



# PUBLIC NOTICE

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## ROLKA LOUBE ASSOCIATES SUBMITS PAYMENT FORMULAS AND FUNDING REQUIREMENT FOR THE INTERSTATE TELECOMMUNICATIONS RELAY SERVICES FUND FOR THE 2017-18 FUND YEAR

CG Docket Nos. 03-123 & 10-51

Comments: May 24, 2017

Reply Comments: June 1, 2017

By this Public Notice, the Consumer and Governmental Affairs Bureau (CGB) seeks comment on the Interstate Telecommunications Relay Services (TRS) Fund administrator's proposed provider compensation rates, funding requirement, and carrier contribution factor for the period from July 1, 2017, through June 30, 2018, for TRS compensated by the Interstate TRS Fund (Fund).<sup>1</sup> The matters on which we seek specific comment are indicated below.

### TRS Using MARS Plan Methodology

Rolka Loube Associates LLC (Rolka Loube) proposes per-minute compensation rates for certain forms of TRS that are subject to the Multistate Average Rate Structure (MARS) plan methodology,<sup>2</sup> as follows: \$2.9186 for interstate traditional TRS;<sup>3</sup> \$4.0496 for interstate speech-to-speech relay service (STS);<sup>4</sup> and \$1.9467 for interstate captioned telephone service (CTS) and interstate and intrastate IP CTS.<sup>5</sup> We seek comment on whether these proposed rates correctly apply the MARS methodology.

Rolka Loube also proposes the following various alternative mechanisms for establishing provider compensation rates for this service, and recommends that the Commission consider a rule

<sup>1</sup> See Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51 (filed May 2, 2017) (2017 TRS Rate Filing). See 47 CFR § 64.604(c)(5)(iii)(H).

<sup>2</sup> In the MARS Plan methodology, an interstate TRS compensation rate (or, in the case of Internet Protocol captioned telephone service (IP CTS), the intrastate and interstate compensation rates) is calculated based on a weighted average of the intrastate compensation rates paid by state TRS programs for the same or a similar relay service. See *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, 20151-61, paras. 16-38 (2007) (2007 TRS Rate Methodology Order).

<sup>3</sup> 2017 TRS Rate Filing at 15. The current compensation rate for interstate traditional TRS is \$2.6245 per minute.

<sup>4</sup> *Id.* at 15-16. Consistent with the 2007 TRS Rate Methodology Order, Rolka Loube's proposed interstate STS rate consists of the interstate traditional TRS rate of \$2.6245 per minute plus an additional per-minute amount of \$1.131 to be used for STS outreach. See 2007 TRS Rate Methodology Order, 22 FCC Rcd at 20159, 20170, paras. 34, 57. The current STS compensation rate is \$3.7555 per minute.

<sup>5</sup> 2017 TRS Rate Filing at 16-17. The current compensation rate for interstate CTS is \$1.9058 per minute.

modification, as necessary, for the selection of one of these alternatives:<sup>6</sup>

- Retain the current MARS rate-making procedure.
- Set the 2017-18 Fund year rate at the industry average cost for the 2016-17 Fund year.
- Set the 2017-18 Fund year rate at the cost of a marginal provider.
- Establish a four-year glide path under which the rates would decline from the current rate to the industry average cost for 2016.
- Establishing a four-year glide path with two tiers. Tier I rates (up to 8 million monthly minutes) would decline from the current rate to the industry average cost for 2016 over four years. Tier II rate (over 8 million monthly minutes) would be based on the industry average variable cost for the previous year.
- Establish a four year glide path under which the rates would decline from the current rate to industry average cost for 2019.
- Set the rate for each provider individually based on the provider's cost of service.
- Make no change pending further comment and analysis by the Commission.<sup>7</sup>

Because the Commission presently has an open rulemaking to address the appropriate compensation methodology for IP CTS,<sup>8</sup> it is premature to select one of the specific recommendations listed above. Instead, as appropriate, we may seek comment on certain of these recommendations as part of such pending rulemaking. Further, to prepare for the possibility that the Commission may decide to replace the current MARS Plan methodology with a different ratemaking methodology for IP CTS on or before July 1, 2017, but may not establish a compensation rate for IP CTS that is effective by that date, we seek comment on whether an extension of the current IP CTS compensation rate of \$1.9058 will be sufficient to compensate IP CTS providers for the reasonable costs of providing IP CTS pending the effectiveness of a new rate. Additionally, during the pendency of our IP CTS proceeding, in order to help inform the Commission about the merits of each of the above alternatives, we direct IP CTS providers to submit historical and projected cost data for IP CTS, when requested by Rolka Loube, using the cost categories reported by service providers for Internet Protocol Relay Service (IP Relay) and VRS or as otherwise instructed by Rolka Loube.<sup>9</sup>

### IP Relay

The IP Relay compensation rate is subject to a price cap methodology.<sup>10</sup> The 2017-18 Fund year is the second year of a three-year price cap period.<sup>11</sup> The formula takes a base rate and multiplies it by a

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<sup>6</sup> *Id.* at 18-23.

<sup>7</sup> *Id.* at 19-23.

<sup>8</sup> See *Misuse of Internet Protocol (IP) Captioned Telephone Service et al.*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, 13472-79, paras. 111-27 (2013).

<sup>9</sup> 2017 TRS Rate Filing at 17. IP CTS providers have provided such data to Rolka Loube since 2013. *Id.*

<sup>10</sup> *Id.* at 24-28; see also *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20159-60, paras. 43-46; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 25 FCC Rcd 8689, 8700, paras. 25-26 (2010).

<sup>11</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*, Order, 31 FCC Rcd 7246, 7252, para. 20 (CGB 2016) (*2016 TRS Rate Order*).

factor that reflects an increase due to inflation, offset by a decrease due to efficiencies, and adds exogenous costs.<sup>12</sup> Based on a determination that the inflation and efficiency factors offset each other, and concluding that outreach costs, which were included in the IP Relay compensation rate for 2016-17 pursuant to a Bureau waiver of the exclusion of such costs,<sup>13</sup> are expected to increase by \$0.035 per minute in the 2017-18 Fund Year, Rolka Loubé proposes a new IP Relay compensation rate for the 2017-18 Fund Year of \$1.3350 per minute, an increase of \$0.035 from the current base rate of \$1.30 per minute.<sup>14</sup> We seek comment on this proposed IP Relay compensation rate.<sup>15</sup>

## VRS

The current four-year plan for VRS compensation rates ends June 30, 2017. On March 29, 2017, the Commission issued a Further Notice of Proposed Rulemaking seeking comment on a proposed new four-year compensation rate plan for VRS. Among other things, the Commission proposed to reset the tier structure for VRS rates by (1) collapsing existing Tiers I and II into a new Tier I rate covering a provider's first 1,000,000 monthly minutes, (2) establishing a new Tier II rate covering a provider's monthly minutes between 1,000,001 and 2,500,000, (3) establishing a new Tier III rate covering a provider's monthly minutes exceeding 2,500,000, and (4) maintaining a separate "emergent" rate for VRS providers with no more than 500,000 monthly minutes. The Commission also proposed to adjust the rates for each tier at six-month intervals, as in the current plan, and sought comment on a range of possible rate levels for the initial and final compensation rates of the four year plan for each tier.<sup>16</sup>

In the 2017 TRS Rate Filing, Rolka Loubé makes the following recommendations regarding this Commission proposal:

- Merge Tiers I and II into a single tier of 2,500,000 minutes, so that the new Tier I rate covers a provider's first 2,500,000 monthly minutes and the new Tier II rate covers a provider's monthly minutes exceeding 2,500,000;
- Retain the separate rate for "emergent" providers, subject to the condition that no subsidiary of a VRS provider is eligible to be compensated at the emergent rate, and keep this rate at the same level throughout the four-year period;
- Set compensation rates at \$5.29 per minute for "emergent" providers, \$4.17 per minute for Tier I (0-2,500,000 minutes), and \$2.83 per minute for Tier II (minutes exceeding 2,500,000); and
- Reconsider the Commission's position on not allowing additional reimbursement for calls subject to skills-based routing during the eight-month trial of that practice.<sup>17</sup>

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<sup>12</sup> 2007 TRS Rate Methodology Order, 22 FCC Rcd at 20163, paras. 43-44.

<sup>13</sup> 2016 TRS Rate Order, 31 FCC Rcd at 7250-52, paras. 15-20 (granting waiver to allow certain outreach costs because Sprint is the only IP Relay provider and is providing needed outreach services to members of the deaf-blind community).

<sup>14</sup> 2017 TRS Rate Filing at 28.

<sup>15</sup> Regarding this proposal, Rolka Loubé states that presenting detailed cost information in its public filing would reveal detail considered to be confidential by Sprint (currently the only provider of IP Relay service). *Id.* at 24, 28. Rolka Loubé has submitted a cost analysis in a confidential filing.

<sup>16</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, and Order, 32 FCC Rcd 2436, 2442-44, paras. 15-19 (2017) (2017 VRS Improvements Order).

<sup>17</sup> 2017 TRS Rate Filing at 41-43.

The comment cycle in the current VRS compensation rulemaking was completed May 4, 2017.<sup>18</sup> Comments submitted in response to the above recommendations made by Rolka Loube will be included in the record of that rulemaking to assist the Commission in establishing new compensation rates for VRS.

#### Funding Requirement and Contribution Factor

Based on Rolka Loube's recommended compensation rates for TRS, STS, CTS, IP Relay, and VRS, its suggestion that the existing \$1.9058 IP CTS compensation rate be extended for the 2017-18 Fund Year pending a new rate decision by the Commission, the projected Fund administration expenses, and the recommended reserve, the 2017 Rate Filing proposes a Fund revenue requirement of \$1,254,615,840 and a carrier contribution factor of 0.02084 for the period from July 1, 2017, through June 30, 2018.<sup>19</sup> CGB seeks comment on the proposed funding requirement and carrier contribution factor.

In this regard, comment is also invited on Rolka Loube's demand projections and funding requirements for the various relay services supported by the Fund, and for VRS and IP CTS in particular. For VRS, the proposed funding requirement for 2016-17 is approximately \$459.9 million.<sup>20</sup> For IP CTS, the proposed funding requirement for 2016-17 is approximately \$734.9 million.<sup>21</sup> Regarding VRS, IP Relay, and IP CTS, Rolka Loube used the sum of providers' demand forecasts in calculating the proposed funding requirement and carrier contribution factor specified above.<sup>22</sup> The provider projections for IP CTS in 2016-17 total 385,610,029 minutes, a significant increase compared to the demand projection of 272,445,257 minutes for the previous year.<sup>23</sup>

We also seek comment on Rolka Loube's estimates and recommendations for additional funding to cover the costs of VRS reform implementation, implementation of the user registration database, numbering database administration, the National Deaf-Blind Equipment Distribution Program, Fund administrator compensation, the revenue data collection agent, the Interstate TRS Fund Advisory Council, management of Fund investments, service provider audits, implementation of Office of Management and Budget Circular A-123, bankruptcy representation, and an administrator-recommended independent audit of the Fund.<sup>24</sup> Finally, we seek comment on Rolka Loube's recommendation, consistent with the practice in the past few years, to continue including a two-month payment reserve, totaling \$202,867,000, in the funding requirement for the coming year.<sup>25</sup>

Interested parties may file comments on or before **May 24, 2017**, and reply comments on or before **June 1, 2017**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, commenters should include their full name and U.S. Postal Service mailing address. All filings must reference **CG Docket No. 03-123 and CG Docket No. 10-51**.

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<sup>18</sup> 2017 VRS Improvements Order, 32 FCC Rcd at 2436.

<sup>19</sup> 2017 TRS Rate Filing at 52, Exh. 2.

<sup>20</sup> *Id.*, Exh. 2.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 44-46.

<sup>23</sup> *Id.* at 44.

<sup>24</sup> 2017 TRS Rate Filing at 47-51.

<sup>25</sup> *Id.* at 52.

Parties who choose to file by paper must file an original and one copy of each filing. In addition, parties must send one copy to the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12<sup>th</sup> Street, SW, Washington, DC 20554, or via email to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

A copy of this document, the 2017 TRS Rate Filing, and any subsequently filed documents in this matter will be available during regular business hours at the FCC Reference Center, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-A257, Washington, D.C. 20554, (202) 418-0270. This document and any subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at its website, [www.bcpiweb.com](http://www.bcpiweb.com), or by calling 1-800-378-3160. These documents may also be found by searching ECFS (insert **CG Docket No. 03-123** or **CG Docket No. 10-51** into the proceeding block).

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