

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

In the Matter of
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities
Structure and Practices of the Video Relay Service Program
CG Docket No. 03-123
CG Docket No. 10-51

ORDER

Adopted: June 30, 2023

Released: June 30, 2023

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. In this Order, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (Commission) sets per-minute provider compensation for certain telecommunications relay services (TRS) supported by the Interstate Telecommunications Relay Services Fund (TRS Fund, or Fund) for the Fund Year beginning July 1, 2023, and ending June 30, 2024 (2023-24 Fund Year). For Fund Year 2023-24, the per-minute compensation for interstate TRS provided through state programs shall be: (1) for traditional (TTY-based) TRS, \$5.7204; (2) for speech-to-speech relay service (STS), \$6.8514; and (3) for captioned telephone service (CTS), \$2.6619. Per-minute compensation for IP Relay for Fund Year 2023-24 shall be \$2.0480 per minute.

2. We also grant, on our own motion, limited temporary waivers of the June 30, 2023 expirations of the current TRS Fund compensation formulas for Video Relay Service (VRS) and Internet Protocol Captioned Telephone Service (IP CTS). The current compensation formulas for VRS are extended until August 31, 2023, and the current compensation formula for IP CTS is extended until November 30, 2023. Each waiver is effective through the applicable dates or the effective date of Commission action establishing a compensation plan for that service, whichever is earlier.

3. In addition, we determine the total TRS funding requirement and contribution factors that determine the amounts that telecommunications carriers and other covered service providers must contribute to the Fund. Based on the above compensation formulas, projected demand for each service, projected Fund administration expenses, and application of the projected surplus from the previous Fund year, the net funding requirement is \$1,287,242,528. For support of TRS provided through state programs, we approve a carrier contribution factor of 0.00025, applied to contributors' interstate and international end-user revenues. For support of Internet-based TRS—VRS, IP CTS and IP Relay—we

1 TRS enables an individual who is deaf, hard of hearing, or deafblind or who has a speech disability to communicate by telephone or other device through the telephone system. See 47 U.S.C. § 225(a)(3). TRS is provided in a variety of ways. Currently, interstate TRS calls and all Internet Protocol (IP) based TRS calls, both intrastate and interstate, are supported by the Fund. See 47 CFR § 64.604(c)(5)(ii).

approve a carrier contribution factor of 0.01615, applied to contributors' intrastate, interstate, and international end-user revenues.<sup>2</sup>

## II. BACKGROUND

4. *TRS Fund Contributions.* On June 30, 2022, the Commission amended its rules to provide that TRS Fund contributions for the support of VRS and IP Relay are determined based on each TRS contributor's total intrastate, interstate, and international end-user revenues, in the same way that contributions for support of IP CTS are calculated.<sup>3</sup> Under the revised rule, telecommunications carriers and Voice over Internet Protocol (VoIP) service providers are required to contribute a percentage of intrastate as well as interstate end-user revenues to fund VRS and IP Relay, beginning July 1, 2023.<sup>4</sup>

5. *VRS Compensation.* The current tiered compensation formulas for VRS, adopted by the Commission in 2017, initially were set to expire June 30, 2021.<sup>5</sup> In a notice of proposed rulemaking adopted in March 2021, the Commission sought comment on setting VRS compensation for the next period.<sup>6</sup> To allow time for the completion of this rulemaking, the Commission waived the June 30, 2021 expiration date, extending the compensation plan through December 31, 2021.<sup>7</sup> On November 12, 2021, the Bureau found good cause to grant a further waiver, extending the current VRS compensation plan through June 30, 2022.<sup>8</sup> In a subsequent order, the Bureau extended the compensation plan for one additional year, through June 30, 2023.<sup>9</sup>

6. *IP CTS Compensation.* The current compensation formula for IP CTS, established by the Commission in 2020, was initially set to expire on June 30, 2022. In an Order adopted June 30, 2022, the Bureau found good cause to issue a limited waiver extending the IP CTS compensation formula through

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<sup>2</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Misuse of Internet Protocol Relay Service*, CG Docket Nos. 03-123, 10-51, and 13-24, FCC 22-49 (June 30, 2022) (*2022 VRS and IP Relay Contribution Base Order*) (including intrastate revenues in the contribution base for VRS and IP Relay).

<sup>3</sup> *Id.*; see also *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order, 34 FCC Rcd 11265 (2019) (*2019 IP CTS Contribution Base Order*) (including intrastate revenues in the contribution base for IP CTS).

<sup>4</sup> 47 CFR § 64.604(c)(5)(iii)(A); *2022 VRS and IP Relay Contribution Base Order*, para. 23.

<sup>5</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Report and Order and Order, 32 FCC Rcd 5891 (2017) (*2017 VRS Compensation Order*).

<sup>6</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Notice of Proposed Rulemaking and Order, 36 FCC Rcd 8802 (2021) (*2021 VRS Compensation Notice*).

<sup>7</sup> *Id.* at 8817, para. 40.

<sup>8</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 36 FCC Rcd 15798 (CGB Nov. 12, 2021).

<sup>9</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, DA 22-699 (CGB June 30, 2022) (*2022 TRS Funding Order*).

June 30, 2023.<sup>10</sup> In a notice of proposed rulemaking adopted in December 2022, the Commission sought comment on setting IP CTS compensation for the next period.<sup>11</sup>

7. *IP Relay*. On June 30, 2022, the Commission adopted a four-year compensation plan for IP Relay.<sup>12</sup> The Commission set a compensation amount of \$1.9576 per minute, subject to annual adjustment by application of an inflation factor based on a cost index compiled by the U.S. Department of Labor.<sup>13</sup> In December 2022, the Commission proposed a technical amendment to clarify how the inflation adjustment factor should be calculated.<sup>14</sup>

8. On May 1, 2023, the TRS Fund administrator, Rolka Loube Associates LLC (Rolka Loube), submitted an annual report on the TRS Fund with recommendations for provider compensation, the TRS Fund budget, and contribution factors for the 2023-24 Fund Year.<sup>15</sup> On May 12, the Bureau sought comment on the administrator's recommendations.<sup>16</sup> The Commission received comments from Hamilton Relay, Inc. (Hamilton), Sorenson Communications, LLC. (Sorenson), and ClearCaptions, LLC. (ClearCaptions),<sup>17</sup> and reply comments from ZP Better Together, LLC, and ClearCaptions.<sup>18</sup> On June 28, the administrator filed a supplement to the annual report, updating the recommended budget and contribution factors and modifying its proposed formula for IP Relay compensation.<sup>19</sup>

### III. DISCUSSION

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

9. *Traditional TRS, STS, and CTS*. For traditional TRS, STS, and CTS, we approve Rolka Loube's per-minute compensation recommendations for the 2023-24 Fund Year: \$5.7204 for interstate traditional TRS; \$6.8514 for interstate STS; and \$2.6619 for interstate CTS. These compensation levels represent increases in per-minute compensation of approximately 26.8% for traditional TRS, 21.5% for

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<sup>10</sup> *Id.*

<sup>11</sup> *Internet Protocol Captioned Telephone Service Compensation; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket Nos. 22-408, 03-123, and 13-24, Notice of Proposed Rulemaking and Order on Reconsideration, FCC 22-97 (Dec. 22, 2022) (*2022 IP CTS Compensation Notice or IP Relay Technical Amendment Notice*).

<sup>12</sup> *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Petition for Rulemaking of Sprint Corporation*, CG Docket No. 03-123 and RM-11820, Report and Order, FCC 22-48 (rel. June 30, 2022) (*2022 IP Relay Compensation Order*).

<sup>13</sup> *Id.*, para. 9.

<sup>14</sup> *IP Relay Technical Amendment Notice*, paras. 47-48.

<sup>15</sup> Rolka Loube, *Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate*, CG Docket Nos. 03-123 and 10-51 (filed May 1, 2023), <https://www.fcc.gov/ecfs/document/1050410304699/1> (2023 TRS Fund Report). Each May, the Fund administrator recommends TRS payment formulas and revenue requirements for the next Fund Year. 47 CFR § 64.604(c)(5)(iii)(E), (H).

<sup>16</sup> *Rolka Loube Associates Submits Payment Formulas and Funding Requirements for the Interstate Telecommunications Relay Services Fund*, Public Notice, DA 23-407 (CGB 2023) (*2023 TRS Report Public Notice*).

<sup>17</sup> Comments of Hamilton Relay, Inc. (filed May 26, 2023) (Hamilton Comments), Comments of Sorenson Communications, LLC. (filed May 26, 2023) (Sorenson Comments), Comments of ClearCaptions LLC (filed May 26, 2023) (ClearCaptions Comments).

<sup>18</sup> Reply Comments of ZP Better Together, LLC (filed June 2, 2023) (ZP Reply); Reply Comments of ClearCaptions, LLC (filed June 5, 2023) (ClearCaptions Reply).

<sup>19</sup> Rolka Loube, *Payment Formula and Fund Size Estimate – Interstate Telecommunications Relay Services Fund for July 2023 through June 2024 – Updated June 26, 2023*, CG Docket Nos. 03-123 and 10-51 (filed June 28, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/10629926913280> (2023 TRS Fund Report Supplement).

STS, and 13.66% for CTS.<sup>20</sup> Under the Multi-State Average Rate Structure (MARS) methodology adopted by the Commission in 2007, per-minute compensation for interstate use of these relay services is determined by aggregating each state program's payments for intrastate use of the relay service in the previous Fund Year and dividing total state payments by total intrastate minutes.<sup>21</sup> The calculation of MARS support levels for the current year is shown in Rolka Loube's report.<sup>22</sup> Hamilton supports the administrator's recommendations,<sup>23</sup> and no commenter opposes them. We conclude that Rolka Loube's recommended formulas correctly apply the MARS methodology.

10. *IP Relay*. Pursuant to the four-year compensation plan adopted by the Commission in 2022,<sup>24</sup> the per-minute compensation amount for Fund Year 2023-24 is the current year's compensation amount plus an inflation adjustment. The amount of this adjustment is determined by the change in the Employment Cost Index for private industry workers in professional, scientific, and technical services (the Index), as compiled by the Bureau of Labor Statistics of the U.S. Department of Labor, between the fourth quarter of 2021 (4Q2021) and the fourth quarter of 2022 (4Q 2022).<sup>25</sup> The IP Relay compensation amount for Fund Year 2022-23 is \$1.9576 per minute.

11. The values of the Index for 4Q2021 and 4Q2022 are 149.2 and 156.1, respectively.<sup>26</sup> Based on its interpretation of the adjustment requirement, Rolka Loube initially calculated the inflation adjustment factor as *1/100 times the difference between the values* of the Index for the fourth quarter of 2022 and the fourth quarter of 2021, or 6.9%.<sup>27</sup> No comments were filed regarding the recommended IP Relay compensation formula. In its June 28 supplemental filing, the Fund administrator revises this calculation. Rolka Loube explains that, in the *2022 IP Relay Compensation Order*, the Commission defined the adjustment factor as "a percentage equal to *the percentage change in the index*" between those two quarters.<sup>28</sup> The administrator also notes that, in December 2022, the Commission proposed a technical amendment to eliminate any ambiguity as to how the inflation adjustment factor is calculated.<sup>29</sup> Based on its review of these Commission documents, Rolka Loube revises its calculation of the adjustment factor, so that it is calculated as the percentage change in the Index values from 4Q2021 to 4Q2022—or 4.62%.<sup>30</sup>

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<sup>20</sup> 2023 TRS Fund Report at 7-8. Consistent with previous compensation determinations, the STS plan includes a supplemental per-minute amount (\$1.1311) to be used for STS outreach. *Id.*; see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20170, para. 57 (2007) (*2007 TRS Compensation Methodology Order*).

<sup>21</sup> See *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20151-61, paras. 16-38.

<sup>22</sup> 2023 TRS Fund Report at 5, Exh. 1-1.

<sup>23</sup> Hamilton Comments at 1.

<sup>24</sup> See *2022 IP Relay Compensation Order*, FCC 22-48.

<sup>25</sup> See *id.*, para. 43; 47 CFR § 64.640(c)-(d). This index is found at <https://beta.bls.gov/dataViewer/view/timeseries/CIS20154000000001>. The formula also may be adjusted for recovery of exogenous costs. See *id.* § 64.640(e). T-Mobile, the only IP Relay provider, has not requested compensation for any exogenous costs.

<sup>26</sup> 2023 TRS Fund Report at 10.

<sup>27</sup> See *id.* at 9-10.

<sup>28</sup> See *2022 IP Relay Compensation Order*, para. 43 (emphasis added); 2023 TRS Fund Report Supplement at 3.

<sup>29</sup> 2023 TRS Fund Report Supplement at 3; *IP Relay Technical Amendment Notice*, para. 48. The comment cycle on the *IP Relay Technical Amendment Notice* has ended.

<sup>30</sup> 2023 TRS Fund Report Supplement at 3.

12. We approve the adjustment factor as recalculated by the TRS Fund administrator. As stated in the *2022 IP Relay Compensation Order*, the purpose of the adjustment factor is “to account for inflation after the first year of the cycle.”<sup>31</sup> The *2022 IP Relay Compensation Order* further states:

We . . . direct the TRS Fund administrator to propose the compensation level for IP Relay that is adjusted from the previous year by a percentage equal to the percentage change in the Index between the first and fifth quarters specified in the report.<sup>32</sup>

In its May 1 report, however, the administrator calculated the factor differently—as the numerical change in the Index divided by 100.<sup>33</sup> In so doing, the administrator relied on the published text of the rule, which describes the inflation adjustment factor as “1/100 times the difference between the values of the Employment Cost Index” for the two relevant calendar quarters.<sup>34</sup> This formulation does not specifically express the Commission’s intent that the adjustment factor be calculated as “the percentage change in the Index between the first and fifth quarters.”<sup>35</sup> Further, the effect of the administrator’s initial calculation is to represent the change in the index as a percentage of the Index’s base value (100), i.e., the value that was arbitrarily assigned, when the Index was created, to represent cost levels for the base year of the Index. This calculation bears no logical relationship to the actual rate of inflation during the relevant 12-month period and thus cannot be a plausible interpretation of the Commission’s intent in adopting the rule. Rather, the only reasonable interpretation of the Commission’s intent is that the inflation adjustment factor should be calculated as stated in the *2022 IP Relay Compensation Order*—as the actual percentage change in the Index during the relevant period. We also note that no party has opposed the Commission’s proposed technical amendment to “eliminate any ambiguity” in this regard.<sup>36</sup>

13. Therefore, we agree with the Fund administrator’s conclusion, in its supplemental filing, that the adjustment factor should be calculated as the percentage change in the values of the Index for 4Q2021 and 4Q2022, in accordance with the Commission’s express directive to the administrator in the *2022 IP Relay Compensation Order* and the Commission’s proposed technical amendment.<sup>37</sup> The percentage change in the Index from 4Q 2021 to 4Q 2022 is 4.62%.<sup>38</sup> We therefore increase the compensation amount for IP Relay by 4.62%, to \$2.0480 per minute for Fund Year 2023-24.

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<sup>31</sup> *2022 IP Relay Compensation Order*, para. 41; *see also id.*, para. 40 (noting that the adjustment factor under the previous methodology was similarly used to adjust the compensation level “for inflation in years following the first year of the cycle.”).

<sup>32</sup> *Id.*, para. 43.

<sup>33</sup> 2023 TRS Fund Report at 9-10. Thus, Rolka Loubé initially calculated the adjustment factor as follows:  $(156.1 - 149.2)/100 = .069$ .

<sup>34</sup> 47 CFR § 64.640(d).

<sup>35</sup> *2022 IP Relay Compensation Order*, para. 43; *see also* Bureau of Labor Statistics, Employment Cost Index, <https://www.bls.gov/eci/factsheets/understanding-index-numbers-and-percent-changes-factsheet.htm> (last visited June 29, 2023) (explaining how this type of index is generated and how to calculate percentage changes for a given period of time).

<sup>36</sup> *IP Relay Technical Amendment Notice*, para. 48.

<sup>37</sup> *See* 2023 TRS Fund Report Supplement at 3; *2022 IP Relay Compensation Order*, para. 43.

<sup>38</sup>  $(156.1 - 149.2)/149.2 = .0462$ .

## B. Compensation for VRS and IP CTS

14. We grant, on our own motion, temporary waivers of the June 30, 2023, expirations of the current TRS Fund compensation formulas for VRS and IP CTS.<sup>39</sup> We extend the VRS compensation formula through August 31, 2023, and the IP CTS compensation formula through November 30, 2023—unless the Commission sets compensation with an earlier effective date for one or both of these services. This action will ensure that the continued provision of VRS and IP CTS is supported, without disruption.

15. *Waiver Standard.* A Commission rule may be waived for good cause shown.<sup>40</sup> In particular, waiver of a rule is appropriate where the particular facts make strict enforcement of a rule inconsistent with the public interest.<sup>41</sup> In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>42</sup> Waiver of a rule is appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest and will not undermine the policy underlying the rule.<sup>43</sup>

16. We find good cause to waive the expiration date of the current compensation formulas for VRS and IP CTS. Establishing a methodology and compensation level for each of the various relay services is inherently complex,<sup>44</sup> and while the Commission has sought comment on revised compensation plans for both services, it has not yet completed consideration and adoption of such revised plans.<sup>45</sup> Continuing the current compensation levels for VRS and IP CTS for short periods will provide certainty and stability to TRS providers pending final Commission action. If we were to let the current compensation plans expire without providing for interim payments, these services would cease to be

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<sup>39</sup> In its comments, Hamilton also requested a limited waiver of the IP CTS expiration. Hamilton Comments at 2. However, the request omitted a discussion of why a waiver would be appropriate. We therefore grant a waiver on our own motion.

<sup>40</sup> 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, for good cause shown).

<sup>41</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>42</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

<sup>43</sup> *Northeast Cellular*, 897 F.2d at 1166; *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127-128 (D.C. Cir. 2008).

<sup>44</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 5469 (CGB 2020) (*2020 IP CTS Compensation Waiver Order*) (extending IP CTS compensation levels for three months to allow the submission of additional data for the Commission to reach an informed decision on IP CTS compensation); see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 32 FCC Rcd 5142, 5147, para. 15 (CGB 2017) (extending the compensation period for VRS pending further action by Commission to establish a new compensation methodology); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 26 FCC Rcd 9972, 9980-81, paras. 22-23 (2011) (adopting interim VRS compensation levels pending Commission completion of a proceeding addressing VRS market structure and compensation methodology issues); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 21 FCC Rcd 7018, 7027, paras. 28-29 (CGB 2006) (extending the VRS compensation levels for one year or until the Commission adopts new VRS compensation levels pursuant to new cost recovery rules); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 18 FCC Rcd 12823, 12832-33, paras. 24, 26, 28 (CGB 2003) (adopting interim cost recovery compensation levels for TRS providers subject to modification pending further analysis of relevant cost data).

<sup>45</sup> See *supra* paras. 5-6.

available to consumers with disabilities who rely on them for functionally equivalent communication.<sup>46</sup> Under such circumstances, it is administratively efficient and consistent with prior practice to extend the current compensation formulas, pending resolution of Commission action.

17. Therefore, we direct the TRS Fund administrator to continue compensating providers of VRS and IP CTS under their current compensation formulas through August 31, 2023, for VRS and through November 30, 2023, for IP CTS, or the effective date of Commission action revising the applicable compensation formula, if earlier.<sup>47</sup> This action does not preclude a true-up of compensation for one or both services, should the Commission deem that necessary after determining the applicable compensation formulas.<sup>48</sup> Accordingly, until the expiration of this waiver, the current compensation formulas for VRS and IP CTS remain effective. VRS providers with more than 500,000 monthly minutes as of July 1, 2017, shall be paid \$4.82 per minute for a provider's first 1,000,000 monthly minutes (Tier I); \$3.97 per minute for monthly minutes between 1,000,001 and 2,500,000 (Tier II); and \$2.63 per minute for monthly minutes exceeding 2,500,000 (Tier III).<sup>49</sup> VRS providers with 500,000 or fewer monthly minutes as of July 1, 2017, shall be paid \$5.29 per minute (Emergent Tier) for the provider's first 500,000 minutes, and according to the otherwise applicable tiered formula, stated above, for monthly minutes exceeding 500,000.<sup>50</sup> IP CTS providers shall be paid \$1.30 per minute for all compensable minutes.<sup>51</sup>

### C. Funding Requirement and Carrier Contribution Factors

18. To calculate the annual net funding requirement, the Fund administrator sums the projected payments to TRS providers for each form of TRS (determined by multiplying the proposed compensation plan formula for each service category by the projected minutes of use for that category), adds administrative overhead, other funding requirements, and a budgetary reserve, and subtracts the projected surplus from the previous Fund Year.<sup>52</sup>

19. *Demand Projections.* For traditional TRS, STS, and CTS, Rolka Loubé projects demand using recent historical data, an approach that has provided reasonably accurate results for these services.<sup>53</sup> For VRS, IP Relay, and IP CTS, Rolka Loubé takes as a starting point the providers' aggregate demand projections for 2023-24, which in recent years have generally produced reasonably accurate results.<sup>54</sup> We find that Rolka Loubé's TRS demand projections are reasonable for budgeting purposes.

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<sup>46</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Notice of Proposed Rulemaking and Order, 36 FCC Rcd 8802, 8818, para. 43 (2021) (*2021 VRS Compensation Notice*).

<sup>47</sup> ClearCaptions, in its comments, supports the temporary continuation of the \$1.30-per-minute formula for IP CTS while the Commission analyzes Rolka Loubé's report and additional information submitted by ClearCaptions or other IP CTS providers. ClearCaptions Comments at 1.

<sup>48</sup> See *2020 IP CTS Compensation Waiver Order*, 35 FCC Rcd at 5473, para. 11.

<sup>49</sup> *2017 VRS Compensation Order*, 32 FCC Rcd at 5934, Appx A.

<sup>50</sup> *Id.* at 5916-17, paras. 49-50.

<sup>51</sup> See *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 13-24, 03-123, and 10-51, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 35 FCC Rcd 10866, 10870, para. 10 (2020).

<sup>52</sup> See 2023 TRS Fund Report at 4; see also 47 CFR § 64.604(c)(5)(iii)(H).

<sup>53</sup> 2023 TRS Fund Report at 13.

<sup>54</sup> *Id.*

20. *Compensation Requirements.* We approve Rolka Loube’s proposed provider compensation requirements for relay services that use the MARS methodology—traditional TRS, STS, and CTS—which total \$8,388,159.<sup>55</sup> We also approve the proposed funding requirements for IP-based TRS services, as modified by Rolka’s supplemental filing.<sup>56</sup> As modified, the provider compensation requirements for IP-based TRS total \$1,230,903,317.<sup>57</sup>

21. *NDBEDP and Fund Administration.* In addition to projected payments for TRS, Rolka Loube includes in its proposed funding requirement a \$10,000,000 funding allocation for the National Deaf-Blind Equipment Distribution Program (NDBEDP).<sup>58</sup> As modified by its supplemental filing, Rolka Loube recommends a total of \$25,287,515 for Fund administrative costs, including ongoing TRS research and reforms, database administration, Fund administration, the data collection agent costs, the Interstate TRS Fund Advisory Council, service provider audits, bankruptcy representation, an independent financial audit of the Fund, the development and implementation of an improper-payments audit plan approved by the Office of Management and Budget, and TRS user identity verification.<sup>59</sup> No comments were received regarding Rolka Loube’s initially proposed allocation for administrative costs—which are reduced in its supplemental filing. We find the modified recommendation to be fair and consistent with prior year Fund administrative expenses.<sup>60</sup>

22. *Payment Reserve and Current Surplus.* In its May 1 report, in keeping with prior practice, Rolka Loube recommends that funding requirements include a two-month payment reserve, totaling \$203,316,773.<sup>61</sup> In its supplemental filing, noting that revised compensation formulas for VRS and IP CTS are still under consideration by the Commission, Rolka Loube recommends increasing the reserve for Internet-based TRS to three months, resulting in a total reserve of \$306,929,538.<sup>62</sup> Rolka

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<sup>55</sup> *Id.*, Exh. 2.

<sup>56</sup> 2023 TRS Fund Report Supplement, Exh. 2.

<sup>57</sup> *Id.*, Exh. 2.

<sup>58</sup> 2023 TRS Fund Report at 14; *see also* 47 CFR §§ 64.6201-6219.

<sup>59</sup> 2023 TRS Fund Report Supplement, Exh. 2; *see also* 2023 TRS Fund Report at 15.

<sup>60</sup> *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, 36 FCC Rcd 10194, 10201, para. 19 (2021); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 6649, 6658, para. 23 (CGB 2020) (2020 TRS Compensation Order); *2019 TRS Compensation Order*, 34 FCC Rcd at 5181-82, para. 24; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 33 FCC Rcd 6300, 6306-07, para. 18 (CGB 2018).

<sup>61</sup> 2023 TRS Fund Report at 14. One commenter, Hamilton, supports this recommendation, Hamilton Comments at 7, and no commenters oppose it. A payment reserve is a precautionary measure to guard against the possibility of unanticipated demand for TRS that could unexpectedly increase the need for Fund payments in the course of a Fund Year. *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 29 FCC Rcd 8044, 8053, para. 23 (CGB 2014); *see also Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703, 707 n.20 (2013) (noting that the Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1)(A), provides that an officer or employee of the federal government may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation). To the extent that the reserve goes unused, it is not wasted but is turned over for use in the next Fund Year. *See* 47 CFR § 64.604(c)(5)(iii)(B).

<sup>62</sup> 2023 TRS Fund Report Supplement at 3.



Loube also anticipates that there will be a surplus from the current fund year, estimated at \$294,266,000,<sup>63</sup> which it proposes to deduct from the funding requirement when determining the contribution factor.<sup>64</sup>

23. Commenting on the May 1 report, Sorenson suggests that, in light of the pendency of the VRS and IP CTS compensation rate proceedings, the Commission hold the projected surplus in reserve rather than subtracting it from the contribution base.<sup>65</sup> ZP Better Together, in its reply comments, agrees with Sorenson's proposal.<sup>66</sup>

24. We agree that, in light of these unresolved proceedings, it is prudent to consider precautionary measures to ensure the sufficiency of the Fund. However, rather than holding the projected surplus in reserve, we find it appropriate to adopt the recommendation in the administrator's supplemental filing to increase from two to three months the payment reserve for Internet-based TRS. With this one-time measure, we are confident that the Fund's resources will be sufficient to meet its payment obligations. We therefore do not see a need to stray from our normal practice of subtracting the surplus amount from the contribution base.

25. *Gross and Net Funding Requirements.* In summary, we conclude that Rolka Loube's demand projections are reasonable and with the adjustments discussed above, its recommended gross funding requirement of \$1,581,508,528<sup>67</sup> is consistent with the Commission's rules on contribution computations.<sup>68</sup> We therefore adopt this funding requirement. Deducting the surplus of \$294,266,000, as discussed above, the net funding requirement is \$1,287,242,528.

26. *Contribution Factors.* In the May 1 report, Rolka Loube proposed contribution factors for the 2023-24 TRS Fund Year—0.01547 for Internet-based TRS and 0.0024 for non-Internet-based TRS—while noting that it anticipated submitting an updated contribution factor recommendation when new information became available.<sup>69</sup> In its supplemental filing, Rolka Loube proposed updated TRS Fund contribution factors of 0.01615 for Internet-based TRS and 0.00025 for non-Internet-based TRS.<sup>70</sup> In its supplemental filing, Rolka Loube adjusted these factors in light of its recommended changes in funding requirements, discussed above, and revised estimates of the respective contribution bases for Internet-based and non-Internet-based TRS.<sup>71</sup> The use of two different contribution factors is mandated by the Commission's *2019 IP CTS Contribution Base Order*<sup>72</sup> and *2022 VRS and IP Relay Contribution Base Order*.<sup>73</sup> The contribution factor for Internet-based TRS, applicable to contributors' intrastate, interstate, and international end-user revenues, is the ratio of the estimated IP CTS, VRS, and IP Relay funding requirements to the total intrastate, interstate, and international end-user revenues for the prior

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<sup>63</sup> *Id.*, Exh. 2. In the May 1 report, Rolka Loube estimated the surplus at \$277,430,000. 2023 TRS Fund Report at 15.

<sup>64</sup> 2023 TRS Fund Report at 15.

<sup>65</sup> *See* Sorenson Comments at 2.

<sup>66</sup> ZP Reply at 2-3.

<sup>67</sup> 2023 TRS Fund Report Supplement, Exh. 2.

<sup>68</sup> 47 CFR § 64.604(c)(5)(iii)(A), (B).

<sup>69</sup> 2023 TRS Fund Report at 15-17 & Exh. 2.

<sup>70</sup> 2023 TRS Fund Report Supplement at 3-4 & Exh. 2.

<sup>71</sup> *Id.* at 3-4 & Exh. 2. The contribution base for Internet-based TRS is the total of contributors' intrastate, interstate, and international end-user revenues for the prior calendar year. The contribution base for non-Internet-based TRS is the total of contributors' interstate and international end-user revenues for the prior calendar year. *See* 47 CFR § 64.604(c)(5)(iii)(A), (B).

<sup>72</sup> *2019 IP CTS Contribution Base Order*, 34 FCC Rcd at 11273-74, para. 21 & n.57.

<sup>73</sup> *See 2022 VRS and IP Relay Contribution Base Order* at 9, para. 23.

calendar year.<sup>74</sup> The contribution factor for non-Internet-based TRS, which is applicable to interstate and international end-user revenues, is the ratio of the estimated funding requirement for interstate, non-Internet-based TRS to total interstate and international end-user revenues for the prior calendar year. We find that Rolka Loube's recalculation of contribution factors is accurate and we therefore approve the contribution factors for Internet-based TRS and non-Internet-based TRS.

#### IV. PROCEDURAL MATTERS

27. *Accessible Materials.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530.

#### V. ORDERING CLAUSES

28. Accordingly, IT IS ORDERED, pursuant to section 225 of the Communications Act of 1934, as amended, 47 U.S.C. § 225, and sections 0.141, 0.361, 1.3 and 64.604(c)(5)(iii) of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, 64.604(c)(5)(iii), that this ORDER IS hereby ADOPTED.

29. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate traditional TRS, for the period from July 1, 2023, through June 30, 2024, in the amount of \$5.7204 per interstate conversation minute.

30. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate STS, for the period from July 1, 2023, through June 30, 2024, in the amount of \$6.8514 per interstate conversation minute.

31. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate CTS, for the period from July 1, 2023, through June 30, 2024, in the amount of \$2.6619 per conversation minute.

32. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP Relay in the amount of \$2.0480 per conversation minute, for the period from July 1, 2023, through June 30, 2024.

33. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP CTS in the amount of \$1.30 per conversation minute, for the period from July 1, 2023, through the earlier of November 30, 2023, or the effective date of Commission action establishing a revised compensation formula for that service.

34. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of VRS in accordance with the formulas applicable on June 30, 2023, for the period from July 1, 2023, through the earlier of August 31, 2023, or the effective date of Commission action establishing revised compensation formulas for that service.

35. IT IS FURTHER ORDERED that the net TRS Fund revenue requirement for Fund Year 2023-24 shall be \$1,287,242,528, and the TRS Fund contribution factors shall be 0.00025 for non-Internet-based TRS and 0.01615 for Internet-based TRS.

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<sup>74</sup> 2023 TRS Fund Report at 15-17.

36. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's Rules, 47 CFR § 1.102(b)(1), this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Alejandro Roark, Chief  
Consumer and Governmental Affairs Bureau