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: July 1, 2013 **Released: July 1, 2013**

By the Acting Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. In this order, we adopt per-minute compensation rates to be paid from the Interstate Telecommunications Relay Services Fund (Fund) for the 2013-14 Fund year for all forms of telecommunications relay services (TRS)[1] other than video relay service (VRS). These rates are based on the proposals of the current Fund administrator, Rolka Loube Saltzer Associates (RLSA).[2]

2. Effective July 1, 2013, the per-minute compensation rates for TRS, other than VRS, shall be: (1) for interstate traditional TRS, $2.1647; (2) for interstate Speech-to-Speech relay service (STS), $3.2957; (3) for interstate captioned telephone service (CTS) and Internet Protocol captioned telephone service (IP CTS), $1.7877; and (4) for IP Relay, $1.0147. In setting rates for each of the two remaining rate periods in the three-year IP Relay rate cycle, the $1.0147 rate will be adjusted by applying an inflation factor and efficiency factor, the net of which is an annual reduction of 6.0 percent, as well as any necessary adjustments for exogenous costs.

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[1] TRS enables an individual with a hearing or speech disability to communicate by telephone or other device through the telephone system. *See* 47 U.S.C. § 225(a)(3) (defining TRS). TRS is provided in a variety of ways. Interstate TRS calls, and all Internet Protocol (IP) based TRS calls, both intrastate and interstate, are compensated from the Fund. *See, e.g., Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rule Making, 17 FCC Rcd 7779, 7784-86, ¶¶ 15-22 (2002) (declining to apply jurisdictional separation of costs to Internet Protocol Relay Service (IP Relay) and directing the Fund administrator to reimburse all IP Relay minutes from the Fund).

[2] RLSA, *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, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate (filed May 1, 2013) (*2013 TRS Rate Filing*). Under section 64.604(c)(5)(iii)(E) and (H) of the Commission's rules (47 C.F.R. § 64.604(c)(5)(iii)(E), (H)), the Fund administrator is required to file TRS payment formulas and revenue requirements with the Commission on May 1 of each year, to be effective the following July 1.

3. For VRS, compensation rates for the 2013-14 Fund year and three subsequent years were adopted by the Commission in the recent *VRS Reform Order*.[3] Pursuant to that order, VRS compensation rates will change every six months, following a "glide path" toward cost-based levels.[4] In addition, the Commission restructured the tiers for VRS rates.[5] As set forth in the *VRS Reform Order*, the VRS rates for 2013-14 are: (1) for Tier I (applicable to a provider's first 500,000 monthly minutes), $5.98 for July 1 – Dec. 31, 2013, and $5.75 for Jan. 1 – June 30, 2014; (2) for Tier II (applicable to monthly minutes between 500,001 and 1 million), $4.82 for July 1 – Dec. 31, 2013, and $4.82 for Jan. 1 – June 30, 2014; and (3) for Tier III (applicable to monthly minutes over 1 million), $4.82 for July 1 – Dec. 31, 2013, and $4.63 for Jan. 1 – June 30, 2014. As explained below, the *VRS Reform Order* will take effect 30 days after publication of a summary of the order in the Federal Register. We anticipate that the revised VRS compensation rates will be implemented as early as August 1, 2013 and no later than September 1, 2013.

4. In the *2013 TRS Rate filing*, which was submitted prior to release of the *VRS Reform Order*, RLSA proposed a projected fund requirement for the 2013-14 Fund year of $1,543,602,649 and a carrier contribution factor of 0.02327. In its analysis, RLSA based its estimate of IP CTS minutes on a "weighted by company growth" projection of 409,268,995 minutes for IP CTS. We conclude that the "IP CTS industry demand" projection of 181,429,401 minutes is a more reasonable estimate of IP CTS minutes.[6] In addition, we have recalculated the estimated fund requirements for IP Relay and VRS to take account of the reduced compensation rates for those services adopted in this Order and the *VRS Reform Order*. These changes result in a modified Fund requirement of $995,533,697 for the 2013-14 Fund year and a modified contribution factor of 0.01484.

5. In addition, the Commission is currently considering a Notice of Proposed Rulemaking (NPRM) proposing revision of the methodology for setting IP CTS compensation rates.[7] We note that the Commission continues to review closely the fund size and to guard against waste, fraud, and abuse. Therefore, the carrier contribution factor and funding requirement established in this order may be subject to revision in the event that the Commission adopts modified IP CTS rates that take effect before the end of the 2013-14 Fund year or takes other steps that may affect the funding requirement.

II. BACKGROUND

6. On May17, 2013, the Bureau released the *2013 TRS Rate PN*, seeking comment on RLSA's *2013 TRS Rate Filing*, in which the Fund administrator proposed revised compensation rates for 2013-14 for all forms of TRS except VRS. RLSA also recommended a revenue requirement and contribution factor for 2013-14.[8] In response to the *2013 TRS Rate PN*, the Commission received nine comments and 11 reply comments from TRS providers, telecommunications industry contributors to the Fund, and consumer organizations.[9]

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[3] *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 Further Notice of Proposed Rulemaking, FCC 13-82, ¶¶ 209-216 (rel. June 10, 2013) (*VRS Reform Order*).

[4] *VRS Reform Order*, ¶ 212.

[5] *VRS Reform Order*, ¶¶ 197-208.

[6] *2013 TRS Rate Filing* at 24.

[7] *See* http://transition.fcc.gov/fcc-bin/circ_items.cgi.

[8] *See 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, Public Notice DA 13-1137 (May 17, 2013) (*2013 TRS Rate PN*).

[9] The following entities submitted comments and/or reply comments: American PrePaid Phonecall Association (APPA); ASL Services Holdings, LLC (ASL Services); COMPTEL; CSDVRS, LLC d/b/a ZVRS (CSDVRS);

(continued....)

III. DISCUSSION

A. Compensation Rates for TRS and STS

7. We adopt RLSA's proposed per-minute rates of $2.1647 for traditional TRS and $3.2957 for STS for the 2013-14 Fund year.[10] These rates represent increases of seven percent and four percent from the 2012-13 Fund year rates for TRS and STS, respectively. RLSA formulated these rates by applying the MARS analysis adopted in the *2007 TRS Rate Methodology Order*. The MARS rate is calculated by collecting each state's *intrastate* TRS and STS rates and minutes of use data and averaging the state data to determine the appropriate interstate rates for these services.[11]

8. No party disputes the basis for RLSA's proposed rates for traditional TRS and STS. We find that the proposed rates correctly apply the MARS methodology and adopt the rates as proposed.

B. Compensation Rates for CTS and IP CTS

9. We adopt RLSA's proposed per-minute compensation rate of $1.7877 for CTS and IP CTS for the 2013-14 Fund year. As with traditional TRS and STS, these rates are also calculated using the MARS methodology.[12] The $1.7877 rate represents approximately a one percent increase from the 2012-13 Fund year rate for CTS and IP CTS. No party disputes that RLSA's proposed rates for CTS and IP CTS properly apply the Commission's *2007 Rate Methodology Order*.[13] We find that the proposed rates correctly apply the MARS methodology and adopt the rates as proposed. We note, however, that the Commission is currently considering an NPRM proposing revision of the methodology for setting IP CTS compensation rates. The IP CTS rate established in this order for the 2013-14 Fund year may be revised in the event that the Commission adopts a modified IP CTS rate methodology before the end of the Fund year.

C. Compensation Rate for IP Relay

10. In the *2007 TRS Rate Methodology Order*, the Commission adopted a price cap methodology for IP Relay, setting a base rate for a three-year period ending June 30, 2010.[14] In the *2010*

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CTIA-The Wireless Association (CTIA); Frontier Communications Corp. (Frontier); Hamilton Relay, Inc. (Hamilton); IDT Telecom, Inc., with Intermedia.net, Vocalcity, Inc., and Vonage Holdings Corp. (IDT *et al*.); Independent Telephone & Telecommunications Alliance (ITTA); National Cable & Telecommunications Association (NCTA); NobelTel, LLC (NobelTel); Purple Communications, Inc. (Purple); Sorenson Communications, Inc. with its subsidiary, CaptionCall LLC (Sorenson); Sprint Nextel Corporation on behalf of its subsidiary, Sprint Communications Company L.P. (Sprint); Total Call International, Inc. (TCI); and United States Telecom Association (USTA). We also received comments from individual TRS users focusing on IP Relay. *See* n.23 *infra*.

[10] Consistent with past years, RLSA's proposed STS rates includes an additional per-minute amount of $1.131 to be used for STS outreach. *See 2013 TRS Rate Filing* at 12.

[11] Since the adoption of the *2007 Rate Methodology Order*, the Fund administrator, with the Commission's concurrence, has excluded from the MARS calculations rates from states with anomalies in their funding mechanisms for TRS and STS. For example, the MARS rate calculation does not include data for states that reimburse providers at a flat (versus a per-minute) rate.

[12] The CTS rate is calculated based on an average of the states' compensation rates for intrastate CTS. Because the states set rates for intrastate CTS but not IP CTS, the compensation rate for IP CTS is set equal to the rate for interstate CTS. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20158, ¶ 38 (2007) (*2007 TRS Rate Methodology Order*).

[13] IDT *et al*. urge the Commission to revisit the methodology used to calculate the IP CTS compensation rate. IDT *et al*. Comments at 6-7. As noted above, an NPRM on this subject is currently under consideration by the Commission.

[14] *See 2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20159-60, ¶¶ 43-46.

TRS Rate Order, the Commission approved continued use of the price cap methodology and three-year rate cycle, setting a new rate base for a new rate period ending June 30, 2013.[15] Therefore, RLSA's proposed $1.0391 compensation rate is a recalculated base rate that will initiate a new three-year rate period for IP Relay, running from July 1, 2013 to June 30, 2016.

11. Applying a weighted averaging approach to the cost data submitted by service providers , RLSA calculated that per-minute costs for 2011 through 2014 are $0.8789 (2011, actual), $0.8451 (2012, actual), $0.8346 (2013, projected), $0.8642 (2014, projected), and that the average projected cost for Fund year 2013-14 is $0.8486 per minute.[16] Commenters do not dispute the validity of these cost calculations,[17] and we find them to be reasonable. As noted in the *VRS Reform Order*, however, IP Relay providers are no longer required to conduct outreach and, beginning in the 2013-14 Fund year, are no longer allowed to recover such outreach costs from the TRS Fund.[18]

12. Recognizing that its proposed $1.0391 compensation rate is higher than providers' weighted average costs, RLSA explains that its recommended rate takes account of cost differentials among providers, allows efficient providers to earn positive profits on a prospective basis, and gives inefficient providers an incentive to reduce their costs, and is thus consistent with the Commission's price cap methodology for IP Relay.[19] Pursuant to the *2007 TRS Rate Methodology Order*, the base IP Relay rate is adjusted annually by an inflation factor and an efficiency factor, as well as adjustments for any appropriate exogenous costs. The inflation factor is the Gross Domestic Product Price Index (GDP-PI), and the efficiency factor is the inflation factor adjusted by an amount determined to be appropriate to account for productivity gains. In 2007 and 2010, this amount was set at 0.5 percent of the base rate.[20] RLSA recommends that, for purposes of adjusting the IP Relay rate in the second and third years of the new three year rate cycle, an adjustment amount of 6.0 percent should be used, as this amount represents the average annual decrease in the cost of providing IP Relay service from 2007 to the current Fund year.[21]

13. The IP Relay providers oppose adoption of RLSA's proposed rate of $1.0391, pointing out that it represents almost a 20 percent rate reduction from the 2012-13 level of $1.2855.[22] According to Sorenson, RLSA's entire approach, *i.e.*, setting a new base rate based on a recalculated average of providers' current reported costs, is fundamentally flawed because it is "inconsistent with the price-cap

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[15] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket No. 03-123, Order, 25 FCC Rcd 8689, 8700, ¶¶ 25-26 (2010) (*2010 TRS Rate Order*).

[16] *2013 TRS Rate Filing* at 16.

[17] Although Purple asserts that RLSA's proposed $1.0391 rate is not supported by the record, it provides no support for this assertion and does not dispute RLSA's determination of average provider costs. Purple Comments at 2.

[18] *VRS Reform Order,* ¶ 23.

[19] *2013 TRS Rate Filing* at 16.

[20] *2007 TRS Rate Methodology Order,* 22 FCC Rcd at 20159-60, ¶ 43; *2010 TRS Rate Order,* 25 FCC Rcd at 8700, ¶ 26. Because the inflation rate (Gross Domestic Product – Price Index (GDP-PI)) is used in calculating both the inflation factor and the offsetting efficiency factor, the inflation rate element of these factors is canceled out. The result is that, in the second and third years of the rate cycle, with the additional adjustment amount set at 0.5 percent, "the rate for a particular year will equal the rate for the previous year, reduced by 0.5 percent." *2007 TRS Rate Methodology Order,* 22 FCC Rcd at 20160, ¶ 43.

[21] *2013TRS Rate Filing* at 16-17.

[22] Purple Comments at 2, 4-6; Sorenson Reply Comments at 9-11; Sprint Comments at 2-5.[23] Sorenson Reply Comments at 11. Several individual commenters and consumer groups also express general concern about the proposed IP Relay rate largely mirroring provider arguments. *See, e.g.*, Comments of Richard Jeffries, Don Brubaker, and Tracy Stine; *see also* Letter from Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc., to Marlene Dortch, Secretary, FCC, at 1 (June 26, 2013).

regime established by the Commission [and] would undermine providers incentives to operate efficiently."[23] Sorenson misunderstands the nature of the price cap regime adopted for IP Relay. In the *2007 TRS Rate Methodology Order*, the Commission expressly approved the use of a three-year rate cycle, as recommended by the providers themselves, followed by a reassessment, after the expiration of the initial three-year period, of "what the base rate should be for the next three year period."[24] Moreover, the Commission stated that providers must continue to file annual cost and demand data with the Fund administrator, because such cost data would "be helpful in reviewing the compensation rates resulting from price caps and whether they reasonably correlate with projected costs and prior actual costs" and because the Commission would "also need this information to evaluate the new base rate every three years."[25] Thus, the Commission expressly contemplated from the inception of the price cap regime that the base rate would be reset every three years, that cost data would continue to be collected and reviewed, and that such cost data would be used to establish a new base rate after the expiration of each three-year period. In the *2010 TRS Rate Order*, the Commission followed the methodology established in the *2007 TRS Rate Methodology Order*, approving a new base rate for IP Relay "based on IP Relay providers' projected costs and demand."[26] Therefore, Sorenson's claim that "in past years the Commission has used the *current* rate as the base rate" is incorrect.[27]

14. Further, contrary to Sorenson's contention, RLSA's approach, which is consistent with the current price cap methodology, provides incentives for providers to operate efficiently by allowing them to capture profits resulting from increasing efficiency during the three-year rate cycle. The Commission's prior decisions to conserve fund resources by limiting providers' opportunity to capture such profits after the expiration of the three-year period represent a policy determination well within its discretion, and the providers' comments do not provide persuasive arguments for altering that determination, even assuming we had authority to do so.

15. Purple argues that "cutting rates precipitously, combined with a trend line of declining demand, and increasing compliance requirements/costs, will cause more providers to leave the market," leaving consumers with fewer competitive choices.[28] Although Purple argues that costs have increased,[29]

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[23] Sorenson Reply Comments at 11. Several individual commenters and consumer groups also express general concern about the proposed IP Relay rate largely mirroring provider arguments. *See, e.g.*, Comments of Richard Jeffries, Don Brubaker, and Tracy Stine; *see also* Letter from Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc., to Marlene Dortch, Secretary, FCC, at 1 (June 26, 2013).

[24] *2007 TRS Rate Methodology Order,* 22 FCC Rcd at 20160, ¶ 45.

[25] *2007 TRS Rate Methodology Order,* 22 FCC Rcd at 20160, ¶ 46 n. 141.

[26] *2010 TRS Rate Order*, 25 FCC Rcd at 8700, ¶ 25 (footnote omitted).

[27] Sorenson Reply Comments at 11 (emphasis original, footnote omitted). In so contending, Sorenson misreads the Commission's statement in the *2012 TRS Rate Order* that "the $1.2985 rate adopted by the Commission for IP Relay for the 2010-11 Fund year serves as the base rate for the current three-year cycle for IP Relay." *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. 10-51, 03-123, Order, 27 FCC Rcd 7150, 7154 , ¶ 10 (2012) (*2012 TRS Rate Order*); Sorenson Reply Comments at 11 n. 32. As noted, the $1.2985 rate was adopted in the *2010 TRS Rate Order,* based on cost analysis, and, in accordance with the established price cap methodology, was designated to serve as a base rate only "for the current three-year cycle." Similarly, in the *2007 TRS Rate Methodology Order,* while the Commission approved the then-current compensation rate as the initial base rate for IP Relay under the price cap methodology, it did so only after finding that "the current rate reasonably compensates providers based on the cost data and the rates proposed by [the Fund administrator]." *2007 TRS Rate Methodology Order,* 22 FCC Rcd at 20167, ¶ 66. Now that the 2010-13 IP rate cycle has expired, it is time to approve a new base rate, based on a new analysis of costs by the Fund administrator, and we do so in this order.

[28] Purple Comments at 5.

it has provided no evidence to rebut RLSA's finding that per-minute costs have dropped precipitously (indeed, far more precipitously than RLSA's proposed rate cut) based on a recalculated average of providers' current reported costs; we therefore find its argument unpersuasive. Moreover, providers may leave the market for a number of reasons. For example, they may find themselves unable to compete effectively with more efficient providers, in which case their departure tends to serve the statutory purpose.[30]

16. Sprint opposes the proposed IP Relay rate on the grounds that a tiered rate structure is needed for IP Relay to take account of providers' varying cost structures.[31] Sprint asks that the Commission maintain the 2012-13 rate for IP Relay until further study of how rates can be differentiated based on differences in providers' costs and service quality.[32] As Sprint acknowledges, however, the Commission previously rejected the establishment of tiered rates for IP Relay, and we have no authority to disturb that decision even if the comments provided persuasive reasons to do so, which they do not. Further, setting a rate that allows a measured transition to an average cost-based level, as RLSA proposes, sufficiently addresses Sprint's underlying concern regarding the need to take account of cost differentials among providers.

17. In accordance with the *VRS Reform Orde*r, we find that RLSA's proposed rate should be adjusted by subtracting outreach costs of $0.0244 per minute, resulting in a base rate of $1.0147 per minute. We note, however, that the *VRS Reform Order* does not take effect until 30 days after publication of a summary of the order in the Federal Register. Such publication has not occurred to date. Therefore, we adopt RLSA's proposed $1.0391 rate effective from July 1, 2013, through the 29th day after publication of a summary of the *VRS Reform Order* in the Federal Register, and we adopt the revised $1.0147 rate, reflecting the subtraction of outreach costs, effective from the 30th day after such publication through June 30, 2014. In section III.F below, we establish a fund requirement and contribution factor for 2013-14 based on the reasonable assumption that the *VRS Reform Order* will take effect as early as August 1, 2013 and no later than September 1, 2013.

18. The IP Relay providers also disagree with RLSA's decision to increase the efficiency factor adjustment from 0.5 percent to 6.0 percent.[33] Pointing out that the projected call volume for 2013-14 is about one quarter of the call volume in 2007-08, Purple argues that it is inappropriate to apply the 6.0 percent figure "in a market with such dramatically declining call volume."[34] Yet, no party disputes that RLSA's 6.0 percent figure is a reasonable estimate of the average annual decline in per-minute IP Relay costs from 2007 to the present. The fact that such per-minute cost declines have occurred during a period when call volumes also declined by 75 percent undermines Purple's argument that such efficiencies cannot be achieved in a market characterized by rapidly declining call volumes.

19. Further, Sorenson's contention that application of the 6.0 percent figure would unfairly

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[29] *See* Letters from Monica Desai, Counsel to Purple, to Marlene Dortch, Secretary, FCC, at 1 (June 26 and 27, 2013).

[30] *See* 47 U.S.C. § 225(b)(1) (requiring the Commission to ensure that relay services are available "in the most efficient manner"). In the *VRS Reform Order*, the Commission stated it would continue maintaining the tiered VRS compensation rate structure for a limited period, despite the inefficiencies inherent in that structure, in order to allow additional time to alleviate competitive issues such as "the 'lock-in' problem that has limited the ability of smaller rivals to compete effectively with the largest provider." *VRS Reform Order*, ¶ 199. The Commission has not indicated, however, that there are similar competitive issues affecting the IP Relay industry to a sufficient extent to justify the application of a tiered rate structure.

[31] Sprint Comments at 2-4.

[32] Sprint Comments at 4-5

[33] Purple Comments at 2-3; Sorenson Reply Comments at 11-12.

[34] Purple Comments at 2-3; *see also* Sorenson Reply Comments at 12.

"punish providers for past efficiencies"[35] disregards the fact that this figure would be applied to a base rate that is more than 22 percent higher than projected costs.[36] Thus, contrary to Sorenson's complaints, RLSA's approach does allow providers to continue to enjoy profits resulting from past efficiencies. In fact, application of the 6.0 percent factor will reduce the base rate, by the third year of the period, only to $0.918 per minute—an amount that is still well in excess of providers' current costs.

20. In summary, we adopt a $1.0147 base rate and a 6.0 percent efficiency factor adjustment for IP Relay. Although the base rate is well in excess of average provider costs, it represents a reasonable measure to take account of cost differentials among providers, to allow efficient providers to earn positive profits on a prospective basis, and to give inefficient providers an incentive to reduce their costs.[37] The 6.0 percent efficiency factor adjustment, though higher than the amounts set in 2007 and 2010, is justified because of the need to take account of the rapid cost declines characteristic of this industry segment and because, given the excess of the base rate over average costs, it is appropriate for rates to be adjusted downward in subsequent years so that they reach levels close to average provider costs before the end of the three-year cycle.

D. Compensation Rates for VRS

21. As noted above, in the *VRS Reform Order* the Commission adopted a step-by-step transition toward cost-based VRS compensation rates, in accordance with the implementation of structural reforms. VRS compensation rates are thus established for the 2013-14 Fund year and three subsequent years.[38] Pursuant to the *VRS Reform Order*, VRS compensation rates will change every six months, following a "glide path" toward cost-based levels.[39] In addition, the Commission restructured the tiers for VRS rates.[40] As set forth in the *VRS Reform Order*, the VRS rates for 2013-14 are: (1) for Tier I (applicable to a provider's first 500,000 monthly minutes), $5.98 for July 1 – Dec. 31, 2013, and $5.75 for Jan. 1 – June 30, 2014; (2) for Tier II (applicable to monthly minutes between 500,001 and 1 million), $4.82 for July 1 – Dec. 31, 2013, and $4.82 for Jan. 1 – June 30, 2014; and (3) for Tier III (applicable to monthly minutes over 1 million), $4.82 for July 1 – Dec. 31, 2013, and $4.63 for Jan. 1 – June 30, 2014. Because those rates were adopted by the Commission, we do not modify them in this order.[41] We note, however, that the *VRS Reform Order* does not take effect until 30 days after publication of a summary of the order in the Federal Register. Such publication has not occurred to date. Therefore, we anticipate that

[35] Sorenson Reply Comments at 11.

[36] $1.0391 (proposed rate)/$0.8486 (average projected 2013-14 costs) = 1.2245.

[37] *2013 TRS Rate Filing* at 16.

[38] *VRS Reform Order*, ¶¶ 209-216.

[39] *VRS Reform Order*, ¶ 212.

[40] *VRS Reform Order*, ¶¶ 197-208.

[41] RLSA previously submitted rate proposals for VRS in October 2012 and the Bureau sought comment on those proposals in a public notice issued in the course of the VRS reform rulemaking. *See* Rolka Loube Saltzer Associates, LLC (RLSA), Supplemental Filing of the Telecommunications Relay Services Administrator Regarding Reasonable Rates for VRS Service, CG Docket Nos. 03-123, 10-51, at 3, Table 2 (filed October 15, 2012); *Additional Comment Sought on Structure and Practices of the Video Relay Service (VRS) Program and on Proposed VRS Compensation Rates*, Public Notice, CG Docket Nos. 03-123, 10-51, 27 FCC Rcd 12959 (2012). Anticipating that the Commission would adopt VRS compensation rates for 2013-14 based on the record thus compiled, the Bureau did not request comment on RLSA's reiteration of its prior recommendations and submission of alternative rate recommendations for VRS in the *2013 TRS Rate Filing.* Because the VRS compensation rates set forth above were adopted by the Commission in the *VRS Reform Order*, based on the record established in that proceeding, and because a prior order specified the VRS compensation rate that would apply until those new rates take effect, we need not and do not address in this order RLSA's recommendations for VRS rates in the *2013 TRS Rate Filing* or the comments submitted regarding those recommendations.

the revised VRS compensation rates will not be effective as of July 1, 2013. RLSA shall continue compensating VRS providers at the current compensation rates until 30 days after publication of a summary of the *VRS Reform Order* in the Federal Register.[42] In section III.F below, we establish a fund requirement and contribution factor for 2013-14 based on the reasonable assumption that the rates established in the *VRS Reform Order* will take effect as early as August 1, 2013 and no later than September 1, 2013.

E. Additional Funding Requirements

22. In addition to the per-minute costs of service noted above for TRS, RLSA includes in its funding requirements a $10,000,000 funding allocation for the National Deaf-Blind Equipment Distribution Program (NDBEDP), which is mandated by the CVAA.[43] In addition, RLSA proposes a $3,000,000 funding requirement for service provider audits. RLSA also includes the following in its proposed funding requirements: TRS Fund Administrator expenses based on a fixed-price contract amount of $1,109,558; funding for the expenses of the iTRS database administrator of $415,000; investment expenses of $150,000; data collection agent expenses of $60,000; independent financial audit expenses of $60,000; legal representation expenses of $50,000; expenses related to the Interstate TRS Advisory Council of $45,000; IPERA compliance expenses of $25,000; and a one-month provider payment reserve of $119,561,049.

23. In addition, we find it reasonable to add a $20,000,000 funding allocation for implementation of initiatives and procurements mandated by the recently adopted *VRS Reform Order*. Among other things, the *VRS Reform Order* directed the Managing Director, in consultation with other Bureaus and Offices to: (1) enter into an agreement with the National Science Foundation (NSF) to conduct TRS market research (for which the Commission seeks comment on an estimated $3,000,000 in costs); (2) establish a pilot iTRS National Outreach Program (for which the Commission estimates approximately $2,000,000 in costs); (3) promote the development and adoption of voluntary interoperability and portability standards, that will inform the process of contracting for a neutral party to build, operate, and maintain a neutral video communication service platform; and (4) contract for a central TRS user registration database. These are substantial undertakings. In order to conduct procurements for the items for which the *VRS Reform Order* did not explicitly identify cost estimates, the Bureau finds it reasonable to estimate an additional $15,000,000 to the $2,000,000 and $3,000,000 funding estimates listed above, for a total of $20,000,000 to enable expeditious implementation of all contracts and agreements mandated to accomplish VRS reform. Therefore, we believe $20,000,000 is reasonable to include in the 2013-2014 TRS funding requirement. However, we will conduct bidding processes that ensure the best value for the TRS Fund, and may revisit these amounts as further information is gained on the actual costs of full implementation of VRS reform.

24. We also find it reasonable, based on the adjustments to the projected demand for IP CTS,[44] to lower the monthly payment reserve to $72,081,744. The sum of these new proposals is less than the $134,550,607 originally proposed by the administrator, which no commenters challenged. With these two changes, we adopt an adjusted amount for additional funding of $107,071,302.

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[42] *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, ¶ 23 (2011) ("We adopt the current interim rates and compensation structure for VRS to be effective until the Commission completes its review of the compensation method and market structure for VRS").

[43] *2013 TRS Rate Filing* at Exh. 2.

[44] *See* ¶ 26, *infra*.

F. The Carrier Contribution Factor and Funding Requirement

25. We adopt a funding requirement of $995,533,697 and a carrier contribution factor of 0.01484 for the 2013-14 Fund year.

26. The Fund administrator calculates the total annual funding requirement by adding together the projected payments to TRS providers for each form of TRS, based on the proposed rates and projected minutes of use, plus administrative expenses and other funding requirements noted above, less surplus amounts from the previous Fund year that can be used to offset the 2013-14 Fund year requirement. The contribution factor is based on the ratio between total expected TRS Fund expenses and interstate end-user telecommunications revenues. RLSA proposed a funding requirement of $1,543.6 million and a carrier contribution factor of 0.0233 for 2013-14,[45] representing an increase of more than 100 percent from the 2012-13 funding requirement of $711.4 million and the 2012-13 contribution factor of 0.01053.[46]

27. A number of telecommunications industry contributors and TRS providers assert that RLSA's proposed increase of the funding requirement and contribution factor is unreasonable.[47] Some parties argue that the steep increase in contribution factor will impose unwarranted burdens on industry and consumers.[48] In addition, some commenters assert that RLSA's demand projection of 409,268,995 minutes for IP CTS is inaccurate, contending that it fails to take into account the effects of the interim IP CTS rules, which may have slowed down the pace of growth in IP CTS minutes of use.[49] CTIA, Hamilton and Frontier propose that the Commission adopt a funding requirement based on the total demand projection submitted by providers, claiming that it provides a more accurate projection than RLSA's.[50] Further, in order to mitigate rate shock, some commenters urge the Commission to clarify that carriers are not prohibited from recovering TRS contributions in a line item on customer bills.[51]

28. We find that, in light of the Commission's adoption of interim IP CTS rules, and a corresponding leveling off in IP CTS demand, the IP CTS industry demand projection of 181,429,401 minutes currently represents a more reasonable estimate than RLSA's, and we adopt that estimate. This change will result in an IP CTS funding requirement of $341,085,486, lower than the $756,751,010 requirement projected by RLSA.[52]

29. In addition, we make two other adjustments to RLSA's proposed funding requirement. As noted above, we have adopted for 2013-14 RLSA's proposed IP Relay compensation rate of $1.0391, to be adjusted to $1.0147 per minute 30 days after publication of the *VRS Reform Order* to implement the

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[45] *2013 TRS Rate Filing* at 34.

[46] *2012 TRS Rate Order*, 27 FCC Rcd at 7151, ¶ 2.

[47] *See, e.g.*, CTIA Reply Comments at 4-5; NobelTel Comments at 6; USTelecom Comments at 6, 11.

[48] ICT Reply Comments at5; NTCA Reply Comments at 1; NobelTel Comments at 3; Total Call Reply Comments at 2-3. ICT proposes that the Commission revisit its prohibition against a TRS line item on the consumers' telephone bill.

[49] CTIA Reply Comments at 6; Hamilton Comments at 6; IDT *et al*. Comments at 2-5; USTelecom Comments at 6. IDT *et al*. also argue that dramatic increases in IP CTS would be offset by a decrease in usage of other services. IDT *et al*. Comments at 5-6. While it is possible that declines in other services such as CTS, IP Relay, and traditional TRS may be due in part to migration of users to IP CTS, the recent growth in IP CTS minutes has greatly exceeded in volume the contemporaneous declines in those services. Moreover, further declines in those services were factored into RLSA's projected funding requirement.

[50] CTIA Reply Comments at 3; Frontier Reply Comments at 2; Hamilton Reply Comments at 2-3.

[51] IDT *et al*. Comments at 7-10; COMPTEL Reply Comments.

[52] *See 2013 TRS Rate Filing*, Exhibit 2.

VRS Reform Order's determination that IP Relay providers may no longer be reimbursed for outreach costs. This results in a funding requirement for IP Relay of $21,149,987, lower than the $25,234,023 requirement projected by RLSA.

30. Finally, as noted above, the *VRS Reform Order* adopted reduced VRS compensation rates for 2013-14. We note that the *VRS Reform Order* will take effect 30 days after publication of a summary of the order in the Federal Register. Such publication has not occurred to date. We believe it is reasonable to assume, however, that the revised VRS compensation rates will take effect as early as August 1, 2013 and no later than September 1, 2013. Based on this reasonable assumption, we adjust the projected funding requirement for VRS to take account of the revised rates, yielding a VRS funding requirement of $622,024,830, lower than the $698,675,897 requirement projected by RLSA.

31. With these adjustments, and additional minor adjustments to the Fund requirement to reflect recently submitted data, we adopt a total Fund requirement of $995,533,697 and a carrier contribution factor of 0.01484 for the 2013-14 Fund year. These adjustments reflect the complexity of the current TRS program and the associated difficulty of estimating Fund requirements accurately on an annual basis. As noted above, we may reassess the Fund requirement before the end of Fund year 2013-14 in the event that the Commission adopts modified IP CTS rates that take effect before the end of the Fund year or takes other steps that may affect the funding requirement, or in the event that experience with the interim IP CTS rules allows a more informed estimate of the IP CTS funding requirement.[53]

IV. PROCEDURAL MATTERS

32. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This Order can also be downloaded in Word and Portable Document Formats (PDF) at http://www.fcc.gov/cgb/dro/trs.html.

V. ORDERING CLAUSES

33. Accordingly, IT IS ORDERED, pursuant to the authority contained in section 225 of the Communications Act of 1934, as amended, 47 U.S.C. § 225, and section 64.604(c)(5)(iii) of the Commission's rules, 47 C.F.R. § 64.604(c)(5)(iii), that this ORDER IS hereby ADOPTED.

34. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate traditional TRS, for the period from July 1, 2013, through June 30, 2014, at the rate of $2.1647 per completed interstate conversation minute.

35. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate STS, for the period from July 1, 2013, through June 30, 2014, at the rate of $3.2957 per completed interstate conversation minute.

36. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate CTS and IP CTS, for the period from July 1, 2013, through June 30, 2014, at the rate of $1.7877 per completed conversation minute.

37. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP Relay service: (1) for the period from July 1, 2013, through the 29th day after the publication of the *VRS Reform Order* in the Federal Register, at the rate of $1.0391 per completed

[53] We note that the need to closely monitor events that affect Fund expenditures and to make corresponding adjustments to the Fund size as needed is reflected in the recent *VRS Reform Order*, in which the Commission proposed to amend its rules to provide for a regular quarterly reassessment of the contribution factor in response to changes in Fund requirements. *VRS Reform Order*, ¶ 242.

conversation minute; and (2) for the period from the 30th day after the publication of the *VRS Reform Order* in the Federal Register through June 30, 2014, at the rate of $1.0147 per completed conversation minute.

38. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of intrastate and interstate video relay service: (1) for the period from July 1, 2013, through the 29th day after the publication of the *VRS Reform Order* in the Federal Register, at current rates; (2) for the period from the 30th day after the publication of the *VRS Reform Order* in the Federal Register through December 31, 2013, at the rates of $5.98 per completed conversation minute for a provider’s first 500,000 monthly minutes (Tier I), $4.82 per completed conversation minute for monthly minutes between 500,001 and 1 million (Tier II), and $4.82 per completed conversation minute for monthly minutes above 1 million (Tier III); and (3) for the period from January 1, 2014, through June 30, 2014, at the rates of $5.75 per completed conversation minute for a provider’s first 500,000 monthly minutes (Tier I), $4.82 per completed conversation minute for monthly minutes between 500,001 and 1 million (Tier II), and $4.63 per completed conversation minute for minutes above 1 million (Tier III).

39. IT IS FURTHER ORDERED that the Interstate TRS carrier contribution factor shall be 0.01484, and the funding requirement shall be $995,533,697.

40. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Acting Chief
Consumer and Governmental Affairs Bureau