

Sept. 30, 2020

Rosenworcel, Starks Raise Concerns Over IP CTS Item

With Democratic Commissioners Jessica Rosenworcel and Geoffrey Starks expressing some concerns, the FCC today approved IP CTS (Internet protocol captioned telephone service) compensation rates for the remainder of the 2020-2021 funding year and for the following year, while proposing more precise metrics for caption delay and accuracy and seeking input on the appropriate entity to assess IP CTS services using those metrics.

The report and order adopted in CG dockets 13-24 and 03-123 at today's FCC meeting transitions compensation from the current \$1.58 per-minute rate in two steps, providing \$1.42 per minute for the remainder of fund year 2020-21 and a \$1.30 per-minute cost-based rate for fund year 2021-22. The cost-based rate includes a 10% operating margin, according to the staff presentation at the meeting.

These changes are expected to save the interstate TRS Fund about \$200 million through June 2022, on top of more than \$350 million saved from interim rates in effect since 2018.

An accompanying order on reconsideration denies a petition filed by Sprint Corp. seeking reconsideration of the interim IP CTS compensation rates previously set by the FCC for the period from July 2018 to June 2020, according to the staff presentation.

Finally, an accompanying further notice of proposed rulemaking (FNPRM) will seek comment the new metrics for caption delay and accuracy, as well as on guidelines for testing IP CTS performance against those metrics and on the appropriate entity to carry out such performance testing.

The text of the item was not yet available at TR Daily's news deadline.

In her separate statement, Commissioner Rosenworcel said that the item "goes on at length about reducing compensation and aligning service with costs. This is important. But it is vital to remember — as I fear this does not — that the governing principle here is functional equivalency. Likewise, it is problematic that we are still working on service quality standards for new IP CTS services well after making them eligible for funding. If functional equivalency is the requirement, logic suggests those should have been in place before we allowed funds to flow.

"I hope going forward we fix these things. This program is critical for those who are hard-of-hearing and rely on it. That is especially true during this pandemic, when IP CTS usage is clearly up. So I appreciate that my colleagues, at Commissioner Starks' request, agreed to extend many of our pandemic-related waivers for telecommunications relay services, including IP CTS. But because I think we have to do more to honor the law and spirit of functional equivalency, I choose to concur."

Commissioner Starks, who approved in part and concurred in part, said, “We would have arrived here sooner had we not, in March of this year, suspended the glidepath and held rates steady in light of uncertainty related to the COVID-19 pandemic. I would have voted for an additional extension to keep the current compensation rate in place given the on-going pandemic-related national emergency. I therefore concur with this aspect of the item.”

He added, “As to the other pandemic-related waivers granted (and extended three times), the released draft of this item would have reversed pandemic-related waivers of speed-of-answer and certain other requirements under sections 64.604 and 64.606 of the Commission’s rules without a determination that they will no longer be needed because pandemic conditions have improved. There are too many unknowns to risk making compliance for providers harder or forcing providers out of business because they cannot comply with pre-pandemic service requirements. The challenges brought about by the COVID-19 pandemic presumably will persist for as long as the pandemic persists. It therefore made little sense to me to arbitrarily eliminate those waivers as of November 30, 2020. I therefore appreciate the Chairman agreeing to my request that we extend those waivers and direct the bureau to consider further extensions so that the waivers remain in force until pandemic conditions improve.”

Finally, Commissioner Starks said, “We have not yet established service quality standards or service-specific rates that reflect the current capabilities and lower cost of ASR-assisted IP CTS. Our haste to approve the use of ASR may result in providers migrating to fully automated IP CTS as a more cost-effective alternative at the expense of service quality and functional equivalence. We must therefore proceed cautiously but quickly toward establishing appropriate service quality metrics and compensation rates for all captioned telephone service, including ASR-assisted IP CTS.”

Commissioner Mike O’Rielly, who voted to approve the item, emphasized that he would prefer to move IP CTS compensation to a reverse auction mechanism as the best way to approximate market-based rates. —Lynn Stanton, lynn.stanton@wolterskluwer.com

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