

Structure and Practices of the Video Relay Service Program; Second Report and Order and Order, 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

Video Relay Service

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 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.

On July 28, 2011, in document FCC 11-118,⁵ the Commission released a *Second Report and Order* adopting rules – containing information collection requirements – that aims to ensure that consumers who have come to rely on Internet-based TRS service for their critical communication needs can continue to use the service without disruption.

Specifically, the rule requires that an applicant of the certification must give its customers at least 30 days notice that the provider will no longer provide service should the Commission determine that the applicant’s certification application does not qualify for certification under paragraph (a)(2) of section 64.606 of the Commission’s rules.

Also, in document FCC 11-118, the Commission released an *Order* adopting an interim rule – containing information collection requirements -- designed to help prevent fraud and misuse

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 *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order, Order, adopted and released July 28, 2011.

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in the provision of VRS. Though the *Order* emphasizes VRS, the rule also applies to Internet-based forms of TRS.

Specifically, the interim rule requires that applicants and providers certify, under penalty of perjury, that their certification applications and annual compliance filings required under section 64.606(g) of the Commission's rules are truthful, accurate, and complete.

Below are the information collection requirements contained in the *Second Report and Order and Order* (FCC 11-118), designed to eliminate fraud and abuse in the provision of VRS, and to ensure the sustainability and integrity of the TRS program and the TRS Fund:

A. Applicant Certifying Under Penalty of Perjury for Certification Application.

The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an applicant for Internet-based TRS certification with first hand knowledge of the accuracy and completeness of the information provide, when submitting an application for certification for eligibility to receive compensation from the Intestate TRS Fund must certify that all application information required under the Commission's rules and orders has been provided and that all statements of fact, as well as all documentation contained in the application submission, are true, accurate, and complete.

B. Certified Provider Certifying Under Penalty of Perjury for Annual Compliance Filings.

The chief executive officer (CEO), chief financial officer (CFO), or other senior executive of an Internet-based TRS provider with first hand knowledge of the accuracy and completeness of the information provided, when submitting an annual compliance report under paragraph (g) of section 64.604 of the Commission's rules must certify that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in the annual compliance report submission, are true, accurate, and complete. .

C. Notification of Service Cessation.

The provider applicant of the certification must give its customers at least 30 days notice that the provider will no longer provide service should the Commission determine that the applicant's certification application does not qualify for certification under paragraph (a)(2) of section 64.606 of the Commission's rules.

D. Notification on Website

The provider must provide notification of temporary service outages to consumers on an accessible website, and that the provider must ensure that the information of service status is updated on its website on a timely manner.

The Commission is seeking emergency approval form the Office of Management and Budget (OMB) for all of the requirements contained in this supporting statement listed above.

These information collections do not affect individuals or households, and thus, there are no impacts under the Privacy Act. However:

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- (a) Information that is related to individuals or households is collected by a third party, TRS providers, and the Fund administrator; and
- (b) The Commission has no direct involvement in the collection of this information on individuals and households.⁶

The statutory authority for the information collection 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. This final requirement will help the Commission and Fund administrator further detect and deter the misuse of relay and the billing of illegitimate minutes to the Fund as one part of the Commission's goals of ensuring that VRS is available to, and used by, the full spectrum of eligible users, encourages innovation, and is provided efficiently so as to be less susceptible to the waste, fraud, and abuse that threaten its long-term viability.
3. Providers may submit this certification electronically as part of their electronic submission of call data as well as in hard copies.
4. The information is not duplicated elsewhere. This requirement augments previous certification requirements.
5. There will be no significant economic impact on small businesses or small entities.
6. If this information collection is not conducted, the Commission and Fund administrator would have less of a basis to detect and prevent fraud and misuse in the provision of relay.
7. This collection would require respondents to report information to the agency at least an annual basis. This is pursuant to the requirement whereby providers submit compliance report on an annual basis. In addition, potential providers who wish to be certified in order to receive compensation from the Interstate TRS Fund will be required to apply for eligibility

⁶ Although the FCC has no direct involvement in the collection of this information on individuals or households, the Commission does require the TRS providers to abide by the requirements of 47 C.F.R. 64.604(a)(2), which states that:

- CAs are prohibited from disclosing the content of any relayed conversation regardless of content, and with a limited exception for Speech-to-Speech CAs, from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law;
- CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization, or if the user requests interpretation of an ASL call;
- Appropriate measures must be taken by relay providers to ensure that confidentiality of TRS users is maintained.

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certification on a one-time basis. If the providers fail to submit an annual compliance report, providers would not get reimbursed from the Fund.

8. Pursuant to 5 C.F.R. § 1320.8, the Commission published a notice in the *Federal Register* (76 FR 47584) on August 5, 2011, seeking comments 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 data in company-specific form unless directed to do so by the Commission.⁷
11. This information collection does not address any private matters of a sensitive nature.
12. Estimates of the burden hours to comply with the existing collection of information are as follows:

The following represents the estimates of the hour burdens of the emergency information collection as set forth by the *Second Report and Order and Order*. Overall, the Commission estimates that there are 11 Internet-based TRS providers that will be affected by this collection.

New Emergency Information Collections Requirements adopted by the Second Report and Order and Order (FCC 11-118)

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

- 2 provide all three Internet-based forms of TRS;⁸
- 5 provide two forms; and
- 4 provide one form.

The Commission also estimates that there are 20 potential applicants (respondents) for certification for eligibility to receive compensation from the Interstate TRS Fund.

A. Applicant Certifying Under Penalty of Perjury for Certification Application.

Annual Number of Respondents: 31 (11 providers + 20 potential applicants)

Annual Number of Responses: 40 responses (6 + 10 + 4 + 20 = 40 responses)

⁷ The Commission believes, therefore, that 47 C.F.R. 64.604(a)(2) provides sufficient safeguards to protect the information on individuals or households that providers collect as part of their responsibilities, which relieves the Commission of its requirement to complete a privacy impact assessment.

⁸ Currently, two providers offer all Internet-based TRS services, VRS, IP Relay and IP Captioned Telephone Service (IP CTS); four providers offer VRS and IP Relay; one provider offers IP Relay and IP CTS; and four providers offer VRS..

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1 one-time response for application for each form of Internet-based forms of TRS listed below

2 respondents (providers) x 3 responses/application per form of TRS = 6 responses

5 respondents (providers) x 2 responses/application per form of TRS = 10 responses

4 respondents (providers) x 1 response/application per form of TRS = 4 responses

20 respondents (potential applicants) x 1 response per application = 20 responses

The Commission estimates that each respondent will require approximately .017 hours (1 minute) to certify its submission of certification application under penalty of perjury on a one-time basis.

Annual Burden Hours (one-time Burden):

40 responses x .017 hrs/one-time response = 0.68 hrs (**rounded to 1 hour**)

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) for signing the certification.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete the requirements:

Annual “In-House” Cost: 1 hr/yr x \$87.37/hour = \$87.37

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:

Total Annual Number of Responses: $40/3 = 13.33$ responses/yr (**rounded to 13 responses**)

Total Annual Burden Hours: $1 \text{ hrs}/3 = (.33 \text{ hrs/yr})$ (**rounded to .50 hrs/yr**) (**Dana, I rounded this number up instead of down to account for the burden. This is not the normal way of rounding.**)

Total Annual In-House Cost: $\$87.37/3 = \29.12

B. Certified Provider Certifying Under Penalty of Perjury for Annual Compliance Filings.

The Commission estimates that 31 respondents (potential certified providers) would be required to certify their submissions of compliance reports under penalty of perjury on an annual basis.

Annual Number of Respondents: 31

Annual Number of Responses: 31

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The Commission estimates that each respondent will require approximately .017 hours (1 minute) to certify its submission of compliance report under penalty of perjury on an annual basis.

31 responses x .017 hr/yr = 0.527 hr/yr

Annual Burden Hours: = 0.527 (rounded to 1 hour)

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 certify its submission of compliance report under penalty of perjury.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete the requirements:

Annual “In-House” Cost: Annual “In-House” Cost: 1 hr x \$87.37/hr = \$87.37

C. Notification of Service Cessation.

The Commission estimates that the 10 respondents will be required to give its customers at least 30 days notice that the provider will no longer provide service should the Commission determine that the applicant’s certification application does not qualify for certification.

Annual Number of Respondents: 10

Annual Number of Responses: 10

The Commission estimates each respondent will require approximately .5 hours (30 minutes) to notify its customers of the forthcoming service cessation.

Annual Burden Hours (one-time Burden): = .5 hr x 10 responses = 5 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 notify its customers of the forthcoming service cessation.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete the requirements:

Annual “In-House” Cost: 5 hrs x \$87.37/hr = \$436.85

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:

Total Annual Number of Responses: $10/3 = 3.33$ responses/yr (rounded to 3 responses/yr)

Total Annual Burden Hours: $5 \text{ hrs}/3 = (1.67 \text{ hrs/yr})$ (rounded to 2 hrs/yr)

Total Annual “In-House” Costs: $\$436.85/3 = (\$145.62/\text{yr})$

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D. Notification on Website

The Commission estimates that 6 respondents will provide notification of temporary service outages to consumers on an accessible website in a timely manner on an annual basis.

Annual Number of Respondents: 6

Annual Number of Responses: 6

The Commission estimates each respondent will require approximately .25 hours (15 minutes) to post notification on an accessible website.

Annual Burden Hours: = .25 hr x 6 responses = 1.5 hrs (rounded to 2 hr/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 provide notification of temporary service outages to consumers on an accessible website.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete the requirements:

Annual “In-House” Cost: 2 hrs x \$87.37/hr = \$174.74

REVISED CUMULATIVE TOTAL FOR INFORMATION COLLECTION REQUIREMENTS:

Cumulative Total of Annual Number of Respondents: 31

Cumulative Total Annual Number of Responses: 53

Cumulative Total of Annual Burden Hours: 5.5 hours (rounded to 6 hours)

Cumulative Total of Annual “In-House” Costs: \$436.85

13. The Commission estimates that the Internet-based TRS providers will incur *de minimis* costs for signing their application for certification and annual compliance report, certifying them to be true, accurate and complete under penalty of perjury.

The Commission also estimates that the Internet-based TRS providers will incur *de minimis* costs for notifying their customers of permanent and temporary service cessations because they already maintain existing communication relationship with their customers.

14. The Commission believes that the costs to the Federal government emanating from this information collection will involve:

Senior staff review of **40** certification signatures of the certification applications + **31** annual compliance reports (Sections A and B) x .75 hrs (estimate of 45 minutes for reviewing) x \$87.37/hr = **\$4,652.45**

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Initial staff review of 6 respondents website notification of temporary service cessation x 1 hr (estimate time to review providers' website) x \$57.13/hr = **\$342.78**

Total Cost to the Federal Government: \$4,652.45 + \$342.78 = \$4,995.23

15. The Commission is submitting this information collection as new collection. If the emergency information collection is approved by OMB, the following program change will be added to OMB's inventory for this collection as follows: **31** respondents; **53** number of annual responses; **6** 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 this collection of information.
18. The Commission published a notice in the *Federal Register* on August 5, 2011 (76 FR 47584), seeking comments from the public on the information collection requirements contained in this supporting statement. In the notice, the Commission stated that the annual burden hours are 7 hours. With this submission we correct that number to 6 annual burden hours. There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

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