

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, FCC 04-137

SUPPORTING STATEMENT

A. Justification:

1. The Americans with Disabilities Act of 1990 (ADA), Public Law 101-336, 104 Stat. 327, 366-69, was enacted on July 26, 1990. The purpose of the ADA is to provide a clear and comprehensive national mandate to end discrimination against individuals with disabilities and to bring persons with disabilities into the economic and social mainstream of American life; to provide enforceable standards addressing discrimination against individuals with disabilities; and to ensure that the Federal government play a central role in enforcing these standards on behalf of individuals with disabilities.

Title IV of the ADA adds Section 225 to the Communications Act of 1934. Section 225 requires the Commission to promulgate regulations that require all common carriers to provide telecommunications relay services (TRS).¹ 47 CFR Part 64, Subpart F implements certain provisions of the ADA. It contains the operational, technical, and functional standards required of all TRS providers and the procedures for state certification.

Although Section 225 of the ADA imposes on all common carriers providing interstate or intrastate telephone services an obligation to provide to individuals with hearing and speech disabilities telecommunications services that enable them to communicate with hearing individuals, and charges the Commission with regulatory oversight, states may seek to establish intrastate relay services that satisfy federal requirements.

Pursuant to 47 CFR Section 64.602, any violation of Subpart F by any common carrier engaged in intrastate communications will be subject to the same remedies, penalties, and procedures as are applicable to violation of the Communications Act by a common carrier engaged in interstate communications.

Regulatory History of Telecommunications Relay Services (TRS):

In March the *2000 TRS Report and Order, CC Docket 98-67, FCC 00-56*, the Commission concluded that TRS is not limited to the use of Teletypewriters (TTY),² but rather that “section 225 must be read to apply to any service that allows individuals with hearing and speech disabilities to communicate by wire or radio.”³ Although the Commission declined to establish a

¹ TRS or telecommunications relay service is a telephone transmission service that allows persons with a hearing or speech disability to engage in communications by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. TRS facilities are staffed by communications assistants who relay conversation between people who use text telephone devices and people who communicate by voice. See 47 CFR § 64.601 (7).

² TTY was originally an acronym for Teletypewriter. TTYs include a keyboard, text display, and sometimes a printer. TTYs allow individuals to make and receive telephone calls in real-time using typed, 2-way communications.

³ See *In the Matter of Improved Service Order and Further Notice of Proposed Rulemaking, Report and Order and Further Notice of Proposed Rulemaking, CC Docket 98-67, FCC 00-56, 15 FCC Rcd 5140 at ¶ 14 (2000 TRS*

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single, formal process for determining whether any new service is part of TRS, it stated that “[a]s new services develop; parties may petition us for a determination as to whether a service falls within the definition of [TRS].”

Regulatory History of Internet-Protocol (IP) Relay and Video Relay Service (VRS):

On December 22, 2000, WorldCom, Inc., (WorldCom) filed a Petition for Clarification,⁴ requesting that the Commission clarify that Internet Protocol (IP) Relay⁵ is a telecommunications relay service eligible for compensation from the Interstate TRS Fund.⁶ WorldCom further sought temporary waiver of certain mandatory minimum standards for providing TRS, asserting that these standards do not apply to IP Relay. WorldCom also requested that the Commission allow it to recover the costs of all IP Relay calls from the Interstate TRS Fund. WorldCom stated that because calls come to IP Relay via the Internet, there is no way to tell whether a given call is intrastate or interstate, because Internet addresses have no geographic correlations. The Commission issued a *Public Notice* requesting comment on WorldCom’s petition, and received comment from individuals, disability advocacy groups, and industry.

In 2001, Hamilton and Sprint filed requests for waivers of certain aspects of the *2000 Improved TRS Order*, relating to the TRS mandatory minimum standards as applied to the provision of video relay service (VRS). On December 31, 2001, the Commission issued the *VRS Waiver Order* granting, for a period of two years ending December 31, 2003, the requests for waiver.⁷ The waivers were for the following TRS requirements: (1) types of calls that must be handled; (2) emergency call handling; (3) speed of answer; (4) equal access to interexchange carriers.⁸

Report and Order).

⁴ WorldCom, *Petition for Clarification*, CC Docket 90-571, Dec. 22, 2000.

⁵ IP Relay is the telecommunication relay service provided over the Internet. IP Relay works as follows: 1) a user establishes a local connection to an Internet service provider using a computer, web phone, personal digital assistant, or any other IP-capable device; 2) the user selects the Internet address of an IP Relay provider; 3) when the user reaches the IP Relay provider’s Internet platform (or web site), a java applet is launched, which then automatically establishes an internet connection, via an 800 number, to the relay center; and 4) the call is immediately routed to a communications assistant, and a regular relay session is initiated.

⁶ 47 U.S.C. § 225(d)(3) requires that “costs from interstate telecommunications relay service shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay service shall be recovered from the intrastate jurisdiction.” The Interstate TRS Fund was established to administer the recovery of costs for interstate TRS. See *Telecommunications Relay Service, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, *Third Report and Order and Further Notice of Proposed Rulemaking*, 8 FCC Rcd 5300 n.34 (1993).

⁷ See *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with hearing and Speech Disabilities, Order*, CC Docket No. 98-67, DA 01-3029, 17 FCC Rcd 157, released December 31, 2001.

⁸ See 47 CFR Sections 64.604(a)(3), (a)(3)(iv), (a)(4), (b)(2) and (b)(3). The Commission noted previously in the *2000 Improved TRS Order* that it recognized VRS as a form of TRS, and concluded that certain other mandatory minimum standards did not apply to VRS. In addition, in the *TRS Cost Recovery Memorandum Opinion and Order*, we clarified that providers of VRS need not also provide video-based Speech-to-Speech (STS) or Spanish relay. See FCC 01-371, 16 FCC Rcd 22948, released December 31, 2001.

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On April 22, 2002, in the *Declaratory Ruling and Second Further Notice of Rulemaking (IP Relay Declaratory Ruling)*, CC Docket 98-67, FCC 02-121, the Commission granted WorldCom's petition finding that IP Relay falls within the statutory definition of TRS, and that TRS providers providing such services are eligible to recover their costs in accordance with section 225 of the Communications Act of 1934, as amended.⁹ The Commission also temporarily or permanently waived some of the mandatory minimum standards applicable to TRS because they do not apply to IP Relay, or because IP Relay's technology requires further development to meet some standards. The Commission stated that the authorization and waiver applied to all other current and potential IP Relay providers.¹⁰ In the *2002 IP Relay Declaratory Ruling*, the Commission granted IP Relay waivers of the following TRS mandatory minimum requirements:

- (a) 47 CFR Section 64.604 (3) types of calls:
 - Voice Carry Over (VCO)¹¹
- (b) 47 CFR Section 64.604 (a)(4) emergency call handling;
- (c) 47 CFR Section 64.604 (b)(3) equal access to inter-exchange carriers; and
- (d) Speech-to-Speech (STS).¹²

On May 22, 2002, WorldCom filed a petition for reconsideration of the *IP Relay Declaratory Ruling*, requesting that the Commission extend the emergency call handling, VCO and STS waivers from a one year period to either a five year period or an indefinite time.¹³

On July 11, 2002, Sprint Corporation (Sprint) filed a petition for reconsideration of the *IP Relay Declaratory Ruling* requesting that the Commission grant IP Relay providers waivers for 47 CFR

⁹ See In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, *Declaratory Ruling and Second Further Notice of Proposed Rulemaking (2002 IP Relay Declaratory Ruling)*, CC Docket No. 98-67, FCC 02-121, 17 FCC 7779, released April 22, 2002 at ¶ 1; See also U.S.C. § 225(a)(3).

¹⁰ *IP Relay Declaratory Ruling*, 17 FCC Rcd 7779 at ¶ 1.

¹¹ Voice Carry Over (VCO) service is a TRS feature that allows persons with hearing disabilities to speak directly to the other end user. The communications assistant types the response back to the person with the hearing disability, but does not voice the conversation. See 47 CFR § 64.601 (9).

¹² Speech-to-Speech (STS) relay is a form of TRS that allows persons with speech disabilities to communicate with voice telephone users through the use of specially trained communications assistants who understand the speech patterns of persons with disabilities and can re-voice the words spoken by the STS user. See 47 CFR § 64.601 (10).

¹³ See *Petition for Reconsideration WorldCom, Inc.*, In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No.98-67, filed by WorldCom, Inc. on May 22, 2002 (*WorldCom Petition*).

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64.604(a)(3) of the pay-per-call (900) calls¹⁴ and hearing carry over (HCO)¹⁵ TRS mandatory minimum standards.¹⁶

On March 4, 2003, the Commission adopted the *2003 IP Relay Reconsideration Order*, In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket 98-67, FCC 03-46. The Commission extended the waivers of the emergency call handling, VCO, and STS TRS mandatory minimum standards¹⁷ for five years for IP Relay providers. The Commission also granted waivers for 47 CFR 64.604 (a)(3), of the pay-per-call (900) calls and HCO TRS mandatory minimum standards for a five year period for IP Relay providers.

On June 30, 2004, the Commission released the *2004 Report and Order*, In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67 and CC Docket No. 90-571, FCC 04-137 (*2004 Report and Order*). In the *2004 Report and Order*, the Commission granted VRS waiver requests of the following TRS mandatory minimum requirements:

(a) 47 CFR Section 64.604 (a)(3) types of calls:

- operator-assisted calls and long distance calls (handling any type of call),
- pay-per-call (900) calls,
- one-line VCO; VCO-to-TTY, VCO-to-VCO, one line HCO, HCO-to-TTY, HCO-to-HCO,
- call release,
- speed dialing,
- three-way calling,¹⁸

(b) 47 CFR Section 64.604 (a)(4) emergency call handling;¹⁹

(c) 47 CFR Section 64.604 (b)(2) speed of answer;²⁰

¹⁴ 900 number services is a type of pay-per-call service. See 47 CFR § 64.1501.

¹⁵ Hearing Carry Over (HCO) is a TRS feature that allows persons with speech disabilities to listen to the other end user, but, in reply, the communications assistant speaks the text as typed by the HCO user. The communications assistant does not type any conversation. See 47 CFR § 64.601(8).

¹⁶ See *Petition for Limited Reconsideration*, In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, filed by Sprint Corporation July 11, 2002 (*Sprint Petition*).

¹⁷ See 47 CFR § 64.604. This section contains the mandatory minimum standards with which TRS providers must comply.

¹⁸ The waiver requirement for three-way calling expired on January 1, 2008.

¹⁹ On December 15, 2006, the Consumer and Governmental Affairs Bureau released the *2006 Emergency Call Handling Waiver Order*, In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, DA 06-2532. The Bureau extended the emergency call handling requirement for VRS until December 31, 2007. Therefore, this requirement has been satisfied by VRS providers.

²⁰ On July 19, 2005, the Commission released the *2005 VRS Speed of Answer Order*, In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67 & CG Docket No. 03-123, FCC 05-140. The Commission adopted a speed of

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(d) 47 CFR Section 64.604 (b)(3) equal access to interexchange carriers.

These waivers are granted provided that both IP Relay and VRS providers submit an annual report to the Commission, in a narrative form, detailing: (1) The provider's plan or general approach to meet the waived standards; (2) any additional costs that would be required to meet the standards; (3) the development of any new technology that may affect the particular waivers; (4) the progress made by the provider to meet the standards; (5) the specific steps taken to resolve any technical problems that prohibit the provider from meeting the standards; and (6) any other factors relevant to whether the waivers should continue in effect.

Further, as requested by the parties and for administrative convenience, VRS providers may combine the reporting requirement established in the *2004 Report and Order* with existing IP Relay providers reporting requirements, which are scheduled to be submitted annually on April 16th of each year as established in the *2003 IP Relay Order on Reconsideration*.²¹

The Commission is requesting an extension of this information collection in order to receive the full three year OMB approval/clearance for this collection.

The statutory authority for the information collection requirements is found at Sec. 225 [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired and Speech-Impaired Individuals; The Americans with Disabilities Act of 1990 (ADA), Public Law 101-336, 104 Stat. 327, 366-69, was enacted on July 26, 1990.

As noted on the OMB Form 83-I, this information collection does not affect individuals or household; thus, there are no impacts under the Privacy Act.

2. All waivers are contingent on IP Relay and VRS providers filing an annual report with the Commission detailing the technological changes in those areas, the progress made, and the steps taken to resolve the technical problems that prohibit IP Relay and VRS providers from meeting the TRS mandatory minimum standards waived herein. All the collections of information are promulgated pursuant to Section 225 of the ADA which requires that the Commission ensure that telecommunications relay services are available to persons with hearing and speech disabilities in the United States.
3. At this time, the Commission is not considering the use of improved information technology.
4. The information is not duplicated elsewhere. No similar information is available.
5. The collections of information on any small business will not be significant. Based on the small number of entities providing IP Relay and VRS services, the Commission concludes that this action will not cause a significant impact on small business.
6. There are no statutory consequences if such information is not submitted by IP Relay and VRS providers. In order for a provider to be eligible for compensation from the Interstate TRS fund

answer mandatory minimum standard for VRS which eliminated the waiver requirement for this rule.

²¹

² See *2003 IP Relay Order on Reconsideration*, FCC 03-46, 18 FCC 4761 at ¶ 28.

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for the provision of TRS, the provider must either meet all applicable mandatory minimum standards or request and receive a waiver of standards. As noted, the Commission will adhere strictly to its rules unless a party can demonstrate that “in the public interest the rule should be waived.” These waivers are granted contingent upon on IP Relay and VRS providers filing an annual report with the Commission detailing the technological changes, the progress made and the steps taken to resolve the technical problems that prohibit IP Relay and VRS providers from meeting the TRS mandatory minimum standards waived.

7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.5(d)(1).
8. The Commission published a notice in the *Federal Register* pursuant to 5 CFR 1320.8(d). See 73 FR 3253, January 17, 2008. No comments were received.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. The Commission is not requesting respondents to submit confidential information. If the Commission requests respondents to submit information which the respondents believe are confidential, respondents may request confidential treatment of such information pursuant to 47 CFR Section 0.459 of the Commission’s rules. Moreover, the Commission requires the administrator to keep all data from contributor and TRS providers confidential and shall not disclose such data in company specific form unless directed to do so by the Commission.
11. There are no questions of a sensitive nature with respect to the information collected.
12. Estimates of hour burden for the collection of information are as follows:

Below are the TRS Mandatory Minimum Standards waived contingent on annual reports filed by respondents:

- (a) 47 CFR Section 64.604 (a)(3) types of calls:
 - operator-assisted calls and long distance calls,
 - pay-per-call (900) calls,
 - one-line VCO; VCO-to-TTY, VCO-to-VCO, one line HCO, HCO-to-TTY, HCO-to-HCO,
 - call release,
 - speed dialing,
- (b) 47 CFR Section 64.604 (b)(3) equal access to interexchange carriers.

The standards apply to all forms of TRS when they are offered, unless they are waived. Therefore, for providers (respondents) to be eligible for reimbursement from the Interstate TRS Fund for the provision of TRS, the respondents must either meet all applicable mandatory minimum standards or request and receive a waiver of the standards.

The annual reports to the Commission will include the following:

- (1) the provider’s plan or general approach to meeting the waived standards;
- (2) any additional costs that would be required to meet the standards;
- (3) the development of any new technology that may affect the particular waivers;

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- (4) the progress made by the provider to meet the standard; the specific steps taken to resolve any technical problems that prohibit the provider from meeting the standards; and
 (5) any other factors relevant to whether the waiver should continue in effect.

Total Number of Annual Respondents: 11²²

Number of Annual Responses:

Because 7 of the 11 TRS providers provide both forms of TRS – IP Relay and VRS, they are required to submit a waiver report for each service:

- 1 waiver report for IP Relay providers
 1 waiver report for VRS providers

11 respondents x 1 VRS waiver report/annum = 11 responses
 7 respondents x 1 IP Relay waiver report/annum = 7 responses
Total Number of Annual Responses = 18 responses

Number of Annual Burden Hours:

This process will be done “annually” and will require approximately 10 hours to complete for each service:

11 reports/VRS (responses) x 10 hours/waiver report/annum = 110 hours
 7 reports/IP Relay (responses) x 10 hours/waiver report/annum = 70 hours
Total Number of Annual Burden Hours = 180 hours

Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employee (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ cost to be about \$81.40 per hour to comply with the requirement

11 VRS responses x 10 hours/prepare and submit x \$81.40/hour = \$ 8,954
 7 IP Relay responses x 10 hours/prepare and submit x \$81.40/hour = \$ 5,698
Total Annual “In-House” Costs = \$14,652

13. There are no annual costs to respondents. The annual reports will be prepared by respondents’ “in-house” staff. Therefore:
- (a) Total annualized capital/start-up costs: **None**
 - (b) Total annual cost (O&M): **None**
 - (c) Total annualized cost requested: **None**

²² Currently, there are 11 TRS providers that provide VRS: AT&T, Communication Access Center, GoAmerica, Hamilton, Hands On, Healinc, MCI, Nordia, SnapVRS, Sorenson and Sprint. Out of the 11 TRS providers providing VRS, 7 of those providers also provide IP Relay service.

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14. The FCC will administer the annual reports filed by TRS provider (“using Commission staff”):

The Commission will use staff attorneys at the GS-15/5 level, to process annual reports filed by TRS providers, and therefore, the Commission estimates the time to process each annual report to be approximately 4 hours.

On average, the Commission estimates that it will receive approximately 18 reports annually, thus:

18 annual reports x 4 hours/annual report processing x \$62.62 = \$4,508.64
 30 % Overhead = \$1,352.59
Total Cost to Federal Government: \$5,861.23

15. The Commission re-evaluated the calculation of its total annual burden hours for this information collection which contributed to adjustments to this information collection. There are no program changes to the information collection.
16. The Commission anticipates publishing on its website the reports on technological changes submitted by IP Relay and VRS providers.
17. The Commission is not seeking approval not to display the expiration date for OMB approval of the information collection because the collection does not include a form number.
18. In the 60 day *Federal Register* Notice (Notice) published on January 17, 2008 at 73 FR 3253, the Commission reported the total number of respondents as “13” and the total annual burden hours as “130”. The Commission revises these numbers to read as: total number of respondents – 11 and the total annual burden hours – 180. Lastly, “third party disclosure requirement” should have been omitted from the Notice. There are no other exceptions to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submission,” of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

The Commission does not anticipate that the collection of information will employ any statistical methods.