

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

<b>Telecommunications Relay Services and Speech-to-Speech for Individuals with Hearing and Speech Disabilities</b>	)	<b>Docket No. 03-123</b>
	)	
<b>Structure and Practices of the Video Relay Service Program</b>	)	<b>Docket No. 10-51</b>
	)	
<b>Misuse of Internet Protocol Relay Service</b>	)	<b>Docket No. 12-38</b>

**Comments of**

**NTCA–THE RURAL BROADBAND ASSOCIATION**

To the Commission:

**I. INTRODUCTION**

NTCA–The Rural Broadband Association (NTCA) hereby submits comments in the above-captioned docket.<sup>1</sup> NTCA supports the Commission’s efforts to ensure access to critical telecommunications capabilities for individuals with hearing and speech disabilities. Unfettered access to telecommunications services is crucial to building and maintaining social capital that arises from the ability to communicate.<sup>2</sup> These capabilities are to supporting access that enables personal, professional, and public safety communications. Accordingly, NTCA supports efforts to ensure that technologies that constitute the various elements of Telecommunications Relay Service (TRS), including Internet Protocol Captioned Telephone Service (IP-CTS), Video Relay Service (VRS), and Internet Protocol Relay Service (IP Relay) are deployed and available to all

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<sup>1</sup> NTCA represents approximately 850 independent, community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or are themselves engaged in the provision of such services.

<sup>2</sup> See, i.e., “Technology’s Impact on Employment and Opportunities for People with Disabilities,” National Council on Disability (<https://ncd.gov/publications/2011/oct042011>) (visited Apr. 19, 2021).

who would benefit from those services – and that such services are supported through a predictable mechanism that collects contributions on an equitable and nondiscriminatory basis. However, as the Commission proposes to include intrastate voice communications revenues within the contribution base for these services, NTCA recommends the Commission to take steps to examine and mitigate the potentially sizeable shift in contributions to certain kinds of entities and to ensure that cost recovery can be obtained by providers for any such contributions.

## **II. DISCUSSION**

The Commission established the interstate TRS Fund in 1993. Interstate telecommunications carriers, as well as providers of interconnected and non-interconnected VoIP services, are required to contribute.<sup>3</sup> In 2000, the Commission expanded the TRS program to include internet-based services, namely, the aforementioned IP-CTS, VRS, and IP Relay. The Commission included the costs of these services in the interstate TRS Fund and compensated both the costs of *interstate* and *intrastate* TRS services from the TRS Fund that was funded solely by assessments on *interstate* revenues. In 2019, the Commission ruled that contributions for IP-CTS be based on both interstate and intrastate end-user revenues; contributions for VRS and IP Relay remained drawn from interstate revenues only.<sup>4</sup> The Commission now proposes to draw contributions for VRS and IP Relay from both interstate and intrastate revenues.

An informal survey of NTCA members and management consultants serving the industry revealed that the initial change to include intrastate revenues in the assessments for IP-CTS

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<sup>3</sup> 47 CFR § 64.604(c)(5)(iii)(A),(B).

<sup>4</sup> *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities: Report and Order*, Docket Nos. 13-24, 03-123, FCC 19-118 (2019).

triggered significant increases in contribution obligations for rural providers despite no such increase in the size of the fund, suggesting that smaller rural providers and their customers may have borne an inequitable portion of the changes in methodology. Reports of TRS billing increasing dramatically, including by 100%, were not uncommon.

The impact of this shift was exacerbated by complications in providers' recovery of such contributions. NECA Reporting Guidelines reflect that the costs of TRS contributions may be recovered from interstate mechanisms. However, unrelated actions arising out of Universal Service Fund reform and other dockets affect the specific allocations of these costs among the various access elements and may frustrate recovery of these costs. By way of background, NECA Reporting Guideline 2.5 provides that ordinarily, a portion of TRS contributions would be recovered through switched access rates.<sup>5</sup> However, at least a portion of potential increases cannot be recovered through those rates that were capped by the Transformation Order.<sup>6</sup> Recognizing that possibility, the Commission directed that contributors utilize the Subscriber Line Charge (SLC) to recover TRS obligations. And carriers that are at their SLC limit would be permitted to include TRS contributions in the eligible recovery (ER) category as an exogenous cost.

In other words, depending on other regulatory constructs, some small rural providers may not have a reasonable opportunity to recover these increased contribution burdens from consumers. But even if they can recover some or perhaps all of the costs associated with these increased contribution obligations, is it already clear that the assessment of intrastate revenues for IP-CTS *alone* triggered significant TRS bill increases for small providers. Imposing now

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<sup>5</sup> NECA Reporting Guideline 2.5 – TRS Cost Recovery (10/93, revised 11/95, 9/12).

<sup>6</sup> See, generally, *Connect America Fund, et. al: Report and Order and Further Notice of Proposed Rulemaking*, Docket Nos. 10-90, 09-51, 07-135, 05-337, 01-92, 96-45, 03-109, 10-208, FCC 11-161, at para, 648, *et. seq.* (2011).

even greater contribution obligations will trigger cascading impacts on smaller rural providers (and possibly their customers) at a time when these providers face the prospect of deepening budget control cuts in their universal service support does not square with an objective of ensuring contribution mechanisms are equitable or promoting broader policies with respect to the advancement of high-quality and affordable voice and broadband services in rural areas.

While the net impact of these changes cannot be evaluated on a company-by-company basis until cost studies are updated in the next several months, the experience with IP-CTS contributions makes clear that the changes proposed here could result, on the whole, in substantial increases in the contribution burdens on smaller rural providers. While the Commission predicted that the expanded contribution base would “reduce the contribution burden providers of interstate telecommunications and VoIP service by increasing the number of overall contributors . . . and expanding the total revenue from which providers make contributions . . .”<sup>7</sup> the net impact on many rural carriers was, counterintuitively, an arresting overall *increase* in total TRS contributions. There is also substantial question as to whether these smaller providers will have an opportunity to recover these costs or will instead be compelled to scale back on network investments and delivery of services to accommodate the increased contribution burden.

To be clear, NTCA supports efforts intended to allocate contribution obligations equitably among providers and users – this is essential to a well-functioning program. But the experience with TRS contributions and the current cost recovery rules, with all of their caps and constraints, calls into question the equity of the reform proposed here. For these reasons, NTCA

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<sup>7</sup> *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities: Report and Order*, Docket Nos. 13-24, 03-123, FCC 19-118, Appendix C, at para. 13 (2019).

respectfully requests that the Commission adjust its contribution formulas in connection with any reform to ensure smaller rural providers do not bear an unreasonable and disproportionate burden, and that the Commission examine ways in which smaller rural providers can have the same opportunities as any other contributors to recover any increased costs of contribution from consumers.

### **III. CONCLUSION**

NTCA supports efforts to ensure the availability of TRS services and the equitable allocation of contribution obligations among providers. At the same time, NTCA requests the Commission to ensure that smaller rural providers do not bear an unreasonable and disproportionate burden, and that the Commission examine ways in which smaller rural providers can have the same opportunities as any other contributors to recover any increased costs of contribution from consumers.

Respectfully submitted,

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