

Before the
Federal Communications Commission
Washington, D.C. 20554

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

ORDER

Adopted: June 30, 2020

Released: June 30, 2020

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this order, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (Commission) adopts per-minute provider compensation rates for telecommunications relay services (TRS) supported by the Interstate Telecommunications Relay Services Fund (TRS Fund, or Fund) for the Fund Year beginning July 1, 2020, and ending June 30, 2021 (2020-21 Fund Year).¹ This order also determines, for the 2020-21 Fund Year, the total size of the TRS Fund and the contribution factors that determine the amounts that telecommunications carriers and other covered service providers must contribute to the Fund.

2. Compensation for four of the six current forms of TRS—the three forms of state-program TRS and Internet Protocol Relay Service (IP Relay)—are adopted by this order.² For TRS provided through state TRS programs, effective July 1, 2020, the per-minute compensation rates for interstate TRS shall be: (1) for traditional TRS, \$3.7526; (2) for speech-to-speech relay service (STS), \$4.8836; and (3) for captioned telephone service (CTS), \$2.3153. These rates are based on recommendations of the current

¹ TRS enables an individual who is deaf, hard of hearing, or deafblind or who has a speech disability to communicate by telephone or other device through the telephone system. See 47 U.S.C. § 225(a)(3). TRS is provided in a variety of ways. Currently, interstate TRS calls and all Internet Protocol (IP) based TRS calls, both intrastate and interstate, are supported by the Fund. See 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, 379-81, 390, paras. 3-6, 25 (2007).

² As explained in the text, this order does not adopt rates for the 2020-21 Fund Year for the Video Relay Service (VRS) and the Internet Protocol (IP) Captioned Telephone Service (IP CTS).

Fund administrator, Rolka Loube Associates, LLC (Rolka Loube) and our review of the relevant data.³ For IP Relay, as described below, we adopt a compensation rate of \$1.7146 per minute for the 2020-21 Fund Year.

3. For VRS, under the Commission's 2017 Report and Order, the following tiered rates apply:⁴

Tier (by Minutes of Use)	2020-21 Fund Year (per minute rate)
Emergent rate for VRS providers with 500,000 or fewer minutes in a month	\$5.29
Tier I (1 st 1,000,000 monthly minutes) for VRS providers with more than 500,000 minutes in a month	\$4.82
Tier II (1,000,001 to 2,500,000 monthly minutes)	\$3.97
Tier III (monthly minutes exceeding 2,500,000)	\$2.63

The current rate for IP CTS, \$1.58 per minute, has been provisionally extended through September 30,

³ See Rolka Loube, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51 (filed May 1, 2020) (2020 TRS Rate Filing), <https://ecfsapi.fcc.gov/file/105013048227177/2020%20Annual%20TRS%20Fund%20Report.pdf>, and Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate Supplemental Comment, CG Docket Nos. 03-123 and 10-51 (filed June 5, 2020) (2020 TRS Rate Filing Supplement), <https://ecfsapi.fcc.gov/file/10605033505315/Supplemental%202020%20Annual%20Report.pdf>. Under the Commission's TRS rules, the Fund administrator is required to file TRS payment formulas and revenue requirements with the Commission on May 1st of each year, to be effective the following July 1st. 47 CFR § 64.604(c)(5)(iii)(E), (H). Sprint Communications Company, L.P., filed a request for waiver of certain Commission rules affecting the rate for IP Relay. See Request for Interim Waivers and Rate Relief, CG Docket 03-123 and RM-11820 (filed Apr. 30, 2020) (Sprint IP Relay Waivers Request), <https://ecfsapi.fcc.gov/file/104301471305551/IP%20Relay%20Rate%20Request%20-%20Final%20Redacted%20-%2004.30.2020.pdf> (redacted). On May 15, 2020, the Bureau released a public notice seeking comment on Rolka Loube's proposed compensation rates, revenue requirement, and contribution factors for the 2020-21 Fund Year and on Sprint's waiver request. *Rolka Loube Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the 2020-21 Fund Year; Consumer and Governmental Affairs Bureau Seeks Comment on Sprint's Request for Interim IP Relay Waivers and Rate Relief*, Public Notice, DA 20-522 (CGB 2020) (2020 TRS Rate Filing Public Notice). The Commission received comments on May 29, 2020, from USTelecom – the Broadband Association (USTelecom), Hamilton Relay, Inc. (Hamilton), Uniti Group, Inc. (Uniti), and ASL Services Holdings, LLC d/b/a GlobalVRS (GlobalVRS). On June 5, 2020, Sprint and Mezmo Corporation d/b/a InnoCaption (InnoCaption) filed reply comments.

⁴ See *Structures and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Order, 32 FCC Rcd 5891, 5916-24, paras. 49-63 (2017) (2017 VRS Rate Order) (setting a four-year, tiered rate structure for VRS compensation through the 2020-21 Fund Year).

2020.⁵ The IP CTS rate for the 2020-21 Fund Year will be set in a separate order by the Commission.⁶

4. Based on these compensation rates, projected demand for the services, and projected Fund administration expenses, we adopt a funding requirement of \$1,634,678,939. We adopt a carrier contribution factor of 0.01360 for support of non-IP CTS TRS, applied to contributors' interstate and international end-user revenues. For support of IP CTS, we adopt a carrier contribution factor of 0.00962, applied to contributors' intrastate, interstate, and international end-user revenues, pursuant to the recent rule modification requiring that intrastate end-user revenues, for the first time, be included in the TRS Fund contribution base for the purpose of supporting IP CTS.⁷

II. DISCUSSION

A. Compensation Rates for Traditional TRS, STS, and CTS

5. For traditional TRS, STS, and CTS, we adopt Rolka Loubé's proposed per-minute compensation rates for the 2020-21 Fund Year: \$3.7526 for interstate traditional TRS; \$4.8836 for interstate STS; and \$2.3153 for interstate CTS. These rates represent increases of approximately 20% for traditional TRS, 15% for STS, and 1.5% for CTS, relative to the 2019-20 Fund Year rates for those services.⁸ Rolka Loubé developed each of these rates by applying the Multi-State Average Rate Structure (MARS) methodology adopted in the *2007 TRS Compensation Methodology Order*.⁹ The MARS rate is calculated by collecting each state's intrastate TRS, STS, and CTS rates and minutes of use data and averaging the state data to determine the appropriate interstate rates for these services.¹⁰ No party opposes Rolka Loubé's recommended rates.¹¹ We conclude that these rates correctly apply the MARS methodology and should be adopted.

⁵ The Bureau recently granted a waiver extending the expiration date for the current IP CTS compensation rate from June 30 to September 30, 2020—unless the Commission takes action with an earlier effective date—to allow time to gather additional information on the impact of the COVID-19 pandemic on providers' costs and usage projections. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, DA 20-570 (CGB May 29, 2020) (*2020 IP CTS Rate Extension Order*).

⁶ See *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 and 03-123, Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, 33 FCC Rcd 5800, 5810-16, paras. 19-26 (2018) (*IP CTS Modernization Order*) (establishing interim IP CTS compensation rates for the 2018-19 and 2019-20 Fund Years).

⁷ See *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 and 03-123, Report and Order, 34 FCC Rcd 11265, 11268-69, paras. 7-12 (2019) (*IP CTS Contribution Base Order*) (including intrastate revenues in contribution base for IP CTS).

⁸ 2020 TRS Rate Filing at 12-14. Consistent with rate determinations in past years, the STS rate includes a supplemental per-minute amount (\$1.1311) to be used for STS outreach. *Id.* at 13; see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20170, para. 57 (2007) (*2007 TRS Compensation Methodology Order*).

⁹ See *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20151-61, paras. 16-38.

¹⁰ Rolka Loubé requests authorization to identify the rates and demand by states in future annual reports, unless the reporting state requests confidentiality. For this report, Rolka Loubé has not identified the states in deference to provider requests for confidentiality. 2020 TRS Rate Filing at 13; see *id.* Ex. 1-1. Rolka Loubé's request is not addressed in this Order.

¹¹ Hamilton supports the TRS Fund administrator's proposed rates for traditional TRS, STS, and CTS. Hamilton Comments at 2-3.

B. Compensation Rate for IP CTS

6. In the *IP CTS Modernization Order*, the Commission terminated use of the MARS methodology for IP CTS, adopted interim IP CTS compensation rates for Fund Years 2018-19 and 2019-20,¹² and initiated a rulemaking on future compensation, including for the 2020-21 Fund Year. The rulemaking remains open, and pursuant to the Bureau's recent order, the \$1.58 rate remains provisionally applicable through September 30, 2020.¹³

C. Compensation Rates for VRS

7. For VRS, the per-minute compensation rates for the 2020-21 Fund Year are the applicable tiered rates set forth in the four-year compensation plan adopted by the Commission in 2017, effective from July 1, 2017, through June 30, 2021.¹⁴ These rates, which are not subject to modification by this Order, are unchanged from the 2019-20 Fund Year. For VRS providers with more than 500,000 monthly minutes, the applicable per-minute VRS compensation rates for the 2020-21 Fund Year are: \$4.82 per completed conversation minute for a provider's first 1,000,000 monthly minutes (Tier I); \$3.97 per completed conversation minute for a provider's monthly minutes between 1,000,001 and 2,500,000 (Tier II); and \$2.63 per completed conversation minute for a provider's monthly minutes exceeding 2,500,000 (Tier III).¹⁵ For VRS providers with 500,000 or fewer monthly minutes, the applicable per-minute VRS compensation rate for the 2020-21 Fund Year is \$5.29 per completed conversation minute (Emergent Tier).¹⁶

D. Compensation Rate for IP Relay

8. For IP Relay, we adopt a per-minute compensation rate of \$1.7146 for the 2020-21 Fund Year, an approximately 2.7% increase over the 2019-20 rate of \$1.67.

9. *Background.* IP Relay is subject to a price-cap-like methodology, and the 2019-20 Fund Year began a new three-year rate cycle.¹⁷ Under this methodology, the base compensation rate established at the beginning of the cycle remains in effect for the entire three-year period, subject to possible adjustments for inflation, efficiency, and exogenous costs.¹⁸ Rolka Loube recommends that the

¹² *IP CTS Modernization Order*, 33 FCC Rcd at 5810-16, paras. 19-26. Sprint filed a petition for partial reconsideration of the *IP CTS Modernization Order*, urging that the IP CTS rate be "frozen" at the \$1.9467 level applicable in the 2017-18 Fund Year. Sprint, Petition for Reconsideration, CG Docket Nos. 13-24 and 03-123 (filed July 27, 2018). The petition remains pending.

¹³ See *2020 IP CTS Rate Extension Order*. The provisional extension of the \$1.58 rate does not preclude a true-up of compensation, should the Commission deem that to be necessary after adopting an IP CTS compensation methodology and rate. *Id.*, para. 11.

¹⁴ *2017 VRS Rate Order*, 32 FCC Rcd at 5891, para. 1.

¹⁵ *Id.* at 5935, Appx. A.

¹⁶ *Id.* at 5916-17, paras. 49-50.

¹⁷ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 34 FCC Rcd 5171, 5174-75, para. 8 (CGB 2019) (*2019 TRS Rate Order*).

¹⁸ *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20159-60, paras. 43-46; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 25 FCC Rcd 8689, 8700, paras. 25-26 (2010). The inflation factor is Gross Domestic Product – Price Index (GDP-PI). *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20163, paras. 43-44. The rate is also subject to adjustment to allow recovery of exogenous costs. *Id.* at 20163, paras. 43-44.

IP Relay rate be increased to \$1.7146.¹⁹ Sprint, currently the sole provider of IP Relay service,²⁰ requests two waivers of the Commission's TRS cost recovery rules: (1) renewal of the one-year waiver granted last year to allow recovery of IP Relay outreach costs; and (2) a waiver to allow recovery of an allocation of Sprint's general overhead costs.²¹ Sprint also requests that we modify the applicable rate calculation methodology on an interim basis, pending adoption of a new rate methodology for IP Relay.²² Specifically, Sprint proposes that its compensation rate for 2020-21 be calculated anew on the basis of its projected costs for 2020 and 2021, rather than the average of historical and projected costs considered in our 2019 order, yielding a rate of \$1.86.²³ As an alternative to interim modification of the rate methodology, Sprint proposes adjustments to the \$1.67 base rate for inflation, efficiency, and exogenous costs based on new information regarding these price cap factors, which, as calculated by Sprint, would produce a rate of \$1.81.²⁴ No party opposes and one party supports Sprint's requests for waivers and rate relief.²⁵

10. As discussed below, we renew the outreach cost waiver for an additional year, but deny Sprint's request for waiver of the non-allowability of indirect overhead costs. We deny Sprint's request to revisit the 2019 order's determinations on averaging historical and projected costs and on the applicable inflation and efficiency factors. We also deny Sprint's request for exogenous cost recovery. However, based on Rolka Loube's cost analysis and recommendation, and special circumstances as described below, we waive the current cost methodology to the extent necessary to increase the compensation rate to \$1.7146 per minute.

1. Sprint's Request for Waivers

11. *Waiver Standard.* In considering Sprint's requests for waiver of various rules on allowability of costs, we note that the Commission's rules may be waived for good cause shown.²⁶ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²⁷ In determining whether to grant a waiver, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy

¹⁹ 2020 TRS Rate Filing at 18. This recommendation is based on a bottom-up recalculation of IP Relay costs based on Sprint's 2020 annual cost filing, rather than application of price cap adjustments to the \$1.67 base rate.

²⁰ On May 1, 2020, Sprint notified the Commission that it had completed a merger with T-Mobile US, Inc. See Letter from Scott R. Freiermuth, Sprint Communications Company, L.P., to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51 (filed May 1, 2020). Sprint became an indirect, wholly owned subsidiary of T-Mobile. In this order, we continue to refer to the current IP Relay provider as Sprint.

²¹ Sprint IP Relay Waivers Request at 3-10; see also *2019 TRS Rate Order*, 34 FCC Rcd at 5175, 5178-80, para. 10, 16-19.

²² Sprint IP Relay Waivers Request at 12-14. In November 2018, Sprint petitioned for a rulemaking to change the Commission's methodology for setting IP Relay compensation. Petition for Rulemaking of Sprint Corporation, CG Docket No. 03-123 and RM-11820 (filed Nov. 1, 2018); *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Rulemaking by Sprint Corporation to Establish a New Ratemaking Methodology for IP Relay Service*, CG Docket No. 03-123 and RM-11820, Public Notice, 33 FCC Rcd 11076 (CGB 2018).

²³ Sprint IP Relay Waivers Request at 12-14. In its Reply Comments, Sprint provides additional cost data in support of this request, supplementing its annual cost submission by detailing costs recently incurred during the COVID-19 pandemic. Sprint Reply Comments at 3-10 (redacted).

²⁴ Letter from Scott R. Freiermuth, Sprint, to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51 & RM-11820, (filed June 17, 2020) (*Sprint June 17 Ex Parte*).

²⁵ See InnoCaption Reply Comments at 2-3.

²⁶ 47 CFR § 1.3.

²⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

on an individual basis.²⁸ Waiver of the Commission's rules is appropriate if special circumstances warrant a deviation from the general rule and if such a deviation will serve the public interest.²⁹

12. *Outreach.* In 2016, the Bureau granted a partial, one-year waiver of the Commission's prohibition on outreach cost recovery³⁰ to permit recovery of costs for specific IP Relay outreach efforts to meet the TRS needs of people who are deafblind.³¹ This waiver was renewed each year thereafter. In 2019 the Bureau expanded the scope of the waiver to permit Sprint to recover costs for its outreach efforts to the broader community of potential IP users.

13. We find good cause to renew Sprint's outreach waiver for an additional year. As we have previously determined, outreach to people who are deafblind, who often rely upon IP Relay as their sole or primary means of communicating by telephone,³² requires specifically targeted efforts that take account of these consumers' unique disabilities.³³ Further, given the relatively low overall usage of IP Relay, it appears likely that more effective outreach is needed to ensure that all potential users are aware of the availability of the service.³⁴ And as we determined in 2019, given that there is currently only one IP Relay provider, provider-driven outreach in this context is more likely to be effective—compared to when the outreach ban was adopted—in reaching new-to-category users (rather than merely attracting existing users from competing providers), particularly as the relevant population changes over time.³⁵ The quarterly reports filed by Sprint regarding its outreach expenditures indicate that Sprint's outreach

²⁸ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

²⁹ *Northeast Cellular*, 897 F.2d at 1166.

³⁰ See *2013 VRS Reform Order*, 28 FCC Rcd at 8634-39, 8696, paras. 31-39, 192 (disallowing the recovery of outreach expenses in VRS and IP Relay compensation).

³¹ See *2016 TRS Rate Order*, 31 FCC Rcd at 7251-52, para. 19; see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 32 FCC Rcd 5142, 5145-45, paras. 11-13 (CGB 2017) (*2017 TRS Rate Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 33 FCC Rcd 6300, 6304, para. 11 (CGB 2018) (*2018 TRS Rate Order*); *2019 TRS Rate Order*, 34 FCC Rcd at 5178-79, para. 16.

³² See, e.g., *2016 TRS Rate Order*, 31 FCC Rcd at 7250, para. 14.

³³ See, e.g., *id.* at 7250, 7251-52, paras. 14, 18-19; *2019 TRS Rate Order*, 34 FCC Rcd at 5178-79, para. 16; see also *2020 TRS Rate Filing* at 18 (recommending inclusion of allowance for outreach activities to the deafblind community).

³⁴ *Sprint IP Relay Waivers Request* at 6; see also *2019 TRS Rate Order*, 34 FCC Rcd at 5179, para. 17. Outreach conducted pursuant to this waiver will not duplicate the efforts of the National Outreach Program. *Id.*; see also *Sprint IP Relay Waivers Request* at 6-7; Gallaudet University, Office of National Outreach, <https://www.gallaudet.edu/office-of-national-outreach>.

³⁵ See *Sprint IP Relay Waivers Request* at 6-7; see also *2019 TRS Rate Order*, 34 FCC Rcd at 5179, para. 18.

activities have been appropriately targeted for the above purposes.³⁶ In addition, as we determined in the *2019 TRS Rate Order*, the IP Relay registration safeguards previously adopted by the Commission will continue to protect IP Relay from individuals who would misuse the program.³⁷

14. As with previous waivers granted for outreach, this waiver is conditioned on periodic reporting to ensure that the costs incurred and activities undertaken pursuant to this waiver advance the purposes of the TRS program. However, we modify the reporting requirement to reduce the associated paperwork burden. Because Sprint has been diligent in submitting required reports during prior waiver periods, and because we have found no inaccuracies or inconsistencies in prior reports, we find that less detailed and less frequent reports will suffice to provide the information we need. The reports shall include an itemized list of each new hire, each type of outreach activity conducted, the total amounts expended on general outreach and deafblind outreach respectively, an explanation of how common expenses are allocated between general outreach and outreach to the deafblind community, and a count of active registered users as of the end of each reporting period (*i.e.*, all registered users who have placed or received at least one IP Relay call in the last 12 months). We also find that two reports per year, rather than quarterly reports, are sufficient for the Commission to conduct the necessary evaluations. These reports shall be filed with the TRS Fund administrator and CGB and shall be due on November 1, 2020 (covering the five months from May 1 through September 30, 2020), and April 1, 2021 (covering the five months from October 1, 2020, through February 28, 2021).³⁸

15. *Indirect Overhead.* We deny Sprint's request for a waiver to enable recovery of indirect overhead costs in the IP Relay compensation rate.³⁹ As we found to be the case last year, Sprint has not demonstrated with particularity good cause to depart from the general rule prohibiting indirect recovery of overhead on a non-cost-causative basis.⁴⁰ The Commission adopted this rule specifically to address the types of cost allocation issues posed by service providers that, like Sprint, "operat[e] an extensive

³⁶ See Letters from Scott R. Freiermuth, Counsel, Government Affairs, Federal Regulatory, Sprint Corporation to Eliot Greenwald, Deputy Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau, FCC and David Rolka, Rolka Loube, TRS Fund Administrator (filed Sept. 3, 2019, Dec. 3, 2019, Mar. 2, 2020, June 1, 2020) (confidential) (each with an attachment entitled "Sprint IP Relay, Service Improvements & Outreach Activities, Quarterly Report"). For example, Sprint reports that its outreach staff (including a newly hired subject matter expert) and contractors made presentations at dozens of local and national deaf-centric events across the United States, made informational material available in accessible formats, and collected feedback from the deafblind community. See Sprint IP Relay, Service Improvements & Outreach Activities, Quarterly Report at 1-3 (Dec. 3, 2019); Sprint IP Relay, Service Improvements & Outreach Activities, Quarterly Report at 1-3 (Mar. 3, 2020); Sprint IP Relay, Service Improvements and Outreach Activities, Quarterly Report, at 1-3 & n.1 (June 1, 2020).

³⁷ See *2019 TRS Rate Order*, 34 FCC Rcd at 5179, para. 18 & n.57.

³⁸ We have set an earlier filing date for the final report in order to provide more time for review of the report before the waiver's expiration date. Therefore, each reporting period for this waiver covers five months rather than six. Information on general outreach and outreach to the deafblind community (which may be combined in one report) shall be presented separately and shall clearly delineate expenses for each of the two types of outreach.

³⁹ See Sprint IP Relay Waivers Request at 7-10.

⁴⁰ *2019 TRS Rate Order*, 34 FCC Rcd at 5180-81, para. 20 (footnotes omitted); see *TRS Compensation Methodology Order*, 22 FCC Rcd at 20169, para. 75.

portfolio of non-TRS communications offerings.”⁴¹ Thus, while Sprint claims it would be “hopelessly complex and burdensome” to have employees serving multiple lines of business keep track of the time spent on IP Relay alone,⁴² it has not shown that such cost-tracking is unusually burdensome to Sprint in ways not considered when the rule was adopted.

2. IP Relay Compensation

16. The 2020-21 rate year will be the second year of a three-year price cap cycle under the methodology established by the Commission in 2007.⁴³ In the *2019 TRS Rate Order*, the Bureau set a base compensation rate of \$1.67 per minute and adopted Rolka Loube’s recommendation to set the efficiency factor equal to the inflation factor.⁴⁴ As a result, under the price cap methodology, the two factors cancel each other, producing no net adjustment of the rate during the three-year cycle.

17. We deny Sprint’s request for a recalculation of the rate based on Sprint’s average projected costs for calendar years 2020 and 2021.⁴⁵ In effect, Sprint requests reconsideration of the *2019 TRS Rate Order*, in which we determined that the IP Relay base rate should be set based on an average of projected and historical costs. Because Sprint failed to request reconsideration of that order before the applicable deadline, we decline to undertake such a reassessment. We also deny Sprint’s request to revisit the inflation and efficiency factors—likewise a late request for reconsideration of the 2019 order.

18. We are also unpersuaded by Sprint’s request for a \$.06 increase to recover exogenous costs.⁴⁶ Sprint’s exogenous cost submission lacks sufficient detail regarding the expenses that it claims have been or will be incurred, e.g., to compensate communications assistants,⁴⁷ relying instead on general statistical information about national labor cost trends.⁴⁸

19. However, we agree with Rolka Loube that an upward adjustment of the base

⁴¹ Sprint IP Relay Waivers Request at 8; see *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20169, para. 75. At the time the rule was adopted, a number of telecommunications carriers were offering some form of TRS, and the Commission had expressed concern, for example, “about the extent to which some salaries of corporate officers and executives have been included in submitted costs” for TRS. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 90-571 & 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, 12544, para. 182 n.520 (2004) (*2004 TRS Report & Order*).

⁴² Sprint IP Relay Waivers Request at 9.

⁴³ *2019 TRS Rate Order*, 34 FCC Rcd at 5174, para. 8; *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20143, paras. 43-45.

⁴⁴ *2019 TRS Rate Order*, 34 FCC Rcd at 5174, 5175, paras. 8, 10 n.24.

⁴⁵ See Sprint IP Relay Waivers Request at 12-14; *2019 TRS Rate Order*, 34 FCC Rcd at 5175, para. 14.

⁴⁶ See Sprint Reply Comments at 8-10; Sprint June 17 Ex Parte at 4. The price-cap-like methodology used for IP Relay includes potential upward adjustments for exogenous costs, “i.e., those costs beyond the control of the IP Relay providers that are not reflected in the inflation adjustment.” *2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20163, para. 44.

⁴⁷ See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities Internet-based Captioned Telephone Service; E911 Requirements for IP-Enabled Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11627-28, para. 99, (2008) (requiring TRS providers seeking exogenous cost recovery for their “actual reasonable costs” of complying with new numbering requirements to submit to the Fund administrator “a reasonably detailed explanation of those costs incurred”) (emphasis added).

⁴⁸ Sprint Reply Comments at 8-10; Sprint June 17 Ex Parte, Attach. A. Our denial of this request does not preclude consideration of more detailed and complete information submitted at a later time regarding unforeseen exogenous costs incurred by Sprint.

compensation rate is warranted based on a recent, unforeseen increase in historical and projected IP Relay costs, which is reflected in the rate recommended by Rolka Loube.⁴⁹ Therefore, on our own motion we waive the price cap methodology to the extent necessary to increase the compensation rate to the \$1.7146 level recommended by Rolka Loube for a one-year period beginning July 1, 2020.⁵⁰ We estimate that the new rate will increase expenditures for IP Relay by approximately \$300,000 in the 2020-21 Fund Year compared to the 2019-20 rate of \$1.67 per minute.

E. Funding Requirement and Carrier Contribution Factors

20. Rolka Loube proposes a funding requirement of \$1,634,678,939.⁵¹ To calculate the annual funding requirement, the Fund administrator sums the projected payments to TRS providers for each form of TRS (determined by multiplying the proposed compensation rate for each service category by the projected minutes of use for that category), adds administrative expenses and other funding requirements, and subtracts the projected surplus from the previous Fund Year.⁵²

21. For traditional TRS, STS, and CTS, Rolka Loube projects demand using recent historical data, an approach that has provided reasonably accurate results for these services.⁵³ For VRS, IP Relay, and IP CTS, Rolka Loube takes as a starting point the providers' aggregate demand projections for 2020-21, which in recent years have generally produced reasonably accurate results.⁵⁴ After the onset of the COVID-19 pandemic in March 2020, however, demand for these services sharply increased, and Rolka Loube anticipates that demand will remain at elevated levels for the duration of the pandemic.⁵⁵ Therefore, Rolka Loube has added a 25% increase to VRS, IP CTS, and IP Relay provider projected demand for the months May 2020 through April 2021.⁵⁶ We find that Rolka Loube's TRS demand projections are reasonable for budgeting purposes.⁵⁷

22. We adopt Rolka Loube's proposed funding requirements, which total \$13,438,208 for relay services that use the MARS methodology—traditional TRS, STS, and CTS—\$14,348,446 for IP

⁴⁹ See 2020 TRS Rate Filing at 18. Labor costs are a major portion of IP Relay costs due to the use of professional communications assistants, which Sprint employs both directly and through contractors. Sprint June 17 Ex Parte at 3; 2019 TRS Rate Order, 34 FCC Rcd at 5176, n.26. In its waiver request, Sprint explains that . Sprint IP Relay Waivers Request at 14 (confidential version).

⁵⁰ See 47 CFR § 1.3 (Commission may waive a provision of its rules on its own motion for good cause). No party contends that the rate increase proposed by Rolka Loube is excessive. Our allowed rate adjustment is \$1.7146.

⁵¹ 2020 TRS Rate Filing Supplement at 2. In its supplemental filing, Rolka Loube updated the contribution base and projected demand with the most recent data from the TRS Fund Data Collection Agent, but did not change the total funding requirement.

⁵² See 2020 TRS Rate Filing at 22-26.

⁵³ 2020 TRS Rate Filing at 22.

⁵⁴ *Id.*

⁵⁵ *Id.* at 7-8, 22-23.

⁵⁶ *Id.* at 23.

⁵⁷ The only party commenting on the demand projections supported the recommended funding requirement and contribution factor for IP CTS, based on the current \$1.58 per-minute rate, increased demand due to the COVID-19 pandemic, and expansion of the contribution base to include interstate and intrastate revenues. Hamilton Comments at 3-4.

Relay, \$560,477,547 for VRS, and \$1,022,015,600 for IP CTS.⁵⁸ The total funding requirement for payments to TRS providers is \$1,610,279,802.

23. In addition to projected payments for TRS, Rolka Loube includes in its proposed funding requirement a \$10,000,000 funding allocation for the National Deaf-Blind Equipment Distribution Program (NDBEDP).⁵⁹ Rolka Loube recommends a total of \$19,251,000, for Fund administrative costs, including expenditures for VRS reform implementation, TRS Numbering Directory administration, Fund administrator compensation, the revenue data collection agent, the Interstate TRS Advisory Council, service provider audits, implementation of Office of Management and Budget Circular A-123, bankruptcy counsel, an independent audit of the Fund, TRS user identity verification, and other Fund administration tasks.⁶⁰ No comments were received regarding these allocations. We find the recommended expenditures to be fair and consistent with prior year Fund administrative expenses.⁶¹

24. Rolka Loube also recommends a two-month payment reserve, totaling \$171,433,015 for IP CTS and \$98,715,122 for other TRS, for a total reserve of \$270,148,137.⁶² No party opposes this recommendation. We find that a two-month reserve, which has been maintained for the past six Fund Years,⁶³ is a reasonable precautionary measure to guard against the possibility of unanticipated demand for TRS that can unexpectedly increase the need for Fund payments in the course of a Fund Year.⁶⁴ To the extent that it goes unused, the payment reserve is not wasted. Rather, the remaining portion is turned over for use in the next Fund Year.⁶⁵

25. In summary, we conclude that Rolka Loube's demand projections are reasonable and that, subject to the adjustments discussed above, its funding proposals are consistent with the Commission's rules on contribution computations.⁶⁶ We therefore adopt a total funding requirement of \$1,634,678,939 (after subtracting the estimated \$275 million surplus from the current year).

⁵⁸ 2020 TRS Rate Filing Supplement, Exh. 2 (updated). Rolka Loube used the current \$1.58 per minute rate for IP CTS to calculate the TRS revenue requirement for the 2020-21 Fund Year. 2020 TRS Rate Filing at 15. If adjustments to the funding requirement and contribution factors are needed after the Commission adopts an IP CTS rate for this fund year, such adjustments will be made in a subsequent order.

⁵⁹ 2020 TRS Rate Filing at 24; 2020 TRS Rate Filing Supplement, Exh. 2 (updated). In August 2016, the Commission adopted rules to convert the pilot NDBEDP into a permanent program, for which the Commission may provide up to \$10,000,000 annually to support local programs that distribute equipment to eligible low-income individuals who are deafblind, so that these individuals are able to access telecommunications service, Internet access service, and advanced communications services. *2016 NDBEDP Order*, 31 FCC Rcd at 9178, para. 1.

⁶⁰ 2020 TRS Rate Filing at 24-25; 2020 TRS Rate Filing Supplement Exh. 2 (updated).

⁶¹ See, e.g., *2019 TRS Rate Order*, 34 FCC Rcd 5181-82, para. 24; *2018 TRS Rate Order*, 33 FCC Rcd at 6306-07, para. 18.

⁶² 2020 TRS Rate Filing at 25-26; 2020 TRS Rate Filing Supplement Exh. 2 (updated).

⁶³ See, e.g., *2019 TRS Rate Order*, 34 FCC Rcd at 5182, para. 25; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 29 FCC Rcd 8044, 8053, para. 23 (CGB 2014).

⁶⁴ See *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 and 03-123, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703, 707, n.20 (2013) (noting that the Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1)(A), provides that an officer or employee of the federal government may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation).

⁶⁵ See 47 CFR § 64.604(c)(5)(iii)(B); 2020 TRS Rate Filing at 25-26.

⁶⁶ 47 CFR § 64.604(c)(5)(iii)(A), (B).

26. *Contribution Factors.* Rolka Loube proposes TRS Fund contribution factors of 0.01360 for non-IP CTS TRS and 0.00962 for IP CTS for the 2020-21 Fund Year.⁶⁷ The use of two different contribution factors is mandated by the Commission's 2019 *IP CTS Contribution Base Order*.⁶⁸ The non-IP CTS contribution factor is applicable to interstate and international end-user revenues, and is the ratio of the estimated non-IP CTS funding requirement to total interstate and international end-user revenues for the prior calendar year. The IP CTS contribution factor is applicable to intrastate, interstate, and international revenues and is the ratio of the estimated IP CTS funding requirement to the total intrastate, interstate, and international end-user revenues for the prior calendar year.⁶⁹ Only one party commented on the proposed contribution factors.⁷⁰ We find that the contribution factors were correctly calculated and they are approved.⁷¹

III. PROCEDURAL MATTERS

27. *Accessible Materials.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530.

IV. ORDERING CLAUSES

28. Accordingly, IT IS ORDERED, pursuant to section 225 of the Communications Act of 1934, as amended, 47 U.S.C. § 225, and section 64.604(c)(5)(iii) of the Commission's rules, 47 CFR § 64.604(c)(5)(iii), that this ORDER IS hereby ADOPTED.

29. IT IS FURTHER ORDERED that pursuant to section 1.3 of the Commission's rules, 47

⁶⁷ 2020 TRS Rate Filing Supplement at 2. Rolka Loube's initial filing recommended contribution factors of 0.01381 for non-IP CTS and 0.00941 for IP CTS. 2020 TRS Rate Filing at 25-26. In its Supplemental Comment, Rolka Loube submitted an update to Exhibit 2, which adjusted the demand projection for non-IP CTS upward by \$10,000,000 and increased the contribution base. It also projected a somewhat smaller contribution base for IP CTS. 2020 TRS Rate Filing Supplement at Exh. 2 (updated). Therefore, the contribution factor for non-IP CTS decreased slightly, and the contribution factor for IP CTS increased slightly.

⁶⁸ *IP CTS Contribution Base Order*, 34 FCC Rcd 11274-75, para. 21 & n.37.

⁶⁹ 2020 TRS Rate Filing at 5-6. The IP CTS revenue requirement includes the portion of the reserve requirement attributable to IP CTS. *Id.* at 5. The Uniti Group, a provider of E-rate services to educational institutions, asks that we delay implementation of the assessment on contributor's intrastate revenues. Uniti Comments at 1-4. The expansion of the contribution base was adopted by the Commission in 2019, and all providers had several months' notice that the rules would go into effect for the 2020-21 Fund Year. *See Effective Date of the Report and Order Expanding the TRS Fund Contribution Base for Internet Protocol Caption Telephone Service*, CG Docket Nos. 13-24 and 03-123, Public Notice, 35 FCC Rcd 405 (CGB 2020). Uniti is essentially seeking reconsideration or stay of the *IP CTS Modernization Order*, which is untimely, and in any event we cannot grant such a request on delegated authority. *See* 47 CFR § 1.429(a). Further, the Commission and its contractors have consistently made clear that TRS Fund contributions are required of telecommunications carriers and interconnected and non-interconnected voice-over-Internet Protocol service providers. *See IP CTS Contribution Base Order*, 34 FCC Rcd at 11275, para. 26. If Uniti Group or its customers fall into these categories, they are covered by the contribution requirement. Otherwise, they are not.

⁷⁰ See Hamilton Comments at 3-4 (supporting the recommended funding requirement and contribution factor for IP CTS).

⁷¹ USTelecom requests that the Commission provide a longer timeframe between release of an order establishing the new TRS Fund budget and contribution factors and the effective date for the contribution factors, claiming that the timeframe does not allow sufficient time for carriers to plan for the cost impact of such changes. USTelecom Comments at 3. Addressing USTelecom's request would require an amendment of the Commission's rules governing the timeframe, which is beyond the scope of this proceeding. *See* 47 CFR § 64.604(c)(5)(3)(H) (requiring administrator to file proposed rates on May 1 to be effective July 1).

CFR § 1.3, the Request for Interim Waivers and Rate Relief by Sprint Communications Company, L.P., is GRANTED in part and DENIED in part.

30. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate traditional TRS, for the period from July 1, 2020, through June 30, 2021, at the rate of \$3.7526 per completed interstate conversation minute.

31. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate STS, for the period from July 1, 2020, through June 30, 2021, at the rate of \$4.8836 per completed interstate conversation minute.

32. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate CTS, for the period from July 1, 2020, through June 30, 2021, at the rate of \$2.3153 per completed conversation minute.

33. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP CTS, for the period from July 1, 2020, through September 30, 2020, at the rate of \$1.58 per completed conversation minute, unless the Commission adopts a different rate before September 30, 2020.

34. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP Relay service for the period from July 1, 2020, through June 30, 2021, at the rate of \$1.7146 per completed conversation minute.

35. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of VRS with more than 500,000 monthly minutes for the period from July 1, 2020, through June 30, 2021, at the following rates: \$4.82 per completed conversation minute for a provider's first 1,000,000 monthly minutes (Tier I); \$3.97 per completed conversation minute for a provider's monthly minutes between 1,000,001 and 2,500,000 (Tier II); and \$2.63 per completed conversation minute for a provider's monthly minutes exceeding 2,500,000 (Tier III).

36. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of VRS with 500,000 or fewer monthly minutes for the period from July 1, 2020, through June 30, 2021, at the rate of \$5.29 per completed conversation minute (Emergent Tier).

37. IT IS FURTHER ORDERED that the Interstate TRS Fund revenue requirement for Fund Year 2020-21 shall be \$1,634,678,939 and the Interstate TRS Fund carrier contribution factors shall be 0.01360 for non-IP CTS TRS and 0.00962 for IP CTS.

38. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre, Chief
Consumer and Governmental Affairs Bureau