

Structure and Practices of the Video Relay Service Program, Further Notice of Proposed Rulemaking, CG Docket No. 10-51

SUPPORTING STATEMENT

A. Justification

1. Title IV of the Americans with Disabilities Act of 1990 (ADA), adding section 225 to the Communications Act of 1934, as amended (Act), requires that:
 - (a) The Commission ensures that telecommunications relay service (TRS)¹ is available, to the extent possible and in the most efficient manner, to persons with hearing or speech disabilities in the United States;² and
 - (b) TRS offers persons with hearing and speech disabilities telephone transmission services that are “functionally equivalent” to voice telephone services.³

Internet-based TRS services

In March 2000, the Commission recognized Video Relay Service (VRS) as a form of TRS.⁴ VRS requires the use of a broadband Internet connection between the VRS user and the communication assistant (CA), which allows the VRS user and the CA to communicate in sign language via the video link. During the call, the CA communicates in American Sign Language (ASL) with the deaf person and by voice with the hearing person. As a result, the conversation between the deaf and hearing end users follows in near real time.

In April 2002, the Commission also recognized Internet Protocol Relay (IP Relay) service as a form of TRS.⁵ IP Relay permits an individual with a hearing or speech disability to communicate in text using an Internet Protocol-enabled device via the Internet, rather than using a text telephone (TTY) and the public switched telephone network (PSTN).

In January 2007, the Commission added Internet Protocol Captioned Telephone Relay (IP CTS) as a form of Internet-based TRS service eligible for compensation from the Interstate

¹ TRS 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. See 47 CFR 64.601(21). TRS facilities are staffed by communications assistants (CAs) who relay conversations between people who use text telephone devices (TTY's) or other devices and people who communicate by voice.

² 47 U.S.C. § 225(b)(1).

³ 47 U.S.C. § 225(a)(3).

⁴ *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, paras. 21-27 (2000); 47 C.F.R. § 64.601(26) (defining VRS).

⁵ *Provision of Improved Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (2002); 47 C.F.R. § 64.601(13) (defining IP Relay).

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TRS Fund.⁶ IP CTS is a form of captioned telephone relay service where the connection carrying the captions between the relay provider and the user is via the Internet, rather than the PSTN.⁷

On April 6, 2011, in document FCC 11-54, the Commission released a *Further Notice of Proposed Rulemaking (FNPRM)* seeking comment on ways to revise the current certification process to ensure that potential providers receiving certification are qualified to provide Internet-based relay service in compliance with the Commission's rules, and to improve the Commission's oversight of such providers. The *FNPRM* contains potential information collection requirements with respect to the following four of its proposals. The proposals in the *FNPRM* apply to only Internet-based relay providers seeking certification for eligibility to receive compensation from the TRS Fund.

A. *Required Evidence for Submission for Eligibility Certification.*

The *FNPRM* proposes that potential Internet-based relay providers be required to provide full and detailed information in its application for certification that show its ability to comply with the Commission's rules. The *FNPRM* specifically proposes that provider applicants provide documentary and other evidence demonstrating that the applicant owns and operates facilities associated with TRS call centers, and employs ASL interpreters, on a full or part-time basis, to staff such call centers at the date of the application. Such evidence shall include, but is not limited to:

- a copy of each deed or lease for each call center operated by the applicant;
- a list of individuals or entities that hold at least a 10 percent ownership share in the applicant's business and a description of the applicant's organizational structure, including the names of its executives, officers, partners, and board of directors;
- a list of all of the names of applicant's full-time and part-time employees;
- proofs of purchase or license agreements for use of all equipment and/or technologies, including hardware and software, used by the applicant for its call center functions, including but not limited to, automatic call distribution (ACD) routing, call setup, mapping, call features, billing for compensation from the TRS fund, and registration;
- copies of employment agreements for all of the provider's executives and CAs;
- copies of any subcontracting agreements for services not directly essential for the provision of Internet-based relay (such as maintenance and transportation services);
- a list of all financing arrangements pertaining to the provision of Internet-based relay service, including documentation on loans for equipment, inventory, property, promissory notes, and liens;

⁶ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379, 388, para. 22 (2007); 47 C.F.R. § 64.601(12) (defining IP CTS).

⁷ *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, at 388, para. 22 (2007).

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- copies of all other agreements associated with the provision of Internet-based relay service; and
- a list of all sponsorship arrangements (*e.g.*, those providing financial support or in-kind interpreting or personnel service for social activities in exchange for brand marketing), including any associated agreements.

B. Submission of Annual Report

The *FNPRM* proposes that providers be required to submit annual reports that include updates to the information listed under *Section A* above.

C. Requiring Providers to Seek Prior Authorization of Voluntary Interruption of Service

The *FNPRM* proposes that each certified Internet-based relay provider be required to seek prior Commission authorization of any voluntary interruption in the provision of Internet-based TRS. In order to comply with this requirement, we propose that a provider be directed to submit a written request to the Commission's Consumer and Governmental Affairs Bureau (CGB) at least 60 days prior to any planned interruption, with detailed information of (1) its justification for such service interruption; (2) its plan to notify customers about the impending interruption; and (3) its plans for resuming service, so as to minimize the impact of such interruption on consumers through a smooth transition of temporary service to another provider, and restoration of its service at the completion of such interruption.

D. Reporting of Unforeseen Service Interruptions

With respect to brief, unforeseen service interruptions due to circumstances beyond a provider's control, the *FNPRM* proposes that the affected provider submit a written notification to CGB within two business days of when the service disruption first occurred, with an explanation of how the provision of its service had been restored or will be restored imminently.

These information collections do not affect individuals or households, and thus, there are not impacts under the Privacy Act.

The statutory authority for these proposed information collections is found at section 225 of the Act, 47 U.S.C. § 225. The law was enacted on July 26, 1990, as Title IV of the ADA, Public Law 101-336, 104 Stat. 327, 366-69.

2. The *FNPRM* proposes mandatory reporting requirements on potential providers seeking to offer voluntary Internet-based relay services such as VRS, IP Relay and IP CTS services.

The *FNPRM* proposes potential providers to submit documentation:

- (a) To ensure that the certified providers are qualified to provide Internet-based TRS services in compliance with the Commission's rules and orders, including the mandatory minimum standards set forth in 47 CFR § 64.604, and
- (b) To determine whether potential providers are eligible to receive compensation from the Interstate TRS Fund.

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These potential requirements would help the Commission and Fund administrator oversee Internet-based TRS service in an effective manner and ensure that only entities are qualified to offer the service in compliance with the Commission's rules.

3. At this time, the Commission is not considering the use of improved information technology.
4. The information is not duplicated elsewhere.
5. There are no significant economic impacts on small businesses or small entities.
6. If the collections were not conducted, or conducted less frequently, the Commission and Fund administrator would have less of a basis to detect and prevent fraud and misuse in the provision of relay, and the public less of a basis to rely on the quality of relay service.
7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR § 1320.5(d)(1).
8. Pursuant to 5 C.F.R. § 1320.8, the Commission placed a notice in the *Federal Register* on May 2, 2011 at 76 FR 24437, seeking comment from the public on the information collection requirements contained in this supporting statement. To date, no comments have been received from the public.
9. The Commission does not anticipate providing any payment or gift to any respondents.
10. The Fund administrator keeps all data obtained from TRS providers confidential and does not disclose such information in company-specific form unless directed to do so by the Commission.
11. This information collection does not address any private matters of a sensitive nature.
12. The following represents estimates of the burden hours for the collection of information proposed by the *FNPRM*. The Commission estimates that there are approximately 11 potential Internet-based TRS providers that would be affected by all or parts of this proposed collection

COMPONENTS FOR REPORTING AND RECORD KEEPING REQUIREMENTS

Of the 11 potential Internet-based TRS providers (respondents), the Commission estimates that:

- Two respondents provide three forms of TRS;
- Five respondents provides two forms (IP Relay and VRS);
- Four respondents provide one form (VRS).

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Below are the estimated burdens associated with the information collections proposed in the *FNPRM*:

A. Required Evidence for Submission for Eligibility Certification.

Annual Number of Respondents: 11

Annual Number of Responses: (1 response/form of TRS): 3 forms of TRS (2 providers) + 2 forms of TRS (5 providers) + 1 form of TRS (4 providers) = 6 + 10 + 4 = **20 responses/yr**

Annual Burden Hours (one-time Burden): 450 + 750 + 300 = 1,500 hrs

The Commission estimates that respondents will require approximately 75 hours per form of TRS offered to complete the application for certification consisting of full and detailed information listed above in 1(A) on page 2, that demonstrates its ability to comply with the Commission's rules, including its ownership of facilities associated with TRS call centers, and employs interpreters, on a full or part-time basis, to staff such call centers at the date of the application.

The application will be completed on a one-time basis.

- Three forms of TRS: 2 respondents x 3 forms of TRS x 75 hrs/form of TRS = 450 hrs
- Two forms of TRS: 5 respondents x 2 forms of TRS x 75 hrs/form of TRS = 750 hrs
- One form of TRS: 4 respondents x 1 form of TRS x 75 hrs/form of TRS = 300 hrs

The Commission assumes that respondents will use "in-house" personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to complete the application for certification.

The Commission estimates respondents' costs to be about \$87.37 per hour to complete:

Annual "In-House" Cost: 1,500 hrs x \$87.37/hr = \$131,055.00

Annualized Burdens -- Though respondents will incur the burdens estimated in this section on a one-time basis, for purposes of cumulative burden estimates, these one-time estimates are annualized over the three-year period for which the Commission seeks approval for this collection. Therefore:

Annualized Number of Responses: 20/3 = **6.67 (7 responses/yr)**

Annualized Burden Hours: 1,500 hrs/3 = **(500 hrs/yr)**

Annualized "In-House" Cost: \$131,055.00/3 = **(\$43,685.00/yr)**

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B. Submission of Annual Report

Annual Number of Respondents: 11

Annual Number of Responses: (1 response/form of TRS): 3 forms of TRS (2 providers) + 2 forms of TRS (5 providers) + 1 form of TRS (4 providers) = 6 + 10 + 4 = **20 responses/yr**

Annual Burden Hours: 150 + 250 + 100 = 500 hrs

The *FNPRM* proposes that each provider submit report that include updates to the information contained in the original application as listed in 12(A) on an annual basis.

The Commission estimates that each respondent will require approximately 25 hours to complete report that include updates to the information in the application on an annual basis.

- Three forms of TRS: 2 respondents x 3 forms of TRS x 25 hrs/form of TRS = 150 hrs/yr
- Two forms of TRS: 5 respondents x 2 forms of TRS x 25 hrs/form of TRS = 250 hrs/yr
- One form of TRS: 4 respondents x 1 form of TRS x 25 hrs/form of TRS = 100 hrs/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to complete report that include updates to the information in the application on an annual basis.

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to compile and submit specified call data.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: 500 hrs x \$87.37/hr = \$43,685.00

C. Requiring Providers to Seek Prior Authorization of Voluntary Interruption of Service

Annual Number of Respondents: 11

Annual Number of Responses: 11 responses/yr

The Commission estimates that 11 potential providers would be required to seek prior authorization of voluntary interruption of service. Specifically, the provider would be required to submit a written request to the Commission’s CGB at least 60 days prior to any planned interruption, with detailed information of (1) its justification for such service interruption; (2) its plan to notify customers about the impending interruption; and (3) its plans for resuming service, so as to minimize the impact of such

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interruption on consumers through a smooth transition of temporary service to another provider, and restoration of its service at the completion of such interruption.

Annual Burden Hours: 22 hours/yr

(1) The Commission estimates that each respondent will require approximately 2 hours to complete the submission of a written request for voluntary interruption of service on the average of one per year although it is unlikely that respondents would submit such request.

11 respondents x 2 hrs = 22 hrs/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to complete the submission of a written request for voluntary interruption of service on the average of one per year although it is unlikely that respondents would submit such request.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual In-House Cost: 22 hrs/yr x \$87.37 = \$1,922.14

D. Reporting of Unforeseen Service Interruptions

Annual Number of Respondents: 11

Annual Number of Responses: 11 responses/yr

The Commission estimates that 11 potential providers would be required to submit a written notification to CGB within two business days of when the service interruption first occurred due to an unforeseen circumstance, with an explanation of how the provision of its service had been restored or will be restored imminently.

Annual Burden Hours: 11 hrs/yr

The Commission estimates that each respondent will require approximately 1 hour to complete the submission of a written notification to CGB within two business days of when the service interruption first occurred due to an unforeseen circumstance on the average of one per year.

11 respondents x 1 hrs/yr = 11 hrs/yr

The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to senior level federal employees (GS-15/5, plus 30% overhead) to complete the submission of a written notification to CGB.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete.

Annual “In-House” Cost: 11 hrs/yr x \$87.37 = \$961.07

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Cumulative Totals:

Total Annual Number of Respondents: 11

Total Annual Number of Responses: 49 responses/yr

Total Annual Burden Hours: 1,033 hrs/yr

Total Annual "In-House" Costs: \$90,253.21

13. The Commission estimates that TRS providers will not incur any cost burden resulting from the collection of information:

- (a) Total annualized capital/start-up cost: \$0
- (b) Total annual costs (operation and maintenance): \$0
- (c) Total annualized cost requested: \$0

14. The Commission believes that the costs to the Federal government emanating from these proposed information collections will involve:

(a) initial staff review of the submissions of application for eligibility certification, annual reports and notification of service interruptions. Therefore, the Commission will use staff attorneys at the GS-14/5 level to review this information. The Commission estimates the time to review this information will be approximately 12 hours per month = 144 hours annually.

144 hrs x \$57.13/hr = \$8,226.72

(b) senior staff review of issues identified and escalated from the initial staff review of information contained in these submissions. Therefore, the Commission will use staff attorneys at the GS-15/5 level to review escalated issues and information. The Commission estimates the time to review this information will be approximately 15 hours per month = 180 hours annually.

180 hrs x \$67.21/hr = \$12,097.80

Total Cost to the Federal Government: \$8,226.72 + \$12,097.80 = **\$20,324.52**

15. This a new collection of information. If the proposed information collection requirements are adopted by the Commission in a final rulemaking, program change/increases will be added to OMB's inventory for this collection as follows: 11 respondents; 49 responses; 1,033 annual burden hours; and \$0 annual cost.
16. There are no plans to publish the results of the collection of information.
17. The Commission is not seeking approval not to display the expiration date for OMB approval of these collections of information.

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18. There are no exceptions to Certification Statement.

B. Collections of Information Employing Statistical Methods

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