

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of a Recommendation )	
Concerning the Surcharge for Deaf Relay )	
Service and Equipment Distribution )	Case No. TO-2005-0308
Program Fund )	

**MOTION TO FILE CORRECTED STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), by and through Counsel, and for its Motion to File Corrected Staff Recommendation, states as follows: :

1. On March 16, 2005, the Staff filed a Motion to Open Case and File a Staff Recommendation. Attached to that Motion was a Staff Memorandum labeled Appendix A and an Attachment 1.

2. The Staff has discovered an error in the Staff Memorandum on page three in the "Recommendation" section in the second paragraph. The amount of \$969,705 was in error and needs to be changed to \$1,041,438, and the Attachment 1 label or notation was re-positioned on Attachment 1 for clarification purposes.

3. The Staff is hereby filing a corrected Memorandum, which is labeled Appendix A, and a corrected attachment, labeled Attachment 1. The Staff's recommendations specified in its earlier pleading remain unchanged.

**WHEREFORE**, the Staff respectfully requests the Commission accept this filing as the corrected Staff Memorandum and corrected Attachment.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

**/s/ Cliff Snodgrass**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to the Office of Public Counsel this 17th day of March, 2005.

**/s/ Cliff Snodgrass**

# MEMORANDUM

To: Missouri Public Service Commission

From: Walt Cecil  
Telecommunications Department

/s/John Van Eschen 3/17/05  
Utility Operations Division/Date

/s/ Cliff Snodgrass 3/17/05  
General Counsel's Office/Date

Subject: Relay Missouri Surcharge Recommendation

Date: March 17, 2005

## 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). Section 209.259.3 RSMo, requires the Commission to review the deaf relay service and equipment distribution program fund (Fund) surcharge no less frequently than every two years, nor more frequently than annually, and to order changes in the amount of the surcharge as is found necessary to ensure funds are available 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 Retention Amount as provided in Section 209.253 RSMo, and, if necessary, to order adjustments in the amount to assure a just and reasonable compensation to the local exchange telephone company (LEC).

Since the establishment of Relay in 1990, the Commission has adjusted the Relay surcharge three times. Listed below are the dates the surcharge was approved or was changed, the associated case number and the new surcharge:

- October 16, 1990, Case No. TO-90-174, \$0.06;
- November 1, 1992, Case No. TO-90-174, \$0.13;
- January, 22, 2001, Case No. TR-2001-182, \$0.09;
- July 1, 2003, Case No. TO-2003-0171, \$0.10.

Since the adjustment of the surcharge on July 1, 2003, Staff has continued to analyze the appropriateness of the surcharge and Relay Missouri fund balance. Staff submitted to the Commission two separate memos, dated March 2, 2004 and May 28, 2004, recommending further adjustments to the surcharge; however the Commission ultimately determined not to establish a formal case to investigate the rate level of the surcharge.

### **Fund Activity**

The Fund balance at the end of February 2005 was approximately \$2,822,000. This balance has steadily decreased for the past several years. For example, Fund balances for the previous three years are as follows: approximately \$7 million (January 2002), \$5 million (January 2003), \$4,100,000 (January 2004) and \$2,925,000 (January 2005).

Monthly revenues for the Fund have remained relatively flat. For the period July 2003 to February 2005, with a surcharge of \$0.10 in effect, the surcharge average monthly revenue has been approximately \$331,800. Monthly Fund disbursements for such things as traditional relay, CapTel, TEDP and the Central Services Cost Allocation Program during the same period average approximately \$418,000 and are expected to increase. Based on these trends, and at the current surcharge (\$0.10), the Fund, in April 2006, will have a deficit balance.

### **Analysis and Forecasts**

Minutes of usage (MOU) for traditional relay are declining, for example, in July 1998, MOU were approximately 433,000, in July 2000, MOU were approximately 374,000 and in January 2005 MOU were approximately 283,500. There is no clear explanation why this is happening but it appears that Video Relay Services (VRS), Internet based relay services (IP Relay), and CapTel may be picking-up the lost traditional minutes. Currently, the federal government pays for VRS and IP Relay while CapTel remains the state's obligation. Absent any changes in law or federal regulation, the current rate of \$0.94 per minute for traditional relay will continue through the life of the State's contract with Sprint (approximately 8 more years).

CapTel usage is increasing. CapTel expenditures from October 2004 through January 2005, average approximately \$41,300 with the January CapTel expenditure nearly \$52,000. The CapTel trial ended in August 2004, and CapTel became a permanent offering in September 2004. Sprint provides CapTel service and is reimbursed at the rate of \$1.45 per minute. This rate is anticipated to continue through the life of the contract (approximately 8 more years). The TEDP administrator distributes CapTel phones at the rate of approximately 20 CapTel phones per month; however they could distribute as many as 50 CapTel phones per month. Although the TEDP administrator must distribute phones to any qualifying applicant, the TEDP administrator states a distribution of 20 CapTel phones per month is a fair estimate of the likely distribution rate going forward. As of December 31, 2004, there were 191 CapTel phones in circulation. The average CapTel usage during the period from October to December 2004, is approximately 152 minutes per phone although average January usage exceeds 169 minutes. The growing average usage per CapTel phone significantly exceeds prior forecasts where an average usage of 100 minutes per phone was projected. In Staff's opinion, projecting an average usage of 200 minutes per CapTel phone may be a reasonable estimate of future months.

The Telephone Equipment Distribution Program has not been using all of the funds allocated to this portion of the program. Listed below are the allocated, actual spending and Staff's anticipated forecast for several years. Staff's forecasts are based on allocated amounts or projected allocations:

<b>TDEP Spending: Allocated Amount v. Actual Amount</b>			
<b>Fiscal Year</b>	<b>Allocation</b>	<b>Actual Spending</b>	<b>Staff Forecast</b>
2004	\$2,700,000	\$1,357,300	\$2,700,000
2005	\$2,100,000	\$913,000*	\$2,100,000
2006	\$2,151,400		\$2,151,400
2007			\$2,151,400

\*Spending July 1-Feb 10, 2004

The Relay Fund has been or can be impacted by other factors. The Central Services Cost Allocation Program to the general revenue fund transferred \$67,790 from the Fund during FY 2005. Staff anticipates a similar cost allocation requirement of \$69,904 for FY 2006 and FY 2007. Staff estimated the impact of interest receipts on the Fund by using the average monthly interest payment for the calendar year February 2004-January 2005 (about \$5,330 per month). The potential also exists for certain relay-related costs currently reimbursed from federal funding to be transferred to states at some point in the future. For example, Video Relay Service (formerly Video Relay Interpreting), is a service allowing 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 and IP Relay out of the interstate relay fund. However, during the Relay Missouri Advisory Committee meeting held on January 19, 2005, the Sprint officials informed Advisory Committee members that there is discussion at the federal level to transfer funding obligations to the states for VRS at some time in the not-too-distant future. The Missouri Commission has filed comments in two Notices of Proposed Rulemakings on related issues with the Federal Communications Commission respectfully urging the FCC to resolve issues in its IP-enabled rulemaking before assigning jurisdiction to IP-related relay services and to be cognizant of the fact that individual state circumstances may cause conflict or difficulty with a determination that a portion of the funding should be intrastate.

### **Recommendation**

The Relay Missouri fund is projected to be depleted by April 2006 if the surcharge remains at \$0.10. Staff estimates indicate the Fund will have a deficit in excess of \$678,000 by the end of FY 2006. This estimate is based on historical trends in Relay revenues, Relay Service disbursements, and the full allocation for TEDP. This estimate also assumes an average CapTel usage of 152 minutes per month and growth of CapTel of 20 phones per month. As previously discussed, a more reasonable expectation might be for the average CapTel usage to be higher than 152 minutes per month resulting in depletion of the fund at a faster rate.

If the Commission is targeting a certain fund balance for the end of June 2006, then an increase in the Relay surcharge is necessary. A \$0.15 surcharge implemented on July 1, 2005, will generate a projected fund balance of \$1,041,438 by June 2006. This projection is based on the historical trends in Relay revenues, Relay Service disbursements, the full allocation for TEDP, 20 additional CapTel phones per month and average CapTel usage of 200 minutes per phone. Attachment 1 shows various projections based on different Relay surcharge rate levels. In Staff's opinion, a \$0.15

monthly surcharge for Relay service is a reasonable amount to ensure the fund is adequately funded for the next year. Therefore, Staff recommends the Commission increase the monthly Relay surcharge from \$0.10 to \$0.15.

If the Commission decides to increase the Relay Missouri surcharge, the Commission should give local telephone companies a reasonable amount of time to adjust billing systems before applying the new rate. In response to the rate increase nearly two years ago, the Commission gave the companies approximately 90 days to implement the new charge. This time frame appeared to create no problems for local carriers. Staff recommends the Commission issue an order as soon as reasonably possible setting the new rate to become effective on July 1, 2005.

Staff also recommends the Commission maintain the current retention amount for local telephone companies. This retention amount is conceptually money used to reimburse local telephone companies for billing and collecting the Relay Missouri surcharge. Currently, local telephone companies are allowed to retain \$30 or 1% of the amount collected from the Relay Missouri surcharge, whichever is greater. If a carrier collects a monthly surcharge amount under \$30, the carrier will retain the amount under \$30 as its full payment for recovery of the billing. Staff sees no reason to alter this current retention amount.

In summary, Staff recommends the current monthly Relay Missouri surcharge be increased from \$0.10 to \$0.15. The new rate should become effective on July 1, 2005. Staff also recommends the Commission maintain the current retention amount for local telephone companies.

## Assumption: Average Monthly CapTel Usage, 200 Minutes and Distribution of 20 Additional Phones Per Month

	\$0.10	\$0.11	\$0.12	\$0.13	\$0.14	\$0.15	\$0.16	\$0.17	\$0.18
Date	Fund Balances*								
Nov-04	\$ 3,388,181.38								
Dec-04	\$ 3,026,568.36								
Jan-05	\$ 2,924,514.93								
Feb-05	\$ 2,821,749.14								
Mar-05	\$ 2,635,222.23								
Apr-05	\$ 2,432,792.39								
May-05	\$ 2,231,909.04								
Jun-05	\$ 2,044,397.29	\$ 2,044,397.29	\$ 2,044,397.29	\$ 2,044,397.29	\$ 2,044,397.29	\$ 2,044,397.29	\$ 2,044,397.29	\$ 2,044,397.29	\$ 2,044,397.29
Jul-05	\$ 1,810,904.11	\$ 1,841,292.18	\$ 1,871,680.26	\$ 1,902,068.33	\$ 1,932,456.41	\$ 1,962,844.48	\$ 1,993,232.56	\$ 2,023,620.63	\$ 2,054,008.71
Aug-05	\$ 1,576,786.26	\$ 1,638,760.83	\$ 1,700,735.40	\$ 1,762,709.96	\$ 1,824,684.53	\$ 1,886,659.10	\$ 1,948,633.66	\$ 2,010,608.23	\$ 2,072,582.80
Sep-05	\$ 1,367,171.09	\$ 1,461,472.53	\$ 1,555,773.97	\$ 1,650,075.41	\$ 1,744,376.86	\$ 1,838,678.30	\$ 1,932,979.74	\$ 2,027,281.18	\$ 2,121,582.63
Oct-05	\$ 1,133,508.88	\$ 1,258,449.14	\$ 1,383,389.40	\$ 1,508,329.66	\$ 1,633,269.92	\$ 1,758,210.18	\$ 1,883,150.44	\$ 2,008,090.69	\$ 2,133,030.95
Nov-05	\$ 919,434.01	\$ 1,076,594.74	\$ 1,233,755.47	\$ 1,390,916.20	\$ 1,548,076.93	\$ 1,705,237.66	\$ 1,862,398.39	\$ 2,019,559.12	\$ 2,176,719.85
Dec-05	\$ 682,369.76	\$ 871,017.73	\$ 1,059,665.69	\$ 1,248,313.65	\$ 1,436,961.61	\$ 1,625,609.57	\$ 1,814,257.53	\$ 2,002,905.49	\$ 2,191,553.46
Jan-06	\$ 424,906.52	\$ 644,445.64	\$ 863,984.76	\$ 1,083,523.88	\$ 1,303,063.00	\$ 1,522,602.12	\$ 1,742,141.24	\$ 1,961,680.37	\$ 2,181,219.49
Feb-06	\$ 187,777.69	\$ 438,910.39	\$ 690,043.10	\$ 941,175.81	\$ 1,192,308.52	\$ 1,443,441.22	\$ 1,694,573.93	\$ 1,945,706.64	\$ 2,196,839.35
Mar-06	\$ (66,401.48)	\$ 216,424.16	\$ 499,249.81	\$ 782,075.46	\$ 1,064,901.10	\$ 1,347,726.75	\$ 1,630,552.40	\$ 1,913,378.04	\$ 2,196,203.69
Apr-06	\$ (320,260.85)	\$ (6,156.37)	\$ 307,948.11	\$ 622,052.58	\$ 936,157.06	\$ 1,250,261.54	\$ 1,564,366.01	\$ 1,878,470.49	\$ 2,192,574.97
May-06	\$ (584,099.72)	\$ (238,422.42)	\$ 107,254.88	\$ 452,932.17	\$ 798,609.47	\$ 1,144,286.77	\$ 1,489,964.07	\$ 1,835,641.36	\$ 2,181,318.66
Jun-06	\$ (844,659.36)	\$ (467,439.88)	\$ (90,220.40)	\$ 286,999.08	\$ 664,218.55	\$ 1,041,438.03	\$ 1,418,657.51	\$ 1,795,876.99	\$ 2,173,096.47
Jul-06	\$ (1,120,658.80)	\$ (712,104.64)	\$ (303,550.48)	\$ 105,003.68	\$ 513,557.85	\$ 922,112.01	\$ 1,330,666.17	\$ 1,739,220.33	\$ 2,147,774.49
Aug-06	\$ (1,406,507.85)	\$ (966,400.69)	\$ (526,293.53)	\$ (86,186.37)	\$ 353,920.79	\$ 794,027.95	\$ 1,234,135.11	\$ 1,674,242.27	\$ 2,114,349.43
Sep-06	\$ (1,677,415.43)	\$ (1,205,821.34)	\$ (734,227.24)	\$ (262,633.15)	\$ 208,960.95	\$ 680,555.04	\$ 1,152,149.14	\$ 1,623,743.24	\$ 2,095,337.33
Oct-06	\$ (1,956,378.18)	\$ (1,453,405.45)	\$ (950,432.72)	\$ (447,459.98)	\$ 55,512.75	\$ 558,485.48	\$ 1,061,458.22	\$ 1,564,430.95	\$ 2,067,403.68
Nov-06	\$ (2,231,403.31)	\$ (1,696,977.45)	\$ (1,162,551.58)	\$ (628,125.72)	\$ (93,699.85)	\$ 440,726.01	\$ 975,151.88	\$ 1,509,577.74	\$ 2,044,003.61
Dec-06	\$ (2,520,304.61)	\$ (1,954,327.45)	\$ (1,388,350.29)	\$ (822,373.13)	\$ (256,395.97)	\$ 309,581.19	\$ 875,558.34	\$ 1,441,535.50	\$ 2,007,512.66
Jan-07	\$ (2,824,417.36)	\$ (2,227,038.36)	\$ (1,629,659.36)	\$ (1,032,280.37)	\$ (434,901.37)	\$ 162,477.63	\$ 759,856.62	\$ 1,357,235.62	\$ 1,954,614.62
Feb-07	\$ (3,115,284.44)	\$ (2,486,382.99)	\$ (1,857,481.54)	\$ (1,228,580.08)	\$ (599,678.63)	\$ 29,222.83	\$ 658,124.28	\$ 1,287,025.74	\$ 1,915,927.19
Mar-07	\$ (3,423,513.44)	\$ (2,763,120.16)	\$ (2,102,726.89)	\$ (1,442,333.61)	\$ (781,940.34)	\$ (121,547.07)	\$ 538,846.21	\$ 1,199,239.48	\$ 1,859,632.75
Apr-07	\$ (3,728,926.77)	\$ (3,037,142.00)	\$ (2,345,357.22)	\$ (1,653,572.45)	\$ (961,787.68)	\$ (270,002.90)	\$ 421,781.87	\$ 1,113,566.65	\$ 1,805,351.42
May-07	\$ (4,045,430.20)	\$ (3,322,133.63)	\$ (2,598,837.05)	\$ (1,875,540.47)	\$ (1,152,243.90)	\$ (428,947.32)	\$ 294,349.26	\$ 1,017,645.83	\$ 1,740,942.41
Jun-07	\$ (4,359,138.87)	\$ (3,604,351.03)	\$ (2,849,563.20)	\$ (2,094,775.37)	\$ (1,339,987.54)	\$ (585,199.71)	\$ 169,588.12	\$ 924,375.95	\$ 1,679,163.78

### Assumptions:

- Figures on this page are end-of-month values. For example, the February 2005 Fund balance figure indicates the balance on February 28.
- CapTel projections are based upon an average monthly usage of 200 minutes per phone and a distribution of 20 phones per month.
- For estimated balances, the TEDP will expend its appropriation at the rate of 1/12 of its annual appropriation per month (\$186,127). For actual Fund values, the actual TDEP expenditure is used.
- The Central Services Cost Allocation to the General Revenue Fund program will assess the fund at the rate of 1/12 of its annual authorized amount per month (\$5,649 for the remainder of FY 2005 and \$5,825 for FY 2006 and 2007).
- Interest receipts paid into the Fund, for purposes of estimation, are the average of interest receipts for the twelve months February 2004 to January 2005.
- Disbursements are paid regularly. Actually, there are times when the vendor does not produce a bill in one month but does provide two in the next. This behavior will cause the fund to inflate in some months and to correct in others.
- The current surcharge (\$0.10) continues to apply until June 30, 2005. Balance estimates from July 2005 to June 2007 are based upon the appropriate surcharge option.

\* Fund balance figures November 2004-February 2005 are actual values and are in shaded, bolded blue ink; all other values on this page are estimates.

**Assumption: Average Monthly CapTel Usage, 200 Minutes and Distribution of 20 Additional Phones Per Month**

Attachment 1