

**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
	)	

**REPLY COMMENTS OF THE  
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (NCTA) agrees with the initial commenters that have urged the Commission to reject the proposed increases to the Telecommunications Relay Services (TRS) funding requirement and contribution factor submitted by the fund administrator, Rolka Loube Saltzer Associates (RLSA).<sup>1</sup> The TRS contribution factor proposed by RLSA for the 2013-2014 funding year represents more than a 120 percent increase from the current year's contribution factor.<sup>2</sup> As the initial commenters note, such an increase is not only overly burdensome to providers and consumers that bear the cost of contributing into the TRS fund, but it also is unwarranted.<sup>3</sup>

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<sup>1</sup> *Rolka Loube Saltzer Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the July 2013 Through June 2014 Fund Year*, CG Docket Nos. 03-123 and 10-51, Public Notice, DA 13-1137, 1-2 (CGB, May 17, 2013) (*Public Notice*); IDT *et al.* Comments at 2; ITTA Comments at 2; NobelTel Comments at 1; Sorenson Comments at 1-2; USTelecom Comments at 2-3.

<sup>2</sup> *Public Notice*, DA 13-1137 at 2 (proposing a TRS contribution factor of 0.0233 for the 2013-2014 funding year); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 27 FCC Rcd 7150, 7151, ¶2 (CGB 2012) (setting a TRS contribution factor of 0.01053 for the 2012-2013 funding year).

<sup>3</sup> Hamilton Comments at 7; IDT *et al.* Comments at 2-5; ITTA Comments at 4; NobelTel Comments at 2-4, 6; Sorenson Comments at 3-4; USTelecom Comments at 2-5, 9.

As the Commission stated, there has been “a recent and dramatic spike in reimbursement requests to the Interstate Telecommunications Relay Service Fund (TRS Fund or Fund), of sufficient magnitude to constitute a serious threat to the Fund.”<sup>4</sup> To address this issue, the Commission adopted immediately, i.e., without notice and comment, interim rules governing the provision and marketing of Internet Protocol Captioned Telephone Service (IP CTS).<sup>5</sup> In explaining the adoption of the interim rules, the Commission said

[W]e have reason to believe that this growth [in IP CTS] is being caused by the offering of incentives for referrals to use this service, as well as usage of this service by people without a hearing loss that necessitates the use of IP CTS to communicate in a functionally equivalent manner, and that, if unchecked, this growth threatens in the very near term to overwhelm the Fund. Because all forms of TRS are supported through one Fund, this puts all forms of TRS in jeopardy and threatens to deprive people who are deaf or hard of hearing of the benefits of the program.<sup>6</sup>

The interim rules addressing IP CTS misuse became effective in February and March 2013.<sup>7</sup>

The TRS fund projections submitted by RLSA, however, do not take into account the effect of the interim IP CTS rules and therefore significantly overstate demand.<sup>8</sup> In its TRS fund size estimate filing RLSA acknowledges that, “In light of the recently adopted interim measures, RLSA does not expect that any of the above demand projections will produce an accurate

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<sup>4</sup> *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 and 03-123, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703, 703, ¶1 (2013) (*IP CTS Order*).

<sup>5</sup> “IP CTS permits people who can speak, but who have difficulty hearing over the telephone, to speak directly to another party on a telephone call and to use an Internet Protocol-enabled device to simultaneously listen to the other party and read captions of what that party is saying.” *Id.*

<sup>6</sup> *Id.* at 707, ¶6.

<sup>7</sup> *Id.* at 704, ¶2; *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 78 Fed. Reg. 8032 (Feb. 5, 2013); 78 Fed. Reg. 14701 (Mar. 7, 2013).

<sup>8</sup> RLSA Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51, at 26-29 (May 1, 2013) (RLSA 2013-14 TRS Fund Estimates); ITTA Comments at 2-5; NobelTel Comments at 4-6; USTelecom Comments at 4-7.

reflection of demand during the 2013-2014 funding year.”<sup>9</sup> RLSA therefore “recommends that each of these alternative demand projections should be considered in light of the [*IP CTS Order*].”<sup>10</sup>

The dramatic increase in costs that the proposed TRS contribution factor would impose on providers and consumers is overly burdensome.<sup>11</sup> The TRS contribution factor proposed by RLSA represents a 120 percent increase over the prior funding year rate.<sup>12</sup> Such a huge increase in the funding requirement will excessively burden providers and consumers that contribute to the TRS fund and should not be adopted.

We commend the Commission for the efforts it has taken to combat waste and fraud in the TRS fund.<sup>13</sup> The Commission should continue these efforts to ensure that the funds are used appropriately to assist people with disabilities while keeping the size of the TRS fund sustainable.

As the majority of commenters and RLSA itself recommends, the Commission should not adopt a TRS fund contribution factor based on overprojected demand. Such an approach results in a significantly inflated and excessive contribution factor that overly burdens providers

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<sup>9</sup> RLSA 2013-14 TRS Fund Estimates at 28.

<sup>10</sup> *Id.* at 27. In addition, several commenters urge the Commission to use a lower industry projection of IP CTS minutes of use in the TRS fund calculations. Hamilton Comments at 7; ITTA Comments at 3-5; Sorenson Comments at 3-4; USTelecom Comments at 6-7.

<sup>11</sup> See ITTA Comments at 3 (reporting an estimated \$12.4 million increase in 2013-14 TRS costs for Windstream due to the proposed TRS fund size and contribution factor).

<sup>12</sup> See *supra* note 2. In another context, the Commission has considered limiting the amount that rates may increase from one year to the next to avoid imposing severe economic harm on ratepayers. *Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2013; Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket Nos. 12-201, 13-58, and 08-65, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 13-74, ¶30 (May 23, 2013).

<sup>13</sup> See, e.g., *Sorenson Communications, Inc.*, File No. EB-TCD-12-00000370, Order, DA 13-1068 (Enf. Bur., May 28, 2013); *AT&T Inc.*, File No. EB-TCD-12-00000337, Order, DA 13-594 (Enf. Bur., May 7, 2013).

and consumers. The Commission should follow RLSA's recommendation and adopt modified, lower TRS demand projections that take into account the effect of the interim IP CTS rules.

Respectfully submitted,

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June 7, 2013