

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 and Speech Disabilities
ClearCaptions Internet-Based TRS Certification
Application
CG Docket No. 03-123

ORDER

Adopted: April 4, 2023

Released: April 4, 2023

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. The Consumer and Governmental Affairs Bureau (Bureau) grants ClearCaptions, LLC (ClearCaptions), full certification of eligibility to receive compensation from the Interstate Telecommunications Relay Services (TRS) Fund for the provision of Internet Protocol Captioned Telephone Service (IP CTS).1 This grant of full certification authorizes ClearCaptions to provide IP CTS for a five-year period, through April 3, 2028.

II. BACKGROUND

A. The Certification Process

2. The Commission’s certification process for Internet-based TRS providers is set forth in section 64.606 of our rules and was established to ensure that providers receiving TRS Fund compensation are qualified to provide service in compliance with the TRS rules.2 Under section 64.606(b), applicants must submit specific documentation to the Commission (described further below), and certification shall be granted upon a determination that the provider will meet all applicable mandatory minimum TRS standards and has adequate procedures and remedies for ensuring compliance

1 TRS are “telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability” to communicate with others via wire or radio “in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability.” Id. § 64.601(a)(42). The TRS Fund compensates eligible providers of Internet-based and interstate TRS for their reasonable costs of providing these services. See 47 CFR § 64.604(c)(5)(iii). IP CTS, a form of TRS, “permits an individual who can speak but who has difficulty hearing over the telephone to use a telephone and an internet Protocol-enabled device via the internet to simultaneously listen to the other party and read captions of what the other party is saying. With IP CTS, the connection carrying the captions between the relay service provider and the relay service user is via the internet, rather than the public switched telephone network.” 47 CFR § 64.601(a)(22).

2 See 47 CFR § 64.606; Structure and Practices of the Video Relay Service Program, Second Report and Order, 26 FCC Rcd 10898, 10902-03, paras. 8-9 (2011) (2011 Internet-based TRS Certification Order).

with Commission rules.<sup>3</sup>

3. The Commission may grant conditional certification where additional time is needed to complete evaluation of an applicant's qualifications or verify information contained in the application.<sup>4</sup> After certification, Internet-based TRS providers must file annual reports updating the information in their application to demonstrate continuing compliance with the Commission's mandatory minimum TRS standards.<sup>5</sup> Each provider also must include within its annual report a compliance plan describing the provider's policies and procedures for complying with Commission rules prohibiting IP CTS providers from engaging in the unauthorized and unnecessary use of IP CTS.<sup>6</sup>

#### **B. ClearCaptions's Application**

4. ClearCaptions initially applied for IP CTS certification in 2016.<sup>7</sup> As the transferee of an authorization originally granted to Purple Communications, Inc. (Purple),<sup>8</sup> ClearCaptions is operating pursuant to conditional certification.<sup>9</sup> On September 25, 2020, ClearCaptions amended its application to request approval to provide fully automatic IP CTS in addition to, and in combination with, its CA-assisted service.<sup>10</sup> On April 13, 2021, the Commission granted ClearCaptions conditional certification to provide ASR-only IP CTS for a two-year period, through April 12, 2023.<sup>11</sup>

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<sup>3</sup> 47 CFR § 64.606(b)(2); *2011 Internet-based TRS Certification Order*, 26 FCC Rcd at 10909-13, paras. 23-34; *see also Structure and Practices of the Video Relay Service Program et al.*, CG Docket Nos. 10-51 *et al.*, Memorandum Opinion and Order, Order, and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14895 (2011) (clarifying and modifying the certification requirements adopted in the *2011 Internet-based TRS Certification Order*).

<sup>4</sup> *2011 Internet-based TRS Certification Order*, 26 FCC Rcd at 10914-15, para. 37. Such conditional certifications are granted without prejudice to the Commission's final determination of the applicant's qualifications and thus preserve the Commission's ability to fully review an application for certification on the merits. *Id.* at 10914, para. 37; *see also Purple IP CTS Conditional Certification*, 29 FCC Rcd at 13735.

<sup>5</sup> 47 CFR § 64.606(g).

<sup>6</sup> *See id.* § 64.604(c)(13).

<sup>7</sup> *See Internet-Based TRS Certification Application of ClearCaptions LLC*, CG Docket No. 03-123 (Apr. 18, 2016) (April 2016 Application), <https://www.fcc.gov/ecfs/document/60001538984/1>;

<sup>8</sup> *See Letter from Michael Strecker, Vice President of Regulatory and Strategic Policy, Purple Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission*, CG Docket No. 03-123 (filed Dec. 29, 2016), <https://www.fcc.gov/ecfs/document/12291863504185/1> (notifying the Commission of the transfer of Purple's conditional certification to ClearCaptions).

<sup>9</sup> *See Notice of Grant of Conditional Certification for Purple Communications, Inc., to Provide Internet Protocol Captioned Telephone Service*, CG Docket Nos. 03-123 and 10-51, Public Notice, 29 FCC Rcd 13728 (CGB 2014) (*Purple IP CTS Conditional Certification*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Purple Communications, Inc.: Application for Certification to Provide Internet Protocol Captioned Telephone Service*, CG Docket Nos. 03-123 and 10-51, Order, 29 FCC Rcd 14889 (CGB 2014).

<sup>10</sup> Eighth Amendment to Internet-Based TRS Certification Application, CG Docket No. 03-123 (filed Sept. 25, 2020), <https://www.fcc.gov/ecfs/document/10925098207740/1>. When an applicant is conditionally certified to provide Internet-based TRS, the original application remains in pending status until full certification is granted. *See 2011 Internet-based TRS Certification Order*, 26 FCC Rcd at 10914-15, para. 37; *see also Purple IP CTS Conditional Certification*, 29 FCC Rcd at 13728, note 2; *ClearCaptions ASR-Only Certification*, 36 FCC Rcd at 7246, note 2.

<sup>11</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Memorandum Opinion and Order, 36 FCC Rcd 7246, 48, 54, paras. 5, 17 (CGB 2021) (*ClearCaptions ASR-Only Certification*) (granting conditional certification to provide fully automatic IP CTS for two years, through April 12, 2023).

5. On December 19, 2022, ClearCaptions filed a renewed application for full certification as an IP CTS provider, or, in the alternative, merger of its conditional certification to provide IP CTS using ASR with its conditional certification to provide IP CTS using CAs.<sup>12</sup> On January 30, 2023, the Bureau sought comment on ClearCaptions' December 2022 Application.<sup>13</sup> No party filed comments or replies.

### III. DISCUSSION

6. ClearCaptions's applications provide all the information and documentation required by the Commission's certification rules, including: (1) a description of the services to be provided;<sup>14</sup> (2) a detailed description of how ClearCaptions will meet all non-waived mandatory minimum standards applicable to IP CTS;<sup>15</sup> (3) a description of ClearCaptions's organizational structure, including the names of its 10 percent or more equity interest holders, the names of persons with the power to vote 10 percent or more of the securities of ClearCaptions, and the names of its executives, officers and members of its board;<sup>16</sup> (4) a confidential list of the number of its full-time and part-time employees involved in ClearCaptions's IP CTS operations by position;<sup>17</sup> (5) a confidential list of all sponsorship arrangements relating to the provision of Internet-based TRS;<sup>18</sup> (6) a description of ClearCaptions's complaint procedures;<sup>19</sup> (7) a statement that ClearCaptions will file annual compliance reports;<sup>20</sup> and (8) a certification by ClearCaptions's CEO confirming the accuracy and completeness of the information contained in the application.<sup>21</sup> Further, since 2017, ClearCaptions has filed the required annual reports, to demonstrate compliance with the TRS rules and update the information contained in its applications.<sup>22</sup>

7. Based on our review and investigation of the December 2022 Application, the applications previously filed, ClearCaptions's annual reports, and other relevant information regarding ClearCaptions's actual provision of IP CTS, we find that ClearCaptions will provide IP CTS in compliance with the applicable mandatory minimum TRS standards.<sup>23</sup> We also find that ClearCaptions makes available adequate procedures and remedies for compliance with such minimum standards and the

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<sup>12</sup> See December 2022 Application at 1-2.

<sup>13</sup> *Comment Sought on Application of ClearCaptions for Full Certification as a Provider of Internet Protocol Captioned Telephone Service*, CG Docket No. 03-123, Public Notice, DA 23-8 (Jan. 20, 2023), <https://docs.fcc.gov/public/attachments/DA-23-86A1.pdf>.

<sup>14</sup> December 2022 Application at 8; *see also* 47 CFR § 64.606(a)(2)(i).

<sup>15</sup> December 2022 Application at 4-10 and Appendix A; *see also* 47 CFR § 64.606(a)(2)(ii).

<sup>16</sup> January 2023 Supplement at 1-4; *see also* 47 CFR § 64.606(a)(2)(ii)(B).

<sup>17</sup> April 2016 Application at 15; ClearCaptions 2022 Annual Report at Exhibit B (providing a confidential, updated number of employees by position); *see also* 47 CFR § 64.606(a)(2)(ii)(C).

<sup>18</sup> April 2016 Application at 16; ClearCaptions 2022 Annual Report at Exhibit C (providing a confidential, updated list of all sponsorship agreements); *see also* 47 CFR § 64.606(a)(2)(ii)(E).

<sup>19</sup> April 2016 Application at 18; *see also* 47 CFR § 64.606(a)(2)(iii).

<sup>20</sup> April 2016 Application at 18; *see also* 47 CFR § 64.606(a)(2)(iv).

<sup>21</sup> December 2022 Application at 11; *see also* 47 CFR § 64.606(a)(2)(v).

<sup>22</sup> See ClearCaptions Annual TRS Report, CG Docket No. 03-123 (filed December 22, 2022) (ClearCaptions 2022 Annual Report); ClearCaptions Annual TRS Report, CG Docket No. 03-123 (filed December 23, 2021); ClearCaptions Annual TRS Report, CG Docket No. 03-123 (filed December 18, 2020); ClearCaptions Annual TRS Report, CG Docket No. 03-123 (filed December 12, 2019); ClearCaptions Annual TRS Report, CG Docket No. 03-123 (filed December 27, 2018) ClearCaptions Annual TRS Report, CG Docket No. 03-123 (filed December 15, 2017).

<sup>23</sup> Other relevant information includes, but is not limited to, audit reports, complaint logs, call record and speed of answer compliance data, certifications, and performance testing reports.

requirements of section 64.606. Therefore, we certify ClearCaptions as eligible to receive compensation from the Fund for the provision of IP CTS using CAs and ASR.<sup>24</sup> This certification shall remain in effect for a period of five years.<sup>25</sup>

8. We emphasize that ClearCaptions must continue to operate in compliance with all relevant Commission rules and orders. As with other grants of TRS certification, the Commission reserves the right to conduct ongoing monitoring of the operations of ClearCaptions to ensure continuing compliance and to review any additional documentation necessary to ascertain the veracity of the assertions made in its applications and updates.<sup>26</sup> The Commission also reserves the right to investigate compliance by ClearCaptions with the Commission's rules and orders and to take enforcement action for past or future violations, including suspension or revocation of this certification, if circumstances warrant.<sup>27</sup> This may include unannounced on-site visits to ClearCaptions's headquarters, offices, or call centers for the purpose of ensuring continued compliance with the certification requirements and the Commission's rules.

9. We remind ClearCaptions that, pursuant to section 64.606(c)(2) of the Commission's rules, a provider seeking renewal of its certification must submit the required documentation at least 90 days prior to the expiration of its current certification.<sup>28</sup>

#### IV. PROCEDURAL MATTERS

10. *People with Disabilities.* 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](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530.

11. *Additional Information.* For further information regarding this item, please contact Joshua Mendelsohn at (202) 599-7304 or by e-mail at [Joshua.Mendelsohn@fcc.gov](mailto:Joshua.Mendelsohn@fcc.gov). Individuals who use videophones and are fluent in American Sign Language (ASL) may call the FCC's ASL Consumer Support Line at (844) 432-2275.

#### V. ORDERING CLAUSES

12. IT IS ORDERED that, pursuant to the authority contained in sections 4(i) and 4(j) and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 225, and sections 0.141 and 0.361 of the Commission's rules, 47 CFR §§ 0.141, 0.361 and 1.3, this Order IS ADOPTED.

13. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

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<sup>24</sup> In granting conditional certification, we also granted ClearCaptions' request for waiver of the requirement in Section 64.611(j)(1)(v) of the Commission's rules (47 CFR § 64.611(j)(1)(v)) that a consumer's written self-certification must state that "[t]he consumer understands that the captioning on captioned telephone service is provided by a live communications assistant who listens to the other party on the line and provides the text on the captioned phone." *ClearCaptions ASR-Only Certification*, 36 FCC Rcd at 7259, para. 28. As we noted previously, that statement may not be true with respect to ASR-only IP CTS. *Id.* We also granted a waiver of the requirement in 47 CFR § 64.604(c)(5)(iii)(D)(2)(x) for TRS providers to submit "the URL address through which the call is placed" to receive compensation from the TRS Fund. *Id.* at 7259, para. 29. The URL address requirement was intended to apply only to VRS providers. *Id.* Both waivers remain in effect.

<sup>25</sup> See 47 CFR § 64.606(c)(2). Accordingly, ClearCaptions's new certification will expire on April 3, 2028.

<sup>26</sup> See *Internet-based TRS Certification Order*, 26 FCC Rcd at 10900, para. 2.

<sup>27</sup> See 47 CFR § 64.606(e)(2).

<sup>28</sup> 47 CFR § 64.606(c)(2).

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