

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Declaratory Ruling, CG Docket No. 03-123, FCC 07-186

SUPPORTING STATEMENT

A. Justification

Background:

1. The Commission is submitting this revised information collection to the Office of Management and Budget (OMB) to transfer burden hours and costs associated with regulations under section 225 of the Communications Act (Act), as previously approved under OMB control number 3060-1111, to this information collection.¹ In 2007, the Commission released the *Section 225/255 VoIP Report and Order*² extending the disability access requirements that apply to telecommunications service providers and equipment manufacturers under sections 225 and 255 of the Act to interconnected voice over Internet protocol (VoIP) service providers and equipment manufacturers. As a result, under rules implementing section 225 of the Act, interconnected VoIP service providers are required to publicize information about telecommunications relay services (TRS)³ and 711 abbreviated dialing access to TRS (“public access to information”).⁴ Specifically, the burden hours and costs associated with this public access information rule are being transferred from OMB control number 3060-1111 to this collection.

Section 225 of the Communications Act requires the Commission to promulgate regulations governing the provision of TRS by common carriers offering telephone voice transmission service. The Commission’s regulations governing the provision of TRS are codified in 47 CFR Part 64, Subpart F. These rules include operational, technical, and functional standards required of all TRS providers and procedures for the certification of state relay programs.

¹ Similarly, burden hours and costs associated with Commission rules implementing section 255 of the Act, as applied to interconnected VoIP service providers and manufacturers, will be transferred from OMB control number 3060-1111 to and consolidated with an information collection related to section 255 of the Act. These consolidations will permit OMB control number 3060-1111 to be discontinued.

² *IP-Enabled Services; Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by The Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; and The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, WC Docket No. 04-36, WT Docket No. 96-198, CG Docket No. 03-123 and CC Docket No. 92-105, Report and Order, 22 FCC Rcd 11275 (2007) (*Sections 225/255 VoIP Report and Order*).

³ 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(14). 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.

⁴ See 47 CFR 64.603(c)(3).

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In 2000, the Commission released the *2000 TRS Order*,⁵ which, among other things, amended the TRS rules by recognizing Speech-to-Speech (STS)⁶ and Video Relay Service (VRS)⁷ as new forms of TRS, and directed the Interstate TRS Fund Administrator (TRS Fund Administrator)⁸ and Interstate TRS Advisory Council to develop recommendations on how the new forms of TRS should be compensated.

In 2001, the Commission released the *2001 TRS Cost Recovery MO&O and FNPRM*,⁹ in which the Commission:

- (a) directed the TRS Fund Administrator to continue to use the average cost per minute compensation methodology for the traditional TRS compensation rate;
- (b) required TRS providers to submit certain projected TRS-related cost and demand data to the TRS Fund Administrator to be used to calculate the rate¹⁰; and
- (c) directed the TRS Fund Administrator to expand its TRS Center Data Request Form, a form for providers to itemize their actual and projected costs and demand data, to include specific sections to capture STS and VRS costs and minutes of use.

In 2006, the Commission released the *2006 Cost Recovery FNPRM*¹¹ seeking comment on, in part:

⁵ *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 (March 6, 2000) (*2000 TRS Order*).

⁶ STS is a form of TRS that allows individuals with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with speech disabilities and can repeat the words spoken by that person. See 47 CFR 64.601(12).

⁷ VRS is a form of TRS that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. The video link allows the CA to view and interpret the party's signed conversation and relay the conversation back and forth with a voice caller. See 47 CFR 64.601(17).

⁸ On July 20, 1993, the National Exchange Carrier Association (NECA) was appointed the TRS Fund Administrator. Currently, NECA's contract as the TRS Fund Administrator has been extended on a month-to-month basis.

⁹ See *Telecommunications 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 (2001) (*2001 TRS Cost Recovery MO&O and FNPRM*).

¹⁰ These costs and demand data are "total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment," as well as "other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements." 47 CFR § 64.604(c)(5)(iii)(C).

¹¹ *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Further Notice of Proposed Rulemaking, 21 FCC Rcd 8379 (July 20, 2006) (*2006 Cost Recovery FNPRM*).

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- (a) Hamilton Relay Inc.'s proposed Multi-state Average Rate Structure (MARS) plan and alternative cost recovery methodologies for traditional TRS,¹² STS, and captioned telephone service (CTS).¹³ Under the MARS plan, interstate TRS compensation rates are determined by weighted average of the states' intrastate compensation rates;
- (b) the appropriate cost recovery methodology for IP Relay;¹⁴
- (c) whether, under the MARS plan or any other cost recovery methodology for traditional TRS, STS, and IP Relay, there should be a "true-up" at the end of the Fund year based on actual reasonable costs. Under a true-up, providers would be required to reimburse the Fund for any amount by which their payments exceed actual reasonable costs;
- (d) the appropriate cost recovery methodology for VRS, including using competitive bids; and
- (e) the nature of the "reasonable" costs of providing service that should be compensable under the cost recovery methodology, including marketing and outreach expenses, overhead costs and executive compensation.

On November 19, 2007, the Commission released the *2007 Cost Recovery R&O and Declaratory Ruling*,¹⁵ in which the Commission:

- (a) adopted a new cost recovery methodology for interstate traditional TRS and interstate Speech-to-Speech (STS) based on the MARS plan;
- (b) adopted a new cost recovery methodology for interstate CTS, and interstate and intrastate Internet Protocol captioned telephone service (IP CTS)¹⁶ based on the MARS plan;
- (c) adopted a cost recovery methodology for IP Relay based on price caps;
- (d) adopted a cost recovery methodology for VRS that adopted tiered rates based on call volume;

¹² References to traditional TRS include Spanish-to-Spanish traditional TRS.

¹³ CTS is a form of TRS generally used by someone who has the ability to speak and some residual hearing. It uses a special telephone that has a text display, so that on one standard telephone line, the user can both listen to what is said over the telephone (to the extent possible) and simultaneously read captions of what the other person is saying.

¹⁴ IP (Internet-Protocol) Relay is a text-based form of TRS where the connection to the CA is via the Internet (rather than the PSTN) and a personal computer or other Web-enabled device.

¹⁵ *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 (2007) Erratum, 22 FCC Rcd 21842 (Cons. Govt. Aff. Bur. 2007) (*2007 Cost Recovery R&O and Declaratory Ruling*).

¹⁶ IP CTS is a type of captioned telephone service where the captions are delivered to the user via the Internet, rather than a standard telephone line. See *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 (January 11, 2007) (*2007 IP CTS Order*).

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(e) clarified the nature and extent that certain categories of costs are compensable from the Fund; and

(f) addressed certain issues concerning the management and oversight of the Fund, including financial incentives offered to consumers to make relay calls and the role of the Interstate TRS Fund Advisory Council.

Therefore, section 64.604(c)(5)(iii)(C), mandatory minimum standards adopted in the *2007 Cost Recovery R&O and Declaratory Ruling*, requires that TRS providers must submit to the TRS Fund Administrator the following information annually, for intrastate traditional TRS, STS, and CTS:

- (a) the per-minute compensation rate(s);
- (b) whether the rate applies to session minutes or conversation minutes¹⁷;
- (c) the number of intrastate session minutes; and
- (d) the number of intrastate conversation minutes.

Also, STS providers must file a report annually with the TRS Fund Administrator and the Commission on their specific outreach efforts directly attributable to the additional compensation approved by the Commission for STS outreach.

This information collection does not affect individuals or households; therefore, the Privacy Act is not implicated.

The statutory authority can be found at section 225 of the Communications Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the Americans with Disabilities Act of 1990, Public Law 101-336, 104 Stat. 327.

2. The *2007 Cost Recovery R&O and Declaratory Ruling* adopting new information collections was promulgated pursuant to section 225 of the Communications Act. This data will assist the Commission and TRS Fund Administrator in determining future compensation rates for traditional TRS, STS, and CTS. The new information collections augment existing information collections of other relay-related cost and demand data, including data related to minutes of use.
3. At this time, the Commission is not considering the use of improved information technology in furtherance of this collection. The Commission believes that automated, electronic processes already are being employed by respondents to collect minutes of use data.
4. The information collection requirements do not duplicate any currently existing federal regulatory obligation.
5. The Commission believes that this information collection will not have a significant economic impact on a substantial number of small entities/businesses.

¹⁷ Conversation minutes are a subset of session minutes.

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6. The reporting requirements in the *2007 Cost Recovery R&O and Declaratory Ruling* require:
- (a) TRS providers to submit the rate and demand data to the TRS Fund Administrator for their respective intrastate relay services; and
 - (b) STS providers to file a report annually with the TRS Fund Administrator and the Commission on their specific outreach efforts directly attributable to the additional compensation approved by the Commission for STS outreach.

Therefore, if this information collection was not to be conducted, or conducted less frequently, Commission and TRS Fund Administrator efforts to reevaluate compensation rates based on the MARS plan for traditional TRS, STS, and CTS would be thwarted, thus undermining the efficacy of those programs. The Commission believes that the burdens associated with these collections already are minimal. Furthermore, without the collection the providers may not be eligible for reimbursement from the Fund, and could lead them to suspend operation of their important services.

7. No special circumstances exist that would cause this collection to be conducted in a manner inconsistent with the guidelines and/or requirements set forth in the Paperwork Reduction Act of 1995.
8. The Commission placed a 60 day notice in the *Federal Register* pursuant to 5 CFR 1320.8(d). See 79 FR 8704, dated February 13, 2014, seeking comments from the public on the information collection requirements contained in this supporting statement. No comments were received following publication of this notice.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. For several years, the Commission has received projected cost and demand data submitted by the TRS providers, in order to help set annual interstate relay compensation rates. This data may be confidential proprietary information protected from disclosure under the Freedom of Information Act (FOIA) and the Commission's rules implementing FOIA. The data that the Commission has requested in the *2007 Cost Recovery R&O and Declaratory Ruling* is similar to data already submitted by TRS providers, and the Commission is not requesting respondents to submit any other confidential information. Thus, the Commission has experience in protecting the confidentiality of such information, as appropriate.

Furthermore, if the Commission requests information from respondents which the respondents believe is confidential, respondents may request confidential treatment of such information pursuant to 47 CFR 0.459. Moreover, the Commission requires the TRS Fund Administrator to keep all data and information received from contributors, TRS providers, and state TRS administrators confidential.¹⁸ The *2007 Cost Recovery R&O and Declaratory Ruling* also states that the Commission or TRS Fund Administrator will ask each state and TRS provider to indicate

¹⁸ See 47 CFR 64.604(c)(5)(iii)(I).

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what information should be considered confidential, and that the specifics of such information will not be released.¹⁹

11. There are no questions of a sensitive nature with respect to the information collected.
12. Estimates of the burden hours to comply with the existing collection and new collection of information are as follows:

Existing Information Collection Requirements (2001 TRS Cost Recovery MO&O)

Total Number of Annual Respondents: 5,045

Total Number of Annual Responses: 5,045

Total Annual Burden Hours: 25,717

Total Annual In-House Costs: \$0

Existing Information Collection Requirements (2007 Cost Recovery R&O and Declaratory Ruling)

A. Section 64.604(c)(5)(iii)(C) – Data collection from TRS Providers

Annual Number of Respondents: 53²⁰

In the *2007 Cost Recovery R&O and Declaratory Ruling*, the Commission established reporting requirements associated with TRS cost recovery methodologies for compensation from the Fund.

TRS providers must submit to the TRS Fund Administrator the following information annually, for intrastate traditional TRS, STS, and CTS:

- (a) the per-minute compensation rate(s);
- (b) whether the rate applies to session minutes or conversation minutes;
- (c) the number of intrastate session minutes; and
- (d) the number of intrastate conversation minutes.

The Commission estimates that up to three reports will be necessary, per state/territory, to reflect rate data and information for Respondents traditional TRS, STS, and/or CTS services. This process will be done annually.

¹⁹ *2007 Cost Recovery R&O and Declaratory Ruling*, 22 FCC Rcd at 20154, para. 28.

²⁰ These 53 Respondents, affected by the reporting requirements for TRS providers, are already included in the total number of 5,045 Respondents.

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Annual Number of Responses:

53 states/territories x 3 reports (traditional TRS/STS/CTS) = **159 responses**

Annual Number of Burden Hours:

The Commission estimates that it will require approximately 10 hours to submit the data and information for each response.

159 responses x 10 hours/response = **1,590 hours**

Annual “In-House” Costs: \$0

Because Respondents receive reimbursement from the Fund for the costs associated with their submissions, there are no cost burdens to the Respondents.

B. STS Annual Reports on Outreach Efforts

In the *2007 Cost Recovery R&O and Declaratory Ruling*, the Commission also established reporting requirements for STS providers (Respondents). Respondents must file a report annually with the TRS Fund Administrator and the Commission on their specific outreach efforts directly attributable to the additional compensation approved by the Commission for STS outreach.

Annual Number of Respondents: 6²¹

Currently, there are six STS providers. Therefore, the Commission estimates that six Respondents will be required to submit a report annually on specific outreach efforts.

Annual Number of Responses: 6 responses

6 Respondents x 1/report/annually = 6 responses

Annual Number of Burden Hours:

The Commission estimates that each Respondent will require approximately 15 hours to submit the report:

6 responses x 15 hours/STS report = **90 hours/annum**

Annual “In-House” Costs: \$0

Because Respondents receive reimbursement from the Fund for the costs associated with their submissions, there are no cost burdens to the Respondents.

Revised Information Collection Requirement

A. Section 64.604(c)(3) – Public access to information

²¹ These six Respondents, affected by the reporting requirements for STS providers, are already included in the total number of 5,045 Respondents.

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Annual Number of Respondents: 688²²

In 2007, the Commission released the *Sections 225/255 VoIP Report and Order*. The *Sections 225/255 VoIP Report and Order* extended the disability access requirements that apply to telecommunications service providers and equipment manufacturers under sections 225 and 255 of the Act, to interconnected VoIP service providers and equipment manufacturers.

Respondents, through publication in their directories, periodic billing inserts, placement of TRS instructions in telephone directories, through directory assistance services, and incorporation of TTY numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and use of all forms of TRS and the availability of 711 abbreviated dialing access to TRS.

The Commission estimates that the required actions will take place on an occasional basis, and respondents will expend approximately 1 hour in the aggregate per year in planning and complying with these requirements.

Annual Number of Responses: 688 respondents x 1 response/respondent = **688 responses**

Annual Number of Burden Hours:
688 responses x 1 hour/response = **688 hours**

Annual “In-House Cost”: The Commission assumes that respondents will use “in-house” personnel whose pay is comparable to a mid-to-senior level federal employee (GS-13/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$63.48 hour to comply with the requirement:

5,688²³ responses x 1 hour/response x \$63.48/hour = **\$361,074.24**

CUMULATIVE TOTAL FOR EXISTING AND REVISED INFORMATION COLLECTION REQUIREMENTS:

²² Previously, the Commission estimated that 5,000 of the 5,045 respondents are already complying with this requirement. The Commission now estimates that 5,354 respondents, rather than 5,000 respondents, are already complying with this requirement. Since this requirement is extended to interconnected VoIP providers, this requirement will accrue to an additional 334 respondents. Therefore, the increase in the number of respondents is 688 (334 + 354). These estimates are consistent with OMB control number 3060-1167 (Accessible Telecommunications and Advanced Communications Services and Equipment).

²³ Previously, in 2007, the Commission reduced the “in house” costs to \$0.00 because it assumed that respondents receive reimbursement from the Interstate TRS Fund for the costs associated with compliance with the Commission’s TRS rules. This is true for those respondents that provide TRS, but not to the 5,688 telecommunications and interconnected VoIP service providers that are required to comply with the public access to information requirement. Therefore, “in house” costs are recognized and included here for the previously estimated 5,000 respondents and the subsequent increase in of 688 respondents, described in the footnote above.

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Cumulative Total Number of Respondents: 5,733

Cumulative Total Number of Responses: 5,045 + 159 + 6 + 688 = 5,898

Cumulative Total Annual Burden Hours: 25,717 + 1,590 + 90 + 688 = 28,085

Cumulative Total Annual “In-House” Costs: \$361,074.24

13. Traditional TRS, STS, and CTS providers may incur some costs for the submission of rate data and information, and, in the case of STS, for the filing of reports on their specific outreach efforts. The Commission, however, believes that most of the work to comply with these information collection requirements will be done “in house.” Moreover, because providers receive reimbursement from the Fund even for the outside costs associated with their submissions, effectively there are no cost burdens. Thus:
- (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 cost to the Federal Government will be the collecting, processing, and analysis of rate data and information, and reports on outreach efforts submitted by STS providers:
- (a) The Commission will use staff attorneys at the GS-14/Step 5 level to collect, process and analyze the rate data and information, and reports on outreach efforts submitted by STS providers.
 - (b) The Commission estimates the time to process each submission to be approximately 3 hours.
 - (c) On average, the Commission estimates that it will receive approximately 166 submissions (159 rate data and information submissions + 6 STS outreach effort reports) annually:

166 submissions x 3 hours/submission x \$57.70 = \$28,734.60

Total cost to the Federal Government: \$28,734.60
15. Due to the transfer of the **public access to information** requirement from OMB collection 3060-1111, the Commission has re-evaluated the assessment of the burdens for this information collection and determined there has been:
- An increase in the number of respondents of **+688**, from 5,045 to 5,733; an increase in the number of responses of **+688**, from 5,210 to 5,898; and an increase in annual hours of **+688 hours**, from 27,397 hours to **28,085**.
- There are no program changes.
16. There are no plans to publish the result of the collection of information.

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17. The Commission is not seeking approval not to display the expiration date for OMB approval of this information because the collection does not include a form number

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

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