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

Interstate Telecommunications Relay Services Fund

Payment Formula and Fund Size Estimate

Rolka Loube Associates LLC
4423 North Front Street
Harrisburg, PA 17110
April 30, 2018

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Payment Formula and Fund Size Estimate
Interstate Telecommunications Relay Services (TRS) Fund
For July 2018 through June 2019

I. Introduction

Rolka Loube Associates LLC (RL), as Interstate Telecommunications Relay Services (TRS) Fund Administrator (the Administrator), herein submits proposed compensation rates, demand projections, projected fund size and proposed carrier contribution factor for the period July 2018 through June 2019, in accordance with section 64.604 of the Federal Communications Commission's (FCC or Commission) rules.[1]

[1] 47 C.F.R. §64.604 (c)(5)(iii)(H).

In accordance with the Commission 2007 *Cost Recovery Order*, [2] the Administrator has used the Multi-state Average Rate Structure (MARS) methodology, based on the weighted average of competitively bid state rates, to propose compensation rates for interstate traditional TRS, interstate Speech-to-Speech (STS), interstate Captioned Telephone Service (CTS), and Internet Protocol Captioned Telephone Service (IP CTS).[3]

The IP Relay compensation rate is subject to a price cap methodology. The 2016-17 Fund Year was the base year for the current three-year price cap cycle ending with the Fund year 2018-2019. The current reimbursement rate is $1.335 per minute[4].

The Commission currently sets the IP CTS compensation rate based on the same MARS plan methodology used for the interstate CTS compensation rate, i.e., based on the weighted average of the per-minute compensation rates paid by state TRS programs to providers of intrastate CTS for the prior calendar year.[5] In the 2017 TRS Rate Filing, RL analyzed eight options for determining the reimbursement of IP CTS minutes. The Commission found that because of its open rulemaking on IP CTS compensation methodology, it would be premature to select one of the recommendations. As of the date of this filing, the Commission has not yet adopted a decision in the IP CTS rulemaking regarding a change in compensation methodology for this service. Therefore, this filing will continue to apply the MARS methodology to determine the reimbursement rate, the Fund requirements and the contribution factor, but will once again supplement the record

[2] 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 (2007) (Cost Recovery Order)

[3] Currently, Internet Protocol services and Video services are only offered as interstate services.

[4] See: DA 17-642, Rel. June 30, 2017.

[5] 2007 TRS Compensation Methodology Order, 22 FCC Rcd at 20149-50, 20153-58, paras. 16, 26-38.

regarding IP CTS costs and advance recommendations that recognize the discrepancies between the MARS based CTS and IP CTS services and propose new and alternative rates and structures for IP CTS.

Per the Report and Order and Order[6] the Commission determined that maintaining a tiered Video Relay Service (VRS) rate structure for the next four years was the best alternative structure under consideration, and indicated that the VRS compensation rate structure would be revisited as necessary, in light of future developments.

The Commission adopted a proposal to add an emergent rate to the tiered rate structure, effective from July 1, 2017 through June 30, 2021, applicable solely to providers that have no more than 500,000 total monthly minutes as of July 1, 2017. In order to maintain incentives for growth and avoid subjecting emergent providers to a sudden drop in the rate applicable to all their minutes when they reach 500,000 minutes, the Commission determined that providers who are initially subject to the emergent rate and who then generate monthly minutes exceeding 500,000 minutes per month continue to be compensated at the otherwise applicable emergent rate (rather than the Tier I rate) for their first 500,000 monthly minutes, until the end of the four year rate plan, i.e. until June 30, 2021. Such providers shall be compensated at the otherwise applicable Tier I rate for monthly minutes between 500,000 and 1 million. The emergent provider rate adopted by the Commission is $5.29 per minute for each of the four years of the plan.

The Commission expanded the then existing tier boundaries as follows. Tier I was expanded to 1,000,000 minutes, in order to ensure that the “emergent” providers,

[6] See: FCC 17-86 Rel. July 6, 2017.

including any new entrants, as they grow large enough to leave the “emergent” category, will be subject to a rate that reflects their size and likely cost structure. Tier I, which also applies to the first 1,000,000 minutes of each larger provider, allows the Commission to set a rate that is high enough to ensure that each provider is able to cover its relatively fixed, and variable costs.

Tier II, which applies to the minutes of all providers in excess of the 1,000,000 minutes threshold up to the 2,500,000 minutes ceiling, enabled the Commission to set a rate that is appropriately lower than the Tier I rate, but higher than the rate for Tier III. Only to the largest provider will be subject to the Tier III rate. That provider’s per-minute costs are far lower than any other provider’s costs. The Tier II rate is set low enough to ensure that providers with more than 1,000,000 minutes are not compensated far in excess of their allowable costs, but high enough to ensure that such providers have an incentive to continue providing additional minutes of service. By increasing the upper boundaries of Tier I and Tier II, the Commission limited the risk of eroding a provider’s incentive to continue growing its monthly minutes as they approach a tier boundary. The lower Tier III rate, in turn, will appropriately approach the marginal cost for the largest, lowest-cost provider.

The Commission further concluded with respect to the frequency of making rate adjustments that there was a lack of support for continuing the six month adjustments previously implemented and adopted the administratively simpler approach of having rate adjustments occur annually over the next four-year rate period ending June 30, 2021.

The Administrator projects a net fund cash requirement for Fund Year 2018-2019 of $1,622,023,716.

Calendar year 2017 interstate and international end user revenues estimated by the Data Collection Agent ("DCA") were still being gathered and compiled from reporting entities when this recommendation was prepared for submission. The revenue estimate contains placeholders for reports which are not deemed late until after the due date for this Annual Report. We recommend that the Commission use the current best available 499A information from the DCA to calculate the contribution factor when it becomes available. Our current recommendation has been calculated using the latest information available at the time of this submission. The best available estimated annual 2017 revenues are $53,467,309,359, which is approximately 7.5% below the level used for the current program year. The contribution factor for the 2018-2019 Fund year, derived from the ratio of estimated fund size to prior calendar year revenues, is proposed to be 0.03034[7]. Upon approval by the Commission, the Fund Administrator will begin billing carriers for the 2018 – 2019 funding period in July 2018.

[7] The 2017-2018 revenue requirements were $1,317,452,029 and the corresponding contribution factor was 0.02285. The recommendation for 2018-2019 is a revenue increase of $304,757,819 and a contribution factor increase of 0.00749.

II. Interstate TRS Fund Overview

The Interstate TRS Fund (TRS Fund) is designed to compensate eligible relay service providers[8] for the reasonable costs of furnishing "[t]elephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communications by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communications services by wire or radio."[9]

Services that are currently compensated from the TRS Fund include interstate traditional TRS, interstate captioned telephone service (CTS), interstate speech-to-speech (STS), video relay service (VRS), Internet Protocol (IP) Relay service, and Internet Protocol Captioned Telephone Service (IP CTS). The Administrator reimburses providers at compensation rates computed by the Administrator in accordance with Commission rules, and approved or modified by the Commission. In 2007 the Commission's *Cost Recovery Order* adopted methodologies for establishing the reimbursement rates for the various relay services.[10] In June 2008 the Commission also

[8] Eligible providers are defined as (1) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to 47 C.F.R. §64.604; or (2) TRS facilities owned by or operated under contract with a common carrier providing interstate services pursuant to 47 C.F.R. §64.604; or (3) interstate common carriers offering TRS pursuant to 47 C.F.R. §64.604; or (4) Video Relay Service (VRS) and Internet Protocol (IP) Relay providers certified by the Commission pursuant to 47 C.F.R.§ 64.606.

[9] 47 C.F.R. 64.601(21) Definition of Telecommunications Relay Services.

[10] The methodologies included price caps for IP Relay and a tiered rate structure for VRS. The Commission set IP Relay and VRS rates for a period of 3 years and confirmed that the initial year for the applicability of the rates was the 2007-2008 fund year. The initial three year period for the IP and VRS methodologies sunset as of June 30, 2010. *See Cost Recovery Order* ¶¶ 97, 107-108. In the *2010 Rate Order* the Commission initiated a new 3-year cycle for IP Relay rates and adopted interim, one-year rates for VRS, for effect while the Commission considered broad reform. In the *2013 Rate Order* the Commission initiated another 3-year cycle for IP Relay rates. In the 2013 VRS Reform Order the Commission established new VRS tiers and set rates in six month increments through June 2017. In December 2014 the Commission revised the reimbursement rate applicable to IP Relay service retroactive

authorized providers' reimbursement for costs associated with implementation of 10-digit numbering and E-911 compliance for relay services.[11] In the *2010 Rate Order* the Commission approved the Administrator's proposal to include the costs associated with ongoing maintenance of 10-digit numbering and E-911 compliance for relay services as a per-minute additive to the relay service reimbursement rate base year calculation. The Bureau's Order of June 28, 2010 adopted this methodology for the current and future fund years.[12]

In 2013 the Commission adopted a VRS Reform Order, referenced above, which included provision for the establishment of a VRS User Registration Database (VRS URD). Each VRS service provider is required to register each of their existing users with the database administrator. The database administrator validates the user identity prior to including the user in the VRS URD. RL was chosen by the FCC to develop and administer the registration database. The database was declared to be available for existing user identification as of December 29, 2017[13]. However the VRS URD was not ready to accept registration information for hearing (point-to-point) video users, nor were providers required to identify or register public and enterprise videophones, or users of such devices since those matters were being addressed in a separate proceeding.

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to November 14, 2014 through June 30, 2015 on an emergency interim basis. *See Order* DA 14-1889 Rel. Dec. 29, 2014.

[11] Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123; E911 Requirements for IP-Enabled Service Providers, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) (TRS Numbering Order) at ¶¶ 96-101

[12] 2010 Rate Order at ¶ 25

[13] See Public Notice DA 17-1246 Rel. December 29, 2017; DA 18-196 Rel. February 28, 2018; and DA 18-324 Rel. March 30, 2018.

This Annual report incorporates the costs reported by VRS and IP CTS service providers as part of their incurred costs for calendar years 2016 and 2017 as well as any amounts projected for 2018 and 2019.

The Commission's shared funding mechanism for the TRS Fund ensures that the costs of meeting relay service obligations are borne equitably. Interstate telecommunications common carriers contribute to the TRS Fund on the basis of their relative share of interstate and international end user revenues.[14] The TRS funding period commences on July 1 and ends June 30 of the following calendar year. For the July 2018 to June 2019 fund year, the Administrator will use the carriers' 2017 interstate and international end user revenues[15] as the basis for calculating carriers' contribution obligations. The contribution base has become smaller each year and the reductions to the contribution base are shown in the following table 1. Rolka Loube has anticipated a 7.5% reduction in the contribution base for the program year beginning July 1, 2018 for a contribution base of $53,467 million.

[14] *See* 47 C.F.R. §64.604(c)(5)(iii)(A)-(C). Every carrier providing interstate telecommunications services (including interconnected VoIP service providers pursuant to §64.601(b)) and every provider of non-interconnected VoIP service shall contribute to the TRS Fund on the basis of interstate end-user revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

[15] Revenues are reported on the Telecommunications Reporting Worksheet, FCC Form 499-A, on April 1, 2018, and provided to the Administrator by the Universal Service Administrative Company (USAC), the Revenue Data Collection Agent (DCA). At the time of preparation of this filing the information from the DCA is considered preliminary and updated data will be used for the calculation of carrier contributions.

Table 1 DCA Reported Contribution Base

Program Year beginning	Contribution Base
2004	$ 81,954,191,761
2005	$ 80,666,621,324
2006	$ 80,457,972,602
2007	$ 77,898,078,806
2008	$ 79,428,092,243
2009	$ 78,895,806,171
2010	$ 72,844,997,816
2011	$ 69,450,220,823
2012	$ 67,206,226,973
2013	$ 67,278,109,560
2014	$ 65,234,609,107
2015	$ 64,129,341,109
2016	$ 61,424,575,348
2017	$ 58,034,785,511
2018	$ 53,467,309,359

The Data Collection Agent ("DCA") also provides updates to the data reported by Carriers' throughout the program year to reflect a variety of changed contributor circumstances such as out of business, no telecommunications revenues, bankruptcies, mergers and acquisitions. The contribution base changes from year to year and also changes over the course of the program year. Changes to the contribution base reported to the TRS Administrator by the DCA during the current program year have reduced the available funding level by approximately $5.3 million.[16] This erosion of funding is one of the factors considered when estimating the size of a two month budgetary reserve allowance and is not a specific item included in the net funding requirements.

Carriers report their prior calendar year telecommunications revenues annually on the FCC Form 499-A, Telecommunications Reporting Worksheet, due on April 1, to the

[16] *See* Exhibit 4. ($58,034,785,511 - $57,804,889,527.77)*0.02289 = $5,262,319.06.

Data Collection Agent (DCA). The DCA provides the Interstate TRS Fund Administrator with the carrier revenue information used to calculate the contribution factor and maintains the carrier database for all funds. Revisions to FCC Form 499-A revenue data are provided by the DCA to the TRS Fund and other program managers so that corrections may be made to carrier billing. Revisions may be telecommunications service provider initiated or may be the result of an audit. The first edition of the reported 2017 499A submissions is provided to the TRS Administrator on or about April 25th. Each subsequent month USAC will provide updated information, to include information received from contributors that did not file by April 1st. There are substantial adjustments to the contribution base derived from the first edition of the reported 2017 499A submissions through the first several months of the program year, followed by fewer and smaller adjustments as yearend approaches.[17] The TRS Fund Administrator anticipates submitting an updated contribution factor recommendation to the Commission for consideration in response to the Public Notice regarding this submission.

All Form 499-A filers providing interstate and/or international telecommunications services, with the exception of shared tenant service providers, are required to contribute to the interstate TRS fund. Shared tenant services for example do not contribute to the TRS Fund because it appears that the Third Report and Order in CC Docket No. 90-571 restricted TRS to only "common carriers" and not all carriers. The contribution base is formulated using the sum of 12 months interstate and international end user revenues, less interstate and international revenues from resellers who do not

[17] *See* Exhibit 4 regarding changes reported during the current program year.

contribute to Universal Service (Line 514 - Net TRS Contribution Base Revenues), as submitted via the FCC Form 499A, Telecommunications Reporting Worksheet.

Upon approval of the contribution factor by the Commission, the Administrator will promptly bill carriers for the 2018 – 2019 funding period which begins July 2018. Annual contributions will be due within 28 days after their July invoice date. Carriers whose contributions are $1,200 or more, will have the option to be invoiced in twelve equal monthly installments. Invoices will be due four weeks after the issue date of the monthly invoice. RL has assigned each monthly contributor to one of several monthly invoice cycles and issues approximately one third of the monthly invoices on the first three Fridays of each month. RL expects to begin issuing invoices for the 2018-2019 program year on or about Friday, July 13, 2018, and therefore receipts associated with those invoices will begin to arrive in mid-August. This lag in the receipt of revenues is not currently accounted for because RL issues Invoices on a continuous basis and there has not been a material change in the level of the contribution factor which has an impact on cash flow.

Per minute compensation rates will be effective for minutes of service beginning July 1st, assuming approval of the proposed rates by the Commission. Timely submitted provider requests for reimbursement must be processed within two months[18] following the submission of the request for reimbursement. The Administrator has been able to process reimbursement submissions in less than 30 days. For example, minutes handled by providers in May 2018 are expected to be reported between June 10 and 15, 2018, and providers will then receive compensation for those minutes, at the rates in effect at the

[18] *See* 47 C.F.R. 64.604(C)(5)(iii)(L)

time service was provided, on or about July 6, 2018.[19] This lag between the provision of services and the issuance of payments is reflected in the demand and cash flow projections.

III. TRS Rate Development

MARS

The *Cost Recovery Order* adopted the Multi-state Average Rate Structure (MARS) plan as the basis for calculating the compensation rate for interstate traditional TRS, interstate Speech-to-Speech (STS), interstate Captioned Telephone Service (CTS) and Internet Protocol Captioned Telephone Service (IP CTS).[20] The Administrator will calculate annually one combined MARS rate for interstate TRS and STS based on the weighted average of state rates for TRS and STS and a separate MARS rate for interstate CTS and IP CTS based on the weighted average of state rates for CTS.[21] When the MARS mechanism was adopted, the Commission determined that because there was a lack of data for IP CTS, it would be reimbursed at the same rate as CTS.[22] The TRS Fund Administrator has been requesting and compiling data on IP CTS costs, consistent with the annual provider data requests for IP Relay and VRS services, since 2011. RL has been reporting the provider reported IP CTS weighted average costs to the FCC in the Annual Report in anticipation of a Commission action which would establish a new basis for the calculation of the IP CTS reimbursement rate.

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[19] *See* Exhibit 3 Anticipated Reporting and Disbursement Schedule. The reporting and disbursement schedule is subject to modification based on exogenous circumstances.

[20] Cost Recovery Order at ¶ 16.

[21] *Id.*

[22] See FCC 07-186, para 38.

The Commission identified the steps to be used by the Administrator to determine MARS-based compensation rates.[23] The Administrator must first collect intrastate traditional TRS, STS, and CTS compensation rate data for the prior calendar year. Accordingly, the Administrator requested the following information from each state TRS administrator, and each provider, of interstate traditional TRS, STS and CTS for calendar year 2017 in January 2018, and requested that it be provided no later than the end of February 2018:[24]

a. the per-minute compensation rate for intrastate TRS and STS
b. the per-minute compensation rate for intrastate CTS
c. whether the rate applies to session or conversation minutes
d. the number of intrastate session minutes for TRS and STS
e. the number of intrastate session minutes for CTS
f. the number of intrastate conversation minutes for TRS and STS
g. the number of intrastate conversation minutes for CTS
h. any amounts paid by the state to the provider for relay service during the previous calendar year that are not included in the contractual per-minute compensation rate.

The Administrator must determine whether there are anomalies in any state's data that will necessitate it being excluded from the MARS calculation;[25] calculate each state's total dollars paid for the year for intrastate traditional TRS, STS, and CTS services; and calculate the final rate by dividing the total dollars paid by all states by the total conversation minutes of all states for TRS and STS. The process is repeated for CTS.

A. Traditional TRS and STS Formula Development

[23] 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, FCC 11-104, Rel. June 30, 2011 at ¶¶ 9-18.

[24] The Annual Data Collection Form is included at Appendix A.

[25] For example, if there were no state TRS Fund and the cost of providing Relay services were recovered by the service provider based on each LEC's proportionate share of subscriber lines in the state, MARS like data would not be available and thus, would be excluded from the MARS computation.

From the data collected and follow up discussions with the state contacts, the Administrator found, that Maine, provides all three services under a flat monthly contract rate, and does not have data that can be used for MARS calculation purposes. Eight jurisdictions[26] (up from last year's five states) provide service based on a flat rate for the service rather than on a per-minute rate, due to the small volume of minutes for the services in those jurisdictions. Costs recovered on a flat rate basis are included in the MARS calculation as state additional costs paid to providers. The conversation minutes of flat rate states have been included in the calculation. For the remaining states, the District of Columbia, and Puerto Rico, the Administrator multiplied each jurisdiction's TRS and STS rate by the corresponding number of intrastate session minutes or intrastate conversation minutes, whichever the jurisdiction's rate was based upon.[27] For those states experiencing a mid-year rate change, the calculation was performed for each rate and corresponding service period. The calculation was made for each jurisdiction and the resulting weighted dollar amounts summed to produce a total dollar amount for each service. The Administrator added to the weighted dollar total any additional amounts paid by the states to the relay service provider(s) during the applicable period that were not included in the contractual per-minute compensation rate, but were applicable to the provision of relay service.[28] As a final step, the Administrator divided the resulting total weighted dollar and supplemental payment amount by the total number of intrastate TRS and STS conversation minutes.[29] The results of this calculation can be found in Exhibit

[26] Connecticut, Delaware, Hawaii, Illinois, North Carolina, North Dakota, South Carolina, and Rhode Island .

[27] *Id.* at ¶ 30

[28] *Id.* at ¶ 31

[29] *Id.*

1-1. Exhibit 1-1 displays the array of rates reported by the individual state jurisdictions, in ascending rate order. It does not identify the states in deference to provider requests for confidentiality.

RL requests that the Commission authorize future reports to identify the rates and demand by state, unless the reporting state asserts a claim of confidentiality regarding its compensation rates. Alternatively, RL can be authorized to file a confidential version with the Commission which identifies the respective state rates and demand.

The total dollar amount paid out for intrastate TRS and STS during calendar year 2017, including the amounts paid to relay providers, which was not included in the per-minute compensation rate, amounted to $20,427,063. The total conversation minutes for intrastate TRS and STS for calendar year 2017 were 6,267,585. The proposed compensation rate is developed by dividing the total 2017 intrastate dollar amount by the total 2017 intrastate conversation minutes, resulting in a proposed MARS rate of $3.2592 per conversation minute for interstate traditional TRS for the 2018 – 2019 funding period. The proposed rate is approximately 11.7% above the 2017 – 2018 MARS calculation of $2.9186 per conversation minute.

In the *Cost Recovery Order*, the Commission provided an additional amount of $1.131 to the 2007-2008 interstate STS compensation rate to be used by the providers for outreach efforts.[30] In the ensuing Fund years, the Commission has found it appropriate to continue the outreach additive at the same level.

The Administrator continues to recommend adding the $1.131 to the MARS-based STS rate resulting in a total proposed STS rate of $4.3902 per minute; an increase

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[30] *Id.* at ¶¶ 57, 61

of $0.3406 from the $4.0496 per minute rate for the 2017-2018 Fund year[31]. However, the Administrator notes that the demand for STS continues to be small compared to the other services. It is not clear that the outreach additive, projected to be approximately $186,116 ($1.131 * 164,559 minutes = $186,116) across both service providers when applied to the per-minute rate is having the desired result.

B. CTS

The proposed MARS CTS rate was calculated by following the same steps described above but substituting CTS related data for the TRS and STS data. Data for Maine was excluded because the state compensated its relay providers with a flat rate mechanism that combined TRS, STS, and CTS in 2017. The results of this calculation can be found in Exhibit 1-2. Exhibit 1-2 summarizes the data provided by the individual state jurisdictions. The MARS CTS rate is also used to establish the rate used to compensate providers for IP CTS.[32]

The total dollars for intrastate CTS, including the amounts paid to relay providers not included in the compensation rate, declined 12% from $34,468,287 for calendar year 2016 to $30,277,482 for calendar year 2017. The total conversation minutes for intrastate CTS also declined 26.6% from 20,606,230 for calendar year 2016 to 15,133,253 for calendar year 2017. The total 2017 intrastate dollars divided by 2017 intrastate CTS minutes equals a calculated compensation rate of $2.0007 per conversation minute for interstate CTS and IP CTS for the 2018 – 2019 funding period.

[31] At its April 2018 meeting, the Interstate TRS Advisory Council was informed of the Administrator's intent to recommend that $1.131 per minute of extra funding for speech to speech outreach purposes be maintained.

[32] Cost Recovery Order at ¶ 38.

The proposed MARS CTS rate of $2.0007 represents a modest $0.0540 or approximately 3% increase from the 2017–2018 rate of 1.9467. The associated fund revenue requirement at this reimbursement rate level based on decreasing provider projected demand will be $7,761,061in program year 2018-2019, a decrease of $906,375 from the amount projected for the program year ending June 30, 2018.

C. IP CTS

The MARS order found IP CTS to be a new service, without a cost history, and stated that the Commission believed that the cost recovery rate for CTS will more accurately reflect the reasonable actual costs of providing IP CTS. As a result the Commission directed IP CTS to be compensated at the CTS MARS rate.[33]

To address the lack of cost data history, RL began collecting and reporting IP CTS cost and demand data to the Commission in the Annual Report. The RL 2017 Annual Data Collection form requested historic cost data regarding the provision of IP CTS in calendar years 2016 and 2017 as well as projected costs for 2018 and 2019 based on the cost categories reported by service providers for IP Relay services and for VRS services. The results of analysis of that IP CTS data are found in Exhibit 1-3. Exhibit 1-3 contains information compiled by the Administrator from annual cost data supplied by IP CTS service providers for the annual periods 2011 through and including 2017, as well as the current projected costs for both 2018 and 2019. This Exhibit demonstrates that the MARS rate for IP CTS, with the exception of 2011, the first year of data collection, and 2013, the year in which the Commission proposed limitations on the growth of demand which were overturned by the DC Circuit Court, is consistently well above the reported

[33] See FCC 07-186 para.38.

level of provider reported costs for the period. Based on the number of reported minutes of service, IP CTS has become the most popular TRS service. Due to the continuing growth in demand for IP CTS service and the apparent lack of a correlation between the MARS CTS rate and the reported costs for IP CTS, the Administrator recommends that the Commission finalize a rule modification and establish an alternate mechanism for establishing the reimbursement rate for IP CTS services, with due consideration to the future quality and availability of the service that accounts for more than half of all provider reimbursements.

The MARS CTS rate of $2.0007 represents a $0.0540 or approximately 3% increase from the 2017 – 2018 rate of 1.9467. The associated IP CTS fund revenue requirement at this reimbursement rate level based on provider projected demand will be $998,704,729 for program year 2018-2019 minutes, representing nearly 66% of all projected provider distributions for the year.[34]

Retaining the current MARS rate-making procedure is not recommended because it will provide excessive industry profits. As shown in redacted exhibit 1-3.1, these profits would be approximately $347 million. Moreover, the $2.0007 rate, is above the projected 2018 cost of the highest cost provider. Therefore the rate is allowing all of the providers to earn above the zone of reasonableness which the Commission established for VRS operating margins (7.6% - 12.35%). Because both industry profits and the profits of the highest cost provider are excessive, retaining the current procedure places an unreasonable burden on contributors to the fund.[35]

[34] See Exhibit 2 for projected program year minutes and distributions by TRS Service..

[35] The Tariff year 2017-2018 IP-CTS fund requirements associated with each option is provided in Exhibit 1-3.

In response to an RL request, Sorenson submitted IP CTS costs both with and without a CaptionCall intellectual property cost recovery claim. In the VRS rulemaking proceeding Sorenson claimed that it should be entitled to compensation for the imputed value of its intellectual property used in providing VRS, because such property has a commensurate value to costs incurred by other TRS providers for licensing third-party intellectual property to provide TRS. The Commission found that the argument for recovery of the imputed value of a TRS provider's intellectual property appears to be a way of arguing that providers should be able to gain additional profit for what they have invested in R&D and rejected the claim.[36] The TRS Fund compensates providers for their reasonable expenses actually incurred to provide TRS, and does not compensate them for the imputed value of their own intellectual property. CaptionCall acknowledges that the intellectual property in question was created by CaptionCall itself, and states that it was transferred to an affiliate for safekeeping. Therefore the recommendation in this report will identify parallel licensing fees reportedly charged to CaptionCall by its affiliate as an unreasonable expense of providing IP CTS. The report, however, presents the cost data both with and without intellectual property cost claims.[37] The RL recommendations do not identify a legitimate basis for the fees and excludes those costs from its recommendations for IP CTS.

The providers can be divided into two groups: 1. Providers that directly employ communications assistants (CAs) and 2. Providers that sub-contract all or nearly all of the CA function. For providers that directly employ CAs, those employment costs are shown

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[36] See Report and Order and Order, CG Docket Nos. 10-51 & 03-123, FCC 17-86 Rel. July 6, 2017, paras 20-22.

[37] See Exhibit 1-3.1 and 1-3.1 Redacted.

in the "CA related" row of Exhibit 1-3. For providers that sub-contract the CA function, the CA related costs are reported in the "Other" row of Exhibit 1-3. In general, providers that employ CAs directly have lower costs than the providers that sub-contract the function.

The total industry average cost for IP-CTS service has decreased from $2.0840 in 2011 to $1.2435 in 2017 while the MARS CTS rate increased from $1.7630 to $1.9467 in 2017 over the same period, and will be $2.0007 for 2018-2019. A major factor causing the difference in rates between the services is the very fast growth in the demand for IP-CTS which generates economies of scale for providers and the contrasting decrease in the demand for CTS service with the reverse effect. Approximately 15.1 million of state reported calendar year 2017 CTS conversation minutes are being used to establish the reimbursement rate for 521.3 million minutes of provider projected (July 2018 through June 2019) IP CTS demand. The demand for IP CTS service is approaching 35 times the level of demand for the service used as a proxy to establish its reimbursement rate!

The MARS based rate for IP CTS is $2.007. The average cost based rate for the service, based on provider projected costs for 2018 and 2019, is approximately $1.3223[38]. A 10% reduction, rather than a proxy based increase in the rate, when applied to the 2017-2018 IP CTS rate of $1.9467, produces a rate of $1.75 per minute. That rate is above the reported and projected costs of the highest cost 2018 provider, reporting more than a year of historic data. The 2019 high cost provider includes a large projected increase in CA related costs relative to the other providers. It is also substantially above the provider projected average cost for 2018-2019 of only $1.3214 per minute. When

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[38] See Exhibit 1-3.

changing the mechanism for establishing VRS rates the Commission invoked a phased approach to the movement toward a cost based rate and supplemented the rate with consideration of a range of operating ratios rather than a return on investment. A ten percent reduction from the current rate level is consistent with the phased transition approach taken by the Commission in the VRS ratemaking proceeding while ensuring that the costs of even the highest cost provider are met.

IP-CTS costs can be disaggregated into projected average variable costs of \$0.9564 per minute and projected average fixed costs of \$0.3659 per minute. These amounts sum to the total average provider projected cost per minute for 2018-2019 of \$1.3223. The variable costs are related to the CA function, and the fixed costs include all other costs.[39] Both average variable and average fixed cost per minute have decreased over time. However, the decrease in the average variable costs is related to the relative shift in market share toward low-cost providers that directly employ CAs and away from high-cost providers that sub-contract the CA function. Average fixed costs per minute have decreased for the majority of the providers as the number of minutes served increased.

RL recommends that the Commission consider establishing an interim cost based rate of \$1.75 per minute, pending the outcome of the current rulemaking, and an interim cost based rate for IP-CTS providers using Automated Speech Recognition ("ASR")

[39] Some of the items included in fixed costs may vary with output but that variance is not directly proportional to output. For example, as output increases, facility and investment cost will increase, but that increase occurs in discrete steps and not proportionally with minutes.

technologies of $0.49 per minute. The $0.49 per-minute rate represents the slightly more than the fixed cost portion of a $1.75 rate.[40]

RL also recommends that the Commission establish a rate for an Automated Speech Recognition (ASR) service program, available to ASR certified service providers. At least two entities[41] have requested certification from the FCC as authorized IP CTS service providers using ASR technologies. These entities are claiming substantially lower costs of service due in large part to the lack of CA involvement in the calls. Neither applicant has offered ASR cost of service or ASR demand projections. However, the analysis of provider historic and projected costs and the analysis of fixed and variable costs of certified providers provides a basis on which the Commission could establish an interim rate for an ASR service offering. The Commission has also announced that Mitre Corporation has conducted an assessment of ASR quality metrics and associated usability of Internet Protocol captioned telephone service and filed the results of two phases of its studies.[42] RL recommends that the ASR per minute rate be set at $0.49 ($1.75-$1.26 = 0.49) per minute. Since there are no certified IP CTS providers currently using ASR, and no projected demand data available on which to estimate potential usage of ASR or potential service substitution between CA supported calls, it is premature to determine an impact on the fund revenue requirements or on the contribution factor for Fund Year 2018-2019, and thus no allowance has been made for an authorized ASR service offering

[40] $0.49 = $1.75*(0.3659/1.3223), where $0.3659 is the average fixed cost of IP-CTS service and $1.3223 is the average total cost of IP-CTS service.

[41] See Internet-Based TRS Certification Application by VTCSecure, LLC at CG Docket No. 03-123 and Internet-Based TRS Certification Application by MACHINEGENIUS, Inc. at CG Docket No. 03-123.

[42] See: Public Notice DA 18-359 released April 11, 2018 regarding Mitre Corporation Assessments of quality metrics and associated usability of internet protocol captioned telephone service summaries of Phase 1 activities and Phase 2 results at CG Docket Nos 03-123 and 13-24.

in the budget recommendation. If ASR service were to become available the claim of the applicants suggests that it could save the Fund money, rather than increase the Fund requirements. If the Commission were to authorize ASR service as eligible for reimbursement, RL would closely monitor and report its impact on the Fund and make additional recommendations to the Commission as appropriate. Currently we have no information regarding the extent to which ASR might act as a substitute for existing IP CTS service, or as a supplement to the existing service.

The proposed contribution factor for the TRS Fund program year 2018-2019 does reflect the MARS based rate and does not reflect a cost based rate structure for IP CTS or an ASR interim rate. However, both a cost based IP CTS rate and an ASR rate recommendation are expected to mitigate Fund growth.

D. **IP Relay**

[*Due to the single provider offering this service cost information has been Redacted from this recommendation*.]

In the *Cost Recovery Order*, the Commission concluded that the MARS methodology is not appropriate for IP Relay, because there are no state rates for this service. Although it was believed that the costs of providing traditional TRS and IP Relay are generally similar – in many instances, for example, the same CAs, sitting at the same offices, handle both traditional and IP Relay calls – there was concern that the use of a MARS rate for IP Relay may result in the overcompensation of IP Relay providers.

The Commission adopted a cost recovery methodology for IP Relay based on price caps for a three year period beginning with the effective date of that Order.[43] The

[43] *Id.* at ¶ 109.

Cost Recovery Order price cap plan for IP Relay applies three factors to a base rate – an Inflation Factor, an Efficiency (or "X") Factor, and Exogenous Costs. The basic formula takes a base rate and multiplies if by a factor that reflects an increase due to inflation, offset by a decrease due to efficiencies. As a result the rate for a particular year would be equal to the rate for the previous year, reduced by 0 percent (i.e. Rateyear Y = Rateyear y-1 (1-0.0)).[44]

The initial three year period ended on June 30, 2010 coincident with the end of the 2009-2010 Fund year. The second three year period ended on June 30, 2013, coincident with the end of the 2012-2013 Fund year. Over the course of the next three year cycle the number of service providers declined until Sprint became the only remaining service provider. When establishing the compensation rate for the 2014-2015 fund year, CBG reconsidered the rate mechanism on a retroactive basis to reflect the costs of the then two remaining providers (Purple and Sprint) rather than the five providers whose costs were reflected in the MARS submissions for the initial year of the period. The 2014-2015 rate Order set the inflation factor for the cycle at zero[45]. Because the efficiency factor, a factor that accounts for productivity gains, is set equal to the inflation factor, the efficiency factor also was set equal to zero, effectively freezing the rate, if there are no exogenous costs.

The Commission determined in 2013 that IP Relay outreach should be conducted through what is now called the National Outreach Program and that provider-specific outreach costs should no longer be included as compensable costs.[46] A temporary,

[44] Id. at 10.

[45] DA 14-946, Rel. June 30, 2014 paragraphs 11-19.

[46] *VRS Reform Order*, 28 FCC Rcd at 8634-39, 8696, paras. 31-39, 192.

limited waiver of the prohibition on recovery of provider-directed outreach for Fund Year 2016-17 was granted to permit Sprint to recover the costs described in its ex parte filings for outreach activities and dedicated staff specifically targeted at outreach to the deaf-blind community. This waiver was extended through the 2017-2018 Fund year.[47] Sprint, as a condition of the waiver, was required to provide quarterly reports on its service improvements and outreach expenditures focused on the deaf-blind community in each quarter of Fund Year 2016-17 and 2017-2018.

Sprint as the only remaining IP Relay service provider is still required to report historical and projected costs to the Administrator on an annual basis. Reporting on the Sprint cost data at this point will reveal projected information considered to be confidential by Sprint. Additionally the cost based recommendation is usually based on the average of the two projected year's costs.

The three year price cap period ended June 30, 2016. In the 2016 TRS Rate Order the compensation rate was reset to $1.30 as the base rate for a new three-year price cap period.[48] For the 2017-2018 Fund Year, with the efficiency factor set at 0 percent, application of the price cap formula resulted in a proposed rate equal to the $1.30 per minute rate. However, in light of the deaf-blind outreach waiver previously granted, and because projected outreach expenditures had increased by $0.035, the Bureau adopted RL's recommended add-on of $0.035 to cover increased outreach costs, for a total compensation rete of $1.335 for the 2017-2018 Fund Year.

In view of the relatively stable level of IP Relay demand Rolka Loube recommends that the IP Relay continue to include the allowance for outreach activities at

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[47] DA 17-642, para 13.

[48] DA 16-750 Rel/ June 30,2016.

the rate of $0.06 per minute to recognize the difference in outreach between calendar years 2016 and 2018. The Fund requirements and contribution factor recommendation include the recommended rate of $1.36, as well as the provider projected demand.

E. Video Relay Service

On June 10, 2013 the Commission released a Report and Order and Further Notice of Proposed Rulemaking, herein referred to as the "VRS Reform Order" in which the Commission revised the Tier structure and established the VRS compensation rates that were to be used through June 30, 2017, unless otherwise set by further Commission Order.

In 2017, the Commission requested comment on the rate structure that would be in effect after June 30, 2017.[49] The Commission also provided for VRS improvements by authorizing trials of Skills-Based Routing and the use of Deaf-Interpreters, clarified the Speed of Answer requirements, and authorized a Pilot for At-Home VRS call handling. The Commission also initiated an inquiry regarding service quality metrics for VRS. Two service providers were approved for At-Home VRS call handling late in 2017.

The iTRS Advisory Council ('the Council") recommended a four-year annual price changes for tiers I-III rather than the six-month rate decreases proposed in the FNPRM. The Council also recommended that the Emergent rate remain the same over the four-year period and that no subsidiary of a parent VRS provider will be eligible to take advantage of the emergent rate. Specifically, the Council recommended adoption of the four Tiers which were approved by the Commission in the *Report and Order.*

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[49] *Report and Order and Further Notice of Proposed Rulemaking*, CG Docket Nos. 10-51 & 03-123 Adopted June 7, 2013, Rel. June 10, 2013.

Additionally, the Council expressed concerned that, without compensation, the providers will have little interest in voluntarily trialing skills based routing, and recommended that providers be compensated for minutes during the trial at the Emergent rate, conditioned on the providers submitting a plan on how they will ensure that only the minutes associated with the trial be compensated at the higher rate.

The Commission established VRS reimbursement rates and the Tier structure in the Report and Order and Order (*Report and Order*) adopted and released July 6, 2017 at CG Docket No. 10-51 and 03-123 (FCC 17-86). The referenced Report and Order addressed Allowable Cost Categories; Capital Cost Recovery and Operating Margin, Rate Structure, the Tier structure and Tier levels and related compensation matters.

The tiers which became effective in July 2017 are shown in Table 2 below.

Table 2: Reconfigured Rate Tiers for VRS Compensation 2017 – 2021

Tier Numbers	Previous Tier Definition (The range of a provider's monthly VRS minutes to which the Tier is applicable)	New Tier Definition (The range of a provider's monthly VRS minutes to which the Tier is applicable)
Emergent	0-500,000	0-500,000
I	0-500,000	0-1,000,000
II	500,000.1-1 million	1,000,001 – 2,500,000
III		Over 2,500,000

The progressive adjustment of rates for each tier is illustrated in Table 3 below, which shows the rates adopted for Fund years 2017-18, 2018-19, 2019-20, and 2020-21.

Table 3: Rates Adopted for Fund Years 2017-18 through 2020-21

Per FCC 17-86	2017-2018	2018-2019	2019-2020	2020-2021
Emergent service < 500,000 minutes/month	$5.29	$5.29	$5.29	$5.29
Tier I service up to 1,000,000 minutes/month	$4.82	$4.82	$4.82	$4.82
Tier II service over 1 million up to 2,500,000 minutes/month	$3.97	$3.97	$3.97	$3.97
Tier III service over 2,500,000 minutes/month	$3.21	$2.83	$2.63	$2.63

The rates established in the Report and Order are to be applied as scheduled to all VRS providers absent further action by the Commission.

Although the Commission has adopted a four year Tier and Rate plan Video Relay Service providers are required to report historical and projected costs to the Administrator on an annual basis. Following are the results of analyzing the cost data submitted by the Video Relay service providers.

For analysis purposes, the Administrator segregated the provider historical and projected costs into nine distinct categories for review:

- **Facilities**, those expenses associated with land and buildings, etc.;
- **Interpreter Expense**, the costs of the individuals performing the interpretive services;

- **Non-Interpreter Relay Center Expense**, other costs associated with the relay center including supervisory management, telecommunications expense, etc.;
- **Indirect Expense**, finance, human resources, legal expenses, executive compensation, etc.;
- **Depreciation Expense**, annual depreciation on facilities and equipment;
- **Marketing Expense,** the projected costs of advertising the provider's service;
- **Outreach Expense**, the projected costs of notifying consumers of service availability;
- **Other Expenses**, projected expenses not directly associated with one of the other expense categories; and
- **Capital Investment,** the investment in facilities, equipment, furniture, etc. associated with the relay center.

Data submitted by the providers in response to the Administrator's annual data request are shown below. The data is summed across the providers by category and then divided by annual VRS minutes.

Table 4. VRS Service Provider Reported and Projected costs

Category	2016	2017	2018	2019
Facilities	0.2085	0.1914	0.19323	0.1925
CA Related	1.3920	1.3833	1.5218	1.5601
Non-CA Relay Center	0.3338	0.3445	0.3238	0.3261
Indirect	0.5851	0.5538	0.5548	0.5494
Depreciation	0.0997	0.0826	0.0854	0.0842
Marketing	0.1450	0.1190	0.1195	0.1243
Other	0.0000	0.0000	0.0000	0.0000

Return on Investment	0.0346	0.0265	0.0274	.00264
Subtotal:	2.7986	2.7011	2.8259	2.8630
Outreach	0.0724	0.0649	0.0617	0.0643
Customer Premise Equipment	0.1526	0.1044	0.1576	0.1569
Total Cost	3.0236	2.8705	3.0453	3.0842
Total Cost excluding Outreach & CPE	2.7986	2.7011	2.8259	2.8630

The average cost of VRS service (excluding CPE and outreach) are projected to increase $0.0946 from the two year average of $2.7499 in the historical Fund Year[50] period to $2.8445 in the projected Fund Year period. CA related expenditures for the same periods are projected to increase by $0.1534 per minute from $1.3876 to $1.5410 per minute. Non-CA Relay Center related expenditures are projected to decrease slightly by $0.0142 from $0.3392 to $0.3250 per minute.

IV. Demand Projection Methodology

In order to estimate the annual funding requirement and propose a contribution factor, an estimate of the interstate funding requirement for each of the services is required. The fund requirement equals the service rate multiplied by the service demand reimbursed during the program year, July through June. The Administrator has adjusted

[50] Fund Year costs are the average of the two historic or projected years that are part of the program year that begins July and ends June.

the demand levels of the tariff year to reflect the two month difference between the provision of service and the reimbursement for that service. Providers of services being compensated using the MARS-based rate methodology, (i.e. traditional TRS, STS and CTS) are not required to submit demand projections.

In this report, as was done previously, historical demand was used to estimate the future demand for traditional interstate TRS, STS and CTS. Using the linear trend forecast capability of Microsoft Office Excel, the Administrator projected demand for the 2018– 2019 Fund year using actual data available to the Administrator at the time the filing is due to the Commission.[51] For each of these services, the Administrator projected demand and an estimated funding requirement based on the proposed compensation rates for the funding year. This approach has historically provided reasonably accurate results for these services.

The Administrator has historically used the forecasts submitted by the providers for IP Relay and VRS services and recommends them for use for the 2018 – 2019 funding year. This approach has historically provided reasonably accurate results for these services. The administrator applied the proposed IP Relay rate and as well as the proposed tiered VRS reimbursement rates to calculate the funding requirements for these services.

The IP CTS industry demand projection for the 2018-2019 funding year totals 501,212,040 minutes[52] a significant increase when compared to the projection for the 2017-2018 Fund year of 385,610,029 minutes.[53] The Administrator considers the

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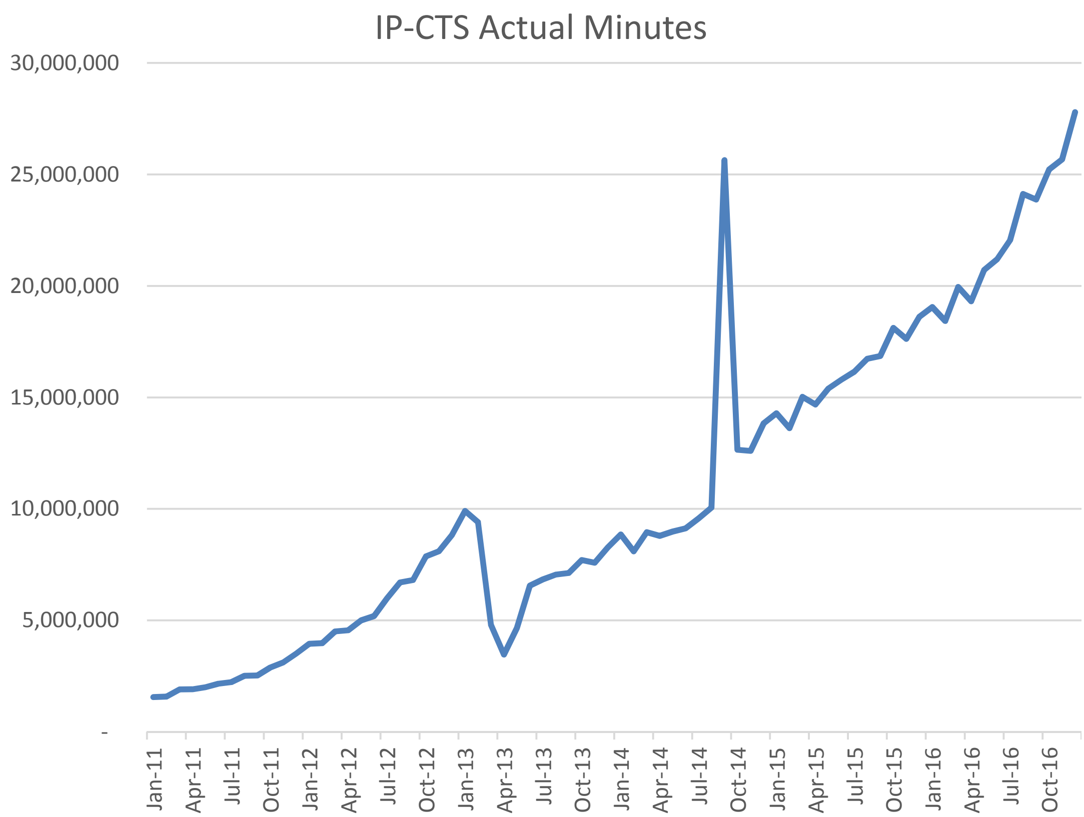
[51] In most instances this embodies July 2014 through January 2018 minutes.

[52] May 2018 – April 2019.

[53] May 2017 – April 2018.

compilation of the industry demand forecast to be reasonably valid but consistently lower than reported actual monthly demand. The reported demand for the first ten months of the current program has reached 323,709,978.5 minutes, or 84% of the projected total for the period. Demand for IP CTS service continues to increase at an exponential rate.



IP CTS demand has been affected by a number of factors over the past few years; the most significant among those factors is the entry of an additional service provider, who aggressively expanded its market share over each of the past several years, the introduction of additional regulations, and litigation regarding those additional regulations. On August 26, 2013, the Commission adopted final rules on IP CTS. Under the final rules adopted by the Commission, among other things, providers who provide IP CTS equipment, software, and applications to consumers after September 30, 2013, at no charge or for less than $75, were prohibited from receiving compensation from the Fund for minutes of use generated by consumers using such equipment, software, or applications.[54]

The final rules maintain, with modifications, the requirements that IP CTS providers register each new IP CTS user and obtain a self-certification regarding the consumer's understanding of and need to use IP CTS.[55] In addition, providers must register and obtain certifications from all consumers who commenced service prior to adoption of the interim rules.[56] The final rule contained registration and certification requirements, however, those requirements did not take effect until after OMB had approved them.[57]

The $75 equipment charge rule took effect on September 30, 2013.[58] As noted, however, on December 6, 2013, the court of appeals stayed this rule and on June 20, 2014 the Court issued an opinion vacating the interim rules in their entirety and vacating the $75 equipment charge rule and default-off rule contained in the IP CTS Reform Order[59]. Following the Court decision, the providers requested payments for minutes that had been disallowed by the Commission's rules. Those payments were made in July 2014, causing the sharp peak in demand shown in the previous chart.

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[54] *IP CTS R&O*, 28 FCC Rcd at 13440-48, ¶¶ 41-59.

[55] *See id.* at 13421, ¶ 2, 13496-97, Appx. B, §§ 64.604(c)(9)(i), (iii). In addition to the information required by the interim rules, the final rules require providers, for example, to obtain from registrants the last four digits of the consumer's social security number and the consumer's self-certification that, to the best of the consumer's ability, persons who have not been registered to use Internet protocol captioned telephone service will not be permitted to make captioned telephone calls on the consumer's registered IP captioned telephone service or device. *Id.*

[56] *Id.* at 13450-55, ¶¶ 66-73, Appx. B, § 64.604(c)(9)(xi).

[57] *Id.* at 13492-93, ¶¶ 166-67.

[58] 78 FR at 53691 (announcing that final rule 64.606(c)(11)(i) shall be effective September 30, 2013).

[59] IP CTS Reform Order, FCC 13-118 Rel. 8/26/2013.

V. Additional Funding Requirements

A. Video Relay Service Reforms

For the past several years the recommendation has included an allowance for the various reform initiatives identified in the 2013 VRS Reform Order. Based on historical expenditure levels and the conclusion of the four year transition plan RL is recommending that the allowance be reduced to $12.25 million, which is consistent with currently known and ongoing commitments.

B. iTRS Data Base Administration

In the *TRS Numbering Order* the Commission adopted a system for assigning users of internet-based Telecommunications Relay Services (TRS), specifically for VRS and IP Relay, ten-digit telephone numbers linked to the North American Numbering Plan. In that *Order*, the Commission identified the types of costs that are compensable from the interstate TRS Fund.

The Commission authorized the TRS Fund Administrator to pay the reasonable costs of providing necessary services consistent with the *TRS Numbering Order* directly to the database administrator.[60]

The Administrator projects that the 2018-2019 Fund year compensation for the iTRS data base Administrator would be $1,005,000 ($83,750 * 12 = $1,005,000) based on the current reimbursement level. RLSA recommends this amount be included in the 2018-2019 Fund year.

C. Deaf-Blind Equipment Distribution Program

[60] TRS Numbering Order at 101

In its August 4, 2016 Order,[61] the Commission permanently established a National Deaf-Blind Equipment Distribution Program ("NDBEDP") to certify and provide funding to entities in each state so that they can distribute specialized customer premises equipment ("CPE") to low-income individuals who are deaf-blind. [62] Funding for this program has been established at $10,000,000 per year beginning with the 2012 – 2013 Fund year. As such, $10,000,000 has been included in the Interstate TRS Funding Requirement for the 2018-2018 Fund year.

D. TRS Fund Administrator Expenses

Beginning July 1, 2011 the Interstate TRS Fund Administrator became compensated based on a fixed price contract similar to that of the iTRS numbering Administrator. The contract for the 2018-2019 Fund year has not yet been confirmed. The projected TRS Fund Administrator expenses are $2,400,000.

E. Revenue Data Collection Agent Expense

Prospectively, the Revenue Data Collection Agent (DCA) and its functions associated with processing the revenue information to determine TRS Fund contributors are to be separately identified from the TRS Fund Administrator's costs. The DCA invoices the TRS Fund for 8% of Data Collection costs. For the 2018 – 2019 fund year, the DCA costs are projected to be $88,800.

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[61] See: FCC 16-101 adopted August 4, 2016, Rel. August 5, 2016.

[62] *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Report and Order, CG Docket No. 10-210, Adopted April 4, 2011

F. Interstate TRS Advisory Council Expenses

Expenses incurred as a result of the Interstate TRS Advisory Council holding a minimum of two meetings annually as required by the Commission's rules[63] are now separately identified from the TRS Fund Administrator's expenses. For the 2018 – 2019 Fund year, these expenses are projected to be $50,000.

G. Investment Expense

The Program Administrator has entered into a Non-Custody Investment Advisory Agreement in which the Investment Advisor will direct the investment, reinvestment and changes in the investment of the TRS Fund Account, manage the Qualified Investments and use its best efforts to invest all Escrow Funds in compliance with the FCC letter dated June 20, 2011 (DA 11-1069) regarding the Investment of Telecommunications Relay Service Funds. This Agreement will provide transparency to the costs associated with managing the investments of the Fund. Investment expenses for the 2018-2019 Fund year are estimated to be $190,000.

H. Service Provider Audits

The TRS Fund Administrator's audit plan, applicable to service providers' compliance with the provisions of 47 C.F.R. 64.604 by independent audit firms, has to be approved by the Commission and initiated subject to competitive bid where applicable. The Administrator anticipates a funding requirement of $1,000,000 for the audit of service providers during the 2018-2019 Fund year.

[63] 47 C.F.R. § 64.604(c)(5)(iii)(H)

I. IPERIA

In response to a directive from the FCC, the Administrator developed a plan to establish a baseline error rate for payment from the TRS Fund based on a Memorandum from the Office of Management and Budget (OMB) to Heads of Executive Agencies, *Issuance of revised Parts I and II to Appendix C of OMB Circular A-123 (April 14, 2011) and Part III to OMB Circular A-123, Appendix C*. The Administrator anticipates a funding requirement of $45,000 for compliance with this directive to expand on the plan during the 2018-2019 fund year, and a funding requirement of $205,000 to implement the testing provisions of the approved plan, for a total of $250,000, which is in addition to the budget estimate for Service Provider audits.

J. Bankruptcy Representation

During the 2011-2012 Fund year the Administrator found it necessary, with the prior approval of the Commission, to retain outside council to represent the interests of the Fund in various Bankruptcy proceedings. The Administrator anticipates a funding requirement of $50,000 for legal representation, subject to Commission prior approval of such legal representation, in bankruptcy matters during the 2018-2019 fund year.

K. Audit Expense

RL recommends that the 2018 – 2019 Fund year expenses include an allowance to conduct an independent audit of the TRS Fund separate from the independent audit of the FCC. The independent audit is competitively bid and is projected to be $65,000.

VI. Contribution Factor Calculation

As previously noted, reimbursement requests are to be processed within two months of receipt by the Administrator. Operationally, service provided in the month of

May will be reported to the Administrator in the month of June and paid in the month of July, the first month of the upcoming program year. Similarly service provided in the month of June will be reported in the month of July and paid in the month of August, the second month of the upcoming program year. As a consequence, the Administrator's funding recommendation for the Fund year beginning July 2018 through June 2019, incorporates the demand for the final two months of the expiring program year, which will be paid during the upcoming Fund year, and only ten months of the MARS and service providers' projections to comprise the twelve months funding requirement. The Administrator has recommended that the payment reserve remain at two average months of the level of anticipated provider distributions to provide both a reserve and an estimated accrual for the two months that will be reimbursed from the following Fund year.

Collectively, the six relay services and the additional fund requirements total \$1,795,411,526. Interest on invested funds for the July 2018 – June 2019 period is projected to be approximately \$1,200,000 and is used to offset on-going Fund requirements.

Historically, the Administrator has recommended that the TRS Fund include an additional component to protect the Interstate TRS program from running short of available funds before the end of the TRS Fund period. In its 2009 *and 2010 Rate Orders*, the Commission accepted the Administrator's recommendation to include a surplus of one month's projected distributions to providers be included in the funding requirement.[64] The Administrator recommended for the 2014-2015 funding year that the

[64] Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order, CG Docket No. 03-123, 23 FCC Rcd 9976 (2008 Rate Order) at n. 56

budgetary reserve be increased to two months to more appropriately reflect the practice of budgeting demand to reflect the fact that the distributions in the program year include payments for service provided in May and June of the prior year and only ten months of the service provided during the upcoming program year. In the 2014-2015 Rate Order[65] the Commission accepted the change to increase the reserve as described. The use of a budgetary reserve of two average month's projected distributions to providers, $252.607 million, is included in the funding requirement. It is anticipated that there will be a surplus of approximately $172,187,810, at June 30, 2018.

The total projected net funding requirement for the 2018-2019 funding year is estimated to be $1,622,023,716. The component parts of the projected funding requirement are displayed in Exhibit 2.

Based on the 2018-2019 demand projections and the proposed rates contained herein coupled with the anticipated calendar year 2017 revenue base, the Administrator estimates that the contribution factor will need to be 0.03034

[65] *See* DA 14-946, para. 23.

VII. Program Administration

A. Interstate TRS Fund Advisory Council Reports

Pursuant to section 64.604 of the Commission's rules, the Advisory Council advises the Administrator on interstate TRS cost recovery matters.[66] The Advisory Council includes non-paid volunteers from the hearing and speech disability community, TRS users (voice and text telephone), state regulators and relay administrators, interstate service providers, and TRS providers. Appendix C contains a listing of current Advisory Council members.[67]

.On September 10, 2017 the Advisory Council met in Denver Colorado. The meeting included an extensive overview of developments at the FCC presented by Karen Peltz Strauss and Eliot Greenwald of the Consumer and Governmental Affairs Bureau of the FCC and a discussion of the health of the Fund by the Fund Administrator, David Rolka.

On April 6, 2018 the Advisory Council met in Boiling Springs, Pennsylvania. The meeting included an overview of developments at the FCC presented by Eliot Greenwald, Deputy Chief, Disability Rights Office (DRO) and Michael Scott of Consumer and Government Affairs Bureau (CGB). The Advisory Council considered and adopted changes to the Bylaws to permit up to three four year terms; elected Officers for the upcoming program year and agreed that the next Council meeting would be held in Minnesota on Thursday September 13, 2018. The minutes of both of these meetings and the presentations are attached at Appendix D.

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[66] 47 C.F.R. § 64.604 (c)(5)(iii)(H).

[67] In a July 1999 Order, the FCC authorized the addition of a position in the hearing and speech disability community category for a representative from the speech disability community. *See Appointment of the Telecommunications Relay Services (TRS) Fund Administrator and Composition of the Interstate TRS Advisory Council*, CC Docket No. 90-571, Memorandum Opinion and Order, 14 FCC Rcd 10553 (1999).

B. Audit Report

Included in Appendix E is a copy of the TRS Fund Performance Status comparing the projected budgetary levels for the current program year with the actual results of operations for the period July, 2017, through March 2018.

Appendices:

Appendix A ---- Interstate TRS Fund 2017 Intrastate Rate and Minute Data for MARS Methodology (State Data Collection Form & Instructions)

Appendix B ---- Interstate TRS Fund Annual Provider Information (Provider Data Collection Form & Instructions)

Appendix C ---- Current Advisory Council Members

Appendix D ---- TRS Council meeting Minutes of September 2017 and April 2018.

Appendix E ---- TRS Fund Status Report through March 2018.

Appendix F ---- PowerPoint Presentations offered at the Advisory Council Meetings are also available for inspection on the RL website www.rolkaloube.com.

Appendix G ---- The 2017-2018 Rolka Loube Report

Exhibits:

Exhibit 1-1 ---- Displays TRS & STS data collected from states for the Interstate MARS rate calculation.

Exhibit 1-2 ---- Displays CTS data collected from states for the Interstate MARS rate calculation.

Exhibit 1-3 ---- IP CTS historical cost, Rate and demand data

Exhibit 1-3.1 --- IP CTS Revenue, Expense and Profit Estimates for Tariff Year 2017-2018 (REDACTED)

Exhibit 1-3.2 --- IP CTS Cost Trend Data

Exhibit 1-4 ---- Displays IP CTS Historical and Projected Demand

Exhibit 2 ---- Displays the proposed Interstate TRS Fund Size and Contribution Factor for the July 2018 through June 2019 Fund Year.

Exhibit 3 ---- Historic Contribution Base Data

Exhibit 4 ---- Erosion of 2017-2018 Contribution Base.