

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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

**COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

The Independent Telephone & Telecommunications Alliance (“ITTA”) hereby submits its comments in response to the Public Notice (“*Notice*”) issued by the Federal Communications Commission (“Commission”) in the above-referenced proceedings.¹ In the *Notice*, the Commission seeks comment on the proposed carrier contribution factor and funding requirement for the Interstate Telecommunications Relay Services (“TRS”) Fund (the “Fund”) submitted by Rolka Loube Saltzer Associates (“RLSA”), as well as the proposed compensation rates, for the period of July 1, 2013 through June 30, 2014.

TRS are vital to many Americans with disabilities and ITTA’s members take very seriously their responsibility to support communications access for those who need such services to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users. We share the Commission’s concern regarding the immediate threat to the Fund, caused primarily by the “unprecedented and unusually rapid growth” of Internet

¹ Public Notice, “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,” DA 13-1137 (rel. May 17, 2013) (“*Notice*”).

Protocol (“IP”) captioned telephone service (“IP CTS”), which “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.”²

ITTA and its members applaud the Commission for its swift action earlier this year to adopt emergency mechanisms to curb the dramatic and unsustainable growth in IP CTS costs.³ These interim corrective measures should help control the size of the Fund, and ITTA urges the Commission to adopt them on a permanent basis.

Moreover, ITTA urges the Commission to adopt a funding requirement and carrier contribution factor for the July 1, 2013 through June 30, 2014 period that reflect the positive steps taken by the Commission in the *IP CTS Order*. Specifically, ITTA urges the Commission to adopt the TRS fund estimate proposed by industry (the “Industry Projection”), which is more accurate than RLSA’s proposed funding projections because it appropriately accounts for the Commission’s recent corrective measures.

RLSA largely disregarded the impact the Commission’s corrective actions will have on limiting the growth of the Fund, and instead made a demand projection that would result in another enormous new increase in the Fund size and lead to higher prices for consumers. Adopting the more reasonable and accurate Industry Projection would help keep the size of the Fund in check and ensure that legitimate users of TRS continue to have access to such services without a significant and unnecessary increase in costs for consumers.

² *In the Matter of 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, Order and Notice of Proposed Rulemaking, ¶ 6 (rel. Jan. 25, 2013) (“*IP CTS Order*”).

³ *See id.*

I. THE COMMISSION SHOULD ADOPT THE INDUSTRY PROJECTION BECAUSE RLSA'S PROPOSED FUND PROJECTION IS UNREASONABLY HIGH.

RLSA's recommended demand projection for the Fund in 2013-14 is 409 million minutes.⁴ Based on this projection, RLSA has proposed a funding requirement of \$1,543.6 million and a carrier contribution factor of 0.0233.⁵ However, these estimates are significantly overstated, particularly given that they do not take into account the corrective measures the Commission adopted in the *IP CTS Order*.

Indeed, RLSA's demand projection is more than double the Industry Projection of 181 million minutes.⁶ As a result, the carrier contribution factor, which increased dramatically during the 2012-13 funding year, would see a startling jump in 2013-14 from 0.01053 to 0.0233. The projections proposed by RLSA translate to an increase of almost 300% for the Fund size and assessment factor in comparison to the preceding funding period.⁷

The resulting impact on mid-size carriers and their end user customers would be substantial. For example, Frontier anticipates that its TRS rate per line will increase from about \$1.04 currently to approximately \$2.52 under RLSA's proposal. CenturyLink's TRS rate also would likely more than double from about \$1.26 currently to approximately \$2.78 per line for the year, company-wide. In addition, Windstream anticipates a significant increase in its TRS rates for the 2013-14 funding period, which it estimates will result in an approximately \$12.4 million escalation in TRS costs.

⁴ *Notice* at 3.

⁵ *Id.* at 2.

⁶ See Rolka Loube Saltzer Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51, 24 (filed May 1, 2013) ("RLSA Rate Filing").

⁷ See *Notice* at 1-2.

Industry and consumer groups echo these concerns that RLSA's projections are unreasonably high. As Sorenson has pointed out, even a more conservative demand projection of 290 million minutes "significantly overstates demand."⁸ According to a coalition of groups representing the disabled community, RLSA's demand and budget figures "seem high."⁹ In fact, even RLSA acknowledges that it "does not expect that any of [its] demand projections will produce an accurate reflection of demand during the 2013-2014 funding year."¹⁰

Moreover, RLSA's projections do not account for the fact that the measures implemented in the *IP CTS Order* have "already caused substantial reductions in the growth" of IP CTS subscriptions.¹¹ It makes little sense for the Commission to adopt a funding projection that assumes the unprecedented growth of IP CTS will continue unchecked in the 2013-14 funding year now that its corrective measures are in place. Given that these preventive measures will address what the Commission believes is causing "a substantial portion of [] growth" in the Fund, and will "better control the level of TRS disbursements" while protecting the "programmatic, legal, and financial integrity of the TRS program,"¹² it would be unreasonable for the Commission to adopt RLSA's proposed projections.

Instead, ITTA urges the Commission to adopt the Industry Projection as a more accurate and reasonable alternative for the 2013-14 funding year. The Industry Projection strikes an appropriate balance by acknowledging the growth of the Fund while also accounting for the

⁸ Letter from John T. Nakahata, Counsel for Sorenson Communications, Inc., to Marlene Dortch, FCC, CG Docket Nos. 03-123 and 10-51, 3 (filed May 10, 2013) ("Sorenson Letter").

⁹ Letter from Philip J. Macres, Counsel for Telecommunications for the Deaf and Hard of Hearing, Inc., to Marlene Dortch, FCC, CG Docket Nos. 13-24 and 03-123, 2 (filed May 13, 2013).

¹⁰ RLSA Rate Filing at 28.

¹¹ Sorenson Letter at 3.

¹² *IP CTS Order* at ¶ 8.

Commission's recent corrective measures that RLSA anticipates will "dampen the continued rapid increase in IP CTS demand."¹³ The Industry Projection more than doubles the size of the Fund by assuming a reasonable 69 percent year-over-year growth rate. This provides a more than adequate cushion to ensure the integrity of the Fund going forward and ensures continued access to TRS for the disabled community. In fact, the record in this proceeding already includes support for the Industry Projection. Sorenson stated that the Industry Projection "is more likely to be accurate than any of RLSA's projections, and, as it was derived before the IP CTS order's effects were felt, may itself overstate demand."¹⁴

Adopting the Industry Projection is in the public interest because it acknowledges the Commission's recent corrective measures, sufficiently accounts for the rapid growth in IP CTS by significantly expanding the size of the Fund, and avoids unnecessary and substantial costs for consumers from whom TRS costs are recovered. In contrast, RLSA's projections simply ignore the Commission's corrective measures, and unnecessarily inflate the size of the Fund.

II. THE COMMISSION SHOULD PERMANENTLY ADOPT ITS INTERIM RULES TO ENSURE ONLY ELIGIBLE CONSUMERS USE IP CTS.

ITTA urges the Commission to permanently adopt its interim rules to ensure that only eligible consumers use IP CTS. As noted in the *IP CTS Order*, the growth in reimbursement requests for IP CTS is placing all forms of TRS funding in jeopardy, and "absent Commission action, there could be insufficient funds available in this Fund year to meet the needs of the Fund, potentially triggering a violation of the Anti-Deficiency Act and otherwise threatening the

¹³ RLSA Rate Filing at 25.

¹⁴ Sorenson Letter at 3.

availability of the service for consumers of this and other relay services supported by the Fund.”¹⁵

The Commission’s interim rules are effective in combatting this tremendous growth, and represent a reasonable, narrowly tailored means to ensure the continued integrity and sustainability of TRS to the disabled community. Among other things, these measures: (1) prohibit all referrals for rewards programs to induce consumers to use IP CTS; (2) require each IP CTS provider to register and certify the eligibility of all new IP CTS users in order to receive compensation from the Fund, and (3) require IP CTS providers to ensure that equipment and software used in conjunction with their service have a default setting of captions off at the beginning of each call, so that the consumer must take an affirmative step to turn on the captions each time the consumer wishes to use IP CTS.

As noted above, these corrective actions already have been proven to achieve their intended effect. In fact, Sorenson acknowledges that the Commission’s single action of requiring captions-off for IP CTS-enabled phones has “significantly reduced IP CTS minutes of use,” and that the Commission’s broader interim measures have “already caused substantial reductions in the growth” of Sorenson’s IP CTS subscriber base.¹⁶

Because these measures are effective in ensuring that only qualified users benefit from the provision of IP CTS, the Commission should permanently adopt its proposed interim rules. The proposed rules support the continued availability of IP CTS while protecting the programmatic, legal, and financial integrity of the TRS Fund.

¹⁵ *IP CTS Order* at ¶ 6.

¹⁶ Sorenson Letter at 3.

III. CONCLUSION

The Commission should implement the Industry Projection for the 2013-14 funding year. There is broad support for the Industry Projection from both industry and members of the disability community because it acknowledges the corrective measures the Commission adopted in the *IP CTS Order*, sufficiently accounts for the rapid growth in IP CTS funding by substantially increasing the size of the Fund, and avoids imposing substantial and unnecessary costs on consumers. The Commission also should permanently adopt its interim rules to ensure that only eligible consumers use IP CTS.

Respectfully submitted,

By: /s/ Genevieve Morelli

Genevieve Morelli
Micah M. Caldwell
ITTA
1101 Vermont Ave., NW, Suite 501
Washington, D.C. 20005
(202) 898-1520
gmorelli@itta.us
mcaldwell@itta.us

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