

STATE OF NEW HAMPSHIRE

Inter-Department Communication

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DATE: August 3, 2017

AT (OFFICE): NHPUC

FROM: *ML* Michael Ladam, Director, Regulatory Innovation and Strategy

SUBJECT: DT 11-061: Telecommunications Relay Service Fund as Substitute Recipient for Certain FairPoint Wholesale Performance Plan Incentive Payments

TO: Commissioners
Debra Howland, Executive Director

CC: David Wiesner, Staff Attorney

Executive Summary

The Commission previously directed that Northern New England Telephone Operations LLC (FairPoint), under certain conditions arising under the Wholesale Performance Plan, make payments in lieu of CLEC bill credits into the New Hampshire Telecommunications Planning and Development (TPD) Fund. That fund was eliminated under recently-enacted legislation. The goal of maintaining incentives for FairPoint's wholesale performance still appears to be appropriate, and Staff recommends that the Commission specify a substitute recipient of these funds related to FairPoint's payments. Staff believes that the Telecommunications Relay Service (TRS) Fund is a potential candidate to receive those funds.

This memo reviews the status of the TRS Fund, and considers whether directing the monies previously paid into the TPD Fund, which have averaged approximately \$950 per month, to the TRS Fund would be beneficial. In Staff's assessment, the TRS Fund is a reasonable substitute recipient of those payments and such additional funding of the TRS Fund should prove beneficial.

Analysis

The TRS Fund is supported through an assessment paid by wireline telephony providers, with the assessment based on the number of lines each provider has in service. The Commission seeks to ensure that the TRS Fund maintains a "cushion" of six months' fund expenses, and raises or lowers the per-line assessment accordingly. The TRS Fund is currently below that cushion level. Although the trends in income and outflow appear to make a rate hike unnecessary, incremental support for the Fund would helpfully reduce risk.

The TRS Fund had a balance of \$186,528 as of June 1, 2017. The fund's expenses for calendar year 2016 were \$426,719, which would call for a cushion of at least \$213,359.

However, two historical trends combine to provide an additional safety margin. Landlines reported in service across the New Hampshire telephone industry are declining at an annual rate of about 3%, apparently as customers switch to cellular service, and TRS Fund revenues consequently decline at the same rate. This decline has been more than offset by an annual decline of roughly 15 percent in minutes of use of TRS services. Slightly under half of TRS expenses are tied to minutes of use, so Fund outflow is declining more rapidly than Fund income.

If income and outgo did not fluctuate from month-to-month, and if the two rates of decline were guaranteed to continue, the TRS Fund would be in no risk of running low. There are fluctuations, however, and the rates of decline may well change; incremental support for the Fund therefore would provide useful risk reduction.

Program History:

The TRS Fund was established in 1991 pursuant to Commission Order No. 20,236 to comply with provisions of the Americans with Disabilities Act. All Excepted Local Exchange Carriers (ELECs) pay into the fund, as do local exchange carriers that are not ELECs, such as cable providers offering local telephone service. Each company pays into the Fund based on the number of access lines in service, and on the number of seasonally-suspended access lines.

The TRS Fund supports four distinct programs: the Telecommunications Relay Service program itself (including the Captioned Telephone service); an associated outreach program to ensure people who could benefit are aware of the TRS services; the New Hampshire Telecommunications Equipment Assistance Program; and the New Hampshire Newsline for the Blind program. TRS expenses vary each year depending on the number of calls and minutes used by eligible subscribers. The last three of these service categories, plus Fund management costs, are funded at a flat \$18,719 per month. The per-minute TRS services consumed an average of \$16,281 per month during calendar year 2016.

Newsline for the Blind expenses have been a flat \$28,000 per year; effective July 2017, however, new legislation increased that amount to \$31,500.

Rate History:

In six orders since 1991, the Commission has set the rate per active access line (funding rate) that these companies pay into the TRS Fund between \$0.02 and \$0.10, with seasonally-suspended lines charged at half that rate.

In 2007, the TRS Fund balance was over one million dollars. Order No. 24,731 of February 2007 lowered the funding rate from \$0.04 to \$0.02 so as to deplete the fund balance over the next few years. That was successful, and the Fund balance had declined to \$150,000 when Order No. 25,142 of September 2010 addressed that decline by raising the funding rate from \$0.02 to \$0.06.

Order No. 25,629 of March 2014 approved a change in rates sought by the company administering the TRS program, which increased per-minute Fund expenses. And, as noted above, a change in state law in June 2017 increased the Fund's support of the Newline for the Blind program by \$3,500 per year, effective immediately.

Staff receives monthly reports of TRS payments made by landline voice providers, including both "traditional" telephone companies and cable operators. These payments are calculated by each company based on the number of landlines it has in-service. Staff also receives monthly reports of Fund disbursements, for both fixed and per-minute charges. These reports have enabled Staff to calculate the 3% annual rate of decline in reported land lines, as well as the 15% annual decline in minutes of TRS service.

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Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
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