



PUBLIC NOTICE

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**ROLKA LOUBE ASSOCIATES LLC SUBMITS PAYMENT FORMULAS AND FUNDING
REQUIREMENT FOR THE INTERSTATE TELECOMMUNICATIONS RELAY SERVICES
FUND FOR THE 2015-16 FUND YEAR**

CG Docket No. 03-123

CG Docket No. 10-51

Comment Date: June 4, 2015

Reply Comment Date: June 11, 2015

By this Public Notice, the Consumer and Governmental Affairs Bureau (CGB) seeks comment on the provider compensation rates, funding requirement, and carrier contribution factor proposed by Rolka Loube Associates LLC (Rolka), the Interstate TRS Fund (Fund) administrator, for telecommunications relay services (TRS) compensated by the Fund for the period from July 1, 2015, through June 30, 2016.¹ The matters on which we seek specific comment are indicated below.

MARS Plan Rates

Rolka proposes per-minute compensation rates for forms of TRS that are subject to the Multistate Average Rate Structure (MARS) plan methodology,² as follows: \$2.2904 for interstate traditional TRS,³ \$3.4214 for interstate Speech-to-Speech relay service (STS),⁴ and \$1.8895 for interstate captioned

¹ Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123, 10-51 (filed April 24, 2015) (*2015 TRS Rate Filing*); Supplemental Filing CG Docket Nos. 03-123, 10-51 (filed May 1, 2015) (*2015 TRS Rate Filing Supplement*); see also 47 C.F.R. § 64.604(c)(5)(iii)(H) (requiring the Fund administrator to file TRS payment formulas and revenue requirements with the Commission by May 1 of each year, to be effective the following July 1).

² 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, 20151-61, ¶¶ 16-38 (2007) (*2007 TRS Rate Methodology Order*).

³ *2015 TRS Rate Filing* at 14-15. The current compensation rate for interstate traditional TRS is \$2.1170 per minute.

⁴ *Id.* at 16. The traditional TRS rate also applies to interstate STS. *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20159, ¶ 34. Consistent with the *2007 TRS Rate Methodology Order*, however, Rolka's proposed STS rate includes an additional per-minute amount of \$1.1310 to be used for STS outreach. See *id.* at 20170, ¶ 57. The current compensation rate for interstate STS is \$3.2480 per minute.

telephone service (CTS) and interstate and intrastate Internet Protocol Captioned Telephone Service (IP CTS).⁵ We seek comment on whether these rates correctly apply the MARS methodology.

Although rates for IP CTS are currently set based on the MARS methodology, the Commission has an open rulemaking to consider whether to adopt a different compensation rate methodology for IP CTS, such as one based on an analysis of providers' actual and projected costs.⁶ Because the question of revising the IP CTS rate methodology is awaiting a Commission decision in an open proceeding, Rolka requested IP CTS providers to submit historical and projected cost data, using the same cost categories reported by service providers for Internet Protocol Relay Service (IP Relay).⁷ Based on the weighted average of the projected costs submitted for 2015 and 2016, Rolka calculated an alternative compensation rate in the amount of \$1.6246 per minute.⁸ To help inform the Commission's decision on an appropriate rate methodology for IP CTS and to be prepared should the Commission determine to use a cost-based methodology to determine a new rate for IP CTS, we seek comment on whether Rolka has correctly calculated the weighted average projected costs for IP CTS.

IP Relay

The 2015-16 Fund Year is the third year of a three-year period during which the IP Relay compensation rate is determined pursuant to a price cap methodology.⁹ For the first year of this period, the 2013-14 Fund Year, the per-minute base compensation rate was set at \$1.0147, effective September 1, 2013, and the efficiency/inflation adjustment factor was set at 6 percent.¹⁰ On reconsideration, the Bureau increased the base rate to \$1.0309 per minute and reset the efficiency/inflation adjustment factor to 0 percent. As a result, the IP Relay compensation rate for September 1, 2013, through June 30, 2014, was

⁵ *2015 TRS Rate Filing* at 17. The current compensation rate for CTS and IP CTS is \$1.8205 per minute.

⁶ *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 & 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, 13472-79, ¶¶ 111-27 (2013), *vacated in part on other grounds sub nom. Sorenson Communications, Inc. and CaptionCall, LLC v. FCC*, 755 F.3d 702 (D.C. Cir. 2014).

⁷ *2015 TRS Rate Filing* at 17 & Appx. B.

⁸ *Id.* at 17 & Exh. 1-4.

⁹ *Id.* at 18-19; *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20163-64, ¶¶ 43-46 (adopting a price cap plan for IP Relay with a three-year cycle).

¹⁰ *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, 10-51, Order, 28 FCC Rcd 9219, 9224, ¶ 17 (CGB 2013). The rate for the period from July 1, 2013, through August 31, 2013, the compensation rate was set at \$1.0391 to include outreach costs prior to their removal from recoverable costs pursuant to the *VRS Reform Order: Structure and Practices of the Video Relay Services Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8696, ¶ 192 (2013) (*VRS Reform Order*), *aff'd in part and vacated in part sub nom Sorenson Communications, Inc. v. FCC*, 765 F.3d 37 (D.C. Cir. 2014). As the *2015 Rate Filing* explains, the price cap plan for IP Relay applies three factors to a base rate – an inflation factor, an efficiency (or “X”) factor, and exogenous costs. *2015 Rate Filing* at 19. The formula takes a base rate and multiplies it by an adjustment percentage that reflects an increase due to inflation, offset by a decrease due to efficiencies. *Id.* The inflation factor is Gross Domestic Product – Price Index (GDP-PI). The efficiency factor has been described as a figure equal to the Inflation Factor, less a designated amount to account for productivity gains. *Id.*; *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20163, ¶¶ 43-44.

reset retroactively to \$1.0309 per minute, and the rate for the 2014-15 Fund Year was also set at \$1.0309 per minute.¹¹

Following Purple Communications' cessation of its provision of IP Relay service, and in response to an emergency petition by Sprint, the sole remaining IP Relay service provider, the Bureau ordered an interim increase in the IP Relay compensation rate, applicable to the period from November 14, 2014, through June 30, 2015. Noting that four of five IP Relay providers had terminated their provision of service over the past two years, the Bureau acknowledged Sprint's concerns regarding the sufficiency of the IP Relay rate and the additional costs Sprint would incur, as the sole remaining provider, to prepare for and handle an unknown volume of additional minutes resulting from Purple's exit. Placing a high priority on maintaining continuity of IP Relay service and taking account of Sprint's position that without a significant midyear rate increase, it could not justify continuing to provide IP Relay service, the Bureau reset the IP Relay compensation rate at \$1.37 per minute, effective retroactively from November 15, 2014, and prospectively to June 30, 2015. In addition, to facilitate Sprint's expansion of capacity to serve the expected sudden influx of new customers migrating from Purple, the Bureau established a separate rate of \$1.67 per minute, applicable to any monthly minutes handled in excess of 300,000 during the period from November 15, 2014, until May 15, 2015.¹²

Noting that the price cap regime is in effect through the end of the 2015-16 Fund Year, Rolka also points out that the historical and projected cost data previously submitted when multiple providers were offering service have limited relevance to setting a compensation rate for the 2015-16 Fund Year. In calculating a proposed rate, therefore, Rolka applied the price cap formula to the interim rate set in *2014 Interim IP Relay Rate Order*. Because the efficiency factor has been set at 0 percent, application of the price cap formula results in a proposed rate equal to the current rate of \$1.37 per minute.¹³ We seek comment on this proposed rate.

VRS

In the 2013 *VRS Reform Order*, based on the Fund administrator's finding that the tiered VRS compensation rates continued to exceed the weighted average allowable costs of providers – by between \$1.67 and \$2.84 per minute¹⁴ – the Commission pre-set a gradual reduction of the VRS compensation rates over a four-year period, to provide certainty to providers and establish a “glide path” toward cost-based levels.¹⁵ The currently applicable per-minute VRS compensation rates, which are in effect for the second half of the 2014-15 Fund Year, and the rates scheduled to take effect for the 2015-16 Fund Year in accordance with the *VRS Reform Order* are as follows:

¹¹ *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, 10-51, Order, 29 FCC Rcd 8044, 8052, ¶ 19, 8055, ¶ 36 (CGB 2014). The July-August 2013 rate was retroactively increased to \$1.0607 per minute. *Id.* at 8052, ¶ 19.

¹² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 29 FCC Rcd 16273, 16275-78, ¶¶ 6-12 (CGB 2014).

¹³ *2015 TRS Rate Filing* at 19-20.

¹⁴ *VRS Reform Order*, 28 FCC Rcd at 8702, ¶ 209.

¹⁵ *Id.* at 8703-06, ¶¶ 212-16.

	Currently applicable compensation rate	Scheduled rate for July 1, 2015 – Dec. 31, 2015	Scheduled rate for Jan. 1, 2016 – June 30, 2016
Tier I (0-500,000 minutes per month)	\$5.29	\$5.06	\$4.82
Tier II (500,001-1 million minutes per month)	\$4.82	\$4.82	\$4.82
Tier III (over 1 million minutes per month)	\$4.25	\$4.06	\$3.87

On March 30, 2015, the six currently certified VRS providers jointly filed a petition in which they urged the Commission to “freeze” the currently applicable VRS compensation rates of \$5.29, \$4.82, and \$4.25 per minute, maintaining them in effect throughout the 2015-16 Fund Year.¹⁶ The schedule of VRS compensation rates established in the *VRS Reform Order* is effective, subject to further adjustment to reflect exogenous cost changes, for four years or until subsequent modification.¹⁷ The providers propose a modification of the rates established in the *VRS Reform Order* for the third year of the VRS rate plan. Because we anticipate that TRS compensation rates for the 2015-16 Fund Year will take effect prior to any Commission determination on the Joint Providers Proposal, we do not seek comment on that proposal in this Public Notice. Rather, public comment on that proposal will be sought in a separate document.

Funding Requirement and Contribution Factor

Based on Rolka’s proposed 2015-16 compensation rates for TRS, STS, CTS, IP CTS, and IP Relay, the established VRS compensation rates for 2015-16, and the projected Fund administration expenses, Rolka’s *2015 Rate Filing* projects a Fund revenue requirement of about \$1,048 million and proposes a carrier contribution factor of 0.01635.¹⁸ CGB seeks comment on these projected funding requirements and proposed carrier contribution factors.

In this regard, comment is also invited on Rolka’s demand projections and funding requirements for the various relay services supported by the Fund, and for VRS and IP CTS in particular.¹⁹ For VRS

¹⁶ See Joint Proposal of All Six VRS Providers for Improving Functional Equivalence and Stabilizing Rates, CG Docket Nos. 10-51, 03-123 (filed Mar. 30, 2015) (Joint Providers Proposal). As part of their proposal, the providers supported the following measures to improve the service quality of VRS: (1) a faster speed-of-answer standard, under which 80 percent of calls must be answered within 45 seconds, measured monthly; (2) a limited trial of “skills-based routing” in order to assess the cost and feasibility of offering that service feature; and (3) authorization for providers to use a deaf ASL interpreter, in addition to the regular ASL-voice interpreter serving as a communications assistant, to assist with relay calls to or from deaf users where such assistance is warranted for the purpose of achieving functional equivalence. Joint Providers Proposal at 2-7.

¹⁷ *VRS Reform Order* at 8704, ¶ 212 (“To improve the predictability of reimbursements and assist providers in planning efficiently for this transition, we now determine the rates that will be in effect for the next four years, subject to exogenous cost adjustments, unless implementation of structural reforms and/or related changes in methodology support revision of the rates prior to that time.”); n.555 (“We set the rates for a period of four years based on the assumption that implementation of the structural reforms will not take longer than four years. In the event that it takes a shorter or longer period, we will reassess the rates at the appropriate time.”).

¹⁸ *2015 TRS Rate Filing Supplement* at 3.

¹⁹ *Id.*, Updated Exh. 2.

the proposed funding requirement for 2015-16 is \$573,067,078.²⁰ For IP CTS the proposed funding requirement for 2015-16 is \$363,743,242.²¹ Regarding IP CTS, Rolka considers the sum of providers' demand forecasts to be reasonably valid as a projection and has used this forecast in calculating the proposed funding requirement and carrier contribution factor specified above.²² The provider projections for IP CTS in 2015-16 total 202,651,451 minutes, a significant increase compared to the providers projections of 130,883,347 minutes for the previous year.²³ Rolka attributes this change to a number of factors, including the court of appeals rulings staying and then vacating the Commission's rules on default captions settings and the pricing of user equipment.²⁴

We also seek comment on the Administrator's estimates and recommendations for additional funding to cover the costs of VRS reform implementation, TRS research, Internet-based TRS outreach, user registration database, and numbering database administration, Fund administrator compensation, the revenue data collection agent, the Interstate TRS Fund Advisory Council, management of Fund investments, service provider audits, implementation of Office of Management and Budget Circular A-123, bankruptcy representation, and an administrator-recommended independent audit of the Fund.²⁵

Interested parties may file comments on or before **June 4, 2015**, and reply comments on or before **June 11, 2015**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, commenters should include their full name and U.S. Postal Service mailing address. All filings must reference **CG Docket No. 03-123 and CG Docket No. 10-51**.

Parties who choose to file by paper must file an original and one copy of each filing. In addition, parties must send one copy to the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Washington, DC 20554, or via email to fcc@bcpiweb.com. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

A copy of this document and any subsequently filed documents in this matter will be available during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554, (202) 418-0270. This document and any subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at its website,

²⁰ *Id.*

²¹ *Id.*

²² *2015 TRS Rate Filing* at 27.

²³ *Id.* at 26-27.

²⁴ *Id.* at 27-30.

²⁵ *Id.* at 30-33; *2015 TRS Rate Filing Supplement*, Updated Exh. 2. Also included in the proposed funding requirement is \$10 million, the amount authorized by statute, for the National Deaf-Blind Equipment Distribution Program. *2015 TRS Rate Filing* at 31.

www.bcpweb.com, or by calling 1-800-378-3160. These documents may also be found by searching ECFS (insert **CG Docket No. 03-123** or **CG Docket No. 10-51** into the proceeding block).

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