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STATE OF FLORIDA



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# Public Service Commission

November 8, 2018

## VIA ELECTRONIC FILING

The Honorable Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

**Re: Ex Parte Comments of the Florida Public Service Commission in CG Docket No. 13-24, Misuse of Internet Protocol (IP) Captioned Telephone Service and CG Docket No. 03-123, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities**

Dear Ms. Dortch:

Forwarded herewith is the petition of the Florida Public Service Commission in the above docket seeking to file Ex Parte Comments.

Curtis Williams is the primary staff contact on these comments. He can be reached at 850-413-6924 ([cjwillia@psc.state.fl.us](mailto:cjwillia@psc.state.fl.us)).

Sincerely,

/s/

Cayce Hinton, Director  
Office of Industry Development and Market  
Analysis

Enclosure

cc: Mr. James Bradford Ramsay, NARUC

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Misuse of Internet Protocol (IP) Captioned	)	CG Docket No. 13-24
Telephone Service	)	
	)	
Telecommunications Relay Services and	)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals	)	
with Hearing and Speech Disabilities	)	

**EX PARTE COMMENTS OF  
THE FLORIDA PUBLIC SERVICE COMMISSION**

CHAIRMAN ART GRAHAM

COMMISSIONER JULIE I. BROWN

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## **INTRODUCTION**

On June 8, 2018, the Federal Communications Commission (FCC) released the Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry (FCC 18-79) regarding Internet Protocol Captioned Telephone Service (IP CTS). In the Further Notice of Proposed Rulemaking (FNPRM), the FCC is proposing to transfer responsibilities for administering and overseeing IP CTS to state telecommunications relay service (TRS) programs. Among other things, this would transfer the responsibility for registering and certifying the eligibility of new IP CTS users from providers to the state relay programs. The FCC also asks for comment on whether captioned telephone service such as CapTel in Florida and IP CTS should be mandated services to ensure all states will participate in the provision of these services. In addition, the FCC is proposing that states assume the costs of providing intrastate IP CTS. The Florida Public Service Commission (FPSC) submits these Ex Parte Comments in response to the FCC's FNPRM.<sup>1</sup>

The FPSC addressed many of the same issues in previous comments submitted to the FCC.<sup>2</sup> The FPSC has not changed its position. We continue to have concerns regarding transferring the program to states prior to the FCC providing detailed cost information regarding potential state impacts, service funding, and waste and abuse.

The FPSC acknowledges that IP CTS is a necessary and valuable service offered to the hearing loss community. The FPSC applauds the FCC's past and current efforts to improve the program. However, we believe there remain critical issues that need to be resolved before the program can be successfully implemented in a manner that is fair, just, and beneficial to the hearing loss community, service providers, state relay programs, and other stakeholders.

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<sup>1</sup> The FPSC originally planned to file Reply Comments. However, due to Hurricane Michael we were unable to meet the October 16, 2018 deadline and are now submitting these comments as Ex Parte.

<sup>2</sup> Comments of FPSC to FCC, CG Docket Nos. 13-24, 03-123, filed September 27, 2013.

### **State Role in the Administration of IP CTS**

Presently, IP CTS is funded through the interstate TRS fund on a national level. A primary underlying reason for the FCC's decision to have the interstate TRS Fund reimburse providers for IP CTS calls was the difficulty in ascertaining the location of calls made using IP transmissions. The FCC now states that IP CTS providers are able to ascertain the origination and destination points of IP CTS calls in a manner that would allow for the compensation for these calls to be billed to the states. The FCC believes that it should reconsider its prior decision to treat IP CTS as an entirely interstate service and proposes instead that this service be treated like traditional captioned telephone service, wherein state relay programs would be required to compensate providers for intrastate IP CTS calls.

Florida's ability to provide TRS pursuant to its current statute could be adversely impacted if the FCC requires the states to fund the intrastate portion of IP CTS. Presently, Section 427.704(4)(a)(1.), Florida Statutes, states:

[The commission shall] require all local exchange telecommunications companies to impose a monthly surcharge on all local exchange telecommunications company subscribers on an individual access line basis, except that such surcharges shall not be imposed upon more than 25 basic telecommunications access lines per account bill rendered.

The Florida statute provides that the TRS surcharge be collected from only local exchange company access lines. Furthermore, Section 427.704(4)(b), Florida Statutes, limits the per line surcharge to no more than 25 cents per month. We believe this would likely be insufficient to cover the additional costs associated with IP CTS in Florida. If the FCC decides to require states to assume intrastate IP CTS costs, the Florida Legislature would need to consider a change to the statute to address how the Florida Relay program is funded.

The FPSC cannot support transferring the program to the states unless the FCC provides sufficient transition time to effect statutory change. The Florida Legislature convenes its 60-day

regular legislative session once a year. Adequate time to educate legislators on the issues requires appropriate lead time. Further, bill drafting, analysis, public input, and proper public notice and education would be necessary. Depending on the timing of the federal rule change, the FPSC believes this process could take multiple years to implement. The Florida Legislature's next regular session convenes on March 5, 2019, with the following regular session convening on January 14, 2020.

The FCC is proposing that states assume the responsibility of intrastate IP CTS, but has not provided information as to how many IP CTS minutes are historically used in each state, and how many IP CTS units are currently in use in each state. If a decision is made to require states to assume intrastate IP CTS costs, the FCC should provide IP CTS minutes and number of IP CTS units by state as soon as possible. This would allow states to make informed decisions on possible migration of IP CTS to state relay programs. Currently, states do not know the extent of potential funding obligation they would incur by assuming the intrastate costs of IP CTS.

The FPSC agrees with comments filed by National Association of State Relay Administrators (NASRA) that state-specific data and information is needed to determine the level of support that would be required at the state level.<sup>3</sup> We concur that states do not have critical data on provider cost, minutes of use, and user enrollment within individual states.

### **Waste and Abuse**

While the FPSC has observed the continuing decline in demand for TTY-based TRS,<sup>4</sup> we are concerned with the current rate of growth in IP CTS usage reported by the FCC in light of needed reforms. According to the TRS Fund administrator, in 2018-2019, IP CTS will represent approximately 78 percent of the total minutes of TRS compensated by the TRS Fund.<sup>5</sup>

At the same time, the end-user telecommunications revenue base, from which IP CTS and other forms of TRS are supported, is steadily declining. As a result, there is a significant threat that

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<sup>3</sup> NASRA Comments CG Docket No. 13-24, CG Docket No. 03-123, filed September 14, 2018.

<sup>4</sup> Florida Relay Report, December 2017, [http://www.floridapsc.com/Files/PDF/Publications/Reports/Telecommunication/Telecommunication Access/2017.pdf](http://www.floridapsc.com/Files/PDF/Publications/Reports/Telecommunication/Telecommunication%20Access/2017.pdf), accessed September 24, 2018.

<sup>5</sup> 2018 TRS Rate Report at 20, Exh. 2.

over the long term, increasing levels of support may not be sustainable. The FPSC is concerned that waste and abuse has been included in the rate of growth. Consistent with comments filed by the FPSC in the 2013 IP CTS FNPRM, the FPSC believes that waste and abuse issues related to IP CTS must be resolved before transferring funding responsibility to the states.

The FPSC agrees with comments filed by NASRA citing support of the FCC's ruling in the 2018 Report and Order that prohibits IP CTS providers from linking volume control and captioning functions. This would avoid unintended duplication of service delivery and reduce expenses associated with captioning service for users who have no desire to use captioning when only increased volume is needed.

In reply to comments filed by the National Association of Regulatory Utility Commissioners (NARUC), we agree that the FCC should take additional action to minimize waste and abuse by adopting more uniform and thorough user eligibility assessments applicable to all states before transferring the program. We agree with NARUC that current self-assessments may be contributing to participation by users who do not need the IP CTS service. We believe third-party assessment would be a step in the right direction to address this issue. We also agree with NASRA's Comments encouraging the FCC to work closely with national and state equipment distributors to establish effective independent assessments.

### **Competition at the State Level**

Mandating IP CTS as part of the TRS program may eliminate competition for these services in Florida since, by statute, Florida can have only one relay service provider. Inclusion of IP CTS in Florida's TRS contract would eliminate competition for these services in Florida because there would not be a funding mechanism for the intrastate portion of the service for any provider other than the one under contract with the FPSC. Section 427.704(1), Florida Statutes, in part states:

[The commission shall] establish, implement, promote, and oversee the administration of a statewide telecommunications access system to provide access to telecommunications relay services by persons who are hearing impaired or

speech impaired, or others who communicate with them. The telecommunications access system shall provide for the purchase and distribution of specialized telecommunications devices and the establishment of *statewide single provider* telecommunications relay service system which operates continuously. . .  
(emphasis added)

Consumers currently have a choice of several providers of IP CTS in Florida because IP CTS is regulated at the federal level. Should the FCC mandate that IP CTS become part of a state's TRS program, Florida would have only one contracted provider pursuant to its current statute. In Order FCC 00-56, the FCC affirmed its belief that competition among TRS providers is preferred, stating:

We agree with commenters that competitive forces are generally the preferred way to improve service quality and bring new services to customers. Although using a single vendor may not automatically lead to poor service quality, we believe that giving consumers a choice among different TRS providers might well improve the quality of TRS service in different states.

In the 2007 IP CTS Declaratory Ruling,<sup>6</sup> the FCC concluded on an interim basis that all IP CTS calls would be compensated from the interstate TRS Fund. The FCC explained that this approach was consistent with the treatment of VRS and IP Relay calls, and would provide an incentive for competition among multiple providers to offer this service on a nationwide basis that would "enhance consumer choice, service quality and available features." The FPSC urges the FCC not to include IP CTS as a mandatory service of a state's TRS program at this time. In order to comply with the FCC's desire for competition options for IP CTS services, sufficient time to effect legislative changes to Florida's statute would be required.

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<sup>6</sup> In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities Internet-based Captioned Telephone Service. CG Docket No. 03-123. FCC 06-182, released January 11, 2007.

## **CONCLUSION**

The FPSC will continue to be responsive to the needs of the deaf, hard-of-hearing, deaf-blind, and speech-impaired community in Florida. However, the FPSC continues to have concerns regarding transferring the IP CTS program to states until the FCC has taken necessary action. Specifically, the FCC should provide detailed cost information regarding IP CTS usage by state and address existing waste and abuse within the program. The FCC should also provide sufficient transition time, which would be necessary for Florida to consider state statutory revisions and implement a sufficient funding mechanism.

The FPSC supports the FCC's current efforts to improve the relay program. Critical issues remain, however, that need to be resolved before the program can be successfully implemented in a manner that is fair, just, and beneficial to the hearing loss community, service providers, state relay programs, and other stakeholders.

Respectfully submitted,

/ s /

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