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

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

Interstate Telecommunications Relay Services Fund

Payment Formula and Fund Size Estimate

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April 29, 2016

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Payment Formula and Fund Size Estimate
Interstate Telecommunications Relay Services (TRS) Fund
For July 2016 through June 2017

I. Introduction

Rolka Loube Associates LLC (RL), as Interstate Telecommunications Relay Services (TRS) Fund Administrator (the Administrator), herein submits proposed compensation rates, demand projections, projected fund size and proposed carrier contribution factor for the period July 2016 through June 2017, in accordance with section 64.604 of the Federal Communications Commission's (FCC or Commission) rules.[1]

[1] 47 C.F.R. §64.604 (c)(5)(iii)(H).

In accordance with the Commission 2007 *Cost Recovery Order*,[2] the Administrator has used the Multi-state Average Rate Structure (MARS) methodology, based on the weighted average of competitively bid state rates, to propose compensation rates for interstate traditional TRS, interstate Speech-to-Speech (STS), interstate Captioned Telephone Service (CTS), and inter- and intrastate Internet Protocol (IP) Captioned Telephone Service (CTS).

For IP Relay Service, the Administrator is recommending rates based on the price cap structure adopted by the Commission in the *Cost Recovery Order*.[3] As of November 15, 2014 only a single IP Relay service provider continues to offer the service following the cessation of service by Purple on that date. By Order[4] dated December 12, 2014 the Consumer and Governmental Affairs Bureau (CGB) granted Sprint Corporation (Sprint), the only remaining IP Relay service provider, a limited and temporary waiver of the speed of answer requirements for IP Relay service retroactive to November 14, 2014 and ending on April 15, 2015. Further, the Order confirmed that before Sprint may provide IP Relay service to consumers who had been using the IP Relay service offered by Purple Communications, Inc. (Purple), Sprint shall register and verify the eligibility of each consumer. By Order[5] dated December 29, 2014, and, based on emergency circumstances, CGB waived the rule regarding establishment of rates on an annual price cap basis and adopted a mid-year adjustment of the per-minute rate of compensation for

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[2] Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140 (2007) (Cost Recovery Order)

[3] Telecommunications Relay Services and Speech-to-Speech for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Order, 25 FCC Rcd 8689 (2010) (2010 Rate Order)

[4] DA 14-1826, Rel. 12-12-2014.

[5] DA 14-1889, Rel. 12-29-2014.

the provision of Internet Protocol Relay (IP Relay) service. The adjusted rate was retroactive to November 14, 2014 and specified to remain in effect until June 30, 2015, except that a higher rate applicable to monthly minutes in excess of 300,000 terminated May 15, 2015. CGB acknowledged Sprint's concern that the IP Relay compensation rate might not provide sufficient revenue for Sprint to continue to provide the service, especially since Sprint will be the sole remaining provider and must take steps to prepare for and handle an unknown volume of minutes resulting from Purple's exit. As noted by CGB, Sprint's current costs, which were partly dependent on future events such as how many users migrate to Sprint and the cost of enrolling and serving those users, remain unknown. Sprint estimated that it will take six months for it to complete its capital investments, purchases, hiring and training in order to meet the needs of what might be a substantially larger customer base, which the CGB found to be reasonable. That time was not yet at an end when RL submitted the recommendations for the 2015-2016 program year; therefore we recommended that the interim emergency rates, without the above 300,000 minutes rate tier, remain in effect for the 2015-2016 program year pending further reporting by Sprint and consideration by CGB of the emergency conditions' effect on future rates. Sprint provided the TRS Fund Administrator with a projected level of demand which was reflected in the final recommendation found in 2015-2016 edition of Table 2. Each of the Waivers and interim reimbursement provisions has expired. The provider audit plan for program year 2015-2016 included an audit of Sprint's IP Relay cost experience following the reduction to a single provider. The recommendation in this submission coincides with the beginning of a new three-year price cap cycle and reflects the results of that audit.

Per the "VRS Reform Order[6]", the Commission restructured the VRS Tiers and established rates[7] applicable to those new Tiers in six-month incremental periods through June 2017. The Administrator's contribution factor recommendation has been developed to reflect the Tiers and rates of the *VRS Reform Order*. However, a "Joint Proposal of all six VRS providers for improving functional equivalence and stabilizing rates" (Joint Proposal) dated March 30, 2015 was filed with the Commission.

By Order dated March 1, 2016 at CG Docket No. 10-51 & CG Docket No. 03-123 (FCC 16-25) the Commission provided limited compensation relief for video relay service (VRS) providers with 500,00 or fewer minutes (the smallest providers). Specifically, the smallest providers were granted limited relief, on a retrospective and going-forward basis, from certain Tier I compensation rate adjustments adopted in the *VRS Reform Order*.[1] For the 16-month period begun July 1, 2015 and ending October 31, 2016, the FCC directed the administrator of the Interstate Telecommunications Relay Services Fund (TRS Fund) to pay compensation to such providers at a rate of $5.29 per minute. For the period from November 1, 2016, to April 30, 2017, the administrator is directed to pay compensation to such providers at a rate of $5.06 per minute. For the period from May 1, 2017 to June 30, 2017, the administrator of the Interstate Telecommunications Relay Services Fund (TRS Fund) is directed to pay compensation to such providers at a rate of $4.82 per minute. The resulting rates for the small Tier I

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[6] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities* at CG Docket No. 03-123 and *Structure and Practices of the Video Relay Service Program* CG Docket No. 10-51, Rel. June 10, 2013, Para 208, (VRS Reform Order),

[7] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities* at CG Docket No. 03-123 and *Structure and Practices of the Video Relay Service Program* CG Docket No. 10-51, Para 215, (VRS Reform Order),

providers, for the period January 1, 2015 to the end of the four-year period, are shown in the following table.

Table 1 Small VRS Provider Rates

	Jan. – June 2015	July – Dec. 2015	Jan. – June 2016	July – Oct. 2016	Nov. – Dec. 2016	Jan. – Apr. 2017	May – June 2017
Tier I (1st 500,000 monthly minutes) for VRS providers with 500,000 or fewer minutes in a month	$5.29	$5.29	$5.29	$5.29	$5.06	$5.06	$4.82

The Administrator projects a net fund cash requirement for Fiscal Year 2016-2017 of $1,143,606,637.

Calendar year 2015 interstate and international end user revenues estimated by the Data Collection Agent ("DCA") were still being gathered and compiled from reporting entities when this recommendation was prepared for submission and contains numerous estimates as placeholders for reports which are not deemed late until after the due date for this Annual Report. We recommend that the Commission use the current best available 499A information from the DCA to calculate the Assessment rate when it becomes available. This recommendation has been calculated using the latest information available at the time of this submission. The best available reported annual 2015 revenues are $61,424,575,348. The contribution factor for the 2016-2017 Fund year, derived from the ratio of estimated fund size to prior calendar year revenues, is proposed to be 0.01862

Upon approval by the Commission, the Fund Administrator will begin billing carriers for the 2016 – 2017 funding period in July 2016.

II. Interstate TRS Fund Overview

The Interstate TRS Fund (TRS Fund) is designed to compensate eligible relay service providers[8] for the reasonable costs of furnishing "[t]elephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communications by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communications services by wire or radio."[9]

Services that are currently compensated from the TRS Fund include interstate traditional TRS, interstate captioned telephone service (CTS), interstate speech-to-speech (STS), and both intrastate and interstate video relay service (VRS), Internet Protocol (IP) Relay service, and Internet Protocol Captioned Telephone Service (IP CTS). The Administrator reimburses providers at compensation rates computed by the Administrator in accordance with Commission rules, and approved or modified by the Commission. In 2007 the Commission's *Cost Recovery Order* adopted methodologies for establishing the reimbursement rates for the various relay services.[10] In June 2008 the Commission also

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[8] Eligible providers are defined as (1) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to section 64.605; or (2) TRS facilities owned by or operated under contract with a common carrier providing interstate services pursuant to section 64.604; or (3) interstate common carriers offering TRS pursuant to section 64.604; or (4) Video Relay Service (VRS) and Internet Protocol (IP) Relay providers certified by the Commission pursuant to § 64.606.

[9] 47 C.F.R. 64.601(21) Definition of Telecommunications Relay Services.

[10] The methodologies included price caps for IP Relay and a tiered rate structure for VRS. The Commission set IP Relay and VRS rates for a period of 3 years and confirmed that the initial year for the applicability of the rates was the 2007-2008 fund year. The initial three year period for the IP and VRS methodologies sunset as of June 30, 2010. *See Cost Recovery Order* ¶¶ 97, 107-108. In the *2010 Rate Order* the Commission initiated a new 3-year cycle for IP Relay rates and adopted interim, one-year rates for VRS, for effect while the Commission considered broad reform. In the *2013 Rate Order* the Commission initiated another 3-year cycle for IP Relay rates. In the 2013 VRS Reform Order the Commission established new VRS tiers and set rates in six month increments through June 2017. In December 2014 the Commission revised the reimbursement rate applicable to IP Relay service retroactive

authorized providers' reimbursement for costs associated with implementation of 10-digit numbering and E-911 compliance for relay services.[11] In the *2010 Rate Order* the Commission approved the Administrator's proposal to include the costs associated with ongoing maintenance of 10-digit numbering and E-911 compliance for relay services as a per-minute additive to the relay service reimbursement rate base year calculation. The Bureau's Order of June 28, 2010 adopted this methodology for the current and future fund years.[12]

In 2013 the Commission adopted the VRS Reform Order, referenced above, which included provision for the establishment of a VRS User Registration Data Base (VRS URD). Each VRS service provider is required to register each of their existing users with the database administrator. The database administrator will validate the user identity prior to including the user in the VRS URD. RL was chosen by the FCC to develop and administer the registration database. The database is expected to become available for registration use as the current program year concludes (i.e. June 30, 2016) with updates, additions and deletions and the like continuing in the 2016-2017 program year and beyond. This Annual report does not address or identify any of the costs incurred by the service providers that may have been, or will be, incurred to comply with their user database registration requirements. The Administrator has made no effort to estimate what expenses may have been incurred regarding the processing or development

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to November 14, 2014 through June 30, 2015 on an emergency interim basis. *See Order* DA 14-1889 Rel. Dec. 29, 2014.

[11] Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123; E911 Requirements for IP-Enabled Service Providers, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) (TRS Numbering Order) at ¶¶ 96-101

[12] 2010 Rate Order at ¶ 25

expenditures of the affected VRS service providers. RL has not made a recommendation regarding any expenses incurred by service providers regarding the processing or development expenditures of the affected VRS service providers nor has RL included an estimate in this Annual report to address any expenses that the FCC may deem eligible for reimbursement.

The Commission's shared funding mechanism for the TRS Fund ensures that the costs of meeting relay service obligations are borne equitably. Interstate telecommunications common carriers contribute to the TRS Fund on the basis of their relative share of interstate and international end user revenues.[13] The TRS funding period commences on July 1 and ends June 30 of the following calendar year. For the July 2016 to June 2017 fund year, the Administrator will use the carriers' 2015 interstate and international end user revenues[14] as the basis for calculating carriers' contribution obligations. The contribution base has become smaller each year and the reductions to the contribution base are shown in the following table. The annual reductions have resulted in reported 2014 revenues used for the program year beginning in 2015 that were $64.129 billion; approximately $1.1 billion below the level reported at the beginning of the prior Fund year. The most recent information from the DCA regarding 2015 reported

[13] *See* 47 C.F.R. §64.604(c)(5)(iii)(A)-(C). Every carrier providing interstate telecommunications services (including interconnected VoIP service providers pursuant to §64.601(b)) and every provider of non-interconnected VoIP service shall contribute to the TRS Fund on the basis of interstate end-user revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

[14] Revenues are reported on the Telecommunications Reporting Worksheet, FCC Form 499-A, on April 1, 2016, and provided to the Administrator by the Universal Service Administrative Company (USAC), the Revenue Data Collection Agent (DCA). At the time of preparation of this filing the information from the DCA is considered preliminary and updated data will be used for the calculation of carrier contributions.

revenue which will be used for the program year beginning in 2016 is a further $2.7 billion reduction to $61,425 million.

Table 2 DCA Reported Contribution Base

Program Year beginning	Contribution Base
2004	$ 81,954,191,761
2005	$ 80,666,621,324
2006	$ 80,457,972,602
2007	$ 77,898,078,806
2008	$ 79,428,092,243
2009	$ 78,895,806,171
2010	$ 72,844,997,816
2011	$ 69,450,220,823
2012	$ 67,206,226,973
2013	$ 67,278,109,560
2014	$ 65,234,609,107
2015	$ 64,129,341,109
2016	$ 61,424,575,348

The Data Collection Agent ("DCA") also provides updates to the data reported by Carriers' throughout the program year to reflect a variety of changed contributor circumstances such as out of business, no telecommunications revenues, bankruptcies, mergers and acquisitions. The contribution base changes from year to year and also changes over the course of the program year. Changes to the contribution base reported to the TRS Administrator by the DCA during the first nine months of the current year, when used for invoicing purposes, with the fixed contribution factor, have resulted in a reduced available funding level of approximately $4.25 million.[15] This erosion of

[15] See Exhibit 4 for details regarding monthly erosion of the contribution base as reported throughout the program year by the DCA to the TRS Fund Administrator.

funding is one of the factors considered when estimating the size of two month budgetary reserve allowance.

Carriers report their prior calendar year revenues annually on the FCC Form 499-A, Telecommunications Reporting Worksheet, due on April 1, to the Data Collection Agent (DCA). The DCA provides the Interstate TRS Fund Administrator with the carrier revenue information used to calculate the contribution factor and maintains the carrier database for all funds. Revisions to FCC Form 499-A revenue data are provided by the DCA to the TRS Fund and other program managers so that corrections may be made to carrier billing. Revisions may be telecommunications service provider initiated or may be the result of an audit. The first edition of the reported 2015 499A submissions is provided to the TRS Administrator on or about April 25th. Each subsequent month USAC will provide updated information, to include information received from contributors that did not file by April 1st. There are substantial adjustments to the contribution base derived from the first edition of the reported 2015 499A submissions through the first several months of the program year followed by fewer and smaller adjustments as yearend approaches[16]. The TRS Fund Administrator may submit a revised contribution factor to the Commission for consideration in response to the Public Notice regarding this submission.

All Form 499-A filers providing interstate and/or international telecommunications services, with the exception of shared tenant service providers, are required to contribute to the interstate TRS fund. Shared tenant services for example do not contribute to the TRS Fund because it appears that the Third Report and Order in CC

[16] *See* Exhibit 4.

Docket No. 90-571 restricted TRS to only "common carriers" and not all carriers. The contribution base is formulated using the sum of 12 months interstate and international end user revenues less interstate and international revenues from resellers who do not contribute to Universal Service (Line 514 - Net TRS Contribution Base Revenues), as submitted via the FCC Form 499A, Telecommunications Reporting Worksheet.

Upon approval of the contribution factor by the Commission, the Administrator will promptly bill carriers for the 2016 – 2017 funding period which begins July 2016. Annual contributions will be due within 28 days after their July invoice date. Carriers, whose contributions are $1,200 or more, will have the option to be invoiced in twelve equal monthly installments. Invoices will be due four weeks after the issue date of the monthly invoice. RLSA has assigned each monthly contributor to one of four monthly invoice cycles and issues approximately one quarter of the monthly invoices on the first four Fridays of each month.

Per minute compensation rates will also be effective for minutes of service beginning July 1st, assuming approval of the proposed rates by the Commission. Timely submitted provider requests for reimbursement must be processed within two months[17] following the submission of the request for reimbursement. The Administrator has been able to reduce the processing time required for those submissions to less than 30 days as new systems are developed to perform validation testing prior to the release of payments. For example, minutes handled by providers in July 2016 are expected to be reported

[17] *See* 47 C.F.R. 64.604(C)(5)(iii)(L)

between August 10 and 15, 2016, and providers will then receive compensation for those minutes at the new rates, on September 9, 2016.[18]

III. TRS Formula Development

A. MARS

The *Cost Recovery Order* adopted the Multi-state Average Rate Structure (MARS) plan as the basis for calculating the compensation rate for interstate traditional TRS, interstate Speech-to-Speech (STS), interstate Captioned Telephone Service (CTS) and interstate and intrastate Internet Protocol Captioned Telephone Service (IP CTS).[19] The Administrator will calculate annually one MARS rate for interstate TRS and STS based on the weighted average of state rates for TRS and STS and a separate MARS rate for interstate CTS and intrastate and interstate IP CTS based on the weighted average of state rates for CTS.[20]. The Commission determined that because there was a lack of data for IP CTS, it would be reimbursed at the same rate as CTS. The TRS Fund Administrator has been requesting and compiling data on IP CTS costs, consistent with the annual provider data requests for IP Relay and VRS services since 2011 and reporting the provider reported IP CTS costs to the FCC in the Annual Report.

The Commission identified the steps for the Administrator to use to determine MARS-based compensation rates.[21] The Administrator must first collect intrastate traditional TRS, STS, and CTS compensation rate data for the prior calendar year.

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[18] *See* Exhibit 3 Anticipated Reporting and Disbursement Schedule. The reporting and disbursement schedule is subject to modification based on exogenous circumstances.

[19] Cost Recovery Order at ¶ 16.

[20] *Id*.

[21] 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, FCC 11-104, Rel. June 30, 2011 at ¶¶ 9-18.

Accordingly, the Administrator requested the following information from each state TRS administrator and each provider of interstate traditional TRS, STS and CTS for calendar year 2015 in January 2016, and requested that it be provided no later than the end of February 2016:[22]

a. the per-minute compensation rate for intrastate TRS and STS
b. the per-minute compensation rate for intrastate CTS
c. whether the rate applies to session or conversation minutes
d. the number of intrastate session minutes for TRS and STS
e. the number of intrastate session minutes for CTS
f. the number of intrastate conversation minutes for TRS and STS
g. the number of intrastate conversation minutes for CTS
h. any amounts paid by the state to the provider for relay service during the previous calendar year that are not included in the contractual per-minute compensation rate.

The Administrator must then determine whether there are anomalies in any state's data that will necessitate it being excluded from the MARS calculation,[23] calculate each state's total dollars paid for the year for intrastate traditional TRS, STS, and CTS services, and calculate the final rate by dividing the total dollars paid by all states by the total conversation minutes of all states for TRS and STS and separately for CTS.

A. Traditional TRS and STS Formula Development

From the data collected and follow up discussions with the state contacts, the Administrator found, that Maine, provides service under a flat rate monthly contract, and does not have data that can be used for MARS calculation purposes. For the remaining states, the District of Columbia, and Puerto Rico, the Administrator multiplied each jurisdiction's TRS and STS rate by the corresponding number of intrastate session

[22] The Annual Data Collection Form is included at Appendix A.

[23] For example, if there were no state TRS Fund and the cost of providing Relay services were recovered by the service provider based on each LEC's proportionate share of subscriber lines in the state, MARS like data would not be available and thus, would be excluded from the MARS computation.

minutes or intrastate conversation minutes, whichever the jurisdiction's rate was based upon.[24] For those states experiencing a mid-year rate change, the calculation was performed for each rate and service period. The calculation was made for each jurisdiction and the resulting weighted dollar amounts summed to produce a total dollar amount for each service. The Administrator added to the weighted dollar total any additional amounts paid by the states to the relay service provider(s) during the applicable period that were not included in the contractual per-minute compensation rate, but were applicable to the provision of relay service.[25] As a final step, the Administrator divided the resulting total weighted dollar and supplemental payment amount by the total number of intrastate TRS and STS conversation minutes.[26] The results of this calculation can be found in Exhibit 1-1. Exhibit 1-1 displays the array of rates reported by the individual state jurisdictions, although it does not identify the rates used by state in deference to requests for confidentiality. RL recommends that, since there appears to be only two providers competing for state TRS services contracts, future Annual Reports identify the compensation levels agreed to by each state, unless the reporting state exerts a claim of confidentiality regarding its compensation rates.

The total dollar amount paid out for intrastate TRS and STS during calendar year 2015, including the amounts paid to relay providers, which was not included in the per-minute compensation rate, amounted to $24,006,824. The total conversation minutes for intrastate TRS and STS for calendar year 2015 were 9,147,213. The proposed

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[24] *Id.* at ¶ 30

[25] *Id.* at ¶ 31

[26] *Id.*

compensation rate is developed by dividing the total 2015 intrastate dollar amount by the total 2015 intrastate conversation minutes, resulting in a proposed MARS rate of $2.6245 per conversation minute for interstate traditional TRS for the 2016 – 2017 funding period. The proposed rate is approximately 14.6% above the 2015 – 2016 MARS calculation of $2.2904 per conversation minute.

In the *Cost Recovery Order*, the Commission provided an additional amount of $1.131 to the 2007-2008 interstate STS compensation rate to be used by the providers for outreach efforts.[27] In the ensuing Fund years, the Commission has found it appropriate to continue the outreach additive at the same level. In a letter dated March 23, 2015 addressed to David Rolka in his capacity as TRS Fund Administrator, Bob Segalman DR., President of Speech Communications Assistance by Telephone, Inc., wrote to encourage a recommendation that the FCC issue an RFP or other document concerning STS outreach for fiscal year 2015-2016. The RFP requested by DR. Segalman would ask for proposals to conduct outreach and at the same time answer the following series of questions.

> 1) How effective is it to educate Speech Language Pathologists who work with potential STS users? Virginia Relay found this method of outreach led to significant increases in call volume. Can replication of this outreach project verify the results in Virginia?
>
> 2) California has a multi-vendor STS service with outreach that leads to increased call volume. Can this approach be replicated successfully?
>
> 3) Many years ago, Minnesota had staff who trained potential STS users by going to their homes and that process led to an increase in call volume. SCT found similar results in a study several years ago. Replication of such a project in a cost effective manner could yield helpful information.
>
> 4) Because speech disability is often associated with disabilities which prohibit driving, many potential STS users ride paratransit. Would advertising on billboards in paratransit vehicle be effective in increasing call volumes?

[27] *Id.* at ¶¶ 57, 61

5) Is it possible to determine how high the per minute reimbursement would need to be for the providers to have sufficient economic incentive to conduct outreach which would significantly increase call volume?

6) Is outreach done by providers more effective in increasing call volume than outreach done by a nonprofit? The letter was brought to the attention of the council members who were advised that the audit plan for the upcoming year included a recommendation to identify the amount of funding received by each provider for STS outreach and a report on the uses of those funds by each provider.

The Administrator continues to recommend adding the $1.131 to the MARS-based STS rate resulting in a total proposed STS rate of $3.7555 per minute; an increase of $0.3341 from the $3.4214 per minute rate for the 2015-2016 Fund year[28]. However, the Administrator notes that the demand for STS continues to be small compared to the other services. It is not clear that the outreach additive, projected to be approximately $150,000 ($1.131 * 132,714 minutes = $150,099) across both service providers when applied to the per-minute rate is having the desired result. The Administrator has completed an audit of STS outreach funding and uses and forwarded the results of those audits to the Commission for its further consideration. The Commission may wish to revisit this issue to determine whether there is a more effective way to inform speech impaired users about the availability of this service.

B. CTS Formula Development

The proposed MARS CTS rate was calculated by following the same steps described above but substituting CTS related data for the TRS and STS data. Data for Maine was excluded, because the state compensated its relay providers with a flat rate mechanism in 2015. The results of this calculation can be found in Exhibit 1-2. Exhibit

[28] At its April 2015 meeting, the Interstate TRS Advisory Council was informed of the Administrator's intent to recommend that $1.131 per minute of extra funding for speech to speech outreach purposes be maintained.

1-2 summarizes the data provided by the individual state jurisdictions. The MARS CTS rate is also used to establish the rate used to compensate providers for IP CTS.[29]

The total dollars for intrastate CTS, including the amounts paid to relay providers not included in the compensation rate, totaled $42,335,250 for calendar year 2015. The total conversation minutes for intrastate CTS totaled 22,214,101 for calendar year 2015. The total 2015 intrastate dollars divided by 2015 intrastate CTS minutes equals a proposed compensation rate of $1.9058 per conversation minute for interstate CTS and IP CTS for the 2016 – 2017 funding period.

The proposed MARS CTS rate of $1.9058 represents a modest $0.0163 increase from the 2015 – 2016 rate of 1.8895 or approximately 0.8%. The associated IP CTS revenue requirement at this reimbursement rate level based on provider projected demand will be $521,554,496 in program year 2016-2017, representing 49% of all projected provider distributions for the year.

The RL Annual Data Collection form also requested historic cost data regarding the provision of IP CTS in calendar years 2014 and 2015 as well as projected costs for 2016 and 2017 based on the cost categories reported by service providers for IP Relay services and VRS services. The results of analysis of that IP CTS data are found in Exhibit 1-4. Exhibit 1-4 contains information compiled by the Administrator from annual cost data supplied by IP CTS service providers for the annual periods 2011 through and including 2015, as well as the current projected costs for both 2016 and 2017. This Appendix contains the reported costs by year as well as the corresponding MARS rate for the corresponding year. Exhibit 1-4 also includes the calculated average

[29] Cost Recovery Order at ¶ 38.

cost projection for IP CTS for 2016 and 2017 as reported by the service providers as well as a marginal cost identified by the Administrator which is slightly above the highest projected average provider cost for the upcoming program year. This Appendix demonstrates that the MARS rate for IP CTS, with the exception of 2013, the year in which the Commission proposed limitations on the growth of demand which were overturned by the DC Circuit Court[30], is consistently well above the reported level of provider reported costs for the period. Based on the number of reported minutes of service, IP CTS has become the most popular TRS service. Due to the continuing growth in demand for IP CTS service and the apparent lack of a correlation between the MARS CTS rate and the reported costs for IP CTS, the Administrator recommends that the Commission consider a rule modification and the consideration of an alternate mechanism for establishing the reimbursement rate for IP CTS services, with due consideration to the future quality and availability of the service that accounts for nearly half of all provider reimbursements.

Exhibit 1-4.1 is provided as one of the basis for considering an alternative reimbursement calculation based on the average of the projected costs for the annual 2016 and 2017 projected costs at the reimbursement rate of $1.4248 which is $0.4837 below the MARS CTS rate for the 2016-2017. The associated revenue requirement at this reimbursement rate level based on provider projected demand will be $409,695,071 in program year 2016-2017.

[30] *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, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420 (2013) (*IP CTS R&O*), *review pending sub nom. Sorenson Communications, Inc. and CaptionCall, LLC v. FCC* (D.C. Cir., No. 13-1246, filed Sept. 6, 2013).

Exhibit 1-4.2 is provided as another basis for considering an alternative reimbursement calculation based on a rate that exceeds the highest reported provider costs, at the reimbursement rate of $1.76 per minute which is $0.1485 below the MARS IP CTS rate for 2016-2017. The associated revenue requirement at this reimbursement rate level based on provider projected demand will be $487,647,835 in program year 2016-2017.

B. **Internet Protocol Relay [***due to the small number of providers some cost information has been Redacted from this recommendation*.]

In the *Cost Recovery Order*, the Commission concluded that the MARS methodology is not appropriate for IP Relay, because there are no state rates for this service. Although it was believed that the costs of providing traditional TRS and IP Relay are generally similar – in many instances, for example, the same CAs, sitting at the same offices, handle both traditional and IP Relay calls – there was concern that the use of a MARS rate ($2.2904 per conversation minute) for IP Relay may result in the overcompensation of IP Relay providers.

The Commission adopted a cost recovery methodology for IP Relay based on price caps for a three year period beginning with the effective date of that Order.[31] The initial three year period ended on June 30, 2010 coincident with the end of the 2009-2010 Fund year. The second three year period ended on June 30, 2013, coincident with the end of the 2012-2013 Fund year. Over the course of the current three year cycle the number of service providers declined until Sprint became the only remaining service provider. When establishing the compensation rate for the 2014-2015 fund year, CBG reconsidered

[31] *Id.* at ¶ 109.

the rate mechanism on a retroactive basis to reflect the costs of the then two remaining providers (Purple and Sprint) rather than the five providers whose costs were reflected in the MARS submissions for the initial year of the period. The Order establishing the rate for IP Relay service stated that "while we share Sprint's concerns about maintaining service quality and preserving competition to the extent practicable, we are not convinced that the base compensation rate for IP Relay, as modified, is insufficient to allow providers to recover legitimate service costs and to provide service that meets or exceeds the Commission's minimum TRS standards." Following the cessation of IP Relay service by Purple, Sprint requested and received temporary relief from the Speed of Answer (SOA) requirement for IP Relay service. Sprint also requested and received interim emergency relief in the form of increased rates for the period November 14, 2015 through the end of the then current program year, without an indication of the method to be followed for establishing rates for the upcoming 2015-2016, third year of the price cap cycle, program year, although the 2014-2015 rate Order did set the inflation factor for the cycle at zero[32]. Because the efficiency factor, a factor that accounts for productivity gains, is set equal to the inflation factor, the efficiency factor also was set equal to zero.

The *Cost Recovery Order* price cap plan for IP Relay applies three factors to a base rate – an Inflation Factor, an Efficiency (or "X") Factor, and Exogenous Costs. The basic formula takes a base rate and multiplies it by a factor that reflects an increase due to inflation, offset by a decrease due to efficiencies. As a result the rate for a particular year would be equal to the rate for the previous year, reduced by 0 percent (*i.e.*, $\text{Rate}_{\text{Year Y}}$ =

[32] DA 14-946, Rel. June 30, 2014 paragraphs 11-19.

$Rate_{Year\ Y-1}$ (1 – 0.0)).[33] There were no claims of exogenous costs made by the Sprint for the upcoming year. The rate in effect at the end of the 2015-2016 Fund year is $1.37.

The price cap regime was in effect through the 2015-2016 Fund year. The application of the price cap mechanism for the third year of the price cap cycle i.e. 2015-2016, produced a rate of $1.37 ($1.37 * 1.0 = $1.37). Sprint as the only remaining IP Relay service provider was still required to report historical and projected costs to the Administrator on an annual basis. The cost data submitted for the historical and projected periods lack relevance to the current circumstance as much as they did for the 2015-2016 Fund period, and presenting them in detail at this point will reveal projected information considered to be confidential by Sprint. Additionally the cost based recommendation is usually based on the average of the two projected year's costs. In the case at hand those projections were developed and submitted by Sprint during the course of an audit being conducted by the Administrator to recognize the changed circumstances of a single remaining IP Relay service provider.

For the 2016-2017 Fund year, the Administrator has calculated the price cap rate for IP Relay to be $1.2122 ($1.2122*1.0 = $1.2122).

C. Video Relay Service

On June 10, 2013 the Commission released a Report and Order and Further Notice of Proposed Rulemaking, herein referred to as the "VRS Reform Order" in which the Commission revised the Tier structure and established the VRS compensation rates that are to be used through June 30, 2017, unless otherwise set by further Commission Order.

[33] *Id.* at 10.

The new tiers which became effective in September 2013 and the previous tiers are shown in Table 1 below.

Table 3: Reconfigured Rate Tiers for VRS Compensation

Tier Numbers	Previous Tier Definition (The range of a provider's monthly VRS minutes to which the Tier is applicable)	New Tier Definition (The range of a provider's monthly VRS minutes to which the Tier is applicable)
I	0-50,000	0-500,000
II	50,000.1-500,000	500,000.1-1 million
III	Over 500,000	Over 1 million

The progressive adjustment of rates for each tier is illustrated in Table 4 below, which shows the rates adopted for Fund years 2013-14, 2014-15, 2015-16, and 2016-17.

Table 4: Rates Adopted for Fund Years 2013-14 through 2016-17

Tiers (as recon-figured by this order)	FY 2013-14 Rates	FY 2014-15 Rates[34]	FY 2015-16 Rates[35]	FY 2016-17 Rates[36]
Tier I (0-500,000 minutes/ month)	$5.98 (Jul.–Dec. 2013) $5.75 (Jan.-June 2014)	$5.52 (Jul.–Dec. 2014) $5.29 (Jan.-June 2015)	$5.06 (Jul.–Dec. 2015) $4.82 (Jan.-June 2016)	$4.44 (Jul.–Dec. 2016) $4.06 (Jan.-June 2017)

[34] Pending implementation of market-based rates.

[35] Pending implementation of market-based rates.

[36] Pending implementation of market-based rates.

Tiers (as recon-figured by this order)	FY 2013-14 Rates	FY 2014-15 Rates[37]	FY 2015-16 Rates[38]	FY 2016-17 Rates[39]
Tier II (500,000.1 – 1 million minutes/ month)	$4.82 (Jul.–Dec. 2013) $4.82 (Jan.-June 2014)	$4.82 (Jul. –Dec. 2014) $4.82 (Jan.-June 2015)	$4.82 (Jul.–Dec. 2015) $4.82 (Jan.-June 2016)	$4.44 (Jul.–Dec. 2016) $4.06 (Jan.-June 2017)
Tier III (over 1 million minutes/ month)	$4.82 (Jul.–Dec. 2013) $4.63 (Jan.-June 2014)	$4.44 (Jul.–Dec. 2014) $4.25 (Jan.-June 2015)	$4.06 (Jul.–Dec. 2015) $3.87 (Jan.-June 2016)	$3.68 (Jul.–Dec. 2016) $3.49 (Jan.-June 2017)

The rates established in the Report and Order apply as scheduled to all VRS providers absent further action by the Commission. During the "glide path" period, however, the Commission indicated that it may adjust the compensation rate to reflect exogenous cost changes, including the shedding of service responsibilities by VRS providers as VRS components begin to be provided by neutral entities. Pending the implementation of structural reforms, the Commission stated the expectation that the rate reduction plan adopted in the order will permit service providers to continue offering VRS in accordance with the mandatory minimum standards for high quality services, as the Commission transitions to structural reforms and a disaggregated, market-based compensation methodology. The Commission reserved the right to revisit the rates

[37] Pending implementation of market-based rates.

[38] Pending implementation of market-based rates.

[39] Pending implementation of market-based rates.

adopted in the Order if provider data shows that the rates remain substantially in excess of actual provider costs.

Video Relay Service providers are required to report historical and projected costs to the Administrator on an annual basis. Following are the results of analyzing the cost data submitted by the Video Relay service providers.

For analysis purposes, the Administrator segregated the provider historical and projected costs into nine distinct categories for review:

- **Facilities**, those expenses associated with land and buildings, etc.;
- **Interpreter Expense**, the costs of the individuals performing the interpretive services;
- **Non-Interpreter Relay Center Expense**, other costs associated with the relay center including supervisory management, telecommunications expense, etc.;
- **Indirect Expense**, finance, human resources, legal expenses, executive compensation, etc.;
- **Depreciation Expense**, annual depreciation on facilities and equipment;
- **Marketing Expense,** the projected costs of advertising the provider's service;
- **Outreach Expense**, the projected costs of notifying consumers of service availability;
- **Other Expenses**, projected expenses not directly associated with one of the other expense categories; and
- **Capital Investment,** the investment in facilities, equipment, furniture, etc. associated with the relay center.

Data submitted by the providers in response to the Administrator's annual data request are shown below. The data is summed across the providers by category and then divided by annual VRS minutes.

Table 5. All VRS Service Provider Reported and Projected costs

Category	2014	2015	2016	2017
Facilities	0.1988	0.1911	0.2040	0.2027
CA Related	1.4388	1.3871	1.4433	1.4565
Non-CA Relay Center	0.3380	0.3613	0.3612	0.3510
Indirect	0.5458	0.5127	0.5076	0.5028
Depreciation	0.1634	0.1202	0.1207	0.1278
Marketing	0.0476	0.0570	0.0558	0.0571
Outreach	0.1938	0.2018	0.2255	0.2244
Other	0.0001	0.0003	0.0003	-
Return on Investment	0.0322	0.0313	0.0281	0.0239
Total Cost	2.9584	2.8627	2.9464	2.9463
Total Cost excluding Outreach	2.76	2.66	2.72	2.72

While the total cost of VRS service increased slightly from $2.71 in the historical period to $2.72 in the projected period, CA related expenditures are projected to increase by 4 cents per minute form $1.4130 to $1.4499 per minute. Non-CA Relay Center related expenditures are also projected to increase by $0.0065 from $0.3496 to $0.3561 per minute. Offsetting these increases were a decrease in indirect expenditures by $0.02, from $0.5292 to $0.5052 per minute, and a decrease in depreciation expense by nearly $0.02, from $0.1418 to $0.1243 per minute. The weighted average of the reported projected costs remain well below the rates established by the Commission for the upcoming program year.

A “Joint Proposal of all six VRS providers for improving functional equivalence and stabilizing rates” (Joint Proposal) dated March 30, 2015 was filed with the Commission and brought to the attention of the TRS Fund Advisory Council during the Annual Meeting held April 7, 2015. In brief, the Joint Proposal offered to (1) require providers to meet a faster service-level requirement so that 80 percent of calls must be answered within 45 seconds, measured monthly and (2) keep compensation rates at the current levels in effect during the first half of 2015 (i.e. July 2015 – December 2015). The providers also proposed a number of reforms designed to enhance the functional equivalence of VRS. Specifically, the providers proposed that the Commission (1) conduct a trial during which providers may offer skills-based routing in order to collect data about the cost and feasibility of offering that service; and (2) encourage providers to offer deaf interpreters. The Joint Proposal specified that none of its reform proposals are feasible without an immediate stabilization of the VRS rate.

The noteworthy changes in projected costs for the subset of the three smallest service providers whose minutes of service fall entirely within Tier I, averaged $6.4783 during the historical period and $5.0231 during the projected period; the change of $1.4552 per minute is identified below. Neither the historic nor the projected VRS rate compared favorably to the historic or projected costs for the three smallest VRS service providers whose costs remained above the established reimbursement levels. Although the industry average costs and projections are below the authorized rates for VRS service the historic and projected costs for the smallest of the providers’ remained above the rates, potentially jeopardizing their continuation of service. By letter dated March 1, 2016 to the Secretary of the Commission Hancock Jahn Lee and Pucket, LLC d/b/a

Communications Axess Ability Group informed the Federal Communications Commission that it will no longer provide video relay services as of March 31, 2016 and immediately ceased enrolling new VRS customers.

Table 6. The Three Smallest VRS Provider Reported and Projected Costs

Category	2013	2014	2015	2016
Facilities	$ 0.4290	$ 0.3126	$ 0.2539	$ 0.2731
CA Related	$ 2.5659	$ 2.2529	$ 2.1285	$ 1.9729
Non-CA Relay Center	$ 1.6747	$ 1.6021	$ 1.3107	$ 1.0819
Indirect	$ 1.5524	$ 1.3847	$ 1.2835	$ 1.1118
Depreciation	$ 0.1620	$ 0.1381	$ 0.1029	$ 0.0577
Marketing	$ 0.1965	$ 0.2014	$ 0.1680	$ 0.1460
Other	$ 0.2968	$ 0.0760	$ 0.0582	$ 0.0628
Return on Investment	$ 0.0666	$ 0.0448	$ 0.0217	$ 0.0125
Total Cost	$ 6.944	$ 6.0126	$ 5.3274	$ 4.7168

By Report and Order at CG Docket No 10-51 & CG Docket No. 03-123, adopted March 1, 2016, released March 3, 2016, the Commission provided limited compensation rate relief for video relay service (VRS) providers with 500,000 or fewer monthly minutes (smallest VRS providers). Specifically, the Commission granted the smallest VRS providers limited relief, on a retrospective and going-forward basis, from certain Tier I compensation rate adjustments adopted in the *VRS Reform Order*.1 For the 16-month period beginning July 1, 2015, and ending October 31, 2016, the Commission directed the administrator of the Interstate Telecommunications Relay Services Fund

(TRS Fund) to pay compensation to such providers at a rate of $5.29 per minute. For the period from November 1, 2016, to April 30, 2017, the Commission directed the administrator of the Interstate Telecommunications Relay Services Fund (TRS Fund) to pay compensation to such providers at a rate of $5.06 per minute. For the period from May 1 to June 30, 2017, the Commission directed the administrator of the Interstate Telecommunications Relay Services Fund (TRS Fund) to pay compensation to such providers at a rate of $4.82 per minute.

IV. Demand Projection Methodology

In order to estimate the annual funding requirement and propose a contribution factor, an estimate of the interstate funding requirement for each of the services is required. The fund requirement equals the service rate multiplied by the tariff year service demand. The Administrator has adjusted the demand levels of the tariff year to reflect the two month difference between the provision of service and the reimbursement for that service. Providers of services being compensated using the MARS-based rate methodology, (i.e. traditional TRS, STS and CTS), are not required to submit demand projections.

In this report, as was done previously, historical demand was used to estimate the future demand for traditional interstate TRS, STS and CTS. Using the linear trend forecast capability of Microsoft Office Excel, the Administrator projected demand for the 2016– 2017 Fund year using actual data available to the Administrator at the time the filing is due to the Commission.[40] For each of these services, the Administrator projected demand and an estimated funding requirement based on the proposed compensation rates

[40] In most instances this embodies July 2014 through March 2016 minutes.

for the funding year. This approach has historically provided reasonably accurate results for these services.

The Administrator has historically used the forecasts submitted by the providers for IP Relay and VRS services and recommends them for use for the 2016 – 2017 funding year. This approach has historically provided reasonably accurate results for these services. The administrator applied the proposed IP Relay rate and current tiered VRS reimbursement rates to calculate the funding requirements for these services.

The IP CTS industry demand projection for the 2016-2017 funding year totals 284,112,735 minutes[41], a significant increase when compared to the projection for the 2015-2016 Fund year of 202,651,451 minutes[42]. The Administrator considers the compilation of the industry demand forecast to be reasonably valid. The reported demand for the first nine months of the current program has reached 161,630,437 minutes, or 80% of the projected total for the period. The reported minutes for service in the month of March, received on the eve of finalizing this recommendation are 19,954,042 minutes. If service stabilized at the most recent monthly level the total minutes in 2015-2016 would be 221.5 million minutes.

[41] July 2016 – June 2017.

[42] July 2015 – June 2016.

IP CTS demand has been affected by a number of factors over the past few years; the most significant among those factors is the entry of an additional service provider, who aggressively expanded its market share over each of the past several years, the introduction of additional regulations, and litigation regarding those additional regulations. On December 6, 2013 the United States Court of Appeals for the District of Columbia Circuit granted a partial stay in response to a motion by Sorenson Communications, Inc., of certain rules on IP CTS that were adopted by the Commission in a Report and Order released on August 26, 2013[43]. Specifically the Court stayed "the rule adopted by the Commission prohibiting compensation to providers for minutes of use generated by equipment consumers received from providers for free or for less than

[43] *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, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420 (2013) (*IP CTS R&O*), *review pending sub nom. Sorenson Communications, Inc. and CaptionCall, LLC v. FCC* (D.C. Cir., No. 13-1246, filed Sept. 6, 2013).

$75."[44] On January 25, 2013, the Commission adopted interim rules to address certain provider practices that appeared to encourage IP CTS usage by individuals who did not need this service to communicate in a functionally equivalent manner.[45] Among other things, the interim rules required each IP CTS provider, in order to be eligible for compensation from the Fund for providing service to new IP CTS users, (i) to register each new IP CTS user, (ii) as part of the registration process, to obtain from each consumer a self-certification that the consumer has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users, and (iii) where the consumer accepts IP CTS equipment free of charge or at a price below $75 from any source other than a governmental program, to also obtain from the consumer a certification from an independent, third party professional attesting to the same.[46] Those interim rules became effective on March 7, 2013, with a scheduled expiration date of September 3, 2013.[47] The *IP CTS Interim Order* was accompanied by a Notice of Proposed Rulemaking (NPRM) in which the Commission sought comment on whether to make permanent, revise, or eliminate the interim rules.[48]

On August 26, 2013, the Commission adopted final rules on IP CTS. Under the final rules adopted by the Commission, among other things, providers who provide IP

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[44] *Stay Order* at 1-2, *citing IP CTS R&O*, 28 FCC Rcd at 13440-48, ¶¶ 41-59. For convenience, we refer to the requirement subject to the stay as "the $75 equipment charge rule."

[45] *IP CTS Interim Order*, 28 FCC Rcd at 706-09, ¶¶ 6-9.

[46] *Id.* at 743-44, Appx. D, § 64.604(c)(9). In addition, providers must obtain consumers' self-certification regarding their understanding that captioning services are provided by a live communications assistant (CA) and that these services are supported by a federal fund. *Id*.

[47] 78 FR 14701, 14702 (2013) (announcing an effective date of March 7, 2013 and an expiration date of September 3, 2013 for section 64.604(c)(9), the rule on registration and certification).

[48] *IP CTS Interim Order*, 28 FCC Rcd at 704, ¶ 3.

CTS equipment, software, and applications to consumers after September 30, 2013, at no charge or for less than $75, were prohibited from receiving compensation from the Fund for minutes of use generated by consumers using such equipment, software, or applications.[49]

The final rules maintain, with modifications, the requirements that IP CTS providers register each new IP CTS user and obtain a self-certification regarding the consumer's understanding of and need to use IP CTS.[50] In addition, providers must register and obtain certifications from all consumers who commenced service prior to adoption of the interim rules.[51] The final rule contained registration and certification requirements, however, those requirements did not take effect until after OMB had approved them.[52]

The $75 equipment charge rule took effect on September 30, 2013.[53] As noted, however, on December 6, 2013, the court of appeals stayed this rule and on June 20, 2014 the Court issued an opinion vacating the interim rules in their entirety and vacating the $75 equipment charge rule and default-off rule contained in the IP CTS Reform Order[54]. Following the Court decision, the providers requested payments for minutes that had

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[49] *IP CTS R&O*, 28 FCC Rcd at 13440-48, ¶¶ 41-59.

[50] *See id.* at 13421, ¶ 2, 13496-97, Appx. B, §§ 64.604(c)(9)(i), (iii). In addition to the information required by the interim rules, the final rules require providers, for example, to obtain from registrants the last four digits of the consumer's social security number and the consumer's self-certification that, to the best of the consumer's ability, persons who have not been registered to use Internet protocol captioned telephone service will not be permitted to make captioned telephone calls on the consumer's registered IP captioned telephone service or device. *Id.*

[51] *Id.* at 13450-55, ¶¶ 66-73, Appx. B, § 64.604(c)(9)(xi).

[52] *Id.* at 13492-93, ¶¶ 166-67.

[53] 78 FR at 53691 (announcing that final rule 64.606(c)(11)(i) shall be effective September 30, 2013).

[54] IP CTS Reform Order, FCC 13-118 Rel. 8/26/2013.

been disallowed by the Commission's rules. Those payments were made in July 2014, causing the sharp peak in demand shown in the previous chart.

V. Additional Funding Requirements

A. iTRS Data Base Administration

In the *TRS Numbering Order* the Commission adopted a system for assigning users of internet-based Telecommunications Relay Services (TRS), specifically for VRS and IP Relay, ten-digit telephone numbers linked to the North American Numbering Plan. In that *Order*, the Commission identified the types of costs that are compensable from the interstate TRS Fund.

The Commission also determined that the start-up expenses related to the database and the administration of the database should be compensated by the Fund. The *Commission authorized the TRS Fund Administrator to pay the reasonable costs of* providing necessary services consistent with this *Order* directly to the database administrator.[55]

The Administrator projects that the 2016-2017 Fund year compensation for the iTRS data base Administrator would be $540,000 based on the current reimbursement level. RLSA recommends this amount be included in the 2016-2017 Fund year.

B. Deaf-Blind Equipment Distribution Program

In its April 6, 2011 Order, the Commission established a National Deaf-Blind Equipment Distribution Program ("NDBEDP") to certify and provide funding to entities in each state so that they can distribute specialized customer premises equipment

[55] TRS Numbering Order at 101

("CPE") to low-income individuals who are deaf-blind. [56] Funding for this program has been established at $10,000,000 per year beginning with the 2012 – 2013 Fund year. As such, $10,000,000 has been included in the Interstate TRS Funding Requirement for the 2015-2016 Fund year.

C. TRS Fund Administrator Expenses

Beginning July 1, 2011 the Interstate TRS Fund Administrator became compensated based on a fixed price contract similar to that of the iTRS numbering Administrator. The contract for the 2016-2017 Fund year has not yet been confirmed. The projected TRS Fund Administrator expenses are estimated to be $1,350,000.

D. Revenue Data Collection Agent Expense

Prospectively, the Revenue Data Collection Agent (DCA) and its functions associated with processing the revenue information to determine TRS Fund contributors are to be separately identified from the TRS Fund Administrator's costs. The DCA invoices the TRS Fund for 8% of Data Collection costs. For the 2016 – 2017 fund year, the DCA costs are projected to be $60,000.

E. Interstate TRS Advisory Council Expenses

Expenses incurred as a result of the Interstate TRS Advisory Council holding a minimum of two meetings annually as required by the Commission's rules[57] are now separately identified from the TRS Fund Administrator's expenses. For the 2016 – 2017 Fund year, these expenses are projected to be $45,000.

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[56] *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Report and Order, CG Docket No. 10-210, Adopted April 4, 2011

[57] 47 C.F.R. § 64.604(c)(5)(iii)(H)

F. Investment Expense

The Program Administrator has entered into a Non-Custody Investment Advisory Agreement in which the Investment Advisor will direct the investment, reinvestment and changes in the investment of the TRS Fund Account, manage the Qualified Investments and use its best efforts to invest all Escrow Funds in compliance with the FCC letter dated June 20, 2011 (DA 11-1069) regarding the Investment of Telecommunications Relay Service Funds. This Agreement will provide transparency to the costs associated with managing the investments of the Fund. Investment expenses for the 2016-2017 Fund year are estimated to be $190,000.

G. Service Provider Audits

The TRS Fund Administrator's audit plan, applicable to service providers' compliance with the provisions of 47 C.F.R. 64.604 by independent audit firms, has been approved by the Commission and initiated subject to competitive bid where applicable. The Administrator anticipates a funding requirement of $1,000,000 for the audit of service providers during the 2016-2017 Fund year.

H. IPERA

In response to a directive from the FCC, the Administrator developed a plan to establish a baseline error rate for payment from the TRS Fund based on a Memorandum from the Office of Management and Budget (OMB) to Heads of Executive Agencies, *Issuance of revised Parts I and II to Appendix C of OMB Circular A-123 (April 14, 2011) and Part III to OMB Circular A-123, Appendix C.* The Administrator anticipates a funding requirement of $40,000 for compliance with this directive to expand on the plan during the 2016-2017 fund year, and a funding requirement of $185,000 to implement the

testing provisions of the approved plan, which is in addition to the budget estimate for Service Provider audits.

I. Bankruptcy Representation

During the 2011-2012 Fund year the Administrator found it necessary, with the prior approval of the Commission, to retain outside council to represent the interests of the Fund in various Bankruptcy proceedings. The Administrator anticipates a funding requirement of $50,000 for legal representation, subject to Commission prior approval of such legal representation, in bankruptcy matters during the 2016-2017 fund year.

J. Audit Expense

RL recommends that the 2016 – 2017 Fund year expenses include an allowance to conduct an independent audit of the TRS Fund separate from the independent audit of the FCC. The independent audit is competitively bid and is projected to be $60,000.

VI. Contribution Factor Calculation

As previously noted, reimbursement requests are to be processed within two months of receipt by the Administrator. Operationally, service provided in the month of May will be reported to the Administrator in the month of June and paid in the month of July, the first month of the upcoming program year. Similarly service provided in the month of June will be reported in the month of July and paid in the month of August, the second month of the upcoming program year. As a consequence, the Administrator's funding recommendation for the Fund year beginning July 2016 through June 2017, incorporates the demand for the final two months of the expiring program year, which will be paid during the upcoming Fund year, and only ten months of the MARS and service providers' projections to comprise the twelve months funding requirement. The

Administrator has recommended that the payment reserve remain at two average months to provide both a reserve and an estimated accrual for the two months that will be reimbursed from the following Fund year.

Collectively, the six relay services and the additional fund requirements total $1,283,756,637. Interest on invested funds for the July 2016 – June 2017 period is projected to be approximately $150,000 and is used to offset on-going Fund requirements.

Historically, the Administrator has recommended that the TRS Fund include an additional component to protect the Interstate TRS program from running short of available funds before the end of the TRS Fund period. In its 2009 *and 2010 Rate Orders*, the Commission accepted the Administrator's recommendation to include a surplus of one month's projected distributions to providers be included in the funding requirement.[58] The Administrator recommended for the 2014-2015 funding year that the budgetary reserve be increased to two months to more appropriately reflect the practice of budgeting demand to reflect the fact that the distributions in the program year include payments for service provided in May and June of the prior year and only ten months of the service provided during the upcoming program year. In the 2014-2015 Rate Order[59] the Commission accepted the change to increase the reserve as described. The use of a budgetary reserve of two average month's projected distributions to providers, $178.605 million, is included in the funding requirement. It is anticipated that there will be a surplus of approximately $140,000,000, at June 30, 2016.

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[58] Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order, CG Docket No. 03-123, 23 FCC Rcd 9976 (2008 Rate Order) at n. 56

[59] *See* DA 14-946, para. 23.

The total projected net funding requirement for the 2016-2017 funding year is estimated to be $1,143,606,637. The component parts of the projected funding requirement are displayed in Exhibit 2.

Based on the 2016-2017 demand projections and the proposed rates contained herein coupled with the calendar year 2015 revenue base, the Administrator estimates that the contribution factor will need to be 0.01862.

VII. Program Administration

A. Interstate TRS Fund Advisory Council Reports

Pursuant to section 64.604 of the Commission's rules, the Advisory Council advises the Administrator on interstate TRS cost recovery matters.[60] The Advisory Council includes non-paid volunteers from the hearing and speech disability community, TRS users (voice and text telephone), state regulators and relay administrators, interstate service providers, and TRS providers. Appendix E contains a listing of current Advisory Council members.[61]

.On September 23, 2015 the Advisory Council met in Jackson, Wyoming. The meeting included an extensive overview of developments at the FCC presented by Greg Hlibok of the Disability Rights Office and a discussion of the health of the Fund by the Fund Administrator, David Rolka. The minutes of that meeting are attached as Appendix G.

On April 6, 2016 the Advisory Council met in Washington, D.C. The meeting included an overview of developments at the FCC presented by Karen Pell-Straus,

[60] 47 C.F.R. § 64.604 (c)(5)(iii)(H).

[61] In a July 1999 Order, the FCC authorized the addition of a position in the hearing and speech disability community category for a representative from the speech disability community. *See Appointment of the Telecommunications Relay Services (TRS) Fund Administrator and Composition of the Interstate TRS Advisory Council*, CC Docket No. 90-571, Memorandum Opinion and Order, 14 FCC Rcd 10553 (1999).

Deputy Director, Consumer and Government Affairs Bureau and by Greg Hlibok of the Disability Rights Office and a presentation of the findings regarding the annual MARS data collection in preparation for a recommendation for the upcoming rates, fund requirements and contribution factor for the 2015-2016 Fund program year. The minutes of that meeting are attached as Appendix H.

B. Audit Report

Included in Appendix I is a copy of the TRS Fund Performance Status for the period ended July, 2015, through March 2016.

Appendices:

Appendix A ---- Interstate TRS Fund 2013 Intrastate Rate and Minute Data for MARS Methodology (State Data Collection Form & Instructions)

Appendix B ---- Interstate TRS Fund Annual Provider Information (Provider Data Collection Form & Instructions)

Appendix C ---- Current Advisory Council Members

Appendix D ---- TRS Council meeting Minutes of April 2016

Appendix E ---- TRS Council meeting Minutes of September 2015

Appendix F---- TRS Fund Status

Appendix G --- RL PowerPoint presentation to the Advisory Council

Exhibits:

Exhibit 1-1 ---- Displays TRS & STS data collected from states for the Interstate MARS rate calculation.

Exhibit 1-2 ---- Displays CTS data collected from states for the Interstate MARS rate calculation.

Exhibit 1-3 IP CTS historical cost and Rate data

Exhibit 1-4 ---- Displays IP CTS Historical and Projected Demand

- **Exhibit 1-4.1** -- Average projected IP CTS provider reported costs
- **Exhibit 1-4.2** -- Marginal projected IP CTS provider reported costs

Exhibit 2 ---- Displays the proposed Interstate TRS Fund Size and Contribution Factor for the July 2016 through June 2017 Fund Year.

Exhibit 3 ---- Anticipated Reporting and Related Distribution Schedule.

Exhibit 4 ---- Erosion of 2015-2016 Contribution Base