

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Telecommunications Relay Services and ) CG Docket No. 03-123  
Speech-to-Speech Services for )  
Individuals with Hearing and Speech )  
Disabilities )

**PETITION FOR RULEMAKING**

IDT Telecom, Inc.  
  
Carl Wolf Billek  
Senior Regulatory Counsel  
IDT Telecom, Inc.  
520 Broad Street  
Newark, NJ 07102  
(973) 438-4854 (Telephone)  
(973) 438-1215 (Facsimile)  
[Carl.Billek@idt.net](mailto:Carl.Billek@idt.net) (Email)

November 25, 2015

**TABLE OF CONTENTS**

I. INTRODUCTION .....1

II. DISCUSSION .....2

    A. The History of the IP-based Relay Services Indicates That the FCC Had Neither the Authority Nor the Intention to Compensate Intrastate Relay Service Calls From the Interstate and International Jurisdictions Indefinitely .....2

    B. The Commission Should Act Now On All Three (and All Future) IP-based Services, Rather Than Take a Piecemeal Approach .....5

        1. The explosive growth of the IP-based relay services demonstrates the need for reform .....6

        2. Securing the management of intrastate IP-based relay services from state relay administrators does not appear to be a reasonable, workable solution.....7

    C. The Commission Has the Authority to Expand the Contribution Base to Include Intrastate Revenue.....9

    D. Determining the Intrastate Revenue Subject to Contribution to the TRS Fund and Billing and Collecting Those Contributions Would Not Be Burdensome .....13

    E. The Benefits of Expanding the TRS Fund Base to Include Intrastate Revenue are Considerable.....14

    F. The Commission Should Remove the Exception For VRS Set Forth in 47 C.F.R. §64.604(c)(5)(ii) As Being Inconsistent With 47 USC § 225 .....16

III. CONCLUSION.....18

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Telecommunications Relay Services and ) CG Docket No. 03-123  
Speech-to-Speech Services for )  
Individuals with Hearing and Speech )  
Disabilities )  
 )

Pursuant to Section 1.401 of the Commission’s rules,<sup>1</sup> IDT Telecom, Inc. and its subsidiaries and affiliates (collectively “IDT”), hereby request that the Commission issue a Notice of Proposed Rulemaking (“NPRM”) to review and revise the Commission’s rules and policies establishing the contribution methodology for the Interstate Telecommunications Relay Service (“TRS”) Fund and implement a contribution methodology that includes intrastate revenue within the TRS Fund contribution base.

**I. INTRODUCTION**

IDT<sup>2</sup> requests that the Commission open a docket to explore changes to policies and rules that compel mandatory contributions to the TRS Fund from providers of interstate and/or international telecommunications, interconnected VOIP and non-interconnected VOIP services. Specifically, the Commission should review and revise its policies and rules that exclude corresponding intrastate telecommunications, interconnected VOIP and non-interconnected

---

<sup>1</sup> 47 CFR § 1.401.

<sup>2</sup> IDT provides intrastate, interstate and international telecommunications and interconnected VOIP services. IDT files a FCC Form 499-A and its filing contains revenue on Line 514(b) of the FCC Form 499-A. Support for the TRS Fund is calculated based on revenue reported by telecommunications and interconnected VOIP providers on the FCC Form 499-A Line 514(b) (Line 514(b) represents the total interstate and international revenue reported on Lines 403 through 417 plus Line 418.4 less Line 511 less uncollectible revenue/bad debt expense associated with TRS contribution base amounts shown on Line 512.) Line 514(b) contains interstate and international revenue; it does not contain intrastate revenue. Accordingly, IDT contributes to the TRS Fund based on its interstate and international revenue as reported on Line 514(b) of its FCC Form 499-A.

VOIP revenue from the TRS Fund contribution base and implement a contribution methodology that includes intrastate revenue within the TRS Fund contribution base. Additionally, it should remove the exception for VRS set forth in 47 CFR §64.604(c)(5)(ii) as being inconsistent with 47 USC § 225.

Expanding the TRS Fund contribution base to include intrastate revenue would greatly increase and strengthen the base of the TRS Fund, which is rapidly diminishing<sup>3</sup>; reduce the ever-increasing TRS Fund contribution factor on interstate and international revenue for all carriers presently contributing to the TRS Fund<sup>4</sup>; and apportion the costs of the TRS Fund amongst all jurisdictions. Such a revision would ensure that: IP-based relay services remain available to users; providers of intrastate IP-based relay services are properly and lawfully compensated for their services; and contributions to the TRS Fund are fairly and reasonably apportioned amongst all covered providers.

## II. DISCUSSION

### A. **The History of the IP-based Relay Services Indicates That the FCC Had Neither the Authority Nor the Intention to Compensate Intrastate Relay Service Calls From the Interstate and International Jurisdictions Indefinitely.**

In 2000, the Commission issued an Order approving the compensation of all (including intrastate) VRS calls from the Interstate TRS Fund.<sup>5</sup> In doing so, the Commission noted:

---

<sup>3</sup> Since the 2004-2005 TRS Fund contribution year, the TRS Fund contribution base has been reduced approximately 20% - from \$81.2M to \$64.1M.

<sup>4</sup> Based on information contained in the 2014 Universal Service Monitoring Report, IDT estimates that approximately \$1.78 in intrastate revenue would be added to the TRS Fund contribution base for every \$1.00 of interstate and international revenue presently in the base. If this amount were added for the current year, the present TRS Fund Contribution Base would rise to approximately \$178.2B and the TRS Fund Contribution Factor of 0.1635 would be reduced to approximately 0.00588. *See generally*, "2014 Universal Service Monitoring Report," CC Docket No. 96-45; WC Docket No. 02-6; WC Docket No. 02-60; WC Docket No. 06-122; WC Docket no. 10-90; WC Docket no. 11-42; WC Docket No. 13-184; WC Docket No. 14-58 (Last viewed November 25, 2015 [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-330829A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-330829A1.pdf)).

<sup>5</sup> *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).

*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.”*<sup>6</sup>

The Commission went on to state

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. First, VRI is necessary to provide many people with disabilities relay service that is functionally equivalent to voice communications. Second, this action is consistent with our statutory mandate to encourage the use of existing technology and not to discourage or impair the development of improved technology in the delivery of relay services. Third, it allows us to assess demand and let market forces determine the technologies of choice for delivery of VRI, while not depriving any consumer who is willing to invest in new technologies the ability to make any call, not just an interstate call. We believe that this *temporary cost recovery scheme* will help to ensure that any consumer who has invested in the necessary video equipment and broadband services will be able to use VRI to call his own doctor locally, as well as make long distance calls that may not be as critical to his well-being.

This funding scheme is a *temporary arrangement*. When VRI 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.<sup>7</sup>

In a subsequent Declaratory Ruling, the FCC noted of VRS [VRI]: “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.”<sup>8</sup>

---

<sup>6</sup> Id. at para 24 (Italics added.)

<sup>7</sup> Id at paras. 26-27 (internal footnotes omitted)(Italics added except where so noted.)

<sup>8</sup> *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities; IP-based Captioned Telephone Service*, CG Docket No. 03-123, Declaratory Ruling, FCC 06-182 at para. 5 (January 11, 2007)(“TRS Declaratory Ruling”).

Subsequent to the previously-cited Order, discussing the breadth of Section 225, the FCC acknowledged a seemingly less expansive view, namely that “[47 U.S.C. 225(d)(3)(B)] provides that the ‘costs caused by’ the provision of *interstate* TRS ‘shall be recovered from all subscribers for every interstate service,’ and the ‘costs caused by’ the provision of *intrastate* TRS ‘shall be recovered from the intrastate jurisdiction.’”<sup>9</sup>

In 2002, the Commission issued a Declaratory Ruling approving the compensation of all (including intrastate) IP Relay calls from the interstate TRS Fund.<sup>10</sup> 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.”<sup>11</sup>

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.*”<sup>12</sup>

Despite the clearly stated intentions to restrict the recovery of intrastate IP-based relay services from the interstate and international jurisdictions for a limited time or until certain actions were taken to secure compensation in a manner more consistent with jurisdictional separations, relay service providers continue to be compensated from the TRS Fund for all (including intrastate) calls from each of these services (“Services that are currently compensated

---

<sup>9</sup> *In the Matter of Contributions to the Telecommunications Relay Service Fund*, CG Docket No. 11-47, Declaratory Ruling, FCC 11-38 at Para 5 (footnote omitted)(March 3, 2011).

<sup>10</sup> *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).

<sup>11</sup> *Id.* at para 1 (Italics added.)

<sup>12</sup> TRS Declaratory Ruling at para. 1 (Italics added.)

from the TRS Fund include ... both intrastate and interstate video relay service (VRS), Internet Protocol (IP) Relay service, and Internet Protocol Captioned Telephone Service (IP CTS).”<sup>13</sup>

**B. The Commission Should Act Now On All Three (and All Future) IP-based Services, Rather Than Take a Piecemeal Approach.**

It is beyond question that the future of relay services lies in the use of IP-based services: indeed, it is highly improbable that any future service covered by the TRS Fund will not use the IP. For example, AT&T has initiated filings that will, in all likelihood, result in Real Time Text, an IP-based service intended to replace traditional TTY, being available for compensation from the TRS Fund.<sup>14</sup> And given the growth of the IP-based relay services and their dominance of the marketplace, undertaking piecemeal, service-by-service review will only ensure that the existing problems linger. Moreover, the only reasonable alternative to expanding the TRS Fund contribution base to strengthen the TRS Fund and implementing a lawful contribution methodology - transitioning the management of intrastate IP-based relay services from state relay administrators - does not appear to be a reasonable, workable solution for any of the IP-based services. Thus, there would be no purpose in undertaking a piecemeal review because the outcome will assuredly be the same, regardless of the service. Furthermore, separate

---

<sup>13</sup> “Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate” filed by Rolka Loube Saltzer Associates LLC in *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51 at page 5 (May 1, 2014).

<sup>14</sup> “AT&T Petition for Waiver,” *In the Matter of Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*, PS Docket No. 11-153; *Framework for Next Generation 911 Deployment*, PS Docket No. 10-255; *IP-Enabled Services*, WC Docket No. 04-36; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Implementation of Sections 716 and 717 of the Communications Act of 1934*, et al, CG Docket No. 10-213 (June 12, 2015); and “Petition for Rulemaking,” *In the Matter of Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*, PS Docket No. 11-153; *Framework for Next Generation 911 Deployment*, PS Docket No. 10-255; *IP-Enabled Services*, WC Docket No. 04-36; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Implementation of Sections 716 and 717 of the Communications Act of 1934*, et al, CG Docket No. 10-213 (June 12, 2015).

proceedings for each IP-based service would cause an extraordinary drain on the Commission's resources – a drain which seems unsupportable given the near-identical similarity of the issues presented and the solutions available for each service. Accordingly, reform should be undertaken on a global scale.

**1. The explosive growth of the IP-based relay services demonstrates the need for reform.**

While each of the three IP-based relay services had relatively insignificant impacts on the TRS Fund budget when first made available to consumers, they now comprise the near-entirety of the usage-based portion of the current TRS Fund budget. Indeed, approximately 98% of the \$1,124,797,718 budgeted for service provider payments<sup>15</sup> is apportioned for the payment of IP-based relay services. The TRS Fund budget contains an additional \$33,402,955 for non-service-related components within it and these costs are directly and indirectly tied to the management of IP-based relay services and the availability of these services to the public.<sup>16</sup> Moreover, data indicates (for TTY, CTS and STS – the only services for which data is available) that approximately 75% of relay service calls are intrastate.<sup>17</sup> Presuming that this percentage applies

---

<sup>15</sup> This \$1,124,797,718 figure includes \$964,112,718 budgeted for "Projected Provider Payments" and \$160,685,000 budgeted for "Two Average Month Provider Payment Reserve." See, "Exhibit 2 UPDATED," *Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate Supplemental Filing In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51 (<http://apps.fcc.gov/ecfs/document/view?id=60001046235> Last viewed: November 25, 2015.)

<sup>16</sup> *Id.*

<sup>17</sup> IDT derived the 75% figure by computing the compensated minutes for TTY, CTS and STS contained in the monthly Interstate TRS Fund Performance Status Reports, which are available at <http://www.rolkaloube.com/#!/formsreports/c1zv/> (Last viewed: November 25, 2015) and comparing the minutes reported, with the number of intrastate conversation minutes reported by TRS Fund Administrator Rolka Loube in its annual "Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate" filings with the Commission. See, for example, <http://apps.fcc.gov/ecfs/document/view?id=60001044730> and <http://apps.fcc.gov/ecfs/document/view?id=60001044731> (Last viewed: November 25, 2015.) The minutes reported by Rolka Loube serve as the basis for the MARS plan calculation and should be considered an accurate accounting of the number of compensated intrastate conversation minutes. IDT's examination revealed the following intrastate percentages for the years 2011 – 2014: (Footnote continued on the next page...)

for all relay services, it would indicate that of the \$1,124,797,718 budgeted for the three IP-based relay services in the current contribution year, approximately \$843,598,288 is used to recover costs incurred by the provision of intrastate IP-based relay services. Moreover, if you apportion the same percentage to the managerial and administrative costs within the TRS Fund budget, an additional \$25,052,216 can be ascribed to the costs of intrastate IP-based relay services supported solely from interstate and international revenue. This analysis demonstrates that for the current year, interstate and international carriers will pay approximately \$868,650,504 for costs associated with intrastate IP-based relay services. This is an unjust and unreasonable burden placed upon interstate and international providers and contrary to Section 225.

**2. Securing the management of intrastate IP-based relay services from state relay administrators does not appear to be a reasonable, workable solution.**

When the Commission initially approved the IP-based services for compensation, it clearly intended to transition management of and compensation for the intrastate components of the services in a manner comparable, if not identical, to the manner in which traditional PSTN-based relay services were managed. In other words, the Commission intended for states to manage and compensate providers of intrastate IP-based relay services. But this transfer of responsibilities never occurred. Most recently, in 2013, regarding IP CTS, the Commission presented the many reasons it initially chose to fund intrastate IP CTS from the TRS Fund and

---

For TTY: 78.98%; 81.57%; 79.45%; and 76.43%. For CTS: 75.52%; 75.56%; 76.98%; and 73.88%. For STS: 74.51%; 66.30%; and 71.03% (the total number of minutes paid for STS ceased being available in 2014 and is therefore not included).

tentatively concluded that “the original reasons for having the Fund provide compensation for these calls may no longer exist.”<sup>18</sup> The Commission also wrote:

[A] primary underlying reason for the Commission’s decision to have the Fund reimburse providers for the costs of VRS and IP Relay calls – upon which part of the rationale for doing the same for IP CTS calls is based – was the difficulty in ascertaining the location of calls made using IP transmissions. Insofar as calls associated with IP CTS are often made using the PSTN, we believe that IP CTS providers are able to ascertain the origination and destination of IP CTS calls in a manner that would allow for compensation for these calls to be billed to the states or the Fund, and seek comment on whether this assumption is accurate.<sup>19</sup>

Comments filed in response to the FNPRM indicate that the Commission’s belief was correct. However, the comments in that proceeding strongly opposed the transfer of responsibility for the management of and compensation for intrastate IP CTS to the states for fiscal, political and administrative reasons, including concern regarding the states’ ability to financially support and efficiently administer state programs.<sup>20</sup> Comments made by and cited by Sorenson and Caption Call in that proceeding indicate little to no support by the states, consumers and/or the relay service providers for the Commission’s proposal to hand off responsibility to the states for management of intrastate IP CTS. IDT assumes that if each stake holder opposes the idea (often for different, unique reasons), then any proposal is unlikely to be efficient and the proposal is not a feasible one. In the absence of transferring the management of and compensation for intrastate

---

<sup>18</sup> *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 and 03-123, Report and Order and Further Notice of Proposed Rulemaking (August 26, 2013) (“FNPRM”) at ¶137.

<sup>19</sup> *Id.* at ¶136.

<sup>20</sup> See generally, Comments of Sorenson Communications, Inc. and Caption Call, Inc. at 28-30 (November 4, 2013); Reply Comments of Sorenson Communications, Inc. and Caption Call, Inc. at 17 - 18 (December 4, 2013), *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 and 03-123 (providing a summary of the states, consumers and service providers which oppose the states funding and administering intrastate IP CTS.

IP-based relay service to the states, we must look to the Commission for guidance and leadership in rationalizing the compensation methodology.

**C. The Commission Has the Authority to Expand the Contribution Base to Include Intrastate Revenue.**

The Commission has the authority under 47 U.S.C. §225 to regulate the provision of and compensation for intrastate relay services. By extension, the Commission has the authority under 47 U.S.C. §225 to extend the TRS Fund contribution base to include intrastate revenue. Therefore, if the Commission is unwilling or unable to delegate the authority for funding intrastate IP-based relay services to the states, the Commission is compelled to implement rules and policies that ensure the recovery of costs of intrastate IP-based relay services from the intrastate jurisdiction in a manner consistent with the statute.

When trying to understand the Commission's authority to regulate the provision of and compensation for intrastate relay services, we look to 47 U.S.C. §225. In looking at 47 U.S.C. §225, we must consider both what the statute *compels* and what it *allows*: these are very different things.

What does 47 U.S.C. §225 *compel*? The answer is straight forward: 47 U.S.C. §225 directs the Commission to ensure that interstate and intrastate relay services are available to the extent possible and in an efficient manner; requires that costs caused by intrastate relay services to be recovered by the intrastate jurisdiction and costs caused by interstate relay services to be recovered by the interstate jurisdiction; and mandates that the Commission shall certify, per certain guidelines, a state program intended to implement intrastate telecommunications relay services.

What does 47 U.S.C. §225 *allow*? The answer is expansive: in fact, it is more than sufficiently expansive to allow the Commission to expand the contribution base to include intrastate revenue. 47 U.S.C. §225 allows the Commission to regulate the provision of and compensation for intrastate relay services. 47 U.S.C § 225 (b)(2) reads in full:

#### Use of general authority and remedies

For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this subchapter with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this chapter by a common carrier engaged in interstate communication.

It is particularly noteworthy that 47 U.S.C § 225 also directs the Commission to prescribe regulations that “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.” Thus, Congress provided the FCC with explicit, expansive authority over the provision of and recovery for intrastate relay services.

As well as the aforementioned explicit provision, 47 U.S.C. §225 implicitly allows for the FCC to regulate the provision of and recovery for intrastate relay services. This implicit authority is established by the fact that there is nothing in the statute which compels the states (or the Commission) to establish state programs to administer intrastate relay services. To be clear: the establishment of a state program to manage the provision of and recovery for one or more intrastate relay services is voluntary. 47 U.S.C. §225(f)(1) refers to states “desiring” to establish a state program under the statute. 47 U.S.C. §225 does not *compel* states to establish a state

program. That (to the best of IDT's knowledge) all states have chosen to establish programs to manage the provision of and recovery for intrastate relay service is a demonstration of the states "desire" to do so. That states have established programs to administer intrastate relay services is simply a matter of fact: it is not a matter compelled by legislation.

With this understanding, we must conclude that a state's failure to establish a program for the oversight of and compensation for an intrastate IP-based relay service is a demonstration of its desire to *not* establish a program. And in the absence of state action to establish a program for the oversight of and compensation for an intrastate IP-based relay service, the obligation falls to the Commission, consistent with its obligation to ensure that interstate and intrastate relay services are available to the extent possible and in an efficient manner, to establish such a program and to implement regulations that oversee the management of the service(s). Which the FCC has done.

To take this reasoning one step further, there is nothing in the statute which prevents *some* intrastate relay services from being administered via a state program while *other* intrastate services are administered by the FCC. Indeed, the Commission has, by its own admission, administered the provision of and compensation for intrastate IP CTS, VRS and IP Relay and if it does not have the authority to administer intrastate relay services then it has been in violation of the statute for 15 years. Congress specifically granted the FCC the authority to act in the most efficient manner, leaving the determination of what that "most efficient manner" is to the FCC's discretion. Thus, the Commission can continue to administer and compensate providers of intrastate and interstate IP-based relay services while state programs can continue to administer and compensate the intrastate components of services presently under their authority if the

Commission deems this approach to be the most efficient manner to make intrastate and interstate relay services available.

Unless the Commission intends to make intrastate IP-based relay services mandatory and require the states to manage (and provide compensation for) the intrastate services – which IDT does not believe is a reasonable, feasible option, the Commission should determine that it is authorized to permanently manage all jurisdictions of IP-based relay services and secure compensation for all jurisdictions of the IP-based relay services from all jurisdictions of revenue reported on the FCC Form 499-A.

IDT finds support in the statute for that IDT's proposal is permissible. As IDT has noted previously in filings before the Commission, Section 225 requires jurisdictional separations (“the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.”) However, Section 225 also states in part:

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.

We believe that the inclusion of the word “generally” provides the Commission with a degree of flexibility sufficient to allow for a contribution methodology that does not compel a dollar-for-dollar separation of costs and recovery. Indeed, we believe that Congress, when directing the Commission to act in “the most efficient manner” gave it a degree of flexibility necessary to implement a contribution methodology that, if deemed to be the most efficient contribution methodology, need not be a perfect one. And while IDT finds its proposed methodology to not be perfect, we find it to be, generally, a reasonable one and we can think of no alternative that combines reasonableness with such ease and efficiency.

**D. Determining the Intrastate Revenue Subject to Contribution to the TRS Fund and Billing and Collecting Those Contributions Would Not Be Burdensome.**

Should the Commission choose to expand the TRS Fund contribution base to include intrastate revenue, the immediate concern would be how it and the TRS Fund administrator would obtain the data necessary to determine the contribution base, develop a contribution factor and determine the contributions of individual carriers. Presently, the overall contribution base, the contribution factor and each individual contributor's contribution is determined by examining the overall revenue reported on Line 514(b) of the FCC's Form 499-A.<sup>21</sup> Under IDT's proposed expansion of the contribution base to include intrastate revenue, the Commission would simply use the data presently reported on FCC Form 499-A Line 514(a) in place of the data contained on Line 514(b). This revision of the 499-A and its instructions as well as the process necessary for the TRS Fund administrator to obtain the data and bill carrier contributors is *de minimis*.

Moreover, IDT anticipates that the carriers that presently comprise the contribution base will continue to comprise the near-entirety of contributors who support the TRS Fund.<sup>22</sup> However, certain intrastate-only carriers may not presently file a Form 499-A and, as such, the Commission would have to determine how to obtain such carriers' financial information to include it within the TRS Fund contribution base. As to the steps necessary to complete this

---

<sup>21</sup> See, 2015 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A), p. 35. <http://www.usac.org/res/documents/cont/pdf/forms/2015/2015-FCC-Form-499A-Form-Instructions.pdf>. (Last viewed: November 23, 2015.)

<sup>22</sup> While it is clear that the overall contribution necessary to support the TRS Fund will remain the same and that the TRS Fund itself will be strengthened by this broader, more secure funding mechanism, it is not entirely clear how a revised methodology will impact existing contributors. IDT has estimated that if intrastate revenue was included in the 2015-2016 TRS Fund Fiscal Year, the contribution factor of .01635 would have been reduced to .00588. Thus, carriers would see a dramatic reduction in their contribution based on their interstate and international revenue. However, these same carriers would now be required to submit a contribution to the TRS Fund based on their intrastate revenue (of course, this contribution would be based on the much lower factor.) Thus, the impact of the proposal will be different for every carrier, as each carrier has a different mix of intrastate to interstate to international revenue.

undertaking, we note that there is precedent: the Commission has, in recent years, required providers of only interconnected VOIP and providers of only non-interconnected VOIP service to submit a Form 499 for the purpose of being subject to TRS Fund contributions: previously, these carriers did not need to file a FCC Form 499-A. Like these two classes of service providers, intrastate only carriers would contribute only to the TRS Fund as a result of their 499-A filing and would not be subject to the other funds whose contribution base is determined based on revenue reported on the FCC Form 499-A. IDT greatly suspects that the process undertaken to secure the reporting and contributions of interconnected VOIP and non-interconnected VOIP providers can be replicated to secure the same information from intrastate-only providers.

**E. The Benefits of Expanding the TRS Fund Base to Include Intrastate Revenue are Considerable.**

The benefits of extending the contribution base to intrastate revenue to support intrastate IP-based relay service are great and many. First, it allows the FCC to finally implement a contribution methodology consistent with the ADA. Second, it provides a degree of stability to the TRS Fund, which in its present state is vulnerable to legal challenge and has seen its contribution base diminish greatly over the last decade – from approximately 81 billion for the 2004-2005 Year to 64 billion for the 2015-2016 Year.<sup>23</sup> Third, it ensures that existing (and future) IP-based relay service providers will be confident that they will be compensated at one rate, consistent throughout the country and not subject to different rates and policies in different states. Fourth, it ensures that IP-based relay service users will have no disruption of service and no change in service providers. Fifth, it allows for interstate and international service providers to share the burden of supporting IP-based relay services with intrastate service providers. And

---

<sup>23</sup> See [http://media.wix.com/ugd/455e4d\\_15bfc799fec40e28fa9ef1644e39f10.pdf](http://media.wix.com/ugd/455e4d_15bfc799fec40e28fa9ef1644e39f10.pdf) and <http://apps.fcc.gov/ecfs/comment/view?id=60001030712> (last viewed August 26, 2015.)

finally, it allows for the customers of interstate and international providers to be relieved of the sole burden of financing intrastate IP-based relay service placed upon them as well.

There are additional compelling reasons for the Commission to retain oversight of existing intrastate IP-based relay service. Efficiency is sure to be greater having the intrastate service managed by the FCC, rather than by each individual state. Of far greater concern than simple efficiency is the concern that that if the Commission moved to delegate management of and compensation for intrastate IP-based relay services to the states and the states “desired” to not oversee the management of one or more service, either the intrastate component of the service would not be available within the state (which would seemingly violate Section 225’s mandate that intrastate service be made available) or the FCC would be compelled to manage the service(s) pursuant to its statutory obligation to ensure that interstate and intrastate relay services are available to the extent possible and in an efficient manner. This would create a chaotic, inefficient patchwork quilt of management responsibilities with the FCC responsible for management of some services in some states and not in others. Indeed, the mandate to administer relay services in an efficient manner places another arrow in the Commission’s quiver. Quite simply, it would inefficient – if not impossible – to have the intrastate component of a relay service administered by some states and not others while maintaining any semblance of a reasonable contribution methodology.

Additionally, if states were to administer IP-based relay services, users would be harmed by the lack of competitive choice. IDT understands that states generally award a contract to one provider to provide a particular relay service throughout the state whereas the FCC allows multiple service providers operating within the same state to be compensated. So, if a particular state chose to manage the intrastate component of IP-based relay service, by selecting one

provider for the intrastate component of the service, it would effectively exclude all competitors from competing within the state (IDT presumes that if a service provider could not be compensated for intrastate calls, providing any service within the state would be unfeasible.) Thus, awarding a statewide contract for a particular service would compel the customers from all other service providers to port their service to the state-chosen provider. The impact of losing the ability to provide service within a state could be devastating to a relay service provider and could possibly result in its inability to provide service anywhere at all. Clearly, such an outcome is contrary to Section 225.

**F. The Commission Should Remove the Exception For VRS Set Forth in 47 C.F.R. §64.604(c)(5)(ii) As Being Inconsistent With 47 USC § 225.**

While the Commission's decisions to allow for recovery of intrastate IP CTS and IP Relay from interstate and international revenue were not memorialized in the Commission's rules, the decision regarding VRS is memorialized within the Commission's rules. This rule should be revised. Specifically, 47 C.F.R. §64.604(c)(5)(ii) states:

Costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism. Except as noted in this paragraph, with respect to VRS, costs caused by intrastate TRS shall be recovered from the intrastate jurisdiction. In a state that has a certified program under § 64.606, the state agency providing TRS shall, through the state's regulatory agency, permit a common carrier to recover costs incurred in providing TRS by a method consistent with the requirements of this section. Costs caused by the provision of interstate and intrastate VRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism.

The rule should be revised to read as follows to eliminate the requirement that intrastate VRS shall be recovered from only interstate and international revenue:

Costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism. ~~Except as noted in this paragraph, with respect to VRS, e~~Costs caused by intrastate TRS shall be recovered from the intrastate jurisdiction. In a state that has a certified program under § 64.606, the state agency providing TRS shall, through the state's regulatory agency, permit a common carrier to recover costs incurred in providing TRS by a method consistent with the requirements of this section. ~~Costs caused by the provision of interstate and intrastate VRS shall be recovered from all subscribers for every interstate service, utilizing a shared funding cost recovery mechanism.~~

The Commission may also find other instances within its TRS rules at 47 C.F.R. §64.604 *et seq* in which it believes the use of the term “interstate” should be revised to include “intrastate.”

### III. CONCLUSION

The Commission's efforts to make new and innovative IP-based relay services available are admirable. However, the cost of these IP-based relay services is unjustly and unreasonably placed solely upon the providers of interstate and international services and, indirectly, their customers. The explosive growth of the IP-based relay services demonstrates the need for reform and the most reasonable, efficient means to reform the TRS Fund contribution methodology is to expand the base to include intrastate revenue. The Commission has the authority to expand the TRS Fund contribution base to include intrastate revenue and such an expansion would not be burdensome for the Commission, carrier contributors, relay service providers or relay service users. Moreover, the benefits of expanding the TRS Fund base to include intrastate revenue are considerable, including a strengthening of the support for the program and greatly reducing the burden placed on interstate and international providers and, by extension, their customers.

Respectfully submitted,

IDT Telecom, Inc.

**/s/ Carl Wolf Billek**

---

Carl Wolf Billek  
Senior Regulatory Counsel  
IDT Telecom, Inc.  
520 Broad Street  
Newark, NJ 07102  
(973) 438-4854 (Telephone)  
(973) 438-1215 (Facsimile)  
[Carl.Billek@idt.net](mailto:Carl.Billek@idt.net) (Email)