

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	
Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate for the July 2015 Through June 2016 Fund Year)	

To: Secretary, FCC
For: Chief, Consumer & Governmental Affairs Bureau

REPLY COMMENTS OF ULTRATEC, INC.

Ultratec, Inc. (“Ultratec”)¹ hereby submits these Reply Comments in response to the *Public Notice* (“*Notice*”) issued May 20, 2015 by the Consumer & Governmental Affairs Bureau (“Bureau”) of the Federal Communications Commission (“Commission”) in the above-referenced proceeding.² In the *Notice*, the Bureau seeks comment on the compensation rates proposed by the interstate telecommunications relay services (“TRS”) fund (“TRS Fund”)

¹ Ultratec was the original innovator of captioned telephone services (“CTS”) provided over the public switched telephone network (“PSTN”). Ultratec, along with its affiliate CapTel Inc., has maintained its role as an industry leader with respect to Internet Protocol-based CTS (“IP CTS”) as both a customer premises equipment manufacturer and technology provider. With over eleven years of experience providing CTS in four countries, Ultratec is the most experienced PSTN and IP CTS technology provider in the world. See Ultratec, About Us, <http://www.ultratec.com/about> (last visited June 11, 2015) and CapTel, <http://www.captel.com> (last visited June 11, 2015).

² *Rolka Loube Associates LLC Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the 2015-16 Fund Year*, Public Notice, DA 15-612 (rel. May 20, 2015) (“*Notice*”).

administrator Rolka Loube Associates LLC (“Rolka”) for different forms of TRS, including IP CTS, for the period from July 1, 2015 through June 30, 2016.³ Specifically, the *Notice* seeks comment “[t]o help inform the Commission’s decision on an appropriate rate methodology for IP CTS and to be prepared should the Commission determine to use a cost-based methodology to determine a new rate for IP CTS.”⁴

Ultratec supports the Bureau’s continuing efforts to improve IP CTS service and protect the integrity of the Fund. As further discussed below, like many commenters, Ultratec supports the Multistate Average Rate Structure (“MARS”) methodology for IP CTS. In addition, Ultratec agrees with other commenters that the Commission should respond to the recent Government Accountability Office (“GAO”) report⁵ by adopting effective performance standards.

I. THE COMMISSION SHOULD CONTINUE TO BASE THE IP CTS RATE ON THE MARS METHODOLOGY

The Commission should not abandon the highly successful MARS methodology for determining IP CTS rates. Since 2007, the Commission successfully has employed the MARS methodology, which is “based on a weighted average of state rates for CTS,”⁶ to establish fair and appropriate IP CTS compensation rates. No commenter has provided an adequate justification for abandoning this successful practice and instead adopting an untested and unproven new rate making methodology.

³ The Administrator submitted its rate proposals, including proposed alternative rates, in its April 24, 2015 filing, as supplemented on May 1, 2015. *See* Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate for July 2015 Through June 2016, CG Docket Nos. 03-123, 10-51 (filed Apr. 24, 2015) (“*2015 TRS Rate Filing*”); Supplemental Filing, CG Docket Nos. 03-123, 10-51 (filed May 1, 2015).

⁴ *Notice* at 2.

⁵ *See* U.S. Government Accountability Office, GAO-15-409, *Telecommunications Relay Service: FCC Should Strengthen Its Management of Program to Assist Persons with Hearing or Speech Disabilities* (Apr. 2015) (“GAO Report”).

⁶ *2015 TRS Rate Filing* at 12-13.

As Ultratec has explained, MARS accurately reflects the actual cost of provisioning IP CTS under competitive market conditions because MARS relies on the competitive bids of providers rather than projected costs, which may be subject to manipulation and gaming. Consequently, MARS does not suffer from the inherent flaws and vagaries of other proposed rate setting mechanisms.⁷ In addition, MARS is self-adjusting. As the cost of providing IP CTS changes due to changes in technology, regulatory requirements or labor costs,⁸ these changes automatically are reflected in the MARS rate.⁹ Further, MARS-calculated IP CTS rates have proven to be predictable and stable over time:¹⁰ “The total increase over the entire time the MARS rate has been in effect for IP CTS has averaged 1.903% per year, which is *less* than the average annual 1.914% increase in the Consumer Price Index for the same period.”¹¹

⁷ Reply Comments of Ultratec., Inc., CG Docket Nos. 10-51, 03-123, at 3 (filed June 3, 2014) (“2014 Ultratec Reply Comments”); *see also* Comments of Sprint Corporation, CG Docket No. 03-123, 10-51, at 2 (filed June 4, 2015) (“Sprint Comments”) (noting rates are “market-based” under the “MARS plan”).

⁸ *See, e.g.*, Comments of Sorenson Communications, Inc. and CaptionCall, LLC, CG Docket Nos. 13-24, 10-51, 03-123, at 6 (filed June 4, 2015) (“Sorenson Comments”) (“Salaries and benefits for [Communications Assistants] – and not capital investments – are providers’ greatest costs.”).

⁹ *See* Comments of Hamilton Relay, Inc., CG Docket Nos. 10-51, 03-123, at 4-8 (filed June 4, 2015) (“Hamilton Comments”) (explaining that MARS is based on competitive bids, and accordingly, “there is no incentive for provides to overestimate costs, because they are unlikely to be the successful bidder if they do.”).

¹⁰ *Id.* at 4-5 (inclusive of the proposed MARS rate increase for the 2015-2016, the average year-over-year increase to the MARS IP CTS rate was \$0.0332). COMPTTEL observed that the proposed 2015-2016 contribution factor represents a “sharp increase” over the contribution factor adopted by the Commission in 2014-2015. Comments of COMPTTEL, CG Docket Nos. 03-123, 10-51, at 1 (filed June 4, 2015). However, due to the rate stability that has been the hallmark of MARS-based rates, any increase in the contribution factor attributable to IP CTS represents greater IP CTS use by the deaf and hard-of-hearing, which should be viewed as a public benefit. *See* Sprint Comments at 2 (“There also is no evidence in the record that the MARS methodology is driving unwarranted growth in IP CTS usage or leading to inefficiencies.”).

¹¹ Hamilton Comments at 4-5 (emphasis in original).

By contrast, other rate making methods raised either by Rolka¹² or by other comments in the record¹³ have distinct disadvantages that may undermine their efficacy. For example, the Commission has found that rate making methodologies relying on cost estimates and projections can be inherently inaccurate.¹⁴ In addition, rate making methodologies that incorporate *ad hoc* efficiency factors and cost adjustments are inherently complex and speculative and may result in rates that inappropriately fluctuate over time.¹⁵ These shortcomings may create unnecessary challenges for providers, which, in turn, can result in harm to TRS users.¹⁶

II. THE COMMISSION SHOULD CONSIDER ADOPTING MINIMUM IP CTS STANDARDS, AS RECOMMENDED BY THE GAO, TO ENSURE FUNCTIONAL EQUIVALENCE

Ultratec agrees with other commenters that the Commission should address the issues raised in the recent GAO Report regarding TRS, particularly with respect to performance goals and standards.¹⁷ For example, Ultratec’s experience is consistent with the GAO Report’s finding

¹² See *2015 TRS Rate Filing* at 17 (calculating an alternative reimbursement calculation based on the average projected costs).

¹³ See Sorenson Comments at 5-6 (advocating a price-cap method of setting IP CTS rates).

¹⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, Order Denying Stay Motion, 25 FCC Rcd 9115, 9117 ¶ 6 (CGB 2010) (citing *Telecommunications Relay Service and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, Order, 25 FCC Rcd 8689, 8694-5 ¶ 10 (2010) to “conclude[] that over the past several years VRS providers’ projections of their costs have ‘consistently overstate[d]’ those costs, and found for that reason that it could ‘no longer justify basing VRS compensation rates only on projected costs’ supplied by the providers.”).

¹⁵ See Hamilton Comments at 10-11 (noting that a price cap approach would introduce administrative complexities and is “subject to significant fluctuations from year to year”).

¹⁶ See, e.g., Sprint Comments at 2 (“As the IP Relay experience has shown, when rates decline but costs do not, providers have little choice but to exit the marketplace, leaving customers without service.”).

¹⁷ Comments of Consumer Groups and Registry of Interpreters for the Deaf, CG Docket Nos. 03-123, 10-51, at 2 (filed June 4, 2015) (urging the Commission to “address and implement the [GAO] Report recommendations fully”); see also Hamilton Comments at 12-13 (encouraging the Commission to adopt “clearly defined, measurable standards for IP CTS”).

that interpreter accuracy is “critical to achieving quality services.”¹⁸ Thus, Ultratec supports the adoption of new IP CTS “performance goals that are objective, quantifiable, and measurable.”¹⁹ However, Ultratec believes that it is important that any such standards be based on uniform measurement criteria adopted by the Commission in close collaboration with industry stakeholders.

III. CONCLUSION

For the reasons stated herein, the Commission should maintain the MARS rate methodology and consider adopting effective and objective performance standards.

Respectfully submitted,

ULTRATEC, INC.

By: /s/ Pamela Y. Holmes

Pamela Y. Holmes
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June 11, 2015

¹⁸ GAO Report at 18; *id.* (“Accurate relay of important medical, legal, or financial calls by [communication assistants] was of particular concern to consumer groups with whom we spoke. Without goals related to important dimensions of service quality, such as interpreter accuracy, it becomes difficult to determine if this attribute of functional equivalency is being met and to identify whether programmatic changes need to be made.”); *see also* 2014 Ultratec Reply Comments at 6-7 (“It has been Ultratec’s experience that 95% accuracy...is considered by users to be acceptable, although not ideal.”).

¹⁹ GAO Report at 17.