



June 2, 2010

EX PARTE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: 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

Dear Ms. Dortch:

The Telecommunications Relay Service (TRS) fund is projected to have a surplus of approximately \$200 million in the current fund year.¹ The Commission should act on the National Exchange Carrier Association's (NECA) recommendation and return these funds to carriers that made contributions in excess of fund requirements either through a refund or a credit against next year's contribution, rather than "resize" next year's TRS fund to reflect the current surplus. TRS Surplus Letter at 6. A Commission decision on this matter is required in time for many carriers to prepare their annual tariff filings that will be submitted on June 16.

The TRS fund increased from less than \$100 million prior to 2002 to several hundred million today, and at one point the fund was expected to approach \$1 billion due largely to the explosive growth in demand for video relay services. TRS Fund Size Projection at Ex. 3. The significant, life-changing benefits of video relay services to deaf and hard of hearing individuals are undeniable. Consumers, however, ultimately pay for the TRS fund through Commission assessments on communications service providers, and so the Commission must carefully balance the needs of the fund with what consumers can afford. Therefore, NECA's recent announcement that the video relay and other TRS needs of program participants are being met at a cost that came in "under budget" this year is welcome news. Because the current surplus results from carrier contributions to the fund it is appropriate to return surplus amounts to carriers.

¹ See Letter from John A. Ricker, NECA, to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51 (March 30, 2010) ("TRS Surplus Letter"); NECA, *Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Interstate Telecommunications Relay Services Fund, Payment Formula and Fund Size Estimate (2010), CG Docket No. 03-123 (April 30, 2010) ("TRS Fund Size Projection").

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USTelecom agrees with AT&T that it would be inequitable to roll this year's surplus over to next year's TRS fund instead of allocating excess contributions back to the carriers that made those contributions.² The group of carriers that make TRS contributions and their corresponding interstate revenues used to determine the required amount of those contributions are constantly changing. Therefore, resizing next year's TRS fund to account for the current year surplus would effectively refund the excess contributions of one group of carriers based on one set of revenues to a different group of carriers based on a different set of revenues.

To avoid such an inequitable result, the Commission should "ensure that the excess surplus is refunded to the common carriers to which the funds are attributable." AT&T Comments at 7. This can be accomplished either by directing NECA, as the fund administrator, to issue a refund check or other payment to contributing carriers or to credit the refund amount against a carrier's upcoming TRS contribution obligation. A variety of factors may make a refund check or a credit more appropriate in certain situations. As long as a particular carrier is in good standing with respect to its TRS contributions, the Commission should direct NECA to allow individual contributors to choose between a refund check and an account credit.

Moreover, prompt Commission attention to this matter is necessary for carriers to make any required adjustments to their annual tariff filings that, for many, must be submitted on June 16. The significant uncertainty regarding the size of next year's TRS fund and the contribution factor could lead to a situation where carriers would have to adjust their filings less than a month after submission. The annual filing process is time-consuming and resource draining, requiring months of preparation by carriers and Commission staff. Going through this process twice within just a few weeks' time would not be productive for anyone. And for customers, revised carrier tariff submissions could result in multiple changes to subscriber line charges, in particular, within a very short period of time, which is likely to cause billing confusion and consumer complaints. Therefore, we request that you publish the contribution factor and size of the TRS fund for the 2010-2011 Fund Year prior to June 16 and provide the carriers with an estimate of the refund they will receive.

Should you have any questions, please contact me.

Sincerely,



Genie Barton
Vice President and General Counsel

cc: Joel Gurin
Karen Peltz Strauss
Mark Stone

² See Comments of AT&T, Inc. On NECA Interstate TRS Fund Submission For 2010-2011 Fund Year, CG Docket Nos. 03-123 and 10-51, at 7-8 (May 14, 2010) ("AT&T Comments").