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

In the Matter of	)	
	)	
Structure and Practices of the	)	
Video Relay Service Program	)	CG Docket No. 10-51
	)	
Telecommunications Relay	)	
Services and Speech-to-Speech Services for	)	
Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	
To: The Commission		

PAYMENT FORMULAS AND FUNDING REQUIREMENT FOR THE INTERSTATE TELECOMMUNICATIONS RELAY SERVICES FUND FOR THE JULY 2013 THROUGH JUNE 2014 FUND YEAR

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May 31, 2013

Purple Communications, Inc. ("Purple") hereby provides a response to the FCC's May 17 Public Notice seeking comments on the TRS Fund Administrator's annual report.[1] Given the Commission's two other active docket items covering Video Relay Service reform and pricing, and IP-Captioned Telephone reform and ratemaking processes, Purple's comments for this filing will be specific to the topic of the Administrator's proposed rates for IP-Relay services.

We concur with the Fund Administrator that the reimbursement rate for IP Relay should continue to be set in at least three-year price-cap periods with the new period starting July 1, 2013. This is essential for business planning and predictability.

We, however, disagree with the Administrator's recommendation for IP Relay rates. The Administrator has recommended a dramatic cut of almost 20% in the base IP relay rate ($1.2855 for the 2012-13 fiscal year to $1.0391 for the 2013-14 fiscal year). The record simply does not support such a cut.

Additionally, while the Administrator acknowledges past practices and the formulaic approach for determining an "efficiency factor" which has been applied annually to the base rate to derive the rate for the next fund year, the Administrator elected to completely depart from the use of such formula or provide any basis of reasoning for recommending an annual efficiency factor which would reduce base rates for IP-Relay by 6% per year during the three-year rate period. According to the Administrator, the 6% figure "represents the average annual decrease in the cost of providing IP relay service from 2007 to the current tariff year."[2] It is unclear to Purple how this figure can be applied going forward in a market with a dramatically reduced call volume. Indeed, the Administrator's projected call volume of approximately 22 million minutes

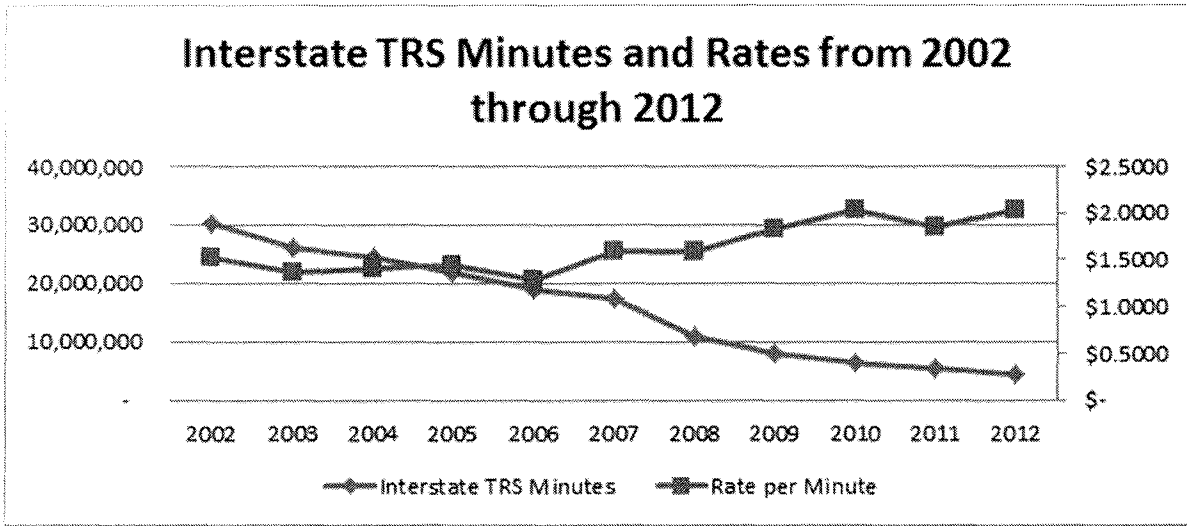
[1] *See* Interstate Telecommunications Relay Service Fund Payment Formula and Fund Size Estimate, Rolka Loube Saltzer Associates LLC, CG Dockets 03-123 and 10-51, dated May 1, 2013 ("Rolka 2013 Report").

[2] Rolka 2013 Report at 17.

for 2013-2014, is about a *quarter* of the call volume in the 2007-2008 Fund year (approximately 79 million minutes). There are simply not "more" efficiencies that providers can find in a market with such dramatically declining call volume – for Purple, every possible efficiency is already built in to the current system. Reasoned decision-making requires something more than what appears to be a random and unsupported selection of an efficiency factor twelve times higher than the historic 0.5% figure. This radical change should be categorically rejected as a basis for future rate adjustments for IP-Relay.

The traditional TRS market is a useful proxy in analyzing what happens to provider costs as a service matures and demand for it declines over time; the situation which presently exists for IP-Relay services. The TRS market which derives its annual rates from competitive bids from providers and which are awarded by state relay administrators, provides a historical perspective that demonstrates unequivocally that when demand is in decline, but service standards are unchanged, rates naturally and logically increase due to diminishing business interest and fewer dollars to cover fixed costs among competitive providers. *See Figure 1.*

Figure 1[3]



It is not surprising that in the face of declining demand, state relay administrators have awarded contracts through a competitive process that have resulted in steady rate *increases,* not decreases as the Administrator is proposing. The Administrator has acknowledged the cost resemblance for the two services (TRS and IP-Relay) based on common CAs and facilities, noting that "for example, the same CAs, sitting at the same offices, handle both traditional and IP Relay calls."[4] The Administrator, however, recommends that the IP Relay rate be less than half the TRS rate without providing any analysis of the disparity other than to state that the difference is needed to avoid potential overcompensation of providers' reported costs.

In the case of IP-Relay, the Administrator has estimated a 29% reduction in demand for IP-Relay services for the 2013-2014 fund year[5] resulting in a projection of 21,929,535 minutes for the entire industry. With dwindling market interest from providers and eroding demand, in

[3] *See* Interstate Telecommunications Relay Service Fund Payment Formula and Fund Size Estimate, National Exchange Carrier Association, CG Docket No. 03-123, dated April 29, 2011; Rolka TRS monthly reports, *available at:* http://www.r-l-s-a.com/TRS/Reports.htm; Rolka 2013 Report.

[4] Rolka 2013 Report at 14.

[5] *See* Rolka 2013 Report at Exhibit 2.

order to provide for a sustainable, high quality service for consumers, the record supports resetting the 2013-2014 base rate at levels consistent with the 2012-2013 fund year and continuing to apply its annual rate adjustment calculation (up or down) based on the formula and guidance from the Cost Recovery Order.[6] That is a reasonable and rational approach.

Not only does the record support sustaining the current rate, but as a practical matter, doing so would not undermine the Commission's broader goals related to overall Fund management. Preserving the current reimbursement rate as a baseline for IP-Relay the 2013-2014 fund year has less than 0.4%[7] of an impact on the total projected fund size. By contrast, cutting rates precipitously, combined with a trend line of declining demand, and increasing compliance requirements/costs, will cause more providers to leave the market, and consumers will be left with either little competition or no providers at all. This is evidenced by the recent departure of long-standing IP-Relay provider, Hamilton Relay, and the abandonment of its IP-Relay certification application by AT&T.[8]

If the Commission wants to encourage continued quality delivery of IP-Relay service, rates need to, at a minimum be held at current rates or be increased. If the FCC pursues an aggressively declining rate for IP Relay, providers will continue to be driven out of the industry, putting an important service at risk. If the Commission would like to keep IP Relay as a viable service, it must retain IP Relay rates at a consistent level that reflects reality. With dramatically

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[6] *See* 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).

[7] Using $1.2855 as the 2012-2013 rate, $1.0391 as the proposed 2013-2014 rate, demand of 21,929,535 minutes for the 2013-2014 fund year, and $1.543 billion as the Administrator's projected requirements for the total TRS Fund.

[8] *See* "Hamilton Relay Suspends Text-based Internet Relay Services," dated April 29, 2013, *available at:* http://www.hamiltonrelay.com/corporate/whats_new/index.html?topic=details&ni=328; *see also* Letter from Robert Vitanza, General Attorney, AT&T Services, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 10-51, dated May 28, 2013.

declining call volume, stringent speed of answer and other requirements, and unavoidable fixed costs, the per-minute costs of providing service is *increasing* for providers, and at a minimum, must be maintained at current levels.

Respectfully submitted,

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