

Interstate TRS Advisory Council
Meeting Minutes for April 6th, 2016
Washington DC

ATTENDEES

Mark Tauscher, Chair, TRS Providers
Ron Bibler, Vice Chair, TRS users
Linda Vandeloop, Acting Secretary, Interstate Telecommunications Providers/Contributors
Steve Stovall, State Representative (representing Commissioner Schram)
Al Sonnenstrahl, Deaf and Hard of Hearing Community
Jeff Rosen, TRS Providers
Shannon Smith, Deaf and Hard of Hearing Community
Brenda Kelly-Frey, State Relay Administration
Phillip Hupf, Interstate Telecommunications Providers/Contributors
BJ Gallagher, Hearing/Speech Disability Community

RLSA

Dave Rolka
Bob Loube
John McGrath
Joy McGrath
Kelly Kearn

FCC

Greg Hlibok
Karen Peltz Strauss
David Schmidt
Robert McConnell

CONVENE

Chairman Tauscher greeted audience and called to order the spring meeting of the TRS Advisory Council at 9:12 a.m. The chair asked for additional corrections to the September minutes then asked for a motion to approve. Jeff Rosen made a motion to approve, Brenda Kelly-Frey seconded. Minutes were approved without opposition.

FCC PRESENTATION

Karen Peltz Strauss provided an update on the NPRM that will develop the rules for a TTY replacement and a couple of other FCC issues.

TTY was first available in the 1980's. TTYs were built for the public switched network and they ensure access to 911. In addition, PSTN-based forms of TRS can be accessed by dialing 711 using a TTY. The FCC is in the process of overseeing the transition from an analog switch-based telephone environment to a packet-switched environment for both wireline and wireless networks. TTY has significant limitations and does not work reliably on IP networks. AT&T asked the FCC for a temporary waiver from the FCC's rules requiring support for TTY technology for IP-based wireless services, such as Wi-Fi calling while they are developing Real Time Text (RTT) and to modify the rules so that RTT could be used as an alternative to TTY. The FCC granted the waiver with conditions (e.g., customer notification that TTY will not work reliably with VoIP over WiFi) and other carriers have requested and were granted a waiver under the same conditions. The FCC is about to issue a notice of proposed rulemaking to be voted on by the full commission on April 28th. Some of the issues that will be addressed in the notice are interoperability across IP systems that use real time text, backward compatibility with TTYs, whether it is appropriate to completely sunset TTY requirements and when, what capabilities should real time text have, and the timing of the requirement to offer real time text. Also, the FCC needs to look at the implications for TRS – if it could be a substitute for some forms of TRS, whether it can be an enhanced form of TRS, and what the reimbursement structure should be. There will likely be a subsequent proceeding addressing these TRS issues as they pertain to RTT implementation.

Other Updates

The FCC will be looking at the Deaf Blind Distribution Program. The program started as a pilot and final rules are targeted to be released this summer. It is a very successful program with at least 4,000 people served so far.

The FCC has started a cognitive disabilities project and has been meeting with industry and consumer groups to discuss what features already exist in products and services to accommodate the needs of this population and what can be changed and improved. There is already a lot out there and the problem is getting the information out to the community. It is important to make the industry aware of the needs of this population, and to make the community aware of what the industry is doing. This is a non-regulatory project and there is no plan at this time to adopt rules at this time, but the plan is to issue a white paper sometime in the fall that will get this issue on everyone's radar. The FCC is aware that there needs to be some thought put into terminology (e.g., cognitive disability) and its definition.

The FCC is reviewing nominations for the Chairman's Award for Accessibility. This year there were approximately 40 nominations compared to 17 last year. The winners will be announced at the M-Enabling Conference in June.

Greg Hlibok covered actions taken at the FCC

VRS Compensation Rate

The FCC issued an order freezing the compensation rate for a subset of providers that are handling five hundred thousand or less VRS minutes per month to ensure that the smaller providers are able to remain in business and remain competitive. Unfortunately one of the smaller providers left the marketplace in spite of the freeze. Only 5 VRS providers remain in the market. However, the glide path with the rate reduction for all providers including the smaller providers remains. The second period begins November 2016 with a rate of \$5.06. Starting 5/1/2017 the rate is \$4.82 per minute.

There were also a number of measures proposed to improve the quality of service for video relay. Commenters were generally supportive.

- The one issue with some contention has to do with VRS interpreters working from home.
- There is a uniform agreement that the speed of answer performance should be measured on a monthly basis. When the withholding of funds occurs for a provider's failure to meet the speed or answer requirement, it should be at a percentage that is proportional to a percentage of the speed of answer performance that is not met.
 - There should be exemptions for events beyond the provider's control like weather.
 - The measurement should begin when the call reaches the VRS facility and end when it reaches the interpreter. IVRs do not count as call answered.
- There is a uniform agreement on skills based routing trial that allows the user to choose a set of interpreters with a particular skill set.
 - Speed of answer requirements should not be counted for skill based routing.
 - Providers note that they are willing to participate in a skill based routing trial on a voluntary basis, but that they would need to be reimbursed for voluntary participation.
- Uniform support for the use of deaf interpreters.
 - With respect to the speed of answer requirement, commenters suggest that it should not apply just as it for skills based routing.
- Providers are split on whether to allow interpreters to take calls from home. Those in favor of at-home interpreting suggests that there be safeguards in place to make sure the room being used is secure and free of distractions

- Uniform support for assigning ten digit phone numbers to hearing people so they can engage in point to point video calls with deaf people through video phones.
 - Note that when the TRS-URD is fully operational, an option to allow this could occur.

There is a VRS subcommittee of the Disability Advisory Group that is working on recommendations for performance metrics for the FCC to use to monitor service quality in accordance with the GAO report. A rulemaking will be initiated to address this issue.

David Schmidt added that the FCC as part of the MITRE research project has been trying to gather data on service quality but cannot monitor calls for accuracy because of privacy concerns. To the extent the community is concerned with the quality of interpreters the FCC is willing to put in place tight controls to allow the researchers to monitor only for the purpose of assessing service quality and that the Commission provide an interim waiver until the rules are changed.

The IDT Telecom petitioned to the FCC, requesting to initiate a rulemaking to expand the revenue base to include intrastate revenues. Consumer groups were generally in support. USTelecom has reservations because the USF Joint Board should review this and make recommendations for expanding the contribution base. The VRN coalition opposed saying that the FCC does not have authority to include intrastate revenues. One commenter recommended combining the intrastate and interstate relay services into one pool.

Sprint and Hamilton petitioned to the FCC, requesting to remove the two current mandatory minimum requirements relating to billing options because these are obsolete. Sprint and Hamilton request a waiver of these two requirements for traditional TTY and Captioned Telephone Service, two PSTN-based TRS services.

A public notice is expected be released shortly to inform the VRS providers when they can populate the TRS-URD. In response to feedback from the providers the FCC is looking at a possibility of widening the 60 day window for populating the database.

The ACE app will allow consumers to reach different VRS providers. The first round of beta testing is closed. The second round is coming soon and the FCC expects to roll out the app in the near term.

The FCC contracted with MITRE in order to operate the national outreach program as part of the 2013 VRS Reform Order. MITRE has worked with a number of different partners – Communication Service for the deaf, Deaf Nation, and Smart Access Marketing. Two big components of the outreach campaign are in the planning phase.

- Ensure that the general public and industry (business and agencies) are educated and should not refuse relay calls.
- Direct video communication – implementing a call center of deaf people using sign language and video technology. The FCC offers this option. So does Microsoft.

Concern was raised about the contracting process and the fact that others did not have the opportunity to bid on the project. The FCC explained that all appropriate processes were followed. It was also suggested that there may be future opportunity to subcontract with MITRE. It was also suggested that there be collaboration between MITRE and the states. The FCC said they will work with MITRE to follow up on this suggestion. It was also suggested that MITRE be more transparent and provide more information to the public. The FCC said they will look at that.

STS outreach is still in the works. The focus for next steps is on promoting video assisted speech.

Bob Loubé

MARS program and IP Relay Program – How demand is forecasted and how rates are set.

Information on the state minutes and the state revenue is gathered.

TRS TTY and Speech to Speech

- The total state revenue for traditional TRS TTY and Speech to Speech is \$19 million
- Total conversation minutes equal 9 million
- Other cost paid to providers \$4 million (almost entirely outreach paid for by the states)
- Total dollars \$23M divided by the total minutes produces a rate for traditional TRS of \$2.61
- An additional \$1.13 is added for speech to speech for a rate of \$3.74

Caption Telephone and IP Caption Telephone

The FCC uses the caption telephone rate to establish the IP caption telephone rate because, initially, there was not sufficient data to develop a separate IP caption telephone rate

- The total state revenue was \$42 million
- Total conversation minutes equal 22 million
- Other cost paid to providers \$0.2 million (almost entirely outreach paid for by the states)
- Total dollars \$42.2M divided by the total minutes produces a rate of \$1.90 for caption telephone and also applied to IP caption telephone.

Comparison of the 2015 filing to the 2016 filing

- Last year the Fund requirement was \$400M compared to \$558M this year

- The increase is primarily due to the increase in IP caption telephone minutes – 202 million to 284 million, everything else stays approximately the same.

Forecasts

- Traditional TRS minute forecast is a little higher than last year's forecast because of more information about the change in trend line – volumes are decreasing at a slower rate
- Speech to Speech trend has also changed causing a slight increase in the forecast
- CTS trend is basically a straight line forecast.
- IPCTS is increasing much faster than in the past. Future forecasts will be based on the recent trend since 3rd Quarter 2014.
- IP Relay and VRS forecasts are based on information provided by providers

Cost Trends

- In response to the annual data request providers provide 2 years history and 2 years projected information.
- Based on the data, charts were developed to show the different cost categories
- Providers provide service in two ways – if via contractor it is recorded in the other category, if provided internally it is in the communications assed related category.
- The analysis looks at cost per minute which has dropped substantially over time from \$1.71 to a forecasted \$1.39 but based on MARS, the rate would be \$1.90
- Three alternatives for the IPCTS rate
 - Alternative 1 - MARS Rate - \$1.90
 - Alternative 2 - Average rate of the providers = \$1.42
 - Alternative 3 - Rate based on the highest cost provider = \$1.76 (even this rate will save \$40M without putting anyone out of business)
 - Concern over service quality degradation was expressed by council member.
 - There is a difference in per minute costs – caption telephone and IP caption telephone
 - It is important to look at the reason for a price decrease. Both have variable and fixed costs. With fixed costs and declining minutes as with caption telephone the cost per minute decreases but with increasing minutes like IP caption telephone the cost per minute actually decreases.

Dave Rolka

Each January questionnaires for all the State Programs are sent out requesting responses by early February. They report the rate they agree to with their service provider and indicate whether this is billed based on conversation or session minutes. They also provide both conversation and session minutes. The conversation or session minutes are multiplied by the conversation or session rate to get the total dollars and the weighted average for TTY and STS is calculated. It works the same way for caption telephone and IP caption telephone.

IPCTS

Initially no one had any idea about the costs of IPCTS so the price was set equal to the CTS. Now that data has been collected for several years, the report will reflect that information so that the FCC can make an informed decision. But any change will have to be by vote of the Commission.

Typically, session minutes are higher than conversation minutes but not always so there is no single factor. The differences vary from state to state. An analysis will be done some time in the future.

Cost Trends

Indirect costs (includes costs like lawyers and executives - Even though the minutes are going up for IPCTS, the indirect costs are relatively flat. As the minutes are projected to continue to grow, the fixed cost percentage of the total gets smaller. In other words, the indirect cost per minute of service is lower because the volume is higher and the costs are spread over a higher number of minutes.

When looking at the cost of call assistance it is important to look at both the costs of contracting in the “other” category and the cost of providing internally. The cost of call assistance per minute is going down when combining both categories of cost because the minutes are increasing more. This is an area that will be looked at more closely.

The administrator is required to file an annual report with the Commission that demonstrates MARS calculations. The minutes of this meeting and the September meeting will be filed with the report. And the commission will put that on public notice of comment. By June 30th they will issue an order setting the contribution rate.

The providers projected 274 million IPCTS minutes. Rolka/Loube is not making any adjustments to this forecast. Historical cost data is collected annually for the two previous years. In 2014 data is collected for 2012 and 2013. In 2013 data was collected for 2011 and 2012. Often the numbers are different for a particular year due to adjustments. Comparing the costs to the MARS rate, sometimes provider’s costs are lower and sometimes they are higher.

IP Relay

An audit of the IP relay program was conducted and a report has been drafted but not released. There is only one provider left in the market and the IP relay program is in the third year of the cycle. Rolka/Loube is required to report to the commission the new base adjusted by a price cap mechanism. The audit has been shared with the service provider and both the auditors and the

service provider are satisfied with the results. There has been a significant decrease in minutes (about a million minutes). As service providers exited the market the minutes did not migrate to other providers or other services. Based on the average of the two projected years, the recommendation would be \$1.21 per minute which is \$0.16 or \$0.17 below the current rate which is somewhat concerning but that is what is required to report to the Commission. There are a few categories of cost that are not recognized. For some services outreach cost and research and development costs are not supposed to be included. IP Relay Costs - Customer Assisted cost per minute fluctuates from year to year but overall cost per minute is decreasing.

Video Relay Service

There are three tiers:

- Tier 1 – up to 500K minutes per month
- Tier 2 – 500K – 1 million minutes per month
- Tier 3 – Greater than 1 million minutes per month

For the 3 larger carriers there are 3 tiers and a price associated with each. The smaller companies providing less than 500K minutes per month, there is a separate structure. There is also a different calendar. Service providers are asked to provide cost for the same categories as for the IPCTS and the IP Relay. The weighted average cost was \$2.96 in 2014 and \$2.86 in 2015. The projected cost is \$2.95 for both 2016 and 2017. But this is not the FCC rate – just the costs they require to be reported. This weighted average includes all 5 providers but the weighted average of the big three and the little two are also reported to the Commission. There is a difference in cost between the two categories. One council member pointed out that there may be a need to split even further. The largest carrier may be a separate category from the next two medium sized providers. The information can't be provided publicly because it would breach confidentiality of the two remaining small providers.

Also a concern was raised by a council member that if new service quality standards are mandated and modified by the use of deaf interpreters and skills based routing the additional cost needs to be considered too. Rolka/Loube also raised the issue of the increased costs of providers' participation in the effort to get the URD up and running and may be an issue that should be addressed.

The VRS cost per minute doesn't change much over time. The rates were set by the Commission. The revenue requirement is calculated by multiplying the projected volumes times the rate. The rates are:

July-December 2016

Tier 1 Big 3 = \$4.44, Little 2 = \$5.29 (but dropping to \$5.06 in October)

Tier 2 = \$4.44

Tier 3 = \$3.68

January-June 2017

Tier 1 Big 3 = \$4.06, Little 2 = \$5.06

Tier 2 = \$4.06

Tier 3 = \$3.49

The order freezing rates for the smaller providers was retroactive. Within a week of the order the smaller three providers (the provider who left the market was included) were issued refunds – less than \$600,000 total. In response to a question from the council Dave Rolka said he would report back on whether the lowest rate -\$3.49 – was higher than the highest cost per minute.

The VRS revenue requirement is \$265M for the first half of the fiscal year and \$252M for the second half. Just over a half a billion.

The contribution base continues to get smaller. Just in this program year the contribution base has declined from \$64.1B to \$63.9B – a \$200M decrease. The contribution factor is based on the prior year base and when the base decreases over the year the fund decreases. In this case it is approximately \$4.25M less than planned. So the recommendation to the Commission needs to include a cushion to protect against discrepancies projection in the demand as well as any unknowns and to maintain a reserve to address the two month lag when service is provided and when the provider is paid. The estimate for this year's reserve was \$160M but it will end up being between \$110M and \$130M. One possible change is to include a reserve equal to the two highest months rather than two average months.

The contribution base includes reported revenues for the prior year but companies often make adjustments after they file the initial report. The report is filed with USAC April 1st and USAC collects the data. When USAC does not receive all the data it makes estimates for the companies they are expecting to receive filings from. If they get the report at a later date they will adjust the amount reported to the TRS find administrator. During the course of the year they do audits which sometimes result in companies needing to restate the revenue.

Revenue Requirement

- MARS based services have a revenue requirement of approximately \$539M
- MARS revenue requirement may be reduced if the Commission uses one of the alternative calculations for IPCTS
- VRS Revenue requirement is \$525M
- Revenue requirement for other services is \$219M. Included in this amount is \$178 for the 2 month reserve and \$10M for the deaf blind distribution program, \$20M for VRS reform projects including URD and the MITRE contract. The remainder is for audits,

attorney fees to participate in bankruptcy proceedings and telephone number administrator fees.

- The current budget is \$1.048B but may be reduced \$40M-\$144M if the Commission favors one of the IPCTS alternatives.
- The contribution factor is still being developed but there will be a slight increase.

Rolka/Loube submitted the audit plan for the coming year

- Will meet with CGB to prioritize the area in which they are most concerned about regarding company commitments and obligations to support their certification. Then through the audit process a record could be developed so CGB could make their determination to convert to a permanent certification for five years or extended conditional certification or identify any other criteria that they might want to impose as part of that certification process.
- Audits of service providers' books and records.
- Rolka/Loube will audit providers once URD becomes operational with respect to people with risk factors that were allowed into the database.

Other business

A motion was made for the council to recommend the higher MARS IPCTS rate of \$1.90 per minute. But after discussion and concerns that the council does not have enough information to make a recommendation the motion was withdrawn.

The September meeting will be September 14-15 in Annapolis, MD. The closed meeting will be on September 14th followed by dinner. September 15th will be the all-day public meeting. A block of rooms have been booked but the meeting room still needs to be reserved.

The council discussed the problem with the decrease in the contribution base and how to drive action to address the problem. It was decided that the council would actively pursue this effort and that this would be discussed further at the next Health of Fund call. Also, it was suggested that calls would be more productive with a video conference capability. Linda Vandeloop agreed to explore the options on the conference bridge used for the Health of Fund call.

Public Comment

Purple suggested that the council look at average cost for the five providers compared to the weighted average for VRS. With the weighted average, there is one large provider with a lot of weight which does not represent the average of the five providers.

Meeting was adjourned at 2:35 pm.

Minutes Prepared by Linda Vandeloop Acting iTRS Council Secretary