

**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)	

**Interstate Telecommunications Relay Services Fund
Payment Formula and Fund Size Estimate**

Rolka Loube Saltzer Associates LLC
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May 1, 2014

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**Payment Formula and Fund Size Estimate
Interstate Telecommunications Relay Services (TRS) Fund
For July 2014 through June 2015**

I. Introduction

Rolka Loube Saltzer Associates LLC (RLSA), as Interstate Telecommunications Relay Services (TRS) Fund Administrator (the Administrator), herein submits proposed compensation rates, demand projections, projected fund size and proposed carrier contribution factor for the period July 2014 through June 2015, in accordance with section 64.604 of the Federal Communications Commission's (FCC or Commission) rules.¹

¹ 47 C.F.R. §64.604 (c)(5)(iii)(H).

In accordance with the Commission 2007 *Cost Recovery Order*,² the Administrator has used the Multi-state Average Rate Structure (MARS) methodology, based on the weighted average of competitively bid state rates, to propose compensation rates for interstate traditional TRS, interstate Speech-to-Speech (STS), interstate Captioned Telephone Service (CTS), and inter- and intrastate Internet Protocol (IP) Captioned Telephone Service (CTS).

For IP Relay Service the Administrator has provided updated rates based on the price cap structure adopted by the Commission in the *Cost Recovery Order*.³ The updated rate is based on the providers' projected demand and the price cap structure and productivity factor for the 2014-2015 Fund year. The Administrator is also offering additional information for the consideration of the Commission in view of the reduced number of IP Relay service providers and declining demand.

Per the "VRS Reform Order"⁴ the Commission restructured the VRS Tiers and established rates⁵ applicable to those new Tiers in six month incremental periods through June 2017. The Administrator's contribution factor recommendation has been developed to reflect the Tiers and rates of the *VRS Reform Order*.

² 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 (2007) (Cost Recovery Order)

³ Telecommunications Relay Services and Speech-to-Speech for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Order, 25 FCC Rcd 8689 (2010) (2010 Rate Order)

⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities* at CG Docket No. 03-123 and *Structure and Practices of the Video Relay Service Program* CG Docket No. 10-51, Rel. June 10, 2013, Para 208, (VRS Reform Order),

⁵ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities* at CG Docket No. 03-123 and *Structure and Practices of the Video Relay Service Program* CG Docket No. 10-51, Para 215, (VRS Reform Order),

The Administrator projects a total fund cash requirement for Fiscal Year 2014-2015 of \$789.85 million.⁶ Calendar year 2013 interstate and international end user revenues estimated by the Data Collection Agent (“DCA”) total \$67.278 billion. The contribution factor for the 2014-2015 fund year, derived from the ratio of estimated fund size to prior calendar year revenues, is proposed to be 0.01174. Upon approval by the Commission, the fund Administrator will begin billing carriers for the 2014 – 2015 funding period in July 2014.

II. Interstate TRS Fund Overview

The Interstate TRS Fund (TRS Fund) is designed to compensate eligible relay service providers⁷ for the reasonable costs of furnishing “[t]elephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communications by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communications services by wire or radio.”⁸

Services that are currently compensated from the TRS Fund include interstate traditional TRS, interstate captioned telephone service (CTS), interstate speech-to-speech (STS), and both intrastate and interstate video relay service (VRS), Internet Protocol (IP) Relay service, and Internet Protocol Captioned Telephone Service (IP CTS). The

⁶ To calculate the VRS portion of the proposed 2014-2015 total fund size, the Administrator used 2013-2014 VRS rates for May and June 2014 and the Commission prescribed rates for the periods July – December 2014 and January – April 2015 in conjunction with demand projections.

⁷ Eligible providers are defined as (1) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to section 64.605; or (2) TRS facilities owned by or operated under contract with a common carrier providing interstate services pursuant to section 64.604; or (3) interstate common carriers offering TRS pursuant to section 64.604; or (4) Video Relay Service (VRS) and Internet Protocol (IP) Relay providers certified by the Commission pursuant to § 64.606.

⁸ 47 C.F.R. 64.601(21) Definition of Telecommunications Relay Services.

Administrator reimburses providers at compensation rates computed by the Administrator in accordance with Commission rules, and approved or modified by the Commission. In 2007 the Commission's *Cost Recovery Order* adopted methodologies for establishing the reimbursement rates for the various relay services.⁹ In June 2008 the Commission also authorized providers' reimbursement for costs associated with implementation of 10-digit numbering and E-911 for relay services.¹⁰ In the *2010 Rate Order* the Commission approved the Administrator's proposal to include the costs associated with ongoing maintenance of 10-digit numbering and E-911 for relay services as a per-minute additive to the relay service reimbursement rate base year calculation. The Bureau's Order of June 28, 2010 adopted this methodology for the current and future fund years.¹¹

The Commission's shared funding mechanism for the TRS Fund ensures that the costs of meeting relay service obligations are borne equitably. Interstate telecommunications common carriers contribute to the TRS Fund on the basis of their relative share of interstate and international end user revenues.¹² The TRS funding period

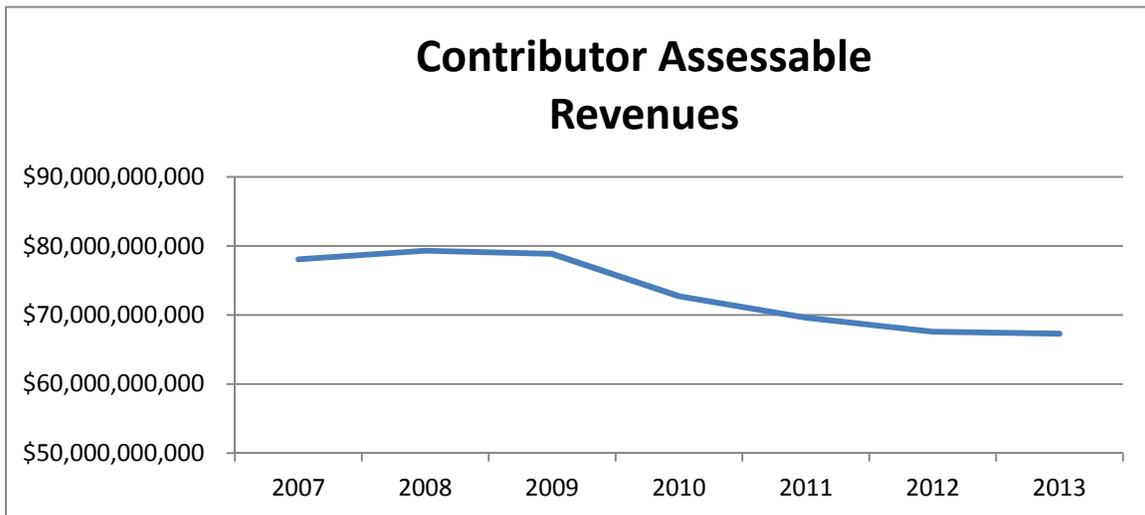
⁹ The methodologies included price caps for IP Relay and a tiered rate structure for VRS. The Commission set IP Relay and VRS rates for a period of 3 years and confirmed that the initial year for the applicability of the rates was the 2007-2008 fund year. The initial three year period for the IP and VRS methodologies sunset as of June 30, 2010. See *Cost Recovery Order* ¶¶ 97, 107-108. In the *2010 Rate Order* the Commission initiated a new 3-year cycle for IP Relay rates and adopted interim, one-year rates for VRS, for effect while the Commission considered broad reform. In the *2013 Rate Order* the Commission initiated another 3-year cycle for IP Relay rates. In the 2013 VRS Reform Order the Commission established new VRS tiers and set rates in six month increments through June 2017.

¹⁰ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123; E911 Requirements for IP-Enabled Service Providers, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) (TRS Numbering Order) at ¶¶ 96-101

¹¹ 2010 Rate Order at ¶ 25

¹² See 47 C.F.R. §64.604(c)(5)(iii)(A)-(C). Every carrier providing interstate telecommunications services (including interconnected VoIP service providers pursuant to §64.601(b)) and every provider of non-interconnected VoIP service shall contribute to the TRS Fund on the basis of interstate end-user revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-

commences on July 1 and ends June 30 of the following calendar year. For the July 2014 to June 2015 fund year, the Administrator will use the carriers' 2013 interstate and international end user revenues¹³ as the basis for calculating carriers' contributions. The preliminary report of the Data Collection Agent ("DCA") of Carriers' reported 2013 revenues were \$67.278 billion; approximately \$0.122 billion (0.18%) higher than the amount used to calculate contributions for 2013 – 2014 Fund year.



When the TRS Fund was originally created, carriers were required to submit an FCC Form 431 TRS Worksheet and their annual contribution to the Fund Administrator by April 26th annually. In July 1999, the FCC streamlined carrier-reporting requirements for the Universal Service, TRS, North American Numbering Plan Administration and Local Number Portability Funds by combining reporting requirements for the four funds into one form. In August 2000, USAC was designated the responsible data collection

switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

¹³ Revenues are reported on the Telecommunications Reporting Worksheet, FCC Form 499-A, on April 1, 2014, and provided to the Administrator by the Universal Service Administrative Company (USAC), the Revenue Data Collection Agent (DCA). At the time of preparation of this filing the information from the DCA is considered preliminary and updated data will be used for the calculation of carrier contributions.

agency¹⁴. Carriers now report their prior calendar year revenues annually on the FCC Form 499-A, Telecommunications Reporting Worksheet, due on April 1, to the D C. The DCA provides the Interstate TRS Fund administrator with the carrier revenue information used to calculate the contribution factor and maintains the carrier database for all funds. Revisions to FCC Form 499-A revenue data are provided by the DCA to the TRS Fund and other program managers so that corrections may be made to carrier billing. Revisions may be telecommunications service provider initiated or may be the result of an audit.

All Form 499-A filers providing interstate and/or international telecommunications services, with the exception¹⁵ of shared tenant service providers, are required to contribute to the interstate TRS fund. The contribution base is formulated using the sum of 12 months interstate and international end user revenues less interstate and international revenues from resellers who do not contribute to Universal Service (line 420D + Line 420E + Line 412E – Line 511B), as submitted with the FCC Form 499A, Telecommunications Reporting Worksheet.

Upon approval of the contribution factor by the Commission, the Administrator will promptly bill carriers for the 2014 – 2015 funding period which begins July 2014. Annual contributions will be due within 28 days after their July invoice date. Carriers, whose contributions are \$1,200 or more, will have the option to be invoiced in twelve equal monthly installments. Invoices will be due four weeks after the issue date of the monthly invoice. RLSA has assigned each monthly contributor to one of four monthly

¹⁴ See DA 00-1736, released August 1, 2000.

¹⁵ RLSA is attempting to identify the authority for this exemption which is identified in the previous Administration's procedures without a citation.

invoice cycles and issues approximately one quarter of the monthly invoices on the first four Fridays of each month.

Per minute compensation rates will also be effective for minutes of service beginning July 1st, assuming approval of the proposed rates by the Commission. Timely submitted provider requests for reimbursement must be processed within two months¹⁶ following the submission of the request for reimbursement, although the Administrator has recently been able to reduce the processing time required for those submissions as new systems were developed to perform validation testing prior to the release of payments to less than 30 days. For example, minutes handled by providers in July 2014 are expected to be reported in mid-August 2014, and providers will then receive compensation for those minutes at the new rates, in early September 2014.¹⁷

III. TRS Formula Development

A. MARS

The *Cost Recovery Order* adopted the Multi-state Average Rate Structure (MARS) plan as the basis for calculating the compensation rate for interstate traditional TRS, interstate Speech-to-Speech (STS), interstate Captioned Telephone Service (CTS) and interstate and intrastate Internet Protocol Captioned Telephone Service (IP CTS).¹⁸ The Administrator will calculate annually one MARS rate for interstate TRS and STS based on the weighted average of state rates for TRS and STS and a separate MARS rate for interstate CTS and intrastate and interstate IP CTS based on the weighted average of

¹⁶ See 47 C.F.R. 64.604(C)(5)(iii)(L)

¹⁷ See Exhibit 3 Anticipated Reporting and Disbursement Schedule. The reporting and disbursement schedule is subject to modification based on exogenous circumstances.

¹⁸ Cost Recovery Order at ¶ 16.

state rates for CTS.¹⁹ The Commission determined that because there was a lack of data for IP CTS, it would be reimbursed at the same rate as CTS.

The Commission identified the steps for the Administrator to use to determine MARS-based compensation rates.²⁰ The Administrator must first collect intrastate traditional TRS, STS, and CTS compensation rate data for the prior calendar year.

Accordingly, the Administrator requested the following information from each state TRS administrator and each provider of interstate traditional TRS, STS and CTS for calendar year 2013:²¹

- a. the per-minute compensation rate for intrastate TRS and STS
- b. the per-minute compensation rate for intrastate CTS
- c. whether the rate applies to session or conversation minutes
- d. the number of intrastate session minutes for TRS and STS
- e. the number of intrastate session minutes for CTS
- f. the number of intrastate conversation minutes for TRS and STS
- g. the number of intrastate conversation minutes for CTS
- h. any amounts paid by the state to the provider for relay service during the previous calendar year that are not included in the contractual per-minute compensation rate

The Administrator must then determine whether there are anomalies in any state's data that will necessitate it being excluded from the MARS calculation,²² calculate each state's total dollars paid for the year for intrastate traditional TRS, STS, and CTS services, and calculate the final rate by dividing the total dollars paid by all states by the total conversation minutes of all states for TRS and STS and separately for CTS.

¹⁹ *Id.*

²⁰ 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, FCC 11-104, Rel. June 30, 2011 at ¶¶ 9-18.

²¹ The Annual Data Collection Form is included at Appendix A.

²² For example, if there were no state TRS Fund and the cost of providing Relay services were recovered by the service provider based on each LEC's proportionate share of subscriber lines in the state, MARS like data would not be available and thus, would be excluded from the MARS computation.

A. Traditional TRS and STS Formula Development

From the data collected and follow up discussions with the state contacts, the Administrator found, as the Commission indicated in the *Cost Recovery Order*,²³ that Michigan continues to recover their relay service providers costs on a flat rate per subscriber basis instead of per minute basis and thus does not have data that can be used for MARS calculation purposes. Similarly, both Maine and Virginia provide service under a flat rate monthly contract, and do not have data that can be used for MARS calculation purposes. For the remaining 47 states, District of Columbia, and Puerto Rico, the Administrator multiplied each jurisdiction's TRS and STS rate by the corresponding number of intrastate session minutes or intrastate conversation minutes, whichever the jurisdiction's rate was based upon.²⁴ For those states experiencing a mid-year rate change, the calculation was performed for each rate and service period. The calculation was made for each jurisdiction and the resulting weighted dollar amounts summed to produce a total dollar amount for each service. The Administrator added to the weighted dollar total any additional amounts paid by the states to the relay service provider(s) during the applicable period that were not included in the contractual per-minute compensation rate, but were applicable to the provision of relay service.²⁵ As a final step, the Administrator divided the resulting total weighted dollar and supplemental payment amount by the total number of intrastate TRS and STS conversation minutes.²⁶ The

²³ Cost Recovery Order at ¶ 58.

²⁴ *Id.* at ¶ 30

²⁵ *Id.* at ¶ 31

²⁶ *Id.*

results of this calculation can be found in Exhibit 1-1. Appendix C displays the range of rates reported by the individual state jurisdictions.

The total dollar amount paid out for intrastate TRS and STS during calendar year 2013, including the amounts paid to relay providers, which was not included in the per-minute compensation rate, amounted to \$27,591,570.51. The total conversation minutes for intrastate TRS and STS for calendar year 2012 were 13,033,423.70. The proposed compensation rate is developed by dividing the total 2013 intrastate dollar amount by the total 2013 intrastate conversation minutes, resulting in a proposed MARS rate of \$2.1170 per conversation minute for interstate traditional TRS and interstate STS for the 2014 – 2015 funding period. The proposed rate is approximately 2.2% below the 2013 – 2014 MARS calculation of \$2.1647 per conversation minute.

In the *Cost Recovery Order*, the Commission provided an additional amount of \$1.131 to the 2007-2008 interstate STS compensation rate to be used by the providers for outreach efforts.²⁷ In the ensuing Fund years, the Commission has found it appropriate to continue the outreach additive at the same level.

The Administrator recommends adding the \$1.131 to the MARS-based STS rate resulting in a total proposed STS rate of \$3.2480 per minute; a decrease of \$0.0477 from the \$3.2957 per minute rate for the 2013-2014 Fund year. However, the Administrator notes that the demand for STS continues to be small compared to the other services. It is not clear that the outreach additive applied to the per-minute rate is having the desired result. The Commission may wish to revisit this issue to determine whether there is a

²⁷ *Id.* at ¶¶ 57, 61

more effective way to inform speech impaired users about the availability of this service.²⁸

B. CTS Formula Development

The proposed MARS CTS rate was calculated by following the same steps described above but substituting CTS related data for the TRS and STS data. Data for Maine, Michigan, and Virginia was excluded, because the states compensated their relay providers with a flat rate mechanism in 2013. The results of this calculation can be found in Exhibit 1-2. Appendix D summarizes the data provided by the individual state jurisdictions. The MARS CTS rate is also used to establish the rate used to compensate providers for IP CTS.²⁹

The total dollars for intrastate CTS, including the amounts paid to relay providers not included in the compensation rate, totaled \$53,620,344.99 for calendar year 2013. The total conversation minutes for intrastate CTS totaled 29,453,622.02 for calendar year 2013. The total 2013 intrastate dollars divided by 2013 intrastate CTS minutes equals a proposed compensation rate of \$1.8205 per conversation minute for interstate CTS and interstate and intrastate IP CTS for the 2014 – 2015 funding period.

The proposed MARS CTS rate of \$1.8205 represents a modest \$0.0328 increase from the 2014 – 2013 rate of 1.7877 or approximately 1.835%.

The RLSA Annual Data Collection form also requested historic cost data regarding the provision of IP CTS in calendar years 2012 and 2013 as well as projected costs for 2014 and 2015 based on the cost categories reported by service providers for IP

²⁸ At its April 2014 meeting, the Interstate TRS Advisory Council was informed of the Administrator's intent to recommend that \$1.131 per minute of extra funding for speech to speech outreach purposes be maintained.

²⁹ Cost Recovery Order at ¶ 38.

Relay services. The results of analysis of that IP CTS data are found in Exhibit 1-4 and are the basis for an alternative reimbursement calculation based on the average of the projected costs for the annual 2014 and 2015 projected costs in the amount of \$1.7180 which is \$0.0697 below the MARS CTS rate for the 2013-2014 funding year or approximately 5.6% less than the MARS rate level of \$1.8205.

B. **Internet Protocol Relay** [*due to the small number of providers some cost information has been identified herein as confidential and Redacted from the public version of this recommendation.*]

In the *Cost Recovery Order*, the Commission concluded that the MARS methodology is not appropriate for IP Relay, because there are no state rates for this service. Although it was believed that the costs of providing traditional TRS and IP Relay are generally similar – in many instances, for example, the same CAs, sitting at the same offices, handle both traditional and IP Relay calls – there was concern that the use of a MARS rate for IP Relay may result in the overcompensation of IP Relay providers.

The Commission adopted a new cost recovery methodology for IP Relay based on price caps for a three year period beginning with the effective date of that Order.³⁰ The initial three year period ended on June 30, 2010 coincident with the end of the 2009-2010 Fund year. The second three year period ended on June 30, 2013, coincident with the end of the 2012-2013 Fund year.

The *Cost Recovery Order* price cap plan for IP Relay applies three factors to a base rate – an Inflation Factor, an Efficiency (or “X”) Factor, and Exogenous Costs. The basic formula takes a base rate and multiplies it by a factor that reflects an increase due to

³⁰ *Id.* at ¶ 109.

inflation, offset by a decrease due to efficiencies. The Inflation Factor is Gross Domestic Product – Price Index (GDP-PI).³¹ The Efficiency Factor has been set as a figure equal to the Inflation Factor, less 6 percent (or 0.06) to account for productivity gains. As a result the rate for a particular year would be equal to the rate for the previous year, reduced by 6 percent (*i.e.*, $\text{Rate}_{\text{Year } Y} = \text{Rate}_{\text{Year } Y-1} (1 - 0.06)$).³² There were no claims of exogenous costs made by the IP Relay service providers. The rate adopted for the 2013-2014 Fund year is \$1.0391. In the VRS Reform order the Commission directed the reduction of the rate by \$0.0244, the amount representing outreach activities, effective at publication in the Federal Register. The reduced rate of \$1.0147 became effective for service beginning September 2013. The MARS rate for TRS for the 2013-2014 Fund year period was set at \$2.1647 per minute, more than double the IP Relay rate.

The price cap regime is in effect through the 2015-2016 Fund year. The application of the price cap mechanism for the second year of the price cap cycle *i.e.* 2014-2015, produces a rate of \$0.9538 ($\$1.0147 * 0.94 = \0.9538). The MARS rate for TRS for the 2014-2015 Fund year is calculated to be \$2.1170 per minute, which is more than double the IP Relay rate for the same period.

IP Relay service providers are still required to report historical and projected costs to the Administrator on an annual basis. Following are the results of analyzing the cost data submitted by the IP Relay service providers³³.

³¹ Cost Recovery Order at 6-7.

³² *Id.* at 10.

³³ Hamilton announced that it would cease providing IP Relay services as of May 15, 2013, Sorenson Ceased providing the service in July 2013 and both companies indicated that they will assist customers to transition to other providers.

For analysis purposes, the Administrator segregated the provider historical and projected costs into nine distinct categories for review:

- **Facilities**, those expenses associated with land and buildings, etc.;
- **Interpreter Expense**, the costs of the individuals performing the interpretive services;³⁴
- **Non-Interpreter Relay Center Expense**, other costs associated with the relay center including supervisory management, telecommunications expense, etc.;
- **Indirect Expense**, finance, human resources, legal expenses, executive compensation, etc.;
- **Depreciation Expense**, annual depreciation on facilities and equipment;
- **Marketing Expense**, the projected costs of advertising the provider's service;
- **Outreach Expense**, the projected costs of notifying consumers of service availability;
- **Other Expenses**, projected expenses not directly associated with one of the other expense categories; and
- **Capital Investment**, the investment in facilities, equipment, furniture, etc. associated with the relay center.

BEGIN REDACTED TEXT: [

³⁴ Service provided under contract with another provider has been included in this category as well.

] **END REDACTED TEXT.** The MARS data collected from the states is not adequate to enable a comparison of the costs categories between TRS and IP Relay.

For the 2014-2015 Fund year, the Administrator has calculated the price cap rate for IP Relay to be \$0.9538 ($\$1.0147 \times 0.94 = \0.9538). The calculated rate is slightly below the costs of one of the remaining providers and only slightly above the cost of the other remaining provider.

The projected costs of the two remaining providers do not indicate that either provider will achieve productivity gains, when compared to the two years of historic data, which may be a characteristic attributable to the continued decline in demand for the service. In consideration of the declining demand and the fact that only two providers continue to offer the service, the Commission may wish to consider forgoing the productivity gain included in the price cap formula and freeze the rate at current levels (\$1.0147). In addition, the VRS Reform Order of the Commission anticipated the implementation of a Commission sponsored outreach program and reduced the IP Relay rate by the projected cost of outreach (\$0.0244). The projected outreach cost of the two remaining providers for 2014-2015 is \$0.0329. Until the Commission sponsored outreach program becomes operational, the Commission may also wish to consider reinstating outreach by the remaining providers until further Order³⁵.

³⁵ See VRS Reform, Report and order and Further Notice of Proposed Rulemaking. Para. 192, FCC 13-82 Rel. June 10, 2013,

C. Video Relay Service

On June 10, 2013 the Commission released a Report and Order and Further Notice of Proposed Rulemaking, herein referred to as the “VRS Reform Order” in which the Commission revised the Tier structure and established the VRS compensation rates that are to be used through June 30, 2017 unless otherwise set by further Commission Order.

The new tiers which became effective in September 2013 and the previous tiers are shown in Table 1 below.

Table 1: Reconfigured Rate Tiers for VRS Compensation

Tier Numbers	Previous Tier Definition (The range of a provider’s monthly VRS minutes to which the Tier is applicable)	New Tier Definition (The range of a provider’s a monthly VRS minutes to which the Tier is applicable)
I	0-50,000	0-500,000
II	50,000.1-500,000	500,000.1-1 million
III	Over 500,000	Over 1 million

The progressive adjustment of rates for each tier is illustrated in Table 2 below, which shows: (1) the current interim compensation rates, (2) average provider costs as calculated by RLSA, (3) RLSA’s proposed first-year rates, and (4) the rates we adopt today for Fund years 2013-14, 2014-15, 2015-16, and 2016-17.

Table 2: Average VRS Provider Costs, Current VRS Compensation Rates, RLSA’s Proposed Rates, and the Rates Adopted for Fund Years 2013-14 through 2016-17

Tiers (as recon-figured by this order)	FY 2013-14 Rates	FY 2014-15 Rates ³⁶	FY 2015-16 Rates ³⁷	FY 2016-17 Rates ³⁸
Tier I (0-500,000 minutes/ month)	\$5.98 (Jul.–Dec. 2013)	\$5.52 (Jul.–Dec. 2014)	\$5.06 (Jul.–Dec. 2015)	\$4.44 (Jul.–Dec. 2016)
	\$5.75 (Jan.- June 2014)	\$5.29 (Jan.- June 2015)	\$4.82 (Jan.- June 2016)	\$4.06 (Jan.-June 2017)
Tier II (500,000.1 – 1 million minutes/ month)	\$4.82 (Jul.–Dec. 2013)	\$4.82 (Jul. –Dec. 2014)	\$4.82 (Jul.–Dec. 2015)	\$4.44 (Jul.–Dec. 2016)
	\$4.82 (Jan.- June 2014)	\$4.82 (Jan.- June 2015)	\$4.82 (Jan.- June 2016)	\$4.06 (Jan.-June 2017)
Tier III (over 1 million minutes/ month)	\$4.82 (Jul.–Dec. 2013)	\$4.44 (Jul.–Dec. 2014)	\$4.06 (Jul.–Dec. 2015)	\$3.68 (Jul.–Dec. 2016)
	\$4.63 (Jan.- June 2014)	\$4.25 (Jan.- June 2015)	\$3.87 (Jan.- June 2016)	\$3.49 (Jan.-June 2017)

The rates established in the Report and Order will apply as scheduled to all VRS providers absent further action by the Commission. During the “glide path” period, however, the Commission may adjust the compensation rate to reflect exogenous cost changes, including the shedding of service responsibilities by VRS providers as VRS components begin to be provided by neutral entities. Pending the implementation of structural reforms, the Commission stated the expectation that the rate reduction plan

³⁶ Pending implementation of market-based rates.

³⁷ Pending implementation of market-based rates.

³⁸ Pending implementation of market-based rates.

adopted in the order will permit service providers to continue offering VRS in accordance with the mandatory minimum standards for high quality services, as the Commission transitions to structural reforms and a disaggregated, market-based compensation methodology. The Commission reserved the right to revisit the rates adopted in the Order if provider data shows that the rates remain substantially in excess of actual provider costs.

Video Relay Service providers are required to report historical and projected costs to the Administrator on an annual basis. Following are the results of analyzing the cost data submitted by the IP Relay service providers.

For analysis purposes, the Administrator segregated the provider historical and projected costs into nine distinct categories for review:

- **Facilities**, those expenses associated with land and buildings, etc.;
- **Interpreter Expense**, the costs of the individuals performing the interpretive services;
- **Non-Interpreter Relay Center Expense**, other costs associated with the relay center including supervisory management, telecommunications expense, etc.;
- **Indirect Expense**, finance, human resources, legal expenses, executive compensation, etc.;
- **Depreciation Expense**, annual depreciation on facilities and equipment;
- **Marketing Expense**, the projected costs of advertising the provider's service;
- **Outreach Expense**, the projected costs of notifying consumers of service availability;
- **Other Expenses**, projected expenses not directly associated with one of the other expense categories; and

- **Capital Investment**, the investment in facilities, equipment, furniture, etc. associated with the relay center.

Data submitted by the providers in response to the Administrator’s annual data request are shown below. The data are summed across the providers by category and then divided by annual VRS minutes.

Category	2012	2013	2014	2015
Facilities	\$0.2473	\$0.2181	\$0.2331	\$0.2294
CA Related	\$1.4758	\$1.4608	\$1.4973	\$1.5097
Non-CA Relay Center	\$0.3912	\$0.3820	\$0.3693	\$0.3409
Indirect	\$0.4822	\$0.5406	\$0.5354	\$0.5333
Depreciation	\$0.1683	\$0.1682	\$0.1750	\$0.1817
Marketing	\$0.0399	\$0.0593	\$0.0501	\$0.0498
Outreach	\$0.2412	\$0.2142	\$0.2180	\$0.2161
Other	\$0.0027	\$0.0033	\$0.0017	\$0.0023
Return on Investment	\$0.0449	\$0.0417	\$0.0358	\$0.0285
Total Cost	\$3.0933	\$3.0881	\$3.1158	\$3.0915

There are no noteworthy changes in projected costs with respect to those reported for the two historical years averaging \$3.0907 versus the historical period and \$3.1036 in the projection, a change of \$0.0129 per minute. Outreach expenditures are slightly down from the historical period averaging \$0.2277 versus \$0.2170 in the projection, a reduction of \$0.0107 per minute. The reported projected costs remain well below the rates established by the Commission for the upcoming program year.

IV. Demand Projection Methodology

In order to estimate the annual funding requirement and propose a contribution factor, an estimate of the interstate funding requirement for each of the services is required. The fund requirement equals the service rate multiplied by the tariff year service demand. Providers of services being compensated using the MARS-based rate methodology, (i.e. traditional TRS, STS and CTS), are not required to submit demand projections.

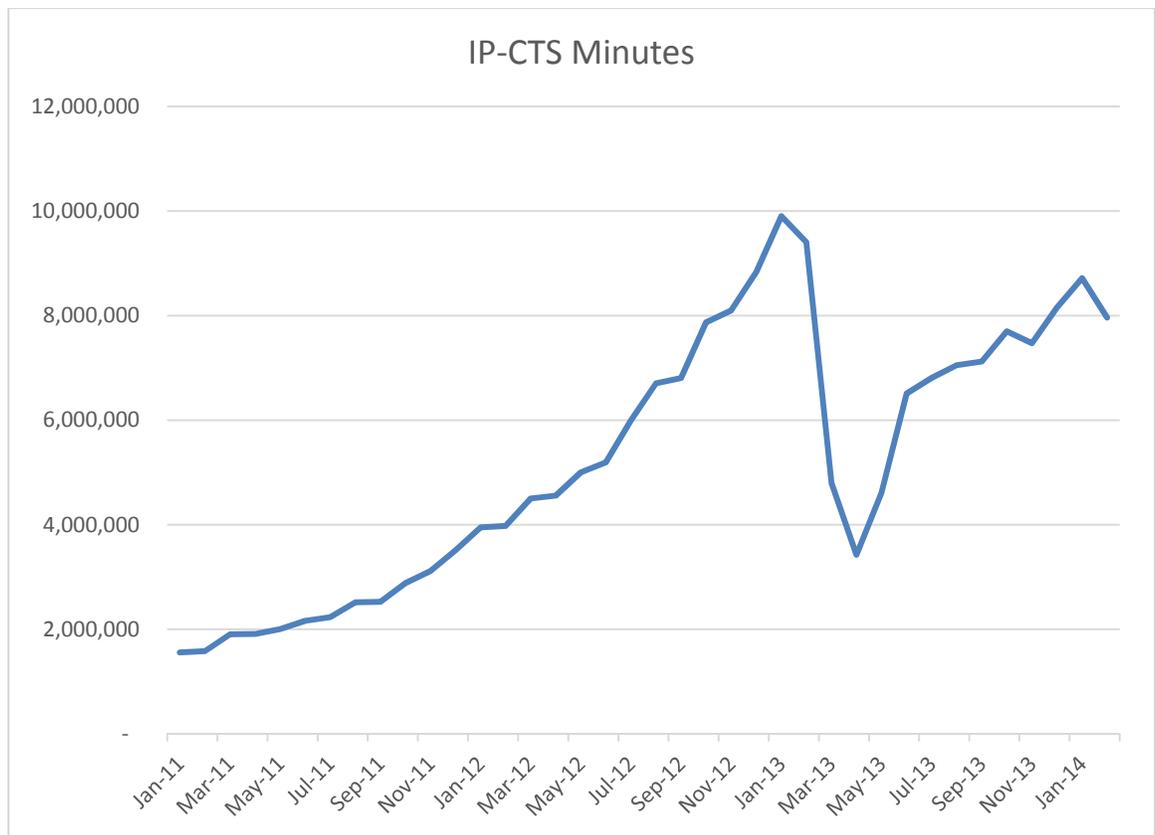
In this report, as was done previously, historical demand was used to estimate the future demand for traditional interstate TRS, STS and CTS. Using the linear trend forecast capability of Microsoft Office Excel, the Administrator projected demand for the 2014 – 2015 Fund year using actual data available to the Administrator at the time the filing is due to the Commission.³⁹ For each of these services, the Administrator projected demand and an estimated funding requirement based on the proposed compensation rates for the funding year. This approach has historically provided reasonably accurate results for these services.

The Administrator has historically used the forecasts submitted by the providers for IP Relay and VRS services and recommends them for use for the 2014 – 2015 funding year. This approach has historically provided reasonably accurate results for these services. The administrator applied the proposed IP Relay rate and current tiered VRS reimbursement rates to calculate the funding requirements for these services.

The IP CTS industry demand projection for the 2014-2015 funding year totals 119,679,289 minutes, a significant reduction when compared to the industry projection

³⁹ In most instances this embodies July 2012 through February 2014 minutes.

for the 2013-2014 Fund year of 181,429,401 minutes. The Administrator considers the compilation of the industry demand forecast to be reasonably valid, despite the recent failure of the industry forecast to reflect the corresponding period's historical result. The reported demand for the first nine months of the current program has reached 70,508,548.5 minutes, or 52% of the projected nine month total for the period. The funding requirement of this unanticipated fluctuation and less than anticipated growth makes it difficult to accurately forecast demand.



IP CTS demand has been affected by a number of factors over the past few years; the most significant among those factors is the entry of an additional service provider, who aggressively expanded its market share over each of the past several years, the introduction of additional regulations and litigation regarding those additional regulations. On December 6, 2013 the United States Court of Appeals for the District of Columbia Circuit granted a partial stay in

response to a motion by Sorenson Communications, Inc. of certain rules on IP CTS that were adopted by the Commission in a Report and Order released on August 26, 2013⁴⁰. Specifically the Court stayed “the rule adopted by the Commission prohibiting compensation to providers for minutes of use generated by equipment consumers received from providers for free or for less than \$75.”⁴¹ IP CTS, a form of telecommunications relay service (TRS) approved in 2007,⁴² enables a telephone caller, by utilizing an Internet-enabled device or software, to simultaneously listen to the other party to the telephone call and read captions of what that party is saying.⁴³ On January 25, 2013, the Commission adopted interim rules to address certain provider practices that appeared to encourage IP CTS usage by individuals who did not need this service to communicate in a functionally equivalent manner.⁴⁴ Among other things, the interim rules required each IP CTS provider, in order to be eligible for compensation from the Fund for providing service to new IP CTS users, (i) to register each new IP CTS user, (ii) as part of the registration process, to obtain from each consumer a self-certification that the consumer has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users, and (iii) where the consumer accepts IP CTS equipment free of charge or at a price below \$75 from any source other than a governmental program, to also obtain from the consumer a certification from an independent, third party

⁴⁰ *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 (2013) (*IP CTS R&O*), review pending sub nom. *Sorenson Communications, Inc. and CaptionCall, LLC v. FCC* (D.C. Cir., No. 13-1246, filed Sept. 6, 2013).

⁴¹ *Stay Order* at 1-2, citing *IP CTS R&O*, 28 FCC Rcd at 13440-48, ¶¶ 41-59. For convenience, we refer to the requirement subject to the stay as “the \$75 equipment charge rule.”

⁴² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379 (2007).

⁴³ See 47 C.F.R. § 64.601(12). Generally, IP CTS uses a connection via the public switched telephone network (PSTN) or voice over Internet Protocol (VoIP) for the voice portion of the call, while the connection carrying the captions between the relay service provider and the relay service user is via the Internet. *Id.*

⁴⁴ *IP CTS Interim Order*, 28 FCC Rcd at 706-09, ¶¶ 6-9.

professional attesting to the same.⁴⁵ Those interim rules became effective on March 7, 2013, with a scheduled expiration date of September 3, 2013.⁴⁶ The *IP CTS Interim Order* was accompanied by a Notice of Proposed Rulemaking (NPRM) in which the Commission sought comment on whether to make permanent, revise, or eliminate the interim rules.⁴⁷

On August 26, 2013, the Commission adopted final rules on IP CTS. Under the final rules adopted by the Commission, among other things, providers who provide IP CTS equipment, software, and applications to consumers after September 30, 2013, at no charge or for less than \$75, were prohibited from receiving compensation from the Fund for minutes of use generated by consumers using such equipment, software, or applications.⁴⁸

The final rules maintain, with modifications, the requirements that IP CTS providers register each new IP CTS user and obtain a self-certification regarding the consumer's understanding of and need to use IP CTS.⁴⁹ In addition, providers must register and obtain certifications from all consumers who commenced service prior to adoption of the interim rules.⁵⁰ The registration and certification requirements of the final rule contains information collections, however, those requirements will not take effect until after OMB has approved them.⁵¹

⁴⁵ *Id.* at 743-44, Appx. D, § 64.604(c)(9). In addition, providers must obtain consumers' self-certification regarding their understanding that captioning services are provided by a live communications assistant (CA) and that these services are supported by a federal fund. *Id.*

⁴⁶ 78 FR 14701, 14702 (2013) (announcing an effective date of March 7, 2013 and an expiration date of September 3, 2013 for section 64.604(c)(9), the rule on registration and certification).

⁴⁷ *IP CTS Interim Order*, 28 FCC Rcd at 704, ¶ 3.

⁴⁸ *IP CTS R&O*, 28 FCC Rcd at 13440-48, ¶¶ 41-59.

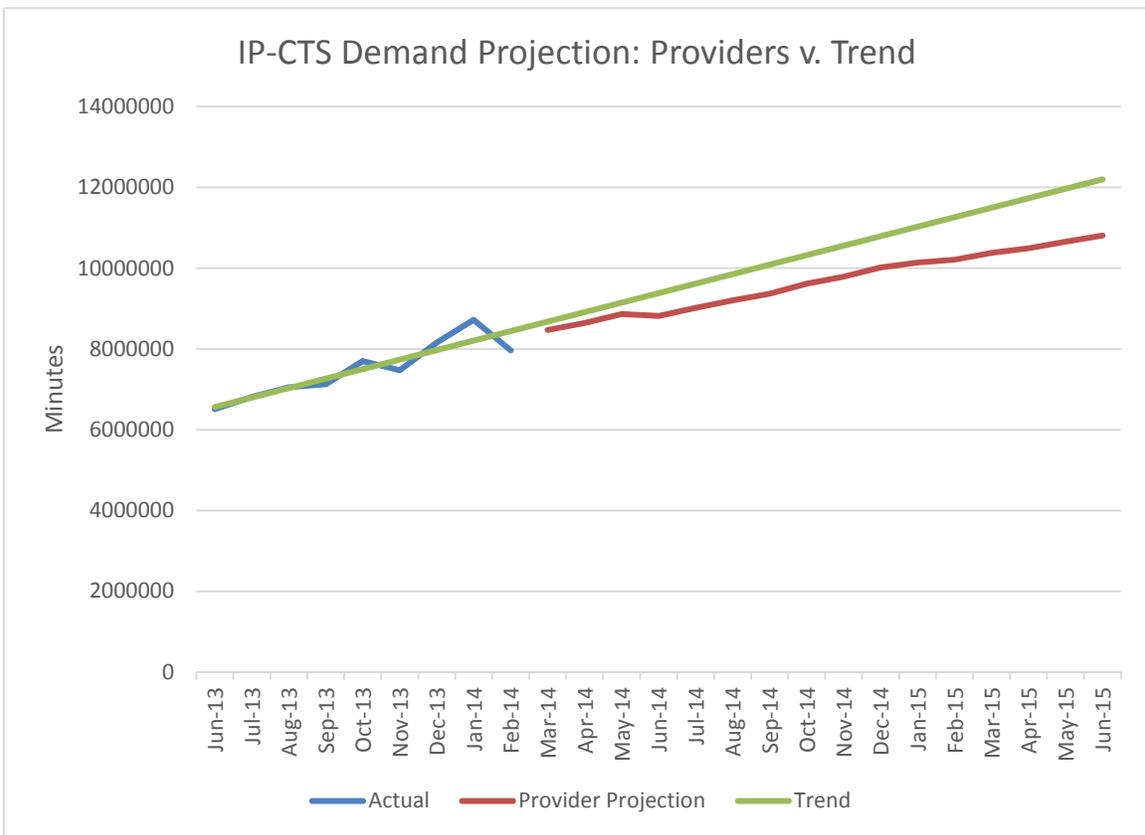
⁴⁹ *See id.* at 13421, ¶ 2, 13496-97, Appx. B, §§ 64.604(c)(9)(i), (iii). In addition to the information required by the interim rules, the final rules require providers, for example, to obtain from registrants the last four digits of the consumer's social security number and the consumer's self-certification that, to the best of the consumer's ability, persons who have not been registered to use Internet protocol captioned telephone service will not be permitted to make captioned telephone calls on the consumer's registered IP captioned telephone service or device. *Id.*

⁵⁰ *Id.* at 13450-55, ¶¶ 66-73, Appx. B, § 64.604(c)(9)(xi).

⁵¹ *Id.* at 13492-93, ¶¶ 166-67.

The \$75 equipment charge rule took effect on September 30, 2013.⁵² As noted, however, on December 6, 2013, the court of appeals stayed this rule.

The Administrator has analyzed the historical growth patterns of IP CTS demand and developed an alternative demand projection from the historical data in the same way that a MARS demand projection was developed for TRS, STS and CTS. The alternative projection of 130,883,347 minutes is described below showing the industry projection and the Administrator’s alternative projection.



The difference between the Provider and Administrator projections is 11,204,058 minutes, which at the calculated MARS rate level is a difference of \$20,396,988. This difference if adopted would increase the recommended contribution factor by 0.0003.

⁵² 78 FR at 53691 (announcing that final rule 64.606(c)(11)(i) shall be effective September 30, 2013).

V. Additional Funding Requirements

A. iTRS Data Base Administration

In the *TRS Numbering Order* the Commission adopted a system for assigning users of internet-based Telecommunications Relay Services (TRS), specifically VRS and IP Relay, ten-digit telephone numbers linked to the North American Numbering Plan. In that *Order*, the Commission identified the types of costs that are compensable from the interstate TRS Fund.

The Commission also determined that the start-up expenses related to the database and the administration of the database should be compensated by the Fund. The *Commission authorized the TRS Fund Administrator to pay the reasonable costs of providing necessary services consistent with this Order directly to the database administrator.*⁵³

The Administrator projected that the 2013-2014 Fund year compensation for the iTRS data base Administrator would be \$415 Thousand. RLSA recommends the same amount be included in the 2014-2015 Fund year.

B. Deaf-Blind Equipment Distribution Program

In its April 6, 2011 Order, the Commission established a National Deaf-Blind Equipment Distribution Program (“NDBEDP”) to certify and provide funding to entities in each state so that they can distribute specialized customer premises equipment (“CPE”) to low-income individuals who are deaf-blind.⁵⁴ Funding for this program has

⁵³ TRS Numbering Order at 101

⁵⁴ *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Report and Order, CG Docket No. 10-210, Adopted April 4, 2011

been established at \$10 million per year beginning with the 2012 – 2013 Fund year. As such, \$10 million has been included in the Interstate TRS Funding Requirement for the 2014-2015 Fund year.

C. TRS Fund Administrator Expenses

Beginning July 1, 2011 the Interstate TRS Fund Administrator became compensated based on a fixed price contract similar to that of the iTRS data base Administrator. For the 2014-2015 Fund year, the projected TRS Fund Administrator expenses are estimated to be \$1,240.1 thousand.

D. Revenue Data Collection Agent Expense

Prospectively, the revenue data collection agent (DCA) and its functions associated with processing the revenue information to determine TRS Fund contributors are to be separately identified from the TRS Fund administrator's costs. The DCA invoices the TRS Fund for 8% of Data Collection costs. For the 2014 – 2015 fund year, the DCA costs are projected to be \$60 thousand.

E. Interstate TRS Advisory Council Expenses

Expenses incurred as a result of the Interstate TRS Advisory Council holding a minimum of two meetings annually as required by the Commission's rules⁵⁵ are now separately identified from the TRS Fund Administrator's expenses. For the 2014 – 2015 Fund year, these expenses are projected to be \$45 thousand.

F. Investment Expense

The Program Administrator has entered into a Non-Custody Investment Advisory Agreement in which the Investment Advisor will direct the investment, reinvestment and

⁵⁵ 47 C.F.R. § 64.604(c)(5)(iii)(H)

changes in the investment of the TRS Fund Account, manage the Qualified Investments and use its best efforts to invest all Escrow Funds in compliance with the FCC letter dated June 20, 2011 (DA 11-1069) regarding the Investment of Telecommunications Relay Service Funds. This Agreement will provide transparency to the costs associated with managing the investments of the Fund. Investment expenses for the 2014-2015 Fund year are estimated to be \$215 thousand.

G. Service Provider Audits

The TRS Fund Administrator's audit plan, applicable to service providers' compliance with the provisions of 47 C.F.R. 64.604 by independent audit firms, has been approved and initiated subject to competitive bid. The Administrator anticipates a funding requirement of \$2.0 million for the audit of service providers during the 2014-2015 Fund year.

H. IPERA

In response to a directive from the FCC, the Administrator developed a plan to establish a baseline error rate for payment from the TRS Fund based on a Memorandum from the Office of Management and Budget (OMB) to Heads of Executive Agencies, *Issuance of revised Parts I and II to Appendix C of OMB Circular A-123 (April 14, 2011) and Part III to OMB Circular A-123, Appendix C*. The Administrator anticipates a funding requirement of \$25 thousand for compliance with this directive to expand on the plan during the 2014-2015 fund year, which is included in the budget estimate for Service Provider audits, and a funding requirement of \$100 thousand to implement the testing provisions of the approved plan, which is in addition to the budget estimate for Service Provider audits.

I. Bankruptcy Representation

During the 2011-2012 Fund year the Administrator found it necessary, with the prior approval of the Commission, to retain outside council to represent the interests of the Fund in various Bankruptcy proceedings. The Administrator anticipates a funding requirement of \$50 thousand for legal representation, subject to Commission prior approval of such legal representation, in bankruptcy matters during the 2014-2015 fund year.

J. Audit Expense

RLSA recommends that the 2014 – 2015 fund year expenses include an allowance to conduct an independent audit of the TRS Fund separate from the independent audit of the FCC. The independent audit is to be competitively bid and is projected to be \$60 thousand.

VI. Contribution Factor Calculation

As previously noted, reimbursement requests are to be processed within two months of receipt by the Administrator. Operationally, service provided in the month of May will be reported to the Administrator in the month of June and paid in the month of July, the first month of the upcoming program year. Similarly service provided in the month of June will be reported in the month of July and paid in the month of August, the second month of the upcoming program year. As a consequence, the Administrator's funding recommendation for the Fund year beginning July 2014 through June 2015, incorporates the demand for the final two months of the expiring program year, which will be paid during the upcoming Fund year, and only ten months of the MARS and service providers' projections to comprise the twelve months funding requirement. In

addition, the Administrator has recommended that the payment reserve be increased from a single month to two months to provide both a reserve and an estimated accrual for the two months that will be reimbursed from the following Fund year.

Collectively, the six relay services and the additional fund requirements total \$974.104 million. Interest on invested funds for the July 2014 – June 2015 period is projected to be approximately \$200 thousand and is used to offset on-going fund requirements.

Historically, the Administrator has recommended that the TRS Fund include an additional component to protect the Interstate TRS program from running short of available funds before the end of the TRS Fund period. In its *2009 and 2010 Rate Orders*, the Commission accepted the Administrator's recommendation to include a surplus of one month's projected distributions to providers be included in the funding requirement.⁵⁶ The Administrator recommends for the 2014-2015 funding year that the budgetary reserve be increased to two months to more appropriately reflect the practice of budgeting demand to reflect the fact that the distributions in the program year include payments for service provided in May and June of the prior year and only ten months of the service provided during the upcoming program year. The use of a budgetary reserve of two average month's projected distributions to providers, \$134.3 million, is included in the funding requirement.⁵⁷ It is anticipated that there will be a surplus of approximately \$184.1 million, at June 30, 2014 and earnings on invested funds will be approximately \$250 thousand.

⁵⁶ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order, CG Docket No. 03-123, 23 FCC Rcd 9976 (2008 Rate Order) at n. 56

⁵⁷ One month's average distribution equates to approximately 8.2% which is less than the 10% surplus approved in prior funding years.

The total projected funding requirement for the 2014-2015 funding year is estimated to be \$789.85 million. The component parts of the projected funding requirement are displayed in Exhibit 2.

Based on the 2014-2015 demand projections and the proposed rates contained herein coupled with the calendar year 2013 revenue base, the Administrator estimates that the contribution factor will need to be 0.0.01174.

VII. Program Administration

A. Interstate TRS Fund Advisory Council Reports

Pursuant to section 64.604 of the Commission's rules, the Advisory Council advises the Administrator on interstate TRS cost recovery matters.⁵⁸ The Advisory Council includes non-paid volunteers from the hearing and speech disability community, TRS users (voice and text telephone), state regulators and relay administrators, interstate service providers, and TRS providers. Appendix E contains a listing of current Advisory Council members.⁵⁹

On October 17, 2013 the Advisory Council met in Albuquerque, New Mexico. The minutes of that meeting are attached as Appendix F.

On April 15, 2014, the Advisory Council met to review the proposed MARS and IP reimbursement rates, for the July 2014 – June 2015 funding period prior to submission of the filing to the FCC by May 1, 2014. The Administrator presented the results of the annual TRS provider data collection and proposed compensation rates for each service based on the TRS Cost Recovery Order to the Advisory Council. The Administrator

⁵⁸ 47 C.F.R. § 64.604 (c)(5)(iii)(H).

⁵⁹ In a July 1999 Order, the FCC authorized the addition of a position in the hearing and speech disability community category for a representative from the speech disability community. *See Appointment of the Telecommunications Relay Services (TRS) Fund Administrator and Composition of the Interstate TRS Advisory Council*, CC Docket No. 90-571, Memorandum Opinion and Order, 14 FCC Rcd 10553 (1999).

presented preliminary proposed compensation rates for each non-VRS service and demand projections to the Advisory Council.⁶⁰

B. Audit Report

Included in Appendix H are copies of the TRS Fund Performance Status Reports for the period ended July, 2013, through March 2014.

⁶⁰ Minutes for the April 15, 2014 meeting are attached as Appendix G , but will not be reviewed or approved by the Council until the next scheduled meeting.

Appendices:

- Appendix A ----** Interstate TRS Fund 2013 Intrastate Rate and Minute Data for MARS Methodology (State Data Collection Form & Instructions)
- Appendix B ----** Interstate TRS Fund Annual Provider Information (Provider Data Collection Form & Instructions)
- Appendix C ----** TRS & STS Intrastate Rate Data for prior year
- Appendix D ----** CTS Intrastate Rate Data for prior year
- Appendix E ----** Current Advisory Council Members
- Appendix F ----** TRS Council meeting Minutes
- Appendix G ----** TRS Council meeting Minutes
- Appendix H ----** TRS Fund Performance Reports July 2013 – March 2014

Exhibits:

- Exhibit 1-1 ----** Displays TRS & STS data collected from states for the Interstate MARS rate calculation.
- Exhibit 1-2 ----** Displays CTS data collected from states for the Interstate MARS rate calculation.
- Exhibit 1-3 ----** Displays IP Relay Average Cost per Minute and Demand data [REDACTED]
- Exhibit 1-4 ----** Displays IP CTS Historical and Projected Demand and Cost Data
- Exhibit 2 ----** Displays the proposed Interstate TRS Fund Size and Contribution Factor for the July 2014 through June 2015 Fund Year.
- Exhibit 3 ----** Anticipated Reporting and Related Distribution Schedule.