

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF THE KENTUCKY COMMISSION)	
ON THE DEAF AND HARD OF HEARING TO)	CASE NO.
EXPAND THE FUNDING BASE FOR THE)	2007-00464
KENTUCKY TELECOMMUNICATIONS ACCESS)	
PROGRAM (TAP))	

O R D E R

On October 26, 2007, the Kentucky Commission on the Deaf and Hard of Hearing (“KCDHH”) filed a petition with the Commission requesting a review of the current funding mechanisms for the Telecommunications Relay Service (“TRS”) surcharge and the Telecommunications Access Program (“TAP”) surcharge.¹ Specifically, KCDHH requests that the Commission order wireless telecommunications providers to begin collecting the surcharges from their customers in the same manner as wireline providers.

Presently, only the incumbent local exchange carriers (“ILECs”) and competitive local exchange carriers (“CLECs”) under the Commission’s jurisdiction are required to collect both surcharges from their retail customers on a monthly basis.² ILECs and CLECs are required to outline the combined surcharges on each retail customer’s bill as a separate line item denoted as “Kentucky TRS/TAP Surcharge” or something similar in

¹ TAP was formerly known as “telecommunications device for the deaf,” or “TDD.”

² See Administrative Case No. 372, The Request for Proposal and Selection of a Vendor for Telecommunications Relay Service.

title. Each ILEC and CLEC is required to remit its surcharge collections on a monthly or quarterly basis.³ Additionally, ILECs and CLECs are required to submit monthly reports to the Commission detailing the number of access lines in service and the exact dollar amount of the TRS and TAP surcharges remitted to the fund. All ILECs and CLECs are required to denote each surcharge within their tariffs, as filed with the Commission.

In 1991, the Commission established the TRS program, in accordance with KRS 278.548.⁴ TRS is the system by which a deaf, hearing-impaired, or speech-impaired caller can use a trained operator as an intermediary in relaying or receiving calls to or from a third party. The Commission's current TRS provider is Hamilton Telecommunications, Inc. ("Hamilton"). The TRS surcharge funds the Commission's contract with Hamilton. In accordance with the Commission's authority to develop a funding mechanism for the program under KRS 278.549, the current TRS surcharge rate was outlined in Administrative Case No. 372.⁵

Additionally, KRS 278.548 requires the Commission to assist KCDHH in the TAP equipment distribution program, as outlined in KRS 163.525. Pursuant to KRS 278.5499, the Commission is charged with the duty of determining the appropriate funding mechanism for TAP. The purpose of the TAP surcharge is to collect funds for KCDHH to enable the agency to distribute specialized telecommunications equipment to

³ The timeline for remittance varies based on the number of customers served by each carrier. The Commission maintains a separate interest-bearing, cash management trust fund account for the deposit of the TRS and TAP surcharges. See Administrative Case No. 333, Establishment of Dual Party Relay Telecommunications Services for Hearing-Impaired or Speech-Impaired Persons In Kentucky, Order dated April 15, 1991.

⁴ See Administrative Case No. 333, as cited in fn. 3.

⁵ Administrative Case No. 372, Order dated May 31, 2006.

deaf, hard-of-hearing, and speech-impaired citizens so that they may use the telecommunications relay service.⁶ The surcharge is derived solely from retail telephone customers and, under KRS 278.5499(1), providers do not absorb the cost of funding TAP.

The current TRS surcharge rate is \$0.07 per access line per month, as set by the Commission. The current TAP surcharge rate is \$0.02 per access line per month, consistent with the cap as set by the General Assembly. Currently, the combined TRS/TAP monthly surcharge is \$0.09. In the 2006 budget bill, the General Assembly approved an increase to the cap on the funding mechanism for TAP and stated that no more than \$0.02 per access line per month would be allocated. However, as the increase to the cap was passed through the budget bill, the effectiveness is limited to only 2 years. The increased cap expires on June 30, 2008, and the TAP surcharge will return to the previous statutory cap of \$0.01 per access line per month, thereby reducing the combined monthly surcharge to \$0.08 per access line.⁷

In the petition, KCDHH alleges that, as of June 30, 2007, there were approximately 2.4 million wireless access lines in Kentucky⁸ and states that, as of 2006,

⁶ There are approximately 646,683 deaf, hard-of-hearing, or speech-impaired residents in Kentucky. See ¶ 14 of Petition.

⁷ Under the prior statutory limit of \$0.01 per access line, KCDHH's annual TAP budget was approximately \$230,000. Under the \$0.02 surcharge, the annual budget has increased to \$480,000. In Exhibits B and C of the Petition, KCDHH provides details on relay equipment costs, the number of people provided with equipment, and the number of people denied equipment due to lack of funding.

⁸ See ¶ 8 of Petition. KCDHH states that it obtained this information from the Kentucky Office of the 9-1-1 Coordinator/Commercial Mobile Radio Service Board, an agency in the Kentucky Department of Homeland Security.

the number of residential access lines in Kentucky had decreased by 54 percent.⁹ As the TRS and TAP surcharges are currently based only on wireline access, the funding currently provided to KCDHH is not keeping pace with the levels of actual telephone usage in the state.¹⁰ Within the petition, KCDHH outlines several factors impacting its ability to reasonably meet the telecommunications needs of Kentucky's deaf, hard-of-hearing, and speech-impaired community, including the lack of money to purchase wireless relay devices in accordance with the increasing requests for those devices by its constituents. KCDHH also notes that by 2030, the segment of Kentucky's population age 80 and over is expected to reach 220,000 and, consequently, the number of persons legitimately needing additional telecommunications assistance due to complete or partial hearing loss or changes in speech abilities is also expected to increase.¹¹

Having reviewed the allegations and information provided in the petition, the Commission finds that KCDHH's request for a review of the current funding mechanisms for TRS and TAP should be granted. The Commission finds that KCDHH has raised fair and necessary questions regarding the equitable application of the TRS and TAP surcharges and whether the current funding mechanisms will adequately address and support the telecommunications needs of Kentucky's deaf, speech-impaired, and hard-of-hearing community. Specifically, during the course of this

⁹ See ¶ 7 of Petition.

¹⁰ See ¶ 11 of Petition.

¹¹ See *generally* ¶¶ 11 and 12 of Petition. KCDHH states that from June 2002 to June 2006, it increased the amount of distributed TAP equipment by 34 percent. KCDHH states that by June 2008, it expects to have a 23 percent increase in the number of applications it will receive from Kentucky residents requesting TAP equipment.

proceeding, the Commission will determine if wireless providers should be required to collect surcharges for TRS and TAP and, if so, whether the TRS surcharge amount should be adjusted to account for the expected growth of the fund reasonably measured against the financial needs of KCDHH in distributing relay equipment.

In light of the number of parties with an interest in this proceeding, the Commission will require that any person, organization, or utility seeking to become an intervenor must file a motion with the Commission within 30 days of the date of this Order. Other members of the public not seeking to become intervenors, but who would like to have input into the proceeding, may file written statements or comments to be included in the record. The Commission will issue procedural schedules in this proceeding as determined to be necessary.

The Commission, being sufficiently advised, HEREBY ORDERS that:

1. KCDHH's request for review of the current funding mechanisms for TRS and TAP, as provided in this Order, is granted.
2. The Executive Director shall serve copies of this Order upon all cellular telecommunications providers under this Commission's jurisdiction.
3. The Executive Director shall serve copies of this Order upon all ILECs and all CLECs under this Commission's jurisdiction.
4. The Executive Director shall serve a copy of this Order upon the Attorney General at his Office of Rate Intervention.
5. The Executive Director shall serve a copy of this Order upon the Kentucky Telephone Association.

6. Motions for intervention, pursuant to 807 KAR 5:001, Section 3(8), shall be filed with the Commission within 30 days of the date of this Order.

7. Public written statements or comments shall be filed with the Commission within 60 days of the date of this Order.

Done at Frankfort, Kentucky, this 5th day of December, 2007.

By the Commission

ATTEST:


Executive Director