

**Interstate TRS Advisory Council
Meeting Minutes April 15, 2014
Harrisburg, Pennsylvania**

Attendees:

Council Members

Mark Tauscher, Chair, TRS Providers
Ron Bibler, Vice Chair, TRS Users
Celia Nogales, Secretary, Interstate Telecommunications Providers/Contributors
Curtis Humphries (representing Sherri Collins) Deaf and Hard of Hearing Community
Jack Cassell, State Relay Administration
Andrew Phillips, TRS Users
Brenda Kelly-Frey, State Relay Administration
Phillip Hupf, Interstate Telecommunications Providers/Contributors
Amy Ignatius, State Representative
BJ Gallagher, Hear/speech Disability Community
Mike Maddix (representing Jeff Rosen) TRS Providers

RLSA

David Rolka

FCC

Gregory Hlibok

CONVENE

Chairman Tauscher called the meeting to order and asked for Council members to introduce themselves.

OCTOBER 17, 2013 MINUTES

Chairman Tauscher asked for any corrections to the Fall meeting minutes and the Secretary indicated there were three typos to be corrected for the record. The minutes were approved.

SUBCOMMITTEE REPORTS

Brief reports were provided by Mark Tauscher and Celia Nogales on the monthly conference call meetings of the Providers and Health of Fund calls. The calls continue to be helpful to all participants and will continue indefinitely.

FCC PRESENTATION

Gregory Hlibok, Chief of the FCC's Disability Rights Office, began his report by sharing that the new FCC Chairman, Tom Wheeler, has already demonstrated his intent to focus attention on issues impacting people with disabilities. Greg began his report by reviewing Commission action with regard to Speech-to-Speech (STS) including the increased time CAs must stay on the line and the requirement to offer a muting option. The STS FNPRM includes discussion of a nationwide outreach program and a registry or database similar to VRS and IP Relay. Councilmember Gallagher inquired about the National Deaf Blind Equipment Distribution Program's outreach program referenced by Mr. Hlibok and he recommended the www.icanconnect.org website for more information.

IP Relay. He reported that since the July 1, 2013 rate decrease the market has gone from five IP Relay providers to two and the number of ten digit telephone numbers For IP Relay use have declined from 150,000 registered users to 14,000. There was always a concern regarding fraud and abuse and he referenced an Enforcement Bureau investigation. The data reflects that registered IP Relay users have decreased significantly, and so has the demand. Following Sorenson's departure, the two remaining providers requested the Speed of Answer (SOA) waivers in anticipation that high volumes of IP Relay calls may cross over to these two remaining providers but that situation did not materialize. He urged the Council not to simply focus on the IP Relay rate. Councilmember Phillips asked if the Commission was open to considering an increase in the rate in order to potentially attract more providers and

increase competition. Mr. Hlibok acknowledged it was an option along with initiating a contract to provide nationwide IP Relay. He stressed the availability of non-relay services such as text-to-text or live chat that could also impact the decline so there may be less need for IP Relay. He however, recognized that the service is particularly important to deaf-blind consumers who have indicated that IP Relay is the only sort of service that they can use sufficiently. Mr. Maddix, reiterated that he was representing relay service providers, stated clearly that the exit by multiple providers was the result of a decrease in the rate and not the decrease in demand. The severe rate cut impacted the quality of the service, stifling innovation, and that these effects were already trickling down to other forms of relay. He added that multiple VRS providers have already gone on the record indicating that further cuts may lead to a similar exodus, adding that a national IP service or national VRS service was a bad idea. Mr. Hlibok expressed appreciation for Mr. Maddix's frank comments and stated that numerous consumer groups had express the same concerns. He believed this matter requires an ongoing dialogue between the Commission, providers and consumers all working toward the goal of robust and sustainable service. Because of the confidentiality of internal discussions, Mr. Hlibok was not in a position to respond questions regarding the drop in demand but would certainly forward comments on the rate decrease to appropriate FCC staff. Councilmember Phillips shared his personal experience in registering with a new provider which was quite frustrating and included a request to provide pictures of his driver's license and social security card. However, he had not seen an increase in consumer complaints at NAD nor had Mr. Hlibok at the FCC. Mr. Humphries asked if the FCC would consider a survey of the consumers who had left and Mr. Hlibok responded that it was a possibility but that the FCC had access to data indicating that many customers were simply not legitimate users.

IP CTS. Mr. Hlibok provided a brief report on FCC actions in 2013 with regard to IP CTS including the interim rules and the permanent rules from August. Currently there is a stay of the permanent rules but the interim rules are still in place so third party certification is still in effect. There are multiple petitions pending before the Commission. The FCC is considering a (hardship) exemption to the general default-off rules for those with cognitive issues such as dementia or aging. Councilmember Bibler expressed his view that self-certification should suffice but Mr. Hlibok responded that third party certification remained a requirement under the interim rules which are still in effect. He also responded to a query from Councilmember Gallagher that the issue with regard to establishment of a hearing threshold was off the table. Mr. Humphries commented that it appears customers may be getting caught as providers hurry to meet FCC requirements and offered a personal example. Mr. Hlibok encouraged him to file a complaint but also said he believed IP CTS is experiencing the same fall out in competitive environment that occurred in VRS.

VRS REFORM. Mr. Hlibok reported that in June of 2013, the FCC issued its VRS Reform Order along with an FNPRM. Despite the substantial number of comments supporting the status quo, that is not possible if the goal is to achieve 100% interoperability. The development of a neutral VRS platform and establishment of a centralized consumer registry database for verifying eligibility are key elements of the proceeding. The FCC now has a Memorandum of Understanding (MOU) with the National Science Foundation for research and development plus a second MOU with the National Institutes of Health's Institute of Aging. He stressed the Commission's desire to establish a national outreach program not just to educate the general public but to focus on commercial businesses where there has been a history of rejecting VRS calls. The Commission would like to transition to a market-based compensation pricing methodology for determining the appropriate rate level for VRS. The FNPRM also proposes to allow hearing individuals to purchase 10-digit numbers to make point to point calls. And, of course, the FNPRM also proposes changes to the Advisory Council to advise the FCC and Fund Administrator about compensation rates, consumer issues and quality of service, for example. It also proposes further reductions to speed of answer requirements, permitting CAs to work at home during the overnight shift and considers a prohibition on using non-compete clauses in contracts for employees and contractors. Mr. Hlibok clarified that there are four distinct actions taking place. The first is an RFP that has been issued for a neutral video communications platform to be followed by a second for the technical reform platform. The third will establish the national outreach program and the final RFP will be for a registered user database. In response to a query by Councilmember Cassell, Mr. Hlibok indicated that the neutral platform is intended to provide an option or supplement to existing proprietary platforms and that it might make sense for a small provider to utilize a neutral platform potential at much lower cost. Mr. Maddix stated that the issue most critical to VRS providers is the competitive bid process to set market-based rates and he inquired about progress in this area. Mr. Hlibok

responded that the rate schedule for the next four years is fixed and will remain in effect for the next four years unless the Commission takes action sooner on the competitive bidding process. He added that the neutral platform would have to be firmly in place prior action on the competitive bidding process. Mr. Hlibok thanked the participants for their attention and indicated he would remain for the duration of the Council meeting.

ADMINISTRATOR'S REPORT

Dave Rolka reviewed the 2014-2015 TRS Filing Presentation which forms the basis for the recommendation RLSA will file with the FCC as required by May 1, 2014. (The Presentation is attached to these draft minutes.) Mr. Rolka outlined his presentation as covering MARS-based services (Traditional TRS, Speech to Speech, STS outreach, CTS and IP CTS), IP Relay (and here he made note of some restrictions), VRS and total fund requirements. For Traditional TRS and STS RLSA has calculated a blended rate of \$2.11 per minutes with an additional per minute payment of \$1.13 for STS outreach which brings the STS rate to \$3.25. RLSA has calculated the rate for CTS at \$1.82 and the same rate will apply to IP CTS. Mr. Rolka reminded councilmembers that due to the reimbursement payment schedule, any program year budget is comprised of two months from the previous year rates and ten months of the prospective program year rates for a total typically of 12 provider payments. The biggest variable is always the demand and, as example, offered that IP CTS demand fell dramatically as providers determined how best to comply with the FCC's interim rules, particularly the default-off requirement. There is a slight difference in demand between the provider's projections and RLSA's regression analysis. However, Mr. Rolka indicated that the difference amounts to only about \$16M. Mr. Maddix requested that RLSA note that providers were not able to immediately implement the changes necessary so the demand is deceptive in that it may not accurately reflect all the actual demand. He asked Mr. Rolka to clarify that there are other costs that providers incur that are not represented on the presentation graphs and Mr. Rolka agreed that his charts show all of the allowable cost categories permitted by the FCC. Mr. Rolka prefaced his IP Relay presentation by saying that with only two service providers remaining in this market, his presentation would necessarily be restricted. He reviewed the price cap formula (including the 6% productivity factor) and the providers average costs for the last several years. The FCC's IP Relay formula would require that the current rate, \$1.01 (after the outreach offset), be reduced by the productivity factor leaves a rate of \$.95. However, RLSA has chosen to propose alternatives to the FCC for a number of reasons including costs increasing, productivity gains were not realized, fewer providers, etc., and is proposing to add back in outreach costs because the FCC has not yet implemented its outreach program. The difference is only about a \$2M impact to the Fund. Councilmember Ignatius suggested a third alternative (increase costs but take full productivity factor) which RLSA has agreed to produce. Chairman Tauscher pointed to the disconnect between the TRS rate and the IP Relay rate when the same call center facilities and the same CAs are used for both services. He asked how much flexibility RLSA has when making recommendation and Mr. Rolka stated the Administrator cannot advocate on behalf of any providers. RLSA's approach is to look at the range of reasonable options and make sure the Commission has the data in order to evaluate all proposals appropriately. Turning to VRS, Mr. Rolka stated that VRS providers have historically been very accurate in projecting demand. The FCC 2013 VRS Reform Order – which was a full Commission order and not on delegated authority to the Bureau – changed the tiers and pricing structure for VRS so RLSA's recommendation strictly adheres to the language of the Order. Mr. Maddix inquired if RLSA had considered including outreach costs similar to its IP Relay proposal but Mr. Rolka responded that the VRS proceeding had been a long one at the FCC and ultimately RLSA is required to comply with the direction in the Order. Andy Mulitz, FCC, spoke from the audience stating that RLSA had more flexibility on recommendations for IP Relay but less so for VRS because of the Reform Order. Councilmember Ignatius asked if RLSA anticipated a VRS provider exodus similar to IP Relay but Mr. Rolka said no. He then summarized the total TRS Fund revenue requirement at \$974M which includes two months of reserve, the NDBEDP and funds for VRS reform pursuant to the Order. The sum is offset by the balance remaining in the fund at the end of the program year and earnings on investments. This brings the requirement to \$790M which was used to calculate the new factor at \$.012 which is lower than the current \$.014. Councilmember Nogales asked if RLSA had any numbers on the impact of including outreach costs in the VRS rate similar to the IP Relay rate calculation and Mr. Rolka indicated he did not have it but could produce it.

IP CTS PILOT PROGRAM

Mr. Humphries provided a short presentation regarding a pilot program for IP CTS managed by the State of Arizona, RLSA and the FCC to acquire data for analysis with regard to the potential of transitioning the service to state management. There was some discussion by members with concerns about funding (Would it remain funded by the federal interstate fund even though the program could be administered by individual state administration?) and mandatory minimum standards. Mr. Maddix asked if there would be a cost differential if additional requirements were imposed. Mr. Humphries indicated these are exactly the kinds of questions that would be answered with additional discussion between the states and the FCC. Councilmember Cassell expressed concern about supporting the program without additional details and facts. Mr. Humphries stated that Councilmember Collins had simply wanted to bring it to the attention of the Council.

PERKINS PRESENTATION ON THE NATIONAL DEAF-BLIND EQUIPMENT DISTRIBUTION PROGRAM

Steve Rothstein, President of the Perkins School for the Blind, briefed participants on their role as Administrator of the FCC's National Deaf Blind Equipment Distribution Program. Today, the Perkins School is working in all 50 states under contract to manage the national outreach program and is also either the primary or secondary partner in about 32 states for the distribution program. Over 2500 individuals of all ages who are deaf-blind have now taken advantage of the program. The challenge is that based on national demographics, there are roughly one million people that are eligible currently and in 20 years, this number may double. This is a three-year pilot program with a \$10 million annual allocation. The Perkins School intends to ask for an extension of the program and for an increase to \$18 million in funding. Mr. Rothstein believes this program has made the biggest impact for people who are deaf-blind since Helen Keller went to Perkins in 1886. Councilmember Kelly-Frey asked about an increase in funding for administrative costs which are currently capped at 15% and Mr. Rothstein indicated he understood the FCC will open a proceeding in the near future and they would advocate for an increase. He also said Perkins would be asking for support to pay the training of trainers which is not covered currently. He shared that he often works with RLSA staff to shift money amongst states to insure that the dollars are spent as this is a "use or lose" proposition. Mr. Rothstein made available outreach materials to Councilmembers and audience participants

NEW BUSINESS

Chairman Tauscher discussed the distribution of FCC orders and filings to councilmembers. He offered to be the conduit and forward relevant Commission items to those interested. Councilmember Phillips suggested members sign up for a feed at accessinfo@fcc.gov which can be tailored to areas of interest. Councilmember Bibler expressed a concern that Councilmembers might be inundated with documents and prefers to have RLSA forward only relevant information. Councilmember Phillips encouraged councilmembers to regularly review the FCC Disability Rights Office website's TRS section (<http://www.fcc.gov/encyclopedia/telecommunications-relay-services-trs>) to see the latest TRS information and headlines. Mr. Rolka will explore creating a site for materials to be viewed electronically by councilmember and will fork with the Council chair on this. Vice Chair Bibler stated that over the last several council meetings there have been special presentations and/or speakers addressing the Council all of which has been very well received. He suggested that for the Fall meeting this same practice be followed and the Chair indicated he would accept suggestions. The location of the fall meeting was discussed. Councilmember Kelly-Frey offered a motion, seconded by Councilmember Phillips, that the ITRS Advisory Council be held in Portland, Maine, on September 20 and 21, between the TEDPA meeting (September 17-20) and the NASRA meeting (September 21-23). Mr. Hlibok stated that because that period falls at the end of the FCC's fiscal year, participation by FCC staff is contingent upon the status of the budget at that point in time.

PUBLIC COMMENT

John Goodman, Purple, stated that 2013 was a tremendously dynamic year for IP CTS providers like Purple and Sorenson from a regulatory standpoint. There were virtually no rules at the beginning of the year but providers were bombarded with interim rules, waivers, a permanent set of rules and a Court-ordered stay by the end of the

year. It's important to note that much has to be done by providers any time there is a mandated change such as updating a website, modifications to a registration process, new verification procedures, etc. He urged the Council, in its communications with the FCC to highlight the importance of proper advance notice to providers and consideration of the impact of rule implementation on a smooth customer experience. Ultimately, it is the end user customer that gets caught between two rules changing. He then went on to comment on IP Relay for which demand is likely to continue to level off and for which there are only two providers remaining. He pointed to the return on investment line item – 11/25% -- and noted that this is not what providers make as a profit. He suggested that councilmembers need to focus on the process to understand why there has been an exodus from the market. He believes the single biggest issue is that the wrong calculation method to generate rates is being used and nothing is being done about it. He stated particular concern regarding Mr. Hlibok's comments on the VRS rates and claims he has heard differing views from individuals at the FCC in more senior positions. Jeremy Jack, CAAG, also expressed deep concern with regard to the VRS market and VRS rates. He believes the three smallest providers may exit the market and, like IP Relay, consumer choice will be extremely limited. He pointed to VRS labor costs (interpreters) and stated that as they are cut in this market, there will be a spill over effect into other markets -- not just relay -- and all interpreters will be financial impacted in a negative manner. He also believes that video relay interpreters are underrepresented on the Council. Vice Chair Bibler asked that Mr. Goodman's comments be included in the chair's letter to the FCC. Mr. Hlibok added that he wants to make clear that his presentation and comments came directly from the FCC's record in the respective proceedings he addressed. Mr. Maddix introduced a motion for consideration by the Council that the Fund Administrator provide the same alternate pricing mechanism for the VRS rate as in the IP Relay alternative rate proposal to account for the lack of a national outreach program. Mr. Rolka indicated that outreach costs were collected from VRS providers and could present the information for the FCC's consideration. The motion was seconded and approved by the Council.

CLOSING COMMENTS/ADJOURNMENT

Chairman Tauscher thanked Dave Rolka and the entire RLSA staff for the logistics and planning of the meeting. Mr. Rolka expressed his appreciation for the many councilmembers who visited the RLSA office and provided the Administrator the opportunity to explain in depth what is accomplished on a routine, the preparation needed to deal with all the various service provider issues, and a better picture of what is done by RLSA on a daily basis. The meeting was adjourned at 2:24 p.m.