February 28, 2019

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24; *Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

Dear Ms. Dortch:

The undersigned IP CTS providers ("Joint Providers") request that the Federal Communications Commission (the "Commission") revisit its prior directive to reduce the compensation rate for IP CTS to $1.58 per minute for the period from July 1, 2019 to June 30, 2020 (the "2019-2020 Fund Year"). To avoid substantial harm, the Commission should retain the interim $1.75 per minute rate for at least the 2019-2020 Fund Year.

As set forth herein, the record demonstrates that arbitrarily reducing the rate by an additional 10 percent, on top of a previous 10 percent rate cut in 2018, risks driving down IP CTS service quality; preventing further investment in new and innovative IP CTS products and services; and possibly triggering market exit for at least some providers, thereby reducing consumer choice. Indeed, it is not only IP CTS providers who have urged the Commission not to implement this harmful additional rate cut; the TRS Fund Administrator's Interstate Telecommunications Relay Services Fund Advisory Council ("Advisory Council") also has urged the Commission to forego this reduction, describing it as "unrealistic" and "not desirable."[1]

The Joint Providers thus urge the Commission to act as quickly as possible and use one of the many procedural vehicles available in these dockets to retain the current interim $1.75 compensation rate through at least June 30, 2020.[2]

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[1] Letter from David W. Rolka, Administrator, TRS Fund to Marlene Dortch, Secretary, FCC, CG Docket Nos. 03-123, 13-24, at 4 (Dec. 4, 2018) ("*Advisory Council Comments*").

[2] Because the Commission's recent actions and pending proposals in the above-referenced dockets—*e.g.*, integration of IP CTS into the User Registration Database (the "URD" or "Database"); adoption of service quality metrics, testing procedures, and requirements; and imposition of new eligibility requirements—could impose substantial costs on IP CTS providers, the current rate likely would need to be revisited for the 2020-2021 Fund Year if the Commission does not adopt a reasonable, permanent rate-setting methodology. *See In re Misuse of Internet Protocol (IP) Captioned Telephone Service*, Report and Order, Further Notice of Proposed Rulemaking, and Order, CG Docket Nos. 03-123, 13-24, FCC 19-

I. The 2019-2020 Interim Rate Lacks Any Foundation in the Record, Which Actually Shows That the Rate Could Cause Substantial Harm to IP CTS Providers and Users.

In its June 2018 *Report and Order*, the Commission reduced the IP CTS compensation rate "in two steps of approximately 10 percent each": first, to $1.75 per minute for the 2018-2019 Fund Year from July 1, 2018 to June 30, 2019; and, second, to $1.58 per minute for the 2019-2020 Fund Year, from July 1, 2019 to June 30, 2020.[3] The Commission based the initial $1.75 per-minute rate on certain cost data that had been submitted to the TRS Fund Administrator.[4] The Commission suggested the additional 10 percent rate reduction for the 2019-2020 Fund Year would create a "glide path" toward a cost-based rate that would purportedly avoid market "disruption," noting that this approach was "comparable to analogous reductions made in the VRS context."[5]

The Commission's reasoning regarding the rate reduction for the 2019-2020 Fund Year was deeply flawed from the outset, and the record abundantly establishes that the rate reduction will cause substantial harm to IP CTS providers and users.

First, the 2019-2020 Fund Year compensation rate of $1.58 per minute is the result of arbitrary and capricious decision making, as Hamilton and CaptionCall previously have demonstrated. Even prior to the adoption of the *Report and Order*, Hamilton urged the Commission not to adopt the 10 percent rate reduction, describing it as "arbitrary" and lacking any support in the then-existing record.[6] CaptionCall, too, pointed out that the Commission's application of a 10 percent reduction to the initial rate of $1.75 per minute would not be "based on *anything* in the record specific to IP CTS," and that the Commission could not rely on its previous application of a similar reduction to the VRS rate without identifying *some* salient "feature shared by the two services that would justify importing" that reduction to IP CTS.[7] Yet

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11 (rel. Feb. 15, 2019) (requiring integration of IP CTS into URD) ("*URD Order*"); *In re Misuse of Internet Protocol (IP) Captioned Telephone Service*, Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, 33 FCC Rcd 5800, 5816 ¶ 26 (2018) ("*Report and Order*"), *petition for recon. pending.*

[3] *Id.* at 5816 ¶ 26.

[4] *Id.* at 5808-10, 5813-14 ¶¶ 16, 18, 23; *see also In re Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 03-123, 10-51, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate (May 4, 2018).

[5] *Report and Order*, 33 FCC Rcd at 5814-15 ¶ 24.

[6] Letter from David O'Connor, Counsel to Hamilton Relay, Inc. to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24, 03-123, at 3-4 (May 24, 2018) ("*Hamilton 5-24-18 Ex Parte*").

[7] Letter from Rebekah P. Goodheart, Counsel to CaptionCall, LLC to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24, 03-123, at 3 (May 29, 2018) ("*CaptionCall 5-29-18 Ex Parte*"); *see also* Comments of CaptionCall, LLC, CG Docket Nos. 13-24, 03-123, at 67-68 (Sept. 17, 2018) ("*CaptionCall Comments*"); Comments of CaptionCall, LLC on Sprint Corporation's Petition for Clarification and

in the *Report and Order* the Commission failed to address these persuasive, well-founded objections.

Second, the 2019-2020 Fund Year rate is also the result of arbitrary and capricious decision making because the Commission did not fully consider the second-year rate in the context of the other issues raised in the ongoing rulemaking regarding the IP CTS program, as Sprint, Hamilton, CaptionCall, and MezmoCorp/InnoCaption have made clear.[8] The Commission has compounded this error by moving forward to integrate IP CTS into the URD without adjusting the rate to account for the costs associated with this decision.[9] As the Commission has admitted, implementing the URD will impose significant upfront and ongoing compliance costs for providers;[10] these costs will have a material effect on what the per-minute compensation rate should be during the 2019-2020 Fund Year.[11] Establishing an interim rate that was purportedly based on providers' costs, without considering whether it would be adequate to cover several new significant categories of provider costs, failed basic principles of reasoned decision making.[12]

Reconsideration, CG Docket Nos. 13-24, 03-123, at 15-16 (Sept. 7, 2018) ("*CaptionCall Sprint PFR Comments*").

[8] *See* Sprint Corporation, Petition for Reconsideration, CG Docket Nos. 13-24, 03-123, at 2-3 (July 27, 2018) ("*Sprint Rates PFR*") (explaining that the Commission failed to fully consider important arguments regarding the true costs of providing IP CTS and relied on a "stale, incomplete record"); *see also id.* at 3-4 (explaining that the Commission should have examined rates in a "holistic fashion" given the "ongoing comprehensive rulemaking proceeding"); Comments of Hamilton Relay, Inc., CG Docket Nos. 13-24, 03-123, at 3 (Sept. 7, 2018) ("*Hamilton Rates Comments*") ("[T]he Commission should have waited to establish . . . [the] interim rates, until receiving comment on the important questions raised in the *Further Notice/NOI* . . . ."); *accord* Letter from Cristina O. Duarte, Director of Regulatory Affairs, MezmoCorp to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24, 03-123, at 7-8 (May 30, 2018) (explaining that Commission lacked sufficient information about market to establish interim rates through June 2020); *see also CaptionCall Comments* at 53-54.

[9] *See URD Order* ¶¶ 13-32.

[10] *See id.* ¶ 25 (estimating total costs of $16-21 million over a three year period).

[11] *See* Letter from Rebekah P. Goodheart, Counsel to CaptionCall, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24, 03-123, at 6 (Feb. 7, 2019); *see also* Letter from Tamar E. Finn, Danielle Burt, and Stephany Fan, Counsel to ClearCaptions, LLC to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24, 03-123, at 2 (Jan. 30, 2019) (noting that costs to submit user registration data "are expected to be significant").

[12] *See Sorenson Commc'ns, Inc. v. FCC*, 755 F.3d 702, 708 (D.C. Cir. 2014) (declining to rely on predictive judgment where there was no satisfactory explanation for its action). *See generally Motor Veh. Mfr's Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). The fact that the *URD Order* permits providers to recover URD integration costs as exogenous costs does not change the analysis for several reasons. First, the standard for exogenous cost recovery requires a provider to demonstrate that the costs, "if unrecovered[,] may cause a provider's current allowable-expense-plus-operating margin to exceed its IP CTS revenues." *URD Order* ¶ 26. But imposing compliance costs that are not accounted

Third, the record confirms that the rate reduction is very likely to reduce the quality of IP CTS service significantly, and thereby deprive individuals with hearing loss (including people who are older and military veterans) of access to functionally equivalent communications as mandated by the Americans with Disabilities Act of 1990.[13] As Sprint noted in its Petition for Reconsideration, $1.58 per minute "will not compensate providers for the costs they incur to maintain *current* service quality levels."[14] Hamilton similarly has cautioned that the "additional rate cut to $1.58 per minute . . . likely would adversely affect quality and availability of service."[15] The Advisory Council agrees that the $1.58 per minute rate could cause providers to "[r]educe the quality of service to mandatory minimum standards, which . . . would not constitute the quality standards of the functional equivalence of a hearing person[']s] calls."[16] And under Commission and D.C. Circuit precedent, the Commission's "primary objective" in setting rates must be to ensure that individuals with disabilities have access to effective communications by telephone.[17]

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for in the 2019-2020 Fund Year rate could cause significant harm by forcing providers to make cuts that harm service quality or halt investment even if their allowable-expenses-plus-operating margin do not exceed their revenues. *See infra* at 4-5. Second and relatedly, the exogenous cost recovery standard takes into account only "allowable[] expenses," but the Joint Providers and the Advisory Council have demonstrated that this is an artificially low line, because such expenses do not include necessary cost categories. *See* Reply Comments of CaptionCall, LLC, CG Docket Nos. 13-24, 03-123, at 19-20 (Oct. 16, 2018); Comments of Hamilton Relay, Inc., CG Docket Nos. 13-24, 03-123, at 13-15 (Sept. 17, 2018); Comments of Sprint Corp., CG Docket Nos. 13-24, 03-123, at 18-19 (Sept. 17, 2018); *accord Advisory Council Comments* at 3-4. Third, the recovery mechanism requires providers to incur substantial costs in the first instance—without any guarantee that they will ultimately be recovered—creating regulatory uncertainty that could chill investment or trigger market exit. Fourth, forcing providers to seek recovery of exogenous costs will increase administrative burdens on providers, the Fund Administrator, and the Commission: Providers will have to develop, and Rolka Loube and the Commission will have to evaluate, reasonably detailed materials for each provider, including through possible appeals processes. *See URD Order* ¶ 26 n.82. These inefficient administrative costs could be largely or wholly avoided by granting the relief requested herein. And finally, providing *ex post* relief cannot cure the Administrative Procedure Act violation that is inherent to the $1.58 per minute rate.

[13] *See* 47 U.S.C. § 225(a)(3), (b)(1).

[14] *Sprint Rates PFR* at 12 (emphasis added).

[15] *Hamilton 5-24-18 Ex Parte* at 4; *see also Hamilton Rates Comments* at 4 ("[I]nsofar as quality service is costly to provide, a reduction in the reimbursement rate may increase pressure to reduce service quality in order to cut costs."); *accord* Reply Comment by MezmoCorp (DBA InnoCaption), CG Docket Nos. 13-24, 03-123, at 2 (Oct. 16, 2018) ("*InnoCaption Reply Comments*") (noting broad "agreement on the record that the second year interim rate of $1.58 is incredibly problematic" and would "increase the likelihood that some providers will be forced to reduce the quality of services").

[16] *Advisory Council Comments* at 4.

[17] *See Sorenson Commc'ns, LLC v. FCC*, 897 F.3d 214, 227-28 (D.C. Cir. 2018); *Report and Order*, 33 FCC Rcd at 5868 ¶ 155.

Fourth and relatedly, the record shows that the second-year rate reduction likely will prevent some IP CTS providers from developing new and innovative IP CTS offerings like improved mobile services. Sprint, for example, has explained that the 2019-2020 Fund Year rate "plainly will discourage innovation by undermining providers' incentives and abilities to reinvest in IP CTS" offerings and improvements.[18] CaptionCall has similarly explained that the arbitrary nature of the 10 percent rate reduction "could create perverse incentives" for providers "*not* to explore greater use of new technologies, *not* to continue to adapt IP CTS to mobile services, and *not* to innovate in other ways that require upfront allocation of resources even if they could result in significant long-term efficiencies."[19] For these reasons, the 2019-2020 Fund Year rate reduction is inconsistent with the Commission's statutory obligation to avoid discouraging or impairing "the development of improved technology."[20]

Fifth, substantial evidence supports the conclusion that reducing the IP CTS rate to $1.58 per minute for the 2019-2020 Fund Year threatens competition and risks triggering market exit by at least some IP CTS providers. Based on its review of cost data, the Advisory Council concluded that the $1.58 per minute rate could cause providers to "[e]xit the market" because this rate is "below" providers' costs for the year, including a margin of 10 percent, but before considering certain cost categories that were excluded from the buildup of the $1.58 rate.[21]

The Joint Providers agree with the Advisory Council's prediction. Sprint has explained that the $1.58 rate will "create[] conditions that are likely to cause providers to exit the IP CTS

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[18] *See Sprint Rates PFR* at 13. These effects are not merely conjectural; they are already occurring. InnoCaption has documented that, based on its projected cashflow under the lower interim rate, it already has "had to suspend its plans to expand the staff and to grow operations" and instead "continues to operate with the same number of employees despite the increasing demand for the service." Comments by MezmoCorp (DBA InnoCaption), CG Docket Nos. 13-24, 03-123, at 2 (Sept. 17, 2018). ClearCaptions, too, has warned that under the interim rates, it "may lose financial support." Letter from Paul C. Besozzi and Peter Bean, Counsel to ClearCaptions, LLC to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123, 13-24, Attachment 1, at 3 (May 31, 2018).

[19] *CaptionCall Sprint PFR Comments* at 16-17; *see also CaptionCall 5-29-18 Ex Parte* at 3-4 (describing that reduced interim rates do not reflect "any consideration of . . . providers' incentives to develop new or improved technology, including continued adaption of IP CTS to mobile services").

[20] 47 U.S.C. § 225(d)(2); *see also id.* § 157(a). To the extent the 2019-2020 Fund Year rate causes IP CTS providers to under-invest in mobile IP CTS offerings, it also would contravene the Commission's mandate to make functionally equivalent communications by telephone available to individuals with hearing loss. *See* 47 U.S.C. § 225(a)(3), (b)(1). Since 2017, a majority of U.S. households have been mobile only, as individuals without hearing loss increasingly take advantage of improved mobile services. *See, e.g.*, Alina Selyukh, *The Daredevils Without Landlines – And Why Health Experts Are Tracking Them*, NPR, All Tech Considered (May 4, 2017), https://www.npr.org/sections/alltechconsidered/2015/12/03/458225197/the-daredevils-without-landlines-and-why-health-experts-are-tracking-them. Individuals with hearing loss are entitled to the same benefits that mobile connectivity enables.

[21] *Advisory Council Comments* at 4.

service marketplace,"[22] and Hamilton has predicted that the rate could create "serious market disruption."[23] As noted, InnoCaption has already been forced to change its business plans because of the planned rate reduction, and has warned that without relief "some providers" might be forced to "exit the market entirely."[24] Notably, providers made these predictions *before* the Commission moved forward with integrating IP CTS into the URD, which will expose providers to additional substantial costs during the 2019-2020 Fund Year.[25]

Consumer choice in the IP CTS market is important to achieving the Commission's broader statutory objectives. The Consumer Groups representing IP CTS users have explained that the Commission must "take into consideration the need to ensure competition and allow providers to enter and stay in the business of providing IP CTS, which is to say, the rates should not be so low that providers are no longer able to stay in the marketplace."[26] Additionally, the Commission's Disability Advisory Committee has stated that the Commission "must strive to maintain a healthy marketplace that allows for multiple IP CTS competitors," because "[m]arketplace pressures . . . will continue to incent providers to deliver high quality services."[27] As Hamilton notes, the Commission itself has stated that competition is a critical driver of service quality in TRS programs.[28]

II. The Commission Has Multiple Procedural Options for Granting the Joint Providers' Request to Keep the Current Rate of $1.75 Per Minute Through at Least June 30, 2020.

The relief that the Joint Providers are requesting is limited. The instant question is not whether the Commission should adopt a market-based or allowed-cost-based permanent rate-setting methodology, or what costs should be allowable on a permanent basis. Instead, the instant question is merely the appropriate compensation rate during the remainder of the interim period, as the Commission evaluates different rate-setting methodologies. The Commission's

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[22] *Sprint Rates PFR* at 16.

[23] *Hamilton 5-24-18 Ex Parte* at 4.

[24] *InnoCaption Reply Comments* at 2.

[25] *See supra* notes 9-12 and accompanying text.

[26] Letter from Hearing Loss Association of America; Telecommunications for the Deaf and Hard of Hearing, Inc.; and Deaf/Hard of Hearing Technology RERC, Gallaudet University, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123, 13-24, at 1 (Nov. 14, 2017); *see also* Comments of Hearing Loss Association of America et al., CG Docket Nos. 03-123, 13-24, at 6-7 (Nov. 4, 2013) (urging the Commission to adopt the "best possible . . . rate per minute" to create incentives for providers "to upgrade their offerings over time").

[27] FCC Disability Advisory Committee, Recommendation of the FCC Disability Advisory Committee – IP CTS Quality Standards 1 (Sept. 22, 2016), https://docs.fcc.gov/public/attachments/DOC-341497A1.pdf.

[28] *Hamilton Rates Comments* at 4.

Report and Order directed that the rate for the 2019-2020 Fund Year should be $1.58 per minute, but the Commission can and should revisit this decision and preserve the current rate of $1.75 per minute until at least June 30, 2020. The Commission has multiple procedural mechanisms to do so.

For example, the Commission could grant in part Sprint's pending Petition for Reconsideration. As Sprint has explained, the requirements for reconsideration "plainly have been fulfilled in these circumstances," because the Commission failed to fully consider important arguments regarding the harms that could result from the second-year interim rate and the going-forward costs of providing IP CTS.[29] Granting the petition is also appropriate because the Commission failed to offer a reasoned basis for its 2019-2020 Fund Year interim rate,[30] as explained above. And reconsideration is likewise appropriate because allowing the rate reduction to $1.58 per minute will harm the public interest,[31] for the reasons identified above.

The Commission also could grant, on its own motion, a blanket waiver of the 2019-2020 Fund Year rate.[32] The Commission has previously found good cause for an industry-wide waiver where, for instance, providers' compliance costs were likely to be much greater than initially expected, and the public interest was served by updating the record on this issue.[33] The same logic applies here, where the 2019-2020 Fund Year rate of $1.58 will not adequately cover providers' costs—especially if the Commission adopts any of the new requirements under consideration. Further, there is evidence already on the record demonstrating that a blanket waiver would be appropriate.[34]

The Commission provided similar relief to VRS providers under analogous circumstances. In 2010, the Commission adopted interim compensation rates for VRS that were sufficient to ensure that VRS providers would recover their reasonable costs from the TRS Fund and would continue to provide quality service as the Commission considered reforms to the practices and structures of the VRS Program.[35] Subsequently, when the Commission initiated a broader rulemaking for the VRS program, it waived its requirement for VRS payment formulas

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[29] *Sprint Rates PFR* at 2 & n.7.

[30] *See id.* at 2-3 & n.7 (citing *Amendment of Section 73.3555(e) of the Commission's Rules*, Order on Reconsideration, 32 FCC Rcd 3390, 3397-98 ¶ 17 (2017)).

[31] 47 C.F.R. § 1.429(b)(3).

[32] *See* 47 C.F.R. § 1.3; *see also In re Connect America Fund*, Notice of Proposed Rulemaking and Order, 32 FCC Rcd 4509, 4514-15 ¶¶ 14-16 (2017) (adopting order, on own motion, modifying previous waiver and extending rate floor to protect vulnerable consumers in rural areas).

[33] *See In re Temporary Waiver of Section 25.281(B) Transmitter Identification Requirements for Video Uplink Transmissions*, Order, 31 FCC Rcd 1752, 1753 ¶¶ 5-7 (IB 2016).

[34] *See Advisory Council Comments* at 4.

[35] *See In re Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 25 FCC Rcd 8689, 8690 ¶ 2 (2010).

and revenue requirements, finding that it would be more efficient and less disruptive to "extend the existing interim rates while . . . evaluat[ing] . . . the issues and the substantial record developed in response to th[e] proceeding."[36]

While there is no need to wait, for the reasons identified above, the Commission also could grant the requested relief following the TRS Administrator's publication of the Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimates for the 2019-2020 Fund Year. Consistent with past practice, the Consumer and Governmental Affairs Bureau will request comment on the TRS Administrator's analysis for IP CTS.[37] And the Commission thus will develop a record allowing it to freeze the compensation rate at $1.75 per minute through at least June 30, 2020.

Finally, because the Commission adopted the URD for IP CTS, it alternatively may consider this filing to be a petition for leave to supplement Sprint's Petition for Reconsideration.[38] As set forth herein, the facts and circumstances relevant to the Commission's second-year interim rate have materially changed.[39] Specifically, the Commission established its two-step rate reduction to be a glide path toward a cost-based rate, and the $1.58 per-minute rate is purportedly intended to encompass providers' allowable submitted costs. But the Commission's imposition of URD requirements on providers will materially increase providers' costs, including during the 2019-2020 Fund Year, and the exogenous cost adjustment mechanism does not adequately address this issue.[40] Given that the proposal to integrate IP CTS into the URD is more than five years old, and was adopted abruptly by the Commission with little notice, the Commission's decision to impose such costs beginning this year could not have been learned of "through the exercise of ordinary diligence."[41] And here too, granting leave to supplement Sprint's Petition is in the public interest, for the reasons identified above.[42]

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[36] *See In re Structure and Practices of the Video Relay Service Program*, Further Notice of Proposed Rulemaking, 26 FCC Rcd 17367, 17374 ¶ 9 (2011); *see also In re Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 26 FCC Rcd 9972, 9972-73 ¶ 1 (2011) (extending interim rates "until further notice" to allow "the Commission [to] complete[] its examination of VRS rates and compensation" as part of its broader rulemaking).

[37] *See, e.g.*, *Rolka Loube Associates Submits Payment Formulas and Funding Requirements for the Interstate Telecommunications Relay Services Fund for the 2018-2019 Fund Year*, Public Notice, 33 FCC Rcd 4871 (2018); *see also Report and Order*, 33 FCC Rcd at 5861 ¶ 26 n.90 (describing that CGB issues public notices requesting comment on Rolka Loube proposed rates "[i]n accordance with . . . normal procedures").

[38] *See* 47 C.F.R. § 1.429(d).

[39] *See id.* § 1.429(b)(1).

[40] *See* discussion *supra* at n.12.

[41] *See* 47 C.F.R. § 1.429(b)(2).

[42] *See id.* § 1.429(b)(3).

III. Conclusion

The Joint Providers urge the Commission to reverse its prior direction establishing an IP CTS compensation rate of $1.58 per minute for the 2019-2020 Fund Year. This rate was established by arbitrarily applying a 10 percent reduction to the 2018-2019 Fund Year rate—a rate that was itself derived from an arbitrary 10 percent rate cut, without any basis in the record for doing so. The $1.58 rate also fails to represent reasoned decision making because it is based on a stale record and because the Commission failed to consider service quality issues and providers' full costs during the 2019-2020 Fund Year. The second-year interim rate is also bad policy, and risks compromising service quality levels, inhibiting investment in new IP CTS offerings, and risking provider exit and reduced consumer choice—all to the detriment of IP CTS users. The Commission should therefore extend the current interim rate of $1.75 per minute through at least June 30, 2020.

Respectfully submitted,

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