



# PUBLIC NOTICE

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## ROLKA LOUBE ASSOCIATES SUBMITS PAYMENT FORMULAS AND FUNDING REQUIREMENTS FOR THE INTERSTATE TELECOMMUNICATIONS RELAY SERVICES FUND FOR THE 2021-2022 FUND YEAR

### CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON T-MOBILE'S REQUEST FOR IP RELAY COMPENSATION WAIVERS

CG Docket No. 03-123

Comments Due: May 25, 2021

Reply Comments Due: June 4, 2021

The Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (Commission) seeks comment on the Interstate Telecommunications Relay Services Fund (TRS Fund or Fund) administrator's proposed provider compensation formulas, funding requirements, and carrier contribution factors for the period from July 1, 2021, through June 30, 2022 (2021-22 Fund Year), for TRS compensated by the Fund.<sup>1</sup> We also seek comment on a related waiver request filed by T-Mobile USA, Inc. (T-Mobile), on behalf of Sprint Communications Company L.P. (T-Mobile Accessibility) regarding compensation for Internet Protocol Relay Service (IP Relay).<sup>2</sup>

#### TRS Using MARS Plan Methodology

Rolka Loube Associates LLC (Rolka Loube), the TRS Fund administrator, proposes per-minute compensation formulas for services subject to the Multi-state Average Rate Structure (MARS) plan methodology,<sup>3</sup> as follows: \$4.1944 for interstate traditional TRS;<sup>4</sup> \$5.3254 for interstate speech-to-

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<sup>1</sup> 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 3, 2021, 2021), <https://ecfsapi.fcc.gov/file/10503519213438/2021%20TRS%20Fund%20Annual%20Report.pdf> (2021 TRS Report); *see also* 47 CFR § 64.604(c)(5)(iii)(H).

<sup>2</sup> T-Mobile, Request for Interim Waivers, CG Docket Nos. 03-123 and RM-11820 (filed May 3, 2021), <https://ecfsapi.fcc.gov/file/1050310600939/IP%20Relay%20Waiver%20Request%20-%202021%20FINAL.pdf> (T-Mobile Waiver Request).

<sup>3</sup> Under the MARS plan methodology, interstate TRS Fund compensation formulas for relay services provided through state TRS programs are calculated based on a weighted average of the per-minute intrastate compensation 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*, CG Docket No. 03-123, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20151-58, paras. 16-37 (2007) (2007 TRS Compensation Methodology Order).

<sup>4</sup> 2021 TRS Report at 12-14. The current compensation level for interstate traditional TRS is \$3.7526 per minute.

speech relay service (STS);<sup>5</sup> and \$2.3662 for interstate captioned telephone service (CTS).<sup>6</sup> We seek comment on whether these proposed formulas correctly apply the MARS methodology.

### IP Relay

IP Relay compensation is subject to a price-cap-like methodology with a three-year compensation cycle.<sup>7</sup> A base compensation level is reset every three years, and compensation formulas for the second and third years of the cycle are determined by multiplying the base compensation level by a factor that reflects an increase due to inflation, offset by a decrease due to efficiencies.<sup>8</sup> The current IP Relay cycle began in 2019 and ends June 30, 2022.<sup>9</sup> In 2019, the Commission set a base compensation level of \$1.67 per minute and set the efficiency factor equal to the inflation factor, which would produce no net change in the compensation formula for the second and third years of the cycle.<sup>10</sup> In 2020, however, to take account of an unforeseen increase in provider costs, the compensation level was adjusted upward to \$1.7146 per minute for the 2020-21 Fund Year.<sup>11</sup>

The current compensation includes allowances for the recovery of certain costs incurred for outreach, both to the deafblind community and the larger TRS community, pursuant to waivers of the Commission's rule disallowing TRS Fund support of provider outreach costs for this service.<sup>12</sup> As the sole provider of IP Relay, T-Mobile has requested renewal of these outreach waivers for the 2021-22 Fund Year.<sup>13</sup> T-Mobile also requests waiver of the Commission's rule disallowing TRS Fund support of indirect overhead costs allocated to TRS by a provider that offers both TRS and non-TRS services.<sup>14</sup>

Rolka Loube recommends that the Commission continue to permit recovery of an allowance for outreach activities and an operating margin, both of which are included in the current compensation

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<sup>5</sup> *Id.* at 12-14. Consistent with the *2007 TRS Compensation Methodology Order*, Rolka Loube's proposed interstate STS formula consists of the interstate traditional TRS compensation level of \$4.1944 per minute plus an additional per-minute amount of \$1.131 for STS outreach. *See 2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20156, 20165, paras. 34, 57. The current STS compensation level is \$4.8836 per minute.

<sup>6</sup> 2021 TRS Report at 14. The current compensation level for interstate CTS is \$2.3153 per minute.

<sup>7</sup> *Id.* at 17; *see also 2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20159-60, paras. 43-46.

<sup>8</sup> *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20160-61, paras. 43-44. Exogenous costs may also be recovered. *Id.*

<sup>9</sup> *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, 34 FCC Rcd 5171, 5174-76, paras. 8-10 (CGB 2019) (*2019 TRS Compensation Order*).

<sup>10</sup> *Id.* at 5175, para. 10 n.24.

<sup>11</sup> *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, 35 FCC Rcd 6649, 6656-57, para. 19 (2020) (*2020 TRS Compensation Order*).

<sup>12</sup> *2019 TRS Compensation Order*, 34 FCC Rcd at 5178-80, paras. 16-19 (renewing outreach waivers for the 2019-20 Fund Year); *2020 TRS Compensation Order*, 35 FCC Rcd at 5178-80, paras. 16-20 (renewing outreach waivers for the 2020-21 Fund Year); *see also 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, 28 FCC Rcd 8618, 8696, para. 192 (2013) (adopting the rule disallowing TRS Fund support of IP Relay outreach costs).

<sup>13</sup> T-Mobile Waiver Request at 3-6.

<sup>14</sup> *Id.* at 6-8.

formula.<sup>15</sup> Rolka Loube also recommends retaining the current compensation level of \$1.7146 per minute “due to the uncertainty associated with the impact of Covid-19 on demand and cost.”<sup>16</sup> We seek comment on Rolka Loube’s recommendations.

#### VRS and IP CTS

The Commission is currently considering adoption of a notice of proposed rulemaking and order addressing VRS compensation after June 30, 2021.<sup>17</sup> Further, compensation for IP CTS for the 2021-22 Fund Year was set by the Commission in the *2020 IP CTS Reform Order*.<sup>18</sup> Therefore, Rolka Loube has not made recommendations regarding VRS and IP CTS compensation.

#### Funding Requirement and Contribution Factors

Comment is also invited on Rolka Loube’s specific demand projections and funding requirements for the various relay services supported by the Fund.<sup>19</sup> For example, in estimating demand for the purpose of recommending revenue requirements and contribution factors, Rolka Loube adds 10% to IP CTS and VRS providers’ current demand projections, to take account of continuing uncertainty regarding the duration of the pandemic and its effect on demand.<sup>20</sup>

We also seek comment on Rolka Loube’s estimates and recommendations for disbursements under the National Deaf-Blind Equipment Distribution Program (\$10,000,000) and funding to cover administration costs (\$22,000,000), including allowances for VRS reform implementation, database administration, Fund administration, data collection agent costs, the Interstate TRS Fund Advisory Council, service provider audits, bankruptcy representation, an independent financial audit of the Fund, the development and implementation of an improper-payments audit plan approved by the Office of Management and Budget, and user identity verification costs.<sup>21</sup> In addition, we seek comment on Rolka Loube’s recommendation, consistent with the practice in the past few years, to include a two-month payment reserve, totaling \$249,727,153, in the overall funding requirement for the coming year.<sup>22</sup>

Based on the current VRS compensation formulas established by the Commission,<sup>23</sup> the \$1.30 per-minute compensation level for IP CTS,<sup>24</sup> the recommended compensation formulas for other services,

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<sup>15</sup> 2021 TRS Report at 19; *see also* 2019 TRS Compensation Order, 34 FCC Rcd at 5176, paras. 11-12 (applying an operating margin of 12.35%).

<sup>16</sup> 2021 TRS Report at 19. Rolka Loube notes that if compensation for 2021-22 were calculated based on an average of historical 2020 and projected 2021 costs, the resulting compensation level would be \$1.7098 per minute. *Id.*

<sup>17</sup> *See* <https://www.fcc.gov/document/strengthening-support-video-relay-service>; <https://docs.fcc.gov/public/attachments/DOC-372024A1.pdf> (Apr. 29, 2021).

<sup>18</sup> *Misuse of Internet Protocol (IP) Captioned Telephone Service; 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. 13-24, 03-123, and 10-51, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 35 FCC Rcd 10866, 10870-71, paras. 10-12 (2020) (*2020 IP CTS Reform Order*).

<sup>19</sup> 2021 TRS Report at 23-25 & Exh. 2.

<sup>20</sup> *Id.* at 23-24.

<sup>21</sup> *Id.* at 25.

<sup>22</sup> *Id.* at 26-27 & Exh. 2.

<sup>23</sup> Those formulas are: for emergent providers, \$5.29 per minute; for Tier I (1<sup>st</sup> 1 million monthly minutes), \$4.82 per minute; for Tier II (next 1.5 million monthly minutes), \$3.97; for Tier III (monthly minutes over 2.5 million), \$2.63. *2017 VRS Compensation Order*, 32 FCC Rcd at 5935, Appx. A. The order currently under consideration by the Commission would extend the expiration date of the current VRS compensation formulas through December 31, 2021, or the effective date of Commission action adopting a VRS compensation rate, whichever is earlier. *See*

(continued....)

funding for the National Deaf-Blind Equipment Distribution Program, projected Fund administration expenses, and a budgetary reserve, Rolka Loube proposes a Fund revenue requirement of \$1,324,674,049 for the 2021-22 Fund Year.<sup>25</sup> For support of non-IP CTS TRS, Rolka Loube calculates a carrier contribution factor of 0.01330, to be applied to contributors' interstate end-user revenues. For support of IP CTS, pursuant to the rule providing that TRS Fund contributions supporting IP CTS are based on contributors' interstate and intrastate end-user revenues,<sup>26</sup> Rolka Loube calculates a carrier contribution factor of 0.00830.<sup>27</sup> CGB seeks comment on the proposed funding requirement and carrier contribution factors.

*Filing Requirements.* Interested parties may file comments on the 2021 TRS Report on or before the date indicated on the first page of this document.<sup>28</sup> All filings must reference CG Docket No. 03-123. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).<sup>29</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>.
- Paper Filers:
  - Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
  - 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.
  - Currently, the Commission does not accept any hand delivered or messenger delivered filings as a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. In the event that the Commission announces the lifting of COVID-19 restrictions, a filing window will be opened at the Commission's office located at 9050 Junction Drive, Annapolis Junction, Maryland 20701.<sup>30</sup>
  - 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.

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<https://docs.fcc.gov/public/attachments/DOC-372024A1.pdf> (Apr. 29, 2021). For the purpose of calculating a funding requirement and contribution factor, Rolka Loube has assumed the current VRS compensation formulas will remain in effect throughout the 2021-22 Fund Year. 2021 TRS Report at 24.

<sup>24</sup> 2020 IP CTS Reform Order, 35 FCC Rcd at 10870-71, paras. 10-12.

<sup>25</sup> 2021 TRS Report at 27 & Exh. 2.

<sup>26</sup> See 47 CFR § 64.604(c)(5)(iii)(A); *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order, 34 FCC Rcd 11265 (2019).

<sup>27</sup> 2021 TRS Report at 27 & Exh. 2. Rolka Loube may update its recommended Fund requirement and contribution factors based on updated information, e.g., on changes to the TRS Fund contribution base. *Id.* at 10.

<sup>28</sup> See 47 CFR §§ 1.1, 1.45, 1.49.

<sup>29</sup> *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

<sup>30</sup> See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020).

- U.S. Postal Service first-class, Express, and Priority mail may be addressed to 45 L Street, NE, Washington, DC 20554.
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

*Ex Parte Requirements.* The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>31</sup> 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 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 rule 1.1206(b). In proceedings governed by rule 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.

*Accessible Materials.* 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](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

For further information, please contact Michael Scott at (202) 418-1264 or by e-mail at [Michael.Scott@fcc.gov](mailto:Michael.Scott@fcc.gov), William Wallace at (202) 418-2716 or by e-mail at [William.Wallace@fcc.gov](mailto:William.Wallace@fcc.gov), or Halie Peacher at (202) 418-0514 or by e-mail at [Halie.Peacher@fcc.gov](mailto:Halie.Peacher@fcc.gov).

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<sup>31</sup> 47 CFR §§ 1.1200 *et seq.*