

Interstate TRS Advisory Council  
Meeting Minutes for September 23, 2015  
Jackson Hole, Wyoming

ATTENDEES

Mark Tauscher, Chair, TRS Providers  
Ron Bibler, Vice Chair, TRS users  
Linda Vandeloop, Acting Secretary, Interstate Telecommunications Providers/Contributors  
Commissioner Tim Schram, State Representative  
Al Sonnenstrahl, Deaf and Hard of Hearing Community  
Steve Peck, State Relay Administration  
Jeff Rosen, TRS Providers  
Shannon Smith, Deaf and Hard of Hearing Community  
Brenda Kelly-Frey, State Relay Administration  
Phillip Hupf, Interstate Telecommunications Providers/Contributors  
BJ Gallagher, Hearing/Speech Disability Community (by telephone)  
Zainab Alkebsi, TRS Users

RLSA

Dave Rolka  
Mandy McGrath

FCC

Greg Hlibok (by telephone)

CONVENE

Chairman Tauscher greeted audience and called to order the spring meeting of the TRS Advisory Council at 9:00 a.m. Due to technical difficulties with the telephone connections the meeting did not actually start until 9:45 am.

FCC PRESENTATION

Chair introduced the first speaker on the agenda, Greg Hlibok, Chief of the FCC's Disability Rights Office for his presentation to the Council.

**New ACE Platform** – ACE is a video access reference technology platform (previously called VATRP). The platform is being built by VTCSecure who was awarded the long term contract with long term goals in May 2015 working with TCS Associates, Gallaudet University the national technical Institute of the Deaf, Rochester Institute of Technology. The open source platform will include implementations for mobile platforms and desktop operating system will allow for text, voice and video communications combined in a single application. The app will allow video relay users to select from a menu of VRS providers to make a VRS call. ASL users will be able to connect directly to customer support services that provide ASL or direct video customer service.

A separate but related effort is a contract with MITRE to develop an automatic call routing system designed to automatically route video calls allowing government agencies or private business to automatically detect incoming video calls and direct them to the appropriate customer service agent, eliminating the need for a separate video phone number. Other features will be added down the road. MITRE is also conducting surveys and the plan is to release their report to the public when it is finalized.

**TRS-URD Registration Requirement** – Rolka, the database administrator will soon be releasing guidance on the timeline for populating the registration information into the database. In response to inquiries from the public regarding the need for information like last 4 digits of social security number, the FCC produced a video in ASL that can be accessed via web site. An FNPRM and Order is being reviewed by the Commissioners addressing the VRS provider petition to freeze compensation rates, a proposal for service quality improvements and the request that providers use deaf sign language interpreters.

In response to an issue raised by Al Sonnenstrahl only one relay service is eligible for reimbursement even though two are needed for people who are Deaf-Blind, Greg Hlibock said he would look into the issue.

In response to questions/concerns raised by Brenda Kelly-Frye about the appointment of a national outreach coordinator and concern over the outreach entities not having the necessary expertise to improve the effectiveness of outreach Greg Hlibock said that once the process rolls you will see deaf and hard-of-hearing representatives and user representatives are part of this effort.

In response to a concern from BJ Gallagher that the outreach program is limited to individual relay services and not all relay services Greg Hlibock said that the current national outreach program is in response to the 2013 VRS Reform order specifically related to Video Relay Service and IP Relay. But there is a pending proposal about establishing an outreach program for speech-to-speech services. Currently the outreach obligation is a state by state and depends on the STS providers in those states and we recognize that has not been effective so we are looking into the possibility of rolling that into a national speech-to-speech outreach coordination effort.

Brenda Kelly-Frey also expressed concern about the 13 cents per speech-to-speech minute allocated for outreach. Providers are doing the best they can with the limited budgets but recommended the 13

cents be increased or that it become the responsibility of the FCC to do outreach to the speech disabled community nationwide.

In response to Jeff Rosen's question whether the FCC is looking at the petition for waiver of the requirement to use social security numbers in the user registration data base, Greg Hlibock acknowledged that the Commission is continuing to review but could provide no more information at this time.

### **Dave Rolka Report**

#### Annual Data Collection –

We have to do outreach to all States to get information about minutes of service and the compensation rates in the state contracts. The questionnaire will be distributed via e-mail to the States and we are hoping that everybody will respond no later than the third week of February. Every year many states do not respond because either the person who received the e-mail was the wrong person and did not forward or the person forgot until it was too late. We will have to crunch the state data and the VRS service providers' data and prepare for the meeting that happens typically the first part of April and file a report and recommendation with the FCC by May 1<sup>st</sup>. We will follow up with the states who don't respond but it is important you turn the data around. Otherwise we have to acknowledge which states who didn't respond.

#### Current Fund Health

Health of Fund information is available on our website and updated on a monthly basis. Some segments of the report are blacked out to protect confidentiality because those particular segments deal with services provided by two or fewer service providers. The FCC, however, receives all information. The graph in the upper right hand corner represents the balance in the fund – the money that the fund has on reserve. The scale on the left runs from approximately \$200 million down to about 50. The lowest line on the scale is about 50. And there are two lines – a red one and a blue one. The blue one represents the balance of the fund at the beginning of the month and the red one represents the balance of the fund at the end of the month – opening and closing balances of the fund. And you will see that the balance is steadily going down. That means that the reserve available to pay against liabilities is getting smaller as we go on. It is currently hovering around \$100 million. In October we expect to distribute and the providers are expecting to receive \$82 million. When we have \$100 million reserve, cash flow is important to the stability of the fund. The pie chart at the bottom gives an idea of the shares of each of the services in relation to the whole. IP-CTS minutes are by far the largest number of minutes. The next slide shows on the top shaded area the projected receipts and disbursements on a monthly basis and on the bottom the shows the actual monthly operations including balances and the differences between the projections and actual results. We are developing a website specifically targeted for members of the council and anticipate putting the contemporary version of the side on the website shortly after I get back.

Next I want to review the results of the commission's rate order. They accepted all Rolka/Loube recommendations. They adopted the recommendation that was the most consistent with the MARS rate order. There were also proposals from the VRS providers. We crunched the numbers and provided to the FCC so they would know the effect of granting that petition. The rates adopted:

Traditional TRS	\$2.29
Interstate STS	\$3.42 (includes 1.31 for STS outreach)
Interstate CTS	\$1.89
Interstate IP CTS	\$1.89
Interstate IP/Relay	\$1.37

TRS rates were set by order and can only be changed by a vote by the Commissioners.

The VRS providers have asked that the rates in effect until June 30, 2015 be frozen rather than decreasing for period ending 12/31/15 and 6/30/16 as ordered by the Commission:

	Ending 6/30/15	Ending 12/31/15	Ending 6/30/16
Tier I - 1 <sup>st</sup> 500,000 minutes	\$5.29	\$5.06	\$4.82
Tier II - 2nd 500,000 minutes	\$4.82	\$4.82	\$4.82
Tier III - over 1 million minutes	\$4.25	\$4.06	\$3.78

Ron Bibler asked whether the fund is accruing reserves in anticipation of the rates going back up retroactively while the petition is pending. Dave Rolka said that he recommended to the FCC that the fund be allowed to grow to a reserve equivalent to two months distributions. The reserve is not there yet. It is around \$100M and we typically bring in around \$85-88M per month which is adequate to cover the distributions. Our recommendation to the FCC is to revisit the contribution factor. He further said that RLSA recommended a contribution factor recommendation on a quarterly basis but that recommendation has been under review for two years. But no specific reserve is established to address the outcome of the petition to freeze rates.

Al Sonnenstrahl raised a concern about the FCC wanting to keep the fund under \$1B and suggested the possibility of finding other ways to address the problem rather than cutting rates. He suggested that we need to spend more time and energy digging into finding the point of origin so that the intrastate IP calls can be the responsibility of the States for payout. Rolka said that this year the FCC understood that the budget would be more than a billion dollars and accepted the recommendation. Brenda Kelly-Frey speaking on behalf of NASRA said that some states are fine with the intrastate portion paid by the state but some are not because of limited budgets. Brenda asked if there are other sources of funding and are there some contributions they should be collecting but are not? Brenda also pointed out that if this requirement is given to the states it will require years before it could happen. Dave Rolka said there are at least a couple of things need to be considered. While the rules describe who is exempt from contributing, private line and shared tenant office buildings are not on the exempt list and are not contributing. This would add \$2B to the contribution base. But since the precedent has been set not to

bill for those services, the FCC is not willing to change. Additionally, the largest recipients of the calls are social service administration and the IRS so the FCC has initiated discussions with both organizations do discuss the idea of providing the service for themselves going forward.

We also distribute about \$33.5M for purposes other than to reimburse service providers. This includes \$10M set aside for the Deaf-Blind Equipment distribution program. TRS market agreement expense, the Pilot iTRS Outreach pilot and the VRS reform contracts for platform/TRS Registration database/access reference platform get about \$20M. This also includes managing the MITRE contracts and the VTEC contracts.

To summarize, we have asked the FCC to increase the reserve to \$161M but we are only hovering around \$110M. The net funding requirement is \$48M. The contribution base is \$164 B with a contribution factor of 1.635%.

#### Audit Activity

In a typical year the Fund experiences around 10 audits. In response to a question from Tim Schram about whether there is a lot of redundancy with all these audits, Dave Rolka said that there is no overlap, they all target something different.

The Fund is subject to two separate independent annual financial audits –one by KPMG and one by an independent auditor hired by the Fund. KPMG audits the FCC's finances which includes auditing contracts like the TRS Fund. Last year there were no findings or observations related to the TRS Fund. RLSA selected Maher Duessel for the targeted in-depth audit of the TRS fund with respect to the fund's finances as well as policies and procedures. Last year the audit resulted in restatements and changed procedures. 1) The rules require us to not pay funds if the requested reimbursement is held for more than a year because of questions about the claim. Several withholdings of more than a year were on the books. Removing them resulted in an adjustment of a few million dollars. New procedures were developed that would age off those withholdings. 2) Record the full \$10M for the Deaf-Blind Equipment distribution program at the beginning of the program year rather than recording payable as each request was received. 3) Record actual information on file to date for the September 30<sup>th</sup> close rather than the budgeted amount. Jeff Rosen asked if there is any review to make sure the organizations receiving the Deaf-Blind Equipment are spending the money appropriately. Dave Rolka responded that there is an audit but the Fund administrator is not directly in that loop.

The GAO audited the FCC's handling of the TRS fund which included an audit of the fund administration. GAO observed of the size of the fund grew by eight-fold between 2002 and 2013. They concluded that the FCC had not established specific high-level performance goals to guide its efforts and without those goals it is difficult to evaluate the direction of the program. The FCC is attempting to respond and is drafting goals and objectives. The GAO did not conclude that anything was broken or working improperly.

The IPERIA audit looks at the statistical analysis of the fund administration accuracy. Every year Rolka/Loube prepares an audit plan and submits it to the GAO. Rolka/Loube hires an independent auditor to perform the statistical analysis. Every year the scope is expanded because the Fund is considered an at-risk program the scope continues to be expanded. If the 2015/2016 audit results in minimal findings of improper payments or calculation errors as past audits have found, the objective is to approach GAO to remove the at-risk classification. Each audit currently costs the fund over \$200,000. Jeff Rosen recommended that the Council draft a letter supporting removal of the at-risk label. Mark Tauscher suggested that this should be raised in new business.

The internal controls audit is developed annually by Rolka/Loube and reviewed by the FCC's Managing Director's Office. It is a complex risk assessment that applies to major business operations with more than 2,200 data points that have to be considered with respect to the assessment of internal risks and controls. This audit is in progress now. And none of the internal risk assessments or audits have produced any material or significant results.

Provider audits. Every March a plan must be submitted to the FCC proposing audit activities for that year. Rolka/Loube identified six audit programs but the FCC asked Rolka/Loube to hold off on one of the items because it would likely be covered by MITRE. Included in the plan are:

IP based services registration policies and procedures (the rules are significantly different than the rules for VRS and IP Relay),

IP Relay – transition to a single provider costs (to get a better handle on what changes are necessary),

Follow-up on 2014 audit findings and observations, (findings have been provided to the FCC but not yet released)

Emergency Call handling policies and procedures (the FCC has expressed concern about the handling of emergency calls). Payments were withheld. The FCC has given direction to release payment to one provider and others are under review. Hopefully the audit will establish a baseline for the future., and

STS Outreach receipts and uses (based on concerns expressed at council meetings that the outreach is inadequate). Question to the Council – Does it make sense to have \$10,000/month divided amongst multiple providers to generate an effective outreach program? Do you know if it is working? Is there an alternative

#### Overview of Demand Data

- VRS Demand – The actual minutes are running slightly above the projection which means the fund is spending more money than budgeted, eating into the reserve and not making any progress building the reserve from 100 to 160.
- IP-CTS demand – IP-CTS was running way ahead of budget and was threatening the viability of the fund. The FCC interim rules were overturned and the IP-CTS began to recover from the plummet and is growing again. The actual is above budget generating further deficit for the fund. IP-CTS have outstripped VRS minutes by a fairly wide margin. But the VRS is above \$4 and IP-CTS minutes are \$1.89.

- IP Relay – The decreased projection around the middle of 2015 coincides with Purple no longer providing this service leaving Sprint as the only remaining provider. The projection is 2 million minutes per month at the upper range but the actual is closer to half a million. The FCC is asking why. All the reasons so far are anecdotal and not sure to develop any statistical or data-driven answer at this point. The FCC has requested Rolka/Loube to expand the ability to analyze the call detail records and to create a database. That data is now being compiled and the analysis could likely be performed shortly. It is possible that part of the reason for the drop off is that the processing of the new registration requests is taking some time.

#### Overview of Contribution Base

In 2004 the contribution base was approximately \$82 billion. Currently the contribution base is estimated at \$64.1 billion. Part of the erosion is due to the definition of telecommunications. It is up to the entity filing the 499-A to determine the primary line of business. If the primary line of business is private line or shared tenet, the company is exempt. Several other reasons could include the freezing of the process to separate costs between state and interstate jurisdictions and how revenue in bundles is classified. Linda Vandeloop clarified that the situation has to do with revenue so the separations process would have little or no impact on the contribution base. But if customers are switching to wireless or IP from their wireline, and if the new services are not included in the base the base could decrease over time. Rolka also mentioned that of the 12,000 telcos, about 6,400 pay into the fund based on interstate and international revenue. The contribution base fluctuates month to month partially due to adjustments. One big problem occurs when there is a merger and the acquiring company does not believe it acquired the obligation to contribute to the fund.

#### STS Outreach Disbursements

There is a very small amount of money divided between a few service providers and is that an effective way to continue to pursue outreach for this program? One of the initiatives under the audit program is to review actual amount of money reimbursed historically and approach each of the STS providers to get an explanation what their outreach program looked like – what did they spend and what they spent it on. The target is to complete this prior to the April meeting.

#### URD Update

Rolka/Loube was hired by the FCC to develop the VRS user registration database. Key tasks were to confirm that the providers have received consent from their customers to share the customer information before providing it. Five pieces of information are to be collected for the data base 1)user name, 2)user's full address, 3)user's telephone number, 4) user's date of birth and 5)last 4 digits of user's social security number and will be used to confirm the identity of the person being registered but will not validate eligibility to participate in the program. The last 4 digits of the social security number must be removed from the databases once the user's identity has been verified. This information is retained only in temporary memory and erased and written over after verification. There are weekly

calls with the service providers to work through the process of what information is needed, how it will be exchanged, what information they will get back and what to do when the validation has failed.

Service providers will provide a monthly report to Rolka/Loube on constituent activity in the registration database and Rolka Loube will let the service providers know two months before a customer's anniversary that would require to make them inactive in the registration data base in order to give the service providers time to address the problem. The first task is to build the data base then to work on the process for adds, deletes changes and modifications. Users that don't have a social security number or travel ID can still be registered. The FCC listed several documents that can be provided instead.

With respect to privacy the FCC has suggested a service referred to as BOX – a secure mechanism for the exchange of confidential information, a process the DOJ uses for their information. Negotiations are in process with BOX and contractual arrangements have been made with a third party to help with the identity validation procedures to make sure PII is purged from their system as soon as the process cycles through.

All communications with providers will require a two factor authentication. This is problematic because, after logging in with a password, they may be required to wait for a second e-mail with characters to enter before proceeding which will significantly lengthen the process. The providers have petitioned the FCC asking them to limit the information collected to exclude date of birth and social security last 4 digits but that limits the ability to authenticate. Multiple people may have the same birth date or last 4 digits.

The question came up about how to verify that the user actually knows ASL. It was suggested that we consider bringing this up at a future meeting.

Accounting Changes include adjustments to reporting to update and reconcile the budget to reported data, adjustments to reduce accruals for administrator-determined-withheld-support that are beyond 12 months, and accrue the entire \$10 Million for NDBEDP less actual distributions.

We are in the fourth year of the program. The first year is closed and just under \$7M has been spent. The second year has some outstanding audit costs and approximately \$9.5M was spent. Year three is in the process of closing but still working on reimbursement requests. Year four has just started.

The FCC asked for comments on proposed changes for the permanent program. The majority of commenters supported retaining the program structure, having one entity certify per state, six-month reporting, certification at least five years with a 90-day written notice before relinquishing certification and current entities need not reapply. Most also agree that a centralized database be created if it streamlines the reporting and reimbursement process and should allow different levels of access. The financial eligibility should be based on individual's not household income, travel should be reimbursed and no annual audit if current reporting is retained.

Controversial issues included the timing of the FCC announcement to invite applications from new entities, whether there should be a public notice for applications to develop and maintain the database, whether the half a million national outreach budget should be cut in half and whether administrative costs should be based off entire allocated budget or the program costs.

Service provide reporting changes – It is hopeful that there will be no changes to the reporting requirements, particularly with respect to call detail records until the URD data base is on the cusp of being operational. Providers will have as close to a ninety-day notice as possible.

#### New Business

Mark Tauscher said that Celia Nogales who was Secretary for the Council has resigned and Linda Vandeloop has taken her place and opened nominations for Secretary. He explained that Linda is an alternate for Celia and could continue as temporary secretary until a full member. Brenda Kelly-Frey nominated Linda Vandeloop for interim Secretary to the iTRS Council. Al Sonnenstrahl seconded. The motion passed.

The Spring council meeting will be held in Washington DC within the first 2 weeks of April. Date and logistics will be determined on one of the upcoming monthly conference calls. Brenda Kelly-Frey moved that there be a stakeholders' presentation by MITRE at the Spring meeting on the day before the formal meeting. The motion was seconded by Phil Huff. Al Sonnenstrahl proposed a friendly amendment to include a presentation by ACE. The amendment passed unanimously. The motion passed unanimously.

Brenda Kelly-Frey moved that the iTRS advisory council meet on September 14<sup>th</sup> (stakeholders' meeting) and 15<sup>th</sup> (full advisory council meeting) in Annapolis, Maryland in 2016. NASRA will be meeting September 11-14. Shannon seconded the motion. The motion passed unanimously.

Jeff Rosen made a motion to have the Council send a letter to the FCC and GAO to remove the at risk designation or status for TRS and VRS. Brenda Kelly-Frey seconded. The motion passed unanimously.

Jeff Rosen suggested that any summary of the meeting submitted to the FCC include something brief encouraging the FCC to act on the proposal for rate stabilization. Mark Tauscher noted that there had been a motion at the last meeting on the same issue. Jeff Rosen suggested the Council emphasize the urgency. Mark Tauscher said that the council could send a letter and a motion was not necessary.

Tim Schram moved to close new business with no opposition.

#### Public Comment

Jeremy – There should be a deaf-blind representative and an interpreter representative on the council. The FCC seems to be focusing on ACE and MITRE but needs to also be concerned about the impact of rate cuts on service quality.

Mike Striker – It was stated today that customer data would be deleted once validated against URD but the FCC requires that the provider retain the information until audited. Dave Rolka clarified that he was talking about the URD administrator data retention requirement only.

Rick Kwan, member of National Stuttering Association – many people don't know about STS technology and we have an obligation to publicize it so that they have the freedom to use the telephone and don't have to rely on text and 3-mail.

There was discussion about approaching the FCC about additional representation from the deaf-blind community. Procedurally the meeting moved to other business so no motion could be made but it was decided that the council would draft a letter to send with meeting minutes regarding expanding membership to include a member of the deaf-blind community. Also, the Council will ask Dave Rolka to contact the FCC.

Mark Tauscher adjourned the meeting.