November 14, 2017

VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*
CG Docket Nos. 13-24, 03-123

Dear Ms. Dortch:

Over four years ago, the Commission published a *Further Notice of Proposed Rulemaking* ("*FNPRM*") seeking comment on whether it should continue using the Multistate Average Rate Structure ("MARS") to set compensation rates for Internet-protocol-based Captioned Telephone Service ("IP CTS").[1] As the Commission recognized in its *FNPRM*, Hamilton Relay, Inc. ("Hamilton Relay") is "the original proponent of the MARS methodology."[2] Hamilton Relay continues to support the current rate methodology as the right method for calculating reimbursement rates—not just for traditional Telecommunications Relay Service ("TRS"), Speech-to-Speech ("STS") and traditional PSTN-based CTS, but also for IP CTS. MARS is market-based, administrable, and reliable, and it creates incentives for providers to continue to innovate and become more efficient. In short, the current rate methodology has a proven track record, and the Commission should continue to use it.

The Commission could face legal problems under the Administrative Procedure Act ("APA") and the Americans with Disabilities Act, as codified in 47 U.S.C. § 225, if it sought to jettison MARS for a cost-based methodology. There are issues with the current record that render it inadequate as a basis for imposing any cost-based rates, including an interim rate. In addition, given the existing record, it does not appear that the Commission would have an adequate explanation for departing from the existing rate methodology while still fulfilling its statutory duties under the ADA.

## The Inadequacy Of The Current Record

The current record is insufficient to permit the Commission to set cost-based rates for IP CTS, including any interim rates, for at least three sets of reasons.

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[1] *See Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, 13477–79 (2013) (*2013 FNPRM*).

[2] *Id.* at 13475.

*First,* any reliance by the Commission on the cost data regarding IP CTS collected by the Fund administrator—the private telecommunications consulting firm Rolka Loube—poses substantial procedural and substantive concerns. In the 2007 *Report and Order* adopting MARS for traditional TRS, STS, CTS, and IP CTS, the Commission separately determined to continue to set VRS rates on a cost basis.[3] In doing so, the Commission required VRS providers to report to the Fund administrator their costs, excluding certain cost categories such as "indirect overhead costs" and "costs attributable to relay hardware and software used by the consumer, including installation, maintenance costs, and testing."[4] Rolka Loube prepares forms asking *all* providers, including IP CTS providers, to report their costs according to the rules the Commission has set with respect to VRS.[5] Although cost data are not used to set their rates, providers of MARS-based services—including Hamilton Relay—nevertheless have voluntarily provided the requested cost data.[6]

The cost data Rolka Loube has collected from IP CTS providers should not be used because these data were collected according to cost-category exclusions that were not subject to formal notice-and-comment scrutiny and were not formally approved by the Commission. Moreover, these data are unreliable, were collected via forms that were not approved by the Office of Management and Budget ("OMB"), and excluded costs for which the Commission is obligated to account. In the current proceeding, the Commission has requested comments regarding which cost categories should be compensable.[7] But regardless of whether the Commission could set rates using cost data it collects *going forward,* any rules the Commission adopts in *this* proceeding cannot be based on the cost data Rolka Loube has collected in the past given the lack of necessary process involved in collecting the IP CTS cost data up to this point.

Rolka Loube's decision to exclude certain categories of costs from the IP CTS cost data was never subject to the formal notice-and-comment process the APA requires and was never formally approved by the Commission. Using these retroactive data could therefore violate both the APA and the constitutional non-delegation doctrine. The APA's notice-and-comment requirements apply to decisions that "affect subsequent [agency] acts" and have a "future effect" on a party," and if Rolka Loube's data are used to set rates, Rolka Loube's cost-exclusion decision would clearly have such an effect. *Sprint Corp. v. FCC*, 315 F.3d 369, 373 (D.C. Cir.

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[3] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20149–60 (2007) *2007 TRS Rate Methodology Order*.

[4] *See id.* at 20170. The Commission also had previously excluded research and development costs "relating to VRS enhancements that go beyond the applicable TRS mandatory minimum standards." *Telecommunications Relay Services & Speech–to–Speech Services for Individuals with Hearing & Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, 12547 (2004).

[5] *See, e.g.,* Rolka Loube, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, at 11–12 (filed May 2, 2017).

[6] *2013 FNPRM*, 28 FCC Rcd at 13477 n.401 ("Although IP CTS providers are not required to file annual projected cost and demand data with the Fund administrator (because the MARS Plan does not rely on projected or annual costs), this past year, IP CTS providers voluntarily submitted their data for the 2013-14 Fund year.").

[7] *Id.* at 13478.

2003) (quoting *Sugar Cane Growers Coop. v. Veneman*, 289 F.3d 89, 95–96 (D.C. Cir. 2002)). Using these cost data to impose cost-based rates on Hamilton Relay without permitting it to comment on cost exclusions—with which, as discussed below, it has substantive concerns—would produce precisely the sort of unfairness the APA's notice-and-comment process is intended to avoid. *Id.* And because Rolka Loube is a private, for-profit consulting firm, the Constitution prohibits the Commission from delegating *any* regulatory authority to it, including the authority to decide which costs are compensable. *See Dep't of Transp. v. Ass'n. of Am. Railroads*, 135 S.Ct. 1225, 1238 (2015) (Alito, J., concurring) ("By any measure, handing off regulatory power to a private entity is 'legislative delegation in its most obnoxious form.'") (quoting *Carter v. Carter Coal Co.*, 298 U.S. 238, 311 (1936)).

The lack of process used in collecting the currently available IP CTS cost data not only presents these formal legal obstacles to using the data, but it also makes the data unreliable from a practical perspective. Because the procedure for collecting these data was not subject to formal scrutiny and Commission approval—and because Rolka Loube's forms were only voluntarily answered by IP CTS providers—there is no reason to believe that all IP CTS providers provided data in a uniform, consistent way. Indeed, the current record itself suggests that these data are unreliable: To say nothing of consistency *among* providers, *individual* providers have changed their approaches to reporting costs.[8] And the fact that the cost data Rolka Loube has collected suggest a lower cost-per-minute than MARS[9] merely highlights the problems with Rolka Loube's approach to collecting cost data, and it provides further evidence that these data are unreliable. It would therefore be arbitrary and capricious to use such unreliable data. *See Friends of Boundary Waters Wilderness v. Bosworth*, 437 F.3d 815, 824–29 (8th Cir. 2006) (holding that it was arbitrary and capricious for the Forest Service to rely on unreliable data to set motorboat use quotas); *Darrell Andrews Trucking, Inc. v. Fed. Motor Carrier Safety Admin.*, 296 F.3d 1120, 1134 (D.C. Cir. 2002) (holding that it would be arbitrary and capricious for the agency to use unreliable data).

Moreover, unlike other forms used by the Commission, Rolka Loube's data request forms do not bear a Control Number from the OMB; there is therefore no indication that the forms have ever been approved as an information collection by the OMB. Thus, if Rolka Loube's forms are sent to ten or more companies—and there is good reason to believe they are[10]—using this data could violate the Paperwork Reduction Act, which prohibits agencies from "conduct[ing] or sponsor[ing] the collection of information unless … the agency has obtained from the [OMB] Director a control number to be displayed upon the collection of information." 44 U.S.C. § 3507. The Paperwork Reduction Act requires the Commission to follow this procedure, and the APA authorizes courts to set aside agency actions made "without observance of procedure required by law," 5 U.S.C. § 706(2)(D), including procedures required by statutes other than the

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[8] *See*, *e.g.*, CaptionCall, LLC, Ex Parte Letter (filed September 7, 2017) at 3–4 (noting that CaptionCall refiled its cost filing with Rolka Loube "to include intellectual property (IP) fees paid to Sorenson IP" that CaptionCall had not included previously).

[9] *2013 FNPRM*, 28 FCC Rcd at 13477.

[10] *See* Rolka Loube, Interstate TRS Fund Performance Status Report (September 2017), *available at* http://docs.wixstatic.com/ugd/455e4d_bcb3b32e488244c3963222eb174ba0ee.pdf.

APA, *see, e.g., Ctr. for Biological Diversity v. Tidwell*, 239 F. Supp. 3d 213, 221 (D.D.C. 2017) (holding that while Federal Advisory Committee Act did not create private cause of action, § 706 provided a cause of action to challenge agency's failure to comply with the Act).

Finally, beyond these *procedural* problems with Rolka Loube's IP CTS cost figures, there are also *substantive* problems with Rolka Loube's exclusion of legitimate costs. Rolka Loube's cost-reporting forms instruct providers to report *only* those research and development costs "relate[d] to meeting the non-waived mandatory minimum standards."[11] This has likely caused providers to exclude from reported data certain costs related to research into technology that could bring more effective service to users and reduce providers' costs—and thereby ultimately reduce the size of the TRS Fund. Indeed, IP CTS providers are already researching automated speech recognition technology, which could reduce the cost of providing IP CTS.[12] Setting rates based on data that exclude the costs of developing this technology would be arbitrary and capricious. It would disincentivize the very goal the Commission says it is attempting to achieve**:** making TRS services as efficient as possible.[13] It could also violate Section 225(d)(2), which prohibits the Commission from promulgating regulations that "discourage or impair the development of improved technology." 47 U.S.C. § 225(d)(2). Nothing could more discourage the development of improved technology than explicitly excluding from the IP CTS rate the costs of the research and development necessary to develop that technology.

More broadly, each of the cost categories excluded by Rolka Loube's forms includes costs that Hamilton Relay must incur in order to run its operations and deliver IP CTS to users. That is, these costs represent "a condition precedent to … providers offering their services, [which means they] are related to the provision of " TRS and are costs that must be recovered. *Global Tel*Link v. FCC*, 866 F.3d 397, 413 (D.C. Cir. 2017) (quotation marks and citation omitted; prior and subsequent history omitted) (holding that the commissions paid by prison payphone operators to prisons are costs for which the Commission must compensate). These cost categories include "reasonable costs" for which the Commission's own regulations require it to compensate. *See* 47 C.F.R. § 64.404(c)(5)(iii)(E)(1).

*Second*, and in all events, the Commission should not impose an interim rate based on a shift in rate methodology because the Commission has not provided adequate notice or opportunity to comment on any such interim rate. The APA imposes a clear requirement to provide notice and an opportunity to comment before the Commission may issue legally binding orders; unless it provides actual evidence of "good cause," the Commission cannot evade this requirement by characterizing its orders as "interim." 5 U.S.C. § 553. Here, with respect to a potential interim rate, the Commission has not yet provided the notice-and-comment process the

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[11] *See* Rolka Loube, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, at 15 (filed May 2, 2017).

[12] *See*, *e.g.*, MachineGenius, Inc., Internet-Based TRS Certification Application (filed October 13, 2017) at 7; VTCSecure, LLC, Internet-Based TRS Certification Application (filed May 26, 2017) at 3; CaptionCall, LLC, Ex Parte Letter, at 1-2 (filed September 7, 2017).

[13] *2013 FNPRM*, 28 FCC Rcd at 13477.

APA demands, nor hinted at any conceivable reason why it can or should skip that important process—and there is none.

While the Commission's *2013 FNPRM* solicits comments regarding potential rate-setting *methodologies*, it does not mention anything about potential *interim rates*. If the Commission wishes to impose an interim rate that is not based on the current MARS methodology, it may do so only after providing notice and an opportunity to comment. Indeed, the D.C. Circuit recently vacated an interim order related to IP CTS precisely because the Commission failed to provide notice and comment; and there, as here, the Commission failed to present evidence of "a fiscal emergency" justifying the invocation of the "good cause" exception. *Sorenson Commc'ns Inc. v. FCC*, 755 F.3d 702, 706–07 (D.C. Cir. 2014); *see also Rural Cellular v. FCC*, 588 F.3d 1095, 1100–1101 (D.C. Cir. 2009) (upholding FCC decision to impose interim rate cap after the Commission issued a Notice of Proposed Rulemaking proposing the interim cap).

Moreover, the Commission cannot effectively undercut the APA by claiming that an interim rate entitles it to "extra" judicial deference on judicial review: Even if additional judicial deference were appropriate in the context of *arbitrary and capricious* challenges to interim orders, the Commission does not receive "extra" deference when it has violated clear statutory requirements, including APA requirements. *See, e.g., Sorenson Commc'ns Inc. v. FCC*, 659 F.3d 1035, 1042–46 (10th Cir. 2011) (evaluating statutory challenges to the Commission's interim rate order without additional deference, and then observing that "the FCC is entitled to substantial deference when adopting interim rates" in the context of evaluating arbitrary and capricious arguments). After all, the exigencies imposed by legitimate interim rulemaking may make certain agency decisions understandable and therefore not arbitrary; but labeling an order "interim" cannot make an otherwise illegal agency action lawful. As demonstrated above, a decision to depart from MARS and to adopt any cost-based rates would constitute just such an action.

*Third*, although there are problems with relying on the current record to set *cost-based* rates, these problems may not exist if the Commission were to retain MARS or adopt an appropriate price cap methodology grounded in MARS. As explained in the November 8, 2017 Brattle Group report, a price cap methodology does not need to use any cost data at all; it can instead use historical MARS rates as its base. Using the current MARS rate for CTS, or a multiyear weighted average of recent annual MARS CTS rates, as suggested in the Brattle Group report,[14] would produce a rational interim rate based on legally sustainable data that have been used by the Commission in the recent past. Such a price cap methodology would give providers incentives "to seek out and implement cost savings measures" and would produce rates that "are more predictable over a longer period of time than those from other methods."[15] Adopting such a rate on an interim basis could provide a reasonable transition from a pure MARS methodology. Because, as set forth above, the Commission has not provided notice of any interim rate, the Commission first should seek comment on such an interim rate. Among the issues the

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[14] See *Economic Analysis of IP CTS Provision Costs and Rate Setting*, The Brattle Group, at 5 ("*Brattle Group Economic Analysis*"), attached to Letter to Marlene H. Dortch, Secretary, FCC, from David A. O'Connor, Counsel for Hamilton Relay, Inc., CG Docket Nos. 13-24, 03-123 (Nov. 9, 2017).

[15] *Id.* at 5-6.

Commission should seek comment on is the appropriate efficiency factor, particularly in light of the labor-intensive nature of IP CTS, and whether, as suggested by the Brattle Group report, a negative efficiency factor is warranted.[16] Absent a rigorous and transparent method for determining the appropriate efficiency factor, a price cap methodology would introduce a level of uncertainty and arbitrariness that the Commission sought to avoid by introducing MARS in the first place.

**The Problems With Departing From MARS**

More generally, there are several reasons why the Commission should not abandon the well-established MARS methodology in favor of a cost-based methodology.

*First*, it would be a violation of § 225(b)(1)'s efficiency mandate, as well as arbitrary and capricious, for the Commission to use a cost-based methodology when a market-based methodology that has worked well for a long time—namely, MARS—is available. Section 225(b)(1) provides that "the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and *in the most efficient manner*, to hearing-impaired and speech-impaired individuals in the United States." 47 U.S.C. § 225(b)(1) (emphasis added). This provision does not require the Commission to limit the size of the TRS Fund—indeed, it does not say anything about the TRS Fund at all—but instead requires the Commission to sets rates that are sufficient to allow providers to supply services to all individuals with hearing and speech disabilities in the most efficient way possible.[17]

MARS does precisely this. As the August 30, 2017 Brattle Group report explains, MARS produces a reasonable rate because it is based on the competition of providers for state contracts.[18] MARS rates are not inefficiently high because "[t]he desire to win state contracts puts pressure on service providers to make bids that are in line with their marginal costs."[19] But MARS rates are high enough to keep providers in the market, "since it is unlikely that service providers would make bids for state contracts that would result in negative profits."[20] MARS also incentivizes efficiency on the part of providers because providers directly benefit from any cost-saving innovations: Because "providers will be paid the MARS rate irrespective of their costs, they are motivated to reduce costs, as those reductions will be reflected in their bottom lines."[21]

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[16] *Id.* at 7-8.

[17] Because the Commission is required to ensure the availability of TRS to all Americans under the Americans with Disabilities Act of 1990, the Commission could not lawfully impose any form of cap or other size restriction on the TRS Fund.

[18] *Telecommunications Relay Services for the Deaf and the Hard-of-Hearing: Market and Policy Analyses*, The Brattle Group, at 27, attached to Letter to Marlene H. Dortch, Secretary, FCC, from David A. O'Connor, Counsel for Hamilton Relay, Inc., CG Docket Nos. 13-24, 03-123 (Sept. 1, 2017).

[19] *Id.*

[20] *Id.* at 27–28.

[21] *Id.* at 28.

Moreover, the Commission would act arbitrarily and capriciously if it were to depart from MARS to some other methodology without providing good countervailing reasons for doing so. *See Nat'l Shooting Sports Found. v. Jones*, 716 F.3d 200, 215 (D.C. Cir. 2013) ("[A]n agency must consider and explain its rejection of 'reasonably obvious alternative[s].'") (quoting *Natural Res. Def. Council v. SEC*, 606 F.2d 1031, 1053 (D.C.Cir.1979)). The evidence in the record does not contain any good reasons for departing from MARS but instead shows that choosing a different rate-setting methodology would be counterproductive. As the Brattle Group report explains, MARS sets the rate for IP CTS by taking a weighted-average of the rates for traditional CTS generated by competitive intrastate bid systems. These rates are reliable because IP CTS costs are not lower than costs for traditional CTS. The vast majority of costs for both types of services are composed of a single cost category both traditional CTS and IP CTS share: the cost of employing the Communications Assistants who perform the captioning.[22] And while the size of the intrastate market for traditional CTS has diminished over the past several years, the market is still significant in size and is likely to remain so;[23] nor is there anything in the record to indicate that it is not competitive.

Even setting aside the unreliability of the current cost data discussed above, a cost-based methodology also would be far less workable than MARS—that is, after all, a major reason why the Commission settled on MARS in the first place.[24] The Commission previously considered other methodologies, including cost-based ones, and determined that MARS's administrability and other obvious advantages make it better than these other approaches. The Commission cannot now abruptly shift gears without explaining why the high value it placed on MARS's administrability is no longer relevant and how circumstances have changed to make an onerous cost-based approach more workable than it was before, particularly given Hamilton Relay's reliance on the Commission's use of MARS for the past 10 years to set IP CTS rates. *See Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126 (2016) ("When an agency changes its existing position … the agency must at least display awareness that it is changing position and show that there are good reasons for the new policy … an agency must also be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account.") (quotation marks and citations omitted).

A cost methodology that averages allowable costs across the industry would be especially unworkable—and therefore particularly arbitrary and capricious—because such an approach would likely reduce the market for IP CTS to a single monopoly provider in the long run, resulting in inflated costs to the TRS Fund and inferior services for users. One only has to look at today's IP relay market, which has only one provider to see the problems presented by a single-provider market. And using industry-average cost figures to set IP CTS rates will eventually reduce the IP CTS market to a single provider as well, by ensuring that providers with above-average allowable costs will be unprofitable. *See Gobal Tel*Link*, 866 F.3d at 414

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[22] *Id.* at 28–30.

[23] *Brattle Group Economic Analysis* at 2-4.

[24] *2007 TRS Rate Methodology Order*, 20 FCC Rcd at 20149–50 ("We believe that [MARS] will simplify the rate setting process and result in more predictable, fair, and reasonable rates. … [T]he MARS plan eliminates the costs, burdens, and uncertainties associated with evaluating, correcting, and re-evaluating provider data").

(holding that an industry-average-costs rate-setting methodology for prison payphone service providers was "patently unreasonable" because it "makes calls with above-average costs in each tier unprofitable"). In any market with more than one participant, such as the current market for IP CTS, there will always be providers with above-average costs. As these higher-cost providers exit the industry, the industry's average costs will proceed ever lower, forcing out yet more providers until only one provider remains. This outcome is bad for users of IP CTS—it leaves them without any choice of provider—and bad for the TRS Fund—a single monopoly provider has no incentive to innovate or become more efficient.

In order to depart from MARS to some other methodology, the Commission "must show that 'the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better' than the old one." *Am. Petroleum Inst. v. EPA*, 862 F.3d 50, 65–66 (D.C. Cir. 2017) (quoting *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)). Even if the Commission concludes that there are problems with using MARS to set IP CTS rates, it should depart from MARS *only* if it concludes the alternatives are *better*. There is no reason to believe they are. MARS may be to other rate-setting approaches what Winston Churchill once said democracy is to other forms of government: "the worst form … except for all those other forms that have been tried from time to time."[25]

*Second*, any departure from MARS threatens to produce rates that are so low as to jeopardize the ability of providers to deliver services to all "hearing-impaired and speech-impaired individuals in the United States." 47 U.S.C. § 225(b)(1). The Commission has a statutory obligation to ensure services are available, and there is no reason for it to risk violating this obligation or, more importantly, to risk leaving vulnerable individuals without appropriate services. The Commission has no reason to court the danger of a repeat of the exits from the IP Relay market caused by the Commission's previous rate reductions.[26]

*Third*, lower rates would also make it difficult or impossible for Hamilton Relay to meet the current service quality standards, which could thereby violate the Commission's statutory obligation to ensure that individuals with hearing and speech disabilities have the ability to "engage in communication … in a manner that is functionally equivalent to the ability of" other individuals. 47 U.S.C. § 225(a)(3). The Commission has promulgated detailed regulations defining precisely what mandatory minimum standards must be met in order to constitute "functionally equivalent" service. *See* 47 C.F.R. § 64.604. Because these regulations define "functionally equivalent" service, the Commission is statutorily required to ensure that providers are *able to meet* these standards; that is, the Commission must ensure that, whatever rate it sets, the rate is at a level that allows Hamilton Relay to meet its regulatory obligations. *See Sorenson Commc'ns Inc. v. FCC*, 765 F.3d 37, 283 (D.C. Cir. 2014) ("[T]he Commission is, by its own interpretation of the ADA, required to reimburse providers for all costs necessarily incurred to meet the mandatory minimum standards established by the agency."). And because MARS rates are set by reference to competitive intrastate markets, they accurately represent what it costs for

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[25] Winston S. Churchill, Speech in the House of Commons, November 11, 1947.

[26] *See generally Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 29 FCC Rcd 16273 (2014).

providers to provide services at the mandatory minimum standards; if providers could provide these services more cheaply, they would make lower bids and capture a greater share of the intrastate market.

The Commission therefore should not assume that Hamilton Relay and other providers will be able to continue to meet the Commission's mandatory minimum standards if the Commission were to depart from MARS and significantly reduce rates. The Commission has not solicited comments on the interaction of rate reductions and mandatory minimum standards, and therefore cannot significantly reduce rates on the basis of the current record. Moreover, given this inextricable connection between rates and service quality standards, it would be arbitrary and capricious for the Commission to set a new cost-based rate without finalizing the open proceeding regarding service quality standards. In other words, if the Commission is planning on changing these standards, it should take account of any such changes in setting new rates for IP CTS. *Cf. AT & T Corp. v. Iowa Util. Bd.*, 525 U.S. 366, 387–92 (1999) (holding that the Commission acted unlawfully in requiring incumbent carriers to provide competing carriers with access to certain network elements while failing to "adequately consider the 'necessary and impair' standards" that defined when those elements must be provided). Indeed, the Commission itself has recognized that "mandatory minimum IP CTS standards … may increase the cost of providing the service."[27]

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Hamilton Relay submits these written comments for inclusion in the public record for the above-captioned proceeding pursuant to 47 C.F.R. § 1.1206.

Respectfully submitted,

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[27] *2013 FNPRM*, 28 FCC Rcd at 13477.