

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services and Speech-)	CG Docket No. 03-123
to-Speech Services for Individuals with Hearing)	
and Speech Disabilities)	
)	
Structure and Practice of the Video Relay Service)	CG Docket No. 10-51
Program)	
)	

REPLY COMMENTS

**Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
Association of Late-Deafened Adults (ALDA)
California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc. (CCASDHH)
Cerebral Palsy and Deaf Organization (CPADO)
Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN)
Hearing Loss Association of America (HLAA)
National Association of the Deaf (NAD)**

Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), through its undersigned counsel, and National Association of the Deaf (“NAD”), Hearing Loss Association of America (“HLAA”), Deaf and Hard of Hearing Consumer Advocacy Network (“DHHCAN”), Association of Late-Deafened Adults, Inc. (“ALDA”), Cerebral Palsy and Deaf Organization (“CPADO”) and California Coalition of Agencies Serving the Deaf and Hard of Hearing (“CCASDHH”) (collectively “Consumer Groups”) submit these Reply Comments in response to the Public Notice (“Notice”) issued by the Commission’s Consumer and Governmental Affairs Bureau (“Bureau”) in the above-captioned proceedings.¹ The Bureau’s Public Notice sought

¹ *Rolka Loube Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the 2018-19 Fund Year, Public Notice, CG Docket Nos. 03-123, 10-51, DA 18-494 (rel. May 14, 2018).*

comment on the compensation rates for various forms of interstate Telecommunications Relay Services (“TRS”) for the period beginning July 1, 2018 through June 30, 2019. The proposed TRS compensation rates were calculated by the interstate TRS Fund Administrator Rolka Loube Associates (“Administrator”) in its May 4, 2018 submission (“2018 TRS Fund Report”).²

Currently the deaf, hard of hearing, deaf-blind, and deaf with mobility issues community comprise approximately 15 percent of the total U.S. population. The share of communications service revenue used to support programs for this 15% of the population is certainly well within the range of reasonable. The Commission has found that the companies currently obligated to contribute to the TRS Fund have a total revenue base of approximately \$53.4 billion. The Consumer Groups understand this revenue base is down from approximately \$72 billion at the beginning of the decade and \$58 billion in 2017.³ However, with the size of the TRS Fund now at \$1.6 billion, the Commission is managing the TRS Fund well, as the Fund is equivalent to approximately 3% of the contribution base.

The continued success of the fund depends on having multiple providers (between 2-5) for each form of TRS. The Consumer Groups continue to contend that the TRS fund and voluntary participation by providers remains the most cost-effective approach for the Commission to fulfill its duties under Title VI of the Americans with Disabilities Act.⁴ It is far more effective than mandating all companies to provide relay services.⁵

² Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123, 10-51 (filed May 4, 2018) (“2018 TRS Fund Report”).

³ 2018 TRS Fund Report at 11, Table 1.

⁴ 47 U.S.C. § 225.

⁵ *Telecommunications Relay Services and Speech-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 5140, 5152, ¶¶ 21-22 (2000).

In order for the Commission to fulfill the Act's goals with respect to providing the deaf, hard of hearing, deaf-blind, and deaf with mobility issue access to functionally equivalent communications services, the Commission must continue to support TRS providers to ensure they have appropriate incentives to provide services. Providing appropriate incentives for service should be a Commission objective that is at least equal to the objective of properly managing the fund.

The Consumer Groups have no specific comment regarding the Administrator's calculations of the appropriate rates under the Commission's governing methodologies for the various types of TRS, primarily because the Consumer Groups do not have access to the underlying cost information. Nonetheless, the Consumer Groups urge the Commission to ensure that there remains a viable and functional market for the deaf, hard of hearing, deaf-blind, and deaf with mobility issues community to obtain communications services that are functionally equivalent to those available to the hearing community. In order to ensure the availability of such services, the Consumer Groups urge the Commission to reimburse providers of TRS — all forms of TRS — adequately to keep providers in the market and incentivize them to compete vigorously for users including by continuing to improve services through innovation.

I. The Administrator's 2018 Fund Report Highlights the Need for the Commission to Expand the TRS Contribution Base

The Commission's ability to fund TRS programs at a level so that service providers receive reasonable compensation for their costs of delivering functionally equivalent services and have incentives to invest and promote innovation depends on long term stability in the TRS fund. Service providers will not invest in innovative new services that improve the experience for the user community if future support for their TRS offerings are in doubt. The Consumer Groups continue to be concerned about the erosion of the funding base and lack of clarity from

the Commission regarding plans to stabilize TRS funding going forward. The 2018 TRS Funding Report only underscores the urgency of action.

The Administrator's 2018 Fund Report observes that the contribution base continues to erode.⁶ The Commission is aware of the issue but has yet to chart a course that would stabilize the TRS program and the various services TRS contributions support. The Commission has received proposals regarding expanding the overall contribution base.⁷ The Consumer Groups have commented on these proposals,⁸ and briefly summarize their views below. It remains imperative that the Commission take action to provide greater stability for the TRS support mechanisms. This will promote competition, entry, innovation and investment and protect the users and their access to functionally equivalent communications.

For example, the Consumer Groups urge the Commission to expand the TRS base by including intrastate revenue. Such an approach is consistent with the ADA and represents sound policy. As communications technology evolves from TDM to IP and distinctions between local (and intrastate) and long-distance (interstate) communications disappear, it is appropriate for both interstate (including international) and intrastate services to contribute to the fund on an equivalent basis.

Expanding the contribution base will spread the cost of increasingly multijurisdictional services over a more appropriate base of revenue and likely will reduce the contribution rate paid by carriers who contribute to the program. This will bring needed stability to the fund and

⁶ 2018 TRS Fund Report at 10.

⁷ IDT Telecom, Inc., Petition for Rulemaking, CG Docket No. 03-123 (filed Nov. 25, 2015; Public Notice, Request for Comment on Petition for Rulemaking Filed by IDT Telecom, Inc., Regarding Interstate Telecommunications Relay Service Fund Contribution, 30 FCC Rcd. 14382 (CGB Bur. 2015).

⁸ Comments of Telecommunications for the Deaf and Hard of Hearing Inc. ("TDF"), CG Docket No. 03-123 (filed Feb. 4, 2016).

ensure that it continues to support the delivery of functionally equivalent services to the deaf, hard of hearing, deaf-blind, and deaf with mobility issues community.

II. The Commission Should Continue to Support IP Relay Services

The Administrator reports that demand for IP Relay Services remains stable from 2017-2018.⁹ It recommends that IP relay rates for Sprint — the last remaining provider of IP relay services — continue to be \$1.36 per minute.¹⁰ Sprint — who has committed to maintain IP Relay services until July 1, 2019, requests a nominal rate increase of \$.01 in order to recover its outreach costs.¹¹

In 2016, the Commission allowed Sprint to recover costs of its outreach to users of IP Relay services, concluding that its concerns about provider-specific outreach were less applicable in the IP relay market where Sprint is the sole provider of service.¹² The Commission further found that the “absence of other providers in the IP relay market continue to have a significant impact on deaf-blind consumers.”¹³ In 2017, the Commission determined that there continues to be good cause to allow Sprint to recover outreach costs as it was important “for Sprint to conduct outreach to deaf-blind consumers.”¹⁴ The Commission further found that “Sprint’s outreach activities were beneficial and continue to be needed.”¹⁵

⁹ 2018 TRS Fund Report at 27.

¹⁰ *Id.* at 28.

¹¹ Comments of Sprint Corporation at 3 (filed May 29, 2018) (“Sprint Comments”).

¹² *Telecommunications Relay Services and Speech-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 31 FCC Rcd. 7246, 7251 ¶ 16 (CGB 2016).

¹³ *Id.* ¶ 18.

¹⁴ *Telecommunications Relay Services and Speech-Speech Services for Individuals with Hearing and Speech Disabilities, Structure and Practice of the Video Relay Service Program*, Order, 32 FCC Rcd. 5142, 5145 ¶ 11 (CGB 2017).

¹⁵ *Id.* at 5146 ¶ 13.

The Consumer Groups urge the Commission to maintain viable IP Relay service, as it is – as the Commission has articulated — “often relied upon by people who are deaf-blind.”¹⁶ To that end the Consumer Groups support Sprint’s modest request for a compensation rate of \$1.37 instead of \$1.36.¹⁷ Such a request is consistent with the overarching principle that the Commission should provide adequate compensation to all TRS providers for their services. This is especially critical in a market such as IP-relay where only one provider remains.

For that reason the Consumer Groups also agree with Sprint that the Commission must reform its methodology for setting rates for IP relay services.¹⁸ The Consumer Groups cannot comment on Sprint’s assertions that the costs of providing IP relay are virtually identical to the costs of providing TRS,¹⁹ other than to say that the market has plainly spoken. The Commission’s price cap methodology did not function correctly and lead to flight from the market. The Commission agrees with Sprint that a new approach is required “that will allow deaf, hard of hearing, and deaf-blind consumers access to a critical form of relay services, consistent with the terms of the Americans with Disabilities Act.”²⁰

This compensation should include reimbursements for research and development and service quality enhancements, which are critical to achieving functional equivalency. Because no proposed rates or methodologies can guarantee sufficient service performance until the Commission first defines what sufficient service performance entails, any rates adopted should be interim.

¹⁶ *Id.*

¹⁷ Sprint Comments at 3.

¹⁸ *Id.*

¹⁹ *Id.* at 4.

²⁰ *Id.* at 4 *citing* 47 U.S.C. § 225.

III. Conclusion

For the aforementioned reasons, the Commission should adopt Sprint's proposed IP relay rate of \$1.37, explore a new and sustainable rate methodology for IP Relay that will ensure continued services to those that rely on such service for functionally equivalent communications; and continue to explore ways to expand the contribution base to ensure viable TRS programs, continued competition and innovation to bring functionally equivalent communications services to TRS users.

Respectfully submitted,

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