

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Contributions to the Telecommunications)	CG Docket No. 11-47
Relay Services Fund)	
)	

COMMENTS OF VERIZON¹

The Twenty-First Century Communications and Video Accessibility Act of 2010 (“CVAA”) requires each provider of interconnected VoIP services and non-interconnected VoIP services to contribute to the Telecommunications Relay Services (TRS) Fund.² Interconnected VoIP service providers already have an obligation to contribute,³ but the obligation for non-interconnected VoIP service providers is new. Many non-interconnected VoIP services have no direct charges to end-users and, under the current revenue-based contribution system, the Commission needs to establish a mechanism to ensure that so-called free non-interconnected VoIP services contribute to the TRS Fund as well as those that generate end-user revenues. The Commission can do this using a per-subscriber system.

I. THE COMMISSION SHOULD ADOPT A METHODOLOGY TO ENSURE THAT SO-CALLED FREE VOIP SERVICES CONTRIBUTE TO THE TRS FUND.

The Commission recognizes in the *NPRM* that many—perhaps most—non-interconnected VoIP services are marketed to residential subscribers as free of charge, or below

¹ The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² 47 U.S.C. § 615.

³ 47 C.F.R. §§ 64.604(c)(5)(iii)(A) and 64.601(b).

cost, typically by online subscription.⁴ These services may be thought of as free in the sense that end-user subscribers are not billed for the entire cost of the service, but nevertheless there are revenues and costs associated with these services. VoIP services are often funded by advertising and sources of revenue other than end-user charges.⁵ For example, Google offers its Google Voice service, a VoIP product, free of charge to end-users.⁶ Google, however, generates revenue by coupling its free services with targeted online advertising.⁷ Through this model, Google has experienced “rapid growth,”⁸ with revenues climbing from approximately \$11B in 2006, to approximately \$22B in 2008, to approximately \$29B in 2010.⁹

These business models, which are now common in the Internet space, offer consumer benefits. But so-called free VoIP services depend upon the same high-speed, robust network infrastructure as paid subscription services, and likewise they should contribute to Commission programs such as the TRS Fund. These services compete directly with traditional voice services

⁴ *Contributions to the Telecommunications Relay Services Fund*, Notice of Proposed Rulemaking, 26 FCC Rcd 3285, ¶ 21 (2011) (“*NPRM*”).

⁵ *Id.*

⁶ See Google, <http://www.google.com/intl/en/options/> (follow “Voice” under “Communicate, show & share”) (“Google Voice enhances the existing capabilities of your phone...for free.”); see also *Communications Daily*, March 22, 2011, at 12 (“Sprint Nextel will offer Google Voice on all of its phones, while allowing customers to port their existing Sprint numbers. . .Newer Android phones will come preloaded with Google Voice.”).

⁷ See Google FY2010 Form 10-K, http://investor.google.com/documents/20101231_google_10K.html, at 3: “We generate revenue primarily by delivering relevant, cost-effective online advertising. Businesses use our AdWords program to promote their products and services with targeted advertising. In addition, the third parties that comprise the Google Network use our AdSense program to deliver relevant ads that generate revenue and enhance the user experience.”

⁸ *Id.* at 16.

⁹ *Id.* at 24.

that have associated end-user revenues and already contribute to the TRS Fund, as well as other Commission programs.

The CVAA requires the Commission to develop a TRS contribution methodology that will capture contributions from both paid and so-called free VoIP services. The statute provides that:

*... each interconnected VoIP service provider and each provider of non-interconnected VoIP service shall participate in and contribute to the Telecommunications Relay Services Fund . . . in a manner prescribed by the Commission by regulation to provide for obligations of such providers that are consistent with and comparable to the obligations of other contributors to such Fund.*¹⁰

And Congress clearly intended for services that are offered for free to the public to contribute equitably to the TRS Fund, as evidenced by the legislative history: “The Commission shall ensure that contributions are made on an equitable basis, taking into account whether such services are offered free to the public.”¹¹ This requirement, specific to VoIP providers, dovetails with the preexisting requirement that TRS contributions “generally” be assessed on “all subscribers for every interstate service.”¹² Like the federal Universal Service Fund and other Commission programs, TRS contributions today are derived from a contribution factor applied to providers’ end-user telecommunications and VoIP revenues. The Commission need not abandon the revenue-based system altogether in order to capture TRS contributions from so-called free VoIP services. But if the Commission does maintain revenue-based contributions, it must put in place an alternative assessment for these services in order to satisfy the requirements of Sections 225 and 615 of the Act.

¹⁰ 47 U.S.C. § 615 (emphasis added).

¹¹ H.R. Rep. No. 111-563, at 23 (2010).

¹² 47 U.S.C. § 225(d)(3)(B).

One way to capture TRS contributions on VoIP services that are free to the end-user—or substantially subsidized by revenue from sources other than subscriber charges (for example, advertising)—is a per-subscriber alternative minimum contribution. The alternative minimum TRS contribution could work in much the same way as the Internal Revenue Service’s alternative minimum tax.

To establish the alternative minimum contribution amount, the Commission should revise its existing minimum TRS contribution rules.¹³ The Commission should first determine how much current TRS contributors typically pay into the program on a per-subscriber basis. Providers can roughly determine per-subscriber contributions by dividing the amount of their TRS contributions by the number of customers (and then dividing by twelve to determine a monthly amount) or some other reasonable methodology. The Commission could develop these data either by issuing a data request to representative TRS contributors or by asking industry trade associations like USTelecom, CTIA, and NCTA to survey their members.

Analyzing these data, the Commission could then establish an alternative minimum contribution for VoIP providers equal to the typical per-subscriber contribution amount multiplied by the number of the provider’s domestic customers. For illustrative purposes, based on the current annual TRS contribution factor (0.585%),¹⁴ a typical wireline, wireless, or VoIP subscriber may indirectly contribute to the TRS Fund approximately \$0.05 (five cents) per month. An alternative minimum TRS contribution of \$0.05 per subscriber for a hypothetical VoIP provider with 100,000 domestic customers would be \$5,000 per month, or \$60,000 per year.

¹³ See 47 CFR § 64.604(c)(5)(iii)(A).

¹⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 25 FCC Rcd 8689, ¶ 3 (2010).

If the Commission deems it necessary, as a backstop to ensure that TRS contributions do not overwhelm or even exceed a VoIP provider's total revenues from all sources, the alternative minimum TRS contribution could be further limited if a company petitions to the Commission with a showing that such an assessment would have a disproportionate impact. For example, if the alternative minimum contribution amount would exceed the provider's total revenues (from all sources) multiplied by the annual TRS contribution factor, the provider could seek a limitation based on that total amount.

There may be other ways to capture required TRS contributions from so-called free VoIP services. The contribution methodology the Commission adopts must treat all providers of competing services alike regardless of technology and irrespective of whether the competitor's earned revenues are associated with traditional end-user subscriber charges or some other source.

II. OTHER MATTERS.

A. Definitions

The Commission proposes that for purposes of determining which entities must comply with the TRS obligations and contribute to the TRS Fund, it will continue to use the definition of interconnected VoIP service originally found in Section 9.3 of the Commission's rules.¹⁵ The Commission proposes to modify its TRS rules¹⁶ by removing the actual Section 9.3 text of the definition and replacing it by codifying this language, found in the CVAA: "The term 'interconnected VoIP service' has the meaning given such term under section 9.3 of title 47,

¹⁵ 47 C.F.R. § 9.3.

¹⁶ *NPRM* ¶ 14.

Code of Federal Regulations, as such section may be amended from time to time.”¹⁷ This proposal is reasonable.

Similarly, the Commission proposes to amend its TRS rules¹⁸ by adding the definition of “non-interconnected VoIP service” set forth in the CVAA.¹⁹ This proposal, too, is reasonable.

B. Administrative Matters

The Commission proposes to continue using FCC Form 499-A for interconnected VoIP service providers, the same reporting mechanism these providers have been using since 2007.²⁰ Verizon agrees with this proposal. Interconnected VoIP providers are already familiar with Form 499-A, and adding an additional form, or changing the requirements, would add administrative complexity with no benefit. Similarly, Verizon supports the Commission’s proposal to require non-interconnected VoIP service providers covered by Section 715 of the CVAA to use Form 499-A.²¹ Verizon also supports requiring non-interconnected VoIP service providers to report their interstate end-user revenues in the same manner as interconnected VoIP service providers do, as “telecommunications revenues” for the limited purpose of determining required TRS Fund contributions. But in no event should reporting these revenues in this manner for TRS contribution purposes prejudice the Commission’s ultimate decision regarding VoIP classification. The proposal to codify the addition of non-interconnected VoIP service providers as entities required to contribute to the TRS Fund is also necessary to implement the

¹⁷ 47 U.S.C. § 153(25).

¹⁸ *NPRM* ¶ 15.

¹⁹ 47 U.S.C. § 153(36).

²⁰ *NPRM* ¶ 17.

²¹ *Id.*

statutory requirements.²² Finally, it is logical to extend to non-interconnected service providers the 64.9% safe harbor developed in the *2006 Interim Contribution Methodology Order*.²³

III. CONCLUSION

The Commission should establish a per-subscriber contribution mechanism or some other system to ensure that all non-interconnected VoIP service providers, including those that offer services that have no direct charges to end users, contribute to the TRS Fund.

Respectfully submitted,

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²² *NPRM* ¶ 19.

²³ *See NPRM* ¶ 27, citing *Universal Service Contribution Methodology, et al*; Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006) (“*2006 Interim Contribution Methodology Order*”).