

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

In the Matter of the Review of the Deaf Relay)
Service and Equipment Distribution Fund) Case No. TO-2007-_____
Surcharge)

MOTION TO OPEN CASE TO REVIEW STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and for its Motion and Recommendation states:

1. Pursuant to Section 209.259 RSMo 2000, the Commission is required to review the Deaf Relay Service and Equipment Distribution 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 funds are available for the provisions of the programs. Section 209.257 RSMo directs the Commission to determine the appropriate percentage of surcharge revenue to be retained by the local exchange company to recover billing, collecting, remitting and administration costs attributed to the surcharge.

2. The previous review of the surcharge was conducted by the Commission in Case No. TO-2005-0308. The Commission issued a Report and Order issued in that case on June 28, 2005, which increased the surcharge to \$.13 per month effective September 1, 2005. The Report and Order also maintained the existing retention amount for local telephone companies at one percent or \$30, whichever is greater, of the surcharge revenue they collect.

2. The Staff files this Motion requesting the Commission to open a case to again review the surcharge.

3. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that Commission maintain the current surcharge of \$.13 per month and also maintain the current retention amount for local telephone companies.

Respectfully submitted,

/s/ William K. Haas

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Missouri Bar No. 28701

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to the following this 13th day of February 2007.

/s/ William K. Haas

Office of the Public Counsel
P.O. Box 2200
Jefferson City, MO 65102

MEMORANDUM

To: Missouri Public Service Commission

From: Walt Cecil
Telecommunications Department

Natelle Dietrich /February 9, 2007
Utility Operations Division/Date

/s/ David Meyer / February 13, 2007
General Counsel's Office/Date

Subject: Relay Missouri Surcharge Recommendation

Date: February 9, 2007

Summary

Pursuant to Section 209.259.3 RSMo, the Missouri Public Service Commission (Commission) is required to conduct a review of the Deaf Relay Service and Equipment Distribution Fund (Fund) Surcharge (Surcharge) at least every other year. On June 28, 2005, the Commission increased the Fund Surcharge to its current level, \$0.13 per access line, effective September 1, 2005. In order to comply with Missouri law, the Commission must review the Surcharge once again.

The Telecommunications Department Staff (Staff) reviewed historical relay and Missouri Assistive Technology Advisory Council (MATAC) expenditures and other programs having authority to draw from the Fund and forecasted what those demands may be from January 2007 through June 2009. Staff also reviewed company surcharge payments and payment patterns and forecasted likely surcharge revenues from January 2007 through June 2009. Staff's recommendation and detailed findings follow, but in brief, Staff finds the surcharge sufficient to meet likely demands on the Fund. Staff recommends maintaining the current Surcharge for another year. Staff also recommends no change in the current Retention Amount.

Background

Section 209.253.1, RSMo requires the Commission to provide a statewide dual-party relay system. In accordance with Section 209.255.1 RSMo, the Commission established a rate recovery mechanism to recover the costs of implementing and maintaining the Relay Missouri Program (Relay) and the MATAC's Telecommunications Equipment Distribution Program (TEDP). Section 209.259.3 RSMo, requires the Commission to review the 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 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 Surcharge four 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;
- June 28, 2005, Case No. TO-2005-0308, \$0.13.

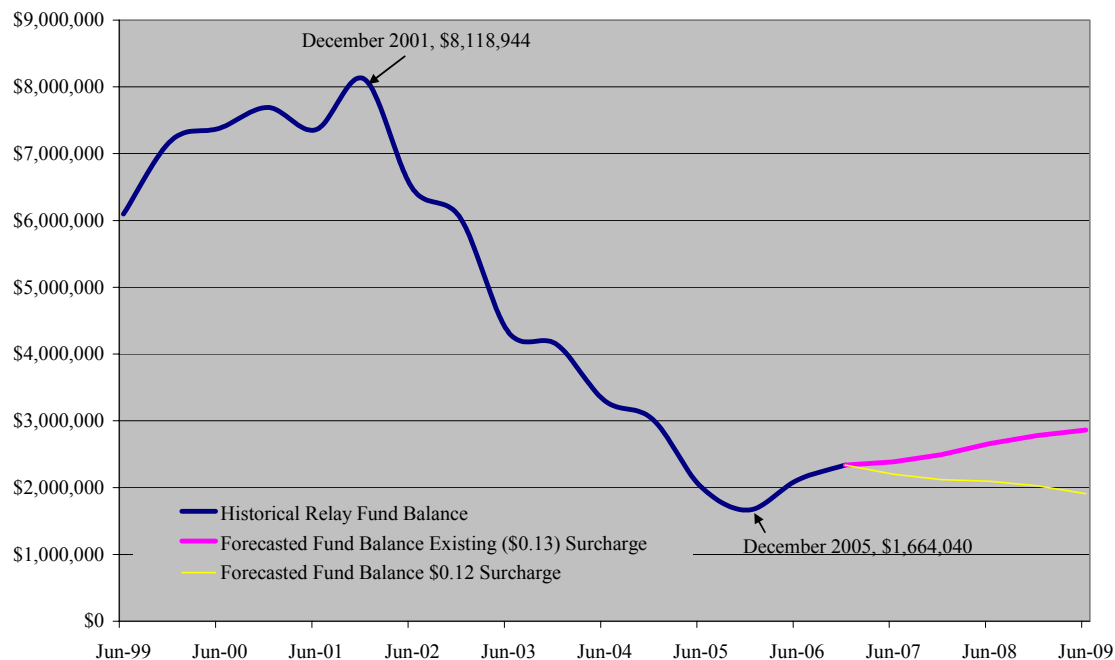
The Commission issued its order increasing the Surcharge to \$0.13 on June 28, 2005, with an effective date of September 1, 2005. Section 209.259.3 RSMo, requires the Commission to review the Surcharge at least every two years but no more frequently than annually. Based on the timing of the last review the Commission must now review the Surcharge to comply with this statutory requirement.

Fund Activity

At the time of the last analysis, the Fund balance had been steadily decreasing and by December 2005 reached \$1,664,040. Since the increase in the Surcharge, the Fund balance has increased. As of December 31, 2006 the balance was approximately \$2,366,667.

Chart 1

**Historical and Forecasted Fund Balance
June 1999-June 2009**



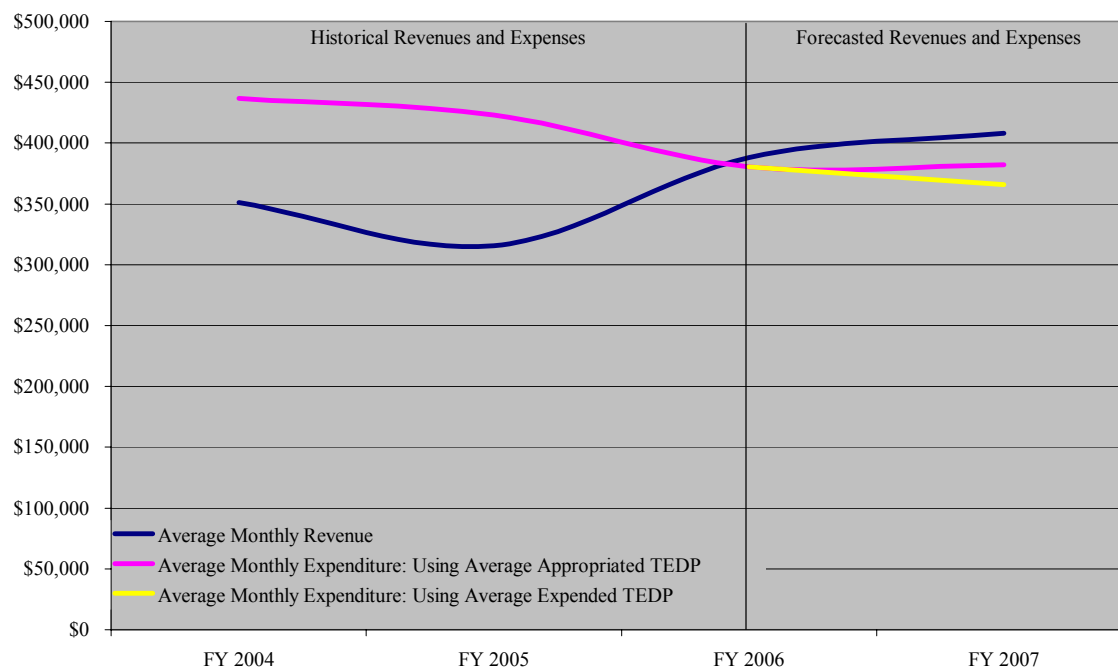
For the period June 2003 to August 2005, monthly Surcharge receipts averaged about \$331,923. Since the Surcharge increase in September 2005, monthly surcharge receipts averaged \$396,839. Average monthly Fund disbursements for traditional relay, CapTel, TEDP and the Central Services Cost Allocation Program averaged approximately \$429,210 and \$375,551 during the same periods.

Surcharge revenues are anticipated to decline as the number of basic access lines declines. Overall Relay Missouri usage is also declining and is doing so at a rate greater than the decline in revenues. Consequently, Staff anticipates the Fund balance will continue to increase at the current Surcharge, and will achieve a balance of approximately \$2,658,500 by June 2008 and \$2,861,000 by June 2009.

Chart 2 demonstrates average monthly revenue and disbursement flows received by the Fund.

Chart 2

Average Monthly Fund Revenues and Expenditures

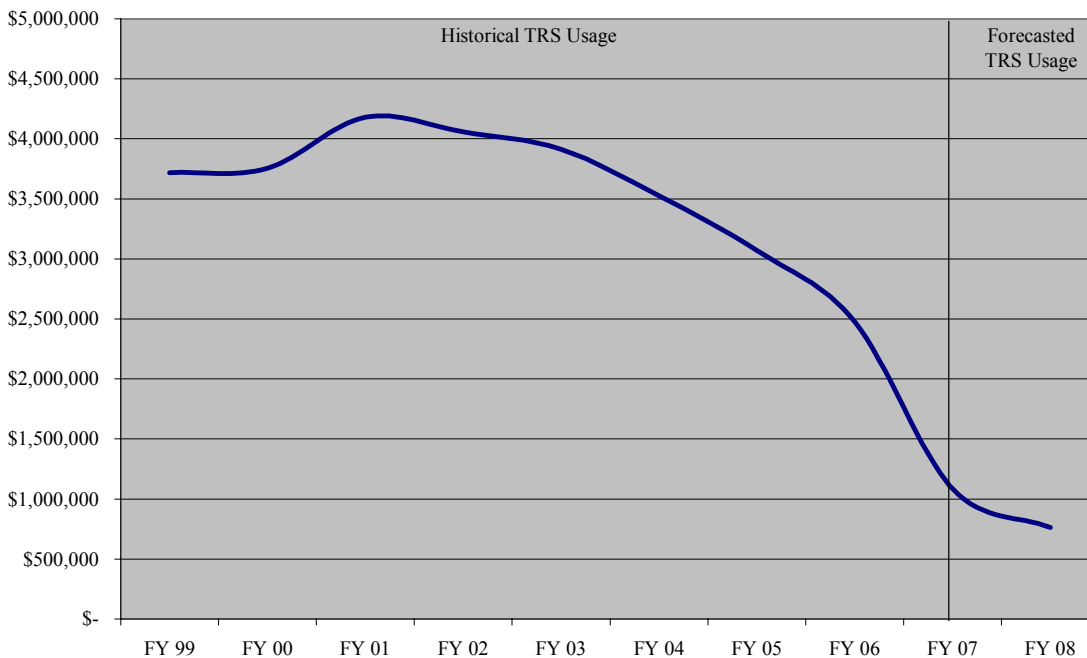


Expenditure Analysis

The Fund expenditures trend appears to be declining at about \$1,100 per month. CapTel expenditures are increasing but traditional relay expenditures (TRS) are declining more rapidly than CapTel expenditures are increasing. The trend in TEDP expenditures appears to be slowly increasing. These and other expenditures are discussed more fully below.

Traditional Relay

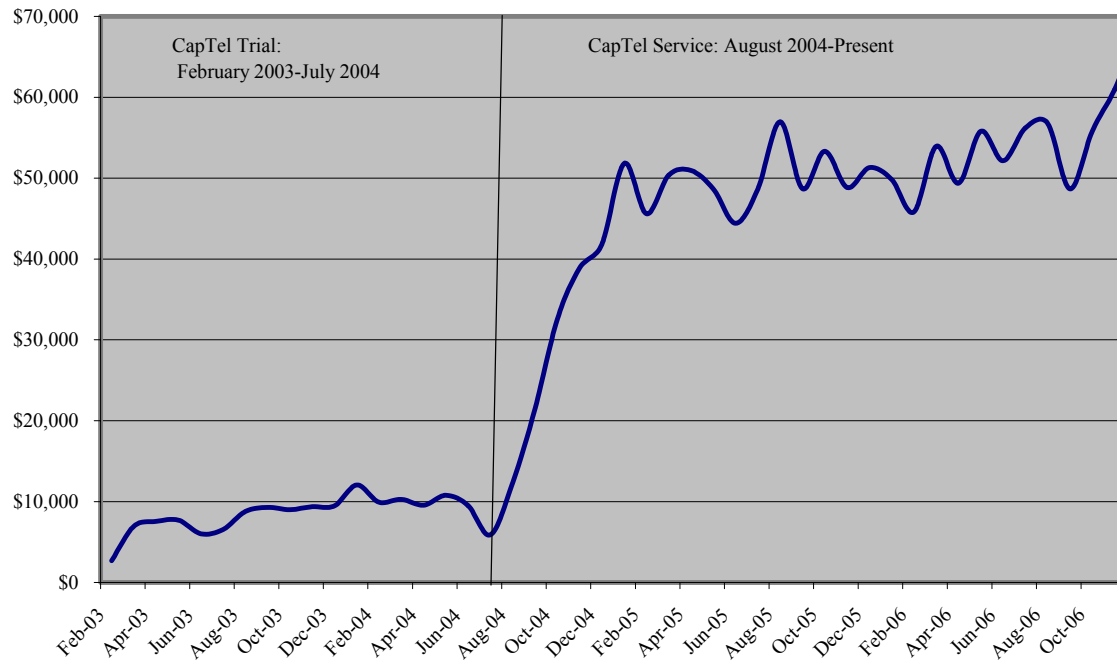
Minutes of usage (MOU) for traditional relay are declining and are expected to continue to do so. It appears relay users are migrating to alternative relay technologies, video relay and Internet-protocol relay. Chart 3 indicates annual usage on an historical basis and includes Staff's forecast for FY 2007 and FY 2008.

Chart 3**Annual TRS Usage**

By contract, the current rate of \$0.94 per minute for traditional relay will continue through June 2008. In July 2008, should the Commission choose to exercise the second of three optional two-year contract renewals, the rate for TRS services with Sprint will increase by 3%, or to \$.9682 per MOU. That rate would remain in effect until June 2010.

CapTel

CapTel usage continues to increase but is doing so at a much slower rate than that observed in the previous review. As of the previous review, CapTel services had only been available for seven months. During that time, usage had grown from about \$5,912 in August 2004 to about \$51,819 by January 2005. In the 24 months since the last review began, CapTel usage has varied between a low of \$44,417 in June 2005 to a high of \$60,930 in November 2006.

Chart 4**CapTel Usage**

As of December 2006, 361 activated CapTel phones were held by the public; however, only about 65% of those distributed, or 242, were used in December. Since the last review, average usage for all CapTel phones was approximately 117 minutes per month and the average length of a call was about 3 session minutes. On average, about eight CapTel phones per month have been distributed. Since February 2006, 16 CapTel units have been deactivated and 38 have been returned. In contrast, during the last review, Staff anticipated about 20 phones would be distributed each month, 100 percent of the phones would be used, and average usage would be 150 minutes of use per phone.

In November 2006, CapTel usage accounted for about 25% of the total relay invoice. Sprint provides CapTel service at the contract rate of \$1.45 per minute. In July 2008, should the Commission choose to renew the contract with Sprint for an optional two-year period, the rate will increase to \$1.4935 per minute of use.

Telecommunications Equipment Distribution Program

The TEDP usually expends about two-thirds of its appropriation. Staff forecasted monthly expenditures using two methods: one based upon average annual expenditures and the other based upon average appropriations. The forecasted value based on average annual expenditures is approximately \$126,000 monthly and the forecasted value for average appropriations is approximately \$180,000, monthly.

TEDP's annual Fund expenditures and appropriations are presented in the following table:

Table 1		
TDEP Spending: Allocated v. Actual Amounts		
Fiscal Year	Appropriation	Actual Disbursements
2004	\$2,700,000	\$1,419,719.86
2005	\$2,163,045	\$1,485,012.70
2006	\$2,150,445	\$1,419,962.65
2007	\$2,158,266	\$784,421.41*

*July 1-December 31, 2006

Central Services Cost Allocation and Relay Missouri Advisory Committee Expenses

The Fund can also be impacted by other factors. The Central Services Cost Allocation Program (CCCA) transferred \$69,401 from the Fund to general revenue during FY 2006 and indicated similar amounts would be transferred in the near future (\$69,524 in FY 2007 and \$62,866 in FY 2008). CCCA has not determined how much it will transfer in FY 2009 but the amount will be based upon actual cash flows into and out-of the fund. Staff used the FY 2008 figure as a proxy for FY 2009.

Relay Missouri Advisory Committee expenses have been approximately \$2,000 per year for the last several years and this figure has been used to forecast future expenses.

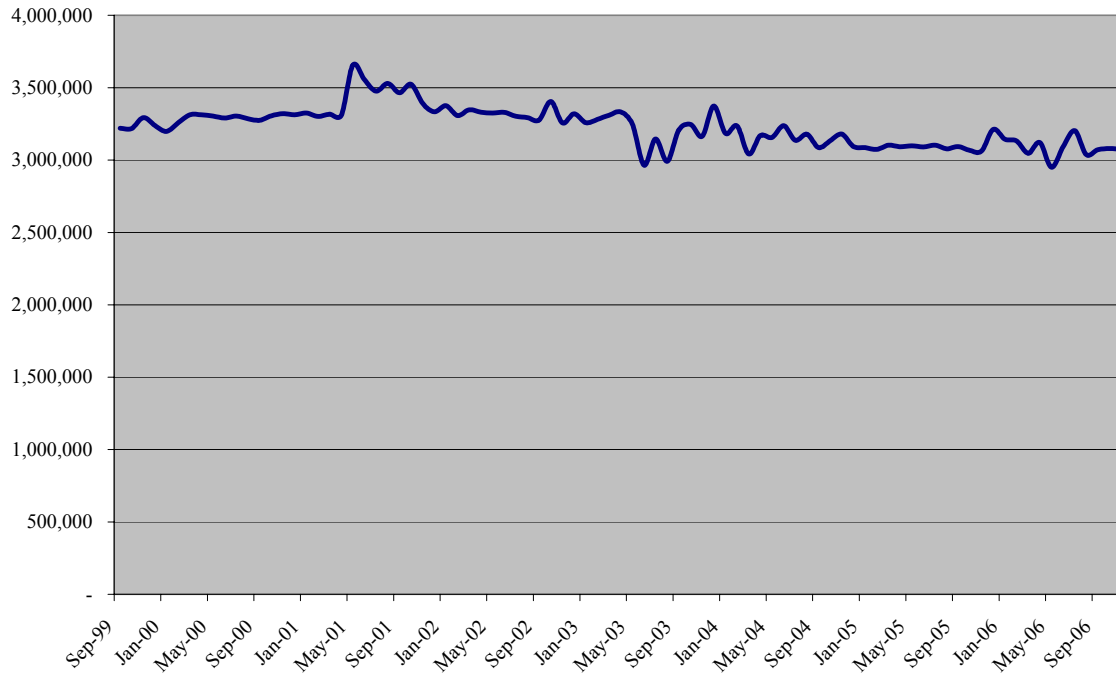
Revenue Analysis

Surcharge Revenues

The Fund is supported by surcharges applied to basic local telecommunications access lines and interest paid into the Fund. To determine the surcharge revenue on a going forward basis, Staff estimated the number of basic local access lines supporting the surcharge on a historical basis. The following chart depicts the number of lines that have supported the Surcharge over the period December 1999 through November 2006. Chart 5 shows the number of lines supporting the Surcharge is declining and Staff's forecast expects those lines to fall below three million sometime in 2008.

Chart 5

Estimated Count of Lines Supporting Surcharge



Interest

Staff at the Missouri State Treasurer's office estimates the interest yield earned by the Fund will be 4.9% for FY 2007 and will decline to 4.5 % in FY 2008. These figures were used to forecast interest revenue earned by the fund through June 2008. The FY 2008 yield estimate was also used to forecast interest revenues through FY 2009.

Retention Amount

The Retention Amount is the amount of the relay surcharge revenue kept by LECs as compensation for billing, collecting and remitting the surcharge. The Commission established the effective retention amount on October 2, 1992. Currently, LECs may keep one percent or \$30, whichever is greater, of the surcharge revenue they collect. Staff inquired of ILEC and CLEC representatives whether or not the current Retention Amount is sufficient or if a change of the amount is required. Only one company representative recommended a modification, suggesting an increase to two percent may be appropriate since the current retention amount has been in effect since 1992.

Legislative Activity

Senate Bill 222, sponsored by Senator Gross and introduced in the 2007 legislative session, requires the state treasurer to deposit all moneys received under any state fund or administratively created fund into the state general revenue fund from January 1st to June 30th of the current fiscal year if the state's net general revenue collections did not increase by two percent or more over the past fiscal year. Other than the Commission's Fiscal Note attached to this bill, Staff has not attempted to further analyze the impact of the bill. Nevertheless, Senate Bill 222, if passed, will have an impact on the Fund.

Recommendation

As previously pointed out in this memorandum, relay revenues have been declining slightly and average \$396,839 per month. Overall relay expenditures have also been declining and are averaging \$375,551 per month. In Staff's opinion, a worst case scenario could include a significant increase in expenditures caused by TEDP, The Federal Communications Commission (FCC) and CapTel. Although TEDP has historically spent less than its appropriation, TEDP might spend its full appropriation. Such an action would increase expenditures on average by approximately \$54,000 per month. Likewise the FCC may suddenly decide to shift relay-related costs (i.e., video relay and Internet-protocol relay) from the interstate to the intrastate jurisdiction. Although it may be debated whether the FCC will actually transfer such costs to the state jurisdictions, the FCC has discussed the possibility on numerous occasions.¹ If those minutes are charged to the Missouri Fund, monthly obligations could increase expenditures by approximately \$230,000 per month. CapTel phone distribution and usage could increase.

The Commission's next opportunity to re-evaluate the surcharge is in 12 months. Assuming the Commission adjusts the surcharge at that time, it may take an additional six months for the surcharge increase to have an impact on actual revenues. The surcharge should be kept at a level to ensure the Fund remains solvent during the next eighteen months, or approximately September 2008, under a worst case scenario that assumes revenues continue to decline, TEDP spends its appropriation, the FCC transfers costs to state jurisdictions and CapTel distribution increases to 20 phones per month. Table 4 indicates possible Fund balances given various surcharges.

¹ Notice of Proposed Rulemaking. *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*. CG Docket No. 03-124.

Further Notice of Proposed Rulemaking. *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*. CG Docket No. 03-123. June 30, 2004.

Table 4

Projected Fund Balance, September 2008		
Surcharge	Projected Balances	Worst Case Balances
\$0.13	\$3,858,081.21	(\$2,835,224.58)
\$0.12	\$3,199,538.50	(\$3,493,767.29)
\$0.11	\$2,540,995.78	(\$4,152,310.29)
\$0.10	\$1,882,453.07	(\$4,810,852..73)

The time available for the Commission to react to changes that may impact the relay Fund is limited. Due to this limitation, Staff recommends the Commission continue the current \$0.13 per access line Relay Surcharge for the next year. A \$.13 surcharge will ensure sufficient funds are available under most scenarios; however, if the FCC transfers relay costs to the intrastate jurisdiction a \$.13 surcharge will not generate sufficient funding. Under such a scenario the Fund balance in 18 months is projected to be a negative \$2,835,224.58.

Staff also reviewed the current Retention Amount and further recommends the current Retention Amount be continued at this time.

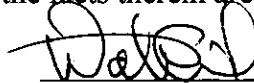
**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Recommendation)
Concerning the Surcharge for Deaf Relay)
Service and Equipment Distribution)
Program Fund)

AFFIDAVIT OF WALT CECIL

STATE OF MISSOURI)
)ss
COUNTY OF COLE)

Walt Cecil, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in the preparation of the accompanying memorandum and that the facts therein are true and correct to the best of his knowledge and belief.



Walt Cecil

Subscribed and affirmed before me this 9th day of February, 2007. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on March 16, 2009.



DAWN L. HAKE
My Commission Expires
March 16, 2009
Cole County
Commission #95407643



NOTARY PUBLIC