

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held in Jefferson City, Missouri on the 23<sup>rd</sup> day of November, 2010.

In the Matter of the Review of the Deaf Relay ) **File No. TO-2009-0042**  
Service and Equipment Distribution Fund Surcharge )

## ORDER ADOPTING RELAY MISSOURI FUND REVIEW AND REDUCING FUND SURCHARGE

Issue Date: November 23, 2010

Effective Date: December 3, 2010

On August 11, 2008, the Staff of the Missouri Public Service Commission filed a Motion to Open Case to Review Staff Recommendation. Attached to that Motion was a summary of the Staff's detailed review of the funding of the Deaf Relay Service and Equipment Distribution Fund ("hereafter fund"). Staff's review was conducted pursuant to 209.259 RSMo 2000. That review is attached hereto as Attachment A.

Staff reviewed the level of the surcharges, the fund balance, the retention amount that compensates the local telephone companies that collect and remit the surcharges, and the expenditures for Relay Missouri. Staff noted that the fund balance for May, 2008 was \$3,179,217 and was steadily increasing.

Staff filed a Status Report on June 22, 2009. Staff stated that the fund was growing even faster than Staff had anticipated in August 2008. Staff indicated the May 2009 balance would be \$3,717,703 instead of \$3,582,282, due to steeper declines in relay usage.

Staff recommended the Commission reduce the Relay Missouri surcharge from \$.13 to \$.11 effective 90 days from the date of the Commission order. Further, Staff recom-

mended that the Commission maintain the current retention amount of one percent or \$30, whichever is greater, of the surcharge revenue it collects, as no compelling reason has been presented by the industry to change this amount.

The Commission granted an application to intervene by Southwestern Bell Telephone Company, d/b/a AT&T Missouri. AT&T Missouri did not object to Staff's recommendations.

The Commission received written comments from The Governor's Council on Disability, the Missouri Commission for the Deaf and Hard of Hearing, the Missouri School for the Deaf, the Missouri Relay Advisory Committee, and Paraquad. Further, the Commission received both written oral comments from Marty Exline, the Director of the Missouri Assistive Technology Council. These comments opposed Staff's Recommendation to reduce the surcharge, mainly due to rapidly changing telecommunications technology and the corresponding decrease in landline users paying into the fund.

In addition, the Missouri Relay Advisory Committee stated that the Federal Communications Commission (hereafter "FCC") will soon require all Video Relay Service (hereafter "VRS") and Internet Protocol (hereafter "IP") Service providers to obtain the user's physical location before initiating service. This new requirement could determine the jurisdiction of the calls which, in turn, could result in the fund sharing the cost of these calls. The Missouri Relay Advisory Committee states that the fund's expenditures could increase by 77% monthly.

In view of these comments, the Commission took no immediate action on Staff's Recommendation. However, on November 2, 2010, Staff updated its Recommendation. Staff's updated analysis continues to recommend that the Commission reduce the surcharge. Staff noted that the balance of the fund is \$4,616,171 as of September 30,

2010. That balance is approximately 9% higher than Staff predicted it would be in its January recommendation. Staff further revised its forecasts, stating that it believes line quantities will decline even more quickly than initially believed. Also, Staff thinks that relay usage will decline more quickly than first thought, and that CapTel usage will remain stagnant instead of increasing. Finally, Staff reported that this update and recommendation was discussed at an October 20, 2010 Relay Missouri Advisory Committee meeting. That committee voted 7 to 1, with 3 abstentions, to support Staff's Recommendation.<sup>1</sup>

Commission Rule 4 CSR 240-2.080(15) allows ten days for responses to pleadings. The Commission received no responses to Staff's November 2, 2010 update.

Section 209.259 requires the Commission to review the deaf relay service and equipment distribution fund surcharge no less frequently than every two years, and to order changes in the amount of the surcharge as necessary to assure available funds for the programs enumerated in Section 209.253. The Commission finds the Staff's review was properly conducted. The Commission notes that the balance of the fund continues to increase even more quickly than Staff's earlier predictions. Technological changes, such as internet-based relay services, are resulting in traditional relay users migrating away from Relay Missouri. Thus, adopting Staff's recommendation should allow the fund to remain solvent and available for those customers who need it, while reducing the bills of all Missouri landline subscribers.

The Commission further finds that the current retention amount of one percent or \$30, whichever is greater, is sufficient and shall be maintained unchanged.

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<sup>1</sup> The abstaining members were two members of Staff and Sprint's member.

**THE COMMISSION ORDERS THAT:**

1. The Relay Missouri surcharge shall be reduced to \$0.11, effective March 3, 2011.
2. The amount retained by local exchange companies shall be continued at one percent or \$30, whichever is greater.
3. This order shall become effective on December 3, 2010.
4. This case shall be closed on December 4, 2010.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Clayton, Chm., Davis, Jarrett,  
Gunn, and Kenney, CC., concur.

Pridgin, Senior Regulatory Law Judge