

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) CG Docket No. 03-123
Structure and Practices of the Video Relay Service Program) CG Docket No. 10-51

ORDER

Adopted: August 31, 2023

Released: August 31, 2023

By the Chief, Consumer and Governmental Affairs Bureau:

1. In this Order, the Consumer and Governmental Affairs Bureau (Bureau) of the Federal Communications Commission (FCC or Commission), on its own motion, extends the limited temporary waiver of the expiration of the Telecommunications Relay Service (TRS) Fund compensation formulas for Video Relay Service (VRS). In a June 2023 Order, the Bureau waived the expiration date of the VRS compensation formulas until either August 31, 2023, or the effective date of Commission action establishing new compensation formulas, whichever is earlier.

2. Background. The current tiered compensation formulas for VRS, adopted by the Commission in 2017, were initially set to expire on June 30, 2021. In a Notice of Proposed Rulemaking adopted in March 2021, the Commission sought comment on setting VRS compensation for the next period. To allow time for the completion of this rulemaking, the Commission waived the June 30, 2021 expiration date, extending the compensation plan through December 31, 2021. On November 12, 2021, the Bureau found good cause to grant a further waiver, extending the current VRS compensation plan through June 30, 2022, and, in a subsequent order, through June 30, 2023. The 2023 VRS Compensation Formula Waiver Order then further extended the compensation plan through August 31, 2023.

1 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 23-577 (CGB June 30, 2023) (2023 VRS Compensation Formula Waiver Order).

2 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, Report and Order and Order, 32 FCC Rcd 5891 (2017) (2017 VRS Compensation Order).

3 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, Notice of Proposed Rulemaking and Order, 36 FCC Rcd 8802 (2021).

4 Id. at 8817, para. 40.

5 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, 36 FCC Rcd 15798 (CGB Nov. 12, 2021).

3. *Waiver Standard.* A Commission rule may be waived for “good cause shown.”⁸ In particular, a waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.⁹ In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁰ Good cause for a waiver may be found if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.¹¹

4. *Discussion.* We find good cause to waive the VRS compensation formula expiration date. As we acknowledged in the *2023 VRS Compensation Formula Waiver Order*, establishing an equitable methodology and compensation levels for VRS is inherently complex.¹² The Commission has made significant progress toward completion of a revised VRS compensation structure that would support investment in VRS. However, the revised plans may not be finalized by the current August 31, 2023, expiration date. Accordingly, it is appropriate to extend the existing compensation formulas to provide certainty and stability to VRS providers pending final Commission action. To do otherwise could deprive consumers with disabilities of the services they need to enjoy functionally equivalent telecommunications.

5. Regarding the duration of this extension, we anticipate that the Commission will be able to adopt a decision in the near future, but it is difficult to predict a specific date by which that will occur. Out of an abundance of caution, and to ensure that recently filed ex parte submissions can be given due consideration,¹³ we direct the TRS Fund administrator to continue compensating eligible VRS providers under the current compensation formulas through the earlier of September 30, 2023, or the effective date of Commission action revising the applicable compensation formulas. This action does not preclude a true-up of compensation for VRS, should the Commission deem that necessary after determining the applicable compensation formulas. Accordingly, until the expiration of this waiver, the current

⁶ *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 22-699 (CGB June 30, 2022).

⁷ *2023 VRS Compensation Formula Waiver Order*, paras. 14-17.

⁸ 47 CFR § 1.3.

⁹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁰ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

¹¹ *Northeast Cellular*, 897 F.2d at 1166.

¹² *2023 VRS Compensation Formula Waiver Order* at para. 16. *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, 26 FCC Rcd 9972, 9980-81, paras. 22-23 (2011) (adopting interim VRS compensation levels pending Commission completion of a proceeding addressing VRS market structure and compensation methodology issues).

¹³ *See e.g.*, Letter from Angela E. Giancarlo, Sorenson Communications, LLC (Sorenson), to Marlene H. Dortch, FCC, CG Docket No. 03-123 and 10-51 (filed Aug. 23, 2023); Letter from Scott D. Delacourt, ZP Better Together, LLC (ZP), to Marlene H. Dortch, FCC, CG Docket No. 03-123 and 10-51 (filed Aug. 22, 2023); Letter from Jeff Rosen, Convo Communications, LLC (Convo), to Marlene H. Dortch, FCC, CG Docket No. 03-123 and 10-51 (filed Aug. 22, 2023); Letter from John T. Nakahata, Sorenson, to Marlene H. Dortch, FCC, CG Docket No. 03-123 and 10-51 (filed Aug. 21, 2023); Letter from Amanda Montgomery, Convo, to Marlene H. Dortch, FCC, CG Docket No. 03-123 and 10-51 (filed Aug. 18, 2023); Letter from Scott D. Delacourt, ZP, to Marlene H. Dortch, FCC, CG Docket No. 03-123 and 10-51 (filed Aug. 16, 2023); Letter from Scott D. Delacourt, ZP, to Marlene H. Dortch, FCC, CG Docket No. 03-123 and 10-51 (filed Aug. 11, 2023); Letter from Scott D. Delacourt, ZP, to Marlene H. Dortch, FCC, CG Docket No. 03-123 and 10-51 (filed Aug. 10, 2023).

compensation formulas for VRS remain effective. VRS providers with more than 500,000 monthly minutes as of July 1, 2017, shall be paid \$4.82 per minute for a provider's first 1,000,000 monthly minutes (Tier I); \$3.97 per minute for monthly minutes between 1,000,001 and 2,500,000 (Tier II); and \$2.63 per minute for monthly minutes exceeding 2,500,000 (Tier III).¹⁴ VRS providers with 500,000 or fewer monthly minutes as of July 1, 2017, shall be paid \$5.29 per minute (Emergent Tier) for the provider's first 500,000 minutes, and according to the otherwise applicable tiered formulas, stated above, for monthly minutes exceeding 500,000.¹⁵

6. *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 or call the Consumer and Governmental Affairs Bureau at 202-418-0530.

7. *Additional Information.* For further information regarding this item, please contact Michael Scott, Disability Rights Office, Consumer and Governmental Affairs Bureau, 202-418-1264, or Michael.Scott@fcc.gov.

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

9. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of VRS in accordance with the formulas applicable on August 31, 2023, for the period through the earlier of September 30, 2023, or the effective date of Commission action establishing revised compensation formulas for that service.

10. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Alejandro Roark, Chief
Consumer and Governmental Affairs Bureau

¹⁴ 2017 VRS Compensation Order, 32 FCC Rcd at 5934, Appx A.

¹⁵ *Id.* at 5916-17, paras. 49-50.