

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

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

ORDER ON RECONSIDERATION

Adopted: January 14, 2021

Released: January 14, 2021

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. The Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission), pursuant to section 1.429(l) of the Commission’s Rules,¹ dismisses a Petition for Reconsideration (Petition) of the Commission’s *2017 VRS Compensation Order*.² The Petition, filed by Rolka Loube Associates, LLC, the administrator of the Interstate Telecommunications Relay Service Fund (TRS Fund), “on Behalf of” the Interstate Telecommunications Relay Service Advisory Council (TRS Advisory Council),³ asks the Commission to restart an eight-month trial of skills-based VRS call routing authorized by the Commission in an earlier 2017 decision,⁴ and to provide additional TRS Fund compensation for calls subject to skills-based routing. We dismiss the Petition on the grounds that it “relates to matters outside the scope of the order for which reconsideration is sought.”⁵

¹ 47 CFR § 1.429(l) (authorizing the relevant Bureau to dismiss petitions that “plainly do not warrant consideration by the Commission”).

² *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Order, 32 FCC Rcd 5891 (2017) (*2017 VRS Compensation Order*).

³ Rolka Loube Associates, LLC, Petition for Reconsideration of the Report and Order and Order, FCC 17-86, On Behalf of Interstate Telecommunications Relay Service Advisory Council, CG Docket Nos. 03-123 and 10-51 (filed Sept. 21, 2017), <https://ecfsapi.fcc.gov/file/10921132140710/Interstate%20TRS%20Advisory%20Council%20PFR%209.21.2017%20filed.pdf>. The TRS Advisory Council, established by the TRS Fund administrator and composed of representatives of the hearing and speech disability communities, telecommunications relay services (TRS) users, interstate service providers, TRS providers, and the states, meets periodically to “monitor TRS cost recovery matters.” 47 CFR § 64.604(h).

⁴ *Structure and Practices of the Video Relay Services Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, and Order, 32 FCC Rcd 2436, 2438-44, paras. 4-19 (2017) (*2017 VRS Improvements Order*).

⁵ 47 CFR § 1.429(l)(5).

II. BACKGROUND

2. In the *2017 VRS Improvements Order*, the Commission authorized a limited trial of skills-based routing of VRS calls, an operational change that the Commission found had potential to enhance the quality of VRS by “enabling consumers to have conversations relayed by interpreters skilled in the vocabulary of [certain] subjects.”⁶ During the eight-month period allotted for the trial, if the content of a VRS call handled by a participating provider involved legal, medical, or technical computer support matters, the VRS user could request that it be routed to a communications assistant (CA) possessing skill in interpreting such content.⁷ VRS providers could choose whether and to what extent to participate in the program.⁸

3. Because the record contained insufficient information on the costs of offering skills-based routing—and the potential benefits—the Commission declined to authorize additional compensation for trial participants above the otherwise applicable per-minute compensation rate.⁹ The Commission stated that the costs and benefits of skills-based routing—and whether to authorize skills-based routing on a permanent basis—could be better evaluated after collection of relevant data from trial participants.¹⁰

4. The *VRS Improvements Order* was published in the Federal Register on April 13, 2017.¹¹ Petitions for reconsideration were due May 15, 2017, and none were filed within the allotted timeframe.¹² The trial program was set to commence August 1, 2017, and end March 31, 2018, and providers intending to participate in the trial program were required to notify the Bureau by June 1, 2017.¹³ No VRS provider elected to participate.¹⁴

⁶ *2017 VRS Improvements Order*, 32 FCC Rcd at 2438, para. 4. VRS is a form of telecommunications relay service (TRS) that “allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. The video link allows the CA to view and interpret the party’s signed conversation and relay the conversation back and forth with a voice caller.” 47 CFR § 64.601(a)(50). Telecommunications Relay Services are “telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability” to communicate with others via wire or radio “in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability.” 47 CFR § 64.601(a)(42).

⁷ *2017 VRS Improvements Order*, 32 FCC Rcd at 2439, 2441, paras. 7, 11. This trial granted VRS providers limited, temporary authority to deviate from certain requirements, including the speed-of-answer rule, 47 CFR § 64.604(b)(2), and the related requirement that TRS calls be answered in the order in which they are received. *See 2017 VRS Improvements Order*, 32 FCC Rcd at 2440-42, paras. 10-14.

⁸ *Id.* at 2439, para. 7.

⁹ *Id.* at 2440, para. 9.

¹⁰ *Id.* at 2442-43, 2444, paras. 15, 17.

¹¹ Federal Communications Commission, Structure and Practices of the Video Relay Services Program, Final Rule, 82 Fed. Reg. 17754 (Apr. 13, 2017).

¹² Petitions for reconsideration of a rulemaking decision are due 30 days after publication in the Federal Register. 47 CFR § 1.429(d). In this instance, because the 30-day period ended Saturday, May 13, 2017, petitions were due on the next FCC business day, Monday, May 15, 2017. *See id.* § 1.4(j).

¹³ *2017 VRS Improvements Order*, 32 FCC 2439-40, para. 8.

¹⁴ Petition at 2.

5. On July 6, 2017, the Commission released the *2017 VRS Compensation Order*, establishing a new four-year compensation plan for VRS and amending certain program rules.¹⁵ This order does not address or even mention the skills-based routing trial.

6. On September 21, 2017, within the applicable filing period, the TRS Advisory Council petitioned for reconsideration of the *2017 VRS Compensation Order*.¹⁶ The Petition urges the Commission to compensate participants in the skills-based call-routing trial program at a higher than standard rate¹⁷ and to restart the trial, setting new dates for providers to notify the Commission of their intent to participate and for the trial to begin. The Petition argues that reconsideration is warranted by two factual developments allegedly arising after issuance of the *2017 VRS Compensation Order*: first, no VRS providers chose to participate in the skills-based routing trial, and second, the actual number of minutes providers submitted for compensation in July 2017 (the first month of the new rate period) was lower than projected, thereby assertedly leaving room in the TRS Fund budget to increase compensation for participants in the skills-based routing trial.¹⁸

7. The Commission sought comment on the Petition.¹⁹ Five parties filed comments and three filed reply comments, all in support of the Petition.²⁰

III. DISCUSSION

8. The Bureau dismisses the TRS Advisory Council's Petition for Reconsideration because it seeks reconsideration of matters outside of the scope of the *2017 VRS Compensation Order*.²¹

9. The matters for which the Petition seeks reconsideration—compensation and deadlines for participation in the skills-based routing trial program—were not addressed or resolved in the *2017*

¹⁵ *2017 VRS Compensation Order*, 32 FCC at 5892, para. 1.

¹⁶ The order was published in the Federal Register on August 22, 2017. Federal Communications Commission, Structure and Practices of the Video Relay Services Program, Final Rule, 82 Fed. Reg. 39673 (Aug. 22, 2017). The Petition expressly seeks reconsideration of “the Federal Communications Commission’s . . . Report and Order and Order released July 6, 2017 at FCC 17-86.” Petition at 1.

¹⁷ The Petition urges the Commission to compensate trial participants for minutes subject to skills-based routing at the same rate (\$5.29 per minute) applicable to service offered by “emergent” VRS providers—those with no more than 500,000 total monthly minutes. Petition at 8; *see 2017 VRS Compensation Order*, 32 FCC at 5916-17, paras. 49-50.

¹⁸ Petition at 4-8. The Petition relies on section 1.429(j) of the Commission's rules, which allows interested parties to file petitions for reconsideration if they were not a party to the proceeding resulting in the action and rely on facts or law on which the Commission has not had an opportunity to pass. 47 CFR § 1.429(j).

¹⁹ *Consumer and Governmental Affairs Bureau Seeks Comment on Interstate Telecommunications Relay Service Advisory Council Petition for Reconsideration of the VRS Rates Order*, CG Docket Nos. 03-123 and 10-51, Public Notice, 32 FCC Rcd 7445 (CGB 2017). The due dates for comments and reply comments were November 9, 2017, and November 20, 2017, respectively. *Pleading Cycle Established for Comments on Petition for Reconsideration of the VRS Rates Order*, CG Docket Nos. 03-123 and 10-51, Public Notice, 32 FCC Rcd 9268 (CGB 2017).

²⁰ *See* Telecommunications for the Deaf and Hard of Hearing, National Association of the Deaf, Cerebral Palsy and Deaf Organization, Association of Late-Deafened Adults, Inc., Bryen M. Yunashko-DeafBlind Consumer Advocate (rec. Nov. 9, 2017); Comments of Convo Communications LLC (Convo) (rec. Nov. 9, 2017); Comments of Sorenson Communications, LLC (Sorenson) (rec. Nov. 9, 2017); Comments of ASL Services Holdings, LLC (rec. Nov. 9, 2017); Comments of ZVRS and Purple Communications, Inc. (ZVRS/Purple) (rec. Nov. 13, 2017). On November 20, 2017, reply comments were filed by Sorenson, Convo, and ZVRS/Purple.

²¹ 47 CFR § 1.429(l)(5).

VRS Compensation Order, the order for which reconsideration is sought, but in the earlier *2017 VRS Improvements Order*. In that earlier order, the Commission determined that trial participants would be compensated for all calls at the otherwise applicable per-minute VRS rate, regardless of whether a VRS call was handled by a specialist CA or a generalist.²² Similarly, the *2017 VRS Improvements Order* set the dates for participants to notify the Commission and begin offering skills-based routing.²³ The Petition seeking reconsideration of the *2017 VRS Compensation Order* therefore “[r]elate[s] to matters outside the scope of the order for which reconsideration is sought.”²⁴

10. The Petition does not purport to seek reconsideration of the Commission’s *2017 VRS Improvements Order*, and had it done so, we would be compelled to dismiss it as untimely.²⁵ An “interested person”²⁶ that wished to seek reconsideration of the commencement date and compensation for the skills-based routing trial program was required to file a petition within 30 days of public notice of the *2017 VRS Improvements Order*.²⁷ Because the *2017 VRS Improvements Order* was published in the Federal Register on April 13, 2017,²⁸ petitions for reconsideration were due on May 15, 2017.²⁹ The Petition was filed on September 21, 2017, more than four months after the deadline.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that, pursuant to sections 225 and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 225, 405, and section 1.429 of the Commission’s rules, 47 CFR § 1.429, and pursuant to the authority delegated in sections 0.141 and 0.361 of the Commission’s rules, 47 CFR §§ 0.141, 0.361, the Petition for Reconsideration filed by Rolka Loube Associates, LLC, on behalf of the Interstate TRS Advisory Council IS DISMISSED.

12. 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 on Reconsideration SHALL BE EFFECTIVE UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre
Chief
Consumer and Governmental Affairs Bureau

²² *2017 VRS Improvements Order*, 32 FCC at 2439-40, paras. 8-9.

²³ *Id.* at 2439-40, para. 8.

²⁴ 47 CFR § 1.429(1)(5).

²⁵ *Id.* § 1.429(1)(9).

²⁶ Because we dismiss the petition on the basis described above, we need not resolve the question of whether the TRS Advisory Council, which is charged with “monitor[ing] TRS cost recovery matters” for the TRS Fund Administrator, is an “interested person” for purposes of Section 1.429(a).

²⁷ 47 U.S.C. § 405(a); 47 CFR § 1.429(d).

²⁸ Federal Communications Commission, Structure and Practices of the Video Relay Services Program, Final Rule, 82 Fed. Reg. 17754 (Apr. 13, 2017).

²⁹ *See* 47 CFR § 1.4(j).