

Staff Briefing Papers

Meeting Date May 2, 2019 Agenda Item 3*

Company Department of Commerce/TAM (Telecommunications Access Minnesota)

Docket No. **P999/PR-18-194**

In the Matter of Proposed Amendment to TAM FY 2019 Budget

Issues Should the Commission approve the proposed amendment to the TAM FY 2019 budget?

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Relevant Documents

Date

Public Utilities Commission Order Accepting Report, Approving Budget, and Maintaining Surcharge and Requiring Filings

July 3, 2018

TAM FY 2019 Budget and Surcharge Recommendations Amendment

March 6, 2019

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issues

Should the Commission approve the proposed amendment to the TAM FY 2019 budget?

II. Background

A. Overview of Telecommunications Access Minnesota (TAM)

The Telecommunications Access Minnesota (TAM) program was created by the Legislature in 1987 to make Minnesota's telecommunications system fully accessible to eligible individuals who are deaf, hard of hearing, deafblind, speech disabled or physically disabled to allow them access to the telecommunications network. Minn. Stat. §§237.50 – 237.56 and Minn. Rules, Chapter 8775 govern the operation of the program.

The program has two major components: the Telephone Equipment Distribution (TED) program and the Minnesota Relay. TED distributes specialized telecommunications equipment to eligible deaf, hard-of-hearing, speech-impaired and mobility-impaired persons to allow them access to the telecommunications network. The budget amendments presented by the Minnesota Department of Commerce (Department or DOC) in this proceeding are all related to the TED program.

TAM is funded by a monthly surcharge on all wired and wireless access lines, the most recent changes being from \$0.08 to \$0.07 cents occurring in 2015 and from \$0.07 to \$0.05 on August 1, 2016, where it remains. By law, the surcharge may not exceed \$0.20 per access line.

The Minnesota Relay and TED programs are administered by TAM within the Department. Rochelle Garrow is the TAM Program Administrator. TAM administers the TED program through an interagency agreement with the Department of Human Services (DHS).

B. Department's Administrative Role

The Department's role is to administer the overall fund, including the TED program as provided at Minn. Stat. 237.51, Subd. 1(1) which provides in relevant part that the Department shall:

[A]dminister through interagency agreement with the commissioner of human services a program to distribute telecommunications devices to eligible persons who have communication disabilities; ...

C. Commission's Budget and Surcharge Role

1. TAM Budget and Surcharge

The Public Utilities Commission's (Commission) role with respect to the TAM budget and surcharge is outlined in Minn. Stat. §237.52, subd. 2(a), and relates largely to approval of the budget and surcharge as appropriate and adequate.

Subd. 2. Assessment. (a) The commissioner of commerce, the commissioner of employment and economic development, and the commissioner of human services shall annually recommend to the Public Utilities Commission an adequate and appropriate surcharge and budget to implement sections 237.50 to 237.56, 248.062, and 256C.30, respectively. The maximum annual budget for section 248.062 must

not exceed \$100,000 and for section 256C.30 must not exceed \$300,000. ***The Public Utilities Commission shall review the budgets for reasonableness and may modify the budget to the extent it is unreasonable.*** The commission shall annually determine the funding mechanism to be used within 60 days of receipt of the recommendation of the departments and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than 20 cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1. (Emphasis added)

2. Annual TAM Report

The Commission also receives an annual report on TAM from the Department as provided in Minn. Stat. §237.55. The January 31st TAM Annual Report to the Commission addresses the most recent year's activities (i.e., the report for 2017 was filed in Docket No. P999/PR-18-5). It is followed later in the spring by a proposed budget for the following year (i.e., the budget for FY 2019 is addressed in P999/ PR-18-194).

D. Recent TAM Dockets

On June 30, 2017, the Commission accepted the 2016 TAM Report, approved the budget for FY 2018, and kept the surcharge unchanged. The Commission also required the filing of legislative reports on the TED program and a report on its Wireless iPad/iPhone pilot program. (See Order Accepting Report, Approving Budget, Maintaining Surcharge, and requiring filings; Docket Nos. P999/PR-17-5 and 17-276.)

On July 18, 2017, the Commission issued its Order declining action on a proposed FY 2017 budget amendment, ordering an update in 60 days of the Department's and DHS's progress on implementing the January 2017 Legislative Report, "Analysis of Deaf, DeafBlind and Hard of Hearing Services". (See Order Requiring Filing; Docket No. P999/M-16-227.)

On July 3, 2018, the Commission accepted the 2017 TAM Report, kept the TAM monthly surcharge at \$0.05 per access line, and approved the budget for FY 2019. The Commission also required the next TAM Annual Report to address TED's new outreach metrics and what is learned from them; the numbers of each type of equipment items purchased, deployed, returned, and retired; and lessons learned from the client contact surveys and resulting program changes. (See Order Accepting Report, Approving Budget, Maintaining Surcharge, and Requiring Filings; July 3, 2018; Docket Nos. P999/PR-18-5 and 18-194.)

On February 4, 2019, the Commission received from the Department the 2018 Annual Report to the Public Utilities Commission (Docket No. P999/PR-19-5). The Commission has not yet received the TAM FY 2020 Budget and Surcharge Recommendations (which is expected to be filed shortly in Docket No. P999/M-19-151).

E. Department Filing

On March 6, 2019 the Department recommended acceptance of an amendment to the current fiscal year TAM budget. No other parties have filed reply comments. The amendments are all related to the Telephone Equipment Distribution (TED) program. The TED program is making organizational changes and requests approval for certain salary allocation modifications, and allocations for additional staff positions. The proposed budget amendments begin to implement TED program redesigns described by The Department at pages 2-7 and by DHS in Appendix A of the Department's filing. These are summarized by Staff in Appendix A of this briefing paper.

The effect of the accepting the proposed budget amendment would be a reduction of \$98,628 in the current budget (FY 2019) to \$1,381,137. As the program transition continues it is anticipated that these changes would result in a slight increase in next year's budget which is anticipated to be received by the Commission later this spring. (See DOC Comments, Appendix A, page 7 of 7.)

In this filing, the Department does not address use of its interagency agreement with DHS concerning budget amendments.

F. Staff Analysis

Neither the Department nor Staff question the reasonableness of the changes proposed to DHS's TED program budget. No substantive issues are raised in the record to date. The decisions before the Commission largely concern whether the commission needs to (or wants to) approve the proposed changes; acknowledge receipt of the Department's filing by accepting it; or simply take no action. The Commission may also want to clarify its expectations for the process of addressing TAM budget amendments.

The Commission's role with respect to the TAM budget and surcharge is outlined in Minn. Stat. §237.52, subd. 2(a) which provides that it "shall review the budgets for reasonableness and may modify the budget to the extent it is unreasonable." This has generally been understood to concern the annual approval of the budget and surcharge as appropriate and adequate. Outside of that process, the only prior request for a budget amendment that Staff is aware of was requested by the DHS in 2017 to address a cost overrun (Order Requiring Filing, July 18, 2017; Docket No. P999/M-16-227). In that proceeding the Commission observed at page 2 of the order that:

The Commission approves TAM budgets prospectively. The Commission is not aware of any authority other than the agreement between DHS and the Department that requires the Commission to approve line-item overruns. The Commission is not a party to the agreement.

The Department's role to administer the overall fund, including the TED program, is provided at Minn. Stat. 237.51, Subd. 1(1) which provides that the Department shall:

[A]dminister through interagency agreement with the commissioner of human services a program to distribute telecommunications devices to eligible persons who have communication disabilities; ...

In its July 2017 order in Docket No 16-227, the Commission also observed at page 2 that:

The Department and DHS administer the TAM program according to the terms of an interagency agreement. The agreement sets forth the conditions under which funds in the Commission-approved budget may be moved from one line item to another. It provides as follows:

- Total annual transfers of less than ten percent of the amount in a line item to or from which funds are being transferred are allowed without the Department's prior approval.
- Total annual transfers of ten percent or more of a line item must be approved in advance by the Department, and the Department may refer this approval to the Commission.
- If the sum total of all transfers to or from line items exceeds \$10,000, then the interagency agreement must be amended.

Deferring to the DOC/DHS interagency agreement, the 2017 budget amendment order concluded that line item changes after the budget was approved may not need to come to the Commission:

The Commission will decline to act on the request for a line-item transfer within in the 2017 TAM budget. The Commission is satisfied that, in this circumstance, the interagency agreement governing the TAM budget can be administered appropriately by the Department and DHS. If further information leads the Department to conclude that the transfer is reasonable, it remains free to amend the agreement to authorize the transfer.

Thus, either taking no action, or accepting the filing as an informational filing would be consistent with the Commission's prior reasoning and action in 2017. The types of changes presented in this filing also support such an action: many of the line item changes are small in comparison to the entire budget. Taking no action or accepting the filing as an informational filing would also support the concept that the Commission wishes to encourage Department and DHS to manage the programs in a collaborative manner, not needing to wait for Commission action. The Commission may also wish to ask the Department whether the changes in its filing are associated with the DOC/DHS interagency agreement or are in lieu of it.

However, the Commission has recently been interested in having more frequent dialogue with the Department and DHS on the programs, and it may also be reasonable to take action on the filing as a reflection of that interest. In that case, the Commission could accept or even approve the filing as an added measure of transparency. This is a perfectly reasonable approach, but if the Commission takes this path, it would be preferable to articulate whether the Commission expects future changes to an already-approved budget need to be also filed with the Commission. Staff presumes the Commission may want to balance transparency (that is, receiving more frequent updates of changes to the program) with flexibility (allowing the two agencies with more subject matter expertise over the program to make changes as they see fit).

G. Decision Options

March 6, 2019 Filing:

1. Take no action.
2. Acknowledge receipt of the Department's March 6, 2019 filing as an informational filing.
3. Accept DHS' proposals on items 1 through 7, with the allocations on items 5, 6, and 7 being reevaluated with future budget proposals. On item 8, accept DHS' proposal to decrease the budgeted amount to correspond with the Commission's determinations on items 1 through 7. (Department)
4. Approve the Department's March 6, 2019 filing.

Guidance on Future Budget Amendment Filings:

5. Find that Minn. Stat. §237.52 requires only annual budgets, not budget amendments, to be filed with the Commission.
6. Find that Minn. Stat. §237.52 allows budget amendments to be filed with the Commission. Further direct the Department and DHS to file future budget amendments with the Commission.
7. Make no finding on Minn. Stat. §237.52, but direct the Department and DHS to make informational filings to the Commission when the agencies have agreed on amendments that are significant to the program.

Staff Recommendation

Options 1, 2, 3 or 4 are reasonable. Decision items 5, 6 or 7 are optional, if either the Commission, Department, or DHS believes it would be useful to offer clarity on filing requirements.

Staff Summary of Proposed Budget Amendments

(See Department of Commerce filing at pages 2-7 and Attachment A)

1. **Total Compensation:** Include fringe benefits within each salary line item instead of carrying it as a separate line item.

This change is simply an accounting shift and has no impact to the TED Program budget.

2. **Division Director Line Item:** Increase the Deaf and Hard of Hearing Services (DHHS) Division Director allocation to the program from 0.15 FTE to 0.25 FTE.

The proposed change would result in an increase for salary and fringe for the Division Director line item from \$18,476 to \$24,635 (\$6,159) in FY 2019. If the allocation increase is approved, the estimated Division Director line item cost for FY 2020 will increase to \$31,717.

3. **Program Support Line Item:** Decrease the program support allocation from 1.5 FTE to 0.45 FTE effective January 1, 2019.

Some tasks are being moved to the newly created Information & Referral Specialists. The proposed change would result in a decrease for salary and fringe from \$82,075 to \$28,732 (-\$53,343) in FY 2019 for this line item.

4. **Regional Managers Line Item:** Eliminate Regional Manager allocations (5 positions at 0.20 FTE each; 1 FTE total) from the TED allocation effective January 1, 2019.

Supervision of program specialists is transferred to the TED Program coordinator. This change would result in a decrease for salary and fringe for this line item from \$108,133 to \$27,649 (-\$80,484) in FY 2019, and will eliminate this line item in FY 2020.

5. **Management Analyst Line Item:** Add a 0.20 FTE allocation for a Management Analyst position, effective January 1, 2019.

This position will assess program expenditures against projections, develop annual and quarterly program budget forecasts, and provide financial recommendations and support to programs. Not included in the original FY 2019 approved budget, the proposed FY 2019 budgeted amount for salary and fringe for this position is \$9,355. If the position allocation is approved, the estimated management analyst line item cost for FY 2020 is \$18,840.

6. **Information and Referral Specialists Line Item:** Add two Information and Referral Specialists positions at 0.34 FTE (0.68 FTE total) in January 2019.

Information and Referral (I&R) specialists will be the first staff members to review emails and take calls, and directly help customers to identify the resources they seek.

The allocation of the two new I&R specialists positions will be 66 percent to DHHS and 34 percent to the TED Program. This will be a new expense for the TED Program and, as such, was not included in the original FY 2019 approved budget. The proposed FY 2019 budgeted amount for salary and fringe for these positions is \$20,196. If the position allocation is approved, the estimated Information and Referral Specialists line item cost for FY 2020 is \$41,310.

7. **Communications Coordinator Line Item:** Add a Communications Coordinator (0.34 FTE) to the TED program.

The Communications Coordinator will manage the website, social media, brochures and other documents; make it easier for individuals to contact staff; and expand advertising and marketing materials and resources.

This position is a new program expense, hence, was not included in the original FY 2019 approved budget. The proposed FY 2019 budgeted amount for salary and fringe is \$11,934. If the line item cost to the TED Program for FY 2020 would be \$24,327.

The TED Program Assistant Coordinator previously handled many of the communications coordinator's duties related to the TED Program. The assistant coordinator will now focus on project management, program development, and coordination between the TED Program administrator and the statewide program specialists. The assistant coordinator will also serve as the TED Program expert regarding database issues and data analytics.

8. **Agency and Statewide Indirect Costs Line Item:** Adjust the budgeted amount to correspond with any approved budget amendment.

If the Commission accepts items 1-7 above, the FY 2019 budgeted amount for Agency and Statewide Indirect Costs adjusts from \$138,000 down to \$125,558.