

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

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

Application for Review

Jonathan S. Marashlian
Jacqueline R. Hankins
Seth L. Williams
MARASHLIAN & DONAHUE, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 401
McLean, Virginia 22102
Tel: 703-714-1313
E-Mail: jsm@CommLawGroup.com
Website: www.CommLawGroup.com
Counsel for The Ad Hoc Coalition of International Telecommunications Companies

Jill F. Kastle
Professor of Law and Public Policy
The George Washington University
Washington, DC 20052
E-Mail: kastle@gwu.edu

Dated: July 30, 2014

TABLE OF CONTENTS

I. Introduction and Summary	1
II. Discussion	4
A. The Commission’s Assumptions Regarding International TRS Use Do Not Reflect Actual International TRS Use	4
B. The Commission’s Erroneous Assumptions Bring the TRS Fund Contribution Formula Into Conflict with the Communications Act and the APA	7
C. The Commission Should Base TRS Fund Contributions on the Proportion of Interstate and International TRS Calls Made to Avoid Unfairly Burdening International Revenue	10
D. The Bureau Failed to Consider the Evidence, and its Denial of the Opposition Conflicts with the Communications Act and the APA	11
III. Conclusion.....	13

**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
)	

Application for Review

I. Introduction and Summary

The Ad Hoc Coalition of International Telecommunications Companies (“Coalition”),¹ by counsel and pursuant to Section 1.115 of the Commission’s Rules, 47 C.F.R. § 1.115, respectfully submits this Application for Review of the Order issued by the Consumer and Governmental Affairs Bureau (“Bureau”) establishing the 2014-15 Telecommunications Relay Service (“TRS”) Fund contribution factor.²

The Commission’s review of the Bureau’s Order is necessary because the Order conflicts with the Communications Act of 1934 (“the Act”), as amended, and the Administrative Procedure Act (“APA”).³ The Commission’s policy of applying an equal TRS Fund contribution factor to international and interstate revenue is also based on outdated, unsupportable assumptions and should, therefore, be overturned.⁴

¹ The Ad Hoc Coalition of International Telecommunications Companies is a grassroots organization comprised of both U.S. and non-U.S. corporations, including prepaid calling card providers, international transport carriers, and a broad spectrum of entities engaged in the provision of wholesale communications services. <http://www.telecomcoalition.com/>

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CG Docket No. 03-123, DA 14-946 (Rel. June 30, 2014) (“Order”).

³ 47 C.F.R. § 1.115(b)(2)(i).

⁴ *Id.* at § 1.115(b)(2)(iii).

The Bureau issued a Public Notice on May 9, 2014 soliciting comments on its proposed TRS Fund contribution factor for 2014-15.⁵ The Coalition challenged the Bureau's proposed contribution factor through an Opposition filed on May 23, 2014.⁶ Therein, the Coalition raised concerns with the proposed contribution factor, namely that: (1) the assumptions upon which the Commission based the adoption of a single contribution factor, to be equally applied to international and interstate services alike, are no longer true, warranting a full review of the TRS Fund contribution system; and (2) that the proposed factor, under the current system, unfairly burdens international services. However, the Bureau summarily rejected the Coalition's Opposition without addressing the Coalition's arguments.⁷ Therefore, full Commission review is now necessary to correct the Bureau's failure to address the fundamental inequality in the Commission's current TRS Fund contribution policy as applied to international revenues.

Section 225 of the Communications Act requires the FCC to provide special *interstate* and intrastate telecommunications services to deaf and hard of hearing persons in the United States.⁸ Costs for the TRS programs are recovered at the Federal level from contributions assessed on "interstate" telecommunications service revenues and at the state level from contributions assessed on intrastate telecommunications service revenues:⁹

Such regulations shall generally provide that costs caused by *interstate* telecommunications relay services shall be recovered from all subscribers for every *interstate service* and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction.¹⁰

⁵ *Rolka Loube Saltzer Associates Submits Payment Formulas And Funding Requirements For The Interstate Telecommunications Relay Services Fund for the 2014-2015 Fund Year*, Public Notice, CG Docket Nos. 03-123 and 10-51, 29 FCC Rcd. 5026 (Rel. May 9, 2014).

⁶ Opposition of the Ad Hoc Coalition of International Telecommunications Companies to the Imposition of the Proposed TRS Fund Contribution Factor on International Telecommunications Services, CG Docket Nos. 03-123 and 10-51 (Filed May 23, 2014) ("Opposition").

⁷ Order at n. 70.

⁸ 47 U.S.C. § 225.

⁹ *Id.* at § 225(d)(3)(B).

¹⁰ *Id.* (emphasis added).

In implementing the Federal TRS funding program ("TRS Fund"), the FCC interpreted the statutory term "interstate" to include international.¹¹ To be clear, Congress intended TRS to apply narrowly to "interstate" services and for interstate TRS to be funded by revenue from "interstate" services. The Commission broadened the availability of TRS to the "international" jurisdiction and extended contribution obligations to telecommunications carriers' "international" revenue. At the time, the FCC based its decision to broadly interpret Congressional intent and expand the scope of Section 225 to cover international services on the assumption that, because TRS would be *available* for international calls, international and interstate TRS use would be proportional to the revenue generated by international and interstate calls; therefore, the Commission found it reasonable to impose the TRS Fund surcharge on international revenue to support the program.¹² However, the FCC's initial assumptions simply do not jive with present day facts for a variety of reasons, including regulatory limits on certain types of international TRS calls, the difficulty (both economically and operationally) in providing foreign language interpreter services for international calls, and the FCC's investigations into fraudulent calling, which revealed that a large number of historic international calls were illegitimate and unlawful.

As a result, the FCC's rules regarding TRS Fund contributions conflict with the Act and the APA. While Section 225 does not specifically require the FCC to impose TRS Fund contributions on an equitable basis, Section 201 of the Act requires all regulation of telecommunications service to be "just and reasonable."¹³ Moreover, the APA requires all FCC decisions to be supported by pertinent

¹¹ *In re Telecommunications Relay Services, and the Americans with Disabilities Act of 1990*, Third Report and Order, MM Docket No. 90-571, 8 FCC Rcd. 5300, 5302 (1993).

¹² See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, 71 Fed. Reg. 35553, 35554-55 (June 21, 2006) ("Telco Declaratory Ruling").

¹³ 47 U.S.C. § 201.

evidence,¹⁴ and well-established precedent allows a court to overturn agency action where the agency's actions are not supported by factual evidence.¹⁵

The FCC's current formula for calculating TRS Fund contributions unfairly burdens international revenue. Available evidence suggests that current international TRS use is miniscule, but contributions assessed on international revenue account for more than ten percent of the TRS Fund.¹⁶ Therefore, the current TRS Fund contribution formula effectively taxes a carrier's international revenue to subsidize interstate TRS. To satisfy the Act and the APA, the Commission must conduct a study of actual usage for interstate and international TRS and modify the TRS contribution rules to create two separate TRS Fund contribution factors – one for interstate revenues, and another for international revenues – each based upon the proportion of compensable interstate and international TRS minutes used, and the costs of those minutes.¹⁷ And, as a matter of equity and sound policy, the Commission should suspend the current TRS Fund contribution factor for international revenue.

II. Discussion

A. The Commission's Assumptions Regarding International TRS Use Do Not Reflect Actual International TRS Use

In establishing the TRS Fund, the FCC wrongly assumed that international TRS use would be robust because carriers were technically capable of providing the service. In the Telco Declaratory Ruling, for example, the Commission compared the TRS Fund to its Universal Service programs.¹⁸ In denying a predominantly international carrier's request for a waiver of the Commission's TRS

¹⁴ 5 U.S.C. §§ 556 and 706.

¹⁵ See, e.g., *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156 (1962); *Motor Vehicle Manufacturer's Association of the United States, Inc. v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29 (1983).

¹⁶ See Universal Service Monitoring Report 2011, CC Docket No. 98-202, table 1-6 (Rel. Dec. 2011), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-311775A1.pdf (finding international revenue comprised approximately 11.5% of the TRS Fund base).

¹⁷ As with current TRS contributions, the combined contribution factors would cover the total cost of the TRS Fund, including administration and other costs. However, the Coalition's proposal would bring the interstate and international revenue contribution factors in line with the actual cost causer.

¹⁸ Telco Declaratory Ruling, 71 Fed. Reg. at 35555.

Fund contribution obligation with respect to its international revenues, the Commission distinguished its Universal Service programs, which fund only domestic services, from the TRS Fund, which does compensate carriers for international TRS use.¹⁹ Because TRS funds are available for international TRS, the Commission decided that applying the same contribution factor to international and interstate revenue was both equitable and nondiscriminatory.²⁰

However, implicit in the Commission's Telco Declaratory Ruling is the assumption that both international and interstate TRS services will actually be used. "With the TRS Fund, it is not the case – as in *TOPUC* – that a provider of only *de minimis* interstate service may be required to bear a disproportionately heavy burden in subsidizing the provision of such services by other carriers."²¹ Clearly, the Commission assumed that the existence of international TRS would mean users would take advantage of the service and, therefore, equal contribution obligations for international and interstate revenue were warranted. If the Commission had evidence available at that time showing that international revenue comprised more than ten percent of the TRS Fund base while international TRS use comprised less than one percent of all TRS use, the Commission could not have found a single contribution factor applied to both interstate and international revenue to be equitable and non-discriminatory.

While the Commission's assumption of substantial TRS use may have been reasonable at the time, in reality, international TRS use pales in comparison to interstate usage. A number of factors have contributed to and evidence low international TRS usage. First, actions taken by the FCC in recent years to curb fraudulent TRS use may have in fact contributed to low international TRS usage. For example, the Commission's TRS enforcement activities have resulted in a significant reduction in the volume of international TRS/VRS calls during the past few years.²² Similarly, the

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² See Press Release, FCC, AT&T to Pay \$18.25 Million to Settle FCC Investigation of Improperly Billing Fund That Supports Accessibility of Telecommunications Services to Persons with Disabilities (May 7, 2013), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-320774A1.pdf; Press

FCC has adopted rules restricting the types of calls eligible for TRS Fund compensation, including certain international calls. Specifically, VRS calls from an international IP address are not compensable unless a U.S. resident is traveling abroad and takes steps to pre-register with his or her default provider and make calls only from certain verifiable locations.²³ The TRS Fund also does not compensate providers for International IP relay calls.²⁴

Second, international TRS is difficult for carriers to provide because they cannot find qualified international interpreters, and employing a pool of Communications Assistants ("CAs") with multiple language interpretation skills for a limited number of international TRS calls places a significant financial burden on TRS providers. Indeed, many descriptions of TRS available today do not mention the existence of international TRS,²⁵ and FCC rules require only that TRS providers offer services in English and Spanish.²⁶ These limitations make it nearly impossible for a non-English or Spanish speaking user to take advantage of international TRS. It also makes it very difficult for an English or Spanish-speaking user to call a non-English or Spanish speaking country. In short, TRS is only effectively available to users who speak English or Spanish or understand American Sign Language.

Release, FCC, FCC Plans \$11.9 Million Fine Against Purple Communications, A California Company (May 2, 2014), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0502/DOC-326891A1.pdf.

²³ 47 C.F.R. § 64.604(a)(7) ("VRS calls that originate from an international IP address will not be compensated, with the exception of calls made by a U.S. resident who has pre-registered with his or her default provider prior to leaving the country, during specified periods of time while on travel and from specified regions of travel, for which there is an accurate means of verifying the identity and location of such callers. For purposes of this sections, an international IP address I defined as one that indicates that the individual initiating the call is located outside the United States.").

²⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 19 FCC Rcd 12224, 12242 n.121 (CGB 2004) (noting that the Fund "does not currently reimburse providers for the costs of providing international calls via IP Relay").

²⁵ *See, e.g.*, EQUAL RIGHTS CENTER, DISCONNECTED: HOUSING DISCRIMINATION AGAINST THE DEAF AND HARD OF HEARING (2012); Hearing Loss Association of America, Telecommunications Relay Services (TRS), <http://www.hearingloss.org/advocacy/telephone-mobile-devices/telecommunications-relay-services> (last visited July 28, 2014); The Alliance for Students with Disabilities in STEM, What are Telecommunications Relay Services?, <http://www.washington.edu/doi/Stem/articles?230> (last visited July 28, 2014).

²⁶ 47 C.F.R. § 64.603; *see also* FCC, FCC Encyclopedia: Telecommunications Relay Service, <http://www.fcc.gov/guides/telecommunications-relay-service-trs> (last visited July 28, 2014).

B. The Commission's Erroneous Assumptions Bring the TRS Fund Contribution Formula Into Conflict with the Communications Act and the APA

If, as the evidence strongly suggests, TRS Fund contributions on international revenue significantly outpace international TRS use by a sizeable measure, the Commission's current TRS Fund contribution rules conflict with the Communications Act and the APA. As such, the Commission must now reconsider and revise its rules to reflect the facts; to do otherwise would leave the Commission's expansive interpretation of statutory language and Congressional intent resting on dated assumptions which are demonstrably unsupportable by current facts.

In the Telco Declaratory Ruling, the Commission rejected Telco's reliance on U.S. Court of Appeals for the Fifth Circuit's ("Fifth Circuit") ruling in *Tex. Office of Pub. Util. Counsel v. FCC* ("*TOPUC*") as a basis for limiting TRS Fund contributions on international revenue.²⁷ In *TOPUC*, the Fifth Circuit found that it was unlawful for the FCC to require carriers to contribute more than their total interstate revenue to the Universal Service Fund ("USF").²⁸ In response to *TOPUC*, the FCC adopted its Limited International Revenue Exemption ("LIRE"), limiting the USF burden on predominately international carriers.²⁹ The Commission declined to extend such an exemption to TRS Fund contributions on the basis that the TRS Fund supports both international and domestic TRS, while the USF supports only domestic services.³⁰ However, the *TOPUC* decision did not prohibit the FCC from imposing USF contributions on international revenue.

In the Telco Declaratory Ruling, the Commission also pointed to the Fifth Circuit's reliance on the requirement in Section 254 of the Communications Act that USF contributions be made on an

²⁷ Telco Declaratory Ruling, 71 Fed. Reg. at 35555 (citing *Tex. Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) ("*TOPUC*").

²⁸ See *TOPUC*, 183 F.3d 434-35.

²⁹ *In re Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45 and 96-262, Report and Order, 15 FCC Rcd. 1679, 1687-89 (1999) (establishing the Limited International Revenue Exception ("LIRE") for USF contributions); see also *In re Federal State Board on Universal Service et al.*, CC Docket No. 96-45 *et al.*, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd. 3752, 3806 (2002) (raising the LIRE threshold from 8 to 12 percent).

³⁰ Telco Declaratory Ruling, 71 Fed. Reg. at 35553-55.

“equitable and nondiscriminatory” basis.³¹ The Commission argued that the holding in *TOPUC* does not apply to TRS Fund contributions because Section 225 of the Communications Act does not include “equitable and nondiscriminatory” language with regard to TRS Fund contributions.³² However, in the Telco Declaratory Ruling, the Commission overlooked Section 201 of the Communications Act, which says: “[a]ll charges, practices, classifications, and regulations for and in connection with [telecommunications] service, shall be *just and reasonable*.”³³ Section 201 imposes a general just and reasonable requirement on Commission rules governing telecommunications service. Although Section 225 does not explicitly require equitable and nondiscriminatory TRS Fund contributions, Section 201 mandates just and reasonable TRS Fund contributions. Imposing a significantly disproportionate TRS Fund contribution on international revenue as compared to international TRS use is unjust and unreasonable, and it, therefore, violates Section 201 of the Communications Act.

Moreover, the Commission’s current TRS Fund contribution rules violate the APA. The APA requires agency decisions to be supported by pertinent evidence.³⁴ While the Commission’s assumptions regarding international TRS usage may have been appropriate in the absence of actual usage evidence before the program was created, the Commission cannot now rely upon those assumptions when presented with contrary evidence.³⁵ It is settled law that a federal agency must examine the relevant data and articulate a rational connection between the facts found and the

³¹ *Id.* at 35555.

³² *Id.* See also 47 U.S.C. § 225.

³³ 47 U.S.C. § 201 (emphasis added).

³⁴ 5 U.S.C. §§ and 706.

³⁵ *Motor Vehicle Manufacturer’s Association*, 463 U.S. at 43 (1983) (“Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, *offered an explanation for its decision that runs counter to the evidence before the agency*, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.”) (emphasis added).

choice it makes,³⁶ and the D.C. Circuit has confirmed that this scrutiny extends to an agency's justification for its funding mechanisms.³⁷

The Commission's ignorance of actual international TRS usage is made worse by the fund administrator's – Rolka Loube Saltzer Associates (“RLSA”) – refusal to disaggregate data on international and interstate TRS usage. While the examples noted above strongly suggest international TRS Fund contributions are grossly disproportionate to international TRS usage, proper review and oversight of the TRS Fund is impossible since RLSA stopped providing disaggregated data on international and interstate TRS usage when it took over the Fund. Prior to that, the National Exchange Carrier Association (“NECA”) sought information on actual interstate and international TRS usage.³⁸ This failure to provide sound data on which the Commission can base its TRS Fund contribution rules is not an excuse for the Commission to delay addressing the disproportionate burden international revenues bear for TRS Fund contributions. Instead, it underscores the need for the Commission to conduct a thorough examination of actual TRS usage to ensure equitable contributions to the Fund that accurately reflect actual usage patterns.

³⁶ See *Burlington Truck Lines*, 371 U.S. at 168 (1962).

³⁷ See *Allied-Signal, Inc. v. United States Nuclear Regulatory Commission*, 988 F.2d 146, 148 (D.C. Cir. 1993). The NRC's governing statute directed it “to recover 100% of its costs from those who receive[d] its regulatory services and to allocate the costs fairly and equitably among those recipients.” *Id.* (internal citations omitted). The NRC's proposed regulation would have recovered costs from each regulated class in proportion to the level of waste produced by the class's overall membership. *Id.* at 152. But the NRC still placed a uniform charge on each waste producer, without regard to that individual producer's waste output. *Id.* Because the NRC justified its action based on a “conclusory statement” that the charges “should be the same for all large fuel facility licensees,” the D.C. Circuit invalidated the NRC's determination as arbitrary and capricious. *Id.* at 152-53. The court further explained that “no rationale [was] readily apparent” for the agency's decision, and the court “g[a]ve little weight to the possibility that the [agency] could pull a reasonable explanation out of the hat” based on the administrative record. *Id.* at 152.

³⁸ See, e.g., Jim Lande, Telecommunications Industry Revenue: TRS Fund Worksheet Data at 4, Industry Analysis Divisions Common Carrier Bureau (Dec. 1996), available at http://transition.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trsrv-95.pdf.

C. The Commission Should Base TRS Fund Contributions on the Proportion of Interstate and International TRS Calls Made to Avoid Unfairly Burdening International Revenue

Fortunately, the Commission can easily remedy the current disproportionate burden international revenue bears for TRS Fund contributions. First, an administrative change is in order to verify actual TRS usage patterns. RLSA could accomplish this fact-finding exercise by simply tracking the percentage of compensable interstate and international TRS/VRS minutes.³⁹ To that end, the Coalition requests that the Commission conduct, or order RLSA to conduct, a detailed, publicly-available study of the actual minutes of usage for interstate and international TRS. Once the Commission has confirmed the discrepancies warranting disparate treatment for international and interstate revenues for TRS Fund contribution purposes it could use revenue reported on a carrier's Form 499-A filings to implement changes to TRS Fund contributions. The Form 499-A already requires revenue to be reported as interstate or international, and can accordingly be used to separately collect TRS Fund contributions for interstate and international revenue. Because most of the reporting structure is already in place, any changes required to Form 499-A reporting could be implemented easily and without significantly increasing a carrier's current reporting burden.

The Coalition proposed a bifurcated contribution scheme in its Opposition to remedy the inequity of the current TRS Fund contribution rules.⁴⁰ The Bureau failed to consider the proposed approach, and for the reasons discussed herein, the Commission must revisit the proposal. First, RLSA would be required to continue its practice of calculating the total TRS Fund requirements. Next, RLSA would identify the total number of compensable minutes of interstate and international

³⁹ Determining that a certain number of calls were international while a certain number of calls were interstate is an entirely practical proposition because the TRS Fund supports actual calls – actual minutes of usage that can be easily counted. Ironically, the Commission itself seems to be using this proportionate approach with its interstate telecommunications service provider regulatory fee. The Commission is looking to ensure that contributors are paying only the costs associated with the bureaus of the Commission that are associated with the contributor's business/revenue. *See Procedures for Assessment and Collections of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Notice of Proposed Rulemaking, 27 FCC Rcd. 8458, 8464-65 (2012). In essence, the Coalition is asking the Commission to extend its own funding logic to the TRS Fund.

⁴⁰ Opposition at 6-7.

TRS/VRS calling and determine the percentage represented by international and interstate minutes, respectively, of the total compensable TRS/VRS minutes. Finally, the Commission would apply a fee factor to international telecommunications services revenue proportionate to the percentage of compensable international and interstate TRS/VRS minutes represented by compensable international minutes; and it would apply a fee factor to interstate telecommunications services revenue proportionate to the percentage of compensable international and interstate TRS/VRS minutes represented by compensable interstate minutes.

Such an approach would serve the public interest by continuing to ensure that the TRS Fund is supported by contributions from both interstate and international telecommunications services. At the same time, adopting the changes proposed by the Coalition would bring the Commission's TRS Fund contribution rules in line with actual TRS use and prevent the Commission from disproportionately relying on international revenue to support the TRS Fund. Because the interstate and international contribution factors would be tied to actual use, the Commission would not risk allowing international telecommunications providers to shirk their responsibilities to pay for a service used by international end users. Instead, carriers would contribute to the TRS Fund at a rate based on international TRS use. And, because the contribution factor is calculated yearly, the contribution factor for international revenue may be amended in the future based on real-world usage data.⁴¹

D. The Bureau Failed to Consider the Evidence, and its Denial of the Opposition Conflicts with the Communications Act and the APA

The Bureau adopted an Order establishing a single TRS Fund contribution factor to be equally applied to interstate and international end-user telecommunications revenues. As explained above, given the small amount of international TRS use in comparison to interstate TRS usage, this contribution scheme conflicts with the Communications Act and the APA. Specifically, the Order denying the Opposition violates Section 201's "just and reasonable" practices mandate. Moreover,

⁴¹ The Coalition's proposed contribution scheme would also continue to work if the Commission adopted a quarterly TRS contribution schedule in the future. For example, if the Commission decided to model the TRS contribution schedule on the quarterly USF contribution schedule, the Coalition's proposed data-driven formula for calculating TRS contributions could still be applied.

the Order lacks a reasonable justification for the denial of the Opposition and ignores pertinent evidence in perpetuating the current TRS Fund contribution scheme. Accordingly, the Bureau's Order conflicts with federal law and applies policies that, in fairness, must be revised.⁴² For these reasons, full Commission review of the Bureau's Order is necessary.

⁴² 47 C.F.R. §§ 1.115(i) and (iii).

III. Conclusion

For the foregoing reasons, the Coalition respectfully requests that the Commission review the Bureau's denial of the Coalition's Opposition to the proposed 2014-15 TRS Fund contribution factor. The Coalition requests that the Commission overturn the Bureau's denial of the Opposition, and undertake the proposed course of action outlined in the Opposition to amend the current TRS Fund contribution system consistent with its obligations under the Communications Act and the APA. Specifically, the Coalition asks that the Commission suspend the current TRS Fund contribution factor on international revenue, conduct a careful study of the actual minutes of usage for interstate and international TRS, and use the information gathered by the study to align TRS Fund contribution rules with actual TRS usage patterns. Alternatively, if the Commission does not suspend the current TRS contribution factor for international revenue, it should still conduct a study of international TRS usage and initiate a rulemaking to address the current disproportionate burden imposed on international revenue by the Commission's TRS Fund contribution rules.

Respectfully submitted,
Ad Hoc Coalition of International Telecommunications Companies



Jonathan S. Marashlian
Jacqueline R. Hankins
Seth L. Williams
MARASHLIAN & DONAHUE, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 401
McLean, Virginia 22102
Tel: 703-714-1313
E-Mail: jsm@CommLawGroup.com
Website: www.CommLawGroup.com
Its Attorneys

Jill F. Kastle
Professor of Law and Public Policy
The George Washington University
Washington, DC 20052
E-Mail: kastle@gwu.edu

CERTIFICATE OF SERVICE

I, Jonathan S. Marashlian, hereby certify that on this 30th day of July, 2014, I served copies of the foregoing Application for Review by first class U.S. mail to the following:

Andrew S. Philips, Esq.
Policy Counsel
National Association of the Deaf
8630 Fenton Street, Suite 820
Silver Spring, MD 20910

Scott R. Freiermuth
Counsel, Government Affairs
Federal Regulatory
Sprint Corporation
6450 Sprint Parkway
Overland Park, KS 66251

Sheri A. Farinha
Vice Chair
California Coalition of Agencies Serving
the Deaf and Hard of Hearing, Inc.
4708 Roseville Rd, Ste 11
North Highlands, CA 95660

Pamela Y. Holmes
Director, Consumer & Regulatory Affairs
Ultratec, Inc.
450 Science Drive
Madison, WI 53711

Randall Pope
President American Association of the Deaf-
Blind
PO Box 8064
Silver Spring, MD 20907-8064

*Chairman Tom Wheeler
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Cheryl Heppner
Vice Chair
Deaf and Hard of Hearing Consumer
Advocacy Network
3951 Pender Drive, Suite 130
Fairfax, VA 22010

* Commissioner Mignon Clyburn
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Mark Hill President Cerebral Palsy
and Deaf Organization
12025 SE Pine Street, Apt.#302
Portland, OR 97216

*Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

David A. O'Connor
Wilkinson Barker Knauer, LLP
2300 N. Street NW, Suite 700
Washington, DC 20037
Counsel for Hamilton Relay, Inc.

*Commissioner Ajit Pai
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

George L. Lyon, Jr.
Lukas, Nace, Gutierrez & Sachs, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
Counsel for Miracom USA, Inc.

*Commissioner Michael O'Rielly
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

* via hand delivery

Dated: July 30, 2014

Respectfully Submitted,



Jonathan S. Marashlian
MARASHLIAN & DONAHUE, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 401
McLean, Virginia 22102
Tel: 703-714-1313
E-Mail: jsm@CommLawGroup.com