

Comments of Miracom USA, Inc. on Rolka Loube Saltzer Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Telecommunications Relay Services and Speech to-) CG Docket No. 03-123
Speech Services for Individuals with Hearing) CG Docket 10-51
and Speech Disabilities)

To: The Consumer and Governmental Affairs Bureau

**COMMENTS OF MIRACOM USA, INC.
ON PROPOSED INTERSTATE TELECOMMUNICATIONS RELAY SERVICES
FUND PAYMENT FORMULA AND FUND SIZE ESTIMATE**

Miracom USA, Inc. (“Miracom”), by counsel and pursuant to FCC Rule Section 1.420 and Public Notice, DA 14-627 (May 9, 2014), submits its comments on Rolka Loube Saltzer Associates LLC’s (“Rolka”) May 1, 2014 Interstate Telecommunications Relay Services (“TRS”) Fund Payment Formula and Fund Size, and shows the following.

The Commission recently granted Miracom conditional certification to provide Internet Protocol Captioned Telephone Service (“IP CTS”). *See* Public Notice, DA 14-644 (May 13, 2014). Miracom is not authorized to offer any other TRS service. Accordingly, Miracom will confine its comments to the proposed IP CTS compensation rate.

Based on the Multistate Average Rate Structure (“MARS”) methodology, Rolka proposes an IP CTS compensation rate for the 2014-15 funding year of \$1.8205. The current IP CTS rate is \$1.7877. The proposed rate is thus \$.0328 higher than the current rate. The proposed IP CTS compensation rate would be a 1.835 percent per minute

increase in compensation for IP CTS over the current rate. This proposed increase in IP CTS compensation is less than the 1.953 percent increase in the Consumer Price Index (“CPI”) as measured from April 2013 to April 2014, the most recent data available.¹ The Bureau seeks comment whether Rolka has correctly calculated its proposed MARS based IP CTS compensation rate.

Rolka also calculated an alternative compensation rate based on IP CTS providers’ estimated 2014 and 2015 costs. That figure is \$1.718 per minute, \$.0697 below the current compensation rate and 5.6 percent below the MARS calculated rate of \$1.8205. The Bureau seeks comment whether Rolka has correctly calculated this figure.

Based on the Rolka’s submission, it appears that the proposed MARS based IP CTS compensation rate is correctly calculated. Rolka has presented the data underlying its calculation and there does not appear an error in its calculations. As to the calculation of a potential alternative rate based on provider costs, the data provided are insufficient to allow meaningful evaluation whether Rolka’s figure is correct. Miracom does note that Rolka’s submission does not indicate that it considered Miracom’s costs and demand estimates which were provided to the Bureau at the Bureau’s request in December 2013, in connection with the Bureau’s review of Miracom’s pending certification application. Inclusion of Miracom’s cost and demand estimates may well have affected Rolka’s calculated figure.

¹ According to the Bureau of Labor Statistics, the CPI – All Urban Consumers increased 1.9529 percent from April 2013 to April 2014. See <http://data.bls.gov/cgi-bin/surveymost>.

In any event, Miracom supports adoption of Rolka's MARS based IP CTS compensation rate. The rate appears reasonably calculated, the increase in compensation is below inflation, and the Commission has previously determined to employ the MARS methodology to calculate the IP CTS compensation rate.

As to the issue of modifying the methodology for calculating the IP CTS rate, currently under Commission consideration in these dockets,² Miracom reiterates its position that IP CTS compensation rates must be tied to service quality. Until the Commission establishes standards for caption accuracy and captioning delay, it would be premature to modify the IP CTS compensation rate methodology.

As Miracom noted in its October 18, 2013 Comments on the Further Notice of Proposed Rulemaking portion of the *IP CTS Misuse Order*, the Commission's legislative touchstone for the relay service is functional equivalence.³ Yet, achievement of that goal is elusive. No one can rationally say that traditional text relay or IP Relay achieves functional equivalence. Text relay and IP Relay are unreasonably slow and are beset by

² See *Misuse of Internet Protocol (IP) Captioned Telephone Service*, 28 FCC Rcd 13420, 13472-79, review pending sub nom. *Sorenson Communications, Inc. v. FCC*, No. 13-1246 (September 6, 2013) ("*IP CTS Misuse Order*").

³ 47 U.S.C. Sec. 225(a)(3):

The term "telecommunications relay services" means telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is **functionally equivalent** to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.

Emphasis supplied.

hang ups from hearing persons who lack the patience to participate in a text relay call. Video Relay Service, on the other hand, comes the closest to providing deaf and hard of hearing persons with telephonic communication functionally equivalent to hearing persons. Similarly, CTS and IP CTS potentially allow for functionally equivalent communication depending on the quality of the service provider. However, achievement of functional equivalence with CTS and IP CTS is being hindered because the Commission currently lacks standards for CTS and IP CTS service quality. In the absence of any service quality floor, providers have the incentive to maximize profits and provide the bare minimum service quality while still attracting customers.

The two key variants of captioning quality are speed of captioning and error rate. For example, most captioning providers employ CAs who re-voice the hearing person's speech to voice recognition software which then transmits captions to the deaf or hard of hearing user. The state of voice recognition software is such that substantial captioning errors result from this system. This system also suffers from substantial captioning delays.

The Commission cannot rationally address the payment rate for IP CTS without addressing these two critical measures of service quality: accuracy and captioning delay. In Miracom's view, to provide real functional equivalence, IP CTS providers must caption with a greater than 90 percent accuracy and provide captions with no more than a three second delay. Accordingly, the Commission should adopt these two criteria as minimum mandatory standards. Once those standards have been adopted and

implemented with a sufficient operational history of two to three years, it would then be appropriate to examine the appropriate compensation methodology to support IP CTS with these minimum standards.

Miracom would support a payment regime which compensates IP CTS providers at the full rate for providing service at the minimum standards set forth above, and which imposes a financial penalty where service quality is less than the minimum standard. That penalty should not be a total denial of compensation for missing the minimum standard. Total denial of compensation is a Draconian and irrational approach. A more reasonable approach would be something like a 15 percent penalty for falling under the 90 percent accuracy standard and an additional 15 percent penalty for failing the three second delay captioning standard. These penalties are sufficient to incentivize providers to maintain a sufficient level of service without being unduly punitive. They also account for the fact that some providers may have difficulty initially achieving the 90 percent/three second level of service. It would be unfair to simply deny any payment to these providers after servicing calls in good faith.

In sum, Miracom supports adoption of Rolka's proposed MARS based IP CTS compensation rate and suggests no change in payment rate compensation methodology should be implemented until the Commission has adopted quality standards for IP CTS caption accuracy and captioning delay.

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Respectfully submitted,

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