



PUBLIC NOTICE

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DA 19-407

Released: May 13, 2019

ROLKA LOUBE ASSOCIATES SUBMITS PAYMENT FORMULAS AND FUNDING REQUIREMENT FOR THE INTERSTATE TELECOMMUNICATIONS RELAY SERVICES FUND FOR THE 2019-2020 FUND YEAR

CG Docket Nos. 10-51 and 03-123

Comments: May 28, 2019

Reply Comments: June 7, 2019

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, 2019, through June 30, 2020 (2019-20 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: \$3.1107 for interstate traditional TRS;³ \$4.2417 for interstate speech-to-speech relay service (STS);⁴ and \$2.2795 for interstate captioned telephone service (CTS).⁵ We seek comment on whether these proposed rates correctly apply the MARS methodology.

IP CTS

In the *2018 IP CTS Reform Order*, the Commission adopted interim compensation rates of \$1.75 per minute for the 2018-19 Fund Year and \$1.58 per minute for the 2019-20 Fund Year, while seeking

¹ See Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 10-51 and 03-123 (filed May 1, 2019) (2019 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) or Internet Protocol Captioned Telephone Service (IP CTS).

² Under the MARS Plan methodology, certain interstate TRS compensation rates 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, 20151-58, paras. 16-37 (2007) (*2007 TRS Rate Methodology Order*).

³ 2019 TRS Rate Filing at 17. The current compensation rate for interstate traditional TRS is \$3.2592 per minute.

⁴ *Id.* Consistent with the *2007 TRS Rate Methodology Order*, Rolka Loube's proposed interstate STS rate consists of the interstate traditional TRS rate of \$3.1107 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 20156, 20165, paras. 34, 57. The current STS compensation rate is \$4.3902 per minute.

⁵ 2019 TRS Rate Filing at 18. The current compensation rate for interstate CTS is \$2.0007 per minute.

additional data and comment on how to set compensation rates for subsequent years.⁶ Therefore, we do not seek comment on the IP CTS compensation rate for the 2019-20 Fund Year.

IP Relay

The IP Relay compensation rate is subject to a price cap methodology.⁷ This formula takes a base rate, which is reset every three years, and multiplies it by a factor that reflects an increase due to inflation, offset by a decrease due to efficiencies, and adds exogenous costs.⁸ The current three-year cycle ends on June 30, 2019.⁹ The current compensation rate for IP Relay is \$1.40. This rate includes an allowance for the recovery of certain costs incurred for outreach to the deaf-blind community.¹⁰ In 2013, the Commission disallowed compensation for VRS and IP Relay outreach.¹¹ In 2016, the Bureau granted a limited waiver of this ruling to permit compensation for IP Relay outreach to the deaf-blind community. Initially applicable to the 2016-17 Fund Year, this waiver was extended for the 2017-18 and 2018-19 Fund Years.¹²

For the 2019-20 Fund Year, Rolka Loubé recommends an IP Relay compensation rate of \$1.6334 per minute, which includes an allowance for the recovery of certain costs incurred for outreach to the deaf-blind community. This would also serve as the new base rate for the next three-year price cap cycle. Because inflation is projected to remain at a relatively low level for the next several years, and because of the difficulties related to projecting the efficiency factor, Rolka Loubé recommends that the Commission continue its practice of setting the efficiency factor equal to the inflation factor (resulting in a combined adjustment factor of zero).¹³ Rolka Loubé also recommends providing an allowance for the recovery of certain costs incurred for outreach to the deaf-blind community, and recommends allowing Sprint a 10% operating margin, in lieu of the 13.25% return on investment previously allowed.¹⁴ We seek comment on Rolka Loubé's recommendation.

Sprint has separately petitioned the Commission for interim waivers of the Commission's rules to the extent necessary to permit Sprint to (1) be compensated for specified costs incurred for outreach—

⁶ *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, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, 33 FCC Rcd 5800, 5808-09, para. 16 (2018) (*2018 IP CTS Reform Order*), petitions for reconsideration pending.

⁷ 2019 TRS Rate Filing at 25; see also *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20159-60, paras. 43-46.

⁸ *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20160-61, paras. 43-44.

⁹ *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, Order, 31 FCC Rcd 7246, 7252, para. 20 (CGB 2016) (*2016 TRS Rate Order*).

¹⁰ *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, Order, 33 FCC Rcd 6300, 6305, para. 13 (CGB 2018) (*2018 TRS Rate Order*).

¹¹ 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*, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8634-39, 8696, paras. 31-39, 192 (2013).

¹² *2016 TRS Rate Order*, 31 FCC Rcd at 7251, para. 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*, Order, 32 FCC Rcd 5142, 5146, para. 13 (CGB 2017) (*2017 TRS Rate Order*); *2018 TRS Rate Order* 33 FCC Rcd at 6304, para. 11.

¹³ 2019 TRS Rate Filing at 25.

¹⁴ *Id.*

both to the deaf-blind community and to others—indirect overhead, and research and development, and (2) receive a reasonable operating margin.¹⁵ CGB released a Public Notice seeking comment on this petition on March 28, 2019.¹⁶

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 the 2020-21 Fund Year.¹⁷ Therefore, we do not seek comment on the VRS compensation rate levels for the 2019-20 Fund Year. The rates established by the Commission for the 2019-20 Fund Year for each rate tier are as follows:¹⁸

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)	\$2.63

Funding Requirement and Contribution Factor

Based on the compensation rates established by the Commission for VRS and IP CTS, the recommended compensation rates for other services, the projected Fund administration expenses, and the recommended reserve, the 2019 TRS Rate Filing proposes a Fund revenue requirement of \$1,413,754,532 and a carrier contribution factor of 0.02779 for the period from July 1, 2019, through June 30, 2020.¹⁹ CGB seeks comment on the proposed funding requirement and carrier contribution factor. Commenters should be aware that the recommendation in the 2019 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.²⁰

Comment is also invited on Rolka Loube's specific demand projections and funding requirements for the various relay services supported by the Fund, and for VRS and IP CTS in particular, for the 2019-

¹⁵ See Request for Interim Waivers, CG Docket Nos. 10-51 and 03-123 (filed Mar. 21, 2019), <https://ecfsapi.fcc.gov/file/10321798025208/Request%20for%20Waiver%20-%20REDACTED%20plus%20attachment.pdf>; Supplement to Request for Interim Waivers, CG Docket Nos. 10-51 and 03-123 (filed Apr. 9, 2019), <https://ecfsapi.fcc.gov/file/10409989730840/Sprint%20IP%20Relay%20Waiver%20Supplement%20-%20REDACTED%20-%202004.09.2019%20AS-FILED.pdf>.

¹⁶ *Consumer and Governmental Affairs Bureau Seeks Comment on Request by Sprint Corporation for Interim Waivers Regarding the Compensation Rate for Internet Protocol Relay Service*, Public Notice, DA 19-223, (CGB Mar. 28, 2019).

¹⁷ *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*).

¹⁸ *Id.* at 5922-23, paras. 60-63.

¹⁹ 2019 TRS Rate Filing at 6-7, Exh. 2.

²⁰ *Id.* at 12.

20 Fund Year. For VRS, the proposed funding requirement is approximately \$482 million,²¹ based on projected demand of 136,453,475 minutes. For IP CTS, the proposed funding requirement is approximately \$913 million,²² based on projected demand of 568,474,075 minutes.²³

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.²⁴ 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 \$245,855,450, in the funding requirement for the coming year.²⁵

Interested parties may file comments on or before the date indicated on the first page of this document. All filings must reference CG Docket Nos. 10-51 and 03-123. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).²⁶

- Electronic Filers: Comments 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 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*

²¹ *Id.* at Exh. 2.

²² *Id.*

²³ *Id.* at 32.

²⁴ *Id.* at 33-36.

²⁵ *Id.* at 37-38, Exh. 2.

²⁶ *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

²⁷ 47 CFR §§ 1.1200 *et seq.*

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.

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) or (202) 418-0432 (TTY).

For further information, please contact Michael Scott at (202) 418-1264 or by e-mail at Michael.Scott@fcc.gov or Eliot Greenwald at (202) 418-2235 or by e-mail at Eliot.Greenwald@fcc.gov.

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