

**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)	
)	
Truth-in-Billing and Billing Format)	CG Docket No. 98-170
)	
ITTA Petition for Declaratory Ruling Regarding)	
TRS Line Item Descriptions)	

COMMENTS OF USTELECOM

USTelecom – The Broadband Association (USTelecom) respectfully submits these comments in support of the Petition for Declaratory Ruling (Petition) filed by ITTA – The Voice of America’s Broadband Providers (ITTA) seeking a ruling “that it is and always has been permissible for a carrier recovering Telecommunications Relay Services (TRS) Fund contributions via an end user cost recovery fee line item (or the like) on customers’ bills to include TRS, among other references, in the line item description.”¹ Such a ruling would be faithful to the clear intent of the Commission in adopting the Truth-in-Billing rules;² *i.e.*, to define the types of misleading or deceptive billing information that would constitute an unjust or unreasonable practice in violation of section 201(b) of the Act.³

¹ ITTA – The Voice of America’s Broadband Providers, Petition for Declaratory Ruling, CG Docket Nos. 03-123, 98-170, at 1 (filed May 8, 2018) (ITTA Petition).

² 47 C.F.R. § 64.2400-01.

³ See *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7506, para. 24 (1999) (*Truth-in-Billing Order*).

Protecting consumers against vague, unauthorized, or excessive charges on their bills has been a Commission priority since the need arose in the 1990s due to growing consumer confusion about their telecommunications services bills.⁴ These rules came several years after the Commission adopted a “shared funding” mechanism for interstate TRS cost recovery, seeking to implement the Americans with Disabilities Act of 1990 (ADA)’s requirement that such costs be recovered from all subscribers of every interstate service.⁵ At that time, the Commission determined that the ADA mandate prohibited carriers from recovering TRS costs “as a specifically identified charge on end user's lines.”⁶

It is not clear why the Commission concluded that separate line item charges for TRS were incompatible with the ADA mandate, but it is clear that the Commission recognized the need to revisit that conclusion in 2005 in the context of Truth-in-Billing.⁷ It is obvious why – that pre-existing prohibition undercuts Truth-in-Billing policies and requirements intended to protect consumers by maximizing transparency into the charges on their bills.

⁴ See *Gregory Manasher et al. Petition for Declaratory Ruling*, Declaratory Ruling, FCC 18-27, para. 2 (rel. Mar. 15, 2018) (*Manasher Declaratory Ruling*).

⁵ See, e.g., *Telecommunications Services for Individuals With Hearing and Speech Disabilities, and the Americans With Disabilities Act of 1990*, Order on Reconsideration, Second Report and Order and Further Notice of Propose Rulemaking, 8 FCC Rcd 1802, 1806, para. 22 (1993) (*TRS Second Report and Order*); see also *Truth-in-Billing Format*, *National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing*, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, 20 FCC Rcd 6448, 6463 n.86 (2005) (*Second Truth-in-Billing Order*) (“the prohibition on line items referring to interstate TRS reflects concerns specific to TRS's genesis in Title IV of the [ADA]”).

⁶ *TRS Second Report and Order*, 8 FCC Rcd at 1806, para. 22.

⁷ See *Second Truth-in-Billing Order*, 20 FCC Rcd at 6459 n.64 (“we intend to revisit the prohibition on line items referring to interstate TRS in a future proceeding in a separate docket that will take into consideration the policy objectives outlined in this proceeding”); *id.* at 6463 n.86.

It is not necessary to forecast when, or even if, the Commission will ever revisit the TRS separate line item prohibition, nor to speculate on what the outcome would be. Such a proceeding would be helpful, but is not necessary to resolve the narrow question raised in this Petition, which seeks clarification only about bills with fee descriptions that include TRS along with other references in a line item.

The Commission has already implicitly approved carriers' use of line item descriptions that reference TRS and similar regulatory mandated charges.⁸ For example, by adopting broad, binding principles rather than mandating specific language and formats to govern descriptions on carrier bills, the Commission prioritized substance (consumer protection) over form.⁹ Thus, carriers have long had flexibility to include TRS cost recovery on customer bills as part of their rates, or in a line item listing TRS, among other items, in the description. The Commission also has stated that clear disclosure of the nature of the services for which a customer is being charged "is fundamental to a carrier's obligation of reasonable charges and processes."¹⁰ Through these actions, the Commission has signaled that carriers are expected to provide sufficient details in line item descriptions to enable customers to identify and understand their bills.

Perhaps most notably, and as ITTA points out,¹¹ the Commission includes as an example in its consumer guidance materials a line item description that specifically mentions TRS. It would be incongruous for the Commission to recognize on its website that "911, LNP, and TRS

⁸ Thus, we agree with ITTA that the Consumer and Governmental Affairs Bureau has delegated authority to decide this Petition. ITTA Petition at 4 n.12.

⁹ See *Manasher Declaratory Ruling* at 2, para. 3.

¹⁰ *Id.* at 2, para. 4.

¹¹ ITTA Petition at 5.

charges” is a typical charge, and also find that a customer bill may not include TRS among other references in a line item description.

A transparent line item description is particularly important for TRS services, given the substantial increases in carrier fund contributions in recent years.¹² For carriers that choose to recover these costs through customer fees, a line item description that includes a reference to TRS would provide important context for understanding why their bill has increased.

The Truth-in-Billing rules encourage carrier billing transparency, as do Commission precedent and guidance. Therefore carriers should be encouraged to provide more rather than less transparency in their customers’ bills, and in any event should not be prohibited from doing so. For the reasons mentioned above, we support a grant of ITTA’s Petition for declaratory ruling.

Respectfully submitted,



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¹² See Reply Comments of USTelecom – The Broadband Association, CG Docket Nos. 10-51, 03-123, at 2-3 (filed Jun. 8, 2018) (explaining that the Commission this year proposed an alarming increase from \$ 1.3 billion to \$ 1.6 billion in total TRS funding for the 2018-2019 fund year, reflecting an increase of nearly 33% in the TRS contribution factor).