

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of a Proposed
Plan and Tariff to Make the
Telecommunication Access for
Communication-Impaired Persons
Program Operational

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Procedural History and Background

On May 19, 1987, legislation creating Telecommunications Access for Communication-Impaired Persons (TACIP) became law. TACIP's enabling statutes are Minn. Stat. §§ 237.50 to 237.56. The goal of the TACIP program is to help make telephone services for communication-impaired people as accessible and valuable as they are for people without communications impairments.

TACIP is governed by a Board which, by statute, will establish and administer a program to distribute communication devices to eligible communication-impaired persons and will create and maintain a message rely service which will allow these persons to communicate with hearing persons.

To make the TACIP program operational, the TACIP Board must submit the following items to the Minnesota Public Utilities Commission (the Commission) for Commission review and approval:

- (1) An adequate and appropriate mechanism to fund TACIP -- a TACIP surcharge;
- (2) A report for presentation to the Commission not later than December 31, 1987 which includes plans for the distribution of communication devices, the third party message rely service and the TACIP funding mechanism, and;
- (3) An annual report for Commission review filed by December 31, 1988 and filed every year thereafter until 1992 summarizing program operations, performance and recommendations for funding and service level changes.

The Commission's responsibilities, as set out in the TACIP statute are the following:

- (1) to establish a monthly charge no greater than 10 cents per access line;
- (2) to review and approve tariffs for the equipment to be distributed (this requirement is not explicit in the statute but is implied, since telephone companies will be offering the equipment under the TACIP program, see Minn. Stat. § 237.53);
- (3) to review the initial annual report of the TACIP program and approve a TACIP plan contained in that report;
- (4) to review the subsequent annual TACIP reports;
- (5) to recommend changes in the program to the Legislature throughout TACIP's operation;
- (6) to make recommendations to the Legislature by February 1, 1993, on the future provision and maintenance of the TACIP services; and,
- (7) to enforce under Minn. Stat. § 237.081 upon complaint, that the service required to be provided under Minn. Stat. §§ 237.50 to 237.55 be provided.

By statute, the provision of service under the TACIP program may begin when the Commission has approved the plan recommended in the TACIP Board's December 1987 report or March 1, 1988, whichever is earlier. This service includes assessment of the TACIP surcharge, distribution of the communication devices and the provision of the message relay service.

Commission Findings and Conclusions

In its report to the Commission, the TACIP Board has requested Commission action on the following three items:

- (1) Approve the general TACIP plans contained in the TACIP report;
- (2) Order the assessment of the TACIP surcharge of 10 cents per local access telephone line per month effective March 1, 1988 and allow a 90 day implementation period; and,
- (3) Join the TACIP Board, organizations representing communication-impaired people, the Department of Public Service (the DPS) and the Department of Human Services (the DHS) in supporting the proposed changes to the TACIP law.

The Commission has evaluated the report submitted by the TACIP Board and the proposed tariff for

the TACIP surcharge and the TACIP communication devices. The Commission will broaden the scope of the TACIP surcharge tariff review to include the equipment portion of the tariff as well. In the portion of this Order that follows, the Commission will discuss its findings and conclusions on each of the three actions requested by the TACIP Board:

1. The TACIP Annual Report and the TACIP Plan

The TACIP Board submitted its first annual report to the Commission on January 12, 1988, 12 days after the statutory deadline. Because no interested person has indicated to the Commission that this delay has had a detrimental effect on them or any other person, the Commission will take no action to remedy the consequences of the delay, since no consequences have arisen from the delay.

The TACIP Report under consideration by the Commission contains an introduction, a description of TACIP program revenues derived from the surcharge, a description and operating policy of the message relay service, a description of the eligibility requirements for participation in the program, the equipment distribution plan, proposed legislative changes to the TACIP program, the economic impact of TACIP on private enterprise and the actions requested of the Commission by the TACIP Board.

Under the TACIP plan as contained in the report, the TACIP Board will direct several major projects to promote increased access to the telephone system for communication-impaired people. These include the following:

- (A) The Board will contract for the establishment and operation of a message relay service to facilitate communication between communication-impaired and non-communication-impaired people;
- (B) The Board will administer the distribution of special communication devices to eligible households with communication-impaired members;
- (C) The Board will study the impact this distribution will have on private vendors of special communication devices in state; and,
- (D) The Board will publish lists of available communications devices and their compatibility with various telecommunications systems.

The Commission finds that much of the TACIP plan is mandated by its enabling statute. This includes how the program is to be funded, where expenditures can be made, and who is eligible for the program benefits.

The Commission finds that the TACIP program will be funded by a surcharge on every access line now accessed the 911 surcharge. Collecting, reporting and noncompliance collection action for the TACIP surcharge will be handled by the Department of Administration in the same manner as the 911 fee.

Expenditures for the TACIP program, as outlined and detailed in the report, include the establishment of a message relay service, purchase and distribution of appropriate telecommunications devices, and office and Board administration costs.

The TACIP report states that administrative costs of the program will be only 7% of total program costs in fiscal year 1988 and only 3% in fiscal year 1989. The Commission finds that these figures are well within the requirement of Minn. Stat. § 237.52 subd. 5 (1) that program administration not exceed 20% of total program expenditures.

The Commission is concerned, however, that the report's detail of expenditures includes no mention of the cost of program eligibility verification. The report describes the verification process, but gives no insight as to what the costs of verification will be or whether the program will reimburse DHS for these costs. The Commission finds that the TACIP Board, in oral comments before the Commission, has offered to provide the Commission with a fiscal note detailing the estimated costs of TACIP eligibility verification. The Commission will request that the Board submit the fiscal note at the earliest practicable date.

The Commission is also concerned about the verification process itself. The TACIP Board is proposing a random verification of eligibility. The Commission's experience with implementing the Telephone Assistance Plan (TAP) and the problems that arose with eligibility verification for TAP has taught it to be cautious about any verification process where only certain individuals will be called upon to produce evidence of eligibility. With the TAP, random selection was prohibited by federal rules associated with the program.

The Commission notes however, that there are no federal rules associated with TACIP regarding eligibility verification processes. The Commission also notes that one of the TACIP Board members is from the DHS. The DHS reviews and verifies eligibility for all state assistance programs and will conduct the eligibility verification for TACIP. The Commission finds that TACIP's DHS representative has not raised any concern over the selection of the random verification process. Therefore, the Commission will defer, with reservation, to the expertise of the Board's DHS representative regarding the random verification process proposed by the TACIP Board.

Minn. Stat. § 237.54 requires the Board to contract with an inter-LATA interexchange telephone service provider to establish a third-party message relay service with an "800" number to enable telecommunication between communication-impaired persons and non-communication impaired persons and that the Board contract with a local consumer organization that serves communication-impaired persons to operate the message relay service. The Commission notes that the provision of this service (as well as all services provided under TACIP) may begin when the plan is approved by the Commission or by March 1, 1988, whichever is earlier.

The Commission finds that none of the services provided under TACIP will be available as of March 1, 1988. According to supplemental information provided to the Commission by the TACIP administrator, a request for proposal for consultant contract to plan the message relay service only went out in the Minnesota State register on February 8, 1988. In its report, the TACIP Board estimated that its planning effort will provide comprehensive message relay service policies and will be completed by April 30, 1988. The Commission finds that no estimate is given by the Board as

to the date the message relay service will be operational.

The Commission therefore finds that the message relay service will not be operational as of March 1, 1988. However, the Commission, realizes that the Board had a massive and practically impossible task before it when the TACIP legislation passed in May 1988 and a message relay service was contemplated to be operational in less than a year. The Commission commends that Board's progress to date, but will note for the record of its involvement in the TACIP program that the Commission can only approve what is before it, which is a plan for making the system operational sometime in the future.

The Commission also finds that according to the report, the equipment distribution program will also not be operational as of March 1, 1988. This is because according to the report, the Board is only currently in the process of approving detailed equipment specifications for purchasing the equipment. The Board, has, however adopted program eligibility policies and established descriptions of the equipment to be distributed by TACIP through the local telephone companies. The Commission will approve, as reasonable, the Board progress to date on the equipment purchase and distribution plan but will note for the record of this matter that no equipment will be available under the program as of March 1, 1988. The Commission will also request that the Board submit, at the earliest practicable date, written procedures for equipment distribution.

Finally, regarding the proposed TACIP plan, the Commission notes that because of the proposed legislative changes to the TACIP program, several aspects of the TACIP plan could change. These proposed legislative changes are discussed in more detailed by the Commission below. However, as to their effect on the Commission approval of the overall TACIP plan, the Commission will approve, with the reservation on eligibility verification noted above, the proposed plan as contained in the January 12, 1988 TACIP report.

The Commission will request that the Board give the Commission timely progress reports on the status of the legislative amendments that may change the TACIP plan and if such changes occur, that the Board submit a supplemental report to the Commission describing such changes and requesting Commission approval of the changes and or the new plan. The Commission will also request that the Board submit timely progress reports on the status of the establishment and operation of the message relay service.

2. TACIP Surcharge and Equipment Tariff

The Commission finds that the proposed TACIP surcharge and equipment tariff (attached to this Order as Appendix I) was the result of a meeting between a member of the Commission staff, a staff person from the DPS who sits on the TACIP Board and a representative of Northwestern Bell Telephone Company (NWB) who also sits on the TACIP Board. The Commission also notes that the representative of the Minnesota Telephone Association who sits on the TACIP Board expressed the industry's willingness to concur in any tariff proposed by NWB. Because all affected parties interests were represented in the process that resulted in the proposed tariff and the Commission has reviewed the proposed TACIP tariff and found it to be reasonable, the Commission will approve the tariff.

The tariff will provide for a 10 cents surcharge on every local telephone customer access line that now is assessed the 911 surcharge. This tariff shall be used by all local telephone companies serving subscribers within the state of Minnesota.

The Commission notes that the tariff it has approved was written for NWB and includes an administrative change to move one page, Original Sheet 16B to now become Original Sheet 16C. The Commission will allow all local telephone to either file a concurring tariff to NWB's TACIP tariff or file a tariff which mirrors the substantive portions of the NWB tariff and makes administrative changes where necessary to fit it to the name and tariff sheet number of the local company.

The Commission will not approve the March 1, 1988 effective date and 90 day implementation period as requested by the TACIP board. To do so would mean that some customers may be assessed two or three months worth of the TACIP surcharge in a single month. The Commission is concerned that a delayed billing of the surcharge in the form of an additional 20 to 30 cents on a customer's bill would produce unfavorable reactions to the program by telephone consumers. The implementation of the monthly 10 cents TAP surcharge in January 1988 alone generated over 1600 telephone calls into the Commission's Consumer Affairs Office by the end of February 1988.

The Commission finds that delaying the start of the surcharge to April 1, 1988 will allow a majority to the local telephone companies to bill the surcharge as of that date and therefore hopefully minimize the impact of the 10 cents TACIP surcharge on telephone customers already now paying the TAP surcharge. The Commission also finds that this delay will not harm TACIP's funding because the delayed start-up of the message relay service will delay the need for funding earmarked for this service.

The Commission will approve the proposed tariff contained in Appendix I of this Order to be effective on April 1, 1988. All local companies are strongly encouraged to begin assessing the surcharge on April 1, 1988. Those companies unable to begin assessing the surcharge by April 1988 will be required to notify the Commission of their inability to make the April 1st date, giving reasons why and explaining on which date surcharge billing can begin.

The Commission will also require all local telephone companies to notify each of their local service customers about the TACIP program and the TACIP surcharge. This notice must be inserted with the first telephone bill on which the TACIP surcharge is assessed. The Commission will order all local telephone companies to use the TACIP notice found in Appendix II.

3. Proposed Legislative Amendments to TACIP

The Commission has reviewed the proposed legislative amendments to the TACIP program. The Commission notes that the changes will most likely create greater efficiencies in the program by using existing resources to centralize the equipment distribution process, i.e. going through the Deaf Services Division of the DHS rather than 94 different telephone companies. The changes will also promote greater efficiencies in the establishment of the message relay service by allowing one service establishment and operation contract rather than the two now contemplated in the statute.

The Commission's only concern with the proposed legislation is in the following sections:

- (1) the change in Minn. Stat. § 237.52 subd. 5 regarding expenditures where the words "Each telephone company providing local exchange service" is replaced with "The commissioner of human services,";
- (2) and the establishment of a special fund in new Minn. Stat. § 237.52 subd. 6 where money received by the commissioner of human services is deposited and then used to carry out the duties of the commissioner under the TACIP program.

The Commission's concern arises from the lack of estimates on what costs are involved with this change in DHS responsibilities and their effect on the present program estimated expenditures. The Commission will ask that the Board prepare a supplemental report on how these proposed legislative changes will affect the TACIP expenditures. The Commission requests that this report be submitted prior to the Commission making any decision on endorsing any of the proposed legislative changes to the TACIP program.

ORDER

1. The Commission hereby approves, with reservation as noted herein, the proposed TACIP plan contained in the January 12, 1988 TACIP report.
2. The Commission approves the TACIP tariff as found in Appendix I to this Order. All local telephone companies shall file either a concurring tariff or a separate tariff as described herein, with the Commission and the Department of Public Service within 10 days of the service date of this Order. The TACIP tariff shall become effective on April 1, 1988. Companies unable to begin billing the surcharge by April 1, 1988 shall notify the Commission as described herein.
3. All local telephone companies shall use the TACIP customer notice attached as Appendix II to this Order and insert it with the first local service bill reflecting the TACIP surcharge.

4. The TACIP Board is requested to file with the Commission, at the most practicable date the following documents and reports:
 - (a) periodic and timely progress reports on the establishment and operation of the message rely service;
 - (b) A supplemental report on the affect of the proposed amendments to the estimated expenditures for TACIP;
 - (c) A supplemental report requesting approval of proposed changes in the approved TACIP plan resulting from the proposed legislative changes if passed by the Legislature and signed into law;
 - (d) A fiscal note on the costs of TACIP eligibility verification; and,
 - (e) Written procedures for TACIP equipment distribution.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)

Appendix II

[Notice to Be Published As Bill Insert with First Bill to Assess TACIP Surcharge]

NOTICE OF TELECOMMUNICATIONS ACCESS FOR COMMUNICATION IMPAIRED PERSONS SURCHARGE

On April 1, 1988, local telephone companies throughout the state of Minnesota began collecting a new fee which funds a statewide Telecommunications Access for Communication-Impaired Persons (TACIP) program. This fee is 10 cents per telephone access line per month. This means that you will be billed an additional 10 cents for each telephone number you now pay local service charges.

The TACIP program was created by the Minnesota Legislature in its 1986 - 1987 session. The program is designed to help make telephone service as accessible and valuable to communication-impaired persons as it is for persons without such impairments. Low income hearing and speech-impaired persons will receive special equipment necessary for them to access the telephone network. The TACIP program will also establish a message rely service to enable telephone communication between persons using the special equipment and persons with regular telephones.

The TACIP program is administered by an independent state board composed of representatives from the telephone industry, state government, the communication-impaired professions and the communication-impaired community.

Applications for TACIP equipment will be available in mid-April 1988 at various locations to be designated at a later date. The message rely service is expected to begin in the fall of 1988. For further information on the TACIP program, contact the TACIP program office at (612) 296-0412 or (612) 296-9863 (the TDD access number).