

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)	CG Docket No. 03-123
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	

ORDER

Adopted: June 29, 2018

Released: June 29, 2018

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, 2018, and ending June 30, 2019. This order also determines, for the 2018-19 Fund Year, the total size of the TRS Fund and the contribution factor, *i.e.*, the percentage of interstate and international end-user revenues that telecommunications carriers and other covered service providers must contribute to the TRS Fund.

2. Effective July 1, 2018, the per-minute compensation rates for interstate TRS,¹ shall be: (1) for traditional TRS, \$3.2592; (2) for speech-to-speech relay service (STS), \$4.3902; and (3) for captioned telephone service (CTS), \$2.0007; These rates are based on recommendations of the current Fund administrator, Rolka Loube Associates, LLC (Rolka Loube) and our review of the relevant data.²

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 supported by the Fund. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, 22 FCC Rcd 379, 379-81, 390, paras. 3-6, 25 (2007).

² *See* Rolka Loube, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51, (filed May 4, 2018), https://ecfsapi.fcc.gov/file/10504679513627/2018%20TRS%20Fund%20Annual%20Report_5-4-18.pdf (2018 TRS Rate Filing); *see also* Rolka Loube, Revised Exhibits to the 2018 TRS Rate Filing, CG Docket Nos. 03-123 and 10-51, (filed May 25, 2018), <https://ecfsapi.fcc.gov/file/1052519023921/Revised%20Exhibits%201-3.pdf>; Rolka Loube, Revised Exhibit 2 to the 2018 TRS Rate Filing (filed June 20, 2018) (Revised Budget Exhibit). 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 14, 2018, the Consumer and Governmental Affairs Bureau (Bureau) released the *2018 TRS Rate Filing Public Notice*, seeking comment on Rolka Loube’s proposed compensation rates, revenue requirement, and contribution factor for the 2018-19 Fund Year. *Rolka Loube Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the 2018-19 Fund Year*, Public Notice, DA 18-494 (CGB 2018) (*2018 TRS Rate Filing Public Notice*). In response to the 2018

(continued...)

3. The per-minute compensation rate for Internet-based TRS shall be: (1) for Internet protocol (IP) CTS, \$1.75; (2) for IP Relay, \$1.40; and (3) for video relay service (VRS) providers the following tiered rates:

Tier (by Minutes of Use)	2018-19 Fund Year (per minute 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

The rate for IP Relay is set as described below.³ The rates for IP CTS and VRS are set by orders of the Federal Communications Commission (FCC or Commission).⁴

4. Based on these compensation rates, projected demand for the services, and projected Fund administration expenses, we adopt a funding requirement of \$1,497,699,377, and a carrier contribution factor of .02801.⁵

II. DISCUSSION

A. Compensation Rates for TRS, STS, and CTS

5. For the 2018-19 Fund Year, we adopt Rolka Loube's proposed per-minute compensation rates of \$3.2592 for interstate traditional TRS; \$4.3902 for interstate STS; and \$2.0007 for interstate CTS. These rates represent, respectively, increases of approximately 11.7 percent for traditional TRS, 8.4 percent for STS, and 2.8 percent for CTS, relative to the 2017-18 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*.⁶ The MARS rate is calculated by collecting each state's intrastate

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TRS Rate Filing Public Notice, the Commission received comments from ClearCaptions, LLC (ClearCaptions), CaptionCall, LLC (CaptionCall), Hamilton Relay, Inc. (Hamilton), and Sprint Corporation (Sprint). Reply comments were submitted by MezzoCorp, dba InnoCaption (InnoCaption) USTelecom – the Broadband Association (USTelecom), and jointly by Telecommunications for the Deaf and Hard of Hearing, Inc., Association of Late-Deafened Adults, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc., Cerebral Palsy and Deaf Organization, Deaf and Hard of Hearing Consumer Advocacy Network, Hearing Loss Association of America, and National Association of the Deaf (collectively, Consumer Groups).

³ See *infra* paras. 7-14.

⁴ See *Structures 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 Order, 32 FCC Rcd 5891, 5916-24, paras. 49-63 (2017) (*2017 VRS Rate Order*) (setting a four-year, tiered rate structure for VRS compensation); *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, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 18-79, at 11-17, paras. 19-26 (June 8, 2018) (*IP CTS Modernization and Reform Order*) (establishing interim IP CTS compensation rates for the 2018-19 and 2019-20 Fund Years).

⁵ See Revised Budget Exhibit.

⁶ 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*).

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.⁷

B. Compensation Rates for IP CTS

6. In the *IP CTS Modernization and Reform Order*, the Commission adopted interim rates for the provision of IP CTS, effective from July 1, 2018, through June 30, 2020.⁸ The per-minute compensation rate for the period from July 1, 2018 through June 30, 2019 is \$1.75.⁹ This rate is not subject to modification in this Order.¹⁰

C. Compensation Rates for IP Relay

7. For the IP Relay compensation rate, which is subject to a price cap methodology, the 2018-19 Fund Year is the third year of a three-year price cap period.¹¹ In the *2016 TRS Rate Order*, the Bureau set the IP Relay compensation rate for the 2016-17 Fund Year at \$1.30 per minute, higher than the Fund administrator's recommended rate, to include an allowance for recovery of additional costs for service improvements and outreach on behalf of consumers who are deaf-blind.¹² In 2017, to reflect increases in such expenditures, the Commission increased this allowance, raising the rate to \$1.335 per minute.¹³ In the 2018 TRS Rate Filing, noting the relatively stable level of IP Relay demand, Rolka Loube recommends an additional increase in this allowance to account for differences in outreach costs between calendar years 2016 and 2018.¹⁴ The total rate recommended by Rolka Loube is \$1.36.

⁷ 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 id.* at 20170, para. 57.

⁸ *IP CTS Modernization and Reform Order* at 17, para. 26.

⁹ *Id.*

¹⁰ The Commission also determined that the provision of IP CTS using ASR to generate captions is a form of relay service eligible for compensation from the TRS Fund and opened a further rulemaking to determine the IP CTS compensation rates following the interim period, as well as rates for IP CTS using ASR. *Id.* at 28, 38-48, paras. 48, 70-100. Comments filed regarding these issues will be included in the record of that rulemaking. *See* Hamilton Comments at 4-5 (filed May 29, 2018); CaptionCall Comments at 2-4 (filed May 29, 2018); ClearCaptions Comments at 2-9 (filed May 29, 2018); InnoCaption Reply Comments at 1-2 (filed June 8, 2018).

¹¹ *2018 TRS Rate Filing Public Notice* at 2. To develop a recommended IP Relay compensation rate, Rolka Loube applies the price cap formula to the base rate. 2018 TRS Rate Filing at 27. 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 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 two factors to a base rate – an inflation factor and an efficiency (or “X”) factor. 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. The rate is also subject to adjustment to allow recovery of exogenous costs. *Id.* 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*, 31 FCC Rcd 7246, 7250-52, paras. 13-20 (CGB 2016) (*2016 TRS Rate Order*).

¹³ *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, 5145-46, paras. 11-13 (CGB 2017) (*2017 TRS Rate Order*).

¹⁴ 2018 TRS Rate Filing at 27-28.

8. *Waiver for Outreach to People who are Deaf-Blind.* On May 29, 2018, Sprint filed a request for renewal and extension of the limited waiver, granted in 2016, of the Commission's 2013 decision disallowing recovery of outreach expenses in VRS and IP Relay compensation.¹⁵ This waiver was allowed in order to support specific IP Relay outreach efforts to meet the TRS needs of people who are deaf-blind, given that there is currently only one IP Relay provider.¹⁶ The Bureau explained that it was persuaded of the need for Sprint to conduct outreach to make deaf-blind consumers aware of 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.¹⁷ In 2017, the Bureau found good cause to extend the waiver for Fund Year 2017-18.¹⁸

9. The Commission's rules may be waived for good cause shown.¹⁹ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²⁰ 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.²¹ Waiver of the Commission's rules is appropriate if special circumstances warrant a deviation from the general rule and if such a deviation will serve the public interest.²²

10. For consumers who are deaf-blind, IP Relay service is often the sole or primary means of communicating by telephone, and outreach to such consumers requires specifically targeted efforts that take account of their particular disabilities.²³ Based on the 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 consumers who are deaf-blind 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

¹⁵ Request of Sprint for Renewal of Limited Waiver, CG Docket Nos. 03-123 and 10-51 at 1 (filed May 29, 2018) (Sprint Waiver Request); *2016 TRS Rate Order* at 7251-52, para. 19. In disallowing outreach costs in 2013, the Commission expected that the development of a national outreach program would replace the handling of outreach by VRS and IP Relay 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) (*2013 VRS Reform Order*).

¹⁶ *2016 TRS Rate Order*, 31 FCC Rcd at 7251-52, para. 19; *see also 2017 TRS Rate Order*, 32 FCC Rcd at 5145-46, paras. 11-13.

¹⁷ *2016 TRS Rate Order*, 31 FCC Rcd at 7251-52, para. 19; *see also 2017 TRS Rate Order*, 32 FCC Rcd at 5145-46, paras. 11-13.

¹⁸ *2017 TRS Rate Order*, 32 FCC Rcd at 5145, para. 11.

¹⁹ 47 CFR § 1.3.

²⁰ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²¹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

²² *Northeast Cellular*, 897 F.2d at 1166.

²³ *See 2016 TRS Rate Order*, 31 FCC Rcd at 7250, 7251-52, paras. 14, 18-19. Individuals who are deaf-blind access IP Relay using specialized equipment and assistive devices, which are available through the National Deaf-Blind Equipment Distribution Program. *See generally 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) (*2016 NDBEDP R&O*).

²⁴ These reports were a condition of the outreach waiver granted to Sprint. *2017 TRS Rate Order*, 32 FCC Rcd at 5146, para. 13.

who are deaf-blind.²⁵ For example, in its quarterly reports, Sprint notes that it brought in a contractor to support Sprint's National DeafBlind Outreach Manager, attended and made presentations at numerous deaf-blind community events across the United States, made informational material available in accessible formats, and collected feedback from the deaf-blind community.²⁶ We find that these outreach efforts and the additional efforts proposed by Sprint, including the hiring of a second outreach manager, are reasonable and are tailored to the needs of consumers who are deaf-blind.²⁷

11. As was true for Fund Years 2016-17 and 2017-18, 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 2018-19, conditional on the same requirement to file quarterly reports on its service improvements and outreach expenditures focused on the deaf-blind community.³⁰

12. *IP Relay Compensation Rate.* In its initial comments on the 2018 TRS Rate Filing, Sprint proposed a rate of \$1.37 (\$.01 higher than the rate recommended by Rolka Loubé), asserting such a rate was needed to fully compensate Sprint for costs associated with outreach to individuals who are deaf-blind.³¹ On June 19, 2018, Sprint filed an amendment to its waiver request and supplement to its comments to request an additional \$0.06 per minute in the IP Relay compensation rate for a rate of \$1.43 per minute, which it states is needed to extend its outreach efforts to the deaf-blind community.³² In its amended filing, Sprint details its upcoming plans and anticipated costs for outreach to the deaf-blind community, including the hiring of an additional full-time employee to support national outreach.³³ Sprint asserts that this new employee will perform outreach in the Eastern half of the United States and

²⁵ 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 Loubé, TRS Fund Administrator (filed Aug. 1, 2017, Dec. 1, 2017, and Mar. 1, 2018) (confidential) (each with an attachment entitled "Sprint IP Relay, Service Improvements & Outreach Activities, Quarterly Report").

²⁶ See Sprint IP Relay, Service Improvements & Outreach Activities, Quarterly Report at 1-4 (Mar. 1, 2018).

²⁷ See Amendment to Limited Waiver Request and Supplement to Comments of Sprint, CGDocket Nos. 03-123 and 10-51, at 3 (filed June 19, 2018) (Sprint Amendment and Supplement). We also conclude that they will not duplicate activities of the National Outreach Program or of the NDBEDP Outreach Coordinator in Fund Year 2018-19.

²⁸ 2016 TRS Rate Order, 31 FCC Rcd at 7250, para. 14.

²⁹ 2017 TRS Rate Order, 32 FCC Rcd at 5146, para. 13. Further, Sprint's quarterly reports indicate that Sprint's outreach to the deaf-blind community is focused primarily on education about IP Relay, rather than Sprint's specific service or brand. Sprint's position as a sole IP Relay provider increases the likelihood that this will continue to be the case and reduces any concern that provider-directed outreach expenditures in the IP Relay context will duplicate outreach efforts of other providers. See 2013 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 Fund Year 2019-20, and the Commission has not acted in the interim to amend the rate or rate methodology for IP Relay, Sprint must file a timely request for waiver containing detailed supporting information.

³¹ Sprint Comments at 3 (filed May 29, 2018). Sprint incorporates the information and data submitted in its waiver request as support for the proposed \$1.37 rate. *Id.* at 3, n.10; see also Sprint Waiver Request at 4-5, Attach. at 1.

³² Sprint Amendment and Supplement at 1-3.

³³ *Id.* at 3-4, Attach. at 1 (confidential).

allow Sprint to attend more local and national events, distribute more informational materials, and provide additional support for the IP Relay registration process.³⁴

13. We find Sprint's plans for continuing outreach to individuals who are deaf-blind to be reasonable. We further find that Sprint reasonably estimates the total costs it will incur for deaf-blind outreach for Fund Year 2018-19. However, some of the deaf-blind outreach costs identified by Sprint in its supporting information are already reflected in the compensation rates approved in the prior two years.³⁵ Of the \$.13 in deaf-blind outreach costs identified in Sprint's revised waiver request,³⁶ we find that only approximately \$.065 represents new costs not previously accounted for in the compensation rate.³⁷ Therefore, we conclude that Sprint's additional deaf-blind outreach costs support an increase of \$.065 above the current rate, to an IP Relay compensation rate of \$1.40 per minute.

D. Compensation Rates for VRS

14. In the *VRS Rate Order*, the Commission adopted a four-year provider compensation plan for VRS, effective from July 1, 2017, through June 30, 2021.³⁸ For VRS providers with more than 500,000 monthly minutes, the applicable per-minute VRS compensation rates for the period from July 1, 2018, through June 30, 2019 are: \$4.82 per completed conversation minute for a provider's first 1,000,000 monthly minutes (Tier I); \$3.97 per completed conversation minute for a provider's monthly minutes between 1,000,001 and 2,500,000 (Tier II); and \$2.83 per completed conversation minute for a provider's monthly minutes exceeding 2,500,000 (Tier III).³⁹ For VRS providers with 500,000 or fewer monthly minutes, the applicable per-minute VRS compensation rate for the period from July 1, 2018, through June 30, 2019, is \$5.29 per completed conversation minute (Emergent Tier).⁴⁰ As the Commission adopted these rates in the *VRS Rate Order*, they are not subject to modification in this Order.

³⁴ *Id.* at 3. Sprint also suggests the Commission give consideration to a new rate and rate structure for IP Relay to ensure sufficient compensation for Sprint and its continuation as the sole provider of IP Relay. Sprint Comments at 3-4; *see also* Consumer Groups Reply Comments at 6 (filed June 8, 2018) (urging the Commission to reform the IP Relay rate methodology). Modification of the rate methodology adopted by the Commission is beyond the scope of this Order. However, Sprint or another potential IP Relay provider may petition the Commission to adopt an alternative rate methodology.

³⁵ *See 2016 TRS Rate Order*, 31 FCC Rcd at 7248-52, paras. 9-20; *2017 TRS Rate Order*, 32 FCC Rcd at 5145-46, paras. 11-13.

³⁶ *See* Sprint Amendment and Supplement at 4-5; *see also* Sprint Waiver Request at 5 & n.12.

³⁷ The *2016 TRS Rate Order* added \$.0878 to the proposed 2016-17 IP Relay base rate of \$1.2122, raising the rate to \$1.30 to cover both service improvements and outreach for the benefit of individuals who are deaf-blind. *See 2016 TRS Rate Order*, 31 FCC Rcd at 7248, para. 9; *id.* at 7250, 7251-52 (noting Sprint's proposed additional expenditures, including the hiring of dedicated outreach personnel). The *2017 TRS Rate Order* raised the compensation rate an additional \$0.35 to \$1.335 for 2017-18, to cover additional service improvement and outreach costs. *2017 TRS Rate Order*, 32 FCC Rcd at 5146, para. 13. Only a small fraction of these costs were incurred in calendar year 2016; therefore, we do not find the difference in outreach costs between calendar years 2016 and 2018, cited by Rolka Loube in the 2018 TRS Rate Filing (at 27-28), to be significant for the purpose of compensation rate setting. Of the \$.07468 in outreach costs described in Sprint's initial waiver request, Sprint Waiver Request at 5 & n.12, only approximately \$.01 was not already reflected in prior rate increases. By contrast, none of the additional \$.05532 (\$.13-\$.07468) requested in Sprint's amended request, Sprint Amendment and Supplement at 5, appears to have been reflected in prior rate increases. Accordingly, a rate increase of approximately \$.065 (\$.01 + \$.05532 = \$.06532) is justified.

³⁸ *2017 VRS Rate Order*, 32 FCC Rcd at 5891, para. 1.

³⁹ *Id.* at 5918-24, paras. 52-63.

⁴⁰ *Id.* at 5916-17, para. 49-50.

E. The Carrier Contribution Factor and Funding Requirement

15. Rolka Loube initially proposed a funding requirement of \$1,622,023,716 and a contribution factor of 0.03034 for the 2017-18 Fund Year.⁴¹ In a revised filing, which reflects updated information on the funding requirement and contribution factor, conforming with the interim rate for IP CTS adopted by the Commission in the *IP CTS Modernization and Reform Order*, Rolka Loube revised its proposal to specify a total funding requirement of \$1,497,474,134 and a carrier contribution factor of 0.02801.⁴² 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 2018-19 Fund Year requirement.⁴³ 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.⁴⁴

16. For traditional TRS, STS, and CTS, Rolka Loube projected demand using recent historical data, an approach that historically has provided reasonably accurate results for these services.⁴⁵ For VRS, IP Relay, and IP CTS, Rolka Loube relied on the providers' demand projections for 2018-19, an approach that in recent years has generally provided reasonably accurate results for VRS and IP Relay.⁴⁶ Rolka Loube considers the consolidated industry demand projections for IP CTS to be reasonably valid but notes that past projections have been consistently lower than reported actual monthly demand.⁴⁷ Given the steps recently taken by the Commission to reduce unnecessary use of IP CTS⁴⁸ and the inclusion of a two-month payment reserve in the TRS Fund budget,⁴⁹ we find that Rolka Loube's TRS demand projections are reasonable for budgeting purposes.

17. We adopt Rolka Loube's proposed funding requirements for relay services that use the MARS methodology—traditional TRS, STS, and CTS (\$13,892,433) and for VRS (\$495,022,778). For IP CTS, we adopt Rolka Loube's revised funding proposal of \$891,947,147, which reflects the interim rates adopted in the *IP CTS Modernization and Reform Order*. For IP Relay, we adjust Rolka Loube's proposed funding requirement to reflect the rate adopted herein. The new funding requirement for IP Relay is \$8,056,260. This brings the total funding requirement for payments to TRS providers to \$1,408,918,617.

18. 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),⁵⁰ \$8,650,000 for TRS research, \$2,000,000 for the Internet-based TRS National

⁴¹ 2018 TRS Rate Filing at 41.

⁴² Revised Budget Exhibit.

⁴³ *See id.* Some commenters have raised concerns about the increase in the funding requirement and contribution factor. *See* USTelecom Reply Comments at 2-4 (filed June 8, 2018); Consumer Groups Reply Comments at 3-4. In a separate rulemaking, the Commission has sought comments on changes to funding for IP CTS, which would affect the TRS funding requirement and contribution factor. *IP CTS Modernization and Reform Order* at 48-53, paras. 101-10. These comments will be included in the record of that rulemaking.

⁴⁴ 2018 TRS Rate Filing at 7.

⁴⁵ *Id.* at 33.

⁴⁶ *Id.*

⁴⁷ *Id.* at 33-34.

⁴⁸ *IP CTS Modernization and Reform Order* at 24-28, paras. 38-47.

⁴⁹ *See infra* para. 20.

⁵⁰ 2018 TRS Rate Filing at 37; Revised Budget Exhibit. 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

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Outreach Program, and \$1,600,000 for implementation of the TRS User Registration Database (TRS-URD).⁵¹ Rolka Loube further estimates the following additional expenses: TRS numbering directory administration expenses of \$1,005,000; TRS Fund administrator compensation of \$2,400,000; revenue data collection agent expenses of \$88,800; the Interstate TRS Advisory Council expenses of \$50,000; investment management expenses of \$190,000; service provider audit expenses of \$1,000,000; expenses of \$250,000 for compliance with the Improper Payments Elimination and Recovery Improvement Act of 2012; bankruptcy representation expenses of \$50,000; and independent TRS Fund audit expenses of \$65,000.⁵² No comments were received regarding the recommended inclusion of any of the costs listed in this paragraph. We find the recommended amounts for each category of expenses to be fair estimates based on reasonable projections of costs for the contracts and activities described.

19. Rolka Loube also recommended a two-month payment reserve totaling \$234,788,000.⁵³ We find that a two-month reserve, which has been in place for the past four Fund Years,⁵⁴ is reasonable and not excessive. As explained above, Fund revenue requirements are determined based on projections of demand. While these projections have generally proven to be fairly accurate, the recommended reserve is a reasonable precautionary measure to guard against the possibility of unanticipated demand for TRS that can unexpectedly increase the need for Fund payments in the course of a Fund Year.⁵⁵ 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.⁵⁶ To reflect the adjusted IP Relay funding requirement, we adjust the payment reserve to \$234,820,000.

20. 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.⁵⁷ We therefore adopt a funding requirement of \$1,497,699,377 and a carrier contribution factor of .02801 for the 2018-19 Fund Year.

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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. *2016 NDBEDP R&O*, 31 FCC Rcd at 9178, para. 1.

⁵¹ Revised Budget Exhibit; *see also VRS Rate Order*, 32 FCC Rcd at 5916-17, para. 49-50 (directing the TRS Fund administrator to include in annual estimates of TRS Fund administrative costs submitted for the Commission's approval an appropriate amount for Commission-directed research and development). In TRS budgets for prior years, TRS research, outreach, and TRS-URD implementation were collectively described as VRS Reform Implementation. *See, e.g., 2017 TRS Rate Filing at 47* (proposing \$9,600,000 for VRS Reform Implementation).

⁵² 2018 TRS Rate Filing at 36-39; Revised Budget Exhibit.

⁵³ 2018 TRS Rate Filing at 40; Revised Budget Exhibit.

⁵⁴ *See 2017 TRS Rate Order*, 32 FCC Rcd at 5148-49, para. 21; *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); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 29 FCC Rcd 8044, 8053, para. 23 (CGB 2014).

⁵⁵ *See 2018 TRS Rate Filing at 34-35* (cautioning that for IP CTS, the compiled industry demand forecast, while reasonably valid, has been consistently lower than reported actual monthly demand); *see also Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703, 707, n.20 (2013) (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).

⁵⁶ *See 47 CFR § 64.604(c)(5)(iii)(B)*; 2018 TRS Rate Filing at 40-41.

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

III. PROCEDURAL MATTERS

21. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY), or 844-432-2275 (videophone).

IV. ORDERING CLAUSES

22. 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.

23. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate traditional TRS, for the period from July 1, 2018, through June 30, 2019, at the rate of \$3.2592 per completed interstate conversation minute.

24. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate STS, for the period from July 1, 2018, through June 30, 2019, at the rate of \$4.3902 per completed interstate conversation minute.

25. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate CTS, for the period from July 1, 2018, through June 30, 2019, at the rate of \$2.0007 per completed conversation minute.

26. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP CTS, for the period from July 1, 2018, through June 30, 2019, at the rate of \$1.75 per completed conversation minute.

27. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP Relay service for the period from July 1, 2018, through June 30, 2019, at the rate of \$1.40 per completed conversation minute.

28. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of VRS with more than 500,000 monthly minutes for the period from July 1, 2018, through June 30, 2019, at the following rates: \$4.82 per completed conversation minute for a provider's first 1,000,000 monthly minutes (Tier I); \$3.97 per completed conversation minute for a provider's monthly minutes between 1,000,001 and 2,500,000 (Tier II); and \$2.83 per completed conversation minute for a provider's monthly minutes exceeding 2,500,000 (Tier III).

29. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of VRS with 500,000 or fewer monthly minutes for the period from July 1, 2018, through June 30, 2019, at the rate of \$5.29 per completed conversation minute (Emergent Tier).

30. IT IS FURTHER ORDERED that the Interstate TRS Fund revenue requirement shall be \$1,497,699,377 and the Interstate TRS Fund carrier contribution factor shall be .02801.

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

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre, Chief
Consumer and Governmental Affairs Bureau