

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 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
)	

COMPTEL’S REPLY COMMENTS

COMPTEL, through undersigned counsel, hereby submits its reply to the comments filed in the above-captioned proceeding. The .0233 TRS contribution factor proposed by Rolka Loube Saltzer Associates LLC (“RLSA”) for funding year July 2013 through June 2014¹ is more than double the contribution factor of .01053 adopted for the 2012-2013 fund year.² COMPTEL members are extremely concerned that the Commission may approve such a significant increase, especially in light of its apparent policy prohibiting carriers from identifying TRS contribution charges on customer bills as a specifically identified separate line item. This significant increase will result in higher bills for end users where telecommunications providers have the ability to implement rate increases. In many instances, however, the increase will have to be absorbed by providers because their contracts or other billing arrangements with their end users constrain their ability to implement rate increases. For this reason, COMPTEL supports the recommendations made by IDT Telecom, Inc., Intermedia.net, Vocalcity, Inc. and Vonage

¹ Payment Formula and Fund Size Estimate Interstate Telecommunications Relay Services (TRS) Funde For July 2013 Through June 2014 filed May 1, 2013 by RLSA in CG Docket No. 03-123 at 6, 34.

² *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, DA 12-996 at ¶ 13 (rel. June 26, 2012).

Holdings Corp. that the Commission take action to avoid carrier rate shock and more importantly, revisit its apparent prohibition against carriers identifying TRS fees as a specifically identified separate line item on customer bills and/or clarify that carriers are not prohibited from recovering TRS contributions in a line item on customer bills.³

Section 64.604(c)(5)(ii) of the Commission’s Rules provides that “[c]osts caused by interstate TRS shall be recovered from all subscribers for every interstate service. . . .”⁴ Section 64.604(c)(5)(iii)(A) provides that “[e]very carrier providing interstate telecommunications services (including interconnected VoIP service providers pursuant to §64.601(b)) and every provider of non-interconnected VoIP service shall contribute to the TRS Fund on the basis of end-user revenues. . . .”

Despite the statutory mandate that providers recover the costs of TRS from their subscribers and the Commission’s mandate that the costs of TRS service be paid by telecommunications providers, the Commission inexplicably appears to prohibit providers from identifying TRS contribution fees as a specifically identified separate line item on their customer bills.⁵ Instead, providers are required to incorporate TRS costs into the price of their interstate

³ Comments of IDT Telecom, Inc., Intermedia.net, Vocalcity, Inc. and Vonage Holdings Corp. at 7-10 (“Joint Commenters”). COMPTTEL submits that the ADA and the Commission’s decisions are unambiguous with respect to a carrier’s right to recover TRS contributions from its customers, but there is some ambiguity with respect to how or in what format customers may be billed for that recovery.

⁴ The regulation was adopted to implement the provision in the Americans with Disabilities Act (“ADA”) directing the Commission to adopt regulations that “generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service. . . .” 47 U.S.C. § 225. COMPTTEL supports the goals of the ADA and recognizes the importance of TRS services in delivering functionally equivalent services to all Americans.

⁵ *In the Matter of Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802 at ¶22 (1993)

telephone services or through additional charges.⁶ COMPTTEL is unaware of any provision of the ADA or the Communications Act that would prohibit providers from passing TRS contribution costs through to their end users as a separately identified line item, and the Commission itself has never provided a reasoned explanation for any such prohibition.

The TRS contribution factor is calculated based upon providers' prior year revenues, precluding providers from recovering their TRS contributions from the customers that generated the revenues on which the factor was based. In setting prices for the current year, providers have no way of anticipating an increase in the contribution factor in excess of 100 percent such as that proposed by RLSA. Such a large increase places providers in an extremely difficult position. They either have to impose significant service rate hikes on their customers to reflect increases in the contribution factor in order to be compliant with the ADA or to eat the cost of those increases. In either event, both providers and end users suffer as a result of the unpredictability

(“carriers are required to recover interstate TRS costs as part of the cost of interstate services and not as a specifically identified charge on end user’s lines”); *In the Matter of Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Report and Request for Comments, 6 FCC Rcd 4657 at ¶34 (1991) (“Moreover, in order to provide universal telephone service to TRS users as mandated by the ADA, carriers are required to recover interstate TRS costs as part of the cost of interstate telephone service and not as a specifically identified charge on subscribers’ lines”); *In the Matter of Universal Service Contribution Methodology*, WC Docket No. 06-122, Further Notice of Proposed Rulemaking, FCC 12-46 at n. 617 (“We note that carriers are not permitted to recover interstate TRS costs as part of a specifically identified charge on end users’ lines.”).

⁶ *Id.* Verizon, for example, includes interstate TRS contribution charges in a line item designated as “Carrier Cost Recovery Charge.” Verizon explains that this “monthly Verizon surcharge is applied to each long distance customer and helps Verizon Long Distance and Verizon Enterprise Solutions defray a portion of its costs for calls terminated on other networks, fees paid to support government programs such as Telecommunications Relay Service and Local Number Portability, other Federal Communications Commission-assessed charges and additional indirect costs associated with administering and complying with government programs.” See Verizon’s Explanation of Taxes, Fees and Other Charges on Your Bill available at <http://www22.verizon.com/support/residential/phone/homephone/billing/charges+and+taxes/tax+s+and+surcharges+on+your+bill/95873.htm> (last visited June 7, 2013).

of the contribution factor. If competitive providers are unable to raise rates to cover the increase in the contribution factor, their already narrow margins will be reduced and they will have less revenue to reinvest in their networks and innovative services for their customers.

While the Commission has in the past rejected requests that TRS charges be itemized on customer bills as separate line items,⁷ the huge contribution rate increase proposed by RLSA cries out for a reconsideration or clarification of that policy. The Commission has acknowledged that the current TRS rate setting mechanism has negatively affected the telecommunications carriers that must contribute to the TRS fund and has recognized the need to create stability and long-term predictability in the compensation mechanism. Doing so would benefit both TRS providers and contributing carriers, not to mention consumers who bear the ultimate financial responsibility for funding the services.⁸

Explicitly authorizing telecommunications carriers to specifically identify the TRS contribution on their customer bills as a separate line item would provide the transparency necessary to allow end users to clearly understand what they are being charged for funding the services and would increase accountability on behalf of both the Commission and the fund administrator. Telecommunications customers have a right to know what they are paying for and a separate TRS line item would serve that purpose. It would also ease the burden on carriers by ensuring that they can pass the TRS charges through as unambiguously delineated line items as opposed to what may appear to their customers as simply arbitrary rate increases.

⁷ *In the Matter of Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802 at ¶22 (rejecting MCI's request for recovery of TRS contributions through a line charge).

⁸ *In the Matter of Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Further Notice of Proposed Rulemaking, FCC 11-184 at ¶22 (rel. Dec. 15, 2011).

Conclusion

For the foregoing reasons, and those stated in the Joint Commenters Comments, COMPTEL respectfully requests that the Commission reconsider and/or clarify its apparent policy that prohibits telecommunications providers from specifically identifying TRS contributions as a separate line item on their customer bills.

Respectfully submitted,

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