

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange  
Dan Lipschultz  
Matthew Schuerger  
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John A. Tuma

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Department of  
Commerce's 2017 TAM Budget and  
Surcharge Recommendations

ISSUE DATE: July 18, 2017

DOCKET NO. P-999/M-16-227

ORDER REQUIRING FILING

**PROCEDURAL HISTORY**

The Legislature has established the Telecommunications Access Minnesota (TAM) fund to make Minnesota's telecommunications system fully accessible to people with communication disabilities.<sup>1</sup>

The Department of Commerce (Department) administers the fund, filing annual reports and disbursing funds to the Department of Human Services (DHS), which publicizes the program and distributes telecommunications devices to eligible Minnesotans.<sup>2</sup> This Commission reviews the Department and DHS's recommended budget for reasonableness and sets the surcharges that fund the program.<sup>3</sup>

On March 22, 2016, the Department filed its 2017 TAM budget and surcharge recommendations. The budget included \$285,000 for "Equipment for Distribution," of which \$90,300 was designated to be used for an iPad/iPhone pilot program.

On May 24, 2016, the Commission issued an order accepting the proposed TAM budget.

On May 3, 2017, DHS notified the Department that, due to higher-than-expected demand, the budget for the iPad/iPhone pilot program had been exceeded by \$127,667, which in turn caused a \$36,000 overrun in Equipment for Distribution. DHS requested permission to transfer \$36,000 to Equipment for Distribution from other budget line items to cover the overrun.

On June 9, the Department filed comments asking the Commission to determine whether DHS's request should be approved.

On the same date, DHS filed comments in support of its request.

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<sup>1</sup> See Minn. Stat. §§ 237.50–.56.

<sup>2</sup> See Minn. Stat. §§ 237.51, subds. 5 (Department duties), 5a (DHS duties).

<sup>3</sup> See Minn. Stat. § 237.52, subd. 2(a).

On June 29, 2017, the matter came before the Commission.

## **FINDINGS AND CONCLUSIONS**

### **I. Background**

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.

DHS's requested line-item transfer of \$36,000 exceeds the \$10,000 threshold requiring amendment of the interagency agreement. It also exceeds the ten percent threshold for Department preapproval, since \$36,000 represents more than ten percent of the 2017 Equipment for Distribution budget.

### **II. Commission Action**

The Commission approves TAM budgets prospectively.<sup>4</sup> 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.

Even if the Commission must consider line-item changes in TAM budgets, the parties have not provided the Commission with enough information to determine whether the proposed transfers are reasonable.

DHS stated only that the iPad/iPhone pilot program "resulted in very high demand for these devices which was hard for the program to manage" and that the "excess work caused the staff to focus on responding to consumers [so] that the approval of a line item increase was not requested before overspending."

The Department did not make a recommendation on whether or not to approve the transfer request. It stated at the Commission hearing that it lacked sufficient information to do so.

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.

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<sup>4</sup> See Minn. Stat. § 237.52, subd. 2(a).

Relatedly, the Commission notes that DHS's Deaf and Hard of Hearing Services Division issued a report in January 2017 at the request of the Legislature to analyze how its regional offices are operated and whether certain services are being provided efficiently.<sup>5</sup> The report is based on the results of two consulting studies and contains various recommendations to improve DHS's deaf and hard-of-hearing services and increase program outreach.

The Commission will direct the Department and DHS to provide, within 60 days of this order, a written report updating the Commission on the implementation of the January 2017 legislative report and explaining how DHS is addressing the two consulting studies that informed the legislative report. This information will be provided in addition to the progress report included in next year's TAM annual report.

### **ORDER**

1. Within 60 days of the date of this order, the Department and DHS shall provide a written report to the Commission updating it on the implementation of the January 2017 Legislative Report, "Analysis of Deaf, DeafBlind and Hard of Hearing Services," and explaining how DHS is addressing the two consulting studies embedded in the legislative report. This report is in addition to the progress report that will be included in next year's TAM annual report.
2. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



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<sup>5</sup> DHS Deaf and Hard of Hearing Services Division, "Analysis of Deaf, DeafBlind and Hard of Hearing Services" (January 2017), available at <https://www.leg.state.mn.us/docs/2017/mandated/170193.pdf>; *see also* 2015 Minn. Laws, ch. 71, art. 14, § 2, subd. 3(d) (requiring legislatively appropriated funds to be used, in part, to analyze DHS's deaf and hard-of-hearing services).