

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
Waivers of iTRS Mandatory Minimum Standards
CG Docket No. 03-123

NOTICE OF PROPOSED RULEMAKING

Comment Date: (60 days after date of publication in the Federal Register)
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By the Commission:

I. INTRODUCTION

1. In this Notice of Proposed Rulemaking (Notice) we propose to address the continuing need for waivers pertaining to the Commission’s mandatory minimum standards for telecommunications relay services (TRS).1 In the last decade, providers of Internet-based relay services (iTRS)2 and public switched telephone network (PSTN)-based captioned telephone service (CTS)3 have petitioned for and

1 Under 47 U.S.C. § 225, as amended by Section 103(a) of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), TRS is defined as “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 engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.” Pub. L. No. 111-260, 124 Stat. 2751 § 103(a) (Oct. 8, 2010), technical amendments, Pub. L. No. 111-265, 124 Stat. 2795 (Oct. 8, 2010), codified at 47 U.S.C. § 225(a)(3).

2 “iTRS” refers, essentially, to all forms of TRS in which an individual with a hearing or speech disability uses an Internet connection with the TRS communications assistant (CA). See Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51, Second Report and Order and Order, 26 FCC Rcd 10898, 10899, ¶ 1, n. 1 (2011) (July 2011 Certification Order). See also 47 C.F.R. § 64.601(a)(11) (defining “Internet-based TRS”). At present, this includes video relay service (VRS) (see id. § 64.601(a)(27)), Internet Protocol relay service (IP Relay) (see id. § 64.601(a)(13)), Internet Protocol captioned telephone service (IP CTS) (see id. § 64.601(a)(12)), and any combination of these services or use of these services with other forms of relay, such as voice carry over (VCO) (allowing a user to speak directly to the other party while having the conversation relayed back) (see id. § 64.601(a)(29)), or hearing carry over (HCO) (allowing a user to hear the other party directly while using relay to convey messages) (see id. § 64.601(a)(9)). We note that in the future, “iTRS” may also include other forms of relay services that utilize an Internet connection. See July 2011 Certification Order, 26 FCC Rcd at 10899, ¶ 1, n.1.

3 CTS permits people who can speak, but who have difficulty hearing over the telephone, to simultaneously listen to the other party and read captions of what that party is saying. See Telecommunications Relay Services, and Speech- (continued...)

been granted waivers of various TRS mandatory minimum standards deemed inapplicable to or technologically infeasible for iTRS and CTS. Several of these waivers have been limited in duration, necessitating periodic requests for extension by the affected providers.⁴ In this *Notice*, we seek comment on proposals to exempt certain iTRS and CTS providers permanently from certain mandatory minimum standards because of the technical infeasibility or inapplicability of these mandatory minimum standards to the services in question. We also seek comment on whether there is any public interest need to continue to waive various other mandatory minimum standards, given the current state of the technologies pertaining to these standards and in light of recent annual reports submitted by providers reporting the ability to comply with such mandatory minimum standards. The goal of this proceeding is to provide greater certainty for iTRS and CTS users and providers with respect to the TRS mandatory minimum standards and to obviate the need for further periodic waiver filings regarding these standards.

2. As we note below,⁵ we initiate this proceeding both in response to a TRS provider's petition for rulemaking and to fulfill the prior commitment to take a more in-depth look at the merits of making permanent or eliminating various TRS waivers.⁶ This proceeding is being conducted in parallel with other Commission proceedings addressing various aspects of TRS reform, and in particular, the need for targeted ways to eliminate fraud, waste and abuse as they arise.⁷

II. BACKGROUND

3. *Telecommunications Relay Services*. Title IV of the Americans with Disabilities Act of 1990 (ADA), codified at section 225 of the Communications Act of 1934, as amended (Act),⁸ requires the

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to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Declaratory Ruling, 18 FCC Rcd 16121 (2003) (*CTS Declaratory Ruling*).

⁴ See e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 27 FCC Rcd 7113 (CGB 2012) (*2012 TRS Waiver Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 26 FCC Rcd 9449 (CGB 2011) (*2011 TRS Waiver Order*).

⁵ See ¶¶ 4-5, *infra*.

⁶ See *2012 TRS Waiver Order*, 27 FCC Rcd at 7113-14, ¶ 1, n. 4; *2011 TRS Waiver Order*, 26 FCC Rcd at 9449-50, ¶ 1, n. 4.

⁷ For example the Commission recently released a Report and Order and FNPRM to address structural reform of the VRS marketplace. See *Structure and Practices of the Video Relay Services Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 & 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618 (2013) (*VRS Structural Reform Order*). In addition, the Commission is looking at ways to eliminate misuse of IP Relay. See, e.g., *Consumer and Governmental Affairs Bureau Seeks to Refresh the Record Regarding Misuse of Internet Protocol Relay Service*, CG Docket Nos. 12-38 & 03-123, Public Notice, 27 FCC Rcd 1569 (2012); *Misuse of Internet Protocol (IP) Relay Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 12-38 & 03-123, First Report and Order, 27 FCC Rcd 7866 (2012). Finally, the Commission has taken actions to ensure the integrity and sustainability of IP CTS. *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 & 03-123, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703 (2013); *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 & 03-123, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-118 (rel. Aug. 26, 2013).

⁸ See Americans with Disabilities Act, Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990); 47 U.S.C. § 225.

Commission to ensure that TRS is available to enable a person with a hearing or speech disability to communicate with other telephone users in a manner that is functionally equivalent to voice communications service.⁹ When section 225 was first enacted and implemented, there was only one type of TRS, which required the party with a speech or hearing disability to utilize a text telephone, or TTY,¹⁰ to transmit text over the PSTN to a communications assistant (CA). The CA then relayed the call between two parties by converting everything that the text caller typed into voice for the hearing party and typing everything that the voice user responded back to the person with a disability.¹¹ With the development of new communication technologies, the Commission recognized new forms of TRS as eligible for compensation from the Interstate TRS Fund,¹² including three forms of iTRS: VRS,¹³ IP Relay,¹⁴ and IP CTS.¹⁵ Although traditional TTY-based TRS is still available, today iTRS account for more than 90% of the total relay service minutes reimbursed from the Fund.¹⁶ For all forms of TRS, the Commission has adopted mandatory minimum standards to achieve functionally equivalent relay service.¹⁷

4. *Waivers Granted for iTRS and CTS.* To ensure that TRS is provided in a manner that is functionally equivalent to voice telephone service, section 225 requires the Commission to prescribe functional requirements, guidelines, operations procedures and minimum standards for these services.¹⁸

⁹ *Id.* § 225(b)(1). See also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 90-57 & 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, 12479, ¶ 3 n. 18 (2004) (*2004 TRS Report and Order*) (describing how a traditional TRS call works).

¹⁰ A text telephone, or TTY, is a text device that employs graphic communication in the transmission of coded signals through a wire or radio communication system. See *Telecommunications Services for Individuals with Hearing and Speech Disabilities and the Americans with Disabilities Act*, CC Docket No. 90-571, Report and Order and Request for Comments, 6 FCC Rcd 4657, 4657, ¶ 1, n. 1 (1991) (*First TRS Report and Order*).

¹¹ *2004 TRS Report and Order*, 19 FCC Rcd at 12479, ¶ 3, n. 18 (describing how a traditional TRS call works).

¹² *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, 5152-54, ¶¶ 21-27 (2000) (*2000 TRS Report and Order*).

¹³ VRS allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users over a broadband Internet connection using video equipment. The video link allows the CA to view the party's signed conversation and relay the conversation back and forth by signing what the voice telephone user says to the deaf or hard of hearing user and responding in voice to the voice telephone user. See 47 C.F.R. § 64.601(a)(27); *2000 TRS Report and Order*, 15 FCC Rcd at 5152-54, ¶¶ 21-27.

¹⁴ IP Relay permits people with hearing or speech disabilities to communicate in text using an Internet Protocol-enabled device via the Internet. See 47 C.F.R. § 64.601(a)(13); *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Petition for Clarification of WorldCom, Inc.*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (2002) (*IP Relay Declaratory Ruling*).

¹⁵ With IP CTS, the connection carrying the captions between the relay service provider and the relay service user is via the Internet, rather than through the PSTN. See 47 C.F.R. § 64.601(12); *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 (2007) (*IP CTS Declaratory Ruling*).

¹⁶ See Rolka, Loube, Saltzer and Associates, *Interstate TRS Fund Monthly Status Report for April 2013*, <www.r-l-s-a.com/TRS/Reports.htm> (last visited May 17, 2013). The Commission recognized STS and CTS as forms of TRS eligible for compensation from the TRS Fund in 2000 and 2003 respectively. See *2000 TRS Report and Order*, 15 FCC Rcd at 5150-53, ¶¶ 15-20; *CTS Declaratory Ruling*.

¹⁷ See 47 C.F.R. § 64.604; *2000 TRS Report and Order*, 15 FCC Rcd at 5158, ¶ 39.

¹⁸ 47 U.S.C. § 225(d)(1).

The Commission's mandatory minimum standards are intended to ensure that the user experience when making TRS calls is as close as possible to a voice user's experience when making conventional telephone calls. In this regard, these standards require, for example, that TRS operate every day for 24 hours per day,¹⁹ that the content of all relayed conversation be kept confidential,²⁰ and that users of TRS pay rates no greater than the rates paid by voice telephone users.²¹ Over the years, however, the Commission has granted TRS providers waivers of certain TRS mandatory minimum standards that were deemed either technologically infeasible for or simply inapplicable to a particular form of TRS. The waivers granted for IP CTS and CTS have been issued for indefinite periods,²² while most waivers granted for VRS and IP Relay have been limited in duration.²³ Generally, the limited-duration waivers have been renewed periodically – in recent years on an annual basis.²⁴ The Commission has conditioned many of the waivers on the filing of annual reports in which providers are expected to detail their progress in achieving compliance with the underlying mandatory minimum standards.²⁵ The reports are designed to help the Commission determine whether technological advances can enable providers to comply with the waived mandatory minimum standards. Providers filed their most recent annual progress reports in April 2013.²⁶

¹⁹ *Id.* § 225(d)(1)(C).

²⁰ *Id.* § 225(d)(1)(F).

²¹ *Id.* § 225(d)(1)(D).

²² See *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-94, ¶¶ 29-31; *CTS Declaratory Ruling*, 18 FCC Rcd at 16130-39, ¶¶ 24-54.

²³ See e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 17 FCC Rcd 157, 161-64, ¶¶ 9-20 (2001) (*2001 VRS Waiver Order*); *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7789, ¶ 30, 7790, ¶ 32; *2004 TRS Report and Order*, 19 FCC Rcd at 12520-28, ¶¶ 109-40, 12594-96, Appendix E.

²⁴ See e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 22 FCC Rcd 21869, 21870, ¶ 2 (CGB 2007) (*2007 TRS Waiver Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 23 FCC Rcd 18334 (CGB 2008) (*2008 TRS Waiver Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 25 FCC Rcd 8437 (CGB 2010) (*2010 TRS Waiver Order*); *2011 TRS Waiver Order*; *2012 TRS Waiver Order*. In 2009, the limited-duration waivers were extended for six months, rather than a year. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 24 FCC Rcd 14721 (CGB 2009) (*2009 TRS Waiver Order*).

²⁵ See, e.g., *2004 TRS Report and Order*, 19 FCC Rcd at 12520, ¶ 111. In some instances, the Commission has also required annual reports for indefinite-duration waivers. For example, IP CTS providers are required to file annual reports for waivers granted for STS, pay-per-call (900), VCO, HCO, call release, and three-way calling requirements, even though these do not have time limits. *IP CTS Declaratory Ruling*, 22 FCC Rcd at 393, ¶ 30, n.106.

²⁶ See American Network, Inc., Annual Report of American Network, Inc. (Jan. 4, 2013) (ANI Report); ASL Services Holdings, LLC, 2013 Annual Mandatory Minimum Standards Waiver Compliance Report (Apr. 16, 2013) (ASL Services Report); ASL Services Holdings, LLC, Supplement to 2013 Annual Mandatory Minimum Standards Waiver Compliance Report (Jun. 11, 2013); AT&T 2013 Annual Report on IP TRS Waivers (Apr. 1, 2013) (AT&T Report); Hancock, Jahn, Lee & Puckett, LLC d/b/a Communication Access Ability Group, CAAG's Status Report on Currently Waived Requirements (Apr. 16, 2013) (CAAG Report); Convo Communications, LLC, Minimum Standards Waiver Report (Apr. 16, 2013) (Convo Report); CSDVRS, LLC, Report on Waivers by CSDVRS, LLC (Apr. 15, 2013) (CSDVRS Report); Hamilton Relay, Inc., 2013 Annual Report to FCC Concerning Internet Relay and IP CTS (Apr. 16, 2013) (Hamilton Report); Purple Communications, Inc., Annual Report on Progress of Meeting Waived Requirements (Apr. 11, 2013) (Purple Report); Sorenson Communications, Inc., Minimum

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5. *Hamilton Request*. On November 19, 2009, Hamilton Relay, Inc., AT&T Inc., CSDVRS, LLC, Sorenson Communications, Inc., Sprint Nextel Corporation, and Purple Communications, Inc. (Petitioners) filed a “Request for Extension and Clarification of Various iTRS Waivers” (Hamilton Request), requesting the Commission to extend indefinitely all iTRS waivers of limited duration²⁷ and to provide clarification on what Petitioners claim are discrepancies in some of the waivers.²⁸ We initiate this proceeding both in response to Petitioners’ request and to fulfill our commitment, first made in the June 2011 TRS Waiver Order²⁹ and reiterated in the 2012 TRS Waiver Order³⁰ (both of which renewed various limited-duration waivers) to take a more in-depth look at the merits of making permanent or eliminating these waivers. When the Commission first began to grant the waivers now under review, it emphasized that iTRS was “still in its infancy”³¹ and stressed that waivers granted for technological reasons in the early stages of a service’s development should not be necessary indefinitely.³² Today, the Internet is the predominant means of accessing relay services, while traditional PSTN-based access via TTYs is much less common. Now that Internet-based relay services have matured technologically, it seems an appropriate time to take a more rigorous approach to evaluating the technological feasibility of compliance with, as well as the consumer need for, our waived mandatory minimum standards. Although the Hamilton Request did not address the waivers granted for CTS, we include those waivers as well in the scope of this overall review.

6. In undertaking this review, we note that, historically, the Commission has generally been reluctant to grant permanent exemptions from its mandatory minimum standards based on mere assertions of technological infeasibility. For example, in the case of coin-sent paid relay calls, only after a decade of failed industry attempts to address the technical barriers associated with handling these calls and a considerable decline in payphone use did the Commission conclude that the industry could not find a

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Standards Waiver Report (Apr. 15, 2013) (Sorenson Report); Sprint Nextel Corporation, FCC IP Relay Annual Progress Report (Apr. 16, 2013) (Sprint IP Relay Report). In this Notice, we base our consideration of whether to continue specific iTRS waivers on information that we received in annual waiver reports prepared by currently operating iTRS providers; thus, our discussion does not reflect statements submitted in reports filed by providers that have discontinued service.

²⁷ Hamilton Relay, Inc., AT&T Inc., CSDVRS, LLC, Sorenson Communications, Inc., Sprint Nextel Corporation, and Purple Communications, Inc., Request for Extension and Clarification of Various iTRS Waivers, CG Docket No. 03-123 at 4 (filed Nov. 19, 2009) (Hamilton Request).

²⁸ Hamilton Request at 2. The Petitioners assert that: (1) the Commission granted an indefinite waiver of the STS requirement for VRS, but the waiver was of limited duration for IP Relay (*id.* at 3); (2) the “equal access” requirement for long distance service was waived indefinitely for IP Relay, but the waiver was of limited duration for VRS (*id.* at 3-4); and (3) although the Commission granted a number of indefinite waivers for IP CTS, the same waivers for IP Relay and VRS have a limited duration (*id.* at 4).

²⁹ 2011 TRS Waiver Order, 26 FCC Rcd at 9449-50, ¶ 1 n.4.

³⁰ 2012 TRS Waiver Order, 27 FCC Rcd at 7113-14, ¶ 1 n.4.

³¹ *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities; Recommended TRS Cost Recovery Guidelines; Request by Hamilton Telephone Company for Clarification and Temporary Waivers*, CC Docket No. 98-67, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 22948, 22957, ¶ 27 (2001) (2001 TRS Order).

³² See, e.g., *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order on Reconsideration, 18 FCC Rcd 4761, 4767, ¶ 14 (2003) (*IP Relay Order on Reconsideration*) (“[w]e emphasize that IP Relay should be available to voice users, and strongly encourage parties to seek technological advances to make these services possible”); *CTS Declaratory Ruling*, 18 FCC Rcd 16121, 16132, ¶ 31 (“permanent waivers should not be granted on the basis of technological infeasibility, since to do so could inhibit the development of new and progressive technology”).

technically feasible solution that justified continuing this mandate.³³ Before then, the Commission consistently rejected speculative assertions about the technical difficulties associated with coin sent-paid calls, and held firm to the “heavy burden” placed on industry to prove the infeasibility of providing a service that was otherwise available to voice telephone users. The Commission explained that granting a waiver, “without persuasive evidence of infeasibility would certainly impair and discourage the development of improved technology.”³⁴ We undertake our current review of the pending waivers mindful of this Commission precedent.

III. THE WAIVERS AND PROPOSED RULE AMENDMENTS

7. The iTRS waivers that we address in this proceeding generally fall into two categories. One group consists of waivers for standards mandating that TRS include features and functions that are available with voice telephone service. In this first group, we have waived the mandatory minimum standards for “types-of-calls,”³⁵ equal-access,³⁶ pay-per-call,³⁷ three-way calling rules,³⁸ and speed dialing.³⁹ The second group consists of waivers for standards mandating the provision of specific communication services needed by people with speech or hearing disabilities. In this second group, we have waived mandatory minimum standards for voice carry over (VCO),⁴⁰ hearing carry over (HCO),⁴¹ speech-to-speech (STS),⁴² ASCII/Baudot-compatible services,⁴³ Spanish-to-Spanish,⁴⁴ and call-release.⁴⁵ We address each of these groups below. With respect to waivers that are presently limited in duration, we seek comment on whether to make the waivers permanent by amending our rules to explicitly state that the waived mandatory minimum standards are inapplicable to the specified iTRS providers. We ask

³³ The Commission’s coin sent-paid requirement, *i.e.*, the ability to make calls at payphones using coins, stemmed from the more general requirement, contained in the Commission’s TRS mandatory minimum standards, for TRS providers to be “capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so.” 47 C.F.R. §§ 64.604(a)(3)(ii). *See also First TRS Report and Order*, 6 FCC Rcd at 4660-61, ¶ 18 & n.18. Years were spent by the telecommunications industry in an effort to overcome technical difficulties that prevented the network through which such coin sent-paid calls were routed (the Traffic Operator Position System) from assessing the proper rate for relayed calls and from collecting and returning coins to payphone users. When these efforts proved unsuccessful, the Commission eliminated the coin sent-paid service requirement, noting that “[a]fter ten years of attempts by the industry . . . it is appropriate to conclude that a technological solution is not readily available.” *Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Fifth Report and Order, 17 FCC Rcd 21233, 21241, ¶ 17 (2002).

³⁴ *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802, 1804, ¶ 10 (1993).

³⁵ *See* ¶ 8, *infra*.

³⁶ *See* ¶ 11, *infra*.

³⁷ *See* ¶ 15, *infra*.

³⁸ *See* ¶ 18, *infra*.

³⁹ *See* ¶ 20, *infra*.

⁴⁰ *See* ¶ 22, *infra*.

⁴¹ *See* ¶ 22, *infra*.

⁴² *See* ¶ 26, *infra*.

⁴³ *See* ¶ 28, *infra*.

⁴⁴ *See* ¶ 29, *infra*.

⁴⁵ *See* ¶ 31, *infra*.

whether this approach will result in a clearer understanding of and better ongoing compliance with the Commission's rules. For waivers that are already of unlimited duration, we seek comment on whether amending our rules to codify these as permanent exemptions similarly would result in a clearer understanding of and better ongoing compliance with the Commission's rules.

A. Mandatory Minimum Standards for Features and Functions of Voice Telephone Service

8. *Types-of-Calls Requirement.* Commission rules require TRS providers to “be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so.”⁴⁶ This requirement has been waived on a limited-duration basis for IP Relay and VRS providers (but not IP CTS providers)⁴⁷ to the extent that it requires providers to offer specific billing options, including “operator-assisted” billing, such as collect, calling card, and third party billing, as well as sent-paid billing for long distance calls.⁴⁸ As a condition of this waiver, the Commission, and subsequently the Bureau, required that VRS and IP Relay providers allow long distance calls to be placed using calling cards or provide free long distance for such calls.⁴⁹ Petitioners request that this requirement be waived indefinitely for all forms of iTRS because iTRS providers do not have access to interexchange carriers, and therefore third party billing, collect calls and other similar services that are billed by these carriers are not accessible through iTRS platforms.⁵⁰ Since iTRS providers currently offer all their calling services free of charge, Petitioners further suggest that the underlying rationale for requiring these operator services and billing methods is “moot.”⁵¹

9. Until now, the Commission has waived the “types of calls” mandate in response to iTRS providers’ showings that there is no effective per-call billing mechanism to accurately identify and bill iTRS users for long distance and operator-assisted calls, and that the costs of developing such a mechanism would be prohibitive.⁵² Many providers have maintained an inability to devise such a mechanism because they claim that they do not have a billing relationship with their users, and that to set up a billing system would not be cost effective.⁵³ We seek comment on whether the justifications that

⁴⁶ 47 C.F.R. § 64.604(a)(3)(ii). Relay service providers have the burden of proving the infeasibility of handling any type of call. *Id.*

⁴⁷ No waiver had been requested for the types-of-calls requirement at the time that the Commission granted indefinite waivers of other requirements for IP CTS providers. *See generally IP CTS Declaratory Ruling.*

⁴⁸ *See First TRS Report and Order*, 6 FCC Rcd at 4660, ¶ 17 (rule requires TRS providers to handle non-coin sent-paid, third party number, calling card and collect calls); *2004 TRS Report and Order*, 19 FCC Rcd at 12521, ¶¶ 113-15 (waiving the requirement for VRS); *2008 TRS Waiver Order*, 23 FCC Rcd at 18338, ¶ 12 & n. 40 (waiving the requirement for IP Relay). “Sent-paid billing” is an industry term referring to “calls charged to the originating number or collected as coins in a pay telephone.” Newton’s Telecom Dictionary, 25th Edition (2009).

⁴⁹ *2004 TRS Report and Order*, 19 FCC Rcd at 12521, ¶¶ 113-15; *2008 TRS Waiver Order*, 23 FCC Rcd at 18338, ¶ 12 & n. 40. *See also 2012 TRS Waiver Order*, 27 FCC Rcd at 7122, ¶ 17.

⁵⁰ Hamilton Request at 6.

⁵¹ *Id.*

⁵² *See, e.g., 2012 TRS Waiver Order*, 27 FCC Rcd at 7122, ¶ 17; *2004 TRS Report and Order*, 19 FCC Rcd at 12521, ¶ 114.

⁵³ *See e.g., Purple Report* at 1-2 (noting that this technical solution would have to enable geographic and billing identification of VRS and IP Relay users placing calls from the Internet to Purple); *AT&T Report* at 2 (asserting that “[e]stablishing a billing relationship with IP TRS users would require providers to make huge investments in billing and support systems, back-office personnel, training, and distribution systems for generating and sending bills to users”); *Hamilton Report* at 5 (impractical for IP Relay providers to bill for long distance); *Sorenson Report* at 5-6 (claiming that this mandate should be waived because IP based technologies create barriers to effectively determining whether calls are local or long distance).

have supported this waiver in the past still exist such that we should continue to extend the limited-duration waiver has been done in the recent past or whether we should codify a rule that permanently exempts iTRS providers from having to offer these billing options.⁵⁴ We note that in 2008, the Commission adopted requirements for iTRS users to receive ten-digit numbers and to register their locations⁵⁵ and ask whether implementation of these requirements has increased the feasibility of providers utilizing registration location information to distinguish between local and long distance calls for billing purposes.⁵⁶ We recognize that various providers continue to raise concerns in their annual waiver reports about the ongoing difficulties of obtaining accurate caller location information, and ask whether and to what extent these difficulties can be overcome to facilitate compliance with this requirement.⁵⁷ Finally, even though the Commission has never waived the types-of-calls requirement for IP CTS, Hamilton seeks an exemption for all forms of iTRS. To the extent Hamilton meant to include IP CTS in its request, we seek comment on the rationale for establishing a permanent exemption under circumstances where no waiver has been granted previously.

10. We seek comment as well on the continued *need* to require the provision of operator-assisted billing (*i.e.*, collect, calling card, and third party billing) and sent-paid billing for long distance calls handled by iTRS providers, in light of the significant changes that have taken place in communication technologies – including the steep decline in traditional relay usage since the initial adoption of the “types of calls” requirement more than 20 years ago. The operator services and forms of billing contemplated by the “types of calls” requirement were developed for PSTN-based TTY relay services, with a goal of offering the same types of arrangements enjoyed by voice communication users to relay users.⁵⁸ Today, however, billing for services accessed through the Internet tends to be device-based, rather than line-based, making traditional operator services less relevant even when charges do apply. Given these technological changes, including the greater reliance that relay users have on Internet-based forms of TRS, consumers may no longer need or necessarily want the same billing options that were appropriate when relay services were primarily accessed via the PSTN. We seek feedback on this assumption, and whether amending our rules to eliminate the requirement for iTRS providers to offer billing arrangements for “operator-assisted” billing and sent-paid billing for long distance calls, provided that iTRS providers do not charge for such calls, is appropriate and consistent with the Act’s intent to achieve functional equivalency. In this regard, we ask commenters to address all three forms of iTRS—VRS, IP Relay and IP CTS—and to specifically address the rationale for eliminating the requirement for IP CTS under circumstances where no waiver has been granted previously.

11. *Equal Access to Interexchange Carriers.* The Commission’s rules require TRS providers to offer consumers access to their interexchange carrier of choice to the same extent that such access is

⁵⁴ See, *e.g.*, 2012 TRS Waiver Order, 27 FCC Rcd at 7122, ¶ 17.

⁵⁵ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) (*iTRS Numbering I*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791 (2008) (*iTRS Numbering II*).

⁵⁶ See 2008 TRS Waiver Order, 23 FCC Rcd at 18339, ¶ 13.

⁵⁷ See, *e.g.*, Sorenson Report at 5-6 (suggesting that notwithstanding the registration requirements, there is difficulty in determining which calls are local or long distance because of problems in assessing the actual IP endpoint of each call, given that calls are routed through call centers that may be at different locations than the callers); CAAG Report at 3 (the location of the customer would not be known for mobile devices and for dial-around customers); Hamilton Report at 5-6 (Internet Protocol does not accommodate Automatic Numbering Information (ANI) and registration does not always yield accurate location information); ASL Services Report at 2.

⁵⁸ See *First TRS Report and Order*, 6 FCC Rcd at 4660-61, ¶¶ 17-19.

provided to voice users.⁵⁹ The Commission has waived this requirement indefinitely for IP Relay and IP CTS providers⁶⁰ and on a limited-duration basis for VRS providers.⁶¹ The waivers are contingent on iTRS providers providing long distance service without charge.⁶²

12. Petitioners contend that as long as iTRS providers do not charge for long distance service, the requirement for equal access to a preferred long distance carrier is “moot.”⁶³ In its 2013 Report, Purple contends that requiring equal access would substantially increase operating and networking costs with no appreciable consumer benefit, and that, because each call center utilizes a different mix of interexchange carriers, it is impossible to guarantee routing to a particular carrier.⁶⁴ Sorenson claims that the lack of a billing relationship between providers and users impedes its ability to verify whether users are authorized to pay for phone charges, and notes as well the absence of any established method by which VRS users can identify their chosen IXC.⁶⁵ Sorenson also questions the value of the equal-access requirement if users do not incur long distance charges.⁶⁶ Most other providers also support a permanent exemption from the “equal access” requirement.⁶⁷

13. We invite comment on Petitioners’ proposal to amend our rules to exempt iTRS providers permanently from the “equal access to interexchange carriers” requirement (based on its technical infeasibility and inapplicability to an iTRS environment), provided that iTRS providers do not charge for long distance service. As an initial matter, we seek comment on the value to consumers of providing equal access to long distance carriers in an IP-based environment. Given the evolution of the marketplace for voice services, and in particular that wireless, cable, and over-the-top VoIP providers generally do not allow for a choice of IXCs, is there any reason to require iTRS providers to allow for equal access to IXCs in order to satisfy the functional equivalency requirements of section 225(a)(3) of the Act?⁶⁸ We note as well that even traditional wireline telephone customers increasingly are purchasing bundled local and long distance service for a set monthly fee.

⁵⁹ See 47 C.F.R. § 64.604(b)(3). See also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Americans With Disabilities Act of 1990*, CC Docket No. 98-67, CG Docket No. 03-123, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd 12379, 12412-15, ¶¶ 54-61 (2003) (*2003 TRS Report and Order*).

⁶⁰ See *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7789, ¶ 31; *IP CTS Declaratory Ruling*, 22 FCC Rcd at 392, ¶ 30 & n. 101.

⁶¹ See *2004 TRS Report and Order*, 19 FCC Rcd at 12524-25, ¶¶ 125-27.

⁶² See, e.g., *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7789, ¶ 31. See also *2012 TRS Waiver Order*, 27 FCC Rcd at 7123, ¶ 19.

⁶³ Hamilton Request at 6.

⁶⁴ Purple Report at 1. Purple also suggests that the concept of equal access is not applicable to Internet-based relay calls because “[t]he leg of the call which likely uses interexchange carriers is from the relay center to the called party. . . . Equal [a]ccess is not an appropriate concept from the deaf user’s perspective as the relay center is the actual interexchange carrier customer.” *Id.*

⁶⁵ Sorenson Report at 6.

⁶⁶ *Id.* at 7. See also *id.* at 6 (noting that implementing a consumer’s choices “would require Sorenson to enter agreements with virtually every IXC so that it could connect outgoing calls from each Sorenson call center on a call-by-call basis”).

⁶⁷ See AT&T Report at 2-3; CAAG Report at 4 (CAAG would support an industry solution to allow “the exercise of choice” should the VRS industry develop one.); Convo Report at 4; CSDVRS Report at 6; Purple Report at 1-2.

⁶⁸ 47 U.S.C. § 225(a)(3) (defining TRS as telephone transmission services that provide the ability of a person who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication “in a manner that is functionally equivalent” to the ability of hearing individuals without speech disabilities).

14. To the extent that commenters believe that this requirement remains applicable and necessary to an iTRS environment, we ask (1) whether it is feasible for iTRS providers to implement networking and routing solutions to allow iTRS users to choose their carriers and (2) whether reliable mechanisms exist to allow carriers to distinguish between local and long distance calls for this purpose.⁶⁹ Finally, we invite comment on the costs of implementing solutions to fulfill this standard. Should we choose to continue granting this waiver on a temporary basis, we also seek comment on the appropriate interval for revisiting the technological feasibility issues in the future.

15. *Pay-Per-Call (900) calls.* The Commission’s rules require TRS providers to be capable of handling pay-per-call (*i.e.*, 900-number) calls.⁷⁰ The Commission has waived this requirement – indefinitely for IP CTS providers,⁷¹ but on a limited-duration basis for IP Relay and VRS providers – because no billing mechanism has been available to handle the charges associated with pay-per-call calls.⁷² Petitioners now seek an indefinite waiver of the pay-per-call (900) requirement for IP Relay and VRS providers. In addition to claiming that “significant technical hurdles” prevent providers from automatically passing through 900 call information and from invoicing users for these services,⁷³ they assert that much of the information or services available through pay-per-call services are available to iTRS users through other methods that do not involve payments for calls.⁷⁴ All providers submitting reports in 2013 support extension of the waiver.⁷⁵ Purple has requested a waiver from this standard because it “has not received substantial interest from [its] relay users for pay-per-call service,” and so this service would “bring little utility to users.”⁷⁶ Sorenson raises the concern that VRS interpreters’ “expos[ure] to naked and abusive callers and/or obscene video images” would be likely to increase if VRS providers are required to process pay-per-call calls.⁷⁷

16. As holds true for the types-of-calls and the equal access mandatory minimum standards, the pay-per-call standard presupposes a billing relationship that does not presently exist between iTRS

⁶⁹ We again note that implementation of the Commission’s requirements for registering user locations and distributing ten-digit numbers may now enable providers to distinguish between local and long distance calls. *See* ¶ 9, *supra*. *But see, e.g.*, Sorenson Report at 6 (suggesting that notwithstanding the registration requirements, there is difficulty in determining which calls are local or long distance because of problems in assessing the actual IP endpoint of each call, given that calls are routed through call centers that may be at different locations than the callers); CAAG Report at 3-4 (the location of the customer would not be known for mobile devices and for dial-around customers); Hamilton Report at 5-6 (Internet Protocol does not accommodate ANI and registration does not always yield accurate location information).

⁷⁰ 47 C.F.R. § 64.604(a)(3)(iv). “Pay-per-call” services utilize 900 numbers, for which all charges are billed to the calling party. *See id.* § 64.1501(a).

⁷¹ *See IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30.

⁷² *See IP Relay Order on Reconsideration*, 18 FCC Rcd at 4769, ¶ 22; *2004 TRS Report and Order*, 19 FCC Rcd at 12525-26, ¶¶ 130-32; *2012 TRS Waiver Order*, 27 FCC Rcd at 7121, ¶ 15.

⁷³ Petitioners state that because they do not have the ability to confirm the correct ANI associated with 900 calls, they run the risk of billing the wrong party or having callers fraudulently evade payment. Hamilton Request at 7. Sprint also claims that its IP network does not support ANI and end user billing mechanisms, eliminating the ability to bill for these call charges. Sprint IP Relay Report at 1; Sprint IP CTS Report at 1. *See also* Hamilton Report at 4.

⁷⁴ Hamilton Request at 7.

⁷⁵ ASL Report at 3; AT&T Report at 1-2; CAAG Report at 3; Convo Report at 3; CSDVRS Report 5; Purple Report at 2; Sorenson Report at 4-5.

⁷⁶ Purple Report at 2.

⁷⁷ Sorenson Report at 5.

providers and users.⁷⁸ We seek comment on the technical feasibility of and benefits to requiring that such a relationship be established for the purpose of the pay-per-call requirement. For example, as with the types-of-calls and equal access standards, we seek comment and information on whether the implementation of billing mechanisms is now feasible for iTRS providers or may become so in the foreseeable future.⁷⁹ In addition, we seek comment and information on whether the implementation of ten-digit numbering and registered location requirements has increased the feasibility of providing and verifying ANI for pay-per-call billing purposes.⁸⁰ To the extent that parties maintain that this feature is not feasible now, but may be in the future, we also seek comment on the appropriate interval for revisiting the technological feasibility issue. In addition, we seek comment on whether to adopt a rule codifying a permanent exemption or to eliminate the indefinite waiver for IP CTS providers.⁸¹ Finally, we invite comment on whether the value of pay-per-call services to iTRS consumers and possible CA exposure to abusive and/or obscene video images should affect our determination regarding a permanent exemption from the pay-per-call requirement.

17. *Three-Way Calling.* Three-way calling, also required by the Commission's rules,⁸² allows more than two parties to be on the telephone line at the same time with the CA.⁸³ Waivers of the requirement for VRS and IP Relay providers were previously allowed to expire.⁸⁴ Petitioners ask the Commission to similarly terminate the remaining indefinite waiver for IP CTS providers because most, if not all, IP CTS providers now offer this functionality.⁸⁵

18. We propose to terminate the three-way calling waiver for IP CTS providers and seek comment on this proposal. In adopting this TRS standard, the Commission noted the desirability of a calling feature allowing relay users to add a third party to a call and the fact that this capability has "long been available to voice telephone users."⁸⁶ Based on the representation of the Petitioners, we believe that this important feature of telephone service is now feasible for IP CTS providers. We ask commenters that disagree with this proposal to justify the need for a continued waiver. If the Commission were to eliminate the waiver of the three-way calling requirement for IP CTS, we further seek comment on an appropriate termination date.

19. *Speed Dialing.* Speed dialing allows a TRS user to give the CA a "short-hand" name or number (e.g., "call Mom") for the user's most frequently called telephone numbers.⁸⁷ This feature

⁷⁸ See AT&T Report at 1-2; CAAG Report at 3; Convo Report at 3; CSDVRS Report 5; Purple Report at 2; Sorenson Report at 4-5.

⁷⁹ As noted above, with respect to waivers for the types-of-calls and equal access requirements, providers' inability to bill for calls has been addressed by requiring providers, as a condition of those waivers, to offer "free" access to long distance service. See ¶¶ 8, 11, *supra*. The same approach does not appear practicable in the case of pay-per-call services, however, as the per-call charges involved are far more substantial. See, e.g., *2004 TRS Report and Order*, 19 FCC Rcd at 12526, ¶ 131 ("[p]etitioners further assert that simply absorbing the costs of 900 number calls would unnecessarily increase the cost of VRS and unfairly subsidize users of this particular service").

⁸⁰ See ¶ 9, *supra*.

⁸¹ See *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30.

⁸² 47 C.F.R. § 64.604(a)(3)(vi)(3).

⁸³ *Id.* § 64.601(a)(24).

⁸⁴ *2007 TRS Waiver Order*, 22 FCC Rcd at 21876, ¶ 24.

⁸⁵ Hamilton Request at 10. The indefinite three-way calling waiver for IP CTS providers was granted in the *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30.

⁸⁶ *2003 TRS Report and Order*, 18 FCC Rcd at 12419, ¶ 72.

⁸⁷ See *id.*, ¶¶ 70-71 (requiring speed dialing as a TRS feature); 47 C.F.R. § 64.604(a)(3)(vi)(2).

permits a person making a TRS call through a CA to place the call without having to remember or locate the number he or she desires to call. The Commission waived this requirement for VRS and IP Relay until January 1, 2008.⁸⁸ The *2007 TRS Waiver Order* found that all VRS providers – but not all IP Relay providers – were offering a speed dialing feature.⁸⁹ As a result, the speed dialing waiver was allowed to expire for VRS but generally was extended for IP Relay for one year, until January 1, 2009, to allow the remaining IP Relay providers sufficient time to offer speed dialing.⁹⁰

20. With regard to IP CTS, the Commission, in the *IP CTS Declaratory Ruling*, indefinitely waived speed dialing for IP CTS providers, contingent on such providers filing annual reports addressing the waiver.⁹¹ Sprint reports that it has implemented speed dialing for IP CTS.⁹² Accordingly, we *sua sponte* ask for comment on whether it would be in the public interest for the Commission to terminate the waiver for speed dialing for IP CTS providers.⁹³ In particular, we seek comment on whether other IP CTS providers are currently offering speed dialing capability, and if not, whether there are any technical barriers preventing IP CTS providers from offering speed dialing. If we were to terminate the speed dialing waiver for IP CTS, we seek comment on when such termination should take effect. Alternatively, we seek comment on whether good cause still exists to waive the speed dialing requirement as applied to IP CTS. To the extent commenters argue for continued waiver, we seek comment on when we should revisit the need for this waiver.

B. Mandatory Minimum Standards to Provide Specific TRS Features

21. The second group of waived mandatory minimum standards relates to specific forms of TRS needed by people with disabilities, including voice carry over (VCO), hearing carry over (HCO), speech-to-speech, ASCII/Baudot-compatible services, Spanish-to-Spanish, and call release. We address each of these in turn.

22. *VCO* and *HCO*. The Commission's rules require TRS providers to offer "voice carry over" (VCO)⁹⁴ and "hearing carry over" (HCO).⁹⁵ With VCO, a person who has a hearing disability, but who is able to speak, communicates by voice directly to the other party to the call without intervention by the CA, and the other party's voice response is relayed by the CA as text.⁹⁶ With HCO, a person who has a speech disability, but who is able to hear, listens directly to the other party's voice without intervention by the CA, and in reply has the CA convert his or her typed responses into voice.⁹⁷ There are multiple forms

⁸⁸ *2003 TRS Report and Order*, 18 FCC Rcd at 12421, ¶ 76.

⁸⁹ *2007 TRS Waiver Order*, 22 FCC Rcd at 21876, ¶ 21.

⁹⁰ *Id.* There was one exception to the termination date for this waiver. Although the speed dialing waiver for IP Relay providers generally expired on December 31, 2008, it was further extended for AT&T's IP Relay services for four months, until April 30, 2009, after which all providers were subject to the speed dialing requirement. *2008 TRS Waiver Order*, 23 FCC Rcd at 18340-41, ¶ 19.

⁹¹ *IP CTS Declaratory Ruling*, 22 FCC Rcd at 392-93, ¶ 30, n. 106.

⁹² Sprint IP CTS Report at 3.

⁹³ Section 1.411 of the Commission's rules authorizes the Commission to initiate a rulemaking on its own motion. 47 C.F.R. § 1.411.

⁹⁴ *Id.* § 64.604(a)(3)(v)(2).

⁹⁵ *Id.* § 64.604(a)(3)(v)(3).

⁹⁶ *Id.* § 64.601(a)(29).

⁹⁷ *See id.* § 64.601(a)(9).

of VCO⁹⁸ and HCO.⁹⁹ The Commission has granted fixed-duration waivers for VRS and IP Relay of all the VCO and HCO mandatory minimum standards except two-line VCO and HCO, based on providers' representations that Internet connections are unable to deliver voice and data over a single line with the necessary quality.¹⁰⁰ The Commission also has granted these waivers for IP CTS indefinitely,¹⁰¹ as well as granting an indefinite waiver of HCO for CTS.¹⁰² All such waivers have been conditioned on the filing of annual reports regarding the technological feasibility of compliance.¹⁰³ Petitioners request that these mandatory minimum standards be waived indefinitely for VRS and IP Relay providers as long as the provider is capable of a "work-around" solution, such as offering the ability to use two-line VCO and HCO over the Internet at no additional charge to users.¹⁰⁴

23. In their annual reports, some providers indicate that they are capable of providing certain forms of one-line VCO and HCO.¹⁰⁵ Others state that although they are providing two-line VCO and HCO in accordance with the Commission's rules, they are not yet capable of providing one-line VCO and

⁹⁸ With one-line VCO, the same telephone line is used both to transmit the user's voice and to receive text transmissions back from the relay center. As offered by PSTN-based providers, there is no interrupt capability, and each party to the call must take turns speaking. See *2003 TRS Report & Order*, 18 FCC Rcd at 12402, n.123. Two-line VCO enables consumers to use one line for voicing and the other for receiving text transmissions. See 47 C.F.R. § 64.601(a)(29). VRS and IP Relay providers can offer two-line VCO by having the caller speak directly to the called party on a telephone line and, in turn, having the caller receive what the called party is saying in either sign language (VRS) or text (IP Relay) via an Internet connection. VCO-to-TTY allows a relay conversation to take place between a VCO user and a TTY user, and VCO-to-VCO allows a relay conversation to take place between two VCO users. See *id.*

⁹⁹ With one-line HCO, the same telephone line is used both to send text transmissions to the relay center and to transmit the called party's voice back to the caller. As offered by PSTN-based providers, there is no interrupt capability and each party to the call must take turns speaking. See *2003 TRS Report and Order*, 18 FCC Rcd at 12402, n.123. Two-line HCO enables consumers to use one line for receiving voice transmissions and the other for transmitting text. See 47 C.F.R. § 64.601(a)(9). VRS and IP Relay providers can offer two-line HCO by having the caller transmit to the relay center in sign language (VRS) or text (IP Relay) via an Internet connection and receive voice transmissions directly from the called party on a telephone line. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user, and HCO-to-HCO allows a relay conversation to take place between two HCO users. See *id.* § 64.601(a)(9).

¹⁰⁰ Providers have maintained that the quality of voice calls via a computer and the Internet depends on the quality of the user's customer premises equipment, and so CAs are not able to relay all conversations reliably and accurately. *2004 TRS Report and Order*, 19 FCC Rcd at 12527, ¶ 135 & n. 384 (extending the one-line VCO and HCO waivers to VRS). See also *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7790, ¶ 32 (initially waiving the one-line VCO requirement for IP Relay); *IP Relay Order on Reconsideration*, 18 FCC Rcd at 4766, ¶ 14, 4768, ¶ 18 (extending the one-line VCO waiver for five years and approving a waiver for one-line HCO for the same period, based on provider representations that the same technological obstacles exist for HCO as for VCO); *2003 TRS Report and Order*, 18 FCC Rcd at 12404-05, ¶ 36 (extending the waiver for IP Relay and VRS providers to one-line VCO-to-TTY, HCO-to-TTY, VCO-to-VCO, and HCO-to-HCO types of TRS calls).

¹⁰¹ See *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30.

¹⁰² See *CTS Declaratory Ruling*, 18 FCC Rcd at 16132, ¶ 31.

¹⁰³ *2003 TRS Report & Order*, 18 FCC Rcd at 12405, ¶ 36; *2004 TRS Report and Order*, 19 FCC Rcd at 12527, ¶ 135; *IP CTS Declaratory Ruling*, 22 FCC Rcd at 393, ¶ 30 & n. 106.

¹⁰⁴ Hamilton Request at 8-9.

¹⁰⁵ See CAAG Report at 2-3 (can offer VCO-to-VCO, but does not offer one-line VCO due to quality concerns and cannot offer one-line HCO and HCO-to-HCO); Convo Report at 2-3 (offers one-line VCO and HCO for its SIP-based products); CSDVRS Report at 2-3 (can offer one-line VCO and HCO when user's customer premises equipment (CPE) supports this capability; can support VCO-to-TTY and HCO-to-TTY by using 2 CAs; can offer VCO-to-VCO); ASL Services Report at 1-2 (supports extension of these waivers).

HCO,¹⁰⁶ and are continuing to look at VoIP and other technologies as a potential solution to providing one-line VCO and HCO.¹⁰⁷ Although some providers report that the quality of voice on the Internet has continued to improve,¹⁰⁸ these same providers claim that the technology is still not universally available to allow every user to experience high quality service.¹⁰⁹ For example, Sorenson draws a distinction between high- and low-bandwidth Internet users with respect to service quality.¹¹⁰ For VRS users with low-bandwidth Internet service, Sorenson states that VRS providers need the option to offer only two-line VCO and HCO in order to preserve the high-quality video connection needed for sign language. According to Sorenson, excluding audio transmissions from the IP connection can result in 25 percent more bandwidth being available for the video connection, which is important for users with low bandwidth service.¹¹¹

24. We seek comment on whether, given advances in Internet technologies and the availability of one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY by some providers for some IP-based relay services, waivers for these features continue to be necessary. Specifically, we seek feedback on the extent to which these services are technically feasible over a broadband connection, and whether any distinction should be drawn for service in low bandwidth environments. In addition, we seek comment on the quality and convenience of the two-line VCO and HCO services that are currently available from iTRS providers. Are such services generally available and affordable, and are these adequate substitutes for one-line VCO and HCO? To the extent that we permit two-line VCO and HCO as “work-arounds” to single-line VCO and HCO, we seek feedback on whether the Commission should condition such waivers on providers’ absorbing the additional cost of subscriptions for any additional telephone lines needed for the voice leg of the service.¹¹² We ask commenters to weigh the benefits of one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY against the cost of providing these services. If the Commission were to eliminate the waivers for one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY for VRS and IP Relay, we seek comment on an appropriate termination date.

25. We seek comment on amending our rules to permanently exempt CTS and IP CTS providers from providing any form of HCO. In the *CTS Order*, the Commission determined that HCO involves “particular functionalities that do not apply to captioned telephone calls.”¹¹³ Specifically, as the Commission explained, when using CTS, “a person with some residual hearing can speak to the other party and in return both listen to what the other party is saying and read text of what that party is saying . . .

¹⁰⁶ See AT&T Report at 2 (cannot simultaneously process voice and data information on the same Internet connection in order to reliably enable one-line VCO or HCO); Hamilton Report at 2-3; Sorenson Report at 2-3; Sprint IP Relay Report at 2-3. Purple notes that because its IP Relay and VRS platforms are designed only to accept text and video calls from the Internet, and only to place outbound voice calls from its relay centers to other parties via the PSTN, and vice versa, it is currently technically impossible for it to provide voice-based services when a voice call to a relay center is originated by a called party. Purple Report at 2.

¹⁰⁷ See *id.* at 2-3.

¹⁰⁸ See, e.g., Sprint IP Relay Report at 2; Purple Report at 2-3 (Purple states that it is monitoring advances in the quality of voice on the Internet, although it does not claim that there have been any such advances).

¹⁰⁹ Sprint IP Relay Report at 2.

¹¹⁰ Sorenson Report at 3.

¹¹¹ *Id.*

¹¹² Such condition would assume that users of these services are unlikely to subscribe to voice telephone service other than as a means to obtain VCO or HCO service.

¹¹³ *CTS Declaratory Ruling*, 18 FCC Rcd at 16131-32, ¶ 29.

. . . [t]his service . . . is simply not able to handle . . . HCO relay calls.”¹¹⁴ In the *IP CTS Declaratory Ruling*, the Commission similarly exempted IP CTS providers.¹¹⁵

26. *STS*. STS service allows a person with a speech disability to communicate with voice telephone users through the use of CAs who are trained to understand the speech patterns of persons with disabilities and can repeat the words spoken by that person.¹¹⁶ In 2000, the Commission recognized STS as a form of TRS and required that it be offered as a mandatory service.¹¹⁷ In 2002, the Commission waived this requirement for IP Relay providers for a limited period of time, noting that “technological limitations [made] these services impossible at [that] point.”¹¹⁸ The Commission subsequently has extended this waiver on multiple occasions.¹¹⁹ The Commission also waived the STS requirement indefinitely for CTS,¹²⁰ IP CTS,¹²¹ and VRS,¹²² finding this mandatory minimum standard to be inapplicable to these relay services. Specifically, STS is purely speech-based, while CTS and IP CTS require the CA to provide communication in text and, under our current rules, VRS requires the CA to provide communication in American Sign Language (ASL).¹²³ Petitioners request that the Commission waive the STS requirement indefinitely for IP Relay “because, as with VRS and IP CTS calls, one leg of an Internet Relay call is entirely text-based without any speech capabilities, thus rendering the service incapable of providing STS.”¹²⁴ In their annual reports, providers generally point to their inability to ensure consistent quality and reliability as justification for waiving this feature.¹²⁵

¹¹⁴ *Id.*

¹¹⁵ *IP CTS Declaratory Ruling*, 22 FCC Rcd at 392, ¶ 30. *See also* Hamilton Report at 3 (the VCO and HCO requirements should be permanently waived for IP CTS without the need for filing annual reports, because those services are not applicable to any form of CTS, and CTS is, in fact, a form of VCO).

¹¹⁶ 47 C.F.R. § 64.601(a)(20).

¹¹⁷ *2000 TRS Report and Order*, 15 FCC Rcd at 5148-52, ¶¶ 14-20.

¹¹⁸ *IP Relay Order*, 17 FCC Rcd at 7790, ¶ 32.

¹¹⁹ *See, e.g., IP Relay Order on Reconsideration*, 18 FCC Rcd at 4766-67, ¶¶ 13-14; *2012 TRS Waiver Order*, 27 FCC Rcd at 7123-24, ¶¶ 20-21.

¹²⁰ *CTS Declaratory Ruling*, 18 FCC Rcd at 16132, ¶ 31.

¹²¹ *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30. Nevertheless, IP CTS providers are required to file annual reports addressing this waiver. *Id.* at 393, ¶ 30, n. 106. *See also 2004 TRS Report and Order*, 19 FCC Rcd at 12594, Appendix E (waiver chart addressing filing of annual reports); *id.* at 12520-21, ¶ 111 (detailing required contents of annual report).

¹²² *2001 TRS Order*, 16 FCC Rcd at 22957, ¶ 26 (declining to make the provision of STS mandatory for VRS providers at that time); *2004 TRS Report and Order*, 19 FCC Rcd at 12527-28, ¶¶ 138-39 (clarifying that the general requirement for TRS providers to offer STS is waived for VRS).

¹²³ 47 C.F.R. §64.601(a)(27).

¹²⁴ Hamilton Request at 7.

¹²⁵ *See e.g., Purple Report* at 3 (asserts that it would have no control over the configuration of CPE required to route speech between personal computers and mobile devices and its relay centers at a high enough level of quality to make this a consistently usable service); *Sorenson* at 7 (explains that it lacks the resources and capabilities to provide reliable service; raises concerns that the quality of each consumer’s CPE may result in unreliable STS communications); *AT&T* at 2 (raises concerns about simultaneously processing voice and data information on the same Internet connection to reliably enable voice communications); *ASL Services Report* at 5 (states that VRS is a visual/video based service so STS does not apply.) *See also CAAG Report* at 4; *Convo Report* at 4 (claims that no VRS user has ever asked Convo for STS); *Hamilton Report* at 1-2; *Sprint IP Relay Report* at 1.

27. We seek comment on amending our rules to exempt CTS, IP CTS, and VRS providers from the STS requirement.¹²⁶ We also invite comment on whether to permanently exempt IP Relay providers from offering STS.

28. *ASCII/Baudot Communications.* The Commission's rules contain technical mandatory minimum standards that are specific to the traditional TTY-based form of TRS. One of these rules requires TRS providers to be capable of handling communications using the ASCII¹²⁷ and Baudot¹²⁸ formats, at any speed generally in use.¹²⁹ The Commission has granted CTS and IP CTS providers indefinite waivers of these mandatory minimum standards¹³⁰ but has not addressed their applicability to VRS or IP Relay providers. As the Petitioners point out, these mandatory minimum standards are not applicable to the Internet protocol with which iTRS calls are made.¹³¹ Therefore, we propose to amend our rules to explicitly exempt all forms of iTRS from the ASCII/Baudot call handling requirement. We invite comment on this proposal, and on whether to codify as permanent exemptions the existing waivers for CTS and IP CTS.

29. *Spanish Language Service over CTS, IP CTS, and IP Relay.* Section 64.603 of the Commission's rules requires the provision of interstate PSTN-based relay services in Spanish.¹³² The Commission has ruled that although VRS providers may offer and be compensated for Spanish language services,¹³³ they are not required to do so.¹³⁴ The Commission has not made any ruling regarding the applicability of the Spanish language requirement to CTS, IP CTS and IP Relay.¹³⁵ Noting that IP CTS

¹²⁶ Although, as noted above, we have previously found that the STS requirement is inapplicable to CTS, IP CTS, and VRS because the nature of these relay services is different than STS, some parties have requested the Commission to allow or require VRS providers to handle calls by persons with speech disabilities, to enable recipients of those calls to better understand these callers by seeing their facial expressions. See *Speech Communications Assistance by Telephone (SCT) et al., Petition for Rulemaking for Video Assisted STS (STS VID) to Facilitate Phone Communication for People with Severe Speech Disabilities*, CG Docket No. 03-123 (filed Oct, 20, 2011). See also *Comments of SCT*, CG Docket No. 03-123 (filed Nov. 3, 2009). Because our current rules define VRS as a service that "allows people with hearing or speech disabilities who use sign language" to communicate through video equipment" (47 C.F.R. §64.601(a)(27)), we believe that redefining this service to include STS would require a rule change that is outside the scope of this proceeding.

¹²⁷ *Id.* § 64.601(a)(4). ASCII is an acronym for American Standard Code for Information Interexchange. It employs an eight bit code.

¹²⁸ *Id.* § 64.601(a)(5). Baudot is a seven bit code, only five of which are information bits.

¹²⁹ *Id.* § 64.604(b)(1).

¹³⁰ See *CTS Declaratory Ruling*, 18 FCC Rcd at 16139, ¶¶ 43-54; *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30.

¹³¹ Hamilton Request at 10.

¹³² 47 C.F.R. § 64.603.

¹³³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 98-67 and 03-123, Order on Reconsideration, 20 FCC Rcd 13140 (2005) (*Spanish VRS Order*). See also *2001 TRS Order*, 16 FCC Rcd at 22958, ¶ 27.

¹³⁴ *Spanish VRS Order*, 20 FCC Rcd at 13140, ¶ 1, 13155, ¶ 32. See also *2001 TRS Order*, 16 FCC Rcd at 22957-58, ¶ 27.

¹³⁵ We recognize that several providers have been receiving compensation for their voluntary provision of CTS, IP CTS or IP Relay in Spanish and this Notice does not propose to discontinue such compensation for the provision of those services in compliance with the applicable requirements of section 225 of the Act and the Commission's rules and requirements.

and IP Relay, like VRS, are voluntary services,¹³⁶ the Petitioners ask that the Commission “clarify whether Spanish-to-Spanish is a nonmandatory service” for IP Relay and IP CTS providers.¹³⁷ Although not mentioned by the Petitioners, we note that CTS is also a voluntary service.¹³⁸

30. Given that IP Relay, CTS and IP CTS are not mandatory, we propose to conclude that Spanish language versions of these services are nonmandatory services.¹³⁹ In this regard, we seek feedback on the extent to which Spanish-language IP Relay, CTS and IP CTS are currently available to and utilized by consumers, on the value of such services to Spanish-speaking consumers, and on whether mandating Spanish language IP Relay, CTS and IP CTS is necessary to ensure the availability of these forms of TRS for the Spanish-speaking population. Commenters are also asked to weigh the benefits of mandating Spanish language IP Relay, CTS and IP CTS against the burdens for providers to offer these services. We also seek comment on whether to amend the Commission’s Part 64 rules to codify our ruling that VRS providers are not required to offer Spanish language VRS.¹⁴⁰

31. *Call Release.* The Commission’s rules require TRS providers to offer “call release,” a feature that allows the CA to drop out—or be “released”—from the relay call after setting up a direct TTY-to-TTY connection between the caller and the called party.¹⁴¹ The Commission has waived this requirement indefinitely for CTS and IP CTS providers,¹⁴² but on a limited-duration basis for VRS and IP Relay providers.¹⁴³ Petitioners now ask the Commission to extend this waiver indefinitely for VRS and IP Relay providers because, as the Commission has previously noted, “the Internet leg of the call (via video or text) cannot support call release functionality.”¹⁴⁴ In their annual waiver reports, other providers also have asserted that call release is inapplicable to VRS and IP Relay because users of those services can already communicate directly via the Internet with other video and text users.¹⁴⁵ Sorenson further

¹³⁶ See *2004 TRS Report and Order*, 19 FCC Rcd at 12564, ¶¶ 231-32 (raising issue whether IP Relay should be a mandatory service); *IP CTS Declaratory Ruling*, 22 FCC Rcd at 390, ¶ 25. See also *Telecommunications Relay Services and Speech-to-Speech Services for individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20142, nn. 7, 8 (2007) (*2007 TRS Report and Order*).

¹³⁷ Hamilton Request at 5.

¹³⁸ See *CTS Declaratory Ruling*, 18 FCC Rcd at 16129, ¶ 22.

¹³⁹ Petitioners also claim that “[i]t is not clear from the record whether Internet Relay and IP CTS providers are subject to the ASL-to-Spanish requirement . . . [and] request that the ASL-to-Spanish requirement be waived indefinitely for IP Relay and IP CTS.” Hamilton Request at 5-6. As Petitioners note, ASL-to-Spanish is a voluntary service for VRS providers. *Id.* at 5. See also *Spanish VRS Order*, 20 FCC Rcd at 13140, ¶ 1, 13155, ¶ 32; *2001 TRS Order*, 16 FCC Rcd at 22957-58, ¶ 27. Thus, we do not believe there is any need for us to address whether services such as IP Relay and IP CTS, which do not involve the use of ASL, would be subject to an ASL-to-Spanish requirement.

¹⁴⁰ See *Spanish VRS Order*, 20 FCC Rcd at 13140, ¶ 1, 13155, ¶ 32. See also *2001 TRS Order*, 16 FCC Rcd at 22957-58, ¶ 27.

¹⁴¹ See 47 C.F.R. §§ 64.601(6), 64.604(a)(3)(vi)(1).

¹⁴² See *CTS Declaratory Ruling*, 18 FCC Rcd at 16138-39, ¶¶ 51-52; *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30.

¹⁴³ *2003 TRS Report and Order*, 18 FCC Rcd at 12421, ¶ 76. See also *2012 TRS Waiver Order*, 27 FCC Rcd at 7120, ¶ 13.

¹⁴⁴ Hamilton Request at 9.

¹⁴⁵ ASL Services Report at 2; AT&T Report at 3; CAAG Report at 3; Convo Report at 3; CSDVRS Report at 4; Purple Report at 2; Sorenson Report at 4. Regarding VRS, Sprint states that, with full implementation of 10-digit dialing, videophone users can make point-to-point calls to other videophone users from any location. Sprint VRS Report at 4.

claims that “[r]equiring VRS and IP Relay providers to support the functionality would raise a host of technological challenges, including developing processes to ‘drop’ communications assistants from Internet-based communications and ensuring that scarce bandwidth is available for the functionality (and therefore not available for others).”¹⁴⁶ Sprint adds that the call release feature is not technically feasible because the two legs of the call are not compatible.¹⁴⁷ We invite comment on the above assertions as to the inapplicability and/or technical infeasibility of the call release feature in the IP environment and consequently whether we should amend our rules to permanently exempt all iTRS providers as well as CTS providers from compliance with this standard.¹⁴⁸ In the event that parties still consider this standard relevant to IP-based services, we further invite comment and information on whether solutions to the present technological barriers to this feature are available, and if so, the costs and benefits of implementing such solutions. To the extent that parties maintain that this feature is not feasible now but may be in the future, we also seek comment on the appropriate interval for revisiting the technological feasibility issue.

C. Annual Reports

32. For those mandatory minimum standards for which the Commission decides to adopt permanent exemptions in place of existing waivers, we further propose elimination of the requirement to file annual reports. We ask commenters for their input on this proposal. To the extent that parties believe that iTRS providers should be required to continue filing annual reports with respect to any existing waiver that is made a permanent exemption, we ask commenters to provide a justification for why such reporting would continue to be needed to further the functional equivalency of TRS or otherwise benefit the public interest. We further ask commenters to weigh the benefits of mandating continued reporting against the burdens on providers to deliver such reports.

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility

33. As required by the Regulatory Flexibility Act,¹⁴⁹ the Commission has prepared an Initial Regulatory Flexibility Certification (“IRFC”) of the expected economic impact on small entities of the waivers of the requirements and rules proposed in this *Notice*. The IRFC is set forth in Appendix B. The Commission will send a copy of the *Notice*, including the IRFC, to the Chief Counsel for Advocacy of the Small Business Administration.

B. Paperwork Reduction Act

34. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.¹⁵⁰

¹⁴⁶ Sorenson Report at 4.

¹⁴⁷ Sprint IP Relay Report at 3. *See also* Hamilton Report at 3-4.

¹⁴⁸ Because the CTS waivers are not based on technological infeasibility of meeting particular requirements, but rather on the fact that such requirements are simply inapplicable to CTS, the Commission presently does not condition the CTS waivers on the filing of annual reports. *See CTS Declaratory Ruling*, 18 FCC Rcd at 16131, ¶ 27.

¹⁴⁹ 5 U.S.C. § 603.

¹⁵⁰ 44 U.S.C. § 3506(c)(4).

C. *Ex Parte* Presentations

35. The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.¹⁵¹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b).¹⁵² In proceedings governed by rule 1.49(f)¹⁵³ or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

D. Comment Filing Procedures

36. Pursuant to Sections 1.415 and 1.419 of the Commission's rules,¹⁵⁴ interested parties may file comments and reply comments regarding the *Notice* on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).¹⁵⁵

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

¹⁵¹ 47 C.F.R. §§ 1.1200 *et seq.*

¹⁵² *Id.* § 1.1206(b).

¹⁵³ *Id.* § 1.49(f).

¹⁵⁴ *Id.* §§ 1.415, 1.419.

¹⁵⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

37. Documents in CG Docket No. 03-123 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

38. 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 (voice), 202-418-0432 (TTY).

V. ORDERING CLAUSES

39. Accordingly, IT IS ORDERED, pursuant to the authority contained in Sections 1, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 225, that this Notice of Proposed Rulemaking IS ADOPTED.

40. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Notice*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 C.F.R. part 64 as follows:

Part 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254 (k); secs. 403 (b)(2)(B), (c), Public Law 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254 (k) unless otherwise noted.

SUBPART F – TELECOMMUNICATIONS RELAY SERVICES AND RELATED CUSTOMER PREMISES EQUIPMENT FOR PERSONS WITH DISABILITIES

2. The authority citation for subpart F continues to read as follows:

Authority: 47 U.S.C. 151-154; 225, 255, and 303(r), 616 and 620.

3. Amend § 64.603 of subpart F to add paragraph (c) as follows:

§64.603 Provision of Services.

* * * * *

(c) Providers of captioned telephone relay service, Internet-based captioned telephone relay service, VRS and IP Relay are not required to offer speech-to-speech relay service and interstate Spanish language relay service.

4. Amend § 64.604 of subpart F to revise to read as follows:

§64.604 Mandatory minimum standards.

* * * * *

(a) * * *

* * * * *

(3) * * *

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call. **Providers of Internet-based TRS need not provide the same billing options (e.g., sent-paid long distance, operator-assisted, calling card, collect, and third party billing) traditionally offered for wireline and wireless voice services.**

* * * * *

(iv) Relay services **other than Internet-based TRS** shall be capable of handling pay-per-call calls.

(v) TRS providers are required to provide the following types of TRS calls: (1) Text-to-voice and voice-to-text; (2) VCO, two line VCO, VCO-to-TTY, and VCO-to-VCO; (3) HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO. **VRS providers are not required to provide text-to-voice and voice-to-text functionality. IP Relay providers and VRS providers are not required to provide VCO-to-TTY and HCO-to-TTY. Captioned telephone service providers and Internet-based captioned telephone service providers are not required to provide (1) text-to-voice; (2) VCO-to-TTY; (3) HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO.**

(vi) TRS providers are required to provide the following features: (1) call release functionality (**only with respect to the provision of TTY-based TRS**); (2) speed dialing functionality; and (3) three-way calling functionality.

* * * * *

(b) *Technical standards*—(1) *ASCII and Baudot*. **TTY service** shall be capable of communicating with ASCII and Baudot format, at any speed generally in use. **Other forms of TRS are not subject to this requirement.**

* * * * *

(3) *Equal access to interexchange carriers*. TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services to the same extent that such access is provided to voice users. **This requirement is inapplicable to providers of Internet-based TRS if they do not assess specific charges for long distance calling.**

APPENDIX B

Initial Regulatory Flexibility Certification

CG Docket No. 03-123

1. The Regulatory Flexibility Act (RFA)¹ requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."² The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁴ A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁵

2. In the Notice of Proposed Rulemaking (*Notice*), the Commission seeks comment on its proposal to permanently waive in some instances and to terminate the waivers in other instances of certain operational, technical, and functional mandatory minimum standards applicable to the provision of Telecommunications Relay Services (TRS) for providers using the Internet to provide services such as Video Relay Service (VRS), Internet Protocol Relay Service (IP Relay), and Internet Protocol Captioned Telephone Service (IP CTS) as well as for providers offering traditional Captioned Telephone Service (CTS). To be eligible for compensation from the interstate TRS Fund, a TRS provider must offer service in compliance with all applicable mandatory minimum standards, unless they are waived.⁶ The Commission has waived several of these mandatory minimum standards for VRS, IP Relay, and IP CTS either because, as Internet-based services, it is not technologically feasible for them to meet the requirement or, in the case of VRS, because VRS is a video-based service and the communication is via sign language and not text. The Commission has waived other mandatory minimum standards that are inapplicable to the particular form of TRS, including VRS, IP Relay, IP CTS and CTS. Some of these waivers have been for finite periods, usually one year, and require new waivers at the end of the period

¹ See 5 U.S.C. § 603. The RFA, 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² See 5 U.S.C. § 605(b).

³ 5 U.S.C. § 601(6).

⁴ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

⁵ 15 U.S.C. § 632.

⁶ *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, 5158, ¶ 39 (2000) (*2000 TRS Report and Order*). The Interstate TRS Fund compensates relay providers for their reasonable costs of providing interstate TRS services and, presently, for Internet based forms of TRS, including VRS, IP Relay, and IP CTS, both intrastate and interstate TRS. See generally *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 90-571 and 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, 12482-83, ¶¶ 7-8 (2004) (*2004 TRS Report and Order*).

while other waivers have been for indefinite periods. The *Notice* proposes to incorporate these waivers into the Commission's rules to obviate the need for annual waivers to be applied for and granted and to harmonize the treatment of all TRS providers to which these mandatory minimum standards do not apply given the technology through which the service is provided.

3. The *Notice* seeks comment on whether to incorporate these waivers into the rules. It further seeks comment on a Petitioner's request that the Commission clarify whether the Spanish-to-Spanish requirement should be a non-mandatory service for IP Relay and IP CTS providers as it is for VRS providers.

4. Where a mandatory minimum standard is inapplicable, we propose to convert existing waivers of the mandatory minimum standards to permanent exemptions, thereby eliminating unnecessary administrative burdens on providers and the Commission.⁷ Specifically, IP CTS providers have received waivers for the following features: (1) gender preference; (2) handling calls in ASCII and Baudot formats; (3) call release; (4) Speech-to-Speech; (5) Hearing Carry Over (HCO) and VCO services; (6) outbound 711 calling; (7) emergency call handling; (8) equal access to interexchange carriers; (9) pay-per-call (900) service; (10) three-way calling; (11) speed dialing; and (12) certain rules applying to CAs.

5. With regard to the criterion of the economic impact of this *Notice*, with respect to those waivers that are proposed to be made permanent or otherwise codified, the Commission notes that all providers potentially affected by the proposed rules, including those deemed to be small entities under the SBA's standard, would benefit by being relieved from the necessity to periodically file for new waivers of the TRS mandatory minimum standards and from incurring unnecessary expenses in research and development of features or services that are inapplicable to certain types of TRS services. Therefore, the Commission concludes that with respect to those waivers, the *Notice*, if adopted, will not have a significant economic impact on any entities.

6. With respect to those waivers that are being terminated, the record shows that the providers are generally providing the features that had been the subject of such waivers. For example, the record shows that providers are now able to offer three-way calling and speed dialing. With respect to one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY, we are seeking comment to better determine which features should be waived and which features no longer require a waiver for the providers of VRS, IP Relay, IP CTS and CTS. We believe that the entities that may be affected by the termination of such waivers are only those TRS providers that offer VRS, IP Relay, IP CTS and CTS. Should the TRS providers, including the small entities, become affected by the termination of such waivers, the costs of compliance of the requirements to offer three-way calling and speed dialing are minimal. Neither the Commission nor the SBA has developed a definition of "small entity" specifically directed toward TRS providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers, for which the small business size standard is all such firms having 1,500 or fewer employees.⁸ Collectively, there are fewer than ten TRS providers that are authorized by the Commission or, in the case of CTS, by any state Commission, to offer these services. No more than four of these entities may be small businesses under the SBA size standard. Therefore, the *Notice*, if adopted would not have a significant economic impact on a substantial number of small entities.

7. The Commission therefore certifies, pursuant to the RFA, that the proposals in this *Notice*, if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in the *Notice* require additional RFA analysis, they

⁷ Where a requirement is inapplicable to some or all Internet-based services, we believe it is generally preferable to amend our rules to provide a codified exemption, rather than to grant an indefinite waiver covering what is now the bulk of TRS usage.

⁸ 13 C.F.R. § 121.201, NAICS Code 517110 (2007).

should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of the *Notice*, including a copy of this initial certification, to the Chief Counsel for Advocacy of the SBA. In addition, a copy of the *Notice* and this initial certification will be published in the Federal Register.⁹

⁹ See 5 U.S.C. § 605(b).