

**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 26, 2009**

**Released: June 26, 2009**

By the Acting Chief, Consumer & Governmental Affairs Bureau:

**I. INTRODUCTION**

1. On May 1, 2009, the National Exchange Carrier Association, Inc. (NECA), the Interstate Telecommunications Relay Services (TRS)<sup>1</sup> Fund Administrator, filed its annual Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate for the period of July 1, 2009, through June 30, 2010.<sup>2</sup> On May 14, 2009, the Commission released the *2009 Rate PN and NPRM*<sup>3</sup> seeking comment on NECA's filing, as well as on whether, notwithstanding the rate methodology established in the *2007 TRS Rate Methodology Order*,<sup>4</sup> the Commission should modify the compensation rates for Video Relay Service (VRS)<sup>5</sup> for the 2009-2010 Fund year.

2. In its filing, NECA proposes the following rates: \$1.8311 per minute for interstate traditional TRS;<sup>6</sup> \$2.9621 per minute for interstate Speech-to-Speech (STS);<sup>7</sup> \$1.6778 per minute for

<sup>1</sup> 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(21). 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).

<sup>2</sup> *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate (filed May 1, 2009) (*2009 TRS Rate Filing*).

<sup>3</sup> *Telecommunications Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Public Notice and Notice of Proposed Rulemaking, FCC 09-39 (May 14, 2009) (*2009 Rate PN and NPRM*).

<sup>4</sup> *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order, and Declaratory Ruling, 22 FCC Rcd 20140 (Nov. 19, 2007) (*2007 TRS Rate Methodology Order*).

<sup>5</sup> VRS is a form of TRS that enables the VRS user and the CA to communicate via a video link in sign language, rather than through text. *See* 47 C.F.R. § 64.601(26) (defining VRS).

<sup>6</sup> *See 2009 TRS Rate Filing* at 9, Ex. 1-1, and App. C. 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(21).

interstate captioned telephone service (CTS)<sup>8</sup> and intrastate and interstate Internet Protocol (IP) captioned telephone service (IP CTS);<sup>9</sup> \$1.2801 per minute for intrastate and interstate IP Relay;<sup>10</sup> and tiered rates of \$6.7025 for the first 50,000 monthly minutes, \$6.4352 for monthly minutes between 50,001 and 500,000, and \$6.2372 for minutes above 500,000 for intrastate and interstate VRS.<sup>11</sup> Based on these rates, NECA proposes a carrier contribution factor of 0.01137, and a funding requirement of \$890,992,075.

3. As set forth below, we adopt NECA's proposed per-minute compensation rates for traditional TRS, STS, CTS, IP CTS, and IP Relay for the 2009-2010 Fund year.<sup>12</sup> In light of the fact that the record has not yet closed in the rulemaking that the Commission initiated to examine VRS rates,<sup>13</sup> we also adopt for now NECA's proposed rates for VRS. We emphasize, however, that the Commission could decide to revise the VRS rates at the completion of that rulemaking. To ensure that the Fund has adequate resources to compensate providers for the provision of service at the rates adopted herein, we adopt NECA's proposed Fund size and carrier contribution factor.

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<sup>7</sup> See *2009 TRS Rate Filing* at 10, Ex. 1-1, and App. C. 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 speech disabilities and can repeat the words spoken by those individuals. See 47 C.F.R. § 64.601(19). The traditional TRS rate also applies to interstate STS. See *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20156, para. 34. Consistent with the *2007 TRS Rate Methodology Order*, however, NECA's proposed STS rate includes an additional per-minute amount of \$1.131 to be used for STS outreach. See *id.*, 22 FCC Rcd at 20165, para. 57; *2009 TRS Rate Filing* at 10.

<sup>8</sup> See *2009 TRS Rate Filing* at 10-11, Ex. 1-2, and App. D. CTS 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 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*).

<sup>9</sup> See *2009 TRS Rate Filing* at 10-11 and Ex. 1-2. 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*).

<sup>10</sup> See *2009 TRS Rate Filing* at 11-12 and Ex. 1-3. 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*).

<sup>11</sup> See *2009 TRS Rate Filing* at 13 and Ex. 1-4.

<sup>12</sup> See *2009 TRS Rate Filing* at 19 and Ex. 2.

<sup>13</sup> *2009 Rate PN and NPRM*, at para. 11. On June 3, 2009, we extended the comment dates until July 6, 2009 (comments), and July 20, 2009 (reply comments). See *Telecommunications Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, DA 09-1255 (June 3, 2009).

## II. BACKGROUND

### A. The TRS Compensation Methodologies

4. The *2007 TRS Cost Recovery Methodology Order* establishes the current cost recovery methodologies for the various forms of TRS.<sup>14</sup> For interstate traditional TRS and STS, the Commission adopted the Multi-state Average Rate Structure (MARS) Plan, explained below.<sup>15</sup> The Commission also adopted the MARS Plan for interstate CTS and intrastate and interstate IP CTS.<sup>16</sup> For intrastate and interstate IP Relay, the Commission adopted a price cap methodology.<sup>17</sup> For intrastate and interstate VRS, the Commission adopted a tiered rate methodology based on call volume.<sup>18</sup> Tier I includes the first 50,000 monthly VRS minutes; Tier II includes monthly minutes between 50,001 and 500,000; and Tier III includes monthly minutes above 500,000.<sup>19</sup>

### B. NECA's May 1, 2009, Filing

5. In the *2009 TRS Rate Filing*, NECA submitted proposed compensation rates for the various forms of TRS pursuant to the cost recovery methodologies described above. We address each proposed compensation rate below.

#### 1. Interstate Traditional TRS and Interstate STS

6. NECA proposes per-minute rates of \$1.8311 for interstate traditional TRS,<sup>20</sup> and \$2.9621 for interstate STS.<sup>21</sup> Pursuant to the *2007 TRS Cost Recovery Methodology Order*, interstate traditional TRS and interstate STS are compensated at the same rate.<sup>22</sup> The proposed rate for STS includes an additional sum for outreach, as explained below.

7. The base rate for traditional TRS and STS was calculated by NECA following the MARS analysis adopted in the *2007 TRS Cost Recovery Methodology Order*.<sup>23</sup> The MARS rate is calculated by collecting each state's *intrastate* TRS and STS rates and minutes of use data, and averaging this data to determine the appropriate interstate rate as described in the *2009 TRS Rate Filing*.<sup>24</sup> NECA states that the total dollar amount paid by the states for intrastate TRS and STS for calendar year 2008 was \$62,832,986, and total intrastate conversation minutes were 34,313,764.<sup>25</sup> The ratio of total dollars to total minutes

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<sup>14</sup> *2007 TRS Cost Recovery Methodology Order*.

<sup>15</sup> *See id.*, 22 FCC Rcd at 20153-57, paras. 26-35.

<sup>16</sup> *See id.*, 22 FCC Rcd at 20157-58, paras. 36-38.

<sup>17</sup> *See id.*, 22 FCC Rcd at 20158-60, paras. 39-46.

<sup>18</sup> *See id.*, 22 FCC Rcd at 20160-65, paras. 47-56.

<sup>19</sup> *See id.*

<sup>20</sup> *See 2009 TRS Rate Filing* at 9, Ex. 1-1, and App. C.

<sup>21</sup> *See id.*

<sup>22</sup> *See 2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20165, para. 57.

<sup>23</sup> *See id.*, 22 FCC Rcd at 20180-82, Apps. B-D; *see also 2009 TRS Rate Filing* at 8-10, Ex. 1-1, and App. C.

<sup>24</sup> *See 2009 TRS Rate Filing* at 8-10, Ex. 1-1, and App. C. TRS and STS data were excluded from the MARS calculation for the states of Michigan and Maine because those states reimburse their providers using a flat rate. The data from California were also excluded because California bases its state rate on the interstate rate. *See 2009 TRS Rate Filing* at 8.

<sup>25</sup> *See 2009 TRS Rate Filing* at 9, Ex. 1-1, and App. C.

equals the proposed compensation rate of \$1.8311 per minute.<sup>26</sup> This rate is approximately 15 percent higher than the 2008-2009 rate of \$1.5938.<sup>27</sup>

8. In the *2007 TRS Cost Recovery Methodology Order*, the Commission recognized that many potential STS users were not being made aware of this important service.<sup>28</sup> Therefore, for the 2007-2008 Fund year, the Commission added an additional amount of \$1.131 per minute to the STS compensation rate calculated under the MARS plan.<sup>29</sup> The Commission directed that this additional amount was to be used for outreach purposes.<sup>30</sup> The Commission stated that it would revisit the additional reimbursement amount for STS outreach in future Fund years, and determine whether to continue it, as well as whether to increase or decrease the amount.<sup>31</sup> In the *2008 Rate Order*, the Bureau decided to retain the outreach payment for the 2008-2009 Fund year, as recommended by NECA. NECA's current rate proposal includes the same amount for outreach, although NECA suggests that the Commission may want to revisit whether they may be other effective ways to inform potential users about the availability of this service.<sup>32</sup> NECA therefore proposes a per-minute reimbursement rate of \$2.9621 for interstate STS minutes, which is the sum of the base rate of \$1.8311 and the additional \$1.131 for outreach.<sup>33</sup>

## 2. Interstate CTS and Intrastate and Interstate IP CTS

9. NECA proposes a per-minute rate of \$1.6778 for interstate CTS, and for intrastate and interstate IP CTS.<sup>34</sup> These rates are also calculated using the MARS formula.<sup>35</sup> In the *2007 TRS Cost Recovery Methodology Order*, the Commission determined that because there is no state data for IP CTS, it would be reimbursed at the same rate as CTS.<sup>36</sup> NECA states that the total dollar amount paid by the states for CTS for calendar year 2008 was \$31,198,613, and total intrastate conversation minutes were 18,595,404.<sup>37</sup> The ratio of total minutes to total dollars equals the proposed compensation rate of \$1.6778 per minute.<sup>38</sup> This rate represents a slight increase from the 2008-2009 rate of \$1.6569.<sup>39</sup>

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<sup>26</sup> *See id.*

<sup>27</sup> *See 2009 TRS Rate Filing* at 9.

<sup>28</sup> *2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20166, para. 61.

<sup>29</sup> *Id.*; *see also Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, 23 FCC Rcd 9976 at 9978-79, para. 6 (June 24, 2008) (*2008 TRS Rate Order*).

<sup>30</sup> *2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20166, para. 61; *see also 2008 TRS Rate Order*, 23 FCC Rcd at 9981, para. 13.

<sup>31</sup> *2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20166, para. 61; *see also 2008 TRS Rate Order*, 23 FCC Rcd at 9978-79, para. 6.

<sup>32</sup> *See 2009 TRS Rate Filing* at 10.

<sup>33</sup> *See id.*

<sup>34</sup> *See id.* at 10-11, Ex. 1-2, and App. D.

<sup>35</sup> *See id.* at 10. NECA notes that data from seven states or territories was excluded from the MARS calculation because those entities either did not provide CTS, paid a flat amount, or based their rate on the interstate rate. *See id.* at 10 & App. D.

<sup>36</sup> *2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20158, para 38.

<sup>37</sup> *See 2009 TRS Rate Filing* at 10.

<sup>38</sup> *See id.* at 10-11.

<sup>39</sup> *See id.*

### 3. Intrastate and Interstate IP Relay

10. NECA proposes a per-minute rate of \$1.2801 for intrastate and interstate IP Relay.<sup>40</sup> This is based on the price cap formula adopted in the *2007 TRS Cost Recovery Methodology Order*,<sup>41</sup> and described in the *2009 TRS Rate Filing*.<sup>42</sup> This rate is determined by multiplying the current IP Relay rate by an Inflation Factor and an Efficiency Factor, and including appropriate Exogenous Costs.<sup>43</sup> The Inflation Factor is the Gross Domestic Product minus the Price Index (GDP-PI), and the Efficiency Factor is the Inflation factor minus 0.5 percent to account for productivity gains.<sup>44</sup> As reported by NECA, the application of the price cap formula results in a proposed rate of \$1.2801, which represents a slight decrease from the 2008-2009 rate of \$1.2865.<sup>45</sup>

### 4. Intrastate and Interstate VRS

11. NECA proposes tiered rates of \$6.7025 for the first 50,000 monthly minutes, \$6.4352 for monthly minutes between 50,001 and 500,000, and \$6.2372 for monthly minutes above 500,000 for intrastate and interstate VRS.<sup>46</sup> NECA's proposal is based on the tiers and rates adopted in the *2007 Cost Recovery Methodology Order*<sup>47</sup> and described in the *2009 TRS Rate Filing*.<sup>48</sup> This rate is calculated by applying a 0.5 percent reduction to the base rates (in this case, the 2008-2009 rates) to reflect productivity gains.<sup>49</sup>

### 5. Interstate TRS Fund Size and Carrier Contribution Rate

12. Once NECA has calculated its proposed compensation rates for traditional TRS, STS, CTS, IP CTS, IP Relay, and VRS, NECA calculates the proposed 2009-2010 funding requirement and the carrier contribution factor.<sup>50</sup> The total annual funding requirement is determined by adding together the projected payments to TRS providers for each form of TRS, based on the proposed rates and projected minutes of use,<sup>51</sup> plus certain administrative expenses, less surplus amounts from the 2008-2009 Fund

<sup>40</sup> See *id.* at 11-12 and Ex. 1-3.

<sup>41</sup> See *2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20159-60, paras. 43-46.

<sup>42</sup> See *2009 TRS Rate Filing* at 11-12 and Ex. 1-3.

<sup>43</sup> See *id.*

<sup>44</sup> See *2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20159-60, para. 43.

<sup>45</sup> See *2009 TRS Rate Filing* at 11-12 and Ex. 1-3.

<sup>46</sup> See *id.* at 12-13 and Ex. 1-4.

<sup>47</sup> See *2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20160-65, paras. 47-56.

<sup>48</sup> See *2009 TRS Rate Filing* at 12-13 and Ex. 1-4.

<sup>49</sup> See *id.* The base rates set for the 2008-2009 Fund year were \$6.7362 for the first 50,000 minutes; \$6.4675 for minutes between 50,001 and 500,000; and \$6.2685 for minutes above 500,000. See *2009 TRS Rate Filing* at 13. NECA notes that none of the providers reported exogenous costs that should be included in the rates for the 2009-2010 Fund year. See *id.* at 12.

<sup>50</sup> 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).

<sup>51</sup> For purposes of calculating the Fund size, NECA projects the following demand for the 2009-2010 Fund year for each form of TRS: 7,259,298 minutes for traditional TRS; 130,000 minutes for STS; 9,283,437 for CTS; 1,851,602 for IP CTS; 67,610,985 for IP Relay; and 123,844,666 minutes for VRS. See *2009 TRS Filing* at Ex. 2. Because providers of services compensated using the MARS Plan are no longer required to submit demand projections, TRS, STS, and CTS demand projections are estimated based on actual historical demand. See *id.* at 16. IP Relay and

(continued....)

year that can be used to offset the 2009-2010 Fund year requirement.<sup>52</sup> The contribution factor is based on the ratio between total expected TRS Fund expenses and interstate end-user telecommunications revenues.<sup>53</sup> Based on these calculations, NECA proposes a funding requirement of \$890,992,075, and a carrier contribution factor of 0.01137 for the 2009-2010 Fund year.<sup>54</sup>

### C. Commenters

13. In response to the Public Notice seeking comment on NECA's May 1<sup>st</sup> filing, 686 comments, 1 reply comment, and 11 *ex partes* were filed, most of which address the VRS rates.<sup>55</sup> Of the 685 comments, 25 were from individuals addressing additional funding for STS outreach,<sup>56</sup> and 658 were from individual consumers addressing VRS rates.<sup>57</sup>

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VRS demand projections are based on the providers' projected minutes of use for the 2009-2010 Fund year. *See id.* at 17.

<sup>52</sup> *Id.* at 18-20 and Ex. 2.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* Note that the overall proposed Fund size for 2009-2010 is \$980,992,075. NECA anticipates requiring \$905,992,075 to cover predicted expenses, and proposes a \$75,000,000 safety net, which together total \$980,992,075. Because NECA anticipates a \$90,000,000 carry-over surplus from the 2008-2009 Fund year, the total amount of new funding required for 2009-2010 Fund year is \$890,992,075. *See id.* at Ex. 2.

<sup>55</sup> Comments were filed by Speech Communications Assistance by Telephone, Inc. (SCT) (April 15, 2009), Purple Communications, Inc. (Purple) (June 4, 2009), CSDVRS, LLC (June 4, 2009), and numerous individuals. Reply comments were filed by Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI) (June 11, 2009). *Ex partes* were filed by Sorenson Communications, Inc. (Sorenson) regarding a telephone conversation with Mark Stone, legal advisor to Commissioner Adelstein (April 27, 2009); Sprint Nextel Corporation (Sprint Nextel), Sorenson, Snap Telecommunications, Inc. (Snap), and Purple regarding separate meetings with Scott Deutchman, legal advisor to Acting Chairman Copps, Mark Stone, Nick Alexander, legal advisor to Commissioner McDowell, Catherine Seidel, Tom Chandler, and Diane Mason of the Consumer and Governmental Affairs Bureau (CGB), and Sharon Diskin of the Office of General Counsel (OGC) (May 1, 2009); I. King Jordan regarding meeting with Acting Chairman Copps (May 19, 2009); I. King Jordan regarding meeting with Commissioner Adelstein (May 19, 2009); Ed Bosson in the form of a letter addressed to Acting Chairman Copps (May 28, 2009); Sorenson regarding a telephone conversation with Catherine Seidel, Chief and Suzanne Tetreault, Acting Deputy Chief of CGB (May 29, 2009); CSDVRS, LLC (CSDVRS) regarding a telephone conversation with Scott Deutchman (June 2, 2009); Sorenson regarding separate meetings with Commissioner Adelstein, Rudy Briocche, Renee Crittendon, and Nick Alexander (June 4, 2009); TDI regarding meeting with Scott Deutchman and joined by National Association of the Deaf (NAD) via teleconference (June 8, 2009); Sorenson in the form of a letter addressing TDI's Motion for Protective Order, filed May 20, 2009 (June 8, 2009); and Sorenson regarding separate telephone conversations with Acting General Counsel Michele Ellison, Deputy General Counsel Joseph Palmore, and Associate General Counsel Joel Kaufman (June 11, 2009).

<sup>56</sup> Individuals expressed support for the added funding for STS outreach and requested that the Commission continue this funding for the 2009-2010 Fund year. *See, e.g.,* comments filed by Patricia (Trici) B. Schraeder, Faculty Associate, UW-Madison (April 29, 2009) ("We strongly urge the FCC to renew its financial outreach commitment for one more year to give the providers time to develop a successful outreach strategy"); and comments filed by LuRetta Fairman Sacramento Friends Meeting, Speech-to-Speech Interest Group Liaison (April 20, 2009) ("We encourage the FCC to continue its additional funding for Speech-to-Speech Outreach via adequate interstate reimbursement rates for TRS for the new fiscal year"). SCT and TDI also expressed support for the additional STS funding. *See* SCT Comments at 1 and TDI Reply Comments at 1.

<sup>57</sup> Almost all of the individual comments were form letters expressing support for the continuation of the current rate methodology and the adoption of NECA's proposed rates for the 2009-2010 Fund year.

### III. DISCUSSION

#### A. The Compensation Rates for Traditional TRS, STS, CTS, IP CTS, and IP Relay

14. The Bureau has reviewed NECA's proposed rates and its underlying calculations for traditional TRS, STS, CTS, IP CTS, and IP Relay for the 2009-2010 Fund year. We conclude that these rates are consistent with the *2007 TRS Cost Recovery Methodology Order*, and note that no commenters have opposed these rates. As a result, we hereby adopt NECA's proposed rates for the 2009-2010 Fund year as follows: \$1.8311 for interstate traditional TRS; \$2.9621 for interstate STS; \$1.6778 for interstate CTS, and intrastate and interstate IP CTS; and \$1.2801 for intrastate and interstate IP Relay.

15. NECA states that it is "not clear that the additive applied to the per-minute rate is having the desired result," and suggests that the Commission may wish to revisit this issue to determine whether there is a more effective way to inform potential users of the availability of STS<sup>58</sup>. Commenters addressing this issue, however, support continuing to add this payment for outreach. The Commission may reexamine this issue in the future, but in the meantime, the Bureau finds it appropriate to retain the \$1.131 outreach payment for the next Fund year. We believe that it is important to continue to provide money for STS outreach to ensure that as many potential STS users as possible are aware of the service, and encourage providers to seek the most effective methods for using these funds. Further, consistent with the *2007 Cost Recovery Methodology Order*, we again require that STS providers file a report annually with NECA and the Commission on their specific outreach efforts directly attributable to the additional support for STS outreach.<sup>59</sup>

#### B. The Compensation Rates for VRS

16. As noted above, on May 14, 2009, the Commission released an *NPRM* seeking comment on whether, notwithstanding the rate methodology established in the *2007 TRS Rate Methodology Order*, the Commission should modify the compensation rates for VRS for the 2009-2010 Fund year. The Commission sought comment on "whether, for the 2009-2010 Fund year, we should adopt new VRS rates for each tier that correlate to providers' cost data, as reflected in NECA's May 1<sup>st</sup> filing, rather than continue to base rates on the *2007 TRS Rate Methodology Order*."<sup>60</sup>

17. On June 3, 2009, however, we extended the comment dates on that *NPRM* until July 6, 2009 (comments), and July 20, 2009 (reply comments).<sup>61</sup> Since the record is not yet complete, the Commission will not address the issue raised in the *NPRM* at this time. Until such time as the Commission does so, we adopt NECA's proposal as an interim measure.

18. Pursuant to the *2007 TRS Rate Methodology Order*, NECA proposes tiered VRS rates of \$6.7025 for the first 50,000 monthly minutes, \$6.4352 for monthly minutes between 50,001 and 500,000, and \$6.2372 for monthly minutes above 500,000 for intrastate and interstate VRS.<sup>62</sup> We adopt NECA's proposed VRS rates pending any future rulemaking order further addressing the VRS rates.

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<sup>58</sup> *2009 TRS Rate Filing* at 10.

<sup>59</sup> *2007 TRS Cost Recovery Methodology Order*, 22 FCC Rcd at 20166, para. 61. This report will be due April 1, 2009.

<sup>60</sup> *Id.*

<sup>61</sup> See note 13, *supra*.

<sup>62</sup> See *2009 TRS Rate Filing* at 12-13 and Ex. 1-4.

**C. Interstate TRS Funding Requirement and Carrier Contribution Rate**

19. Because we adopt NECA's proposed compensation rates for each form of TRS, and agree that NECA's projected minutes of use for each service are reasonable, we also adopt NECA's recommendation for a total funding requirement of \$890,992,075<sup>63</sup> and carrier contribution factor of 0.01137,<sup>64</sup> which will result in a total Fund size of approximately \$981 million.<sup>65</sup>

**IV. ORDERING CLAUSES**

20. 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.

21. IT IS FURTHER ORDERED that NECA shall compensate providers of interstate traditional TRS for the July 1, 2009 through June 30, 2010 Fund year, at the rate of \$1.8311 per completed interstate conversation minute.

22. IT IS FURTHER ORDERED that NECA shall compensate providers of interstate Speech-to-Speech service for the July 1, 2009 through June 30, 2010 Fund year, at the rate of \$2.9621 per completed interstate conversation minute.

23. IT IS FURTHER ORDERED that NECA shall compensate providers of interstate captioned telephone service and intrastate and interstate IP captioned telephone service for the July 1, 2009 through June 30, 2010 Fund year, at the rate of \$1.6778 per completed conversation minute.

24. IT IS FURTHER ORDERED that NECA shall compensate providers of intrastate and interstate IP Relay service for the July 1, 2009 through June 30, 2010 Fund year, at the rate of \$1.2801 per completed conversation minute.

25. IT IS FURTHER ORDERED that NECA shall compensate providers of intrastate and interstate Video Relay Service at the rates of \$6.7025 for the first 50,000 monthly minutes (Tier I), \$6.4352 for monthly minutes between 50,001 and 500,000 (Tier II), and \$6.2372 for minutes above 500,000 (Tier III) per completed conversation minute, until such time as the Commission further addresses these rates pursuant to the *2009 Rate PN and NPRM*.

26. IT IS FURTHER ORDERED that the Interstate TRS funding requirement shall be \$890,992,075, and the carrier contribution factor shall be 0.01137, for the July 1, 2009 through June 30, 2010 Fund year.

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<sup>63</sup> The Fund size requirement is based on NECA's projected demand for each form of TRS, as noted above and as reflected in the *2009 TRS Rate Filing*, and the rates adopted in this order. It also reflects the inclusion of Fund administrator expenses, interest income, and the additional amount proposed to safeguard the Fund. See note 54, *supra*; *2009 NECA Filing* at 16-21 and Ex. 2; see also *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).

<sup>64</sup> The carrier contribution factor is determined by dividing the total funding requirement (\$890,992,075) by the funding base (total interstate end-user telecommunications revenues, which equals \$78,347,148,238). See *2009 TRS Rate Filing* at Ex. 2.

<sup>65</sup> See note 54, *supra*. If the Commission adopts new VRS rates before the end of the Fund year, the Commission will determine at that time if the Fund size and carrier contribution factor will also need to be modified to reflect new funding requirements.



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

28. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to [fcc504@fcc.gov](mailto: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

Thomas Wyatt, Acting Chief  
Consumer & Governmental Affairs Bureau