

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services)	
and Speech-to-Speech Services for)	CG Docket No. 03-123
Individuals with Hearing and Speech)	
Disabilities)	

ORDER

Adopted: June 29, 2007

Released: June 29, 2007

By the Chief, Consumer & Governmental Affairs Bureau:

I. INTRODUCTION

1. On May 1, 2007, the National Exchange Carrier Association, Inc. (NECA), the Interstate Telecommunications Relay Services (TRS)¹ Fund Administrator, filed its annual Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate for the period of July 1, 2007, to June 30, 2008.² Because of the pending of the *2006 TRS Cost Recovery FNPRM*,³ which proposes alternative cost recovery methodologies for the various forms of TRS, NECA proposed alternative compensation rates based on different underlying factors. We conclude, however, that we will continue the 2006-2007 compensation rates until such time as new cost recovery methodologies are adopted and effective pursuant to the *2006 TRS Cost Recovery FNPRM* and new rates are adopted pursuant to such methodologies. Therefore, the present per minute compensation rates for the various forms of TRS that will be continued are: \$1.291 for interstate traditional TRS⁴; \$1.409 for interstate Speech-to-Speech (STS)⁵; \$1.291 for interstate captioned telephone service⁶; \$1.293 for interstate and

¹ TRS, created by Title IV of the Americans with Disabilities Act of 1990 (ADA), enables an individual with a hearing or speech disability to communicate by telephone or other device through the telephone system with a person without such a disability through a communications assistant (CA) at a relay center. See 47 U.S.C. § 225(a)(3) (defining TRS); 47 C.F.R. § 64.601(14). As noted below, TRS is provided in a variety of ways. Interstate TRS calls, and for some forms of TRS, both intrastate and interstate TRS calls, are compensated from the Interstate TRS Fund (Fund).

² NECA, *Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate*, CG Docket No. 03-123, filed May 1, 2007 (*2007 NECA Filing*).

³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Further Notice of Proposed Rulemaking, 21 FCC Rcd 8379 (July 20, 2006) (*2006 TRS Cost Recovery FNPRM*).

⁴ Traditional TRS is accomplished via text-to-voice or voice-to-text, with the text provided via a text telephone (TTY) over the Public Switched Telephone Network (PSTN). See 47 C.F.R. § 64.601(14).

⁵ STS is a form of TRS that allows persons with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with disabilities and can repeat the words spoken by that person. See 47 C.F.R. § 64.601(12).

⁶ Captioned telephone service is a form of TRS generally used by someone who can speak and has some residual hearing. A special telephone displays the text of what the other party is saying, so that the user can simultaneously

(continued...)

intrastate IP Relay and interstate and intrastate IP captioned telephone service (IP CTS)⁷; and \$6.644 for interstate and intrastate Video Relay Service (VRS).⁸

2. Because, on an interim basis, we will continue to use the present compensation rates, we adopt an interim total Fund size of \$553,378,363.18 and carrier contribution factor of 0.0072. We expect that these figures will be adjusted if new compensation rates are adopted in response to the *2006 TRS Cost Recovery FNPRM* that differ materially from the present rates.

II. BACKGROUND

A. NECA's May 1, 2007, Filing

3. Each year, the Fund administrator collects and reviews projected cost and minutes of use data submitted by TRS providers to determine the annual TRS compensation rates for the various forms of TRS, presently traditional TRS, STS, IP Relay, and VRS. As a general matter, each rate has been determined by the same methodology: the providers' total *projected* costs of providing each service is divided by the providers' total *projected* minutes of use, subject to possible adjustments to the underlying data by NECA or the Commission based on review of the providers' submissions.⁹

4. On May 1, 2007, NECA filed its annual Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate for the period of July 1, 2007, through June 30, 2008.¹⁰ Because NECA was aware that cost recovery issues had been raised in the *2006 TRS Cost Recovery FNPRM*, NECA set forth various proposed compensation rates for each service that are based on different factors. As set forth more fully below, as a general matter the proposed rates are based on: (1) the weighted average of the providers' total projected costs and minutes of use, unadjusted; (2) the weighted average of the providers' total projected costs and the providers' projected minutes of use, with some disallowances based on prior Commission orders; (3) the weighted cost per minute based on the providers' actual costs and minutes of use for calendar year 2006; and (4) the weighted cost per minute based on the providers' actual costs and minutes of use for calendar year 2006, but upwardly adjusted for

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both listen to what is said over the telephone (to the extent possible) and read captions of what the other person is saying. See *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling, 18 FCC Rcd 16121 (Aug. 1, 2003) (*2003 Captioned Telephone Declaratory Ruling*).

⁷ IP Relay is a form of TRS that is similar to traditional TRS except that the text is provided to, and received from, the CA via the TRS consumer's computer or other web-enabled device and the Internet. See *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (April 22, 2002) (*IP Relay Declaratory Ruling*). IP CTS is a form of captioned telephone service where the connection carrying the captions between the relay provider and the user is via the Internet, rather than the PSTN. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379 (Jan. 11, 2007) (*2007 IP CTS Declaratory Ruling*) (also concluding that IP CTS will be compensated at the same rate as IP Relay).

⁸ VRS is a form of TRS that allows users to communicate with the CA via a video link and sign language, rather than text, through a broadband Internet connection. See 47 C.F.R. § 64.601(17) (defining VRS).

⁹ See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 19 FCC Rcd 12224, 12228-12230, paras. 10-16 (June 30, 2004) (*2004 Bureau TRS Order*) (2004-2005 rate order addressing disallowances by NECA to submitted costs).

¹⁰ *2007 NECA Filing*.

inflation.¹¹ As described below, additional proposed rates were submitted for VRS.

1. Traditional TRS

5. NECA reports that the interstate traditional TRS rate based on the providers' submitted cost and demand data, unadjusted, is \$1.8747 per minute.¹² NECA also submitted a rate that reflects cost disallowances for the indirect costs of one provider; the resulting rate is \$1.6872 per minute.¹³

6. NECA also submitted traditional TRS rates based on historical cost and demand data. The rate based on calendar 2006 actual cost and demand data is \$1.7348 per minute.¹⁴ That rate, adjusted for inflation, is \$1.8137 per minute.¹⁵ By comparison, the traditional TRS compensation rate for the 2006-2007 Fund year was \$1.291 per minute.¹⁶

7. For purposes of determining the Fund size requirement and carrier contribution rate, NECA projected demand for traditional TRS based on prior actual usage.¹⁷ NECA used a growth rate based on average daily minutes of use for the 13 month period of February 2006 to February 2007.¹⁸ As NECA notes, because traditional TRS minutes have been declining over this thirteen month period, NECA applied a negative growth rate in projecting minutes.¹⁹ Using this growth rate, NECA forecasts 13.7 million minutes of use for the period of July 2007 through June 2008 for traditional TRS.²⁰

8. Because NECA proposes alternative compensation rates, it projects various Fund size requirements for interstate traditional TRS by multiplying the projected minutes of use (13.7 million) by each of the compensation rates. These calculations result in Fund size requirements ranging from \$23.1 to \$25.7 million for interstate traditional TRS for the 2007-2008 Fund year.²¹

2. Speech-to-Speech (STS)

9. NECA reports that the interstate STS rate based on the providers' submitted cost and demand data, unadjusted, is \$3.4546 per minute.²² NECA also submitted a rate that reflects cost

¹¹ 2007 NECA Filing at Ex. 1-1b.

¹² *Id.* at 12, Ex. 1-1b. This rate, and the others set forth in NECA's filing that are based on the providers' projected data, include a cash working capital factor of 1.4%. NECA proposes that this factor be increased to 1.6% because not-for-profit entities no longer provide a significant portion of TRS service. *Id.* at 5-6. Because in this order we are continuing the present rates, we do not address this issue.

¹³ *Id.* at 12, Ex. 1-1b.

¹⁴ *Id.* at Ex. 1-1b.

¹⁵ *Id.* at Ex. 1-1b.

¹⁶ Since its inception, the compensation rate for traditional TRS has ranged from \$1.168 to \$1.705 per minute. See www.neca.org (Resources, then TRS) for history of TRS rates.

¹⁷ 2007 NECA Filing at 13-14. NECA explains that although in calculating the compensation rate it uses the providers' own projections of minutes of use, in calculating the Fund size it uses actual growth rates to estimate minutes of use that will be paid by the Fund. *Id.* at 13.

¹⁸ *Id.* at 13-14.

¹⁹ *Id.* at 14.

²⁰ *Id.* at Ex. 2-2.

²¹ *Id.* at Ex. 1-1b. This amount, added to the funding requirements for the other forms of TRS, as noted below, plus certain administrative costs, determines the total projected Interstate TRS Fund size estimate.

²² *Id.* at 17, Ex. 1-3b.

disallowances for the indirect costs of one provider; the resulting rate is \$3.2596 per minute.²³

10. NECA also submitted interstate STS rates based on historical cost and demand data. The rate based on calendar 2006 actual cost and demand data is \$2.6050 per minute.²⁴ That rate, adjusted for inflation, is \$2.7234 per minute.²⁵ By comparison, the interstate STS rate for the 2006-2007 Fund year was \$1.409 per minute.²⁶

11. For purposes of determining the Fund size requirement and carrier contribution rate, NECA projected demand for STS using the same methodology it used for traditional TRS (*i.e.*, applying an average daily growth rate).²⁷ Using this growth rate, NECA forecasts approximately 253,000 minutes of use for the period of July 2007 through June 2008 for interstate STS.²⁸

12. Because NECA proposes alternative compensation rates, it projects various Fund size requirements for interstate STS by multiplying the projected minutes of use (253,000) by each of the compensation rates. These calculations result in Fund size requirements ranging from approximately \$660,000 to approximately \$875,000 for interstate STS for the 2007-2008 Fund year.²⁹

3. IP Relay

13. NECA reports that the IP Relay rate based on the providers' submitted cost and demand data, unadjusted, is \$1.2849 per minute.³⁰ NECA also submitted a rate that reflects cost disallowances for two providers³¹; the resulting rate is \$1.1609 per minute.³²

14. NECA also submitted IP Relay rates based on historical cost and demand data. The rate based on calendar 2006 actual cost and demand data is \$1.2304 per minute.³³ That rate, adjusted for inflation, is \$1.2863 per minute.³⁴ By comparison, the IP Relay compensation rate for the 2006-2007 Fund year was \$1.293 per minute.³⁵

15. For purposes of determining the Fund size requirement and carrier contribution rate, NECA projected demand for IP Relay based on prior actual usage.³⁶ NECA used a growth rate based on

²³ *Id.* at 18, Ex. 1-3b.

²⁴ *Id.* at Ex. 1-3b.

²⁵ *Id.* at Ex. 1-3b.

²⁶ Since its inception, the compensation rate for interstate STS has ranged from \$1.409 to \$4.623 per minute. See www.neca.org (Resources, then TRS Fund) for history of TRS rates.

²⁷ 2007 NECA Filing at 18-19.

²⁸ *Id.* at Ex. 2-4.

²⁹ *Id.* at Ex. 1-3b.

³⁰ *Id.* at 15, Ex. 1-2b.

³¹ NECA disallowed indirect expenses of one provider, and subcontractor costs for another provider. *Id.* at 15-16.

³² *Id.* at 15-16, Ex. 1-2b.

³³ *Id.* at Ex. 1-2b.

³⁴ *Id.* at Ex. 1-2b.

³⁵ Since its inception, the compensation rate for IP relay has ranged from \$1.278 to \$1.528 per minute. See www.neca.org (Resources, then TRS) for history of TRS rates.

³⁶ 2007 NECA Filing at 16-17.

average daily minutes of use for the 13 month period of February 2006 to February 2007.³⁷ Using this growth rate, NECA forecasts 82.5 million minutes of use for the period of July 2007 through June 2008 for IP Relay.³⁸

16. Because NECA proposes alternative compensation rates, it projects various Fund size requirements for IP Relay by multiplying the projected minutes of use (82.5 million) by each of the compensation rates. These calculations result in Fund size requirements ranging from \$95.9 to \$106.2 million for IP Relay for the 2007-2008 Fund year.³⁹

4. Video Relay Service (VRS)

17. NECA submitted six alternative rates for VRS. NECA reports that the VRS rate based on the providers' submitted cost and demand data, unadjusted, is \$6.7738 per minute.⁴⁰ NECA also submitted a rate that reflects certain cost disallowances for various providers⁴¹; the resulting rate is \$6.1393 per minute.⁴²

18. NECA also submitted VRS rates based on historical cost and demand data. The rate based on calendar 2006 actual cost and demand data is \$4.5568 per minute.⁴³ That rate, adjusted for inflation, is \$4.7639 per minute.⁴⁴ By comparison, the VRS compensation rate for the 2006-2007 Fund year was \$6.644 per minute.⁴⁵

19. NECA submitted two other possible VRS rates. The rate based on the providers' unadjusted cost data and NECA's (not the providers') projected demand based on actual historical growth is \$6.3738.⁴⁶ The rate based on the providers' cost data, with disallowances, and NECA's (not the providers') projected demand based on actual historical growth is \$5.7768.⁴⁷

20. Further, in light of the fact that the *2006 TRS Cost Recovery FNPRM* sought comment on the compensation of marketing and outreach expenses from the Fund,⁴⁸ and whether there should be limits to such costs, for each of the VRS compensation rates calculated as noted above NECA also submitted what the rate would be with all marketing and outreach expenses disallowed.⁴⁹ The resulting

³⁷ *Id.* at 13-14.

³⁸ *Id.* at 17, Ex. 2-3.

³⁹ *Id.* at Ex. 1-2b.

⁴⁰ *Id.* at 20, Ex. 1-4b.

⁴¹ NECA disallowed research and development costs of some providers, and relay center and indirect expenses of two providers. *2007 NECA Filing* at 20.

⁴² *Id.* at 20, Ex. 1-4b.

⁴³ *Id.* at Ex. 1-4b.

⁴⁴ *Id.* at Ex. 1-4b.

⁴⁵ Since its inception, the compensation rate for VRS has ranged from \$5.143 to \$17.044 per minute. *See* www.neca.org (Resources, then TRS) for history of TRS rates.

⁴⁶ *2007 NECA Filing* at Ex. 1-4b.

⁴⁷ *Id.* at Ex. 1-4b.

⁴⁸ *See 2006 TRS Cost Recovery FNPRM*, 21 FCC Rcd at 8393-8395, paras. 33-37.

⁴⁹ NECA made the similar calculations with respect to its proposed rates for the other forms of TRS. *See 2007 NECA Filing* at Exs. 1-1b (traditional TRS), 1-2b (IP Relay), 1-3b (STS).

rates are approximately \$0.20 to \$0.34 lower than the corresponding rates that include marketing and outreach expenses.⁵⁰

21. For purposes of determining the Fund size requirement and carrier contribution rate, NECA projected demand for VRS based on prior actual usage.⁵¹ NECA used a growth rate based on average daily minutes of use for the 13 month period of February 2006 to February 2007.⁵² Using this growth rate, NECA forecasts 65.3 million minutes of use for the period of July 2007 through June 2008 for VRS.⁵³

22. Because NECA proposes alternative compensation rates, it projects various Fund size requirements for VRS by multiplying the projected minutes of use (65.3 million) by each of the compensation rates. These calculations (using rates that include submitted marketing and outreach costs) result in Fund size requirements ranging from \$298 million to \$442 million for VRS for the 2007-2008 Fund year.⁵⁴

5. Interstate TRS Fund Size and Carrier Contribution Rate

23. Once NECA has calculated its proposed compensation rates for traditional TRS, STS, IP Relay, and VRS, NECA calculates the proposed Interstate TRS Fund size and the carrier contribution factor.⁵⁵ The total annual Fund requirement is determined by adding together the projected payments to TRS providers for each form of TRS, plus certain administrative expenses, less (in this instance) surplus amounts from the 2006-2007 Fund year that can be used to offset the 2007-2008 Fund year requirement.⁵⁶ The contribution factor is based on the ratio between total expected TRS Fund expenses and interstate end-user telecommunications revenues.⁵⁷

24. Because the Fund size requirement necessarily depends on the compensation rates adopted for each form of TRS, NECA reported that the overall 2007-2008 Fund size requirement would range from \$397 million to \$575 million.⁵⁸ Dividing these numbers into total 2006 interstate and international common carrier end user revenues (\$76.8 billion) results in contribution factors ranging from 0.0052 to 0.0075.⁵⁹ NECA submitted all of its data to the Commission for approval or

⁵⁰ These rates are: (1) unadjusted provider data: \$6.7728 versus \$6.4370 without marketing and outreach; (2) provider data with disallowances: \$6.1393 versus \$5.8025 without marketing and outreach; (3) 2006 actual costs and demand: \$4.5568 versus \$4.3480 without marketing and outreach; (4) 2006 actual costs and demand adjusted for inflation: \$4.7639 versus \$4.5456 without marketing and outreach; (5) providers' unadjusted cost data and NECA's projected demand: \$6.3738 versus \$6.0859 without marketing and outreach; and (6) providers' cost data with disallowances and NECA's projected demand: \$5.7768 versus \$5.4934 without marketing and outreach. *See 2007 NECA Filing* at Ex. 1-4b.

⁵¹ *Id.* at 20-21.

⁵² *Id.* at 21.

⁵³ *Id.* at 21, Ex. 2-5.

⁵⁴ *Id.* at Ex. 1-4b.

⁵⁵ *Id.* at 2, 21. Under the Commission's rules, "[e]very carrier providing interstate telecommunications services shall contribute to the TRS Fund on the basis of interstate end-user telecommunications revenues." 47 C.F.R. § 64.604(c)(5)(iii)(A).

⁵⁶ *2007 NECA Filing* at 21.

⁵⁷ *Id.* at 2. As NECA notes, calendar 2006 interstate and international revenues totaled \$76.8 billion, approximately 2.3% less than 2005 reported revenues. *Id.* at 2.

⁵⁸ *Id.* at 2.

⁵⁹ *Id.* at 2.

modification.⁶⁰

B. Commenters

25. On May 2, 2007, the Commission released a Public Notice requesting comment on NECA's filing.⁶¹ Eight comments⁶² and nine reply comments⁶³ were filed. Most comments are directed at the compensation rate for VRS.⁶⁴ Commenters also address the Fund surplus,⁶⁵ transparency in the rate setting process,⁶⁶ and contributions to the Fund based on international revenues.⁶⁷

⁶⁰ See 47 C.F.R. §§ 64.604(c)(5)(iii)(E), (H).

⁶¹ *National Exchange Carrier Association (NECA) Submits the Payment Formula and Fund Size Estimate for Interstate Telecommunications Relay Services (TRS) Fund for the July 2006 through June 2007 Fund Year*, Public Notice, CG Docket No. 03-123, DA 06-970 (May 2, 2006) (2007 TRS Rate PN).

⁶² Comments were filed by Ultratec, Inc (May 9, 2007); Bob Segalman and Rebecca Ladew (May 16, 2007); Hands On Video Relay Services, Inc. (HOVRS) (May 15, 2007); Sprint Nextel Corporation (Sprint Nextel) (May 16, 2007); CSDVRS, LLC (CSDVRS) (May 16, 2007); Hamilton Relay, Inc. (Hamilton) (May 16, 2007); AT&T, Inc. (AT&T) (May 16, 2007); Sorenson Communications, Inc. (Sorenson) (May 16, 2007). In addition, approximately 450 comments were filed by consumers (received May 2, 2007 through May 23, 2007) requesting that the Commission not reduce the VRS compensation rate. Further, *ex parte* letters were filed by KPS Consulting on behalf of Ultratec (May 9, 2007); Ruth Milkman on behalf of Sorenson (May 11, 2007); Francis Buono on behalf of Sprint Nextel, Sorenson, and Snap!VRS (May 11, 2007); KPS Consulting on behalf of Ultratec (May 16, 2007); Ruth Milkman on behalf of Sorenson, Sprint Nextel, and Snap! VRS (May 23, 2007); Toni R. Acton on behalf of AT&T (May 23, 2007); Bob Segalman and Rebecca Ladew (May 24, 2007); Ruth Milkman on behalf of Sprint Nextel, Sorenson, and Snap!VRS (May 31, 2007); Ruth Milkman on behalf of Sprint Nextel, Sorenson, and Snap!VRS (June 1, 2007); Ruth Milkman on behalf of Sprint Nextel, Sorenson, and Snap!VRS (June 1, 2007); George L. Lyon, Jr. on behalf of HOVRS (June 5, 2007); KPS Consulting on behalf of Ultratec (June 6, 2007); (KPS Consulting on behalf of CSDVRS, HOVRS, GoAmerica, and CACDHH-VRS (June 12, 2007); Eliot J. Greenwald on behalf of TDI (June 15, 2007); David A. O'Conner on behalf of Hamilton (June 15, 2007); David A. O'Conner on behalf of Hamilton (June 15, 2007); Ruth Milkman on behalf of Sprint Nextel, Sorenson, and Snap!VRS (June 15, 2007); KPS Consulting on behalf of CSDVRS (June 16, 2007); Eliot J. Greenwald on behalf of TDI (June 20, 2007); Aileen A. Pisciotto on behalf of Speech Communication Assistance by Telephone, Inc. (SCT) (June 22, 2007); George Lyon, Jr. on behalf of HOVRS (June 26, 2007); George Lyon, Jr. on behalf of HOVRS (June 26, 2007); and Ruth Milkman on behalf of Sprint Nextel, Sorenson, and Snap!VRS (corrected version, June 27, 2007).

⁶³ Reply Comments were filed by NECA (May 23, 2007); HOVRS (May 23, 2007); STi Prepaid, LLC (STi Prepaid) (May 23, 2007); Snap, Sorenson, and Sprint Nextel (Joint Providers) (May 23, 2007); Telecommunications for the Deaf and Hard of Hearing, Inc., Deaf and Hard of Hearing Consumer Advocacy Network, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc., Association of Late-Deafened Adults, Inc., National Association of the Deaf, and Hearing Loss Association of America (Joint Consumers) (May 23, 2007); Hamilton (May 23, 2007); Sorenson (May 23, 2007); Healinc Telecom, LLC (Healinc) (May 23, 2007); Registry of Interpreters for the Deaf (RID) (May 23, 2007). In addition, late filed comments were submitted by Communication Access Center for the Deaf and Hard of Hearing, Inc. (CAC) (May 31, 2007), as well as over 2000 individual comments requesting that the Commission not reduce the VRS compensation rate.

⁶⁴ See, e.g., HOVRS Comments, Sorenson Comments, CSDVRS Comments; HOVRS Reply Comments; Joint Providers Reply Comments; Joint Consumers Reply Comments; Sorenson Reply Comments; Healinc Reply Comments; RID Reply Comments.

⁶⁵ See AT&T Comments at 1-5; NECA Reply Comments at 5-6.

⁶⁶ See HOVRS Comments at 5; Hamilton Reply Comments at 2; Joint Consumers Reply Comments at 11-12.

⁶⁷ See STi Prepaid Reply Comments at 2.

III. DISCUSSION

A. The Compensation Rates for the Various Forms of TRS

26. Pending resolution of the cost recovery methodology issues raised in the *TRS Cost Recovery FNPRM*,⁶⁸ we continue the current 2006-2007 compensation rates on an interim basis until such time as new rates are adopted and effective. The present per-minute compensation rates for the various forms of TRS that will be continued are: \$1.291 for interstate traditional TRS; \$1.409 for interstate STS; \$1.291 for interstate captioned telephone service; \$1.293 for interstate and intrastate IP Relay and interstate and intrastate IP CTS; and \$6.644 for interstate and intrastate VRS.

B. Interstate TRS Fund Size and Carrier Contribution Rate

27. Because we will continue to use the present compensation rates on an interim basis, we adopt an interim total Fund size of \$553,378,363.18⁶⁹ and carrier contribution factor of 0.0072.⁷⁰ We expect that these figures will be adjusted accordingly once compensation rates are adopted in response to the *2006 TRS Cost Recovery FNPRM*.⁷¹

C. Other Issues

28. AT&T argues that the surplus of approximately \$45 million from the 2006-2007 Fund year should not be retained as a safety margin, but should instead be applied to the following Fund year to reduce the contribution factor.⁷² AT&T requests that, “at a minimum, \$25 million of the projected \$45 million surplus in the Fund for 2006-2007 be applied to offset the 2007-2008 TRS Funding requirement.”⁷³ NECA responds, however, that demand for VRS is increasing, and therefore it would be prudent to retain the entire surplus as a safety margin for the 2007-2008 funding year.⁷⁴ We believe that NECA’s approach is reasonable, particularly because the Fund size is based on NECA’s projected minutes of use of VRS, derived from historical growth trends, which NECA now projects will produce a

⁶⁸ *2006 TRS Cost Recovery FNPRM*.

⁶⁹ The Fund size is based on NECA’s projected demand for each form of TRS, as reflected in the *2007 NECA Filing*, and the rates adopted in this order. It also reflects the inclusion of Fund administrator expenses of approximately \$1 million, less interest income of approximately \$6 million. NECA will retain the 2006-2007 Fund year surplus of approximately \$40 million to use as a safety margin. *See generally 2007 NECA Filing* at 21; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, CG Docket No. 03-123, Order, 20 FCC Rcd 12237, at 12249-12250, para. 33 (June 28, 2005) (*2006 TRS Rate Order*) (concluding that the inclusion of a 10 percent safety margin is reasonable).

⁷⁰ The carrier contribution factor is determined by dividing the total funding requirement (\$553,378,363.18) by the funding base (total interstate and international common carrier end user revenues; approximately \$76.8 billion). *See generally 2007 NECA Filing* at 3.

⁷¹ *Cf. Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 19 FCC Rcd 2993 (Feb. 24, 2004) (adjusting the Fund size and carrier contribution factor mid Fund year because of unexpected growth in minutes of use of VRS and IP Relay).

⁷² *See* AT&T Comments at 1-5. AT&T argues that the surplus will cause contributors to overpay into the Fund, and that it is no longer appropriate to maintain a safety margin because demand for some services is actually declining. *See also* STi Prepaid Reply Comments at 2.

⁷³ AT&T Comments at 5.

⁷⁴ *See* NECA Reply Comments at 5-6. In addition, NECA notes that based on data submitted by VRS providers for March 2007, NECA now projects the surplus will be \$41.5 million for the current fund year, which is down from prior estimates. NECA Reply Comments at 5-6.

total of 71.5 million minutes for the 2007-2008 funding year.⁷⁵ In addition, as noted above, the Commission in the past has found the inclusion of a 10 percent safety margin to be reasonable.⁷⁶

29. Commenters also argue that there should be greater transparency in the rate setting process.⁷⁷ We anticipate addressing this issue pursuant to the *2006 TRS Cost Recovery FNPRM*, and therefore do not address it here.

30. Finally, STi Prepaid argues that international revenues should be excluded from the revenue base used to calculate payments due to the TRS Fund, “at least for those carriers whose international revenues comprise a significant portion of their total interstate and international revenue.”⁷⁸ STi Prepaid notes that this issue was raised by Telco Group, Inc. (Telco Group), and is pending in Telco Group’s 2006 application for review.⁷⁹ Because this issue is pending in that proceeding, we will not address it here.

IV. ORDERING CLAUSES

31. Accordingly, IT IS ORDERED, pursuant to the authority contained in Section 225 of the Communications Act of 1934, as amended, 47 U.S.C. § 225, and Sections 0.141, 0.361, and 64.604(c)(5)(iii) of the Commission’s rules, 47 C.F.R. §§ 0.141, 0.361, and 64.604(c)(5)(iii), that this ORDER IS hereby ADOPTED.

32. IT IS FURTHER ORDERED that NECA shall compensate providers of interstate traditional TRS and interstate captioned telephone service at the rate of \$1.291 per completed interstate conversation minute for the Interstate TRS Fund year beginning July 1, 2007.

33. IT IS FURTHER ORDERED that NECA shall compensate providers of interstate Speech-to-Speech service at the rate of \$1.409 per completed interstate conversation minute for the Interstate TRS Fund year beginning July 1, 2007.

34. IT IS FURTHER ORDERED that NECA shall compensate providers of interstate and intrastate IP Relay service and interstate and intrastate IP captioned telephone service at the rate of \$1.293 per completed interstate conversation minute for the Interstate TRS Fund year beginning July 1, 2007.

35. IT IS FURTHER ORDERED that NECA shall compensate providers of interstate and

⁷⁵ NECA Reply Comments at 6. In NECA’s original *2007 TRS Filing*, the projected minutes for the 2007-2008 funding year were only 65.1 minutes, resulting in a 6.4 million minute projection difference from the projection made based on March 2007 actual reported minutes.

⁷⁶ See *2006 TRS Rate Order*, 20 FCC Rcd at 12250, para. 34.

⁷⁷ See HOVRS Comments at 5 (recommending that NECA release any data that it relies upon in determining VRS rates); Hamilton Reply Comments at 2 (concurring with HOVRS that the public should have access to data upon which the Administrator and the Commission rely to determine relay rates in order to reasonably comment on those rates); and Joint Consumers Reply Comments at 11-12 (NECA should not have a complete exemption from the Commission’s *ex parte* rule, and the Commission should require NECA to disclose at least all non-proprietary information, non-confidential information).

⁷⁸ STi Prepaid Reply Comments at 2.

⁷⁹ STi Prepaid Reply Comments at 2 and n.5 (citing Telco Group, Inc., *Application for Review*, CG Docket No. 03-123 (filed June 26, 2006) (seeking review of *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling On Reconsideration, 21 FCC Rcd 5962 (May 25, 2006) (denying Telco Group’s petition for declaratory ruling requesting the Commission to exclude international revenues from the end-user revenue base used to calculate payments to the Interstate TRS Fund). STi notes that it acquired the assets of Telco Group. STi Prepaid Reply Comments at 1 n.1.

intrastate Video Relay Service at the rate of \$6.644 per completed interstate conversation minute for the Interstate TRS Fund year beginning July 1, 2007.

36. IT IS FURTHER ORDERED that the Interstate TRS Fund size shall be \$553,378,363.18, and the carrier contribution factor shall be 0.0072, for the July 1, 2007, through June 30, 2008, Fund year.

37. IT IS FURTHER ORDERED that this *Order* is effective upon release.

38. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This *Order* can also be downloaded in Word and Portable Document Formats (PDF) at <http://www.fcc.gov/cgb.dro>.

FEDERAL COMMUNICATIONS COMMISSION

Cathy Seidel, Chief
Consumer & Governmental Affairs Bureau