and it argues that New York Telephone's method is unsound.

New York Telephone has not supported its contention that the cost of an intraoffice call is the same as the cost for the originating plus terminating portions of an interoffice call. Also, we reject its contention that the costs at issue only pertain to the line side of the switch because the trunk side functions are dealt with separately in its analysis. In fact, although the costs of ports on the trunk side of the switch are captured in other rate elements, the same holds true for the costs of the line side ports. What is at issue here is the cost of the switching components between two ports.

New York Telephone has not provided evidence to support its rate computation (i.e., that the minutes in the denominator of the calculation are the claimed total half call minutes). Absent such a showing, we have no assurance that a correction to the application of the rate will not exacerbate the error associated with the computation of the rate. Accordingly, New York Telephone's exception is denied.

iv. Application of the Tandem
Trunk Port Rate

AT&T does not appear to except to the recommendation to adopt New York Telephone's proposed rate design charging separately for the trunk ports on either side of the tandem switch. AT&T excepts to Staff's computation of the tandem trunk port rate approved in Opinion No. 97-2, consistent with New York Telephone's claim that the minutes of use relied upon in the calculation be consistent only with the costs related to a single tandem trunk port. In AT&T's view, the minutes of use implied by the traffic factors used to develop the unit costs from the switch investment were based upon "suspect" New York Telephone workpapers. In reply, New York Telephone asserts procedural issues: first, that issues litigated in its Resale/UNE proceeding cannot be relitigated here; and, second, that AT&T failed to raise the issue of tandem trunk traffic in the evidentiary phase and, therefore, may not raise it on exception. Substantively, New York Telephone counters that because tandem trunk traffic is a combination of primary tandem and overflow traffic from subtending end offices, there is no reason tandem and end office trunks should display similar traffic characteristics.

The application of the trunk port rate separately for the ports on either side of the tandem that New York Telephone proposed, and Staff recommended, is preferable, and the exception is denied. As explained in the Staff Cost Report, if AT&T's proposal were to be adopted, the output generated by the Hatfield model would need to be restated on a per-individual-trunk basis before averaging with the New York Telephone cost figure. However, Staff concluded no adjustment was warranted to the trunk port rate approved in Opinion No. 97-2 because other factors, such as an understated per tandem investment figure in the Hatfield model, mitigated the resulting overstatement of costs.

AT&T's exceptions entail resolutions adjusting the AT&T estimate upward to reflect a higher input for tandem switching costs, halving the resultant AT&T cost to reflect only the port

on one side of the tandem, possibly adjusting the New York Telephone estimate downward to correct for an understated tandem minute annualization factor (if AT&T's argument is correct), and finally averaging the resultant AT&T and New York Telephone estimates. Even if the sum of all these adjustments were to change the final port costs by a factor of two, applying the trunk port rate only once would change the total level of annual local usage costs by roughly \$18 million. Therefore, AT&T's exceptions are denied.

v. Inclusion of Special Pension
Enhancement Costs

New York Telephone alleges on exceptions that Staff improperly excluded from its calculations \$139.5 million of special pension enhancement (SPE) expenses. In the wholesale discount phase of Case 95-C-0657,¹ New York Telephone had urged that these costs, related to retail service, be excluded from the calculation (thereby reducing retail costs and, correspondingly, lowering the wholesale discount) because they were non-recurring; we rejected that proposal. Here, New York Telephone applied an adjustment to include those costs, and it maintains that Staff failed to adopt that adjustment.

In reply, AT&T correctly notes that Staff's retail costs did consider the SPE expenses. Attachment B of the Staff Cost Report, which contains Staff's determination of retail costs, used the indirect expenses the Commission allocated to retail activities in Opinion No. 96-30. Thus, Staff's adjusted retail costs fully consider the SPE costs, consistent with Opinion No. 96-30. New York Telephone's exception is denied.

¹ Cases 95-C-0657 et al., Wholesale Discount Rates, Opinion No. 96-30 (issued November 27, 1996).

vi. Local Service Allocation Percentages

AT&T excepts to Staff's use of New York Telephone's claimed "local service percentages" for determining retail costs. For example, New York Telephone's 88% allocation of customer accounting expense was based upon access lines, which only removes non-local service lines and assumes all customer accounting expense for local service access lines is related to basic local service. According to AT&T, that is not the case; for example, toll and vertical services have customer accounting. Also, AT&T asserts, New York Telephone never provided evidence that 85% of its service orders will be for bare bones basic local service in a forward-looking marketplace in which services will be packaged.

AT&T's arguments have some merit. The Report adopted New York Telephone's adjustment, excluding vertical features costs and revenues. However, like basic service, vertical feature services have retail activity associated with them. New York Telephone's adjustment did not consider the related costs. We therefore determine the costs eliminated for features be increased by \$77 million as follows:

Vertical Feature Revenues	\$ 405 million
NYT's Current Wholesale Discount Rate	<u>19.1%</u>
Vertical Features Retail Costs	\$ 77 million

vii. Productivity Factor

AT&T excepts to Staff's use of a 10% productivity adjustment, pointing to additional savings resulting from the Bell Atlantic/NYNEX merger. In reply, New York Telephone notes that our decision relied upon in the Staff Cost Report was issued one month after the completion of the merger and took it into consideration. In addition, New York Telephone asserts that it faces competitive factors driving its retail costs upward, ignored by AT&T. The exception is denied, based upon the Resale/UNE determination.

Conclusions

1. Access Charge Levels

The institution of a surcharge to fund the TAF, although unanimously supported by the industry, can still be seen as an inadvisable local rate increase. Although toll customers as a group would presumably benefit from toll reductions in at least the same amount as the surcharge increase, these reductions would not flow through dollar-for-dollar to individual customers, and those using little toll would only experience the local rate increase, not the toll reduction.

Without the TAF surcharge, \$48 million applied by the Recommended Decision to reduce access charges becomes unavailable.¹ Accordingly, we have examined varying levels of reductions.²

One possibility is to mandate no reduction below PRP levels in New York Telephone's access charges at this time, as New York Telephone and facilities-based CLECs urge. New York Telephone argues that if there is sufficient development of competition in the market for local exchange or carrier access services, significant market share loss may force New York Telephone to reduce its carrier access charges of its own volition. And the facilities-based CLECs maintain that a reduction in New York Telephone's carrier access charges, while advantaging competitors in the toll market, disadvantages local

¹ Because the establishment of a TAF spreads the costs of local providers' Lifeline, E911, and Telecommunications Relay Services (for the hearing impaired) over all telecommunications carriers, New York Telephone will realize some positive balance of revenues above costs even without a surcharge; that balance can be applied to access charge reduction.

² New York Telephone offers that if access charges are not driven down by competition, \$50 million will be available for rate reductions in the later PRP years (New York Telephone Reply Brief on Exceptions, p. 4, n. 5). The PRP provides for \$25 million rate reductions in the years 2000 and 2001, to be determined (PRP, IV(B)(1)); we agree with New York Telephone that this might be an appropriate application of those reductions, but will not reach that issue at this time.

exchange competitors that have flourished in the generous margin afforded them between the cost and the price of providing carrier access. These parties favor allowing local exchange market competition to put downward pressure on access charges, and urge us to follow the example of the FCC which, while redesigning carrier access rates, did little to reduce them in absolute terms, preferring to rely on market forces. But we are persuaded by the interexchange carrier showing that current rates are uneconomic; accordingly, some reduction is required to promote competition and improve efficiency.

The \$120 million rate reduction recommended in the Recommended Decision, with collateral effects and without the \$48 million offset afforded by the TAF surcharge revenues, leaves New York Telephone the opportunity to seek recovery of considerable revenues by the end of Year 7 of the PRP. In light of the burden this might place on ratepayers, we reject this option.

On balance, we will adopt a substantial reduction in carrier access charges, but at a level below that of the recommended decision. A reduction of approximately \$85 million will be sufficient to conform intrastate intra- and interLATA access charges; would have no collateral rate effects inasmuch as New York Telephone does not compete for in-region interLATA customers; would leave the ratepayers with far less rate recovery exposure should New York Telephone establish it has met the merger standards; and would still afford considerable relief to the toll carriers. This level of reduction also still leaves room for a competitive local exchange market, as it develops, to drive access charges farther down.

2. Recovery Under the Merger Standards

The merger determinations established that we could reduce New York Telephone's access charges based on a finding that a reduction was necessary to promote competition or improve efficiency; and that New York Telephone could seek to recover the resulting revenue loss by showing that: (1) its conduct has

promoted competition; (2) customers have benefitted from competition, including price reductions beyond those mandated by the PRP; and (3) consumers have shared in the merger cost savings.¹

AT&T asserts, on exceptions, that consideration of recovery is premature and, ultimately, bounded: it agrees New York Telephone may seek to recover some portion of the revenue loss upon demonstrating its customers have shared in the merger cost savings; however, it asserts, it will not be entitled to dollar-for-dollar recovery, and the extent of the recovery lies in the future discretion of the Commission.

New York Telephone concedes it is exposed to access charge losses by reason of competitive inroads over time. A decision that it is necessary to expedite the customers' benefits from competition should not have the effect of indemnifying New York Telephone against these losses. Moreover, it is difficult to predict the competitive circumstances New York Telephone will face at the time it seeks recovery. Accordingly, we are ordering the reduction with the proviso that New York Telephone may seek recovery for revenue losses pursuant to the merger determinations; neither the conditions nor the probability of such recovery is addressed here.

New York Telephone's carrier access charge will be reduced by \$85 million. This is a reduction sufficient to give some relief to toll carriers and customers and to conform inter-

¹ Cases 96-C-0603 et al., supra, Order Approving Merger (issued May 30, 1997).

and intraLATA access charges.¹ Moreover, at this figure there are no cognizable associated net revenue losses.²

3. Competitive Local Exchange Carriers' Access Charges

Under our existing policy, competitive local exchange carriers are authorized to levy access charges subject to the constraint that their rates not exceed those of the largest carrier in the LATA without a showing that higher rates are cost-based and in the public interest.³ Accordingly, absent further action, the access charges of competitive local exchange carriers in New York Telephone's LATAs, and new entrants, must be reduced along with New York Telephone's. This link should be maintained. In what is an increasingly vertically integrated environment, with companies competing to provide both local and long distance service, access charges should be symmetrical.

4. Average Revenue Per Minute and Flow Through

Currently New York Telephone is realizing an average revenue per minute (ARPM) of \$0.0201 for its intraLATA carrier access charges, and an ARPM of \$0.0359 for its interLATA carrier

¹ By conforming intra- and interLATA access under this scenario, rates would average \$0.0201 per minute. Currently, however, the average rate per minute for intraLATA access in the upstate area is approximately \$0.0170 as a result of imputation failure of one of the company's optional calling plans, and a subsequent Commission order to reduce access charges further than provided for in the PRP. In order to avoid an additional imputation problem, upstate access rates should remain unchanged until the imputation deficiency is resolved.

² This level of reduction only reduces interLATA access charges. Because New York Telephone does not currently provide interLATA service in New York State, this reduction has no competitive effect on its toll charges. InterLATA service is not addressed in the PRP.

³ Case 94-C-0095, Universal Service (Competition II), Opinion No. 96-13 (issued May 22, 1996), p. 26.

access charges. Evening and night/weekend discounts differ in both the percentages and the time periods in which they apply. The ordered reduction will result in one carrier access rate and realize an average ARPM of \$0.0201, with the existing discount levels associated with downstate intraLATA access service and existing time periods associated with upstate intraLATA access now also applying to interLATA and downstate intraLATA access services. The rate elements will mirror the elements charged at the federal level, to the extent discussed herein. Additionally, we will continue to allow the upstate intraLATA ARPM to remain at current levels (approximately \$.017). This lower ARPM resulted from an imputation failure of one of New York Telephone's optional calling plans, and should remain at this level until the plan passes imputation. These changes will result in an estimated annualized revenue loss of \$85 million. The ARPM of \$0.0201 will replace the rate targets contained in the Plan.

AT&T, MCI and Sprint, in this proceeding, stated their intentions to flow through the carrier access charge reductions to their customers. We will require that these companies reflect their commitments by filing revised tariffs concurrent with New York Telephone's carrier access reduction, along with supporting documentation which shows that 100% of the reduction applicable to each company is being flowed through. We expect that these toll reduction proposals will benefit most customers, both business and residential.

NEW YORK TELEPHONE ACCESS CHARGE RATE DESIGN

Introduction

New York's intrastate access charge structure contains three elements: common line, local switching, and local transport. These categories roughly represent the different elements or functionalities of the network used to provide different aspects of what constitutes access. The common line charge represents the relevant portion of the cost of the local loop, considered non-traffic sensitive. Common line charges are paid by interexchange carriers based on minutes of use, and

subject to two time-of-day discount plans: for interLATA calling (15% for evening, 30% for night) and intraLATA calling (40% for evening, 65% for night).¹ Local switching rates are currently levied by minutes of use, with discounts for interLATA calling of 15% for evening and 30% for night use, and discounts for intraLATA calling of 40% for evening and 65% for night use. Local transport intrastate rates are a complex hybrid of minutes-of-use and flat-rated components, with time-of-day discounts applying to the minutes-of-use portion of the charges.

New York Telephone proposed rebalancing carrier access charges to conform to the interstate rate design.² The proposal entailed elimination of all time-of-day discounts; and, for common line charges, New York Telephone proposed establishing a flat-rated charge to interexchange carriers for each presubscribed line, comparable to the new FCC presubscribed interexchange carrier or PICC.

MCI, Sprint, and AT&T proposed an incremental-cost-driven access rate structure. They concurred in urging that the carrier common line charge be eliminated; that local switching and transport be priced at the rates established in the Network Elements Proceeding; that the intrastate access charge structure be conformed to the interstate; and that the time-of-day discount be ended. Time Warner proposed that intrastate access charges should complement the federal access charge reform efforts and urged that any changes be competitively neutral, decrease administrative burdens, and allow for an orderly transition to competition.

¹ In contrast, the interstate access charge structure has levied common line charges on end-users through the Subscriber Line Charge (SLC), with interexchange carriers paying the balance of the interstate common line charge based on minutes of use, without any time-of-day adjustment.

² New York Telephone noted that the PRP provides for it to request revenue neutral carrier access rate restructuring. PRP §IV(D)(6).

The Recommended Decision

The Administrative Law Judge's recommendations were first, to reduce the interLATA average revenue per minute (ARPM) to the intraLATA level and conform time-of-day discounts statewide and, second, to reject the proposals for a federal-style PICC or presubscription line charge. The net effect of these recommendations was to avoid incentives to increase off-peak toll prices; conform intra- and interLATA access charges; and spare end-use customers any new state-mandated presubscription charge.

The judge concluded as well that time-of-day discounts should be retained on the grounds that they were cost-based, as shown in the access cost studies filed by New York Telephone, AT&T, Sprint, and MCI, and that any rate restructure that would increase existing night and weekend carrier access rates could ultimately result in increases in end-user rates for those time periods.

The Parties' Exceptions

Generally, New York Telephone excepts to the rate design recommendations as contrary to the PRP provision allowing it to request revenue neutral rate restructuring subject to our approval but not, in its view, allowing us to impose an alternative proposal on it. It also raises specific objections, as do other parties.

1. The Presubscription Charge

New York Telephone proposed a flat-rated per-line charge to interexchange carriers for both intra- and interLATA presubscription, comparable to the federal PICC; it did not expect interexchange carriers to pass through this charge directly to their customers. With the exception of AT&T, which took no position, all other carrier parties supported the institution of a presubscribed line charge, in part to mirror the federal access charge structure. The recommended decision noted that a presubscribed line charge would lead over time to a

decline in access charges, inasmuch as access minutes are increasing faster than presubscribed lines. The Judge nevertheless recommended rejecting the proposal, on the grounds that it could be passed on directly to end-users and might burden mass market toll providers, as well as residential and small business end-users.

Sprint excepts to the recommended rejection of a presubscription charge, on the grounds that such a charge would promote consistency between state and federal mechanisms. In reply, NYCHA opposes Sprint's position, asserting customers should not have to pay an additional fixed charge absent deeper access charge cuts.

Sprint's exception is denied. The institution of a new flat rate increase, in addition to recent new FCC flat charges, would unduly burden customers, as the Judge found.

2. Time-of-Day Discounts

New York Telephone excepts to the time-of-day recommendations, citing unintended consequences resulting from the access price reductions. New York Telephone asserts the recommendations would actually increase evening and night intraLATA access charges in the upstate LATAs and the night intraLATA access charge in the Metro LATA; moreover, its upstate personalized rate plan would fail the imputation test. New York Telephone seeks sufficient pricing flexibility to maintain different inter- and intraLATA rates and different upstate and downstate discounts.

The exceptions are denied, leaving time-of-day discounts in place. To address the asserted imputation concern, upstate intraLATA access rates will be maintained as necessary to pass imputation. If New York Telephone chooses to voluntarily further reduce downstate access charges to maintain competitive flexibility, it may certainly do so.

3. Originating and Terminating Access

Although several parties urged that any access charge reductions should target terminating access, on the ground that these charges were less susceptible to competitive pressures, the recommended decision suggested evenly dividing the proposed reductions between originating and terminating charges, out of concern about unintended consequences of asymmetry.

On exceptions, MCI and WorldCom urge priority for reducing terminating access charges to economic costs, claiming no competitive alternatives exist for terminating access. In reply, New York Telephone adduces evidence of alternatives, including dedicated access, and unbundled network elements, an alternative for reaching all customers. New York Telephone also reiterates that originating and terminating access have the same costs.

The reduction should apply evenly to originating and terminating access, as any New York Telephone market share loss will affect both services; and there is no cost differential.

THE TARGETED ACCESSIBILITY FUND

In the Competition II opinion, we generally adopted the targeted accessibility fund (TAF) concept, designed to fund programs such as Lifeline, emergency services (E911), and Telecommunications Relay Service for the hearing impaired (TRS), on an explicit, competitively neutral basis.¹ In this phase of these proceedings, a collaborative working group (Working Group) of parties was formed, comprising incumbent and competitive local exchange carriers, interexchange carriers, and the Public Utility Law Project (PULP). The Working Group's meetings were facilitated by Staff, and it filed a report with the Judge.

¹ Case 94-C-0095, Opinion No. 96-13 (issued May 22, 1996).

The Working Group Report

Based on carrier responses to data requests and information provided by the Pool, the Working Group estimated TAF-eligible costs or foregone revenues at \$50 million for Lifeline, \$7.6 million for E911, and \$16.9 million for TRS. The total projected cost was estimated at \$74.6 million; however, subsequent additional federal Lifeline support reduced the state funding necessary by approximately \$25 million. Accordingly, the overall size of the TAF is reduced by that amount, to a total of approximately \$50 million.

The Working Group recommended that Lifeline funding be made available, for both the incumbent local exchange carrier and a facilities-based competitor, equal to the difference between the incumbent's non-Lifeline and Lifeline rate.¹

As to E911, the Working Group concluded that funded costs should include the costs incurred by the database administrator associated with the initial loading of data to its database, as well as the initial loading and recurring costs for other local carriers for collecting, processing, and submitting data to the database operator.² The trunking costs from the serving central office to the E911 tandem and the costs of provisioning up to two free trunks from the E911 tandem to the Public Safety Answering Points (PSAPs) will be recoverable through the TAF. The Working Group agreed that, for carriers unable to perform their own studies, the costs of the dominant incumbent local exchange carrier serving the LATA could be used as a proxy.

¹ If a competitor does not offer a service comparable to the incumbent local exchange carrier, its recovery would equal that of the predominant incumbent local exchange carrier in the LATA for a comparable service.

² New York Telephone, Frontier, and ALLTEL currently assess a \$0.03 per access line per month charge to counties to recover the ongoing costs associated with updating and maintaining their ALI databases. Therefore, ALI database operators will only be allowed TAF recovery for the initial loading costs associated with the operation of their databases.

As to the Telecommunications Relay System, the Working Group recommended that the costs of the operating center, currently operated by Sprint, as well as those associated with TRS Board meetings, auditing of provider data, and other Commission-authorized TRS functions, qualify for recovery.

The Working Group agreed that all regulated telecommunications carriers operating in New York State should be responsible for contributing to the fund. This included all local exchange providers, long distance companies, and cellular and Personal Communication Service (PCS) companies providing service on a facilities or resale basis. The Working Group reached a consensus regarding the basis for contribution to the TAF, conditioned upon the carriers being allowed to recover their assessments via an explicit surcharge on the end-users' bill. Each company contribution was to be based upon a percentage surcharge applied to its regulated, intrastate retail end-user revenues (excluding any revenues derived from services provided to other carriers, such as access, bottleneck billing and collection elements, wholesale services, or wholesale network elements).¹

In the absence of a Commission determination allowing carriers the ability to generate TAF contributions through an explicit surcharge on the customer's bill, the carriers were divided as to an alternative basis for assessment. New York Telephone urged assessment based on all net intrastate revenue; AT&T and Frontier proposed netting intercarrier access payments against that figure.

Upon implementation of the TAF, all carriers providing the targeted services would be eligible to receive payments from the TAF as reimbursement for their costs. Adjustments would be made to current revenue streams to offset any new TAF surcharge

¹ For administrative and cost savings reasons, the Working Group recommended that mandatory participation in the TAF be waived for extremely small carriers (under \$10,000 in assessable intrastate retail end user revenues), and no party objects to this threshold.

revenues. All parties agreed that every new dollar of TAF payment should result in a dollar decrease in existing rates, to the extent that the costs of the targeted programs are currently being recovered in existing rates.¹

The Working Group unanimously endorsed and recommended the New York Intrastate Access Settlement Pool, Inc. (Pool) as administrator of the TAF. The TAF administrator would be responsible for creating and distributing reporting forms, reviewing submitted data, issuing invoices to TAF participants, collecting TAF contributions, distributing TAF payments, and reporting to Staff and the Commission. The Working Group concluded that the TAF should be governed by an advisory board, consisting of a representative cross-section of telecommunications industry members and consumer representative organizations.

The Recommended Decision

The Judge's recommendation, generally, was to adopt the Report. However, since preparation of the Report by the Working Group, amendments to the Public Service Law were enacted concerning deregulation of cellular services. Parties were requested to address the effects of this change in their briefs on exceptions.

More specifically, the recommended decision adopted the surcharge (roughly .6% on a customer's total bill), and deemed the costs to be currently recovered through companies' rates, making approximately \$50 million available for rate decreases. Further, the recommended decision suggested that New York

¹ The concept of revenue neutrality was not extended to the competitive local exchange carriers. The Working Group concluded that a competitive local exchange carrier should be free to reduce its existing rates in response to any new inflow of revenue from TAF payments if it desires, but no requirement for such reductions should be imposed. The Working Group indicated that the competitive environment should be sufficient to control the need for competitive local exchange carriers to realign their rates in response to incumbent local exchange carrier reductions.

Telephone's portion of that \$50 million, approximately \$47 million, be applied to reduce carrier access charges.

The Judge also recommended conditioning the adoption of the surcharge upon also including the reflection, on the toll portion of customers' bills, of the rate decrease afforded customers as a result of flowing through access charge reductions.

The Parties' Exceptions

1. Application to Cellular Services

During the course of this phase of these proceedings, Bell Atlantic Mobile opposed requiring cellular and PCS carriers to participate in the TAF, on the grounds (1) that federal law preempted any such state commission action;¹ (2) requiring TAF funding by cellular alone, rather than all commercial mobile radio service (CMRS)² providers was both discriminatory and not competitively neutral; and (3) the TAF is an impermissible tax. The recommended decision adopted the Working Group proposal to assess all regulated telecommunications carriers for TAF contributions by dividing the statewide costs by total regulated intrastate retail end-user revenues generated by all carriers operating in New York. However, the recommended decision did not analyze the questions raised by the cellular carriers, instead requesting the parties to comment on recent amendments to the Public Service Law concerning cellular services.

On exceptions, Bell Atlantic Mobile reiterates its arguments, and asserts that the recent amendments suspend PSC jurisdiction, precluding the imposition on cellular services of

¹ See 47 U.S.C. §§332(c)(3)(A), Omnibus Budget Reconciliation Act, and amendments in the Telecommunications Act of 1996, specifying preemption of state rate regulation of mobile carriers, and the exceptions thereto where those carriers substitute for landline carriers.

² The FCC defines CMRS to include private paging, business radio services, land mobile systems, cellular, offshore radio services, some mobile satellite services, PCS, and others. 47 CFR §20.9.

TAF assessments. Chapter 684 of the Laws of 1997, signed into law on December 1, 1997, added to the PSL §5(6)(A), providing:

Application of the provisions of this chapter to cellular telephone services is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that suspension of the application of the provisions of this chapter shall cease to the extent found necessary to protect the public interest.

Bell Atlantic Mobile asserts that the PSL amendment severs any jurisdictional link the Commission may have had to impose TAF funding requirements on cellular services; it asserts that link was already restricted by federal legislation prohibiting state market entry and rate regulation of all CMRS services, including cellular. WorldCom, in contrast, asserts that cellular services should be assessed for the TAF, on the grounds that they compete with landline service, and are a premium service. WorldCom suggests the Commission impose an additional TAF charge on local carriers and allow them to recover it through their charges for service to cellulators. In reply, New York Telephone disagrees, viewing this proposal as an indirect violation of Chapter 684.

AT&T, meanwhile, recognizes that this Commission no longer has rate or certification of entry authority over cellular services, but asserts that CMRS providers must contribute to the fund in the same manner as wireline carriers. In its view, however, federal and state law require that providers of cellular services should have the discretion whether and how to recover TAF contributions from their subscribers. AT&T seeks clarification that all facilities-based carriers, including carriers that bundle local exchange carrier elements in order to provide Lifeline services, should be eligible to recover costs from the TAF.

2. Wireless E911

The Judge recommended that E911 wireline costs of database loading and trunking be recoverable from the TAF. AT&T urges, on exceptions, that CMRS providers' implementation of wireless E911 as required by the FCC also be recoverable from the TAF. AT&T cites recent FCC requirements that CMRS providers make E911 available concurrent with the establishment of a state funding mechanism to reimburse them for their costs. In AT&T's view, exclusion of these costs from TAF is not competitively neutral, and the TAF should be adjusted to accommodate these requirements as necessary in the future. In reply, New York Telephone asserts that funding for Wireless E911 services will not be necessary until an authorized agency requests wireless E911 capabilities. New York Telephone states that no such request has been made and, therefore, AT&T's exception is premature.

Discussion

Although we reject the Working Group proposal for establishment of a surcharge to fund the TAF, it nevertheless remains advisable to establish the TAF at this time, as a necessary vehicle to ensure that new entrants both contribute to and provide universal service. This is so even though New York Telephone, in the short run, will be both paying into and taking the lion's share out of the Fund. However, as the transition to competition in the local exchange market proceeds, the TAF will become increasingly significant. Accordingly, the Fund should be established as proposed by the Working Group, as modified by the recommended decision, with additional modifications.

First, as noted, the surcharge proposal is rejected, and carriers will be allowed to meet their TAF obligations through their current revenues. As to the alternative methods for assessing carriers' contributions to the Fund, we adopt the scheme offered by AT&T and Frontier, that is, assessment will be based upon relative regulated intrastate gross revenue, net of payments made to other carriers. As agreed by the Working Group,

these payments include carrier access charges, bottleneck billing and collection elements, wholesale service, wholesale network elements, and operator services when bundled with services purchased at wholesale. In our estimation, this funding assessment method most fairly represents the relative current burdens and benefits of the TAF. In order to implement this determination, Staff will reconvene the TAF Working Group to address the applicable mechanisms and governance issues.

Second, the exception as to recovery of E911 wireless costs from the TAF is denied. A stronger showing would have to be made to entitled wireless service providers to reimbursement from a fund into which they do not pay.

Third, we will grant the state law exception as to exemption of cellular services from any Fund charges; therefore there is no need to reach the federal law issues briefed by parties. Consistent with that determination, providers of cellular service at this time are also precluded from recovery from the Fund and from participating in its administration. It is expected that, should providers of cellular services choose to offer New York customers these services, they will want to avail themselves of the TAF and accept responsibility for their share of the TAF assessment. Moreover, we may review the necessity of assessing cellular services for universal service purposes, including the TAF, in such manner and at such time as complies with the Public Service Law.

CONCLUSION

As to the level of New York Telephone access charges, an immediate reduction of approximately \$85 million is ordered, as necessary for competition and efficiency. At this level, there are no additional associated revenue reductions; and this reduction will be offset by the \$23 million federal Lifeline increase. As to the New York Telephone access charge rate design, we generally adopt the Judge's conclusions, retaining time-of-day discounts and rejecting institution of a presubscribed line charge, but allowing New York Telephone

sufficient rate design flexibility to ensure it complies with imputation rules.

Finally, the TAF should be established, but it should not be funded through a surcharge and cellular services should not be assessed for it.

The Commission orders:

1. To the extent it is consistent with this opinion and order, the recommended decision of Administrative Law Judge Eleanor Stein, issued January 23, 1998, is adopted as part of this opinion and order. Except as here granted, all exceptions to that recommended decision are denied.

2. Within ten days of the date of this opinion and order, New York Telephone Company (New York Telephone) shall file tariff amendments consistent with this opinion and order, to become effective on July 1, 1998, to reduce its existing interLATA carrier access charges to a level that realizes an average revenue per minute of \$0.0201; and that produces interLATA access charge time-of-day periods with effective discounts of 40% in the evening period and 65% in the night/weekend periods, conforming to the current downstate intraLATA time-of-day discounts and upstate intraLATA time-of-day time periods. Further, New York Telephone Company shall file tariffs, within ten days of the date of this opinion and order, to become effective on July 1, 1998 to reduce its existing New York Metro LATA intraLATA carrier access charges to a level that realizes an average revenue per minute of \$0.0201, and that produces New York Metro intraLATA access charge time-of-day periods with effective discounts of 40% in the evening period and 65% in the night/weekend periods, conforming to the current downstate intraLATA time-of-day discounts and upstate intraLATA time-of-day time periods. Upon filing those tariff amendments, New York Telephone shall serve copies on all active parties to these proceedings. Any party wishing to comment on the tariff amendments may do so by submitting 10 copies of its comments to the Secretary within 15 days of the date the amendments are

filed. The tariff amendments shall not take effect on a permanent basis until approved by the Commission but may be put into effect on a temporary basis on one day's notice, subject to refund if found not to be in compliance with this opinion and order.

3. New York Telephone Company shall file tariffs, to become effective no later than October 1, 1998, that reflect the carrier access charge rate design discussed in this opinion and order.

4. AT&T Communications of New York, Inc., MCI Telecommunications Corporation and Sprint Communications Company, L.P., shall file tariffs within ten days of the date of this opinion and order, to become effective on July 1, 1998, to decrease their annual intrastate toll revenues by an amount equal to the reduction they will receive in intrastate carrier access charges to New York Telephone Company, with supporting documentation that the reduction applicable to each company will thereby flow through, in its entirety, to its respective business and residential customers.

5. The requirement of the Public Service Law and 16 NYCRR 630.70 that newspaper publication shall be completed prior to the effective date of the amendments is waived, but New York Telephone Company, AT&T Communications of New York, Inc., MCI Telecommunications Corporation, and Sprint Communications Company, L.P., are directed to file with the Commission, not later than August 14, 1998, proof that a notice of the changes set forth in the amendments and their effective date has been published for four consecutive weeks in a newspaper having general circulation in their service territories.

6. The Targeted Accessibility Fund will be established, in conformance with the modifications in this opinion and order to the proposals of the Targeted Accessibility Fund Working Group and the recommended decision; Department of Public Service Staff will commence the implementation of this determination with the parties.

7. These proceedings are continued.

By the Commission,

(SIGNED)

JOHN C. CRARY
Secretary

CASES 94-C-0095 and 28425

APPENDIX

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