



Federal Communications Commission
Washington, D.C. 20554

July 29, 2011

Mr. Alexander Hunt
Chief, Information Policy Branch
Office of Information and Regulatory Affairs
Office of Management and Budget

Dear Mr. Hunt:

In accordance with OMB's emergency processing rules, 5 C.F.R. § 1320(13), the Federal Communications Commission (FCC or Commission) requests expedited review and approval, under the Paperwork Reduction Act of 1995 (PRA), of the new information collection requirements contained in paragraphs 37, 54, 59-60, and 62-67, and Appendices C and D, of the attached *Structure and Practices of the Video Relay Service Program, Second Report and Order and Order*, adopted by the Commission on July 28, 2011. Paragraphs 37, 54 and 59-60 are contained in the *Second Report and Order*, paragraphs 62-67 comprise the *Order*, and Appendices C and D contain, respectively, the Interim Rules adopted in the *Order* and the Final Rules adopted in the *Second Report and Order*. We make this request for emergency approval to be granted within the same time period that OMB approves the Final Rules attached to the *Second Report and Order*, in order to put in place immediately certification procedures that will help ensure that only legitimate entities continue to provide Internet-based Telecommunications Relay Services (iTRS) to deaf and hard-of-hearing consumers who have come to rely on these services for their critical communication needs, and to ensure timely disclosures to consumers of service outages or terminations.

iTRS allows individuals with hearing or speech disabilities to communicate with other individuals through a broadband link. A communications assistant relays the conversation between the parties in American Sign Language (ASL) or text and voice. Although very popular with consumers, this program has been subject to considerable fraud and abuse that has led to indictments and convictions of providers of one type of iTRS- video relay service. This *Second Report and Order and Order* will adopt a new certification process for iTRS providers, and iTRS providers must be certified by the Commission by various milestones in Fall 2011 in order to become or remain eligible for payment from the Interstate TRS Fund (Fund) for their provision of service. At the same time, commensurate with the Commission's continued efforts to prevent waste, fraud, and abuse in these services, it is essential that all rules related to the certification process be effective in order to effectuate these goals.

The Commission is requesting emergency processing of the PRA related to language and rules that the Commission did not explicitly seek comment on in the initial *FNPRM* that this *Second Report and Order and Order* stems from, *Structure and Practices of the Video Relay Service Program, Report and Order and Further Notice of Proposed Rulemaking*, 26 FCC Rcd 5545. Specifically, the Commission is requesting approval for expedited processing of the PRA for the following:

- 1) As discussed above, the *Second Report and Order and Order* puts in place more stringent requirements for certifying iTRS providers as eligible for payment from the Fund for

and, in turn, help to prevent waste, fraud and abuse of the Fund. The Commission expects that under these new requirements, it will deny some applications for certification, thereby forcing the applicants to exit the iTRS business(es). In the *FNPRM*, however, the Commission did not specifically propose a procedure for such providers ceasing service to timely notify their customers and afford these customers advanced opportunity to switch providers, though such procedures logically follow from the contemplated denial of certification applications.

In paragraphs 37 and 59-60 of the *Second Report and Order*, the Commission requires providers who will be exiting the iTRS business(es) to give at least 30 days notice to their customers that they no longer will provide service. These critical disclosures to consumers, coupled with the October 1, 2011 deadline by which many of the certification applications will be reviewed, militate towards the need for emergency approval by OMB of such information collections, so that they will be effective in time for the Commission's review of the certification applications.

- 2) In addition, the Commission has added requirements for certification under penalty of perjury as to the truthfulness, completeness, and accuracy of all iTRS applications for certification and annual compliance reports. A comparable requirement already applies to the submission of monthly iTRS minutes to the Fund administrator for payment. The Commission did not seek comment in the *FNPRM* on applying the penalty of perjury language to iTRS certification applications and annual compliance reports.

The penalty of perjury requirements are drafted as interim rules in the *Order*, and will amend two rules — specifically 47 C.F.R. §§ 64.606(a)(2) and (g). As with the comparable requirement related to submissions to the Fund administrator, the Commission found that these requirements are a necessary and critical component of the Commission's efforts to curtail fraud and abuse. Again, coupled with the expected submission of the bulk of the certification applications in September 2011, emergency approval by OMB is critical to effectuate these goals. We also note that the actual burdens on providers, which merely entail including the specific language set forth in the new rules, are *de minimis*.

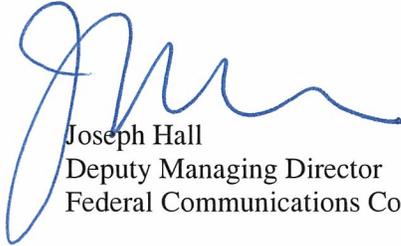
- 3) Finally, with respect to notification of unforeseen service outages, at the behest of a consortium of consumer groups composed of advocates on behalf of the deaf and hard-of-hearing, the Commission now requires that such notification be provided to consumers on an accessible website, and that the website also include timely updates of service status. Though in the *FNPRM* the Commission generally sought comment on notification of unforeseen service outages, it did not specifically propose the use of a website for notifications directly to consumers.

These requirements are found in paragraph 54 of the *Second Report and Order*, and in new 47 C.F.R. § 64.606(h)(3). The direct disclosure to consumers of information regarding service outages is in the public interest, as it will help to inform consumers of when to use another provider for their communications needs in the event of their default provider experiencing an unforeseen outage, and also should provide consumers information on providers' service reliability as they evaluate or reevaluate which provider they should choose as their default provider.

Entities currently not eligible to receive payment directly from the Fund for their provision of iTRS may only receive payment via subcontracts until October 1, 2011. The Commission's goal is to implement the new certification process adopted in the *Second Report and Order and Order*, review these entities' applications for certification, and issue grants or denials prior to the October 1 expiration date. As a result, we are requesting approval for expedited PRA processing for the requirements described above.

The Commission is requesting OMB approval of the information collections described above by September 6, 2011. The Commission will publish a notice in the Federal Register seeking public comment on the information collection requirements associated with the requirements listed above, with a full 25 day comment period. Please have your PRA Desk Officer contact Cathy Williams or Walt Boswell if he has any questions or requires any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JH', is positioned above the typed name and title of the signatory.

Joseph Hall
Deputy Managing Director
Federal Communications Commission