

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the State Police

The Executive Board approved a reorganization of the State Police effective April 1, 1999.

The organization chart at 29 Pa.B. 2035 (April 17, 1999) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code).*

[Pa.B. Doc. No. 99-615. Filed for public inspection April 16, 1999, 9:00 a.m.]

## Title 52—PUBLIC UTILITIES

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

#### [52 PA. CODE CH. 69]

[M-900239]

#### Operation of the Telecommunications Relay Service System and Relay Service Fund

The Pennsylvania Public Utility Commission (Commission) on January 14, 1999, adopted through Vice Chairperson Bloom's motion a final policy statement intended to clarify the Commission's present view on the proper operation of the Pennsylvania Telecommunications Relay Service and the corresponding Relay Service Fund. The contact person is Andrew Tubbs, Law Bureau, (717) 787-2871.

*Commissioners Present:* John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; David W. Rolka; Nora Mead Brownell; Aaron Wilson, Jr.

Public Meeting held  
January 14, 1999

*Operation of the Telecommunications Relay Service System and Relay Service Fund; Doc. No. M-900239*

#### Policy Statement

*By the Commission:*

Under section 501 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 501, the Commission adopts this policy statement to clarify the Commission's present view on the proper operation of the Pennsylvania Telecommunications Relay Service (TRS) and the corresponding Relay Service Fund (Fund). The TRS system was implemented to assist people with hearing or speech, or both, disabilities and is funded by the collection of a monthly end-user billing surcharge based on access lines. These moneys are collected by Pennsylvania's Incumbent Local Exchange Carriers (ILEC) and Competitive Local Exchange Carriers (CLEC) and submitted to the Fund. This

policy statement stems from the difficulties identified by the Commission in the Fund receiving timely remittance of these moneys and the lack of cooperation from some companies in submitting the documentation required to conduct the annual audit of the Fund.

This policy statement is based upon the findings contained in the third audit report submitted to the Commission by the Bureau of Audits. The Commission recognizes the importance of the TRS service and the benefits received by the people of this Commonwealth. To that end, this policy statement is intended to ensure that the TRS service and the Fund operate in such a way as to maximize these benefits. This can only be achieved through the timely collection and remittance of revenues received by ILECs and CLECs to the Fund. The failure of a company to remit these revenues to the Fund according to the schedule set forth in the Commission's prior orders results in a loss of earnings. It is the Commission's intent to collect lost earnings from those companies which fail to timely remit revenues.

To further ensure the successful operation of the Fund, the Commission has directed the Bureau of Audits to conduct annual audits. The annual audits rely on the companies to timely file an annual tracking report as set forth in Doc. M-900239, entitled "Pennsylvania Telecommunications Relay Services," and to adhere to the duties set forth in the Pennsylvania Public Utility Code, 66 Pa.C.S. § 506, in cooperating with the Commission's Bureau of Fixed Utility Services and the Bureau of Audits in completing the annual audits. The annual audits are essential to the successful operation of the TRS program. The audit process ensures that the ILECs and CLECs comply with all State and Federal requirements and also serve to guarantee that the Fund receives proper funding from the end-user surcharge. By securing the requisite funding levels, the Commission may avoid increasing the surcharge rates to all companies.

Accordingly, under section 501 of the Public Utility Code, and the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1—7.5, we adopt the policy statement in the manner set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapter 69, are amended by adding §§ 69.511—69.513 to read as set forth in Annex A to this order, is hereby adopted.

2. The Secretary shall certify the order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

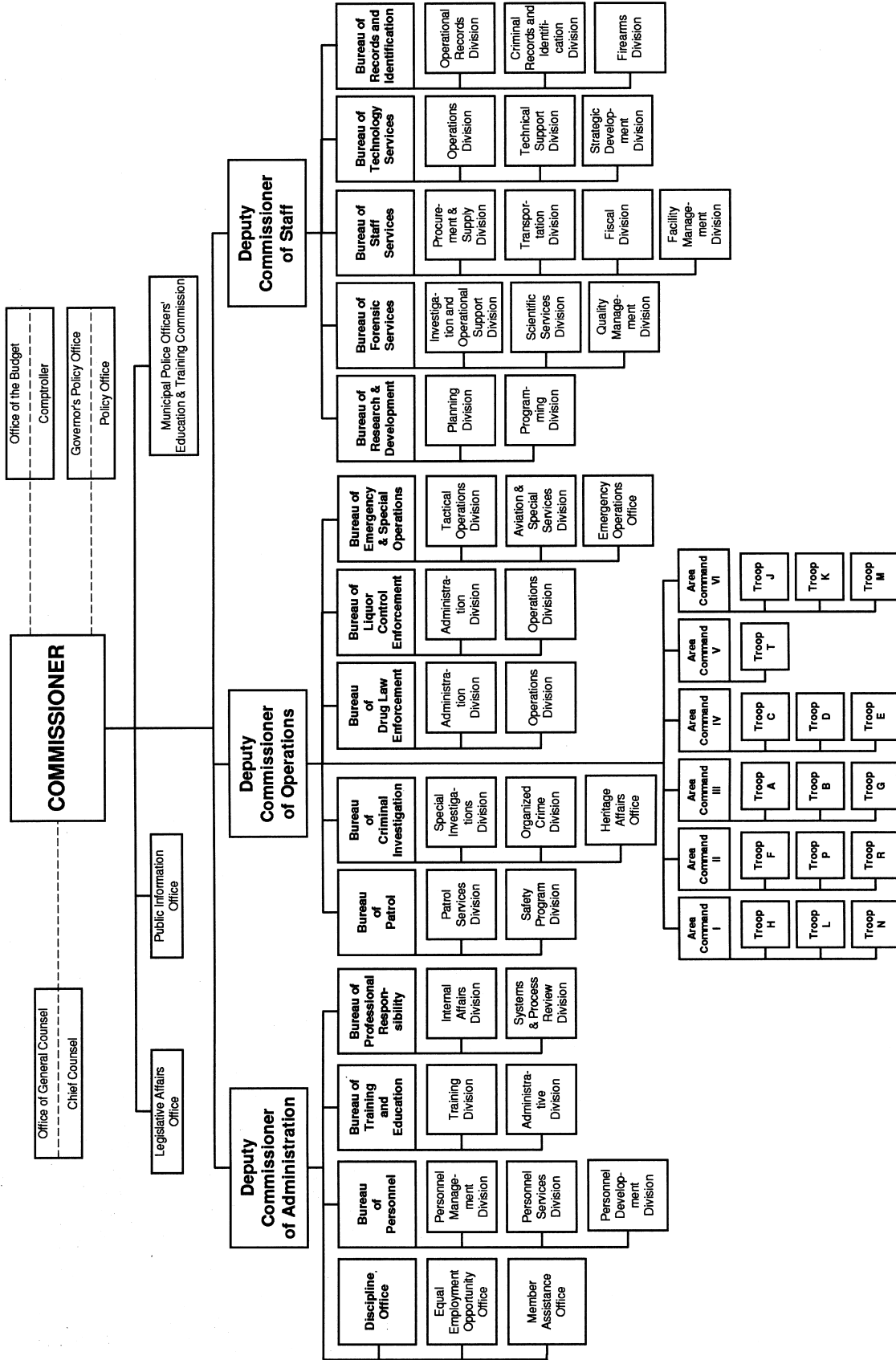
4. This Policy Statement shall be effective upon publication in the *Pennsylvania Bulletin*.

5. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, at (717) 772-4597.

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-202. No fiscal impact; (8) recommends adoption.

PENNSYLVANIA STATE POLICE



*Auditor's Report on the Telecommunications Relay Service Program for the 24 Month Period Ended April 30, 1997*

*Public Meeting  
January 14, 1999  
JAN-1999-A-22  
Doc. No. D-97S019*

### **Motion of Vice Chairperson Robert K. Bloom**

On May 24, 1990, the Commission granted the approval of the implementation of the Pennsylvania Telecommunications Relay Service<sup>1</sup> (TRS) system for people with hearing and/or speech disabilities. A Relay Service Fund (Fund) was established which derives its moneys from a monthly end-user billing surcharge based on access lines. These moneys are collected by Pennsylvania's Local Exchange Carriers and submitted to the Fund.

On September 3, 1992, the Commission, *inter alia*, directed the Bureau of Audits to conduct an annual audit of the activity of the TRS. Before us for consideration is the result of the third such audit which covers the two 12 month periods ending April 30, 1996, and April 30, 1997.

After a review of the Bureau of Audits Public Meeting Report, I would note the following concerns. First, it appears that companies are not promptly paying their monthly payment. As stated in our September 3, 1992, order, these payments are due to the Fund Administrator (now First Union Bank) by the 20th of each month for the revenues collected during the prior month.

Secondly, it appears that companies are not providing the annual tracking report to the Bureau of Fixed Utility Services on a timely basis. As stated in our September 3, 1992, order, the companies should submit the annual tracking reports by April 30th of each year. This effectively would include revenues actually collected during the prior 12 month period of April through March.

Thirdly, it appears that some companies are not cooperating with the Bureau of Audits regarding annual audits and follow up information. As stated in our September 3, 1992, order, in order to ensure that the Company is complying with all State and Federal requirements, including accounting, the Bureau of Audits is required to conduct an annual audit of the TRS Program. In addition, under 66 Pa.C.S. § 506 in the performance of such duties a company is required to provide access to its books, records, and documents to duly authorized representatives.

Finally, the Bureau of Audits is recommending that there be an assessment to reimburse the TRS Fund for lost earnings. Specifically, Bell Atlantic-Pa., Inc. has voluntarily reimbursed the TRS Fund \$34,759 for lost earnings since Bell was not timely in submitting its payment to the Fund. Equity requires that any company that does not submit its payments on a timely basis should reimburse the Fund for lost earnings. Without such a reimbursement, the Fund will require increases in the surcharge rates to all companies to meet the full financial needs of the TRS Program.

It is appropriate for the Commission to issue a Policy Statement which sets forth our present view of the TRS Fund and the obligations of the companies.

<sup>1</sup> Docket M-900239

*Therefore, I Move That:*

1. The Law Bureau prepare a Policy Statement which sets forth the Commission's present view of the TRS Fund and the obligations of the companies.

ROBERT K. BLOOM,  
*Vice Chairperson*

### **Annex A**

#### **TITLE 52. PUBLIC UTILITIES**

#### **PART I. PUBLIC UTILITY COMMISSION**

#### **Subpart C. FIXED SERVICE UTILITIES**

#### **CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES**

#### **OPERATION OF THE TELECOMMUNICATIONS RELAY SERVICE SYSTEM AND RELAY SERVICE FUND—STATEMENT OF POLICY**

#### **§ 69.511. General.**

(a) On May 24, 1990, at Docket M-900239, entitled "Pennsylvania Telecommunications Relay Services," the Commission granted approval of the implementation of the Pennsylvania Telecommunications Relay Service (TRS) for people with hearing or speech, or both, disabilities. A Relay Service Fund (Fund) was established to recover charges associated with the operation of the TRS. The Commission established a mechanism to adequately compensate the Fund through a monthly end-user billing surcharge, based on access lines, collected by Pennsylvania's Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs). These revenues are to be remitted on a monthly basis.

(b) To effectively monitor and evaluate the revenue data, the Commission established a tracking schedule for the filing of tracking reports. All ILECs and CLECs are required to file an Annual Tracking Report and an Annual Access Line Summary Report by April 30th. These reports require that the ILECs and CLECs break out the requisite data consistent with the current report forms. Further, the Annual Tracking Report requires that the data be broken out on a monthly basis beginning with April of the previous year and ending with March of the current year. The surcharge revenue collections data for each month includes the actual surcharge revenues collected from a company's end-users that month and remitted to the Fund by the 20th of the following month. The Commission directed the Bureau of Audits to conduct an annual audit of the TRS in its order dated September 3, 1992.

#### **§ 69.512. Timely remittance of revenues.**

(a) Under existing Commission Orders, Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) which collect revenues owed to the Relay Service Fund (Fund) are to remit these revenues to the Fund by the 20th of each month for revenues collected during the prior month. Delays in remitting revenues to the Fund result in lost earnings. The Commission intends to ensure that the Fund is properly funded through a reimbursement by the companies which fail to timely remit revenues.

(b) To properly reimburse the Fund, each company which is late in remitting surcharge revenues will be required to calculate for lost earnings based upon the base rate on corporate loans posted by at least 75% of the Nation's 30 largest banks, also known as the "prime rate,"

beginning at the date of the occurrence of the error and continue until the revenues are properly remitted to the Fund.

**§ 69.513. Filing of Telecommunications Relay Service (TRS) reports.**

(a) *Annual tracking report.* Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) are currently required to submit an Annual Tracking Report to the Bureau of Fixed Utility Services by April 30th which delineates the monthly revenues collected based upon the number of each companies' access lines. A company's failure to submit its Annual Tracking Report by April 30th impairs the Bureau of Audits' ability to complete the required annual audit of the Fund. The Annual Tracking Reports effectively include revenues actually collected during the prior 12-month period. The timely filing of the tracking reports is essential to avoid underfunding the Relay Service Fund (Fund) by the surcharge revenue and related investment income which the revenues would have earned.

(b) *Annual Access Line Summary Report.* ILECs and CLECs are currently required to submit an Annual Access Line Summary Report to the Bureau of Fixed Utility Services by April 30th detailing each company's access line count. A company's failure to submit its Annual Access Line Summary Report or to correctly report its access line information, impairs the ability of the Bureau of Fixed Utility Services to establish the proper TRS surcharge rates. The receipt of a timely and correct Annual Access Line Summary Report is essential to avoid underfunding the TRS Fund.

(c) An ILEC or CLEC which fails to timely remit an Annual Tracking Report may need to reimburse the Fund under § 69.512 (relating to timely remittance of revenues). The Commission may also utilize all available remedies to ensure reporting and remittance compliance including fines and the revocation of Certificates of Public Convenience.

[Pa.B. Doc. No. 99-616. Filed for public inspection April 16, 1999, 9:00 a.m.]

## Title 61—REVENUE

### DEPARTMENT OF REVENUE

#### [61 PA. CODE CHS. 94 AND 125]

#### **Awards Received in Reparation for the Seizure, Theft, Requisition or Involuntary Conversion of the Income or Property of Victims of Nazi Persecution**

The Department of Revenue (Department) has adopted statements of policy under the authority contained in § 3.2 (relating to statements of policy). These statement of policy add §§ 94.2 and 125.41—125.43 and shall take effect upon publication in the *Pennsylvania Bulletin*.

These statements of policy set forth the Department's policy regarding the taxation of Holocaust settlements. For Inheritance Tax purposes, at the time of conversion, each decedent's assets became valueless. Until reparation, there was no hope of finding, identifying or receiving, those assets. Therefore, when the estates were settled, § 94.2 provides that those assets had no value to be taxed. These statements of policy further provide in §§ 125.41—125.43, that for Personal Income Tax pur-

poses, the money being collected by the survivors is excluded if it was accrued prior to 1971, when the State Personal Income Tax began.

Specific questions relating to information provided in these Statements of Policy may be directed to the Department of Revenue, Office of Chief Counsel, Department 281061, Harrisburg, PA 17128-1061.

ROBERT A. JUDGE, Sr.,  
*Secretary*

(*Editor's Note:* The regulations of the Department, 61 Pa. Code Chapters 94 and 125, are amended by adding statements of policy in §§ 94.2 and 125.41—125.43 to read as set forth in Annex A.)

**Fiscal Note:** 15-409. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 61. REVENUE

#### PART I. DEPARTMENT OF REVENUE

#### Subpart B. GENERAL FUND REVENUES

#### ARTICLE IV. COUNTY COLLECTIONS

#### CHAPTER 94. INHERITANCE TAX PRONOUNCEMENTS—STATEMENTS OF POLICY

#### **§ 94.2. Awards received in reparation for the seizure, theft, requisition or involuntary conversion of the income of victims of Nazi persecution.**

For decedents dying on or before the date upon which the awards or settlements received by a decedent's estate in reparation for the seizure, theft, requisition or involuntary conversion of the property or income of victims of Nazi persecution are liquidated pursuant to any legally binding settlement or notice, or both, thereof, the assets are determined by the Department to have a value of zero at the decedent transferor's death.

#### CHAPTER 125. PERSONAL INCOME TAX PRONOUNCEMENTS—STATEMENTS OF POLICY

#### **§ 125.41. Awards received in reparation for the seizure, theft, requisition or involuntary conversion of the income of victims of Nazi persecution.**

Awards or settlements received in reparation for the seizure, theft, requisition or involuntary conversion of the income of victims of Nazi persecution are taxable only as to the following:

(1) Amounts paid as a substitute for taxable income accruing after one of the following:

(i) May 30, 1971.

(ii) If the right to receive the income was acquired from a decedent by bequest, devise or inheritance or by the decedent's estate, the later of May 30, 1971, or the decedent's date of death.

(2) Amounts awarded as legal interest for periods after one of the following:

(i) May 30, 1971.

(ii) If the right to receive the income was acquired from a decedent by bequest, devise or inheritance or by the decedent's estate, the later of May 30, 1971, or the decedent's date of death.

#### **§ 125.42. Awards received in reparation for the seizure, theft, requisition or involuntary conversion of the property of victims of Nazi persecution.**

Awards or settlements received in reparation for the seizure, theft, requisition or involuntary conversion of the

property of victims of Nazi persecution constitute proceeds from the disposition of property. Gain or loss shall be recognized on the same basis as gain or loss from the sale or exchange of property acquired before June 1, 1971, (see § 103.13(f) (relating to net gains or income from disposition of property)), or property of a decedent acquired by bequest, devise or inheritance or by the decedent's estate.

**§ 125.43. Recoveries of converted property.**

No gain is realized on the recovery of involuntarily converted property unless the taxpayer has previously claimed a business or nonbusiness loss on its conversion.

[Pa.B. Doc. No. 99-617. Filed for public inspection April 16, 1999, 9:00 a.m.]

---