

Regulatory Analysis Form

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(1) Agency

Pennsylvania Public Utility Commission

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(2) I.D. Number (Governor*s Office Use)

L-2008-2020165/57-261

INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number: 2688

(3) Short Title

Proposed Rulemaking re Operation of Telecommunications Relay Service System and Relay Service Fund

(4) PA Code Cite

52 Pa. Code Chapter 63

(5) Agency Contacts & Telephone Numbers

Primary Contact: Louise Fink Smith (legal), 717-787-8866

Secondary Contact: Christopher Hepburn (technical) 717-214-9115

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The Commission is proposing a rulemaking to codify provisions of the existing Policy Statement at 52 Pa. Code §§ 69.511-69.513 to ensure timely and adequate reporting and remittances related to the funding of programs covered by the Universal Telecommunications and Print Media Access Act, 35 P.S. §§ 6701.1 - 6701.4. The Telecommunication Relay Service (TRS) and its funding mechanism were created in 1990 at Commission Docket No. M-00900239. Subsequently, the TRS was codified and the Telephone Devices for the Deaf Program (TDDP), Captioned Telecommunications Relay Service (CTRS), and the Print Media Access System Program (PMASP) were added as funded services. The TRS and CTRS assist people with hearing and/or speech disabilities to use the telephone and seek to ensure equivalent access to telecommunications services. The TDDP provides assistive telecommunications customer premises equipment based upon income-level criteria. The PMASP provides newspaper reading services for persons who are blind. Costs associated with the intrastate operations of the programs are recovered from residential and business wireline access line end-users by a monthly surcharge (TRS Surcharge) on local service telephone bills. The TRS Surcharge is recalculated annually and adjusted as necessary, effective July 1, based upon projected costs of the various programs and the number of wireline access lines in service as of December 31 of the preceding year. Wireline local exchange carriers remit the TRS Surcharge collection revenues monthly to the TRS Fund Administrator. The proposed regulation will clarify and codify the existing Policy Statement at 52 Pa. Code §§ 69.511 - 69.513, to provide enforceable reporting and remitting requirements on the wireline carriers to ensure adequate funding.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

66 Pa.C.S. §§ 501, 504-506, 1301 and 1501, the Commonwealth Documents Law, 45 P.S. §§ 1201, et seq., and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Without accurate reporting, there is no assurance that the costs of the funded programs are being equitably distributed. Without adequate funding, the funded programs would not exist, and major segments of PA population would be denied access to telecommunications and newspapers. The proposed regulations would ensure that the funding mechanism equitably and timely distributes the cost among all wireline local exchange carriers.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Consistent funding of the TRS, CTRS, TDDP, and PMASP facilitate full access to telecommunications and print media on an equivalent basis by the deaf, hard-of-hearing, speech-impaired, and blind citizens of the Commonwealth.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Citizens of PA who are deaf, hard of hearing, speech-impaired, and otherwise unable to use the telephone system and equipment due to physical limitations can use the TRS, CTRS, and TDDP to have access to voice telecommunications through the programs funded by the TRS Fund. Likewise, anyone who can use the telephone system and equipment in the usual fashion can use the programs funded by the TRS to communicate with the deaf, hard-of-hearing, speech-impaired, and others served by the programs.

The PMASP offers the citizens of PA who are blind access to what is happening in the world, the state, and their communities via a newspaper reading service.

Codification also assists the regulated community in finding the applicable requirements without having to track down decades-old orders to understand what is required to be in compliance with 35 P.S. §§ 6701.1 - 6701.4.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Generally speaking, no one should be adversely affected by the proposed regulations. The wireline local exchange carriers are currently assessing the costs of the funded programs against their wireline customers using the monthly surcharge established by the PUC. Carriers who are not accurately and timely reporting and remitting under the existing Policy Statement would be subject to delineated enforcement processes under the proposed regulations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The wireline local exchange carriers doing business in PA. There are 37 incumbent local exchange wireline carriers and approximately 180 competitive local exchange wireline carriers in the state. The proposed regulations do not create any new compliance actions; they merely shift the time for performance of the reporting required under the existing Policy Statement and establish enforceable consequences for non-compliance.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

These proposed regulations codify obligations of the wireline local exchange carriers which operations have been the operative norm for a number of years, first pursuant to the 1990 orders at M-00900239, and, later, pursuant to the existing Policy Statement at 69 Pa. Code §§ 69.571 - 69.513. The differences between the proposed regulations and the existing policy statement are not anticipated to create any significant new burdens on affected carriers but the carriers are afforded the opportunity for input during the comment period.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Although a specific cost study was not conducted, savings in the way of reduced cost increases should result from a more orderly process for assessing and collecting program costs.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|-----------------------------|--------------------|---------------|---------------|---------------|---------------|---------------|
| SAVINGS: | \$ N/A | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | 2000 | 2100 | 2200 | 2300 | 2400 | 2500 |
| Total Savings | | | | | | |
| COSTS: | 2000 | 2100 | 2200 | 2300 | 2400 | 2500 |
| Regulated Community | minimal | minimal | minimal | minimal | minimal | minimal |
| Local Government | N/A | | | | | |
| State Government | minimal | minimal | minimal | minimal | minimal | minimal |
| Total Costs | | | | | | |
| REVENUE LOSSES: | N/A | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | | | | | | |

(20a) Explain how the cost estimates listed above were derived.

PUC staff spends approximately 100 hours every year tracking down missing, untimely, and inaccurate reports. This represents both the informal attempts at securing voluntary compliance and the formal enforcement actions. Using a conservative figure of \$20 per hour for the first year and extrapolating for subsequent years, the numbers are conservative estimates of the savings anticipated under the proposed regulations.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -3 | FY -2 | FY -1 | Current FY |
|---------|-------|-------|-------|------------|
| N/A | | | | |
| | | | | |
| | | | | |
| | | | | |

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

There are no anticipated adverse effects or costs.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Voluntary compliance with the existing policy statement by the regulated community has been spotty, at best, at times, leading to extended collection efforts, estimated surcharges, and inequitable allocation of the cost of the funded programs.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Voluntary compliance with the existing policy statement has been spotty. The proposed regulations make compliance mandatory. (See also answer to number 22.)

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulations will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Yes. The proposed regulations will replace the existing Policy Statement at 52 Pa. Code §§ 69.511 - 69.513. Upon completion of the rulemaking, the existng Policy Statement will be rescinded.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

None are contemplated at this time, but the PUC is reaching out the to affected wireline carriers to solicit comments and will provide informal conferences or a hearing if the affected carriers wish to participate in such..

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Yes, in some ways. The forms will stay the same as under the existing Policy Statement, but the filing dates would change as would the filing destinations. The Annual Access Line Summary Report (number of lines in service as of a particular date) would be due 2 months earlier than under the existing Policy Statement. The Annual Tracking Report (list of the monthly remittances for a preceding 12-month period) would be due 1 month earlier than under the existing Policy Statement. Both forms would be filed with the PUC's Secretary's Bureau rather than with the PUC's Bureau of Fixed Utility Services.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The proposed regulation will become final following publication in the Pennsylvania Bulletin after review of all comments submitted to the PUC and approval by IRRC.

(31) Provide the schedule for continual review of the regulation.

After taking effect, the final regulations will be reviewed and revised as necessary and, particularly, once the Commission and other interested parties have experience using the new filing dates.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

2688

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and
legality. ~~Attorney General~~

[Signature]

BY _____
(DEPUTY ATTORNEY GENERAL)

APR 02 2008

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-2008-2020165/57-261

DATE OF ADOPTION January 24, 2008

BY *[Signature]*

James J. McNulty

TITLE *[Signature]*
(SECRETARY)

Copy below is hereby approved as to
form and legality. Executive or
independent Agencies.

BY *[Signature]*

Bohdan R. Pankiw
Chief Counsel

3-7-08

DATE OF APPROVAL

Check if applicable. No Attorney General
approval or objection within 30 days after
submission.

L-2008-2020165/57-261

Proposed Rulemaking

To Amend 52 Pa. Code Chapter 63 re Operation of
Telecommunications Relay Service System and Relay Service Fund
52 Pa. Code, Chapter 63

The Pennsylvania Public Utility Commission on January 24, 2008, adopted a proposed rulemaking order which ensures adequate TRS fund balances, timely remittance of TRS fund revenues and cooperation with TRS fund audits. The contact persons are Christopher Hepburn, BFUS, 214-9115 and Louise Fink Smith, Law Bureau 87-8866.

PA P.U.C.
LAW BUREAU

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EXECUTIVE SUMMARY

L-2008-2020165/57-261

Proposed Rulemaking re Operation of Telecommunications Relay Service System and Relay Service Fund

52 Pa. Code Chapter 63

On January 25, 2008, at Docket No. L-2008-2020165, the PUC entered a proposed rulemaking order soliciting comments on changing, clarifying, and codifying provisions of the existing Policy Statement at 52 Pa. Code §§ 69.511- 69.513 relating to the operation of the Telecommunications Relay Service (TRS) System and the Relay Service Fund. Interested persons will be provided with 30 days from the date the order is published in the *Pennsylvania Bulletin* to submit comments regarding the proposed regulation.

The PUC is proposing to codify existing reporting and remitting obligations of the wireline carriers, which have been the operative norm for a number of years, pursuant to both the PUC's 1990 orders at M-00900239 and the existing Policy Statement. Voluntary compliance with the policy statement has been spotty, leading to extended collection efforts, estimated surcharges, and inequitable allocations of the costs of the funded programs. The proposed regulations will not create any significant new burdens on affected wireline carriers. The reporting and remitting forms will stay the same, but the filing dates and filing destinations would change. The Annual Access Line Summary Report (number of lines in service as of a particular day) would be due two months earlier than under the existing Policy Statement. The Annual Tracking Report (list of monthly remittances for a prior 12-month period) would be due one month earlier than under the existing Policy Statement. Both forms would be filed with the PUC's Secretary's Bureau.

The PUC views the proposed regulations as a tool to ensure timely, accurate, and equitable funding of the programs mandated by the Universal Telecommunications and Print Media Access Act, 35 P.S. §§ 6701.1 – 6701.4.

The contact persons for this proposed rulemaking are Louise Fink smith 717-787-8866 (legal) and Chris Hepburn 717-214-9115 (technical).

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held January 24, 2008

Commissioners Present:
Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Tyrone J. Christy
Kim Pizzingrilli, Statement attached

Proposed Rulemaking to Amend 52 Pa. Code Chapter
63 (relating to Telephone Service) re Operation of
Telecommunications Relay Service System and Relay
Service Fund

Docket No. L-2008-2020165

PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

The Commission's Policy Statement at 52 Pa. Code §§ 69.511 – 69.513 became effective on April 17, 1999, after publication at 29 Pa. B. 2034. The Policy Statement establishes parameters for collecting information necessary to manage the Telecommunications Relay Service (TRS) fund. We propose herein a rulemaking to codify provisions of the Policy Statement so as to ensure adequate TRS fund balances, timely remittance of TRS fund revenues, and cooperation with TRS fund audits.

Comments on this Proposed Rulemaking may be filed on or before 30 days after the date of publication of this Order in the *Pennsylvania Bulletin*. Reply comments will not be accepted.

Specifically, we propose to: (1) move the due date for the filing of the annual access line summary report from April 30 to March 1, (2) move the due date for the filing of the annual tracking report from April 30 to March 31 and adjust the reporting year

from April-through-March to March-through-February, (3) direct that both reports be filed with the Commission's Secretary's Bureau, and (4) establish enforcement procedures for inaccurate, late, or missing TRS reports and for inaccurate, late, or missing TRS fund payments. Upon completion of the rulemaking, we shall rescind the Policy Statement.

Background

On May 24, 1990, at Docket No. M-00900239, the Commission approved the implementation of the Pennsylvania TRS¹ and established a funding mechanism. The TRS assists people with hearing and/or speech disabilities to use the telephone and seeks to ensure equivalent access to telecommunications services. In 1996, the Telecommunications Device Distribution Program (TDDP) was implemented to provide assistive customer premises equipment based upon income-level criteria. In 2005, the Print Media Access System Program (PMASP) was added to provide newspaper reading services for persons who are blind. These three programs are now collectively codified at 35 P.S. §§ 6701.1 – 6701.4, the Universal Telecommunications and Print Media Access Act.

Costs associated with the intrastate operations of the three programs are recovered from residential and business wireline access line end-users by a monthly surcharge (TRS Surcharge) on local service telephone bills. The TRS Surcharge is recalculated annually and adjusted as necessary, effective July 1, based upon projected costs of the various programs and the number of wireline access lines in service as of December 31 of the preceding year. LECs remit the TRS Surcharge collection revenues monthly to the TRS Fund Administrator. *See* annual orders at *TRS*, Docket No. M-00900239.

¹ See http://www.puc.state.pa.us/telecom/telecom_relay_service.aspx for complete information on TRS. The traditional TRS program is also known as PA Relay.

In 1999, in order to ensure the successful operation of the TRS fund, the Commission, at Docket No. M-00900239, adopted the existing Policy Statement. The intent of the Policy Statement was to address the difficulties that the Commission was experiencing in collecting the surcharge revenues and to foster cooperation from the LECs in submitting the documentation required to conduct annual audits of the TRS fund.

The existing Policy Statement provides that LECs "file" their annual access line summary reports² with the Bureau of Fixed Utility Services (FUS) by April 30. The Commission uses the annual summary line count information to establish adjustments to the TRS Surcharge by June 1, and the LECs implement any required changes by July 1. The existing Policy Statement also provides that the LECs "file" their annual tracking reports with FUS by April 30, tallying the monthly collected TRS surcharge revenues. The tracking reports cover a 12-month period from April to March. The tracking information is used by the Commission to reconcile the TRS Fund. 52 Pa. Code §§ 69.511 – 69.513.³

² The Annual Access Line Summary Report and the Annual Tracking Report forms may be downloaded from the Commission's website at: <http://www.puc.state.pa.us/general/onlineforms.aspx#Telecommunications%20Forms>.

³ The Policy Statement may be found online at <http://www.pacode.com/secure/data/052/chapter69/s69.511.html>; <http://www.pacode.com/secure/data/052/chapter69/s69.512.html>, and <http://www.pacode.com/secure/data/052/chapter69/s69.513.html>. It provides as follows:

§ 69.511. General.

(a) On May 24, 1990, at Docket M-900239, entitled "Pennsylvania Telecommunications Relay Services," the Commission granted approval of the implementation of the Pennsylvania Telecommunications Relay Service (TRS) for people with hearing or speech, or both, disabilities. A Relay Service Fund (Fund) was established to recover charges associated with the operation of the TRS. The Commission established a mechanism to adequately compensate the Fund through a monthly end-user billing surcharge, based on access lines, collected by Pennsylvania's Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs). These revenues are to be remitted on a monthly basis.

(b) To effectively monitor and evaluate the revenue data, the Commission established a tracking schedule for the filing of tracking reports. All ILECs and CLECs are required to file an Annual Tracking Report and an Annual Access Line Summary Report by April 30th. These reports require that the ILECs and CLECs break out the requisite data consistent with the current report forms. Further, the Annual Tracking Report requires that the data be broken out on a monthly basis beginning with April of the previous year and ending with March of the current year. The surcharge revenue collections data for each month includes the actual surcharge revenues collected from a company's end-users that month and remitted to the Fund by the 20th of the following month. The Commission directed the Bureau of Audits to conduct an annual audit of the TRS in its order dated September 3, 1992.

§ 69.512. Timely remittance of revenues.

(a) Under existing Commission Orders, Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) which collect revenues owed to the Relay Service Fund (Fund) are to remit these

Pursuant to 66 Pa. C.S. §§ 3015(e)(3) and (6), the Commission is expressly authorized to require the submission of annual access line summary reports and annual tracking reports.

Discussion

Our Policy Statement specifying filing dates, payment obligations, and enforcement procedures has been in effect since 1999. At this time, we propose to codify portions of its provisions in our regulations at 52 Pa. Code § 63.37. Promulgating parameters for the annual reporting and monthly payments in our regulations will ensure that all LECs are held to the same standards for compliance and ensure that the binding norms are properly imposed in compliance with the Regulatory Review Act, 71 P.S. §§ 745.1 – 745.14.

revenues to the Fund by the 20th of each month for revenues collected during the prior month. Delays in remitting revenues to the Fund result in lost earnings. The Commission intends to ensure that the Fund is properly funded through a reimbursement by the companies which fail to timely remit revenues.

(b) To properly reimburse the Fund, each company which is late in remitting surcharge revenues will be required to calculate for lost earnings based upon the base rate on corporate loans posted by at least 75% of the Nation's 30 largest banks, also known as the "prime rate," beginning at the date of the occurrence of the error and continue until the revenues are properly remitted to the Fund.

§ 69.513. Filing of Telecommunications Relay Service (TRS) reports.

(a) *Annual tracking report.* Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) are currently required to submit an Annual Tracking Report to the Bureau of Fixed Utility Services by April 30th which delineates the monthly revenues collected based upon the number of each company's access lines. A company's failure to submit its Annual Tracking Report by April 30th impairs the Bureau of Audits' ability to complete the required annual audit of the Fund. The Annual Tracking Reports effectively include revenues actually collected during the prior 12-month period. The timely filing of the tracking reports is essential to avoid underfunding the Relay Service Fund (Fund) by the surcharge revenue and related investment income which the revenues would have earned.

(b) *Annual Access Line Summary Report.* ILECs and CLECs are currently required to submit an Annual Access Line Summary Report to the Bureau of Fixed Utility Services by April 30th detailing each company's access line count. A company's failure to submit its Annual Access Line Summary Report or to correctly report its access line information, impairs the ability of the Bureau of Fixed Utility Services to establish the proper TRS surcharge rates. The receipt of a timely and correct Annual Access Line Summary Report is essential to avoid underfunding the TRS Fund.

(c) An ILEC or CLEC which fails to timely remit an Annual Tracking Report may need to reimburse the Fund under § 69.512 (relating to timely remittance of revenues). The Commission may also utilize all available remedies to ensure reporting and remittance compliance including fines and the revocation of Certificates of Public Convenience.

The purpose for the Policy Statement was to ensure accurate TRS Surcharge calculations, accurate and timely remittance of TRS Surcharge revenues, and cooperation with audit procedures. These goals remain equally valid today for the proposed rulemaking. The Bureau of Audits (Audits) uses the tracking report data to conduct periodic audits of the TRS fund. A LEC's failure to submit its annual tracking report on a timely and accurate basis impairs Audits' ability to complete the required audits of the Fund. Timely and accurate remittance of the TRS revenues and timely and accurate filing of the tracking reports are essential to properly capitalize the Fund by the surcharge revenue and the related investment income that the revenues would have earned.

Similarly, FUS uses the access line counts to calculate the next years' TRS surcharge. A LEC's failure to timely submit its annual access line summary report or to accurately report its access line information impairs FUS' ability to calculate the proper TRS surcharge rates. Receipt of a timely and accurate annual access line summary report is essential to avoid underfunding (or overfunding) the TRS Fund.

Rather than use the exact language of the existing Policy Statement, however, we are proposing to streamline and clarify the language. We also propose to adjust timelines and to provide that the requisite reports be filed with the Secretary's Bureau rather than with FUS.

Sections 69.511(b) and 69.513(b) of the existing Policy Statement provide that LECs submit their annual access line summary report by April 30. This would change to March 1 under the proposed regulations. With the increase in the number of LECs and the additional funded programs since 1990, the window between April 30 when line count reports are submitted under the Policy Statement and July 1 when the new TRS Surcharge takes effect is insufficient. In order to establish the monthly surcharge for each year, the Commission has only one month to receive the reports of annual access line counts from individual LECs, track down missing reports, factor in the cost estimates

of the three programs and ancillary costs, and approve and publish the new surcharge. The new surcharge is published by June 1 so as to give the LECs time to file tariff changes and process billing system adjustments in order to implement the new surcharge by July 1. Missing reports require Staff to estimate line counts. Estimated or inaccurate line counts can skew the TRS surcharge and result in over or under collections in the TRS fund. Moving the due date for the annual access line summary reports to March 1 will ensure greater precision in setting the TRS surcharge each year. We do not propose to change the date to count the lines in service. We believe that the time period between January 2 and February 28 should be sufficient to count and report access lines in service.

Sections 69.511(b) and 69.513(a) of the existing Policy Statement provide that LECs submit their annual tracking reports by April 30. This would change to March 31 under the proposed regulations. This earlier date will allow better tracking of the filing compliance by the LECs. The months covered by the tracking report would shift from April-through-March to March-through-February for the preceding year.

Under the Policy Statement, LECs file their access line count and tracking reports with FUS. Under the proposed regulations, the LECs would file their annual access line summary reports and their annual tracking reports directly with the Commission's Secretary's Bureau rather than with FUS. This change is appropriate because the Secretary's Bureau is the official recipient of all matters to be filed with the Commission. See 52 Pa. Code § 1.4.

Finally, we propose to clarify the language relating to enforcement matters. The Policy Statement provides, *inter alia*, that a LEC that fails to remit timely tracking data may need to reimburse the Fund for lost earnings and is subject to all available remedies to ensure reporting and remittance compliance including fines and the revocation of Certificates of Public Convenience. The proposed regulations address failures to submit the line count reports, the tracking reports, or the payments in an accurate and timely

manner. Under the proposed regulations, LECs that fail to timely and accurately submit a tracking report or an access line summary report or that fail to timely and accurately remit TRS surcharge revenues will be subject to reimbursement obligations. The Commission will utilize all available remedies to ensure accurate and timely reporting and remittance compliance, including interest on late payments, fines, and the revocation of certificates of public convenience.

Interested parties shall have 30 days to comment on the proposed regulations, which are attached in Annex A. Reply comments will not be accepted.

Conclusion

Accordingly, pursuant to Sections 501, 1501, 3015, and 3019 of the Public Utility Code, 66 Pa. C.S. §§ 501, 1501, 3015, & 3019; to Sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, *as amended*, 45 P.S. §§ 1201 - 1202, and the associated regulations at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, Act of October 15, 1980, P.L. 950, *as amended*, 71 P.S. 732.204(b); Section 745.5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, *as amended*, 71 P.S. § 745.5; Section 612 of the Administrative Code of April 9, 1929, P.L. 177, *as amended*, and 71 P.S. § 232, and the associated regulations at 4 Pa. Code § 7.231-7.234, we are considering adoption of the proposed regulations regarding Chapter 63 of Title 52 of our regulations regarding telephone service as set forth in Annex A; **THEREFORE**,

IT IS ORDERED:

1. That this docket be opened to consider the proposed regulations set forth in Annex A.

2. That the Secretary shall submit this Order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.

3. That the Secretary shall submit this Order and Annex A for review and comment to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. That the Secretary shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. That an original and 15 copies of any comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265. In addition, one copy in electronic format (Microsoft Office Word® 2003 or readable equivalent) on diskette shall be provided to the Secretary. Additionally, electronic copies of the filings should be emailed to Louise Fink Smith, Esq., Law Bureau, at finksmith@state.pa.us and to Anthony J. Rametta, Fixed Utility Services, at arametta@state.pa.us. No reply comments are permitted.

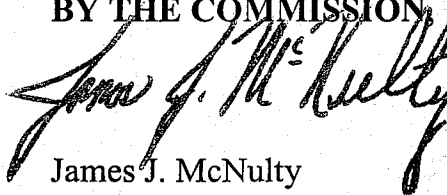
6. That the contact persons for this rulemaking are Anthony Rametta, Bureau of Fixed Utility Services, 717-787-2359 (technical), and Louise Fink Smith, Assistant Counsel, Law Bureau, 717-787-8866 (legal). Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, 717-772-4597.

7. That a copy of this Order and Annex A shall be served upon the Pennsylvania Telephone Association, all jurisdictional local telecommunications utilities in the Commonwealth, the Office of Trial Staff, the Office of Consumer Advocate, the Office

of the Small Business Advocate, and the Telecommunications Relay Service Advisory Board and posted on the Commission's website.

8. That a copy of this Order be filed at Docket No. M-00900239.

BY THE COMMISSION



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: January 24, 2008

ORDER ENTERED: JAN 25 2008

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

**PROPOSED RULEMAKING TO AMEND 52 PA. CODE
CHAPTER 63 (RELATING TO TELEPHONE SERVICE)
RE: OPERATION OF TELECOMMUNICATIONS RELAY
SERVICE SYSTEM AND RELAY SERVICE FUND**

**PUBLIC MEETING
January 24, 2008
JAN-2008-LAW-0101*
Docket No. TN- 23**

STATEMENT OF COMMISSIONER KIM PIZZINGRILLI

Today the Commission initiates a rulemaking to codify our current policy statement governing the filing and reporting requirements related to the Commission's monitoring of the Telecommunications Relay Service (TRS) program. See 52 Pa. Code §§ 69.511-69.513. The Policy Statement requires that local exchange carriers file an annual access line count summary and tracking report with the Commission. The information contained in these reports is used by the Commission to calculate the annual TRS Surcharge Adjustment and audit the TRS program.

I fully support the codification of the Policy Statement and believe that promulgating regulations will promote a greater level of compliance with the reporting requirements set forth in the Policy Statement and enhance the ability of the Commission to enforce these requirements.

I also support moving the access line count summary reporting date from April 30 to March 1 of each year. The earlier reporting date affords Commission Staff much needed time to collect line count information and ensure a timely and accurate calculation of the TRS surcharge.

However, I question whether the need exists, at this time, to adjust the reporting period and filing deadline for the annual tracking report from April 30 to March 31. This report is used by the Commission to audit the TRS program. A change to the filing date of the access line report does not necessarily support a change to the tracking report filing deadline.

Despite my reservation regarding the change proposed to the tracking report deadline, I support the initiation of this rulemaking and look forward to reviewing the comments of the parties. In light of this proposed rulemaking, it may be prudent for the Commission to begin a comprehensive review of the reporting deadlines for each of the reports required by the Commission and evaluate whether consistency can be established for reporting deadlines rather than the current varying due dates.

January 24, 2008
Date



KIM PIZZINGRILLI, COMMISSIONER

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 63. TELEPHONE SERVICE

Subchapter C. ACCOUNTS AND RECORDS

§ 63.37. Operation of the Telecommunications Relay Service System and Relay Service Fund.

(a) General.

(1) The Pennsylvania Telecommunications Relay Service (TRS), the Telecommunications Devices for the Deaf Program, and the Print Media Access System Program are codified in The Universal Telecommunications and Print Media Access Act, 35 P.S. §§ 6701.1-4. The Relay Service Fund (Fund) covers eligible intrastate costs associated with the operation of the three programs. The costs are recovered from residential and business wireline access line end-users by a monthly surcharge on local service telephone bills.

(2) To permit the Commission to effectively monitor and evaluate the revenue and cost data associated with the Fund, each LEC shall file an annual tracking report delineating monthly revenues collected and remittances for late payments for the preceding 12-month year and an annual access line summary report detailing its access line count as of December 31 of the preceding year. The tracking data are used for periodic audits of the Fund. The access line counts are used to calculate the next year's TRS surcharge.

(b) Timely remittance of revenues.

(1) LECs shall remit the TRS surcharge revenues to the Fund administrator by the 20th of each month for revenues collected during the prior month.

(2) Delays or inaccuracies in remitting revenues to the Fund result in lost earnings by the Fund. A LEC that is late in remitting surcharge revenues shall remit additional contribution to the Fund to make up for lost Fund earnings. The additional contribution shall be based upon the published prime rate in effect at the time of the missed due date

and shall cover the period beginning at the date of the occurrence of the failure to remit and continue until the surcharge revenues are properly remitted to the Fund.

(c) *Filing of Telecommunications Relay Service reports.*

(1) *Annual tracking report.* Each LEC shall submit its annual tracking report to the Secretary's Bureau by March 31 of each year, in the format and detail specified on the commission's website.

(2) *Annual access line summary report.* Each LEC shall submit its annual access line summary report to the Secretary's Bureau by March 1 of each year, in the format and detail specified on the commission's website.

(d) *Failure to remit Telecommunications Relay Service revenues or to file Telecommunications Relay Service reports.* – A LEC that fails to timely and accurately submit a tracking report or an access line summary report or that fails to timely and accurately submit TRS surcharge revenues may need to reimburse the Fund under § 63.37(b) (relating to timely remittance of revenues). The Commission will utilize all available remedies to ensure reporting and remittance compliance including fines and the revocation of Certificates of Public Convenience.



PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG, PENNSYLVANIA

WENDELL F. HOLLAND
CHAIRMAN

April 17, 2008

The Honorable Arthur Coccodrilli
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Re: L-2008-2-2-165/57-261
Proposed Rulemaking
To Amend 52 Pa. Code Chapter 63 re
Operation of Telecommunications Relay
Service System and Relay Service Fund
52 Pa. Code, Chapter 63

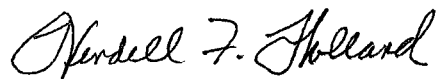
Dear Chairman Coccodrilli:

Enclosed please find one (1) copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the House Committee on Consumer Affairs and to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure.

The purpose of this proposal is to ensure adequate TRS fund balances, timely remittance of TRS fund revenues and cooperation with TRS fund audits. The contact persons are Christopher Hepburn, BFUS, 214-9115 and Louise Fink Smith, Law Bureau, 787-8866

The proposal has been deposited for publication with the Legislative Reference Bureau.

Very truly yours,



Wendell F. Holland
Chairman

Enclosures

cc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Assistant Counsel Fink Smith
Mr. Hepburn
Regulatory Coordinator DelBiondo
Judy Bailets, Governor's Policy Office

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-2008-2020165/57-261

Subject: Rulemaking To Amend Chapter 63 re Operation of
Telecommunications Relay Service system and Relay
Service Fund

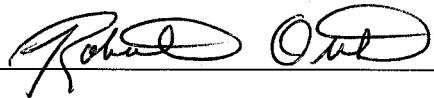

Pennsylvania Public Utility Commission

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INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking
Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney
General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

| <u>Date</u> | <u>Signature</u> | <u>Designation</u> |
|----------------|--|--|
| <u>4-17-08</u> | <u></u> | <u>HOUSE COMMITTEE</u> (Preston) Consumer Affairs |
| <u>4-17-08</u> | <u></u> | <u>SENATE COMMITTEE</u> (Tomlinson) Consumer Protection and Professional Licensure |
| <u>4-17-08</u> | <u>K. Cooper</u> | Independent Regulatory Review Commission |
| <u> </u> | <u> </u> | Attorney General |
| <u> </u> | <u> </u> | Legislative Reference Bureau |