

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of Telecommunications Services)
for Individuals with Hearing and Speech) CC Docket 90-571
Disabilities, and the Americans with)
Disabilities Act of 1990 (Fund Administration,)
Fund Size Estimate, and Payment Formula,)
July 2000 Through June 2001))

ORDER

Adopted: February 21, 2001

Released: February 22, 2001

By the Deputy Bureau Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On November 2, 2000, the National Exchange Carrier Association (NECA) filed a *Supplemental Submission Concerning the Payment Formula and Fund Size Estimate for the Interstate Telecommunications Relay Services (TRS) Fund for July 2000 through June 2001 (Supplemental Submission)* seeking to modify certain TRS-related compensation rates and size of the reserve for uncollectible and additional providers' costs. In the *Supplemental Submission* NECA proposes to increase the traditional TRS rate from \$1.282 to \$1.328 per completed interstate minute for the period of January 1, 2001 through June 30, 2001. It further proposes to increase the video relay services (VRS) rate from \$5.143 to \$5.539 per completed VRS minute, effective October 1, 2000 through June 30, 2001. No changes to the currently approved speech-to-speech (STS) rate of \$4.623 per-minute, the current fund requirement level of \$58.6 million, or the carrier contribution factor of 0.00073 are sought.¹ To offset the higher expenditures, NECA also recommends that the allowance for uncollectibles and additional providers' costs be reduced from 10 percent to 7.152 percent. In this Order we find NECA's proposed compensation rates to be justified and require NECA to compensate relay providers at the proposed rates effective on the dates proposed by NECA. We also find that the current funding level is adequate and that no change in the carrier contribution factor is warranted.

II. BACKGROUND

2. On June 28, 2000, the Network Services Division released an order approving the TRS provider payment formula, fund size estimate, and carrier contribution factors for the period July 1, 2000 through June 30, 2001.² NECA states that the data submitted by providers to NECA in support of the May

¹ *Supplemental Submission* at 2.

² *Telecommunications Services For Individuals with Hearing and Speech Disabilities and the Americans with Disabilities Act* (Fund Administration Fund Size Estimate and Payment Formula, July 2000 Through June 2001), CC Docket No. 90-571, Order, 15 FCC Rcd 11384 (2000).

1, 2000 NECA filing primarily reflected cost and demand data developed prior to the Commission's March 6, 2000 *Improved TRS Order*.³ That Order amended the rules governing the delivery of telecommunications relay services. The *Improved TRS Order* expanded the types of relay services relay providers must make available to consumers and requires improvements in the quality of relay services.⁴ The Order mandated the provision of speech-to-speech (STS) and interstate Spanish language relay services by March 1, 2001.⁵ It also encouraged providers to offer video relay services by allowing reimbursement of both intrastate and interstate VRS minutes from the TRS Fund.⁶

3. NECA initially requested that TRS providers submit cost and demand data for the 2000-2001 funding requirement submission in May 1999.⁷ Because the annual rate-reimbursement filing was rescheduled from October 1 to May 1, NECA provided relay providers an opportunity in October 1999 to update their original submissions. In light of the changes required by the *Improved TRS Order*, NECA gave relay providers a second opportunity to update their 2000 and 2001 projected data on March 17, 2000. According to NECA, not all relay providers submitted updated information in response to the March 17 request, but those that did resubmit data showed an increase in their projected costs. Given the short time between the release of the *Improved TRS Order* and the May filing deadline, NECA was concerned that relay providers did not have sufficient time to fully evaluate the impact of the changes on their cost estimates.⁸ Consequently, it gave relay providers still another opportunity to update their projected cost and demand data on July 17, 2000. NECA believes that the last round of submissions provides the best data and relied on these data in developing the per-minute compensation rates and fund size requirements it is proposing.⁹ Accordingly, on November 2, 2000, NECA filed the *Supplemental Submission*. The Network Services Division of the Common Carrier Bureau released a Public Notice seeking comments on the *Supplemental Submission* on December 6, 2000. Comments were due on December 19, 2000 and reply comments were due on December 26, 2000. No comments or replies were filed by any party.

III. DISCUSSION

4. We have reviewed the NECA filing and find that the compensation formula it used to revise the per-minute rates for traditional TRS and VRS is consistent with our orders and rules.¹⁰ We are persuaded that the service provider data used to compute the compensation rates approved in our June 28, 2000 Order did not consider fully the impact of the *Improved TRS Order*. Consequently, we find that the

³ *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No 98-67, 15 FCC Rcd 5140 (2000) (*Improved TRS Order*); *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, Order on Reconsideration, FCC 00-200, CC Docket No 98-67 (rel. June 5, 2000) (*TRS Reconsideration Order*).

⁴ *Improved TRS Order*, 15 FCC Rcd at 5141, para. 1.

⁵ *Id.*, 15 FCC Rcd at 5151 and 5154-55, para. 17 and paras 28-31.

⁶ *Id.*, 15 FCC Rcd at 5153-54, paras. 25-26.

⁷ *Supplemental Submission* at 2.

⁸ *Id.* at 1-2.

⁹ *Id.* at 2.

¹⁰ See 47 C.F.R. § 64.604(c)(4)(iii)(E).

higher TRS and VRS per-minute rates developed by NECA using the July 17, 2000 data best recognize the additional costs providers will incur.

5. As described in greater detail below, NECA computes the TRS funding requirements and per-minute compensation rates based on actual and projected cost and minutes-of-use data filed by TRS providers. Using these data, NECA develops projections of total nationwide and interstate TRS and speech-to-speech costs, average interstate cost per-minute, and interstate demand. For video relay services it develops projections of total minutes and total costs to compute an average cost-per-minute.

A. Traditional TRS

6. The revised TRS compensation rate is based on the same compensation methodology that was used in the May 1, 2000 filing. NECA began with provider projections for year 2000 and year 2001 total projected minutes (excluding general assistance) and costs. Dividing each service provider's annual projected total cost by its projected total conversation minutes, NECA computed the average cost per-minute for each service provider. It then multiplied each provider's average per-minute cost by the provider's projected interstate minutes to get the provider's interstate costs for each year. Finally, it summed the providers' interstate costs and interstate conversation minutes by year. To develop the revised July 2000-June 2001 compensation rate, NECA averaged the projected total 2000 and 2001 interstate conversation minutes and interstate costs and then divided the latter by the former.¹¹ This yields a per-minute interstate compensation rate for traditional TRS of \$1.328 compared to the existing rate of \$1.282. Because the requirements for traditional TRS established in the *Improved TRS Order* were not required to go into effect until December 18, 2000, NECA proposes that the new rate become effective on January 1, 2001.¹² Thus, NECA recommends that the \$1.282 rate be applied to the period July 1, 2000 to December 31, 2000 and that the \$1.328 rate be applied from January 1, 2001 to June 30, 2001.

7. With respect to traditional TRS, we find that the computations are accurate and correct. We also find that NECA's proposal to use the existing compensation rate through the end of the year 2000 and the proposed rate for January 1 to June 30, 2001 is consistent with the implementation time frame for the improvements required by the *Improved TRS Order* and the *TRS Reconsideration Order*.¹³ Providers will be compensated at the lower per-minute rate for the portion of the year when the lower standards were in place and at the higher level when the new standards are in effect. Thus, we find that between July 1 and December 31, 2000 NECA shall compensate providers at the rate of \$1.282 per interstate conversation minute and between January 1, 2001 and June 30, 2001, NECA shall compensate providers at the rate of \$1.328 per interstate conversation minute.

B. Video Relay Service

8. NECA observes that in developing the previously approved rate of \$5.143 per-minute for

¹¹ First NECA computed average interstate minutes by adding 2000 interstate minutes and 2001 minutes and then dividing the sum by 2. Next it added 2000 interstate costs and 2001 interstate costs and divided by that sum by 2 to yield average interstate costs. Third, it divided average interstate costs by interstate minutes to yield an average cost per conversation minute.

¹² *Supplemental Submission* at 3.

¹³ *TRS Reconsideration Order*, para 3.

VRS, it did not use the lowest cost provider's data.¹⁴ It notes that the data provided for that filing were from few providers with significantly different costs and/or demand characteristics. It goes on to observe that, when the submissions from August 2000 were reviewed, including information from a fourth provider who had not previously submitted VRS data, it was decided to include all providers' cost data in the rate development.¹⁵ Using the revised data and a methodology similar to that used for traditional TRS, NECA computes an average cost per-minute for the period October 1, 2000 to June 30, 2001 of \$5.539. The primary difference in the methodology is that the VRS computation is based on total interstate and intrastate minutes rather than interstate minutes because the rules adopted in the *Improved TRS Order* permit recovery of costs associated with both intrastate and interstate calls from the interstate TRS Fund.¹⁶ The costs and minutes have also been adjusted to reflect the relevant time frames, October to December for the year 2000 and January to June for the year 2001. This was done by computing average costs and minutes on a monthly basis and multiplying by the appropriate number of months in each period, *i.e.*, three months in the year 2000 and six months in the year 2001. NECA proposes that we apply the revised compensation level effective October 1, 2000, the date that VRS compensation became effective.¹⁷

9. We approve the VRS compensation rate and schedule and approve the rate of \$5.539 per-minute effective October 1, 2000 to be paid retroactively within thirty days of the release of this Order. We are persuaded that the higher rate is justified and required to adequately compensate service providers for providing this new service. Because the effective date for compensating VRS was October 1, 2000, we find that NECA's proposal to retroactively impose the higher rate to that date is both reasonable and justified. NECA is ordered to adjust VRS providers' payments for the fourth quarter of the year 2000 to reflect the higher per-minute level.

C. Speech-to-Speech

10. NECA proposes no change to the previously approved STS compensation rate of \$4.623 per interstate minute, which will become effective March 1, 2001 through June 30, 2001.¹⁸ It states that it has thoroughly analyzed the information submitted and determined that no change is required. Consistent with NECA's Supplemental Submission, no change to the STS compensation level is required; it shall remain at \$4.623 per interstate minute.

D. Fund Size and Cost Recovery Factor

11. NECA conducted an impact analysis on how the higher compensation rates will affect the TRS Fund and concludes that, by balancing the proposed rate increases with the reduction in the reserve allowance for uncollectibles and additional providers' costs, the TRS Fund requirement can remain at \$58.6 million for the July through June funding period and consequently no changes in the cost recovery

¹⁴ *Supplemental Submission* at 3.

¹⁵ *Id.* at 3-4.

¹⁶ *Improved TRS Order*, 15 FCC Rcd at 5153-54, paras 25-26.

¹⁷ October 1, 2000 represented the earliest time that NECA estimated that it could begin compensating providers for VRS services. The FCC staff agreed with NECA that this date was reasonable, given the Commission's desire to make VRS service available as soon as practical.

¹⁸ *Supplemental Submission* at 2.

factor will be necessary.

12. We agree with NECA that no change in the carrier contribution rate of 0.00073 is necessary at this time. While the projected fiscal year 2000-2001 reimbursement level for traditional TRS increased from \$ 51,662,077 to \$52,609,153 and the VRS projected total increased from \$5,611,746 to \$6,068,513, we accept NECA's assertion that it is reasonable and prudent to reduce the uncollectible allowance at this time from 10 percent to 7.152 percent. NECA now has a much better understanding of what the likely uncollectibles will be for the remainder of the fiscal year. In addition, the interstate TRS Fund is projected to have a balance of \$3,512,511 at the end of June 2001. Because the reduction in uncollectibles and additional providers' costs exactly offset the increased service cost, the funding requirement remains at \$58,626,096 and the contribution factor remains at 0.00073. We find the change in uncollectibles to be acceptable and conclude that the contribution rate shall remain unchanged.

IV. CONCLUSION AND ORDERING CLAUSES

13. Accordingly, IT IS ORDERED, pursuant to section 225 of the Communications Act of 1934, as amended, 47 U.S.C. §225 and section 64.606 (c)(iii)(H) of the Commission's rules that NECA compensate traditional telecommunications relay service (TRS) providers at the rate of \$1.282 per interstate conversation minute for the period July 1, 2000 to December 31, 2000 and at the rate of \$1.328 per interstate conversation minute for the period January 1, 2001 through June 30, 2001.

14. IT IS FURTHER ORDERED that NECA compensate video relay service (VRS) providers at the rate of \$5.539 per-minute for the period October 1, 2000 through June 30, 2001.

15. IT IS FURTHER ORDERED that NECA maintain the currently approved compensation rate of \$4.623 per interstate minute for speech-to-speech relay service (STS) through June 30, 2001.

16. IT IS FURTHER ORDERED that NECA adjust the "uncollectible allowance and additional providers' costs" from its current level of ten percent of the fund size to 7.125 percent of the fund size.

17. IT IS FURTHER ORDERED that NECA maintain the current contribution factor of 0.00073 of the interstate and international end-user revenue of each telecommunications carrier in the United States for TRS cost recovery until June 30, 2001.

FEDERAL COMMUNICATIONS COMMISSION

Yog R. Varma
Deputy Bureau Chief
Common Carrier Bureau