



PUBLIC NOTICE

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON REQUEST FOR FREEZE OF IP CTS COMPENSATION LEVEL

CG Docket Nos. 03-123 and 13-24

Comments Due: [15 Days After the Date of Publication in the Federal Register]

Reply Comments Due: [25 Days After the Date of Publication in the Federal Register]

The Consumer and Governmental Affairs Bureau (CGB or the Bureau) of the Federal Communications Commission (FCC or Commission) seeks comment on a request by six of the seven currently certified providers of Internet Protocol (IP) Captioned Telephone Service (IP CTS) to defer the reduction in the level of Telecommunications Relay Service (TRS) Fund support for IP CTS previously ordered by the Commission.¹ Pursuant to the *2020 IP CTS Compensation Order*, TRS Fund compensation for the provision of IP CTS is to be reduced from the current level of \$1.42 per minute to \$1.30 per minute, effective July 1, 2021.²

The Joint Providers contend that deferring the scheduled compensation reduction would better enable the Commission to consider the impact on compensation rates before adopting changes in applicable service-quality standards.³ The Joint Providers also assert that “significant uncertainty as to future costs and demand” has resulted from the “protracted impact of the [COVID-19] pandemic” and the consequent adjustments made by IP CTS providers “to ensure high quality access for users.”⁴ As a result, the Joint Providers argue, “a prudent approach is to halt further rate reductions, determine the appropriate

¹ See Letter from Dixie Ziegler, Hamilton Relay, Inc., Cristina Duarte, Mezmo Corporation d/b/a InnoCaption, Michael Strecker, ClearCaptions, LLC, Bruce Peterson, CaptionCall, LLC, Scott R. Freiermuth, T-Mobile USA, Inc., and Erik Strand, MachineGenius, Inc. (Joint Providers), to Marlene H. Dortch, FCC, CG Docket Nos. 13-24 and 03-123 (filed May 25, 2021) (Joint Providers May 25 Letter), <https://ecfsapi.fcc.gov/file/10525399911136/Joint%20Provider%20Ex%20Parte%20on%20IP%20CTS%20rate%20freeze%20-%20Final.pdf>.

² Compensation levels for TRS Interstate Fund Years 2020-2021 and 2021-2022 were adopted in 2020. 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, 10884-86, paras. 35-37 (2020) (*2020 IP CTS Compensation Order* or *2020 IP CTS Metrics Further Notice*).

³ Joint Providers May 25 Letter at 2 (citing the Commission’s proposals, in the *2020 IP CTS Metrics Further Notice*, to adopt quantitative service-quality standards for IP CTS). The Joint Providers point out that the currently scheduled compensation adjustment follows a series of previous adjustments ordered by the Commission over a three-year period, with the goal of bringing TRS Fund compensation into line with reasonable cost, and that these prior adjustments reduced per-minute IP CTS compensation from \$1.9467 (in the 2017-18 Fund Year) to the current \$1.42 level. *Id.* at 1.

⁴ *Id.* at 2.

standards that will be adopted for IP CTS, determine the impact of those standards on normalized costs (i.e., not impacted by a worldwide pandemic), and determine a long-term rate methodology that ensures continued functional equivalence, innovation, and consumer choice for IP CTS users.”⁵

We seek comment on the Joint Providers’ request. In particular, because there is insufficient information in the record to evaluate some of the assertions in the request, and because the Commission’s analysis of the issues raised should be data driven, we seek additional information on the following:

- Current estimates are that \$1.30 is substantially higher than the average per-minute IP CTS cost projected for 2021-22.⁶ Have providers revised their projections of 2021-22 costs and demand? If so, we seek detailed information about such revised projections and the basis on which they were revised, to enable a determination of the likelihood that average per-minute costs (plus operating margin) for the 2021-22 Fund Year will exceed the \$1.30 level. Is there other reliable data supporting a compensation freeze at the \$1.42 level?
- The \$1.30 per-minute rate that is scheduled to become effective July 1 will expire at the end of the 2021-22 Fund Year. Is freezing the rate at a higher level necessary at this time, or could the Commission effectively address the impact of possible changes in service-quality standards when setting compensation for the subsequent rate period?⁷
- While the Commission has proposed that metric standards be developed for IP CTS caption delay and accuracy,⁸ no such standards have been adopted to date. Nonetheless, we seek information about any investments in quality and technology improvements currently being considered by providers.⁹ To what extent could such investments be expected to cause a net increase in a provider’s per-minute service costs during the 2021-22 Fund Year?
- Given the industry’s recent innovation, development, and investment in automatic speech recognition (ASR), to what extent could such investment in quality and technology improvements result in a decrease in per-minute costs?¹⁰
- If the Commission were to “freeze” IP CTS compensation at the current \$1.42 level, what increase would be needed in the proposed TRS funding requirement and the contribution factor

⁵ *Id.* at 2.

⁶ The \$1.30 per-minute compensation rate was adopted based on pre-COVID-19 estimates of average per-minute cost. *See 2020 IP CTS Compensation Order*, 35 FCC Rcd at 10882-83, paras. 31-32. To date, the impact of the COVID-19 pandemic has been to reduce average per-minute IP CTS costs substantially *below* the \$1.30 cost-based rate adopted by the Commission. Based on providers’ cost and demand projections submitted in March 2021, the TRS Fund administrator estimates a weighted average cost for IP CTS (including a 10% operating margin) of \$1.1169 per minute—approximately 14% lower than the scheduled \$1.30 compensation. *See Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate*, CG Docket Nos. 03-123 and 10-51, at 16 (filed May 3, 2021), <https://ecfsapi.fcc.gov/file/10503519213438/2021%20TRS%20Fund%20Annual%20Report.pdf>.

⁷ Joint Providers May 25 Letter at 2 (“[T]he D.C. Circuit has previously cautioned the Commission when it modified service quality standards without considering the impact on rates; a pause now would better enable the Commission to do so in conjunction with quality standards with less potential for disruptive rate churn.”).

⁸ *2020 IP CTS Metrics Further Notice*, 35 FCC Rcd at 10898-902, paras. 66-79.

⁹ Joint Providers May 25 Letter at 3 (“A rate freeze now will allow Providers the opportunity to continue to invest in quality and technology improvements, ultimately benefiting consumers.”).

¹⁰ *See 2020 IP CTS Compensation Order*, 35 FCC Rcd at 10887-88, paras. 41-42 (fully automatic IP CTS is far less costly per minute than CA-assisted service).

for support of IP CTS?¹¹ If such action were to be taken after the \$1.30 rate becomes effective, should the Commission “true up” compensation retroactively to July 1? How should such a true-up be handled?

Filing Requirements. Interested parties may file comments on or before the date indicated on the first page of this document.¹² All filings must reference CG Docket No. 03-123 and 13-24. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).¹³

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>.
- Paper Filers:
 - Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
 - 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.
 - Currently, the Commission does not accept any hand delivered or messenger delivered filings as a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. In the event that the Commission announces the lifting of COVID-19 restrictions, a filing window will be opened at the Commission’s office located at 9050 Junction Drive, Annapolis Junction, Maryland 20701.¹⁴
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail may be addressed to 45 L Street, NE, Washington, DC 20554.
 - During the time the Commission’s building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

Ex Parte Requirements. The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda

¹¹ See *Rolka Loube Associates Submits Payment Formulas and Funding Requirements for the Interstate Telecommunications Relay Services Fund for the 2021-2022 Fund Year*, CG Docket No. 03-123, Public Notice, DA 21-556, at 3-5 (CGB May 11, 2021) (seeking comment on recommended contribution factors for Fund Year 2021-22).

¹² See 47 CFR §§ 1.1, 1.45, 1.49.

¹³ *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

¹⁴ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020).

¹⁵ 47 CFR §§ 1.1200 *et seq.*

summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

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 or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

For further information, please contact William Wallace at (202) 418-2716 or by e-mail at William.Wallace@fcc.gov.

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