

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. _____-2003-_____

From: Tom Solt ^{tax}
Telecommunications Department ^{js}

Wesley Headman 11-1-02
Utility Operations Division/Date

Wm TK Tsoas 11/04/02
General Counsel's Office/Date

EW A
11/4/02

Subject: Relay Missouri Surcharge Recommendation

Date: October 29, 2002

Background

Section 209.253.1, RSMo, requires the Missouri Public Service Commission (Commission) to provide a statewide dual-party relay system. In accordance with Section 209.255.1, RSMo, the Commission has established a rate recovery mechanism to recover the costs of implementing and maintaining the Relay Missouri Program (Relay) and Telecommunications Equipment Distribution Program (TEDP).

On February 19, 1991, the Commission issued an order establishing a surcharge of six cents (\$0.06) per month per telephone access line for the purpose of funding the statewide Relay system. The Commission's order also allowed local exchange carriers (LECs) to retain one and one-half percent of the surcharge amount collected each month or \$25.00, whichever was greater. Effective November 1, 1992, the Commission ordered the surcharge increased to \$0.13 per month per telephone access line, and that the local exchange company retention amount be \$30.00 per month, or one percent of the collected surcharge amount, whichever is greater. In Case No. TR-95-338, the Commission issued an order effective July 31, 1995, continuing the surcharge at \$0.13 per month per telephone access line, and keeping the local exchange company retention amount the same. In Case No. TR-97-452, the Commission issued an order effective October 3, 1997, again keeping both the surcharge amount and the retention mechanism the same. In Case No. TR-99-123, the Commission issued an order effective April 30, 1999, that once again, did not change either the surcharge amount or the local exchange company retention mechanism. Most recently, in Case No. TR-2001-182, effective April 5, 2001, the Commission decreased the surcharge to \$0.09 per month per telephone access line, and again kept the local exchange company retention amount at \$30.00 per month or 1% of the collected surcharge amount, whichever is greater.

During the FY 2000 legislative session, changes to Chapter 209, RSMo were enacted. These changes, among other things, moved responsibility for the TEDP from the Commission to the Department of Labor and Industrial Relations' Missouri Assistive Technology Advisory Council (MATAC). Additionally, the changes enacted greatly expanded the scope and scale of what was

previously the adaptive telephone equipment program (ATEP). The responsibility for the funding requirement of the TEDP, however, was not moved, and is still provided through the Relay Fund.

Section 209.259, RSMo, requires the Commission to review the deaf relay service and equipment distribution program (DRS&EDP) fund surcharge no less frequently than every two years, but no more frequently than annually, and to order changes in the amount of the surcharge as necessary to assure available funds for the provision of the programs established in Section 209.253, RSMo.

Section 209.259, RSMo, also requires the Commission, concurrent with its review of the surcharge, to review the percentage deducted and retained by the local exchange telephone company provided in Section 209.253, RSMo, and, if necessary, to order adjustments in the percentage to assure a just and reasonable compensation to the local exchange telephone company. In Case No. TR-2001-182, the Commission ordered the Staff of the Commission (Staff) to monitor the DRS&EDP fund in light of the issues set out in its recommendation in that case.

Fund Growth Since Previous Surcharge Review

As ordered by the Commission, the Staff has monitored the DRS&EDP fund. Staff had noted in its recommendation in Case No. TR-2001-182 that the balance in the DRS&EDP fund had grown to approximately \$7.6 million. The balance in the DRS&EDP fund at the end of September 2002 was \$6,488,386. The actual and projected fund balances are shown in Attachment 1 to this memorandum.

Relay Missouri

Disbursements for Relay service have averaged \$338,356 per month for FY 2002, down from \$344,245 per month for FY 2001. Monthly revenues have averaged \$340,878 per month for FY 2002, compared to \$375,761 during FY 2001. Adjusted actual, predicted, and projected Relay expenditures are shown in Attachment 2 to this memorandum, and adjusted actual, predicted, and projected receipts are shown in Attachment 3.

Relay Missouri Service Contract

Currently, the State of Missouri (State) contracts with Sprint Communications L.P. (Sprint) for telecommunications relay service (TRS). The State is operating under the last of two optional two-year contract extensions. The current option expires June 30, 2003. The contract for TRS service is anticipated to be put out for bid this year.

Growth in usage

Relay expenditures, based on regression analysis, appear to be declining. Expenditures for Relay were adjusted to reflect the current \$0.94 per minute cost from Sprint, and were projected using the regression analysis based on adjusted data experienced since July 1998. Please see Attachment 2.

Outreach

The Relay Missouri Advisory Committee (Committee) has indicated that it would like to see additional expenditures for outreach in an attempt to educate hearing people about Relay calls. The Deaf Community experiences many hang-ups, especially when placing Relay calls to businesses. Individuals answering may believe the Relay call is a telemarketer, and do not take time to determine otherwise. Staff did not take additional outreach spending into account in its analysis.

Video Relay Service (VRS)

Video Relay Service (formerly Video Relay Interpreting), is a service that allows persons with hearing or speech disabilities who use languages other than English to communicate with voice telephone users in a shared language other than English, through a communications assistant who is fluent in that language. The FCC is currently funding VRS out of the interstate relay fund. The FCC's funding of VRS from the interstate fund is expected to continue until at least the summer of 2004.

Adaptive Telephone Equipment Program

Legislation that was passed during the FY 2000 legislative session removed the ATEP program from control of the Commission and, as previously stated, placed the renamed program, the TEDP, with the MATAC. The TEDP appropriation was \$1,700,000 for FY 2001, and the TEDP appropriation was approximately \$2,700,000 for FY 2002 and 2003, and for the purposes of the calculations used for this memorandum, TEDP expenses were estimated to be \$2,700,000 for FY 2004 and beyond.

Other Issues

In Case No. TO-97-452, the Staff expressed a concern regarding the emergence of small competitive local exchange carriers (CLECs). Currently, LECs may retain \$30 or 1%, whichever is greater, of the monthly surcharge collected. This amount allows the LEC to recover its costs for collecting and remitting the surcharge. Staff was concerned that a large number of small CLECs might reduce the amount of monthly surcharge collected by increasing the amounts retained. Receipts have been declining since July 1998, but the trend has only become statistically significant since the previous recommendation. Please see attachment 3. The cause of the decline is not immediately obvious.

A problem has come to the attention of Staff since it's prior surcharge recommendation regarding the language of the statute and Commission's orders establishing the retention amount. Staff's understanding of the retention amount, as stated in Section 209.257 RSMo, and in the Commission's orders, lies with the operative word being the root of "retention," or "retain;" that is, companies may **retain** the greater of \$30 or 1% of the surcharge collected to compensate them for administrative expenses incurred by the billing and remitting of the surcharge. Staff's assumption has been that in cases where the total surcharge amount collected by a company is less than \$30, the company would retain whatever amount it collected, rather than billing the Relay Fund for the difference between the amount it collected and \$30. Staff believes the Commission should clarify that in cases where the amount of the surcharge collected is less than \$30, the company may retain the amount it collects, but may not attempt to recover the difference from the Relay Fund. In the alternative, if the

Commission believes companies should be reimbursed for the difference between the amount collected (when that amount is less than \$30), and \$30, it should authorize the Staff to make such payments.

Additionally, Staff urges the Commission to note that advances in technology may cause significant changes in who uses Relay service and how it is used, with resulting impacts on Relay expenditures. For instance, one recent development, CapTel (captioned telephone), allows deaf and hard of hearing individuals who can speak, to communicate via a special telephone, and, in addition to allowing the individual to hear (or feel the vibrations of) what is being said, to read the text of the conversation on a screen display built into the phone. This technology is made possible by the use of powerful voice recognition software, that translates the hearing party's words, which are re-voiced by a third party on the call, to text. Such technology may markedly increase the population of Relay users, as well as the minutes of use, and hence, costs to be paid from the Relay Fund.

Projections

Staff made certain assumptions in making projections forward from the actual historical data experienced. Relay expenses, subjected to regression analysis, appear to have been showing a slight decreasing trend since July 1998, and were projected to the end of FY 2004 using the regression determined formula based on data from July 1998 through October 2002. TEDP expenditures were projected at \$2,700,000 for the applicable period. In the current estimates, as well as in those used in the Staff's previous recommendation in TR-2001-182, Staff used the amount appropriated for the TEDP. The spending for TEDP, however, has in the past been considerably less than the amount appropriated. TEDP spending for FY 2002 was approximately \$613,000 and for FY 2003, to date, approximately \$358,000. Assuming similar spending patterns for the remainder of FY 2003, TEDP spending is estimated at approximately \$1,430,000. Staff, however, included the entire amount appropriated of approximately \$2.7 million for TEDP in its estimates. Total adjusted expenses, including the TEDP appropriation, are shown in Attachment 4.

Receipts were projected by performing regression analysis on the historical data experienced from July 1998 through September 2002. (Please see projected values on Attachment 3.) The projected fund balance through October 2004 is shown in Attachment 1.

Staff believes that any predictions beyond fiscal year-end 2003 are too far into the future to draw any meaningful conclusions, given that the Relay contract must be re-bid within the year. Any projections made beyond FY 2003 year-end are merely for illustrative purposes.

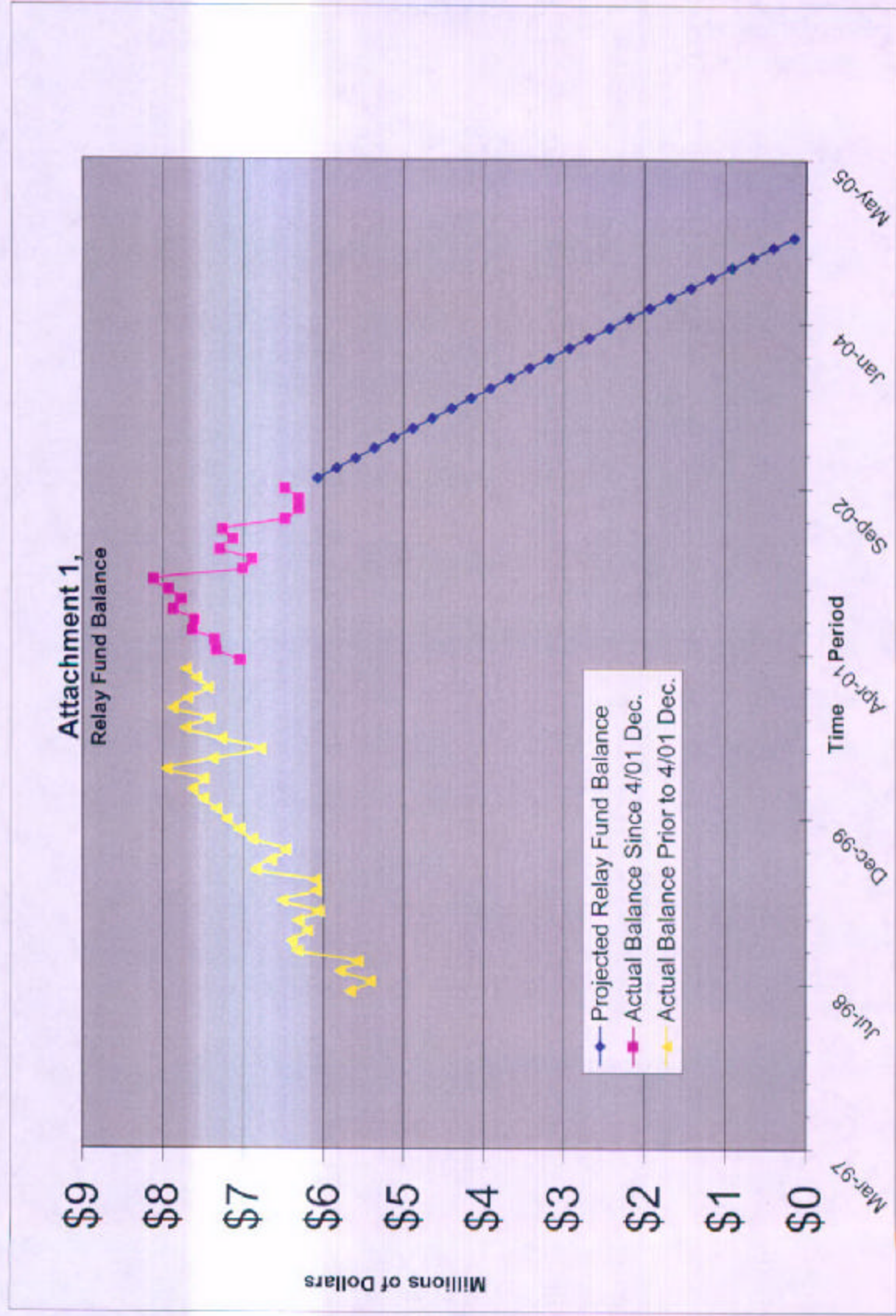
Expected Decrease of Relay Fund Balance

In its recommendation in Case No. TR-2001-182, Staff believed a reduction in the Relay Missouri surcharge to \$0.09 per line, per month, would significantly reduce the balance in the Relay Fund. Although the fund balance has decreased slightly, because spending for the TEDP program has not approached its appropriation, the expected significant fund balance reduction has not materialized.

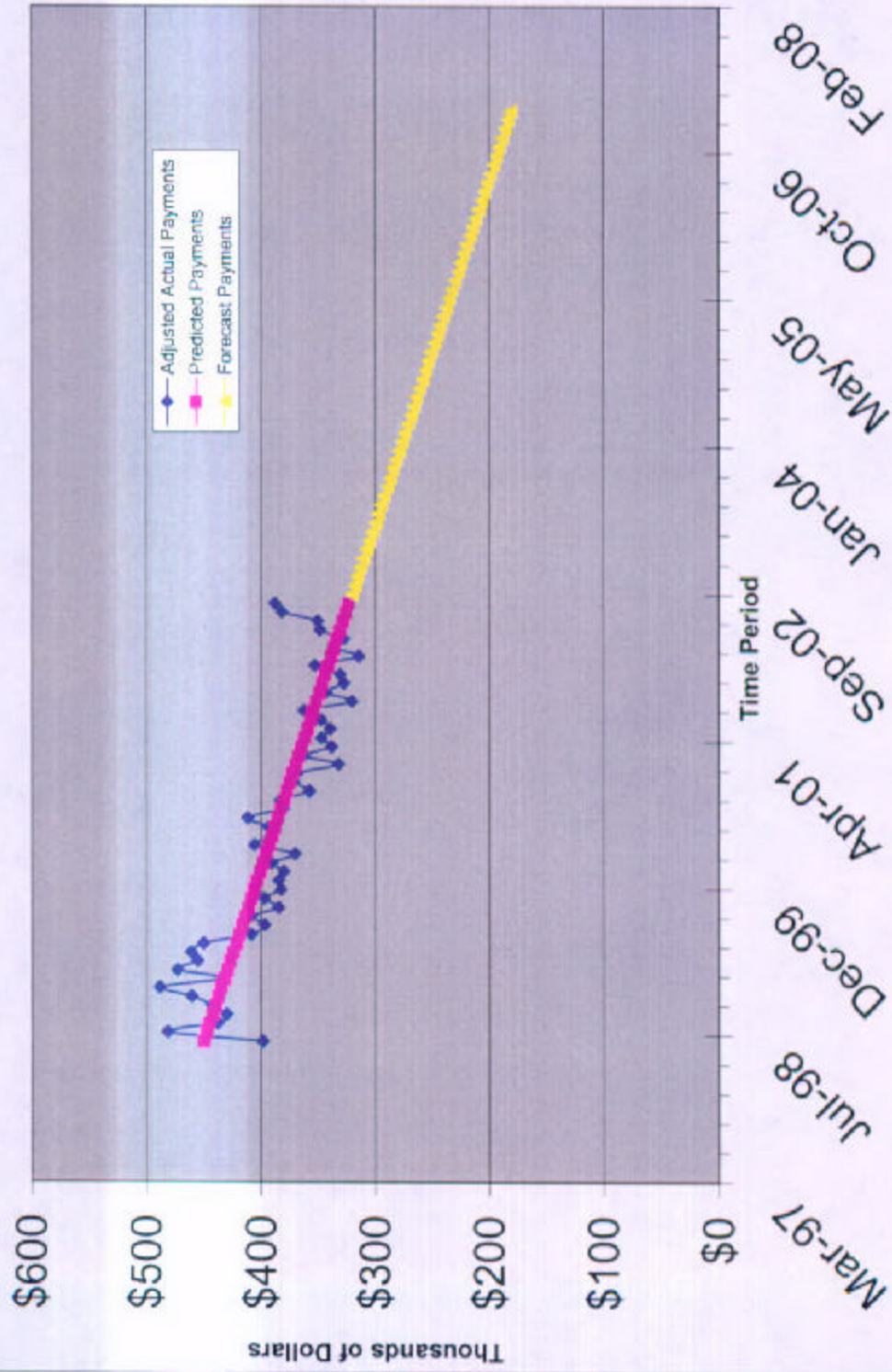
Staff's Recommendation

Staff recommends that the surcharge be maintained at \$0.09 per line, per month, and that the current retention amount be kept at its current amount of \$30 (or the amount collected, if less than \$30) or 1%, whichever is greater. The cost of providing TRS on a going forward basis after June 30, 2003, is completely unknown. Since Section 209.259.1 RSMo, requires the Commission to "review such surcharge no less frequently than every two years but no more than annually and shall order changes in the amount of the surcharge as necessary to assure available funds for the provision of the programs established in section 209.253," the Commission can revisit the surcharge issue shortly after the new TRS contract goes into effect, and make any necessary adjustments in the surcharge when the ongoing costs for providing TRS are known.

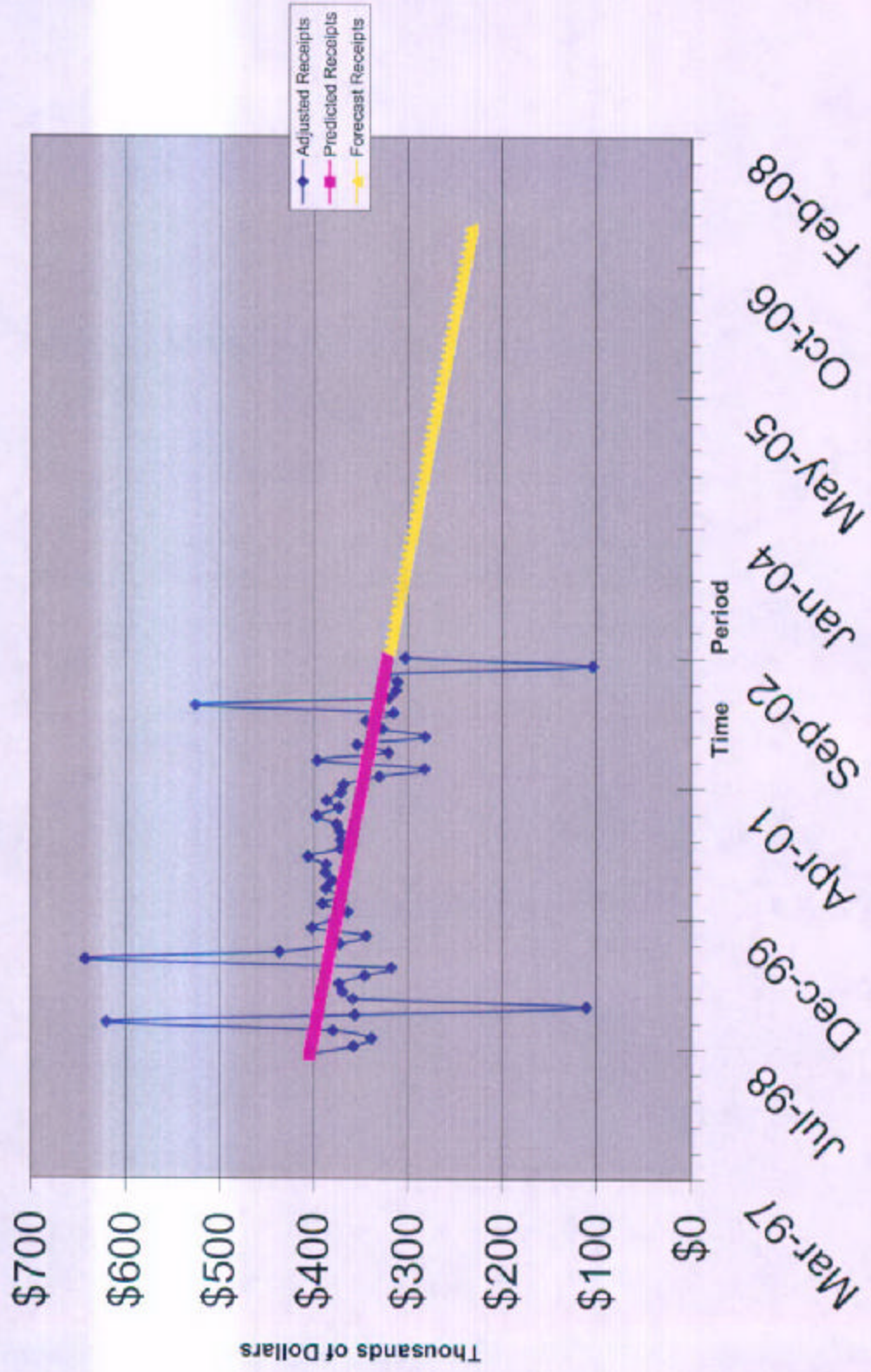
Staff believes an increase in the surcharge will be necessary at some time in the near future. In addition to TRS costs being unknown after June 2003, other unknowns, such as a possible FCC mandate that states pay for VRS and Internet Relay could significantly increase the costs for Relay services in future years. CapTel usage also could have a significant impact. In any event, it appears that even if the current level of TRS expenses remains the same with the new contract, and the TEDP program spending approaches its appropriated level, the fund may be depleted by early FY 2005.



Attachment 2,
Adjusted Relay Payments



Attachment 3,
Adjusted Receipts



Attachment 4, Total Adjusted Expenses

