

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Telecommunications Relay Services and
Speech-to-Speech Services for
Individuals with Hearing and Speech Disabilities
E911 Requirements for IP-Enabled Service
Providers
CG Docket No. 03-123
CC Docket No. 98-67
WC Docket No. 05-196

ORDER

Adopted: November 5, 2009

Released: November 5, 2009

By the Chief, Wireline Competition Bureau, and Deputy Chief, Consumer & Governmental Affairs Bureau:

I. INTRODUCTION

1. In this Order, the Consumer & Governmental Affairs Bureau and the Wireline Competition Bureau address the treatment of geographic numbers and certain aspects of the Commission’s emergency call handling requirements for two forms of Internet-based Telecommunications Relay Service (TRS) – specifically, Video Relay Service (VRS) and Internet-Protocol (IP) Relay. First, we temporarily waive the prohibition against Internet-based TRS providers assigning geographically approximate numbers to users in cases where providers cannot gain access to ten-digit, North American Numbering Plan (NANP) numbers in the users’ rate centers. We also clarify that where emergency service authorities are unable to receive and utilize Internet-based TRS providers’ Communications Assistant identification numbers (CA IDs) via the automatic location information (ALI) database during a 911 call, Internet-based TRS providers will be deemed to be in compliance with the Commission’s emergency call handling requirements if they convey this information orally. In addition, we clarify certain aspects of the Commission’s requirement that an Internet-based TRS provider must implement a system to ensure that call backs from emergency personnel to the telephone number of an Internet-based TRS consumer following a 911 call receive priority queuing.

II. BACKGROUND

1. On June 24, 2008, the Commission released the First Internet-based TRS Order in which it adopted a uniform system for assigning users of VRS and IP Relay ten-digit numbers linked to the NANP. The numbering system was designed to further functional equivalency by ensuring that Internet-

1 We use the term “Internet-based TRS” herein to refer to both VRS and IP Relay, unless otherwise specified. Although IP captioned telephone service (IP CTS) is also an Internet-based form of TRS, as noted in the First Internet-based TRS Order, the Commission has determined to address any issues relating to IP CTS, if appropriate, in a separate order because IP CTS raises distinct technical and regulatory issues. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123; E911 Requirements for IP-Enabled Service Providers, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11592 n.5 (2008) (First Internet-based TRS Order).

based TRS users can be reached by voice telephone users in the same way as voice telephone users are reached.² The numbering system was also intended to ensure that emergency calls placed by Internet-based TRS users will be routed directly and automatically to appropriate emergency services authorities by Internet-based TRS providers.³ The Commission mandated that the ten-digit numbering system be implemented no later than December 31, 2008, and, in the accompanying Further Notice of Proposed Rulemaking (*Further Notice*),⁴ sought comment on implementation issues including the creation of a registration period to allow existing Internet-based TRS users to become registered, provide their location information for emergency calls, and obtain their new ten-digit NANP telephone number.⁵

2. In the *Second Internet-based TRS Order*, released on December 19, 2008, the Commission addressed various issues included in the *Further Notice*.⁶ Among other things, the Commission provided existing users a three-month “registration period” followed by a three-month “permissive calling period,” which is now scheduled to end on November 12, 2009.⁷ During these registration and permissive calling periods, existing Internet-based TRS users may place and receive calls via the method used prior to implementation of the Commission’s numbering plan.⁸ At the conclusion of the permissive calling period, however, providers must register any unregistered user before completing a non-emergency VRS or IP Relay call.⁹

² *First Internet-based TRS Order*, 23 FCC Rcd at 11592-93, para. 1. Prior to the development of the NANP numbering system, VRS users were generally assigned a dynamic IP address, which made it difficult for the calling party to ascertain the VRS user’s current IP address at the time she or she wished to place the call. Moreover, IP Relay users frequently were assigned some type of unique identifier such as an instant message service and screen name, which cannot be dialed over a telephone. *See id.*, 23 FCC Rcd at 11594, paras. 4, 6.

³ *Id.*, 23 FCC Rcd at 11620-21, paras. 82-84.

⁴ *Id.*, 23 FCC Rcd at 11628-46, paras. 105-49.

⁵ *Id.*, 23 FCC Rcd at 11592-93, 11629, paras. 1, 109.

⁶ *See generally Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791 (2008) (*Second Internet-based TRS Order*). The Commission addressed issues related to 911, registration, toll free numbers, eligibility and verification procedures, assignment of numbers, numbering costs, consumer protection, and various petitions for reconsideration and clarification.

⁷ *Id.*, 24 FCC Rcd at 801, 802, paras. 21, 23. On June 15, 2009, the Consumer & Governmental Affairs Bureau extended from June 30, 2009 to November 12, 2009 the date for the end to the permissive calling period during which Internet-based Telecommunications Relay Service providers may continue to complete the non-emergency calls of unregistered users. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, 24 FCC Rcd 8000 (Consumer & Gov’t Affairs Bur. 2009).

⁸ *Second Internet-based TRS Order*, 24 FCC Rcd at 802, paras. 22, 23.

⁹ *Id.*, 24 FCC Rcd at 802, para. 23; *see also Consumer & Governmental Affairs Bureau Reminds Video Relay Service (VRS) and Internet Protocol (IP) Relay Service Providers of Their Outreach Obligations and Clarifies Their Call Handling Obligations for Unregistered Users After the November 12 2009, Ten-Digit Numbering Registration Deadline*, CG Docket No. 03-123, WC Docket No. 05-196, Public Notice, DA 09-2261 at 2 (rel. Oct. 21, 2009) (stating, among other things, that VRS and IP Relay CAs may assist an unregistered caller with the registration process before or after a call).

3. With regard to geographic numbers, the Commission concluded in the *First Internet-based TRS Order* that users of Internet-based TRS should be assigned geographically appropriate numbers.¹⁰ However, in the unusual circumstances in which an Internet-based TRS provider could not obtain a geographically appropriate number, the Commission concluded that the provider would be permitted to employ a temporary workaround solution.¹¹ The Commission reconsidered this holding in the *Second Internet-based TRS Order* and held that Internet-based TRS users must be assigned ten-digit, geographically appropriate numbers and prohibited any workaround solutions.¹² Hamilton Relay Inc. (Hamilton) filed a request for clarification and, subsequently, Sorenson Communications, Inc. (Sorenson) filed a Petition for Declaratory Ruling or Limited Waiver of the Commission's prohibition against Internet-based TRS providers assigning geographically approximate numbers to users in cases where providers cannot gain access to ten-digit, NANP numbers in the users' rate centers.¹³

4. With respect to the transmission of CA IDs to emergency responders, the Commission required in the *Interim Emergency Call Handling Order* that Internet-based TRS providers orally convey to emergency response authorities, at the outset of the outbound leg of an emergency TRS call, certain information (such as the CA ID) that enables emergency response personnel to re-establish contact with the CA in the event the call is disconnected.¹⁴ The Commission modified this requirement in the *First Internet-based TRS Order*. Under the new rules established in that Order, specified data, including the CA ID, the caller's Registered Location, and the name of the Internet-based TRS provider, must be available to the Public Safety Answering Point (PSAP) "from or through the appropriate [ALI] database."¹⁵ The Commission recognized that not all PSAPs would be capable of receiving or utilizing all of the call back and Registered Location information required by the Commission's 911 requirements, and therefore, clarified that an Internet-based TRS provider "need only provide such call back and

¹⁰ See 47 C.F.R. § 64.611(a)(1) (stating that a default Internet-based TRS provider must either facilitate a valid port request of an existing number or assign a new, geographically appropriate NANP number).

¹¹ *First Internet-based TRS Order*, 23 FCC Rcd at 11608-09, para. 41.

¹² *Second Internet-based TRS Order*, 24 FCC Rcd at 805, para. 28.

¹³ See Hamilton Relay Inc. Request for Clarification, CG Docket No. 03-123 and WC Docket No. 05-196 at 6-7 (filed Dec. 30, 2008) (Hamilton Request for Clarification); Sorenson Communications, Inc. Petition for Declaratory Ruling or Limited Waiver, CG Docket No. 03-123 and WC Docket No. 05-196 (filed Apr. 13, 2009) (Sorenson Geographic Numbers Petition).

¹⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Report and Order, 23 FCC Rcd 5255, 5265-66, para. 16 (2008) (*Interim Emergency Call Handling Order*) (requiring Internet-based TRS providers to: (1) implement a system that ensures that providers answer an incoming emergency call before other non-emergency calls (*i.e.*, prioritize emergency calls and move them to the top of the queue); (2) request, at the beginning of every emergency call, the caller's name and location information; (3) deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of the outbound leg of the call, at a minimum, the name of the relay user and location of the emergency, as well as the name of the relay provider, the CA's callback number, and the CA's identification number, thereby enabling the PSAP, designated statewide default answering point, or appropriate local emergency authority to re-establish contact with the CA in the event the call is disconnected) (emphasis added).

¹⁵ 47 C.F.R. § 64.605(b)(2)(iv) ("The Registered Location, the name of the VRS or IP Relay provider, and the CA's identification number must be available to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority from or through the appropriate automatic location information (ALI) database.").

location information as a PSAP... is capable of receiving and utilizing.”¹⁶ On December 30, 2008, Sorenson filed a petition for a temporary limited waiver of the existing CA ID requirement, and Hamilton filed a similar petition.¹⁷ Both petitions were later supported by public safety communications organizations.

5. In its *Interim Emergency Call Handling Order*, the Commission also required Internet-based TRS providers to implement a system to ensure that incoming emergency calls are answered before non-emergency calls so that an emergency caller does not have to wait in a queue for the next available CA.¹⁸ The Commission subsequently reminded Internet-based TRS providers of this obligation in the *VRS Numbering Waiver Order*, and again in the *Second Internet-based TRS Order*.¹⁹ Both Hamilton and GoAmerica, now Purple Communications Inc. (Purple), filed petitions seeking clarification and/or waiver of the priority queuing of call backs requirement.²⁰ These three issues involving the treatment of geographic numbers and emergency call handling requirements for Internet-based TRS are discussed in more detail below.

III. DISCUSSION

A. Geographic Numbers

6. In the *First Internet-based TRS Order*, the Commission acknowledged that voice telephone users that subscribe to a local exchange service are provided a geographically appropriate telephone number and in the vast majority of cases, subscribers of interconnected Voice over Internet Protocol (VoIP) services also have the ability to obtain a geographically appropriate NANP telephone number.²¹ Accordingly, in the interest of functional equivalency, the Commission concluded that users of Internet-based TRS should be assigned geographically appropriate numbers.²² The Commission further concluded that in the unusual and limited circumstances in which an Internet-based TRS provider could not obtain a geographically appropriate number, the provider would be permitted to employ a temporary workaround solution such as obtaining a number which is reasonably close to the Internet-based TRS

¹⁶ *First Internet-based TRS Order*, 23 FCC Rcd at 11621, para. 83. See also 47 C.F.R. § 64.605(b)(3) (“Notwithstanding the provisions in paragraph (b)(2) of this section, if a PSAP, designated statewide default answering point, or appropriate local emergency authority is not capable of receiving and processing either ANI or location information, a VRS or IP Relay provider need not provide such ANI or location information.”).

¹⁷ See Sorenson Communications, Inc. Petition for Temporary Limited Waiver, CG Docket No. 03-123 and WC Docket No. 05-196 at 1, 4 (filed Dec. 30, 2008) (Sorenson Petition); Hamilton Relay, Inc. Request for Clarification, CG Docket No. 03-123 and WC Docket No. 05-196 (filed Dec. 30, 2008) (Hamilton Request for Clarification).

¹⁸ See 47 C.F.R. § 64.605(a), adopted in the *Interim Emergency Call Handling Order*; see also 47 C.F.R. § 64.605(a)(2)(ii) as re-codified in the *First Internet-based TRS Order*.

¹⁹ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Order, 23 FCC Rcd 13747, 13751, para. 9 (2008) (*VRS Numbering Waiver Order*); see also *Second Internet-based TRS Order*, 24 FCC Rcd at 798-99, paras. 14-15.

²⁰ See Hamilton Request for Clarification at 3-4; see also GoAmerica, Inc., now Purple Communications, Inc., Petition for Partial Reconsideration and Limited Waiver, CG Docket No. 03-123 and WC Docket No. 05-196 at 4-5 (filed Jan. 29, 2009) (Purple Petition)

²¹ *First Internet-based TRS Order*, 23 FCC Rcd at 11608-09, para. 41.

²² See 47 C.F.R. § 64.611(a)(1) (stating that a default Internet-based TRS provider must either facilitate a valid port request of an existing number or assign a new, geographically appropriate NANP number).

user's rate center, or the use of remote call forwarding.²³ The Commission stated that such workarounds could be employed only until a geographically appropriate number becomes available, unless the end user chooses to retain the originally assigned number.²⁴

7. In the *Second Internet-based TRS Order*, the Commission reconsidered this conclusion and clarified, on its own motion, that all users of Internet-based TRS must be assigned ten-digit, geographically appropriate numbers, *i.e.*, numbers within their local rate centers.²⁵ First, because of concerns about degrading the provision of E911 service to such users, the Commission clarified that under no circumstances should a toll free number be assigned to a user's rate center as a workaround.²⁶ Second, the Commission reconsidered its prior suggestion that Internet-based TRS providers could use workarounds in instances where they cannot obtain geographically appropriate numbers, such as assigning a non-local but "close" telephone number or using remote call forwarding.²⁷ Accordingly, the Commission concluded that in those situations where Internet-based TRS providers are unable to obtain geographically appropriate numbers, those providers must bring the situation to the attention of the Wireline Competition Bureau to work with the carriers in that area, and other entities, so that all users of Internet-based TRS service will have local geographically appropriate ten-digit numbers.²⁸ The Commission anticipated that "the instances in which geographically appropriate numbers will be unavailable from wholesale carriers will be rare," and it reiterated that Internet-based TRS providers must assign to each user a locally-rated, ten-digit, geographically appropriate number.²⁹

8. On December 30, 2008, Hamilton filed a request for clarification asking, among other things, that the Commission review the process whereby Internet-based TRS providers and Wireline Competition Bureau staff work together to obtain geographically appropriate numbers, "in the event that [the process] becomes burdensome, for users, the Bureau's staff and providers."³⁰ Further, on April 13, 2009, Sorenson filed a petition for declaratory ruling or limited waiver regarding the Commission's rule that every default Internet-based TRS provider must provide its users a geographically appropriate NANP telephone number.³¹ Sorenson claims its numbering partner is unable to obtain telephone numbers in every rate center and therefore, Sorenson is unable to provide thousands of its users that live in those unserved rate centers geographically appropriate numbers.³² Sorenson further argues that it is not "economically or operationally feasible" for itself or any other Internet-based TRS provider to obtain

²³ *First Internet-based TRS Order*, 23 FCC Rcd at 11608-09, para. 41.

²⁴ *Id.*

²⁵ *Second Internet-based TRS Order*, 24 FCC Rcd at 805, para. 28.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ See Hamilton Request for Clarification at 6-7.

³¹ See generally Sorenson Geographic Numbers Petition.

³² *Id.* at 1-2, 5-10. Sorenson claims that adherence to the Commission's rule would result in "thousands of users" living in unserved rate centers being unable to register with a default provider before the June 30, 2009 [now November 12, 2009] deadline or being at risk of having "prior registrations annulled" because they were not registered with geographically appropriate numbers. *Id.* at 2.

telephone numbers in every rate center.³³ Accordingly, Sorenson requests that the Commission find lawful a policy of providing users a temporary, geographically approximate guest number from a nearby rate center when a default Internet-based TRS provider is unable to provide a geographically appropriate number.³⁴ Alternatively, Sorenson asks the Commission to grant a temporary waiver of its rule to allow the assignment of temporary geographically approximate guest numbers.³⁵ The Commission sought comment on Sorenson's petition.³⁶ All the commenters on the record support allowing Internet-based TRS providers to provide geographic approximate numbers in cases where the providers are unable to obtain numbers in a user's specific rate center.³⁷

9. We grant Sorenson's request for a temporary waiver to the extent set forth below. Specifically, we grant Internet-based TRS providers a temporary waiver of the prohibition in the *Second Internet-Based TRS Order* against assigning a geographically approximate number to a user in cases where a provider cannot gain access to a number in the user's rate center. As noted, the Commission based its conclusion in the *Second Internet-based TRS Order* that Internet-based TRS providers must assign a locally-rated, geographic number and could not provide a non-local but "close" number as a workaround, on the assumption that instances in which geographically appropriate numbers are unavailable would be rare.³⁸ The record now reflects, however, that instances in which Internet-based TRS providers, through their numbering partners, are unable to provide their users ten-digit NANP numbers in their rate centers are far more extensive than anticipated; a single provider has estimated, for example, that thousands of its own users would be affected.³⁹

10. The Commission may waive its rules – in whole or in part – “for good cause shown.”⁴⁰ Thus, waiver of our rules is appropriate if “special circumstances warrant a deviation from the general

³³ *Id.* at 1-2, 9 (stating it would cost its numbering partner, Level 3 Communications, LLC, more than \$1.1 billion in order to achieve a nationwide footprint).

³⁴ *Id.* at 2, 11-14.

³⁵ *Id.* at 2, 14-16.

³⁶ See *Pleading Cycle Established for Comments on Petition of Sorenson Communications, Inc. for Declaratory Ruling or Limited Waiver of the Commission's Rules*, CG Docket No. 03-123, WC Docket No. 05-196, Public Notice, DA 09-1789 (rel. Aug. 11, 2009).

³⁷ See Comments of Purple Communications, Inc. on Petition Regarding Assignment of Geographically Appropriate North American Numbering Plan Telephone Numbers, CG Docket No. 02-123 and WC Docket No. 05-196 at 1 (filed Aug. 25, 2009) (Purple Geographic Numbers Comments) (stating that it concurs that the Commission should allow Internet-based TRS providers to provide a temporary geographically approximate number from a nearby rate center when the provider is unable to provide a geographically appropriate number); see also Comments of Hamilton Relay, Inc., CG Docket No. 03-123 and WC Docket No. 05-196 at 1-2 (filed Aug. 26, 2009) (same); Comments of CSDVRS, LLC on Petition Concerning Geographically Appropriate Numbers, CG Docket No. 03-123 and WC Docket No. 05-196 at 1-2 (filed Aug. 26, 2009) (CSDVRS Geographic Numbers Comments); Comments of Level 3 Communications, LLC, CG Docket No. 03-123 and WC Docket No. 05-196 at 1 (filed Aug. 26, 2009) (Level 3 Geographic Numbers Comments) (same); Reply Comments of Telecommunications for the Deaf and Hard of Hearing, Inc. *et al.* CG Docket No. at 03-123 and WC Docket No. at 2 (filed Sept. 10, 2009) (TDI Coalition Geographic Numbers Reply Comments) (same); Letter from David A. O'Connor, Counsel to Hamilton Relay, Inc., to Marlene H. Dortch, FCC at 1 (filed Oct. 20, 2009) (same).

³⁸ *Second Internet-based TRS Order*, 24 FCC Rcd at 805, para. 28.

³⁹ See *supra* note 32.

⁴⁰ 47 C.F.R. § 1.3.

rule and such deviation will serve the public interest.”⁴¹ In this case, given the evidence in the record of the number of instances in which Internet-based TRS providers, through their numbering partners, are unable to obtain NANP numbers in a user’s particular rate center, we find there is good cause to grant a temporary waiver of the prohibition against offering geographically approximate numbers until the Commission gains more experience with the issue and adopts a permanent solution. Sorenson claims, for example, that geographically appropriate numbers are not available in over 11,000 rate centers, which encompasses about 17 percent of households and ten percent of the deaf population.⁴² Level 3 Communications, LLC (Level 3), an underlying provider of communications services and interconnectivity to the Public Switched Telephone Network to Sorenson, states that despite the years and billions of dollars it has spent deploying its network, it is only able to offer numbers in areas serving 83 percent of the population.⁴³ Level 3 further explains that presently it is unable to obtain numbers throughout the entire state of New Hampshire.⁴⁴ CSDVRS, LLC (CSDVRS) also states that although it has two nationwide IP carriers for numbering partners, it is unable to secure numbers in Hawaii or Alaska.⁴⁵ As noted above, when the Commission issued its reconsideration on this point, it anticipated that the instances in which geographically appropriate numbers would be unavailable from wholesale carriers would be “rare.” We therefore temporarily waive the prohibition against Internet-based TRS providers assigning geographically approximate numbers to users in cases where providers cannot gain access to ten-digit, North American Numbering Plan (NANP) numbers in the users’ rate centers.

11. During the waiver period, Internet-based TRS providers should use their best efforts to obtain a number as close to a user’s rate center as possible, and we note that a provider’s access to numbering resources, based on choice of a wholesale carrier, may become a competitive factor. Moreover, as Hamilton states, if an Internet-based TRS user is unsatisfied with the particular number being offered by a provider, he or she may select among other providers that may be able to offer a preferable ten-digit number.⁴⁶

12. We clarify that proxy numbers⁴⁷ and toll free numbers may not be assigned to users in instances where ten-digit NANP numbers are unavailable in an Internet-based TRS user’s rate center. As stated in the Commission’s *First Internet-based TRS Order* and *Second Internet-based TRS Order*, the purpose of the Internet-based TRS numbering system is to further functional equivalency for deaf and

⁴¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also generally *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, CC Docket Nos. 90-571 & 98-67, CG Docket No. 03-123, 19 FCC Rcd 12475, 12520, para. 110 (2004) (discussing standard for waiving Commission rules).

⁴² Sorenson Geographic Numbers Petition at 13.

⁴³ Level 3 Geographic Numbers Comments at 3, 7.

⁴⁴ *Id.* at 2-3, n.2 (discussing its emergency petition and Special Temporary Authority request to obtain numbering resources in New Hampshire).

⁴⁵ CSDVRS Geographic Numbers Comments at 2.

⁴⁶ Hamilton Geographic Numbers Comments at 3.

⁴⁷ *First Internet-based TRS Order*, 23 FCC Rcd at 11594, para. 5 (stating that VRS providers had created “proxy” or “alias” numbers that linked to a user’s IP address).

hard-of-hearing individuals by providing ten-digit numbers linked to the NANP.⁴⁸ Accordingly, we agree with Purple and the TDI Coalition that use of proxy numbers and toll free numbers in lieu of ten-digit, geographically appropriate numbers would undermine the numbering plan and disrupt the transition to ten-digit geographically appropriate NANP numbers.⁴⁹ We also reiterate the Commission's conclusion in the *Second Internet-based TRS Order* and subsequent *Toll Free Clarification Public Notice* that Internet-based TRS users may retain an existing toll free number or obtain a new toll free number as long as the toll free number is directed to the user's ten-digit geographically appropriate number in the Service Management System (SMS)/800 database.⁵⁰ In this Order, we are merely issuing a temporary waiver that allows a provider to assign a geographically approximate number in the limited circumstance where a ten-digit NANP number is not available in the user's rate center. As before, proxy numbers and toll free numbers may not be substituted for geographically appropriate numbers.

13. Finally, we do not believe that this temporary waiver will in any way affect the Commission's emergency call handling requirements.⁵¹ Internet-based TRS providers are required to obtain location information from their Registered Internet-based TRS users.⁵² Moreover, providers are required to allow users to update their Registered Location at will and in a timely manner.⁵³ Our temporary waiver allowing geographically approximate numbers to be assigned to Internet-based TRS users, in limited circumstances, will not affect users' Registered Location.⁵⁴

⁴⁸ See *id.*, 23 FCC Rcd at 11592-98, paras. 1-14; see also *Second Internet-based TRS Order*, 24 FCC Rcd at 792-97, paras. 2-11; 47 C.F.R. § 64.611(d) (prohibiting the issuance or continued use of proxy or alias numbers as of the registration deadline).

⁴⁹ Purple Geographic Numbers Comments at 2; TDI Coalition Geographic Numbers Reply Comments at 2-3 ("A toll free number is not an appropriate substitute for a geographic number . . . Proxy numbers cause confusion to consumers because they look like geographic numbers, but no caller outside of the proxy number's network can call a proxy number. Moreover, they are outright dangerous in the event of an emergency call, because they cannot be used to find a Registered Location, and a PSAP cannot place a call back to a proxy number."). We note that Sorenson disagrees with Purple's argument that the use of toll free numbers will disrupt the numbering plan and argues that "allowing all Internet-based relay users to obtain toll free numbers that are directed to either a geographically appropriate or geographically approximate local number will enhance the new numbering regime. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Reply Comments of Sorenson Communications, Inc. at 5 (filed Sept. 10, 2009). Sorenson subsequently acknowledged that toll free calls must be routed through the SMS/800 database or through a provider's own internal database. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Comments of Sorenson Communications, Inc. in response to CSDVRS, LLC Petition for Expedited Reconsideration regarding toll free numbers at 2-3 (filed Sept. 21, 2009).

⁵⁰ See *Second Internet-based TRS Order*, 24 FCC Rcd at 806-07, paras. 29-32; see also *Clarification Regarding the Use of Toll Free Numbers for Internet-Based Telecommunications Relay Services*, CG Docket No. 03-123, CC Docket No. 98-67, WC Docket No. 05-196, Public Notice, DA 09-1787 (rel. Aug. 11, 2009).

⁵¹ The TDI Coalition, in its reply comments asks that any relief granted by the Commission with respect to geographic numbers be conditioned on default Internet-based TRS providers utilizing ALI and ANI to deliver an E911 call to the correct PSAP. See TDI Coalition Geographic Numbers Reply Comments at 2.

⁵² *First Internet-based TRS Order*, 12 FCC Rcd at 11620, para. 80; see also 47 C.F.R. § 64.605 "Emergency Calling Requirements."

⁵³ *Id.*

⁵⁴ See Purple Geographic Numbers Comments at 2 (explaining that E911 solutions are not restricted to certain numbers in certain rate centers); see also Level 3 Geographic Numbers Comments at 5 (noting that the Commission (continued....))

14. In sum, for the reasons set forth above, we grant Sorenson's request for a temporary waiver to the extent set forth herein, and apply it to all providers.

B. Transmitting Communications Assistant Identification Numbers (CA IDs) via the Automatic Location Information (ALI) Database

15. In the *Interim Emergency Call Handling Order*, the Commission adopted interim requirements for Internet-based TRS providers to ensure access to emergency services for Internet-based TRS consumers.⁵⁵ One such requirement is that Internet-based TRS providers orally convey to emergency response authorities, at the outset of the outbound leg of an emergency TRS call, certain information (such as the CA ID) that enables emergency response personnel to re-establish contact with the CA in the event the call is disconnected.⁵⁶ In the *Interim Emergency Call Handling Order*, the Commission also committed to adopting a longer term emergency call handling solution for Internet-based TRS involving a system for assigning users of Internet-based TRS ten-digit telephone numbers linked to the NANP.⁵⁷

16. In the *First Internet-based TRS Order*, the Commission adopted final emergency call handling requirements for Internet-based TRS, along with a plan for assigning Internet-based TRS users ten-digit numbers linked to the NANP.⁵⁸ The Commission required Internet-based TRS providers to route emergency calls to the appropriate emergency services authorities via the dedicated Wireline E911 Network.⁵⁹ In addition, the Commission required Internet-based TRS providers to route all 911 calls to an appropriate PSAP⁶⁰ through the use of automatic number identification (ANI), and to automatically transmit to the PSAP specified data relating to each 911 call.⁶¹ As stated above, under the new rules,

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requires Internet-based TRS providers to maintain location information from each of their Registered Internet-based TRS Users).

⁵⁵ *Interim Emergency Call Handling Order*, 23 FCC Rcd 5255, 5265-66, para. 16.

⁵⁶ *Id.*; see also *supra* note 14.

⁵⁷ *Interim Emergency Call Handling Order*, 23 FCC Rcd at 5257, para. 1.

⁵⁸ See generally *First Internet-based TRS Order*, 23 FCC Rcd 11591.

⁵⁹ *Id.*, 23 FCC Rcd at 11620-21, para. 82. See also 47 C.F.R. § 64.605(b)(2)(iii) ("All 911 calls must be routed through the use of ANI and, if necessary, pseudo-ANI, via the dedicated Wireline E911 Network"). The term "Automatic Number Identification" or "ANI" as used herein has the same meaning as that set forth in section 64.601(a)(3) of the Commission's rules. See 47 C.F.R. § 64.601(a)(3). The term "pseudo-ANI" as used herein has the same meaning as that set forth in section 20.3 of the Commission's rules. See 47 C.F.R. § 20.3. The term "Wireline E911 Network" as used herein has the same meaning as that set forth in section 9.3 of the Commission's rules. See 47 C.F.R. § 9.3.

⁶⁰ We use the term, "PSAP" herein to refer to "the PSAP, designated statewide default answering point, or appropriate local emergency authority," as those terms are defined in section 64.3000 of the Commission's rules, 47 C.F.R. § 64.3000, and incorporated by reference in section 64.601(a) of the Commission's rules, 47 C.F.R. § 64.601(a), unless otherwise specified.

⁶¹ 47 C.F.R. § 64.605(b)(2)(i)-(iv). Section 64.605(b)(2)(ii) requires VRS and IP Relay providers to transmit to the PSAP "all 911 calls, as well as ANI, the caller's Registered Location, the name of the VRS or IP Relay provider, and the CA's identification number for each call[.]" 47 C.F.R. § 64.605(b)(2)(ii). "Registered Location" refers to the most recent information obtained by a VRS or IP Relay provider that identifies the physical location of a VRS or IP Relay user. 47 C.F.R. § 64.601(a)(17).

specified data, including the CA ID, the caller's Registered Location, and the name of the Internet-based TRS provider, must be available to the PSAP "from or through the appropriate [ALI] database."⁶² At the same time, the Commission recognized that not all PSAPs would be capable of receiving or utilizing all of the call back and Registered Location information required by the Commission's 911 requirements, and clarified that an Internet-based TRS provider "need only provide such call back and location information as a PSAP... is capable of receiving and utilizing."⁶³

17. On December 30, 2008, Sorenson filed a petition for a temporary limited waiver of the section 64.605(b)(2)(iv) requirement that Internet-based TRS providers make the CA ID available to an appropriate PSAP "from or through the appropriate [ALI] database" during a 911 call placed by an Internet-based TRS user.⁶⁴ While emphasizing that its CAs will continue to provide their identification numbers to PSAPs orally during 911 calls, Sorenson states that its 911 contractor, Intrado, has been unable to devise a solution to the problem of how to pass a CA ID through the ALI database.⁶⁵ According to Sorenson, because non-TRS telecommunications services (*e.g.*, wireline, wireless, interconnected Voice over Internet Protocol) do not require a dedicated "database field" for CA IDs, PSAP equipment lacks a "field" for this information and, as a result, PSAPs across the country currently cannot receive or utilize CA ID information via the ALI database.⁶⁶ Sorenson contends that a waiver would serve the public interest by allowing it to continue offering the core E911 functionality required by the Commission's rules, including obtaining the user's Registered Location in advance of a 911 call and pre-provisioning the information so that the call can be routed automatically to an appropriate PSAP, while allowing it to provide the CA ID to the PSAP orally.⁶⁷

18. Hamilton filed a similar petition.⁶⁸ Hamilton asserts that compliance with the requirement to transmit CA ID information to PSAPs through the ALI database is currently "impossible."⁶⁹ Hamilton asks the Commission to clarify that section 64.605 does not require providers to make CA IDs available through the ALI database, and that Hamilton's "long-standing practice of verbally conveying [CA ID] information to PSAPs is appropriate."⁷⁰ Alternatively, if the Commission determines that CA IDs must be transmitted via the ALI database, Hamilton seeks a waiver of the

⁶² 47 C.F.R. § 64.605(b)(2)(iv).

⁶³ *First Internet-based TRS Order*, 23 FCC Rcd at 11621, para. 83. *See also* 47 C.F.R. § 64.605(b)(3) ("Notwithstanding the provisions in paragraph (b)(2) of this section, if a PSAP, designated statewide default answering point, or appropriate local emergency authority is not capable of receiving and processing either ANI or location information, a VRS or IP Relay provider need not provide such ANI or location information.").

⁶⁴ Sorenson Petition at 1, 4. *See also* 47 C.F.R. § 64.605(b)(2)(iv).

⁶⁵ Sorenson Petition at 2-3.

⁶⁶ *Id.* at 2-4.

⁶⁷ *Id.* at 2-4. We note that although Sorenson seeks only a temporary six-month waiver in its petition, its more recently filed *ex parte* letter indicates that compliance issues remain with respect to Sorenson's and other Internet-based TRS providers' efforts to devise a means of transmitting CA IDs via the ALI database. *See* Letter from Gil M. Strobel, Counsel to Sorenson Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 03-123 (filed Apr. 30, 2009) (*ex parte* meeting with FCC staff involving several Internet-based TRS providers, including Sorenson, along with NENA, APCO, and Intrado).

⁶⁸ *See generally* Hamilton Request for Clarification.

⁶⁹ *Id.* at 5-6.

⁷⁰ *Id.*

requirement until such time as “the ALI database is capable of accepting [CA ID] information, and is capable of doing so in real time.”⁷¹

19. On April 14, 2009, the National Emergency Number Association (NENA) and the Association of Public-Safety Communications Officials International (APCO) filed an *ex parte* letter underscoring the concerns expressed by Internet-based TRS providers regarding the inability of PSAPs to receive and utilize CA ID information passed through the ALI database.⁷² NENA and APCO explain that, because the delivery of CA ID information is unique to TRS, the capacity to transmit this information is not built into the infrastructure for delivering 911 calls through the ALI database.⁷³ In order for PSAPs to receive CA IDs through the ALI database, NENA and APCO maintain that a data field would have to be added to enable the automatic transmission of CA ID information.⁷⁴ Adding a new data field, according to NENA and APCO, would require “considerable changes” in, and impose “enormous expense” on, hundreds of 911 systems nationwide, and necessitate considerable changes within Internet-based TRS providers’ systems as well.⁷⁵ NENA and APCO assert that permitting, instead, the oral transmission of CA ID information to the PSAP would require no changes to the nationwide 911 system, and, in their view, would not compromise the provision of reliable E911 service given that 911 calls would continue to be routed through the use of ANI, and the caller’s Registered Location and the name of the Internet-based TRS provider would continue to be transmitted via the ALI database.⁷⁶

20. Consistent with the Commission’s determination that Internet-based TRS providers “need only provide such call back and location information as a PSAP... is capable of receiving and utilizing[,]”⁷⁷ we clarify that as long as the nation’s PSAPs are unable to receive and utilize CA ID information passed through the ALI database, Internet-based TRS providers will be relieved of their obligation to transmit the CA ID in this manner and must instead convey the CA ID orally.

21. In the *First Internet-based TRS Order*, the Commission sought to establish a process for the routing and delivery of 911 calls that relies, to the extent possible, on the infrastructure and technology already in place for the delivery of 911 calls by interconnected VoIP providers.⁷⁸ As in the interconnected VoIP context, the Commission recognized that not all PSAPs will be capable of receiving and utilizing all of the call back and Registered Location information required by the Commission’s 911 requirements.⁷⁹ For this reason, the Commission concluded that Internet-based TRS providers need only

⁷¹ *Id.* at 6.

⁷² Letter from Patrick Halley, NENA, and Robert Gurss, APCO, to Marlene H. Dortch, FCC at 3 (filed Apr. 14, 2009) (NENA/APCO *Ex Parte*). We note that representatives of NENA, APCO, Intrado, and nine Internet-based TRS providers also met with FCC staff on April 28, 2009 to discuss the technical infeasibility of transmitting CA IDs via the ALI database and to propose that Internet-based TRS providers be permitted to transmit this information orally. See Letter from Gil M. Strobel, Counsel to Sorenson Communications, Inc., to Marlene H. Dortch, FCC (filed Apr. 30, 2009).

⁷³ NENA/APCO *Ex Parte* at 2.

⁷⁴ *Id.*

⁷⁵ *Id.* at 2-3.

⁷⁶ *Id.* at 3.

⁷⁷ *First Internet-based TRS Order*, 23 FCC Rcd at 11621, para. 83. See also 47 C.F.R. § 64.605(b)(3).

⁷⁸ *First Internet-based TRS Order*, 23 FCC Rcd at 11621, para. 85.

⁷⁹ *Id.*, 23 FCC Rcd at 11621, para. 83.

provide such “*call back and location information*” as a PSAP is capable of receiving and utilizing.⁸⁰ We find that CA IDs are among the types of “call back” information that an Internet-based TRS provider need only provide through the ALI database if a PSAP is capable of receiving and utilizing that information.⁸¹ The record before us reflects that, of the thousands of PSAPs operating across the country, none can receive or utilize CA ID information via the ALI database at this time.⁸² We therefore clarify that as long as the nation’s PSAPs are unable to receive and utilize CA ID information through the ALI database, the Internet-based TRS providers need not transmit the CA ID in this manner, but must instead transmit the information orally. In this manner, compliance with the former interim procedure adopted by the Commission in the *Interim Emergency Call Handling Order*, under which Internet-based TRS providers were required to orally convey the CA ID, will be deemed sufficient until issues of technical feasibility on the part of the PSAPs can be resolved.⁸³ In taking this action, we are satisfied, based on the information provided by NENA and APCO,⁸⁴ that the oral transmission of CA IDs will neither delay the processing of emergency Internet-based TRS calls nor compromise the provision of reliable E911 service to Internet-based TRS users.

C. Priority Queuing of Call Backs from Public Safety Answering Points

22. In the *Interim Emergency Call Handling Order*, the Commission required that Internet-based TRS providers implement a system to ensure that incoming emergency calls are answered before non-emergency calls so that an emergency caller does not have to wait in a queue for the next available CA.⁸⁵ This measure, along with several other newly adopted emergency call handling requirements, was designed to ensure that persons using Internet-based forms of TRS can promptly access emergency services.⁸⁶ In the *VRS Numbering Waiver Order*,⁸⁷ and again in the *Second Internet-based TRS Order*,⁸⁸ the Commission reminded Internet-based TRS providers that they must ensure not only that incoming 911 calls are prioritized, but also that call backs from emergency services personnel to the consumer via the consumer’s ten-digit number are answered by the provider on a priority basis.

⁸⁰ *Id.* (emphasis added).

⁸¹ As noted above, the Commission initially required that Internet-based TRS providers convey CA IDs to emergency authorities in order to facilitate PSAP call backs (*i.e.*, to enable emergency response personnel to re-establish contact with the CA in the event that the original 911 call became disconnected). See *Interim Emergency Call Handling Order*, 23 FCC Rcd at 5265-66, para. 16. On this basis, we find that CA IDs are properly deemed “call back” information within the meaning of paragraph 83 of the *First Internet-based TRS Order*. See *First Internet-based TRS Order*, 23 FCC Rcd at 11621, para. 83 (relieving providers of duty to transmit “*call back and location information*” via ALI database if PSAP is unable to receive or utilize that information) (emphasis added).

⁸² See, e.g., NENA/APCO *Ex Parte* at 2-3.

⁸³ *Interim Emergency Call Handling Order*, 23 FCC Rcd at 5265-66, para. 16.

⁸⁴ NENA/APCO *Ex Parte* at 3.

⁸⁵ See 47 C.F.R. § 64.605(a), adopted in the *Interim Emergency Call Handling Order*; see also 47 C.F.R. § 64.605(a)(2)(ii) as re-codified in the *First Internet-based TRS Order*.

⁸⁶ *Interim Emergency Call Handling Order*, 23 FCC Rcd at 5257, 5265–66, paras. 1, 16 & Appendix B (adopting section 64.605, setting forth emergency call handling requirements applicable to Internet-based TRS). Previously, emergency call handling requirements for the Internet-based forms of TRS had been waived.

⁸⁷ See *VRS Numbering Waiver Order*, 23 FCC Rcd at 13751, para. 9.

⁸⁸ *Second Internet-based TRS Order*, 24 FCC Rcd at 798-99, paras. 14-15.

23. Two parties filed petitions seeking clarification and/or waiver of the priority queuing of call backs requirement. Hamilton, in its December 30, 2008 petition, asks the Commission either to clarify that only VRS providers (and not IP Relay providers) must provide priority queuing of PSAP call backs,⁸⁹ or to waive the requirement as to IP relay.⁹⁰ Hamilton asserts that the more stringent speed of answer requirements that apply to IP Relay render priority queuing of PSAP call backs unnecessary.

24. Purple, in its January 29, 2009 petition, asks the Commission to clarify the manner in which it expects Internet-based TRS providers to identify a PSAP call back as a priority call to the extent that PSAPs do not use “a standard ANI” in making call backs.⁹¹ Purple also requests a six-month waiver of the call back requirement once the Commission issues its clarification in order to afford providers adequate time to implement a system that will ensure priority queuing of PSAP call backs.⁹²

25. We clarify that both VRS *and* IP Relay providers must implement a system to ensure the priority queuing of PSAP callbacks. The Commission’s most recent numbering order, which applies to both VRS and IP Relay providers under section 64.605(a)(2)(ii),⁹³ makes clear that the obligation to implement a system to ensure that all incoming emergency calls are prioritized encompasses the related obligation to implement a system to ensure that PSAP call backs are prioritized as well.⁹⁴ Further, we do not agree that the more stringent speed of answer requirements applicable to IP Relay render priority queuing of PSAP call backs unnecessary for IP Relay.⁹⁵ While it is true that the Commission’s non-VRS speed of answer rules require that 85 percent of IP Relay calls be answered within ten seconds, this requirement does not ensure that, if an IP Relay caller’s 911 call is dropped, the PSAP’s attempt to re-establish contact with the caller via the CA will be prioritized given that up to 15 percent of IP Relay calls may be subject to longer wait times.⁹⁶ On this basis, we reject Hamilton’s contention that the speed of answer requirement for IP Relay providers sufficiently ensures rapid response times to all PSAP call backs.⁹⁷

⁸⁹ Hamilton Request for Clarification at 3.

⁹⁰ *Id.* at 4.

⁹¹ See Purple Petition at 4-5; see also Hamilton Request for Clarification at 4-5.

⁹² Purple Petition at 4-5; see also Hamilton Relay, Inc. Comments in Response to Purple’s Petition, CG Docket No. 03-123 and WC Docket No. 05-196 at 2-3 (filed June 4, 2009) (supporting Purple’s requested waiver for at least six months).

⁹³ 47 C.F.R. § 64.605(a)(2)(ii).

⁹⁴ *Second Internet-based TRS Order*, 24 FCC Rcd at 798-99, para. 15 (“Therefore, we again remind providers that they must ensure not only that incoming 911 calls are prioritized, but also that callbacks from the emergency services personnel to the consumer via the consumer’s ten-digit number are answered by the provider before non-emergency calls.”). Although Hamilton correctly notes that the *VRS Numbering Waiver Order* addressed only the obligations of VRS providers with respect to this requirement, see Hamilton Request for Clarification at 3, the Commission spoke more broadly in its most recent order in reminding “providers” of their obligation to prioritize PSAP call backs. *Second Internet-based TRS Order*, 24 FCC Rcd at 798-99, para. 15.

⁹⁵ See Hamilton Request for Clarification at 4.

⁹⁶ See 47 C.F.R. § 64.604(b)(2)(i)-(ii).

⁹⁷ In addition, to the extent that the existence of more stringent speed of answer requirements applicable to IP Relay has not led the Commission to exempt IP Relay providers from the obligation to prioritize incoming 911 calls, as required by section 64.605(a)(2)(ii), it stands to reason that the speed of answer requirements likewise would not exempt IP Relay providers from the obligation to prioritize PSAP call backs.

26. In addition, we find that neither Hamilton's nor Purple's claims of technical infeasibility demonstrate the requisite good cause to justify the grant of a waiver of the priority call back requirement.⁹⁸ The Commission's staff is aware of at least one Internet-based TRS provider that has devised a method of implementing the requirement by prioritizing all call backs to the emergency caller's telephone number for a specified period of time after the initial emergency call.⁹⁹ Because this solution may be implemented relatively quickly and has been available to Internet-based TRS providers for several months, we find that neither Hamilton nor Purple has demonstrated good cause to waive this requirement.¹⁰⁰

IV. ORDERING CLAUSES

27. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 151, 225, and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 225, and 251(e), and sections 0.91, 0.141, 0.291, 0.361, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.141, 0.291, 0.361, 1.3, that this Order is ADOPTED.

28. IT IS FURTHER ORDERED that the Petition for Declaratory Ruling or Limited Waiver of the Commission's Rules filed by Sorenson Communications, Inc. on April 13, 2009, is granted to the extent described herein.

29. IT IS FURTHER ORDERED that the Petition for Temporary Limited Waiver of Section 64.605(b)(2)(iv) of the Commission's Rules, filed by Sorenson Communications, Inc. on December 30, 2008, is dismissed as moot.

30. IT IS FURTHER ORDERED that the Request for Clarification filed by Hamilton Relay, Inc. on December 30, 2008, is granted in part, to the extent and subject to the condition described herein, and denied in part, to the extent described herein.

31. IT IS FURTHER ORDERED that the Petition for Partial Reconsideration and Limited Waiver filed by GoAmerica, Inc. on January 29, 2009, is denied to the extent described herein.

32. IT IS FURTHER ORDERED that this Order is effective upon release.

33. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau

⁹⁸ As noted above, the Commission may waive a provision of its rules for "good cause shown." *See supra* notes 40, 41

⁹⁹ *See* Comments of Sorenson, Inc., CG Docket No. 03-123 & WC Docket No. 05-196, at 3 (filed Aug. 8, 2008) ("One way to ensure that callbacks from PSAPs are granted precedence over other calls is for the provider to prioritize any calls to a number from which a 911 call has been placed for a specified period of time (*e.g.*, 30 minutes from the time the original 911 call was made).").

¹⁰⁰ We believe, based on the record of technical feasibility by at least one provider, that a period of at least 30 minutes represents a reasonable period during which an Internet-based TRS provider implementing this solution can be expected to prioritize calls to the telephone number of an emergency Internet-based TRS caller. A shorter period may preclude prioritization of a call back from emergency authorities for a number of purposes including, for example, to confirm directions to the location of an emergency, or to follow up on first-aid instructions provided during an initial 911 call. We expect providers implementing such a solution to use their best judgment based on the circumstances and to err on the side of a longer rather than shorter period.

at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This Order can also be downloaded in Word and Portable Document Formats (PDF) at <http://www.fcc.gov/cgb/dro/trs.html#orders>.

FEDERAL COMMUNICATIONS COMMISSION

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