

PUBLIC NOTICE

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ROLKA LOUBE ASSOCIATES SUBMITS PAYMENT FORMULAS AND FUNDING REQUIREMENT FOR THE INTERSTATE TELECOMMUNICATIONS RELAY SERVICES FUND FOR THE 2018-2019 FUND YEAR

CG Docket Nos. 03-123 and 10-51

Comments: May 29, 2018

Reply Comments: June 8, 2018

By this Public Notice, the Consumer and Governmental Affairs Bureau (CGB or Bureau) seeks comment on the Interstate Telecommunications Relay Services (TRS) Fund administrator's proposed provider compensation rates, funding requirement, and carrier contribution factor for the period from July 1, 2018, through June 30, 2019 (2018-19 Fund year), for TRS compensated by the Interstate TRS Fund (Fund).¹

TRS Using MARS Plan Methodology

Rolka Loube Associates LLC (Rolka Loube), the Interstate TRS Fund administrator, proposes per-minute compensation rates for certain forms of TRS that are subject to the Multistate Average Rate Structure (MARS) plan methodology,² as follows: \$3.2592 for interstate traditional TRS;³ \$4.3902 for interstate speech-to-speech relay service (STS);⁴ and \$2.0007 for interstate captioned telephone service (CTS) and interstate and intrastate Internet Protocol (IP) CTS.⁵ We seek comment on whether these proposed rates correctly apply the MARS methodology.

In its annual rate filing, Rolka Loube also provides updated information on IP CTS provider costs and repeats its recommendation from prior years that the Commission replace the MARS plan

¹ See Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51 (filed May 4, 2018) (2018 TRS Rate Filing). See 47 CFR § 64.604(c)(5)(iii)(H). As noted below, we do not seek comment on the proposed compensation rates for video relay services (VRS).

² Under the MARS Plan methodology, certain interstate TRS compensation rates and the Internet Protocol captioned telephone service (IP CTS) rate are calculated based on a weighted average of the intrastate compensation rates paid by state TRS programs for the same or a similar relay service. 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 Rate Methodology Order*).

³ 2018 TRS Rate Filing at 17. The compensation rate for interstate traditional TRS for the 2017-18 Fund year has been \$2.9186 per minute.

⁴ 2018 TRS Rate Filing at 17-18. Consistent with the *2007 TRS Rate Methodology Order*, Rolka Loube's proposed interstate STS rate consists of the interstate traditional TRS rate of \$3.2592 per minute plus an additional per-minute amount of \$1.131 to be used for STS outreach. See *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20159, 20170, paras. 34, 57. The STS compensation rate for the 2017-18 Fund year has been \$4.0496 per minute.

⁵ 2018 TRS Rate Filing at 18. The compensation rate for interstate CTS and for interstate and intrastate IP CTS for the 2017-18 Fund year has been \$1.9467 per minute.

methodology for IP CTS with a cost based compensation rate. Rolka Loubé uses cost data submitted by providers to further recommend setting an interim rate of \$1.75 per minute, an approximately 10% reduction from the Fund year 2017-2018 IP CTS rate of \$1.9467.⁶ Because the Commission presently has an open rulemaking to address the appropriate compensation methodology for IP CTS,⁷ it is premature for the Bureau to address Rolka Loubé's recommendations regarding the IP CTS compensation rate beyond its proposed MARS rate for the upcoming Fund year. As in past years, however, Rolka Loubé's rate filing is available in the dockets listed above. In addition, it is being made available in the Commission's record of the IP CTS rulemaking proceeding.⁸

IP Relay

Rolka Loubé recommends a compensation rate for IP Relay for the 2018-19 Fund year of \$1.36 per minute, an increase of \$0.0265 from the current rate.⁹ The IP Relay compensation rate is subject to a price cap methodology.¹⁰ This formula takes a base rate and multiplies it by a factor that reflects an increase due to inflation, offset by a decrease due to efficiencies, and adds exogenous costs.¹¹ The 2018-19 Fund year is the third year of a three-year price cap period.¹²

The compensation rate for IP Relay for the 2017-18 Fund year has been \$1.335. This was calculated using a base rate of \$1.30, an efficiency factor of 0 percent,¹³ and an allowance of \$0.035 for the recovery of certain costs incurred for outreach to the deaf-blind community. Although in 2013, a Commission ruling eliminated compensation for IP Relay outreach,¹⁴ concerns about meeting the TRS needs of people who are deaf-blind, given that there is only one IP Relay provider,¹⁵ resulted in a limited waiver of this ruling for Fund years 2016-17 and 2017-18.¹⁶ If a further waiver is granted, Rolka Loubé recommends that the additional outreach allowance be increased to \$0.06 to take into account increased outreach costs for the deaf-blind community, bringing the total compensation rate for the 2018-19 Fund

⁶ 2018 TRS Rate Filing at 22-23.

⁷ See *Misuse of Internet Protocol (IP) Captioned Telephone Service et al.*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, 13472-79, paras. 111-27 (2013).

⁸ Specifically, the annual rate filing will be made available in the following dockets: CG Docket Nos. 03-123, 10-51, and 13-24.

⁹ 2018 TRS Rate Filing at 27-28.

¹⁰ 2018 TRS Rate Filing at 25; see also *2007 TRS Rate 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).

¹¹ *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20163, paras. 43-44.

¹² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Order, 31 FCC Rcd 7246, 7252, para. 20 (CGB 2016) (*2016 TRS Rate Order*).

¹³ *2016 TRS Rate Order*, 31 FCC Rcd at 7248, 7252, paras. 8, 20.

¹⁴ In the 2013 order, the Commission expected that the development of a national outreach program would replace the handling of IP Relay outreach by providers. *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, 8634-39, 8696, paras. 31-39, 192 (2013).

¹⁵ Sprint remains the sole IP Relay provider.

¹⁶ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Order, 32 FCC Rcd 5142, 5146 (CGB 2017) (*2017 TRS Rate Order*).

year to \$1.36 per minute, an increase of \$0.0265 from the current rate.¹⁷ We seek comment on this recommendation.

VRS

In the *2017 VRS Compensation Order*, the Commission adopted a tiered rate structure and set the VRS compensation rates for a four-year period, through Fund year 2020-21.¹⁸ The rates established by the Commission for the 2018-19 Fund year for each rate tier are as follows:¹⁹

Tier (by Minutes of Use)	Rate
Emergent (1 st 500,000 monthly minutes) for VRS providers with 500,000 or fewer minutes in a month	\$5.29
Tier I (1 st 1,000,000 monthly minutes) for VRS providers with more than 500,000 minutes in a month	\$4.82
Tier II (1,000,001 to 2,500,000 monthly minutes)	\$3.97
Tier III (monthly minutes exceeding 2,500,000)	\$2.83

Therefore, we do not seek comment on the VRS compensation rate levels for Fund year 2018-19.

Funding Requirement and Contribution Factor

Based on the VRS compensation rates established by the Commission and proposed TRS compensation rates discussed above, the projected Fund administration expenses, and the recommended reserve, the 2018 TRS Rate Filing proposes a Fund revenue requirement of \$1,622,023,716 and a carrier contribution factor of 0.03034 for the period from July 1, 2018, through June 30, 2019.²⁰ CGB seeks comment on the proposed funding requirement and carrier contribution factor. Commenters should be aware that the recommendation in the 2018 TRS Rate Filing is based on the information currently available, and that Rolka Loube anticipates submitting an updated contribution factor recommendation after the issuance of this Public Notice.²¹

Comment is also invited on Rolka Loube’s demand projections and funding requirements for the various relay services supported by the Fund, and for VRS and IP CTS in particular. To estimate the funding requirement, Rolka Loube uses projected demand and the recommended compensation rates for

¹⁷ 2018 TRS Rate Filing at 27-28. In the *2017 TRS Rate Order*, to continue recovering costs for outreach to the deaf-blind community in the compensation rate for Fund year 2018-19, Sprint must file a timely request with the Commission containing detailed supporting information to justify renewal of this waiver. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Order, 32 FCC Rcd 5142, 5146, n.30 (CGB 2017) (*2017 TRS Rate Order*).

¹⁸ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Report and Order and Order, 32 FCC Rcd 5891, 5916-24, paras. 49-64 (2017) (*2017 VRS Compensation Order*).

¹⁹ *2017 VRS Compensation Order*, 32 FCC Rcd at 5922-23, paras. 60-63.

²⁰ 2018 TRS Rate Filing at 7 & Exh. 2.

²¹ 2018 TRS Rate Filing at 12.

the various forms of TRS in the next Fund year. For VRS, the proposed funding requirement for Fund year 2018-19 is approximately \$495 million.²² For IP CTS, the proposed funding requirement for Fund year 2018-19 is approximately \$998.7 million.²³ The provider projection for IP CTS in Fund year 2018-19 totals 501,212,040 minutes, a significant increase when compared to the provider projection of 385,610,029 minutes for the previous year.²⁴

We also seek comment on Rolka Loube's estimates and recommendations for additional funding to cover the costs of VRS reform implementation, numbering database administration, the National Deaf-Blind Equipment Distribution Program, Fund administrator compensation, the revenue data collection agent, the Interstate TRS Fund Advisory Council, management of Fund investments, service provider audits, implementation of Office of Management and Budget Circular A-123, bankruptcy representation, and an administrator-recommended independent audit of the Fund.²⁵ Finally, we seek comment on Rolka Loube's recommendation, consistent with the practice in the past few years, to continue including a two-month payment reserve, totaling \$252,607,000, in the funding requirement for the coming year.²⁶

Interested parties may file comments on or before **May 29, 2018**, and reply comments on or before **June 8, 2018**. All filings must reference **CG Docket Nos. 03-123 and 10-51**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Documents may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

The proceeding this public notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.²⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the

²² 2018 TRS Rate Filing at Exh. 2.

²³ 2018 TRS Rate Filing at Exh. 2.

²⁴ 2018 TRS Rate Filing at 33.

²⁵ 2018 TRS Rate Filing at 36-39.

²⁶ 2018 TRS Rate Filing at 40-41.

²⁷ 47 CFR § 1.1200 *et seq.*

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

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