

# Minnesota Public Utilities Commission

## Staff Briefing Papers

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Meeting Date: **June 12, 2014** ..... \*Agenda Item # 1

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**Company:** Department of Commerce/TAM (Telecommunications Access Minnesota)

**Docket Nos.** P999/PR-14-5  
In the Matter of TAM's 2013 Annual Report

P999/M-14-151  
In the Matter of TAM's FY 2015 Proposed Budget and Surcharge  
Recommendation

P999/M-13-138  
In the Matter of TAM's Audit Plan

- Issues:**
1. Should the Commission accept TAM's 2013 Annual Report?
  2. Should the Commission approve TAM's proposed budget for FY 2015?
  3. Should the Commission approve the proposed increase of the TAM surcharge from \$0.06 to \$0.08?
  4. What action should the Commission take regarding TAM's proposed Audit Plan?

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### **Relevant Documents**

TAM's Proposed Audit Plan (Docket 13-138) ..... January 28, 2014  
TAM 2013 Annual Report (Docket 14-5) ..... January 30, 2014  
TAM's Proposed Budget for FY 2015 (Docket 14-151) ..... April 25, 2014

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***Statement of the Issues***

1. Should the Commission accept TAM's 2013 Annual Report?
2. Should the Commission approve TAM's proposed budget for FY 2015?
3. Should the Commission approve the proposed increase of the TAM surcharge from \$0.06 to \$0.08?
4. What action should the Commission take regarding TAM's proposed Audit Plan?

***The TAM (Telecommunications Access Minnesota) Program***

The Telecommunications Access Minnesota (TAM) program was created by the Legislature in 1987 to make Minnesota's telecommunications system fully accessible to communication-impaired persons. 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. The program is funded by a monthly surcharge on all wired and wireless access lines, currently at \$0.06. By law, the surcharge may not exceed \$0.20 per access line.

TAM administers the TED program through an interagency agreement with the Department of Human Services (DHS). 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 Minnesota Relay, on the other hand, is a federally-mandated Telecommunications Relay Service that allows functionally equivalent communication between a person with a hearing or speech disability and any other telephone user. When Minnesota Relay started, the state of Minnesota owned and maintained all relay equipment. Since 1996, TAM has contracted with outside organizations to staff and equip the relay system. The current Minnesota Relay contractor is the Communications Service for the Deaf (CSD), with Sprint as a subcontractor. The contract with CSD for the provision of Telecommunications Relay Services is effective July 1, 2006, currently extended through June 30, 2014, with the option to renew up to an additional 24 months. In July 2011, TAM awarded the relay outreach component to the DHS.

TAM's goal is to provide Telecommunications Relay Services that are in full compliance with the requirements of Minnesota laws as well as with the requirements and intent of Title IV of the Americans with Disabilities Act of 1990, 47 U.S.C. §225, and Federal Communications Commission regulations at 47 C.F.R. §64.601 - 64.605.

In addition to the two main programs, the TAM surcharge also funds three additional programs administered by the Department of Employment and Economic Development (DEED), the Department of Human Services (DHS), and the Commission of Deaf, DeafBlind and Hard of Hearing Minnesotans (MCDHH) and other one-time direct appropriations. In 2013, the legislature made permanent the annual allocations of \$290,000 and \$150,000 to MN.IT and LCC, respectively. The legislature also increased the allocation to MCDHH of \$500,000 in FY 2014 and \$800,000 in FY 2015; the FY 2015 funding level also becomes a permanent annual allocation.

By legislative mandate, the TAM surcharge funds the following programs (**appropriations included in FY 2015 proposed budget in bold**):

Table 1: Other Programs Funded by the TAM Surcharge, 2005-2015

Name of Program/Agency Administrator	Year/s Covered	Appropriation	Funding Purpose
Accessible News for the Blind (ANB)/ Dept. of Employment and Economic Development (DEED)	2005-2015	Maximum annual budget of <b>\$100,000</b> appropriated to DEED per Minn. Stat. §237.52, subd. 4.	Provides accessible electronic information (news and others) for blind and disabled persons.
Rural Real-time Captioning/Dept. of Human Services (DHS)	2005-2015	Maximum annual budget of <b>\$300,000</b> appropriated to DHS per Minn. Stat. § 237.52, subd. 4.	Provides real-time, closed-captioning of certain local television programs who deaf, hard-of-hearing or deaf/blind persons.
Commission of Deaf, DeafBlind and Hard-of-Hearing Minnesotans (MCDHH)	2007 2008 -2009 2010- 2011 2012 -2013 2014-2015	Started with \$200,000 for 2007 operations. Increased to \$300,000 Increased to \$400,000 Decreased to \$320,000 Increased to <b>\$800,000</b>	Advocates for equality of opportunity for hearing-challenged persons.  American Sign Language website content and to assist state agencies
State Video Franchising	2009	\$85,000 appropriation	Study
Broadband	2009	\$175,000 appropriation	Mapping project
MN.IT (fka Office of Enterprise Technology)	2010- 2011 2012- 2013	\$100,000 per year Increased to \$230,000 per year (returned \$210,317 in FY	Technology accessibility and usability

	2014 - <b>2015</b>	2013) Increased to <b>\$290,000</b>	
Legislative Coordinating Commission	2010-2011 2012- <b>2015</b>	\$100,000 per year Increased to <b>\$150,000</b> per year	Captioning of live streaming of legislative sessions, consolidated access fund for other state agencies
Transfers to the general fund	2010 2011 2013	\$ 246,000 \$ 270,000 \$1,100,000	

Also in 2013, the legislature passed legislation that imposes TAM and 911 fees on each retail transaction for prepaid wireless telecommunications services effective January 1, 2014. The fees are established pursuant to Minn. Stat. §403.161.

### *Commission's Role*

#### A. Annual Report

The TAM statute (Minn. Stat. § 237.55) requires the Commissioner of Commerce to present to the Commission by January 31 of each year, a report reviewing the following:

- (1) the accessibility of the telephone system to communication-impaired persons;
- (2) the ability of non-communication-impaired persons to communicate by telephone with communication-impaired persons;
- (3) all services provided under the program;
- (4) accounting for money received and disbursed for each aspect of the program; and
- (5) predicted future operations.

The Commission's review of TAM's Annual Report is addressed in Issue 1.

#### B. Budget and Surcharge

TAM is also required to file an annual budget and an annual recommendation on the surcharge level necessary to operate the program. Pursuant to Minn. Stat. § 237.52 subd. 2, the Commission reviews the budget proposal for reasonableness, and modifies the budget if necessary. The Commission annually determines the funding mechanism to be used within 60 days of receipt of the TAM recommendation and orders the imposition of the surcharge effective on the earliest practicable date. The law allows the Commission to establish a monthly charge not greater than 20 cents for each wired and wireless access line or connection. If there are changes in the surcharge amount, the Commission directs the telephone companies to file tariffs and implement the new surcharge level.

Issues 2 and 3 deal with TAM's Annual Budget and proposed increase in surcharge.

## C. Audit

On June 4, 2013, the Commission issued its Order Accepting 2012 Annual Report, Approving Proposed FY 2014 Budget, Retaining Surcharge, and Authorizing Audit. The Commission asked TAM to develop a plan and budget for an audit of the programs funded through the TAM no later than December 31, 2014. TAM filed its plan for an audit on January 28, 2013.

Issue 4 pertains to TAM's filing on January 28, 2014 related to the Audit.

### ***Issue 1. Should the Commission accept TAM's 2013 Annual Report?***

On January 30, 2014, TAM submitted its 2013 Annual Report. The annual report is filed in accordance with Minn. Stat. § 237.55 and presents information on the major activities of TAM for the year. It provides the program history, a description of the TED and Minnesota Relay projects, financial and statistical data, and progress report and anticipated operations, and includes the governing statutory references and the current organizational structure.

## Highlights of the Annual Report

### A. Minnesota Relay

Call Volumes. In 2013, Minnesota Relay handled 624,286 for a total of 1.57 conversation minutes of use. Majority of the calls (75 percent) is through CapTel, and only 24 percent uses traditional TRS; the remaining 1 percent is by Speech-to-Speech calls. Appendix A of the Annual Report shows the number of relay calls in 2013 with a comparison of yearly call volumes since 2004. It also shows the call volume by type. The numbers show a continued downward trend in yearly call volumes for relay calls, although the conversation minutes for CapTel increased slightly. TAM reports on the continued migration to internet-based services such as Internet Protocol Relay and Video Relay Services as they offer enhanced features and more relay users gain access to high speed internet services. The trend also shows continued and increasing reliance on e-mails, text messaging, and other newer forms of communication.

Accessibility. TAM serves Minnesotans who have hearing, speech or physical disabilities that make it difficult to use standard telecommunications services, and persons who wish to contact these individuals. Based on previous experiences, it is estimated that more than half a million Minnesotans have some hearing loss. In 2012, a bill was passed that updated telecommunications and disability definitions in Minn. Stat. §§ 237.50 – 237.56.

Minnesota Relay provides 24/7 relay service for standard (voice), text telephone (TTY), wireless, or personal computer (PC) users to place local, intrastate, interstate, and international calls.

TAM reports a state-of-the-art, Avaya Automatic Call Distribution, all-digital switching system. It provides caller accessibility that meets or exceeds industry standards and compliance with the state contract. The relay features are listed on pages 10-13 of the report. The Minnesota Relay center uses both Uninterruptible Power Source and backup power generators to ensure uninterrupted power, even in the event of a power outage. The subcontractor, Sprint, has a nationwide all-digital, fiber-optic network of transmission circuits.

TAM reports that the Minnesota Relay meets the FCC standard that 85% of calls be answered within 10 seconds by any method of relay calls. In 2013, the average speed of answer was 0.9 seconds for traditional TRS, 6.5 seconds for speech-to-speech, and 0.6 seconds for CapTel calls.

Appendix B of the Annual Report lists the currently available TRS carriers of choice for intrastate, interstate and international calls. If the caller does not indicate a preference, or if the preferred carrier is not serving Minnesota, the long distance relay call is carried and billed by Sprint.

The Relay Center and Operators. TAM's current contract for the provision of relay services with the Communication Service for the Deaf (CSD) has been extended through June 30, 2014. TAM is in the process of evaluating TRS bids for the future. The contract extension is for basic relay and captioned telephone relay services, and does not include the outreach component.

The center is located in Moorhead. Operators are available 24/7 and also serve the Federal Relay Service and other states. A description of the relay network and operator system is contained on pages 14-18 of the Report.

Rates. Minnesota relay users are charged no more for services than those paid by other telephone users. They are provided the same calling services and are able to use the same calling scope used by persons without communication-impairments. Users can select their preferred long distance carrier and are billed by Minnesota Relay only for the conversation time. Internet based relay services, which include Video Relay Service (VRS), and Internet Protocol Captioned Telephone Relay Service (IP CTS) are currently funded by the federal TRS fund, which also funds interstate and international minutes of service including 51 percent of toll free and 900 minutes, and 11 percent of two-line CapTel minutes. The non-internet based local and intrastate relay services, which include traditional, speech-to-speech, and CapTel relay services are funded on a state level.

Contract Payments. TAM paid CSD about \$2.4 million in FY 2013 and projects \$2.8 million payments for FY 2014. *See page 23 of the Annual Report.*

Outreach. Outreach presentations for the Minnesota Relay are provided by the Department of Human Services' TED Program. In 2013, the outreach staff performed 89 outreach activities reaching 3,167 Minnesotans.

Complaints. In 2013, Minnesota Relay received seven complaints (0.001 percent) out of a total 627,286 calls completed.

Notable Developments during the Year.

The FCC amended the mandatory minimum standards applicable to Speech-to-Speech relay service.

The FCC granted Minnesota's TRS certification in July 2013. The certification will remain in effect until July 25, 2018.

Relay communication assistants received ongoing skill training.

Future Enhancements.

TAM does not anticipate any relay enhancements for 2014.

## B. Telephone Equipment Distribution

Equipment Distribution. TED distributed 2,029 assistive devices in 2013. The devices include amplifiers and amplified phones (62%), CapTel phones (17%), auxiliary equipment (13%), speaker phones (4%), TTYs (0.5%), wireless phones (4%) and other special equipment. Services are provided through the regional offices of the Deaf and Hard of Hearing Services Division (DHHSD) of the Department of Human Services.

Clients Served. In 2013, TED served 935 new program participants, and 2,223 repeat participants. It provided information and referrals to 172 consumers. TED's oldest participant is 113 years old, and the youngest is 13 years old. TED's average consumer in 2013 is female, 81 years old, and hard-of-hearing. In 2013, 66 percent of the clients served were female, and 62 percent lived outside of the seven-county metropolitan area. 92 percent of participants are hard-of-hearing, 3 percent are deaf, five are physically disabled, and 1 percent has other disabilities.

Wireless Phones. In 2013, TED increased distribution of wireless phone options by adding an additional amplified cell phone, a Bluetooth neck loop, a basic smartphone, and a light flashing signaler. The program will continue to evaluate more wireless options to meet the changing needs of clients.

Outreach. DHHSD performed TED's outreach activities through 89 presentations or demonstrations reaching 6,911 participants. Presentations were made to groups of professionals and potential participants explaining the program, the eligibility requirements, available services and pertinent information. Outreach efforts included face-to-face meetings with consumers, participation in exhibits, distribution of pamphlets, training of consumers and businesses, and similar activities.

Contract Payments. TAM paid DHS/TED about \$1.4 million in FY 2013 and projects \$1.5 million expenses for FY 2015. *See page 23 of the Annual Report.*

Future Operations. A focus group in 2013 addressed the changes in telecommunications technology and telephone service. In 2014, TED plans to develop ways to address changes in consumers' preference for wireless devices, and the availability of specialized equipment that are now considered standard equipment and can be purchased "off the shelf."

It continues to research creative equipment options for people who have multiple disabilities. This group had been underserved due to lack of telecommunications technology meeting their needs, as well as the high-cost of specialized equipment. Examples of specialized devices include cordless voice-activated speakerphones, specialized headsets, special switches and magnifiers for caption telephones.

### C. Accounting of Money Received and Disbursed

The Annual Report, on page 23, shows total actual revenues and expenditures for FY 2013 with projections for FY 2014. TAM shows actual and projected revenues of \$4.6 million in FY 2013 and FY 2014.

Expenditures totaled \$4.7 million in FY 2013 and are projected at \$ 5.5 million in FY 2014. Expenditures are broken down into the following main programs funded by the surcharge:

Table 2. Summary of TAM Programs, FY 2013 and 2014

Program	FY 2013 Actual (in \$ M)	FY 2014 Budgeted (in \$ M)
Program Administration	\$ 0.111 ( 2.3%)	\$ 0.165 ( 3.0%)
Minnesota Relay	2.379 (50.1%)	2.844 (52.0%)
Equipment Distribution	1.422 (30.0%)	1.533 (28.0%)
Subtotal	3.912	4.542
Other Programs	0.834 (17.6%)	0.924 (17.0%)
Total TAM Expenditures	4.746 (100.0%)	5.466 (100.0%)

The TAP fund balance was \$2.3 million at the end of FY 2013 and estimated at \$ 1.3 million at the end of FY 2014.

### D. TAM Administration

The TED and Minnesota Relay programs are administered by TAM within the Department of Commerce (Department). Rochelle Garrow is the TAM Program Administrator.



**Commission Options for Issue 1: Should the Commission accept TAM’s 2012 Annual Report?**

- 1.a. Accept TAM’s 2013 Annual Report.
- 1.b. Other action determined by the Commission.

**Staff’s Recommendation**

Staff recommends Option 1.a.

**Issue 2: Should the Commission approve TAM’s proposed budget for FY 2015?**

On April 25, 2014, TAM filed its FY 2015 Budget Proposal for Commission approval. Attachment A to the filing shows the summary of the proposed budget with comparative figures for previous years. It shows that for FY 2015, TAM estimates revenues of \$6,238,399, expenditures of \$5,948,681 resulting in an increase in the TAM Fund to \$2,049,459 at the end of FY 2015.

**Program Expenses**

Table 3 presents the main components of TAM’s FY 2015 expenses, with comparative FY 2014 figures.

Table 3: TAM’s FY2015 Budget Proposal, with comparative figures for FY 2014

	<u>FY2015 Proposal</u>	<u>FY2014 Proposal</u>	<u>Change in Budgetd Amts</u>
<b>A. <u>Department-TAM Programs</u></b>			
TAM Administration	\$ 155,700	\$ 153,120	\$ 2,580
Tel Eqpt. Distribution	1,654,981	1,530,825	124,156
Minnesota Relay	2,497,000	2,680,600	(183,600)
Relay Outreach	<u>1,000</u>	<u>1,000</u>	<u>-</u>
Sub-total	\$4,308,681	\$4,365,545	\$ ( 56,864)
<b>B. <u>Other Funded Programs</u></b>			
DHS Captioning	\$ 300,000	\$ 300,000	\$ -
DEED – News for Blind	100,000	100,000	-
MCDHH	800,000	320,000	480,000
Office of Enterprise Tech	290,000	230,000	60,000
Legislative Coord. Comm	<u>150,000</u>	<u>150,000</u>	<u>-</u>
Sub-total	\$1,640,000	\$1,100,000	\$ 540,000
<b>Total</b>	<b>\$5,948,681</b>	<b>\$5,465,545</b>	<b>\$ 483,136</b>

TAM requests Commission approval of its FY 2015 budget of \$5,948,681 million, an 8.8 percent increase over its FY2014 budget, mainly resulting from an increase in legislative allotments to MCDHH. TAM notes that this budget submission is not evidence that it supports the costs of the Other Funded Programs.

The following attachments in TAM’s filing also describe the specific program’s budget proposal and justification for the funding level:

<i>Attachments</i>	<i>Description</i>
A and B	TAM Administration
C	Minnesota Relay Outreach
D	Telephone Equipment Distribution
E	DHS’ Captioning
F	DEED’s News for the Blind

**Program Revenue and TAM Fund Balance**

TAM proposes an increase in the surcharge from \$0.06 to \$0.08. The TAM surcharge is applied on each wired and wireless line or its equivalent. The number of wired access lines is estimated at 1,901,591 lines, a decrease of 4 percent from the previous year. The number of wireless accounts is estimated at 4,255,179, an increase of 0.44 percent from last year. Effective January 1, 2014, prepaid wireless telephone providers also pay into the TAM Fund an amount equal to the regular TAM fee applied on a per transaction basis. For example, if a customer buys 10 paid cards, the TAM fee is currently 10 x 6 cents = 60 cents. If the TAM fee goes up to 8 cents, the same customer pays 10 x 8 cents = 80 cents.

Table 4 below presents TAM’s revenue projections for FY2015 at the proposed surcharge level of 8 cents, with comparative figures if the surcharge remains at 6 cents. Attachment B, page 4, of TAM’s filing also demonstrates the effect on TAM revenue and the TAM Fund Balance by changing the surcharge from 1 cent through 10 cents.

Table 4. Effect of Surcharge Increase to 8 cents on TAM's Revenue and Fund Balance, with comparative figures if Surcharge is retained at 6 cents

Details	at 6-cent surcharge	At 8-cent surcharge
<b>REVENUE</b>		
Wired Access Lines, est. at 1,901,591 lines	\$1,369,145	\$1,825,527
Wireless, est. at 3,063,729 accounts	\$3,063,729	\$4,084,972
Subtotal	\$4,432,874	\$5,910,499
Prepaid wireless	\$ 324,000	\$ 324,000
Interest income	\$ 2,400	\$ 3,900
<b>Total Revenue</b>	<b>\$4,759,274</b>	<b>\$6,238,399</b>
Less		
EXPENDITURES from Table 1		
Department-TAM Programs	\$4,308,681	\$4,308,681
Other Funded Programs	\$1,640,000	\$1,640,000
<b>Total Expenditures</b>	<b>\$5,948,681</b>	<b>\$5,948,681</b>
Add: TAM Fund at beginning of FY 2015	\$1,759,742	\$1,759,742
<b>Proj. TAM Fund at end of FY 2015</b>	<b>\$ 570,335</b>	<b>\$2,049,460</b>

### Other Considerations

Advance Operating Expenses and Payments to Other Funded Programs. On Attachment B, page 5 of its filing, TAM indicates that \$2,558,614 in advance funding may be needed for operating expenses and full payments to the other funded programs. After coordinating with the other programs, TAM believes that \$1,740,000 would be sufficient to cover the advance operating expenses and partial advance payments to the other programs. In other words, TAM believes that the Fund should carry a minimum amount of \$1,740,000 at the beginning of FY 2015 to meet the programs' financial obligations.

Table 4 also shows that, while a 6-cent surcharge will produce a positive fund balance at the end of the fiscal year, it will not be sufficient to meet 2 months operating expenses and biannual payments to DHS-Captioning, DEED-ANB, MCDHH, OET and LCC programs.

TAM Revenue from the TracFone Settlement. A late development affecting TAM revenue arose after the Department/TAM filings were made.

On May 19, 2013, Staff learned of a Settlement Agreement between the Minnesota Department of Public Safety (DPS) and TracFone Wireless Inc., a prepaid wireless phone carrier with a pending application before the Commission to become an Eligible Telecommunications Carrier

(ETC) in Minnesota.<sup>1</sup> Related to TracFone's ETC application, DPS filed a lawsuit against TracFone over 911 and TAM surcharge payments in Minnesota. In the Settlement, TracFone, without admitting its obligation to collect or remit 911 and TAM fees in prior years, agreed to pay \$2.5 million to DPS within 10 days of the Agreement. The amount is to be allocated between 911 and TAM fees.

Staff estimates that the TAM Fund will receive about \$178,511 resulting from the Settlement. Adding the Settlement amount yields the following TAM Fund projections at the end of FY 2015:

At 6 cents =	\$ 748,846
At 7 cents =	\$1,488,358
At 8 cents =	\$2,227,971

It appears that, based on TAM's requested cushion of \$1,740,000 estimate for operating and advance expenses, an 8-cent surcharge will adequately cover the programs' estimated budget for FY 2015.

Efforts to Draw Down the TAM Fund Balance. As recently as last year, TAM proposed to draw down the Fund Balance to \$1.3 million. The effort seemed in line with expressions of concern from some members of the telephone industry about use of the telephone surcharge for other purposes.

The Commission may wish to explore with TAM other possible ways to further whittle down the Fund Balance. For example, in earlier years TAM had proposed as ideal an operating cushion equivalent to a 2-month cash outlay. Today, it seems advance payments are made to the other funds on an annual or biannual basis. Staff estimates that without advances to the other funded programs, a \$1 million Fund Balance could adequately meet TAM's operating cash flow requirements.

There are at least two major changes in the telephone industry that directly impact the TAM program. First is the unprecedented increase in the contribution base for the program with the growth since the 2000s in the number of wireless phones, and since last year in prepaid wireless cards and phones. In 2015, it is estimated that there are about 4.2 million wireless phone accounts and thousands of prepaid wireless phone transactions that would pay into the TAM Fund. Second is the availability of alternative means of communications for the deaf and hard-of-hearing population. As reported in earlier annual reports from TAM, conventional Minnesota relay total calls and minutes of use have considerably gone down the last decade due to the advent of emails, text messaging and social media. Currently, TED and Relay Service spend a

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<sup>1</sup> In the Matter of a Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier (ETC) for the Limited Purpose of Offering Lifeline Service to Qualified Households, Docket No. P6823/M-09-802. The Petition was filed on June 1, 2009. The matter was on hold for years, together with the Commission investigation in Docket No. P6823/CI-10-519, due to contested issues related to TracFone's compliance on 911 and TAM's collection and remittance responsibilities.

combined total of \$4.1 million per year, compared to \$8.1 million in 2005. These and other developments may have translated to the downward push on surcharges, from 13 cents in 2003 to today's 6 cents. An increase now in the surcharge and the Fund Balance for other reasons seem counter to the trend.

Effective Date for Any Surcharge Increase. Staff notes that the timing of any surcharge change need to be coordinated with similar changes in either or both the 911 and Telephone Assistance Program (TAP). In addition, any fee change will have to be properly noticed by both the Department of Public Safety which collects most of the 911, TAM and TAP fees, and by the Department of Revenue which collects the prepaid wireless 911 and TAM fees. Staff is not aware at this time of any proposed surcharge changes in the other programs.

Staff recommends that the Commission delegate to the Executive Secretary the authority to determine the effective date for implementing any surcharge change.

***Commission Options for Issue 2: Should the Commission approve TAM's proposed budget for FY 2015?***

- 2.a. Accept TAM's FY 2015 proposed budget.
- 2.b. Other action determined by the Commission.

***Staff's Recommendation***

Staff recommends Option 2.a.

***Commission Options for Issue 3: Should the Commission approve the proposed increase of the TAM surcharge from \$0.06 to \$0.08?***

- 3.a. Approve the proposed increase of the TAM surcharge from \$0.06 to \$0.08. Also, delegate to the Executive Secretary the authority to determine the effective date for implementing any surcharge change.
- 3.b. Other action determined by the Commission.

***Staff's Recommendation***

Staff recommends Option 3.a.

***Issue 4: What action should the Commission take regarding TAM's proposed Audit Plan?***

In its June 4, 2013 Order in Docket 13-138, the Commission asked TAM to develop a plan and budget for an audit of the programs funded through the TAM fund.

The Order provides

.....the Legislature has charged the Commission with the duty to oversee TAM's budget and operations. Consistent with this duty, the Commission will initiate a review of the use of the TAM funds to date. Specifically, the Commission will ask the Department to develop a plan and budget for concluding an audit of the programs funded through the TAM fund no later than December 31, 2014.

On December 28, 2013, TAM submitted an initial plan for an audit and asks for more guidance on what the Commission hopes to achieve. TAM hopes that its filing can serve as a discussion starting point.

***TAM's Audit Proposal***

TAM proposes or seeks Commission directive on the following points:

1. Objective:

According to TAM, the audit will be designed to assess whether TAM funds are being appropriately collected and used for their intended purposes. TAM proposes to not include in the audit those programs that receive direct appropriations of TAM funding, but are outside of the Commission's purview. TAM listed on page 2 of its filing the programs that will not be covered in the audit.

The audit will address the following questions:

- A. Collection
  - Are carriers appropriately collecting surcharge revenue?
  - Are carriers appropriately remitting surcharge revenue?
  - Is DPS appropriately depositing TAM surcharge revenue into TAM account?
- B. Expenditures
  - Is TAM Fund money being used appropriately?
  - Do the contracts associated with the TAM program use TAM funds consistent with their stated purpose?
  - Are sound procurement practices being followed?
  - Do consumer receiving equipment/services meet eligibility standards

## 2. Audit Time Period:

TAM proposes that the audit cover the most recent fiscal year; whether it is FY 2013 or FY 2014 will depend on when the actual auditing process begins. TAM proposes that if the Commission decides on a multi-year audit (e.g., both FY 2012 and FY 2013), that it be allowed to solicit bids for both one-year, and multi-year audits (e.g., FY 2013; and a separate one for both FY 2012 and FY 2013. TAM will then present both bids to the Commission, based on bidders' projected prices.

## 3. Audit Scope and Agency Contracts Covered:

TAM listed, on pages 3 and 4, the agencies covered and their corresponding contracts under the programs using the TAM funds.

## 4. Other Sections:

TAM listed the federal and state regulations relevant to the audit. It also provided that the methodology will be determined by the auditor.

## 5. Budget:

TAM notes that the budget will be dependent on the Commission's determination of the audit's scope, and by the depth and breadth of the audit desired by the Commission. TAM plans to return to the Commission for budget approval before awarding the audit contract.

## ***Staff Comments***

Staff has no recommendation on how to proceed, but simply outlines the following topics and some possible options for Commission consideration. The Commission may also want to hear from the other affected agencies in its consideration of this issue. Staff expects to distribute the Briefing Papers to DHS, DEED, and MCDHH in addition to the parties on the service list prior to the meeting date to allow them an opportunity to provide oral comments and/or respond to Commission questions.

### 1. Audit Objective

Staff wants to point out a discrepancy in how TAM describes what programs will be included in the Audit.

On page 2 of the filing, TAM listed the following programs that will not be included in the audit:

- DHS – Rural Real-Time Captioning
- DEED – Accessible News for the Blind
- Commission of Deaf, DeafBlind and Hard of Hearing Minnesotans (for operational expenses)

- Commission of Deaf, DeafBlind and Hard of Hearing Minnesotans (to provide information on their website in American Sign Language and to provide technical assistance to state agencies)
- State Video Franchising Study
- Broadband Mapping Project
- MN.IT (for coordinating technology accessibility and usability)
- Legislative Coordinating Commission (to provide captioning of live streaming of legislative activity on LLC's website and for a consolidated access fund for other state agencies)
- Transfers to the General Fund

TAM went on to say that it deems inappropriate to audit the programs that have a direct legislative appropriation since the use of these funds is outside the Commission's authority.

However, on pages 3-4, TAM included both the DHS' Rural Real-Time Captioning and DEED's Accessible News for the Blind programs in the delineation of the Audit Scope.

Upon checking with TAM, Staff learned that the page 1 listing was erroneous, and that DHS' Real-Time Captioning and DEED's Accessible News for the Blind programs **are** indeed for inclusion in the audit. TAM's proposed audit coverage is more fully discussed in the Section on Audit Scope and Agency Contracts Covered.

Staff finds that the following questions proposed by TAM reasonably address the audit objectives.

#### Collection

- Are carriers appropriately collecting surcharge revenue?
- Are carriers appropriately remitting surcharge revenue?
- Is DPS appropriately depositing TAM surcharge revenue into TAM account?

#### Expenditures

- Is TAM Fund money being used appropriately?
- Do the contracts associated with the TAM program use TAM funds consistent with their stated purpose?
- Are sound procurement practices being followed?
- Do consumer receiving equipment/services meet eligibility standards

## 2. Time Period Covered

TAM indicates a preference for an audit covering the most recent fiscal year, which realistically would be for FY 2014. TAM also notes that a multi-year coverage will be more costly.

## 3. Audit Scope and Agency Contracts Covered

TAM listed the proposed audit scope in terms of agencies and contracts covered on pages 3-4, as follows:



Minnesota State Agencies Included in Audit

1. Department of Commerce (Department)
  - TAM Fund
  - Telecommunications Relay Services
  
2. Department of Public Safety (DPS)
  - TAM surcharge collection from telecommunications carriers and transfer of surcharge revenue to Department
  
3. Department of Human Services (DHS)
  - Telephone Equipment Distribution (TED) Program
  - Rural Real-Time Captioning Program
  - Minnesota Relay Outreach
  
4. Department of Employment and Economic Development (DEED)
  - Accessible News for the Blind Program

Contracts Covered by Audit

1. Department – TAM Program Contracts
  - Communications Service for the Deaf (including sub-contracts with Sprint Relay and CapTel, Inc.)
  - DHS (for the Provision of the TED Program)
  - DHS (for the provision of Minnesota Relay outreach services)
  - DHS (for the provision of the Rural Real-Time Captioning Program)
  - DEED (for the provision of the Accessible News for the Blind Program)
  
2. DHS – TED Program Contracts
  - Harris Communications (for specialized telecommunications equipment)
  - Teltex, Inc. (for specialized telecommunications equipment)
  - Weitbrecht Communications, Inc. (for captioned telephone equipment)
  - Sprint Solutions, Inc. (for wireless devices and services)
  - GreatCall, Inc. dba Jitterbug (for wireless devices and services)

TAM did not provide information on why the MCDHH funding for operational and American sign language website content development was excluded from the proposed audit scope. MCDHH funding was recently approved by the Legislature as a permanent annual allotment, seemingly similar to the legislative allotments for DHS' Rural Real-Time Captioning and DEED's Accessible News for the Blind programs.

3. Other Sections

Among other standard provisions, TAM's proposed Audit Plan contains a proposal for TAM to develop and release a Request for Proposal based on the Commission's action relative to the

scope and period covered by the audit. TAM proposes to return for Commission approval of the audit budget prior to awarding the contract.

***Commission Options for Issue 4: What action should the Commission take regarding TAM's proposed Audit Plan?***

- 4.a. Proceed or not with the Audit Plan.
  1. Direct TAM to proceed with the Audit Plan.
  2. Decide not to pursue the request for an Audit Plan.
  3. Take another action determined by the Commission.
- 4.b. If proceeding with an Audit Plan, specify time period coverage
  1. FY 2013
  2. FY 2104
  3. FY 2013 and 2014. Allow solicitation of separate bids for FY 2014 and FY 2013-2014.
  4. Other time period determined by the Commission.
- 4.c. If proceeding with an Audit Plan, specify Audit Scope and Agency Contracts Covered.
  1. The Minnesota state agencies and contracts listed in TAM's proposal as discussed above.
  2. Other as determined by the Commission
- 4.d. Other Provisions
  1. Submit audit budget for Commission approval prior to awarding the contract.
  2. Other as determined by the Commission.

## **SUMMARY OF COMMISSION OPTIONS**

### ***Issue 1: Should the Commission accept TAM's 2012 Annual Report?***

- 1.a. Accept TAM's 2013 Annual Report.
- 1.b. Other action determined by the Commission.

### ***Issue 2: Should the Commission approve TAM's proposed budget for FY 2015?***

- 2.a. Accept TAM's FY 2015 proposed budget.
- 2.b. Other action determined by the Commission.

### ***Issue 3: Should the Commission approve the proposed increase of the TAM surcharge from \$0.06 to \$0.08?***

- 3.a. Approve the proposed increase of the TAM surcharge from \$0.06 to \$0.08. Also, delegate to the Executive Secretary the authority to determine the effective date for implementing any surcharge change.
- 3.b. Other action determined by the Commission.

### ***Issue 4: What action should the Commission take regarding TAM's proposed Audit Plan?***

- 4.a. Proceed or not with the Audit Plan.
  1. Direct TAM to proceed with the Audit Plan.
  2. Decide not to pursue the request for an Audit Plan.
  3. Take another action determined by the Commission.
- 4.b. If proceeding with an Audit Plan, specify time period coverage
  1. FY 2013
  2. FY 2104
  3. FY 2013 and 2014. Allow solicitation of separate bids for FY 2014 and FY 2013-2014.
  4. Other time period determined by the Commission.

4.c. If proceeding with an Audit Plan, specify Audit Scope and Agency Contracts Covered.

1. The Minnesota state agencies and contracts listed in TAM's proposal as discussed above.
2. Other as determined by the Commission

4.d. Other Provisions

1. Submit audit budget for Commission approval prior to awarding the contract.
2. Other as determined by the Commission.