



IDT Telecom, Inc. Presentation

In the Matter of

**Telecommunications Relay Services and
Speech-to-Speech Services for
Individuals with Hearing and Speech Disabilities
CG Docket No. 03-123**

**Petition for a Notice of Proposed Rulemaking
To Revise the Interstate TRS Fund
Contribution Methodology**

RM - _____

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WHY IS IDT HERE TODAY?

On October 27, 2014, IDT Telecom, Inc. filed a Petition for a Notice of Proposed Rulemaking in CG 03-123.

IDT is here to discuss the issues presented in the Petition, namely, two fundamental inequities within the funding mechanism that supports the Interstate Telecommunications Relay Service Fund:

The first inequity is the funding of intrastate internet-based relay services through the interstate fund.

The second inequity is the funding of domestic relay services from international revenue.

WHAT IS IDT'S GOAL?

IDT's goal is to have the Commission issue a NPRM that addresses these inequities.

WHY IS IDT *NOT* HERE TODAY?

IDT does not seek to reduce the availability of relay services nor do we seek to reduce the compensation for relay service providers. And IDT is not here to take issue with how relay services have been funded in the past. Our goal is to set in motion a process that allows for relay services to be prospectively funded in a more fair, equitable and lawful manner.

THERE SHOULD BE NO CONTROVERSEY: JURISDICTIONAL SEPARATIONS ARE THE RULE FOR RELAY SERVICE

47 USC § 225 (d)(3)(B) establishes the guideline for FCC regulations regarding cost recovery of relay services (“Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction.”)

In establishing funding for Video Relay Service, IP Relay and IP CTS, the Commission acknowledged its obligation to secure funding for relay service in accordance with its jurisdictional separations obligations; the Commission also conceded that it had *limited* authority to *temporarily* override the separations obligations in favor of bringing the new, innovative relay services to the market.

INTRASTATE VIDEO RELAY SERVICE IS FUNDED BY THE INTERSTATE TRS FUND

In 2000, the Commission issued an Order approving the compensation of all (including intrastate) VRS calls from the Interstate TRS Fund.¹ In doing so, the Commission noted:

*During the development of this new relay service, we will permit recovery of costs associated with both intrastate and interstate calls from the interstate TRS Fund.*²

The statute permits this action. Section 225(d)(3) states that the Commission's regulations "shall *generally provide* that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction (emphasis added)." We believe the word "generally" gives to the Commission *some* discretion to fund intrastate service from the interstate jurisdiction. We believe that our action, *intended as an interim arrangement*, is an appropriate exercise of this discretion.

This funding scheme is a *temporary arrangement*. When VR[S] develops to the point where it can be required, as we expect it will, *we intend to revert to the traditional cost recovery mechanism*. We will not establish a particular date for that transition. Instead, we will continue to assess the availability of the service and its technological development and determine at some point in the future when it best can be funded in the traditional manner.³

¹ *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, paras. 21-27 (Mar. 6, 2000).

² *Id.* at para 24 (Italics added.)

³ *Id.* at paras. 26-27 (internal footnotes omitted)(Italics added except where so noted.)

In a subsequent Declaratory Ruling, the FCC noted: “Because the leg of the call between the person with a hearing disability and the CA uses the Internet, and not the PSTN, VRS providers cannot automatically determine the geographic location of that party to the call.”⁴

For the funding year covering July 2013 – June 2014, total support paid for Video Relay Service was \$651,577,776.

For the funding year covering July 2014 – December 2014, total support paid for Video Relay Service was \$296,312,011.

Data taken from monthly "Interstate TRS Fund Performance Status Reports" located at <http://www.r-l-s-a.com/TRS/reports.htm>, last viewed 1/28/2015.

⁴ *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service*, CG Docket No. 03-123, Declaratory Ruling, FCC 06-182 at para. 5 (January 11, 2007)(“TRS Declaratory Ruling”).

INTRASTATE IP RELAY SERVICE IS FUNDED BY THE INTERSTATE TRS FUND

In 2002, the Commission issued a Declaratory Ruling approving the compensation of all (including intrastate) IP Relay calls from the interstate TRS Fund.⁵ In doing so, the Commission noted that “Because there is currently no automatic means for determining whether a call made via IP Relay is intrastate or interstate, we authorize, on an *interim* basis, recovery of all costs of providing IP Relay from the Interstate TRS Fund.”⁶

For the funding year covering July 2013 – June 2014, total support paid for IP Relay Service was \$23,370,278.*

For the funding year covering July 2014 – December 2014, total support paid for IP Relay Service was \$8,900,856.*

Data taken from monthly "Interstate TRS Fund Performance Status Reports" located at <http://www.r-l-s-a.com/TRS/reports.htm>, last viewed 1/28/2015.

*Based on Total Support Paid for July - September 2013 and Projected Support for remaining months.

⁵ *In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Petition for Clarification of WorldCom, Inc.*, CG Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, FCC 02-121 at para 20 (April 22, 2002).

⁶ *Id.* at para 1 (Italics added.)

INTRASTATE IP CTS IS FUNDED BY THE INTERSTATE TRS FUND

In 2007, the Commission issued a Declaratory Ruling approving the compensation of all (including intrastate) IP CTS calls from the interstate TRS Fund *“until such time as the Commission adopts jurisdictional separation of costs for this service.”*⁷

For the funding year covering July 2013 – June 2014, total support paid for IP CTS was \$167,742,834.

For the funding year covering July 2014 – December 2014, total support paid for IP Relay Service was \$135,215,151.

Data taken from monthly "Interstate TRS Fund Performance Status Reports" located at <http://www.r-l-s-a.com/TRS/reports.htm>, last viewed 1/28/2015.

⁷ TRS Declaratory Ruling at para. 1 (Italics added.)

THE COMMISSION HAS AN OBLIGATION TO INTERSTATE SERVICE PROVIDERS TO ADDRESS THE FUNDING LIMITATIONS RAISED WHEN IT FIRST AUTHORIZED THE USE OF INTERSTATE REVENUE TO SUPPORT INTRASTATE SERVICES

- (1) Internet-based relay services are not new: the commission has had 15, 13 and 8 years, respectively, to address the jurisdictional concerns it acknowledged when approving interstate funding for intrastate VRS, IP Relay and IP CTS.
- (2) Internet-based relay services represent the vast majority of relay service compensation (approximately \$842,690,888 for July 2013 – June 2014 and \$440,428,018 for July 2014 – December 2014.)
- (3) There are known, rational ways to implement a jurisdictional separation of costs for each of the services: the jurisdiction of the calling and called parties are known. Data required to receive compensation per 47 CFR 64.604(b)(5)(iii)(D)(2) includes the incoming and outbound telephone number and IP address (if call originates/terminates with an IP-based device.) This data reveals the state of the calling and called parties.

THE FCC SHOULD ALSO ADDRESS THE BURDEN PLACED UPON INTERNATIONAL TELECOM PROVIDERS IN SUPPORTING DOMESTIC RELAY SERVICES

In addition to the burden placed on international telecom providers to pay for intrastate internet-based relay services, international providers are doubly burdened by having to support *all* interstate relay services.

All relay services compensated from the Interstate TRS Fund are fundamentally domestic services, yet the Commission relies to a grossly disproportionate degree (relative to international relay service usage) on supporting domestic relay services from the international jurisdiction.

The Commission should consider whether it is unjust and unreasonable (or simply not good policy) under 47 CFR §64.604(c)(5)(i) to have international providers supporting relay services which are near-exclusively domestic.

The FCC should seek data from *all* compensated relay services providers to determine the number of international compensated minutes (and corresponding compensation) for each service.

If the data indicates that international revenue supports a portion of the Interstate TRS Fund that is disproportionate to the costs incurred by the provision of international relay services, the FCC should implement a recovery mechanism under which the cost of each jurisdiction's calls would be recovered from the corresponding jurisdiction, *i.e.*, interstate relay services should be recovered from the interstate jurisdiction and international relay services should be recovered from the international jurisdiction.

IN CONCLUSION

Jurisdictional separations are the rule for relay services. In initially approving funding for intrastate calls for VRS, IP CTS and IP Relay, the Commission acknowledged that its authority was limited authority and that such funding could only be for a limited time.

Considerable time – more than a decade for two of the three services - has passed and Internet-based relay services have come to represent the vast majority of the cost of the interstate fund.

It is unclear what percentage of usage for the three services is intrastate, but what is clear is that the burden of funding intrastate Internet-based relay services has fallen solely on interstate/international providers.

The time has come for the Commission to initiate a rulemaking that will establish a process whereby the costs associated with the intrastate jurisdiction are separated from the costs associated with the interstate jurisdiction, and funding is provided by the corresponding jurisdiction.

In undertaking this proceeding, the Commission should also consider the burden of funding domestic relay services that is placed on international providers. If the data indicates that international providers are disproportionately funding domestic relay services, the Commission should implement a recovery methodology whereby only the cost international relay services should be recovered from the international jurisdiction.