BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, to determine the surcharge for the statewide Telecommunications Relay System to be effective July 1, 2007, in the State of Nebraska.	) Application No. C-3744)) ORDER SETTING TRS SURCHARGE))) Entered: April 10, 2007

BY THE COMMISSION:

B A C K G R O U N D

The above-captioned proceeding was opened by the Commission, on its own motion, to determine the appropriate surcharge for the statewide Telecommunications Relay System (TRS) to be effective July 1, 2007. The Commission is charged by statute to hold an annual public hearing, prior to April 1 of each year, to determine the amount of surcharge necessary to carry out the provisions of the Telecommunications Relay System Act (Neb. Rev. Stat. § 86-301 to 86-315). The surcharge is used to fund the TRS and the Equipment Distribution Program (EDP) for the coming year.

Notice of the proceeding appeared in The Daily Record, Omaha, Nebraska, on January 19, 2007. Notice of the hearing was also mailed to all known interested parties on January 17, 2007. The public hearing was held on March 6, 2007, in the Commission Hearing Room.

O P I N I O N A N D F I N D I N G S

Steve Stovall, Staff Accountant for the Commission's Communication Department, testified that Hamilton Telecommunications (Hamilton), which has the current contract for provision of TRS service in Nebraska, provided statistics reflecting actual usage data beginning in 1991, when relay operations began, through January of 2007.

Mr. Stovall presented eight exhibits representing eight different scenarios. At the time of the hearing, Hamilton had requested a renewal for the remaining two years of the seven-year TRS service contract currently in effect. Hamilton also requested a 5% increase in the TRS rate in the renewal which would result in an increase from $.895 to $.94. Further, legislation was pending before the Nebraska Legislature that would remove the annual cap on the amount of the TRS surcharge

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collected that can be allocated to the EDP portion of the TRS program.

The eight exhibits are as follows, the first contained historical data for the last three years; the second was a forecast assuming the surcharge is reduced to $.04 and the 5% increase in the contract with Hamilton is not granted; the third forecast assumed the surcharge was lowered to $.04 and the 5% contractual increase is granted; the fourth forecast assumed the surcharge remained at $.05 with no 5% contractual increase; the fifth forecast assumed the surcharge remained at $.05 with the 5% contractual increase being granted; the sixth forecast assumed the same as the fifth forecast with the addition of the removal of the annual cap from the EDP by the legislature; the seventh exhibit contained selected historical statistics of the program; and the eighth was a graphical representation of the annual surcharge since 1991. The expenses depicted in these exhibits have been provided to the Commission using this format in the past where the TRS and EDP expenses are separately categorized.

The third exhibit, assumed the surcharge was reduced to $.04 effective July 1, 2007 and the 5% increase requested by Hamilton in their contract renewal was granted. Exhibit No. 3 reflects the current fiscal year 2006-07 with the cost and revenue data updated to actual through January 2007, and projected for February 2007 through June 2009. Exhibit No. 3 also shows the resulting impact on the combined programs reserve balance and the monthly total costs include both the TRS and EDP expenses. Exhibit No. 3 demonstrates that the reserve balance would be $725,046 at the end of the current fiscal year and projects an average reserve balance of $496,479 at the end of the next fiscal year.

Exhibit No. 5 made a similar analysis but assumed the surcharge remained at $.05 and the 5% contractual increase was granted. Exhibit No. 5 projects the same reserve balance as Exhibit No. 3 at the end of the current fiscal year, $725,046, and projects a reserve balance of $732,419 at the end of the next fiscal year. Exhibit No. 6 assumed the surcharge remained at $.05, the 5% contractual increase was granted and also added the further assumption that the legislature had passed provisions removing the annual cap from the EDP. Exhibit No. 6 projects a reserve balance at the end of the current fiscal year of $624,871 which reflects the removal of the annual cap on expenditures for the EDP. Due to the annual cap, during the prior fiscal year, the issuance of payment vouchers in the EDP was suspended, resulting in a backlog of 156 vouchers as of

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February 1, 2007. In the event the Legislature enacts legislation with an emergency clause attached that would remove the annual EDP cap, the result would be an immediate expenditure of $57,720, which is reflected in the lower reserve balance at the end of the current fiscal year in Exhibit No. 6. Finally, Exhibit No. 6 also projects a reserve balance of $381,241 at the end of the next fiscal year, once again reflecting the ability of the Commission to allocate increased funds to the EDP with the passage of legislation removing the annual cap.

Further, Mr. Stovall testified that for each of the first six exhibits, cost columns for CapTel have been incorporated into the projections. This service began October 1, 2004 and is provided by Hamilton. These cost projections include both a service provider and an equipment component. For the first six exhibits, total minutes of use for traditional relay use is projected for February 2007, and adjusted downward thereafter using a mathematical forecasting technique known as linear regression. The decision to forecast reduction in minutes of use is consistent with the decline in minutes that has been evident the three previous years. For the fiscal year 2003-2004, there was a decline in usage minutes of 5.8% as compared to the previous year. In fiscal year 2004-2005, the usage minutes declined another 11.1%. In the current fiscal year, 2006-2007, minutes of use have declined 15% as compared to the previous year.

Based on these scenarios and his experience as administrator of these programs, Mr. Stovall testified that his recommendation is two-fold. In the event legislation removing the EDP annual cap is enacted by the Legislature in the 2007 Session, Mr. Stovall recommends the surcharge remain at five-cents beginning July 1, 2007. In the event, the EDP annual expenditure cap remains in effect, Mr. Stovall recommends that the surcharge be reduced to four-cents, beginning July 1, 2007.

In further support for the Commission staff's recommendation, Mr. Stovall shared two observations. First, Mr. Stovall testified, that the difference between the surcharge remaining at $.05 and being lowered to $.04 is a difference of $235,940. Mr. Stovall said, "If we hold that a 'reasonable reserve' should be equal to a range of two to four months of program costs, the four-cent surcharge should result in a reserve balance within the reasonable range." However, Mr. Stovall also pointed out that the four-cent projection assumes the Legislature does not pass provisions removing the EDP annual cap.

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As his second observation, Mr. Stovall testified that in the event the Legislature enacts provisions that remove the annual cap on allocations to the EDP portion of the TRS program, the current five-cent surcharge should be retained. The increased level of equipment expenditure reflected July 1, 2007 would be necessary to meet the increased demand of applicants applying for assistance in purchasing equipment. The current backlog of 156 vouchers would result in an immediate expenditure of $57,720 if the EDP cap is removed. The $57,720 figure is derived from multiplying 156 vouchers, the number of vouchers that are being held since the voucher program was suspended December 17, 2006, by $370, the average voucher expenditure. The reserve balance at the five-cent surcharge level falls within the reasonable range for the reserve level after allowing for increased expenditures on the EDP side of the TRS program.

Tami Richardson-Nelson, Chairperson of the TRS Advisory Committee, submitted a letter dated January 25, 2007, reporting that at the January scheduled meeting of the Advisory Committee, the Committee unanimously approved recommending that the Commission reduce the surcharge to four-cents effective July 1, 2007.

The Nebraska Legislature passed LB 661 on March 30, 2007, and the bill was signed into law by the Governor on April 4, 2007. The bill included an emergency clause making the provision of the bill effective April 4, 2007, the date the bill was signed by the Governor. LB 661 includes a provision that removes the annual allocation cap from the EDP portion of the TRS program.

Lastly, the TRS Advisory Committee submitted a second letter to the Commission on April 2, 2007, revising the earlier Committee recommendation in light of the passage of LB 661. The Committee unanimously approved recommending to the Commission that the current surcharge level of five-cents be retained.

The Commission finds that due to the enactment by the Nebraska Legislature of provisions removing the annual cap from the allocation of the TRS surcharge to the Equipment Distribution Program, the recommendations of Mr. Stovall and the TRS Advisory Committee are reasonable and that the surcharge should remain at five-cents.

The Commission finds, based on the testimony and evidence adduced at the hearing, the TRS surcharge should be retained at five-cents effective July 1, 2007.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that, pursuant to the Telecommunications Relay System Act, the TRS surcharge should be set at five-cents per access line beginning July 1, 2007.

IT IS FURTHER ORDERED that all affected telecommunications companies are hereby required, beginning July 1, 2007, to collect a five-cent surcharge per month on each telephone access line in Nebraska, provided that the surcharge shall be only collected on the first one hundred access lines per customer.

MADE AND ENTERED at Lincoln, Nebraska, this 10th day of April, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

//s//Frank E. Landis
//s//Rod Johnson

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