

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: June 30, 2017

Released: June 30, 2017

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION AND BACKGROUND

1. This order adopts per-minute provider compensation rates for telecommunications relay services (TRS) that are supported by the Interstate Telecommunications Relay Services Fund (TRS Fund, or Fund) for the Fund Year beginning July 1, 2017, and ending June 30, 2018. This order also determines, for the 2017-18 Fund Year, the total size of the TRS Fund and the contribution factor, i.e., the percentage of interstate and international end user revenue telecommunications carriers and other covered service providers must contribute to the TRS Fund.

2. Effective July 1, 2017, the per-minute compensation rates for interstate and Internet-based TRS, other than video relay service (VRS), shall be: (1) for interstate traditional TRS, \$2.9186; (2) for interstate speech-to-speech relay service (STS), \$4.0496; (3) for interstate captioned telephone service (CTS) and Internet Protocol captioned telephone service (IP CTS), \$1.9467; and (4) for IP Relay, \$1.3350. These rates are based on recommendations of the current Fund administrator, Rolka Loube Associates LLC (Rolka Loube).

1 TRS enables an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to communicate by telephone or other device through the telephone system. See 47 U.S.C. § 225(a)(3). TRS is provided in a variety of ways. Currently, interstate TRS calls and all Internet Protocol (IP) based TRS calls, both intrastate and interstate, are compensated from the Fund. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Declaratory Ruling, 22 FCC Rcd 379-81, 390, paras. 3-6, 25 (2007).

2 See Rolka Loube, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate (filed May 2, 2017) (2017 TRS Rate Filing); Supplemental Submission (filed June 2, 2017) (2017 TRS Rate Filing Supplement). Under the Commission's TRS rules, the Fund administrator is required to file TRS payment formulas and revenue requirements with the Commission on May 1st of each year, to be effective the following July 1st. 47 CFR § 64.604(c)(5)(iii)(E), (H). On May 10, 2017, the Consumer and Governmental Affairs Bureau (Bureau) released the 2017 TRS Rate Public Notice, seeking comment on Rolka Loube's proposed compensation rates, revenue requirement, and contribution factor for 2017-18. Rolka Loube Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the 2017-18 Fund Year, Public Notice, DA 17-445, (CGB 2017) (2017 TRS Rate Public Notice). In response to the 2017 TRS Rate Public Notice,

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3. The Consumer and Governmental Affairs Bureau (CGB) also extends the effectiveness of the current VRS rates on a provisional basis, until the effective date of new compensation rates established by the full Commission for Fund Year 2017-18.³ For VRS providers with more than 500,000 monthly minutes, the per-minute VRS compensation rates are: \$4.06 for minutes that fall within Tier I (a provider's first 500,000 monthly minutes); \$4.06 for minutes that fall within Tier II (a provider's second 500,000 monthly minutes); and \$3.49 for minutes that fall within Tier III (a provider's monthly minutes in excess of 1,000,000). For VRS providers with 500,000 or fewer monthly minutes, the per-minute VRS compensation rate is \$4.82.

4. Based on these compensation rates, the maximum rates within the range of VRS rates proposed by the Commission, projected demand for the services, and projected Fund administration expenses, we adopt a funding requirement of \$1,328,188,285, and a carrier contribution factor of 0.02289.

II. DISCUSSION

A. Compensation Rates for TRS, STS, and CTS

5. For the 2017-18 Fund Year, we adopt Rolka Loube's proposed per-minute compensation rates of \$2.9186 for interstate traditional TRS; \$4.0496 for interstate STS; and \$1.9467 for interstate CTS. These rates represent, respectively, increases of approximately 11.2 percent for traditional TRS, 7.8 percent for STS, and 2 percent for CTS, relative to the 2016-17 Fund Year rates for those services. Rolka Loube developed each of these rates by applying the MARS analysis adopted in the *2007 TRS Compensation Methodology Order*.⁴ The MARS rate is calculated by collecting each state's intrastate TRS, STS, and CTS rates and minutes of use data and averaging the state data to determine the appropriate interstate rates for these services. No party opposes Rolka Loube's recommended rates. We conclude that these rates correctly apply the MARS methodology and should be adopted.⁵

B. Compensation Rates for IP CTS

6. The Commission currently sets the IP CTS compensation rate based on the same MARS plan methodology used for the interstate CTS compensation rate, i.e., based on a weighted average of the per-minute compensation rates paid by state TRS programs to providers of intrastate CTS for the prior calendar year.⁶ In a notice of proposed rulemaking adopted in 2013, the Commission sought comment on the appropriateness of continuing to tie the rate for IP CTS to this methodology, given its reliance on rates

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the Commission received comments from ClearCaptions, LLC (ClearCaptions), Convo Communications LLC (Convo), Hamilton Relay, Inc. (Hamilton), Sorenson Communications, Inc., and CaptionCall, LLC (Sorenson), Sprint Corporation (Sprint), and ZVRS Holding Company, ZVRS, and Purple Communications (ZVRS). Reply comments were submitted by IDT Telecom, Inc. (IDT), and Sprint.

³ 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*, Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking and Order, 32 FCC Rcd 2436, 2469-77, paras. 81-102 (2017) (*2017 VRS Improvements FNPRM*).

⁴ 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 Compensation Methodology Order*).

⁵ In addition, consistent with rate determinations in past years, the STS rate includes a supplemental per-minute amount (\$1.1311) to be used for STS outreach. See *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20170, para. 57. In February 2016, Rolka Loube completed audits of STS outreach funding and uses. Noting that the demand for STS remains small compared to other forms of TRS, Rolka suggests that the Commission revisit this issue to determine whether there is a more effective way to inform people with speech disabilities about the availability of this service. *2017 TRS Rate Filing* at 16. Any action on this recommendation will be addressed separately from this order.

⁶ *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20149-50, 20153-58, paras. 16, 26-38.

set for state-program CTS.⁷ In the *2017 TRS Rate Filing*, Rolka Loube analyzed eight options for determining the reimbursement of IP CTS minutes.⁸ Noting that, because of the Commission's open rulemaking on IP CTS compensation methodology, it would be premature for the Bureau to select one of Rolka's recommendations for a change in IP CTS compensation methodology, we sought comment on whether, in the event that the Commission decides to change the methodology but does not determine a rate, an extension of the current IP CTS compensation rate of \$1.9058 would be sufficient to compensate IP CTS providers for the reasonable costs of providing IP CTS.⁹ In response, some commenters assert that extending the current rate will sufficiently compensate providers for the upcoming Fund Year.¹⁰ However, Hamilton opposes extending the current rate because it maintains that the Commission has not put forth an economic justification to freeze the rate, and the Bureau lacks the authority to change the rate methodology, which was determined by prior Commission action.¹¹

7. As of the date of this Order, the Commission has not adopted a decision in the IP CTS rulemaking regarding a change in compensation methodology for this service. Because the Bureau is obligated to apply the current compensation methodology unless it is altered by the Commission, we will continue to apply the MARS methodology to determine the rate for IP CTS for Fund Year 2017-18. No party disputes that the \$1.9467 per minute rate for IP CTS calculated by Rolka Loube correctly applies the MARS methodology. Accordingly, this rate will be in effect pending further action from the Commission.

8. Although the Bureau did not solicit comment on the merits of the rate and methodology alternatives set forth by Rolka, IP CTS providers nevertheless express their support for the continued use of the MARS rate methodology, asserting its superiority because of its reliance on market competition.¹²

C. Compensation Rate for IP Relay

9. *Background.* For the IP Relay compensation rate, which is subject to a price cap methodology, the 2017-18 Fund Year is the second year of a three-year price cap period.¹³ In the *2016*

⁷ See *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, 13477, para. 120 (2013) (*2013 IP CTS Reform FNPRM*).

⁸ The eight options include: (1) retaining the current MARS ratemaking procedure; (2) setting the 2017-18 Fund Year rate at the industry average cost for 2016; (3) setting the 2017-18 Fund Year rate at the cost of a marginal provider; (4) establishing a four-year glide path wherein the rates would decline from the current rate to the industry average cost for 2016; (5) establishing a four-year glide path with two tiers; (6) establishing a four-year glide path wherein the rates would decline from the current rate to the industry average cost for 2019; (7) set the rate for each provider individually based on the provider's cost of service; and (8) make no change pending further comment and analysis by the Commission. *2017 TRS Rate Filing* at 19.

⁹ *2017 TRS Rate Public Notice* at 2.

¹⁰ See ClearCaptions Comments at 12; Sorenson Comments at 1.

¹¹ Hamilton Comments at 14.

¹² See Hamilton Comments at 5-6; ClearCaptions Comments at 2; Sprint Comments at 2-3; Sorenson Comments at 6. Parties also urge the Commission to defer any rulemaking determination that might revise the IP CTS compensation methodology, pending, among other things, the outcome of other reforms to IP CTS, see Hamilton Comments at 9-12, Sprint Comments at 8-10; evaluation of any proposed models by the Commission's new Office of Economics and Data, see Hamilton Comments at 13, Sprint Reply Comments at 2-3; and changes to the Commission's definition of allowable costs, see Hamilton Comments at 12, ClearCaptions Comments at 8-11, Sprint Comments at 5-6; see also Sorenson Comments at 4-6 (proposing open questions for the Commission to address in seeking further comment). These comments will be considered in the record of the IP CTS rulemaking proceeding. See *2013 IP CTS Reform FNPRM*, 28 FCC Rcd 13420.

¹³ *2017 TRS Rate Public Notice* at 2. The Commission adopted a price cap methodology for IP Relay in 2007, based on a three-year rate cycle, and subsequently approved continued use of this methodology and rate cycle for this form

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TRS Rate Order, we set the IP Relay rate for the 2016-17 Fund Year, which is also the base rate for the new three-year price cap cycle, at \$1.30 per minute.¹⁴ We also granted a temporary, limited waiver of the prohibition on recovery of provider-directed outreach to permit Sprint to recover the costs for outreach activities and dedicated staff specifically targeted at outreach to the deaf-blind community.¹⁵

10. *Discussion.* In the 2017 TRS Rate Filing, to develop a recommended rate, Rolka Loube applied the price cap formula to the current \$1.30 rate. With the efficiency factor set at 0 percent, application of the formula resulted in a proposed rate equal to the \$1.30 per minute rate.¹⁶ Noting that outreach expenditures are projected to increase by \$0.035 per minute, Rolka Loube proposes a rate of \$1.3350 for the 2017-18 Fund Year. No party opposes Rolka Loube's recommended rate.¹⁷

11. Outreach Costs for People who are Deaf-Blind. The Commission determined in 2013 that VRS and IP Relay outreach should be conducted through the Commission's National Outreach Program and that provider-specific outreach costs should no longer be included as compensable costs.¹⁸ As noted above, however, in 2016, the Bureau granted a waiver of this cost recovery restriction for Fund Year 2016-17.¹⁹ The Bureau explained that it was persuaded of the need for Sprint to conduct outreach to deaf-blind consumers so they could become aware of Sprint's service improvements and to provide an opportunity for feedback on ways to make IP Relay more accessible and usable by individuals in the deaf-blind community. Although Sprint has not renewed its request for such waiver, we find, *sua sponte*, that there continues to be good cause to extend this waiver, to allow Sprint to recover a *de minimis* amount (as noted above, \$0.035 per minute) for outreach costs for Fund year 2017-18.

12. The Commission's rules may be waived for good cause shown.²⁰ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²¹ In determining whether to grant a waiver, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²² Waiver of the Commission's rules is appropriate if special circumstances warrant a deviation

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of TRS. *2007 TRS Compensation 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). The price cap plan for IP Relay applies three factors to a base rate – an inflation factor, an efficiency (or “X”) factor, and exogenous costs. The formula takes a base rate and multiplies it by an adjustment percentage that reflects an increase due to inflation, offset by a decrease due to efficiencies. *Id.* The inflation factor is Gross Domestic Product – Price Index (GDP-PI). The efficiency factor has been described as a figure equal to the Inflation Factor, less a designated amount to account for productivity gains. *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20163, paras. 43-44.

¹⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, 31 FCC Rcd 7246, 7252, para. 20 (CGB 2016) (*2016 TRS Rate Order*). The adopted rate is subject to possible true-up. *Id.*

¹⁵ *Id.* at 7251-52, para. 19

¹⁶ *2017 TRS Rate Filing* at 25, 28.

¹⁷ Sprint does not object to the \$1.3350 per minute rate for IP Relay service, but continues to object to the methodology used to set the rate. Sprint Comments at 11. As with IP CTS, the Bureau lacks the authority to alter the IP Relay compensation methodology because it was set by the Commission.

¹⁸ *2013 VRS Reform Order*, 28 FCC Rcd at 8634-39, 8696, paras. 31-39, 192.

¹⁹ *2016 TRS Rate Order*, 31 FCC Rcd at 7251-52, paras. 18-19.

²⁰ 47 CFR § 1.3.

²¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²² *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

from the general rule and if such a deviation will serve the public interest.²³

13. Based on Rolka Loube's recommendation and quarterly reports filed by Sprint over the past year regarding its service improvements and outreach expenditures focused on the deaf-blind community,²⁴ we find that Sprint's outreach activities have been beneficial and continue to be needed to effectively educate deaf-blind consumers regarding IP Relay service, ensure that they are aware of service improvements instituted to benefit this group, and offer members of the deaf-blind community an opportunity to provide feedback on making the service more accessible to and usable by individuals who are deaf-blind.²⁵ For example, in its outreach reports, Sprint notes that it worked with application developers to create new mobile applications, revamped web-based applications and automated registration, performed outreach events, and coordinated town hall meetings – all designed to improve the user-experience of and accessibility for people who are deaf-blind.²⁶ Sprint also hired a Customer Relations Managers to promote Sprint IP Relay services to the deaf-blind community.²⁷ As was true for Fund year 2016-17, special circumstances warrant a deviation from the prohibition against compensation for IP Relay outreach costs in this instance because Sprint continues to be the only service provider of IP Relay, a telephone service that is often relied upon by people who are deaf-blind.²⁸ We remain concerned that the absence of other providers in the IP Relay market would continue to have a negative impact on deaf-blind consumers absent effective outreach.²⁹ Therefore, we extend the limited waiver of the prohibition on recovery of provider-directed outreach for Fund Year 2017-18, conditional on the same requirement to file quarterly reports on its service improvements and outreach expenditures focused on the deaf-blind community.³⁰ Accordingly, we find Rolka Loube's analysis to be reasonable and adopt the recommended rate of \$1.3350 per minute.

D. Compensation Rates for VRS

14. The current four-year compensation rate plan for VRS providers ends June 30, 2017.³¹ On March 23, 2017, the Commission released the *2017 VRS Improvements FNPRM*, proposing a four-

²³ *Northeast Cellular*, 897 F.2d at 1166.

²⁴ These reports were a condition of the outreach waiver granted to Sprint. See *2016 TRS Rate Order*, 31 FCC Rcd at 7251-52, para. 1.

²⁵ See *2016 TRS Rate Order*, 31 FCC Rcd at 7251, para. 18; See letters from Scott R. Freiermuth, Counsel, Government Affairs, Federal Regulatory, Sprint Corporation to Eliot Greenwald, Deputy Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau, FCC and David Rolka, Rolka Loube, TRS Fund Administrator (filed Nov. 1, 2016, Feb. 1, 2017, and May 1, 2017) (confidential) (each with an attachment entitled "Sprint IP Relay, IP Relay Service Improvements & Outreach Activities, Quarterly Report").

²⁶ See Sprint IP Relay, IP Relay Service Improvements & Outreach Activities, Quarterly Report at 1-5 (May 1, 2017).

²⁷ See Sprint IP Relay, IP Relay Service Improvements & Outreach Activities, Quarterly Report at 2-3 (Nov. 1, 2016).

²⁸ *WAIT Radio*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

²⁹ *2016 TRS Rate Order*, 31 FCC Rcd at 7251, para. 18. In this instance, then, there is less reason to fear that provider-directed outreach expenditures in the IP Relay context will duplicate the outreach efforts of other providers, which had been a primary justification for excluding outreach costs from Fund compensation. See *VRS Reform Order*, 28 FCC Rcd at 8635, para. 31.

³⁰ In the event that Sprint seeks to continue receiving reimbursement for outreach to the deaf-blind community in IP Relay compensation for next Fund Year, i.e., Fund Year 2018-19, Sprint must file a timely request with the Commission containing detailed supporting information to justify such waiver.

³¹ *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 and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8705, para. 215 (2013) (*2013 VRS Reform Order*) (establishing VRS rates for Fund Years 2013-14, 2014-15, 2015-16, and 2016-17).

year tiered plan for VRS compensation and setting forth various alternatives for rates that would fall into these tiers.³² Commission action on the *2017 VRS Improvements FNPRM* remains pending.

15. Given that the Commission has not yet made a determination regarding the rates that should apply after June 30, we hereby waive the June 30 expiration of the existing rates, to ensure that VRS providers will be compensated for service provided after that date. We find that there is good cause to do so because without compensation rates in place, VRS providers would not be able to receive compensation payments, resulting in potential disruption of service to consumers with disabilities who use sign language and have come to rely on VRS as their primary means of making telephone calls. By waiving the June 30 expiration date, we provide for payment of compensation to VRS providers based on the rates in effect on that date, which shall remain in effect pending further Commission action on VRS compensation. This action by the Bureau to temporarily waive the June 30 expiration date does not predetermine the compensation rates that will ultimately apply to any particular time period, and does not preclude a true-up of compensation, should the Commission deem that to be necessary after setting final VRS compensation rates. The waiver we issue today simply suspends, on a provisional basis, the June 30 expiration date for the current VRS compensation rates, thereby ensuring that compensation will be paid for VRS provided after that date. The Commission retains discretion to adopt these or other rates and to specify when those rates shall be deemed applicable.

16. Therefore, pending further action by the Commission, we direct Rolka Loube to continue compensating VRS providers for the provision of VRS at the same rate level in effect on June 30, 2017. These provisional VRS rates are: (1) \$4.82 per minute to providers whose monthly minutes do not exceed 500,000; (2) \$4.06 for minutes that fall within Tier I (applicable to other providers' first 500,000 monthly minutes); (3) \$4.06 for Tier II (applicable to a provider's second 500,000 monthly minutes); and (4) \$3.49 for Tier III (applicable to monthly minutes in excess of 1,000,000).

E. The Carrier Contribution Factor and Funding Requirement

17. Rolka Loube proposed a funding requirement of \$1,254,615,840 and a contribution factor of 0.02084 for the 2017-18 Fund Year.³³ In a revised filing, which reflects updated information on the total size of the TRS Fund contribution base, Rolka Loube revised its proposal to a total funding requirement of \$1,302,171,828 and a carrier contribution factor of 0.02244.³⁴ The Fund administrator calculates the 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 herein, less surplus amounts from the previous Fund Year that can be used to offset the 2017-18 Fund Year requirement.³⁵ The contribution factor is based on the ratio between the net funding requirement and total interstate and international end-user revenues for the prior calendar year.³⁶

18. For traditional TRS, STS, and CTS, Rolka projected demand using recent historical data, an approach that historically has provided reasonably accurate results for these services.³⁷ For VRS, IP Relay, and IP CTS, Rolka Loube relied on the providers' demand projections for 2017-18, an approach

³² *2017 VRS Improvements FNPRM*, 32 FCC Rcd at 2469-77, paras. 81-102.

³³ 2017 TRS Rate Filing at 52.

³⁴ See 47 CFR § 64.604(c)(5)(iii)(B); 2017 TRS Rate Filing Supplement at 4. The revised filing also reflected a correction of the projected rate for the 2017-18 year, from \$1.9058, the current rate, to \$1.9467, the recalculated MARS rate. See 2017 TRS Rate Filing, Exh. 2; 2017 TRS Rate Filing Supplement, Exh. 2 Revised.

³⁵ See 2017 TRS Rate Filing, Exh. 2; 2017 TRS Rate Filing Supplement, Exh. 2 Revised.

³⁶ 2017 TRS Rate Filing at 5; 2017 TRS Rate Filing Supplement at 4.

³⁷ 2017 TRS Rate Filing at 44.

that in recent years has, for the most part, provided reasonably accurate results for those services.³⁸ Accordingly, we find that Rolka Loube's TRS demand projections are reasonable.

19. We adopt Rolka's proposed funding requirements for IP Relay (\$7,750,396) and for relay services that use the MARS methodology – traditional TRS, STS, CTS, and IP CTS (\$762,939,527). For VRS, we adjust Rolka's proposed funding requirement (\$460,168,130) to reflect the interim rates adopted herein. The new funding requirement for VRS is \$482,143,563. This brings the total funding requirement for payments to TRS providers to \$1,252,833,485.

20. In addition to projected payments for TRS, Rolka Loube includes in its proposed funding requirement a \$10,000,000 funding allocation for the National Deaf-Blind Equipment Distribution Program (NDBEDP).³⁹ Rolka Loube also includes the following estimated expenses in its proposed funding requirement: TRS numbering directory administration expenses of \$1,005,000;⁴⁰ TRS Fund administrator compensation of \$1,700,000;⁴¹ revenue data collection agent expenses of \$88,800;⁴² the Interstate TRS Advisory Council expenses of \$50,000;⁴³ investment management expenses of \$190,000;⁴⁴ service provider audits expenses of \$1,000,000;⁴⁵ expenses of \$250,000 for compliance with the Improper Payments Elimination and Recovery Act of 2010 (IPERA);⁴⁶ bankruptcy representation expenses of \$50,000, and independent TRS Fund audit expenses of \$65,000.⁴⁷ The TRS numbering directory and Fund administrator compensation are reasonable estimates based on the existing contracts for those services.⁴⁸ No comments were received regarding the recommended inclusion of any of the costs listed in this paragraph. We find the recommended amounts for these other expenses listed to be fair estimates based on reasonable projections of costs.

21. Also included are a two-month payment reserve totaling \$205,103,000 and a \$9,600,000 reserve for the costs of implementing VRS reform initiatives.⁴⁹ We find that this reserve, which has been in place for the past three Fund Years,⁵⁰ is reasonable and not excessive. As explained above, Fund

³⁸ *Id.* at 44.

³⁹ *Id.* at 48. In August 2016, the Commission adopted rules to convert the pilot NDBEDP into a permanent program, for which the Commission may provide up to \$10,000,000 annually to support local programs that distribute equipment to eligible low-income individuals who are deaf-blind, so that these individuals are able to access telecommunications service, Internet access service, and advanced communications services. *See Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Report and Order, 31 FCC Rcd 9178, 9178, para. 1 (2016).

⁴⁰ 2017 TRS Rate Filing at 47.

⁴¹ *Id.* at 48.

⁴² *Id.*

⁴³ *Id.* at 49.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Pub. L. No. 111-204 (July 22, 2010).

⁴⁷ 2017 TRS Rate Filing at 50.

⁴⁸ *Id.* at 47-48.

⁴⁹ *Id.* at 47, 51-52; 2017 TRS Rate Filing Supplement, Exh. 2 Revised. In prior years, Rolka Loube has requested a \$20,000,000 reserve for the costs of implementing VRS reform initiatives. It is recommending reducing this reserve to \$9,600,000 to reflect currently known ongoing commitments. 2017 TRS Rate Filing at 47.

⁵⁰ *See 2016 TRS Rate Order*, 31 FCC Rcd at 7253-54, para. 26; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 30 FCC Rcd 7063, 7069, para. 17 (CGB 2015) (*2015 TRS Rate Order*); *Telecommunications Relay Services and Speech-to-Speech Services for*

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revenue requirements are determined based on projections of demand. While these projections for the most part have proven to be fairly accurate, the recommended reserve is a reasonable precautionary measure to guard against the possibility of unanticipated demands for TRS that can unexpectedly increase the need for Fund payments in the course of a Fund Year.⁵¹ Further, to the extent that it goes unused, the payment reserve is not wasted. Rather, the remaining portion (and any accrued interest) is simply turned over for use in the next Fund Year, including payments for service actually provided in the final months of the previous Fund Year.⁵² To reflect the adjusted VRS funding requirement, we adjust the payment reserve to \$208,806,000.

22. In summary, we conclude that, Rolka Loube's demand projections are reasonable and that, subject to the adjustments discussed above, its funding proposals are consistent with the Commission's rules on contribution computations.⁵³ We therefore adopt a funding requirement of \$1,328,188,285 and a carrier contribution factor of .02289 for the 2017-18 Fund Year.⁵⁴

III. PROCEDURAL MATTERS

23. 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: <https://www.fcc.gov/general/disability-rights-office-headlines>.

IV. ORDERING CLAUSES

24. Accordingly, IT IS ORDERED, pursuant to 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 CFR § 64.604(c)(5)(iii), that this ORDER IS hereby ADOPTED.

25. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate traditional TRS, for the period from July 1, 2017, through June 30, 2018, at the rate of \$2.9186 per completed interstate conversation minute.

26. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate STS, for the period from July 1, 2017, through June 30, 2018, at the rate of \$4.0496 per completed interstate conversation minute.

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Individuals with Hearing and Speech Disabilities, Order, 29 FCC Rcd 8044, 8053, para. 23 (CGB 2014) (*2014 TRS Rate Order*).

⁵¹ See 2017 TRS Rate Filing at 44 (cautioning that for IP CTS, the compiled industry demand forecast, while reasonably valid, has been consistently lower than reported actual monthly demand). In prior filings, IDT has opposed Rolka Loube's proposed two-month reserve, urging that the Commission reduce the reserve to one month (i.e., by 50 percent) to reduce the very high contribution factor. IDT's comments on the *2017 TRS Rate Filing* states that it incorporates by reference concerns raised in prior filings. See IDT Reply Comments at 1-2 (June 2, 2017). We think it would be imprudent to abandon this precautionary measure based on speculative assumptions that the reserve will not be needed or that any shortfall occurring in the 2017-18 Fund Year could be effectively addressed, as is suggested by IDT, by exacting a supplemental contribution or by deferring its recovery to the subsequent Fund Year. See 2016 IDT Reply Comments at 2. See also *2013 IP CTS Reform Order*, 28 FCC Rcd at 707, n.20 (noting that the Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1)(A), provides that an officer or employee of the federal government may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation).

⁵² See 47 CFR § 64.604(c)(5)(iii)(B); 2017 TRS Rate Filing at 52.

⁵³ 47 CFR § 64.604(c)(5)(iii)(A), (B).

⁵⁴ The increase in the total TRS Fund requirement and contribution factor, relative to those proposed in Rolka's supplemental filing (a funding requirement of \$1,254,615,840 and a contribution factor of 0.02084), result from the adjustments in IP CTS and VRS funding requirements described above.

27. 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, 2017, through June 30, 2018, at the rate of \$1.9467 per completed conversation minute.

28. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP Relay service for the period from July 1, 2017, through June 30, 2018, at the rate of \$1.3350 per completed conversation minute.

29. IT IS FURTHER ORDERED that, pending further action by the Commission, the TRS Fund administrator shall compensate eligible providers of VRS with more than 500,000 monthly minutes at the following rates: \$4.06 per completed conversation minute for a provider's first 500,000 monthly minutes (Tier I); \$4.06 per completed conversation minute for a provider's second 500,000 monthly (Tier II); and \$3.49 per completed conversation minute for a provider's monthly minutes exceeding 1,000,000 (Tier III).

30. IT IS FURTHER ORDERED that, pending further action by the Commission, the TRS Fund administrator shall compensate eligible providers of VRS with 500,000 or fewer monthly minutes at the rate of \$4.82 per completed conversation minute.

31. IT IS FURTHER ORDERED that the Interstate TRS Fund revenue requirement shall be \$1,328,188,285 and the Interstate TRS Fund carrier contribution factor shall be .02289.

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

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre, Chief
Consumer and Governmental Affairs Bureau