

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
Waivers of iTRS Mandatory Minimum Standards
CG Docket No. 03-123

REPORT AND ORDER, ORDER, DECLARATORY RULING, AND FURTHER NOTICE OF
PROPOSED RULEMAKING

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## I. INTRODUCTION

1. Over the past decade, the Commission has granted providers of Internet-based relay services (iTRS)<sup>1</sup> and public switched telephone network (PSTN)-based captioned telephone service (CTS)<sup>2</sup> waivers of various mandatory minimum standards that apply to telecommunications relay services (TRS).<sup>3</sup> In this Report and Order and Order (Order), we eliminate certain waivers that are no longer necessary, given advances in relay service technology. At the same time, we extend certain existing waivers of mandatory minimum standards for specific providers for which the provision of certain TRS features is technologically infeasible. Finally, we eliminate certain TRS requirements that are either not applicable or technically not feasible, while ensuring that TRS consumers continue to have access to communications services that are functionally equivalent to voice telephone services.

2. Given the current state of the technologies pertaining to these standards and in light of recent and annual submissions reporting on providers' ability to comply with the waived mandatory minimum standards,<sup>4</sup> we take the following actions:

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<sup>1</sup> "iTRS" refers to all forms of telecommunications relay service (TRS) in which an individual with a hearing or speech disability uses an Internet connection with the TRS communications assistant (CA). See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order, 26 FCC Rcd 10898, 10899, ¶ 1, n.1 (2011) (*July 2011 Certification Order*); see also 47 C.F.R. § 64.601(a)(15) (defining "Internet-based TRS"). At present, this includes video relay service (VRS) (*see id.* § 64.601(a)(40)), Internet Protocol relay service (IP Relay) (*see id.* § 64.601(a)(17)), Internet Protocol captioned telephone service (IP CTS) (*see id.* § 64.601(a)(16)), and any combination of these services or use of these services with other forms of relay, such as voice carry over (VCO) (allowing a user to speak directly to the other party while having the conversation relayed back) (*see id.* § 64.601(a)(42)), or hearing carry over (HCO) (allowing a user to hear the other party directly while using relay to convey messages) (*see id.* § 64.601(a)(13)). We note that in the future, "iTRS" may also include other forms of relay services that use an Internet connection. See *July 2011 Certification Order*, 26 FCC Rcd at 10899, ¶ 1, n.1.

<sup>2</sup> CTS permits people who can speak, but who have difficulty hearing over the telephone, to simultaneously listen to the other party and read captions of what that party is saying. See *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling, 18 FCC Rcd 16121 (2003) (*CTS Declaratory Ruling*) (first recognizing CTS as a form of TRS eligible for compensation from the Interstate TRS Fund (TRS Fund), which compensates providers for handling TRS calls).

<sup>3</sup> Under 47 U.S.C. § 225(a)(3), as amended by Section 103(a) of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), TRS is defined as "telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio." Pub. L. No. 111-260 (CVAA), § 103(a), 124 Stat. 2751 (Oct. 8, 2010), *technical amendments*, Pub. L. No. 111-265, 124 Stat. 2795 (Oct. 8, 2010), *codified at* 47 U.S.C. § 225(a)(3).

<sup>4</sup> See ASL Services Holdings, LLC, 2013 Annual Mandatory Minimum Standards Waiver Compliance Report (Apr. 16, 2013) (ASL Services 2013 Report); ASL Services Holdings, LLC, Supplement to 2013 Annual Mandatory Minimum Standards Waiver Compliance Report (Jun. 11, 2013); AT&T, Inc. 2013 Annual Report on IP TRS Waivers (Apr. 1, 2013) (AT&T 2013 Report); Hancock, Jahn, Lee & Puckett, LLC d/b/a Communication Axxess Ability Group, CAAG's Status Report on Currently Waived Requirements (Apr. 16, 2013) (CAAG 2013 Report); Convo Communications, LLC, Minimum Standards Waiver Report (Apr. 16, 2013) (Convo 2013 Report); CSDVRS, LLC, Report on Waivers by CSDVRS, LLC (Apr. 15, 2013) (CSDVRS 2013 Report); Hamilton Relay, Inc., 2013 Annual Report to FCC Concerning Internet Relay and IP CTS (Apr. 16, 2013) (Hamilton 2013 Report); Purple Communications, Inc., Annual Report on Progress of Meeting Waived Requirements (Apr. 11, 2013) (Purple 2013 Report); Sorenson Communications, Inc., Minimum Standards Waiver Report (Apr. 15, 2013) (Sorenson 2013 Report); Sprint Nextel Corporation, FCC IP Relay Service Annual Progress Report (Apr. 16, 2013) (Sprint 2013 IP Relay Report); see also Letter from ASL Services Holdings, LLC, Sorenson Communications, Inc., CSDVRS, LLC, Convo Communications, LLC, Hamilton Relay, Inc., Purple Communications, Inc., Sprint Corporation, and

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- Exempt iTRS providers from mandatory minimum standards for certain “types-of-calls,”<sup>5</sup> equal-access to interexchange carriers,<sup>6</sup> pay-per-call,<sup>7</sup> speech-to-speech (STS),<sup>8</sup> ASCII/Baudot-compatible services,<sup>9</sup> and call-release.<sup>10</sup>
- Exempt VRS providers from mandatory minimum standards requiring text-to-voice and voice-to-text features, and exempt CTS and IP CTS providers from mandatory minimum standards requiring text-to-voice features.<sup>11</sup>
- Amend our rules concerning the applicability of mandatory minimum standards for multiple forms of voice carry over (VCO) and hearing carry over (HCO) as these standards pertain to different types of iTRS and CTS providers.<sup>12</sup>
- For CTS providers, codify as exemptions existing waivers from mandatory minimum standards requiring ASCII/Baudot-compatible services and the call-release feature.<sup>13</sup>
- Terminate existing waivers for mandatory minimum standards requiring three-way calling<sup>14</sup> and speed dialing.<sup>15</sup>

3. In the Declaratory Ruling, we confirm that Spanish Language Services over iTRS and CTS are voluntary services.<sup>16</sup> We also remind providers of the existing ban on per minute compensation for TRS calls by employees or subcontractors of TRS providers and the prohibition on initiating TRS calls for the purpose of generating compensable minutes for providers.<sup>17</sup> Finally, in the Further Notice of

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Hancock, Jahn, Lee and Puckett, LLC, d/b/a “Communication Access Ability Group” to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123 (April 8, 2014) (Joint Providers April 8, 2014 *Ex Parte*).

<sup>5</sup> See ¶¶ 11-14, *infra*. See Final Rules in Appendix A, *infra*. We exempt iTRS providers from mandatory minimum standards for certain types-of-calls provided that they allow for long distance calls to be placed using calling cards or credit cards or do not charge for long distance service.

<sup>6</sup> See ¶¶ 15-16 and Appendix A, *infra*. We exempt iTRS providers from mandatory minimum standards for equal access to interexchange carriers provided that they do not charge for long distance service.

<sup>7</sup> See ¶¶ 17-19 and Appendix A, *infra*.

<sup>8</sup> See ¶¶ 51-53 and Appendix A, *infra*. STS is a form of TRS that allows a person with a speech disability to communicate with other telephone users through the use of CAs who are trained to understand the speech patterns of persons with disabilities. The CAs repeat the words spoken by the person with a speech disability to other parties to a telephone call; generally in an STS call, the STS user is able to hear the other parties’ responses directly, without CA intervention. 47 C.F.R. § 64.601(a)(30). The Commission recognized STS as a form of TRS eligible for compensation from the Fund and required that it be offered as a mandatory service in 2000. See *Telecommunications Relay Services and Speech-to-Speech 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, 5149-51, ¶¶ 15-20 (2000) (*2000 TRS Report and Order*); see also 47 C.F.R. § 64.603.

<sup>9</sup> See ¶ 54 and Appendix A, *infra*.

<sup>10</sup> See ¶¶ 55-56 and Appendix A, *infra*.

<sup>11</sup> See ¶ 50 and Appendix A, *infra*.

<sup>12</sup> See ¶ 25-49 and Appendix A, *infra*.

<sup>13</sup> See ¶ 54-56 and Appendix A, *infra*.

<sup>14</sup> See ¶ 20, *infra*.

<sup>15</sup> See ¶¶ 21-23, *infra*.

<sup>16</sup> See ¶ 58-59, *infra*.

<sup>17</sup> See ¶ 60, *infra*.

Proposed Rulemaking (FNPRM), we seek comment on amending the definition of TRS in section 64.601 of the Commission's rules<sup>18</sup> to conform to the definition of TRS in section 225(a)(3) of the Communications Act of 1934 (Act),<sup>19</sup> as this definition has been amended by the CVAA.<sup>20</sup>

## II. BACKGROUND

4. *Telecommunications Relay Services.* Title IV of the Americans with Disabilities Act of 1990 (ADA), codified at section 225 of the Act,<sup>21</sup> requires the Commission to ensure that TRS is available to enable a person with a hearing or speech disability to communicate with other telephone users in a manner that is functionally equivalent to voice communications service to the extent possible and in the most efficient manner.<sup>22</sup> In accordance with this directive, the Commission's rules contain functional requirements, operations procedures and mandatory minimum standards to ensure the provision of functionally equivalent relay service.<sup>23</sup> Many of these standards were adopted in the 1990s, at a time when there was only one form of TRS transmitted over the PSTN – TTY-to-voice relay service.<sup>24</sup> In a TTY-to-voice relay call, a communications assistant (CA) relays the call between parties by converting everything that the text caller with a hearing or speech disability types into voice for the hearing party and typing everything that the voice user responds back to the person with a disability.<sup>25</sup> From 2000 to 2007, in light of advancing communication technologies and Internet-based innovations, the Commission recognized other forms of TRS as eligible for compensation from the TRS Fund, including three forms of iTRS: VRS,<sup>26</sup> IP Relay,<sup>27</sup> and IP CTS.<sup>28</sup> Today iTRS account for more than 90% of the total relay service

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<sup>18</sup> 47 C.F.R. § 64.601(a)(32).

<sup>19</sup> 47 U.S.C. § 225(a)(3).

<sup>20</sup> CVAA § 103(a).

<sup>21</sup> See Americans with Disabilities Act, Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990); 47 U.S.C. § 225.

<sup>22</sup> *Id.* §§ 225 (a)(3), 225(b)(1); see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 90-571, 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, 12480, ¶ 3 n.18 (2004) (*2004 TRS Report and Order*) (describing how a traditional TRS call works).

<sup>23</sup> See 47 C.F.R. § 64.604; *2000 TRS Report and Order*, 15 FCC Rcd at 5158, ¶ 39.

<sup>24</sup> A text telephone, or TTY, is a text device that employs graphic communication in the transmission of coded signals through a wire or radio communication system. See *Telecommunications Services for Individuals with Hearing and Speech Disabilities and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Report and Order and Request for Comments, 6 FCC Rcd 4657, 4657, ¶ 1, n.1 (1991) (*First TRS Report and Order*); 47 C.F.R. § 64.601(a)(33) (definition of TTY).

<sup>25</sup> *2004 TRS Report and Order*, 19 FCC Rcd at 12480, ¶ 3, n.18 (describing how a traditional TRS call works); see also 47 C.F.R. § 64.601(a)(32) (definition of TRS).

<sup>26</sup> VRS allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users over a broadband Internet connection using video equipment. The video link allows the CA to view the party's signed conversation and relay the conversation back and forth by signing what the voice telephone user says to the deaf or hard of hearing user and responding in voice to the voice telephone user. See 47 C.F.R. § 64.601(a)(40); *2000 TRS Report and Order*, 15 FCC Rcd at 5152-54, ¶¶ 21-27.

<sup>27</sup> IP Relay permits people with hearing or speech disabilities to communicate in text using an Internet Protocol-enabled device via the Internet. See 47 C.F.R. § 64.601(a)(17); *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Petition for Clarification of WorldCom, Inc.*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (2002) (*IP Relay Declaratory Ruling*).

<sup>28</sup> With IP CTS, the connection carrying the captions between the relay service provider and the relay service user is via the Internet, rather than through the PSTN. See 47 C.F.R. § 64.601(a)(16); *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 (2007) (*IP CTS Declaratory Ruling*). In addition, as noted above, the

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minutes reimbursed from the Fund.<sup>29</sup>

5. *Waivers Granted for iTRS and CTS.* The Commission's mandatory minimum standards are intended to ensure that the user experience when making TRS calls is comparable to a voice user's experience when making conventional telephone calls.<sup>30</sup> Over the years, however, the Commission has granted TRS providers waivers of certain TRS mandatory minimum standards that were deemed either technologically infeasible for or inapplicable to a particular form of TRS. The waivers granted for IP CTS and CTS have been issued for indefinite periods,<sup>31</sup> while most waivers granted for VRS and IP Relay have been limited in duration.<sup>32</sup> Generally, the limited-duration waivers have been renewed periodically – in recent years on an annual basis.<sup>33</sup> The Commission has conditioned many of the waivers on the filing of annual waiver reports in which providers are expected to detail their progress in achieving compliance with the underlying mandatory minimum standards.<sup>34</sup>

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Commission recognized STS and CTS as forms of TRS eligible for compensation from the Fund in 2000 and 2003, respectively. See ¶ 2 n.8, *supra*; *CTS Declaratory Ruling*.

<sup>29</sup> See Rolka, Loube, Saltzer and Associates, *Interstate TRS Fund Monthly Status Report for December 2013*, <[www.r-l-s-a.com/TRS/Reports.htm](http://www.r-l-s-a.com/TRS/Reports.htm)> (last visited February 12, 2014).

<sup>30</sup> For example, the standards require that TRS operate every day for 24 hours per day on a continuous basis, 47 U.S.C. § 225(d)(1)(C), that the content of all relayed conversation be kept confidential, *id.* § 225(d)(1)(F), and that users of TRS pay rates no greater than the rates paid by voice telephone users. *Id.* § 225(d)(1)(D).

<sup>31</sup> See *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-93, ¶¶ 29-31; *CTS Declaratory Ruling*, 18 FCC Rcd at 16130-39, ¶¶ 24-54.

<sup>32</sup> See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 17 FCC Rcd 157, 161-64, ¶¶ 9-20 (2001) (*2001 VRS Waiver Order*); *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7789, ¶ 30, 7790, ¶ 32; *2004 TRS Report and Order*, 19 FCC Rcd at 12520-28, ¶¶ 109-40, 12594-96, Appx. E.

<sup>33</sup> See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 22 FCC Rcd 21869, 21870, ¶ 2 (CGB 2007) (*2007 TRS Waiver Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 23 FCC Rcd 18334, 18334, ¶ 1 (CGB 2008) (*2008 TRS Waiver Order*); *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, WC Docket No. 05-196, Order, 25 FCC Rcd 8437, 8437, ¶ 1 (CGB 2010) (*2010 TRS Waiver Order*); *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, WC Docket No. 05-196, Order, 26 FCC Rcd 9449, 9449-50, ¶ 1 (CGB 2011) (*2011 TRS Waiver Order*); *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, WC Docket No. 05-196, Order, 27 FCC Rcd 7113, 7113-14, ¶ 1 (CGB 2012) (*2012 TRS Waiver Order*); *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, WC Docket No. 05-196, Order, 28 FCC Rcd 9246, 9246, ¶ 1 (CGB 2013) (*2013 TRS Waiver Order*). In 2009, the limited-duration waivers were extended for six months, rather than a year. *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, WC Docket No. 05-196, Order, 24 FCC Rcd 14721, 14721-22, ¶¶ 1-2 (CGB 2009) (*2009 TRS Waiver Order*).

<sup>34</sup> The reports were to help the Commission determine whether technological advances can enable providers to comply with the waived mandatory minimum standards. See, e.g., *2004 TRS Report and Order*, 19 FCC Rcd at 12520, ¶ 111. In some instances, the Commission also required annual reports for indefinite-duration waivers. For example, IP CTS providers were required to file annual reports for waivers granted for STS, pay-per-call (900), VCO, HCO, call release, three-way calling, and speed dialing requirements, even though these did not have time limits. *IP CTS Declaratory Ruling*, 22 FCC Rcd at 393, ¶ 30, n.106. Providers filed their most recent annual waiver reports in April 2013. See ASL Services 2013 Report; AT&T 2013 Report; CAAG 2013 Report; Convo 2013

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6. *TRS Waiver NPRM*. On November 19, 2009, Hamilton Relay, Inc., AT&T, Inc., CSDVRS, LLC, Sorenson Communications, Inc., Sprint Nextel Corporation, and Purple Communications, Inc. (Petitioners) filed a “Request for Extension and Clarification of Various iTRS Waivers” (Hamilton Joint Request), requesting that the Commission extend indefinitely all iTRS waivers of limited duration<sup>35</sup> and provide clarification on what Petitioners claim are discrepancies in some of the waivers.<sup>36</sup> In September 2013, the Commission released a Notice of Proposed Rulemaking to take an in-depth look at the merits of making permanent or eliminating the waivers addressed in the Hamilton Joint Request, as well as waivers granted for CTS.<sup>37</sup> Specifically, the Commission sought public comment on the continuing need for, and technical feasibility and applicability of, the rules underlying each of these waivers as these rules apply to certain types of TRS.<sup>38</sup>

7. Generally, the Commission sought input on the technological feasibility of compliance with, as well as the consumer need for, its waived mandatory minimum standards.<sup>39</sup> The Commission divided the waivers addressed in its NPRM into two categories,<sup>40</sup> with the first group consisting of waivers for standards mandating the inclusion of features and functions available with voice telephone service in TRS,<sup>41</sup> and the second group consisting of waivers for standards mandating the provision of specific communication services needed by people with speech or hearing disabilities.<sup>42</sup> With respect to waivers that were limited in duration, the Commission sought comment on whether to exempt specified iTRS providers from the underlying waived mandatory minimum standards on a permanent basis, if they were determined to be inapplicable to the specified iTRS providers.<sup>43</sup> Similarly, for waivers that were already of unlimited duration, the Commission sought comment on whether it should amend its rules to codify these as exemptions.<sup>44</sup>

8. Eight TRS providers (Joint Providers) filed joint comments in response to the *TRS Waiver NPRM* in support of the Hamilton Joint Request to exempt iTRS providers from the mandatory

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Report; CSDVRS 2013 Report; Hamilton 2013 Report; Purple 2013 Report; Sorenson 2013 Report; Sprint 2013 IP Relay Report.

<sup>35</sup> Hamilton Relay, Inc., AT&T Inc., CSDVRS, LLC, Sorenson Communications, Inc., Sprint Nextel Corporation, and Purple Communications, Inc., Request for Extension and Clarification of Various iTRS Waivers, CG Docket No. 03-123, at 4 (filed Nov. 19, 2009) (Hamilton Joint Request).

<sup>36</sup> *Id.* at 2. The Petitioners assert that: (1) the Commission granted an indefinite waiver of the STS requirement for VRS, but the waiver was of limited duration for IP Relay (*id.* at 3); (2) the “equal access” requirement for long distance service was waived indefinitely for IP Relay, but the waiver was of limited duration for VRS (*id.* at 3-4); and (3) although the Commission granted a number of indefinite waivers for IP CTS, the same waivers for IP Relay and VRS have a limited duration (*id.* at 4).

<sup>37</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waivers of iTRS Mandatory Minimum Standards*, CG Docket No. 03-123, Notice of Proposed Rulemaking, 28 FCC Rcd 13514 (2013) (*TRS Waiver NPRM*).

<sup>38</sup> *Id.* at 13514, ¶ 1.

<sup>39</sup> *Id.* at 13518, ¶ 5.

<sup>40</sup> *Id.* at 13519, ¶ 7.

<sup>41</sup> These included “types-of-calls,” equal-access to interexchange carriers, pay-per-call, three-way calling rules, and speed dialing.

<sup>42</sup> These included VCO, HCO, STS, ASCII/Baudot-compatible services, Spanish-to-Spanish, and call-release.

<sup>43</sup> *Id.* at 13519, ¶ 7.

<sup>44</sup> *Id.* at 13520, ¶ 7.

minimum standards underlying the Commission's iTRS waivers.<sup>45</sup> No comments were filed in opposition to the Hamilton Joint Request.

### III. ORDER

9. After reviewing the record in this proceeding, including information contained in annual status reports filed by iTRS providers over the past several years and recent *ex parte* letters filed by several providers, as discussed below, we exempt iTRS and CTS providers from certain mandatory minimum standards pertaining to TRS features and functions that are available with voice telephone services, while we terminate waivers of other standards in this category. We also exempt iTRS and CTS providers from certain mandatory minimum standards pertaining to the provision of communication services specifically needed by people with speech and hearing disabilities, while we terminate waivers of other standards in this category. In addition, we eliminate the requirement to file annual waiver reports for those mandatory minimum standards for which we adopt exemptions. In taking these actions, we remind all TRS providers that to the extent that a provider fails to provide service that is compliant with the Commission's rules and orders, the minutes associated with that service are not compensable from the TRS Fund.<sup>46</sup>

#### A. Mandatory Minimum Standards for Features and Functions of Voice Telephone Service

10. The first group of waived mandatory minimum standards relates to features and functions that are available with voice telephone service, including the types-of-calls requirement, equal access to interexchange carriers, pay-per-call (900) calls, three-way calling, and speed dialing. We address each of these in turn.

11. *Types-of-Calls Requirement.* We exempt iTRS providers from the types-of-calls requirement – to the extent that this standard requires providers to offer specific billing options traditionally offered for wireline voice services – so long as iTRS providers allow for long distance calls to be placed using calling cards or credit cards or do not charge for long distance service. Commission rules require TRS providers to “be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so.”<sup>47</sup> This requirement has been waived on a limited-duration basis for IP Relay and VRS providers (but not for IP CTS providers)<sup>48</sup> to the extent that it requires providers to offer specific billing options, including “operator-assisted” billing, such as collect, calling card, and third party billing, as well as sent-paid billing for long distance calls.<sup>49</sup> As a condition of this waiver, the Commission, and subsequently the

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<sup>45</sup> ASL Services Holdings, LLC; CSDVRS, LLC; Convo Communications, LLC; Hamilton Relay, Inc.; Hancock, Jahn, Lee and Puckett, LLC d/b/a “Communications Access Ability Group”; Purple Communications, Inc.; Sorenson Communications, Inc.; and Sprint Corporation, Comments of Joint Providers, CG Docket No. 03-123 (Dec. 23, 2013) (Comments of Joint Providers).

<sup>46</sup> See, e.g., *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703, 723, ¶ 36 (2013) (*IP CTS 2013 Interim Order*), vacated on other grounds *sub nom.* *Sorenson Communications, Inc. and CaptionCall, LLC v. FCC* (D.C. Cir., Nos. 13-1122, 13-1246, June 20, 2014). See also *id.* at 724, ¶ 37 (the TRS Fund administrator shall not be obligated to pay any request for compensation until it has been established as compensable); 47 C.F.R. § 64.604(c)(5)(iii)(E)(6).

<sup>47</sup> *Id.* § 64.604(a)(3)(ii). Relay service providers have the burden of proving the infeasibility of handling any type of call. *Id.*

<sup>48</sup> No waiver had been requested for the types-of-calls requirement at the time that the Commission granted indefinite waivers of other requirements for IP CTS providers. See generally *IP CTS Declaratory Ruling*, 22 FCC Rcd 379.

<sup>49</sup> See *First TRS Report and Order*, 6 FCC Rcd at 4660, ¶ 17 (rule requires TRS providers to handle non-coin sent-paid, third party number, calling card and collect calls); *2004 TRS Report and Order*, 19 FCC Rcd at 12521, ¶¶ 113-

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Bureau, required that VRS and IP Relay providers allow users to place long distance calls using calling cards or without charging users for such calls.<sup>50</sup> Petitioners requested that the types-of-calls requirement be waived indefinitely for all forms of iTRS.<sup>51</sup>

12. The Joint Providers urge the Commission to permanently waive the types-of-calls requirement for the provision of iTRS.<sup>52</sup> For the multiple reasons given by these providers, we are persuaded of the need to exempt iTRS providers from this standard, the extent that it requires providers to offer specific billing options traditionally offered for wireline voice services. First, we are persuaded by the Joint Providers' argument that offering certain billing options is no longer necessary to provide functional equivalency for iTRS calls.<sup>53</sup> The Joint Providers accurately note that VoIP and cellular telephone users "routinely receive free long distance as part of their plan" and, consequently, operator-assisted services are not as important as in the past.<sup>54</sup> iTRS providers similarly report that iTRS providers do not generally charge iTRS users for long distance services<sup>55</sup> or allow consumers to use calling cards.<sup>56</sup> Because iTRS users do not pay for long distance or use calling cards, operator-assisted billing is not necessary to provide functionally equivalent communication.<sup>57</sup>

13. Second, as the Joint Providers point out, because one leg of the iTRS call is transmitted over the Internet, iTRS providers have no billing relationship with iTRS users.<sup>58</sup> Without such a relationship, these providers currently do not have the capability to offer their customers specific billing options.<sup>59</sup> We are persuaded that requiring iTRS providers to establish and maintain a new billing system would not be cost effective<sup>60</sup> or efficient,<sup>61</sup> because it would be more costly to providers to establish a

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15 (waiving the requirement for VRS); *2008 TRS Waiver Order*, 23 FCC Rcd at 18338, ¶ 12 n.40 (waiving the requirement for IP Relay). "'Sent-paid billing' is an industry term referring to 'calls charged to the originating number or collected as coins in a pay telephone.'" *TRS Waiver NPRM*, 28 FCC Rcd at 13520, ¶ 8 n.48 (quoting Newton's Telecom Dictionary, 25<sup>th</sup> Edition (2009)).

<sup>50</sup> *2004 TRS Report and Order*, 19 FCC Rcd at 12521, ¶ 115; *2008 TRS Waiver Order*, 23 FCC Rcd at 18338, ¶ 12 & n.40; *see also 2012 TRS Waiver Order*, 27 FCC Rcd at 7122, ¶ 17.

<sup>51</sup> Hamilton Joint Request at 6.

<sup>52</sup> Comments of Joint Providers at 2-4.

<sup>53</sup> *Id.* at 4.

<sup>54</sup> *Id.*

<sup>55</sup> Comments of Joint Providers at 3; *see also* ASL Services 2013 Report at 3 (stating that ASL Services "remains in compliance with the Commission's requirement to provide free long distance"); AT&T 2013 Report at 3 (stating that iTRS users "incur no cost to make [iTRS] calls, including calls that might be considered long distance"); CAAG 2013 Report at 3 (stating that "[t]oday, CAAG supports free long distance"); Convo 2013 Report at 3 (stating that Convo "currently processes long-distance calls free of charge to its users"); CSDVRS 2013 Report at 5 (stating that CSDVRS "currently provides most long distance, operator-assisted and directory assistance calls free of charge to relay users"); Hamilton 2013 Report at 5; Purple 2013 Report at 2 (stating that Purple "does not charge VRS or IP Relay users to complete any calls that may otherwise be billed as long distance calls or as operator-assisted calls"); Sorenson 2013 Report at 6 (stating that "Sorenson currently pays for all long-distance charges for VRS and IP Relay calls"); Sprint 2013 IP Relay Report at 1 (stating that "[c]urrently, IP Relay users are able to connect with Operator Assistance and place long distance calls at no charge to the customer").

<sup>56</sup> CAAG 2013 Report at 3; CSDVRS 2013 Report at 5.

<sup>57</sup> Comments of Joint Providers at 4.

<sup>58</sup> *Id.* at 2-3; *see also* CAAG 2013 Report at 3; Purple 2013 Report at 2; Sorenson 2013 Report at 5; Sprint 2013 IP Relay Report at 1.

<sup>59</sup> Comments of Joint Providers at 2.

<sup>60</sup> *Id.* at 2-3.



billing mechanism in order to bill for these calls than to handle them without billing consumers, as is providers' current practice.<sup>62</sup>

14. We conclude that comments submitted by the Joint Providers confirm that compliance with this mandatory minimum standard is not necessary to provide functionally equivalent telephone services for iTRS users.<sup>63</sup> These comments, together with information contained in providers' annual waiver reports, further support a finding that it would be inefficient to require iTRS providers to provide the same billing options traditionally offered for wireline voice service.<sup>64</sup> The types-of-calls requirement, adopted more than 20 years ago, was intended to ensure that certain billing options, including operator-assisted billing, that were available to voice telephone users in a PSTN-based environment would be similarly available to users of TTY-to-voice relay services.<sup>65</sup> However, as noted in the *TRS Waiver NPRM*, given the technological changes that have taken place over the past two decades, including the development of Internet-based forms of TRS, iTRS consumers do not need the same billing options that users who access relay services via the PSTN require. In this regard, we note that no consumers or consumer groups have opposed exempting this standard for iTRS providers. Accordingly, so long as iTRS providers allow consumers to use calling cards or credit cards or do not charge for long distance service, we exempt all forms of iTRS from the types-of-calls requirement to the extent that the standard requires providers to offer the billing options traditionally offered for wireline voice services, and we amend our rules accordingly.<sup>66</sup>

15. *Equal Access to Interexchange Carriers.* We exempt iTRS providers from the equal access to interexchange carriers requirement so long as they do not charge for long distance service. The Commission's rules require TRS providers to offer consumers access to their interexchange carrier of choice to the same extent that such access is provided to voice users.<sup>67</sup> The Commission waived this requirement indefinitely for IP Relay and IP CTS providers<sup>68</sup> and on a limited-duration basis for VRS providers,<sup>69</sup> contingent on iTRS providers offering long distance service without charge.<sup>70</sup> Petitioners

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<sup>61</sup> Section 225 of the Act requires the Commission to ensure the provision of TRS "in the most efficient manner." 47 U.S.C. §225(b)(1).

<sup>62</sup> Comments of Joint Providers at 3.

<sup>63</sup> *Id.* at 4.

<sup>64</sup> *Id.* at 2-3; AT&T 2013 Report at 2; Purple 2013 Report at 2.

<sup>65</sup> See *First TRS Report and Order*, 6 FCC Rcd at 4660-61, ¶¶ 17-19; see also *TRS Waiver NPRM*, 28 FCC Rcd at 13521, ¶ 10.

<sup>66</sup> The Joint Providers also argue that iTRS providers should be exempt from the types-of-calls requirement because of difficulties that they claim exist in determining an iTRS caller's actual location and whether a call is local or long distance, two pieces of information that are central to meeting the types-of-calls requirement. Comments of Joint Providers at 3. Because we exempt iTRS providers from the types-of-calls requirement based on the lack of a billing relationship between iTRS providers and iTRS users and because offering certain billing options is no longer necessary to provide functional equivalency for iTRS calls, we need not and do not address these arguments.

<sup>67</sup> See 47 C.F.R. § 64.604(b)(3); see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Americans with Disabilities Act of 1990*, CC Docket No. 98-67, CG Docket No. 03-123, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd 12379, 12412-15, ¶¶ 54-61 (2003) (*2003 TRS Report and Order*).

<sup>68</sup> See *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7789, ¶ 31; *IP CTS Declaratory Ruling*, 22 FCC Rcd at 392, ¶ 30 & n.101.

<sup>69</sup> See *2004 TRS Report and Order*, 19 FCC Rcd at 12524-25, ¶ 127.

<sup>70</sup> See, e.g., *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7789, ¶ 31; see also *2012 TRS Waiver Order*, 27 FCC Rcd at 7123, ¶ 19.

requested that this requirement be waived indefinitely for all forms of iTRS, arguing that the need for equal access is “moot” so long as iTRS providers do not charge users for long distance calls.<sup>71</sup>

16. We agree with the Joint Providers on the need to exempt iTRS providers from the equal access to interexchange carriers requirement.<sup>72</sup> First, we conclude that the equal access to interexchange carriers requirement is not necessary to provide functionally equivalent telephone services for iTRS users so long as iTRS providers do not charge for long distance service. As the Joint Providers state, consumers derive no value from equal access to long distance carriers where, as here, they do not pay long-distance charges for iTRS calls and, consequently, have no interest in “price shopping” for a long-distance provider.<sup>73</sup> Finally, we are persuaded by the Joint Providers’ claim in their comments, as well as the information provided to the Commission in annual waiver reports submitted over the past several years,<sup>74</sup> that it “is not feasible for iTRS providers to implement networking and routing solutions to allow iTRS users to choose their carriers.”<sup>75</sup> There was no opposition to making this exemption permanent. For these reasons, we conclude that the equal access to interexchange carriers requirement is not necessary for iTRS providers and therefore exempt iTRS providers that do not charge for long distance service from this requirement. We amend our rules accordingly.<sup>76</sup>

17. *Pay-Per-Call (900) calls.* We exempt iTRS providers from the requirement for TRS providers to be capable of handling pay-per-call (*i.e.*, 900-number) calls. Although the Commission’s rules generally require TRS providers to be capable of handling pay-per-call calls,<sup>77</sup> the Commission has previously waived this requirement indefinitely for IP CTS providers<sup>78</sup> and on a limited-duration basis for IP Relay and VRS providers because no billing mechanism has been available to handle the charges associated with pay-per-call calls.<sup>79</sup> Petitioners request that this waiver be made indefinite for IP Relay and VRS Providers, because “[s]ignificant technical hurdles” prevent providers from automatically passing through 900 call information and from invoicing users for these services, and much of the

<sup>71</sup> Hamilton Joint Request at 6.

<sup>72</sup> Comments of Joint Providers at 4.

<sup>73</sup> *Id.* at 4-5.

<sup>74</sup> *See id.* at 5; *see also* CAAG 2013 Report at 4 (stating that CAAG and other VRS providers “do not have the mechanized capability today to allow VRS users to identify their preferred interexchange carriers”); Convo 2013 Report at 4 (stating that “[a]t this time, it is technically infeasible” to provide users with equal access to interexchange carriers); Purple 2013 Report at 1 (stating that Purple cannot offer equal access to interexchange carriers because “Purple presently lacks the resources to layer this task [of administratively offering Equal Access] onto [its] operations”); Sorenson 2013 Report at 6 (stating that Sorenson “does not have an established method through which VRS users could identify their chosen [interexchange carrier] to Sorenson”).

<sup>75</sup> Comments of Joint Providers at 5.

<sup>76</sup> We do not base our determination on the Joint Providers’ assertion that equal access to interexchange carriers is not necessary to ensure high quality long-distance connections because a consumer can choose a different iTRS provider if one provider offers substandard long-distance connections. *See id.* at 5. The Commission’s decision to allow users to select their long distance carrier in the 1991 *First TRS Report and Order* allowed users to distinguish between the carrier that they wanted for their interexchange transmissions and their TRS provider. *First TRS Report and Order*, 6 FCC Rcd at 4461-62, ¶ 22. Nevertheless, for the reasons noted above, we do not need this justification to support our decision to exempt iTRS providers from this requirement.

<sup>77</sup> 47 C.F.R. § 64.604(a)(3)(iv). Pay-per-call calls are calls wherein the caller pays for the call at a charge greater than the basic cost of the call. *Id.* § 64.1501(a).

<sup>78</sup> *See IP CTS Declaratory Ruling*, 22 FCC Rcd at 392, ¶ 30.

<sup>79</sup> *See Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order on Reconsideration, 18 FCC Rcd 4761, 4769, ¶ 22 (2003) (*IP Relay Order on Reconsideration*); *2004 TRS Report and Order*, 19 FCC Rcd at 12525-26, ¶¶ 130-32; *2012 TRS Waiver Order*, 27 FCC Rcd at 7121, ¶ 15.

information or services available through pay-per-call services are available to iTRS users through other methods that do not involve payments for calls.<sup>80</sup>

18. The Joint Providers support permanently waiving the requirement that iTRS providers be capable of handling pay-per-call calls because “iTRS providers have no billing relationship with end users.”<sup>81</sup> They argue that requiring providers to establish such a billing relationship would be “extremely expensive” and provide “virtually no benefit.”<sup>82</sup> The Joint Providers agree with assertions made in the Hamilton Joint Request that iTRS users make very few pay-per-call calls and that the information or services available through pay-per-call services are available to iTRS users through other methods that do not involve payments for calls.<sup>83</sup> Finally, the Joint Providers agree with statements in Sorenson’s 2013 annual waiver report<sup>84</sup> that pay-per-call calls increase the risk that VRS providers “would be subjected to sexual harassment.”<sup>85</sup>

19. We exempt iTRS providers from handling pay-per-call calls, and we amend our rules accordingly. We base our decision on the fact that, as holds true for the types-of-calls and equal interexchange access requirements discussed above, the pay-per-call requirement presupposes a billing relationship, or the ability to establish a billing relationship with iTRS users that providers presently do not have.<sup>86</sup> We are persuaded that requiring providers to establish such a billing relationship in order to provide pay-per-call calls would not be efficient given its high price tag<sup>87</sup> and the very small demand for pay-per-call calls over TRS.<sup>88</sup> No commenter opposed making this exemption permanent for all forms of iTRS.<sup>89</sup>

20. *Three-Way Calling.* We terminate the indefinite waiver for IP CTS providers of the Commission’s three-way calling requirement. The Commission’s rules require TRS providers to provide three-way calling functionality,<sup>90</sup> which allows more than two parties to be on the telephone line at the

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<sup>80</sup> Hamilton Joint Request at 7. Petitioners do not identify the other methods for obtaining the information or services available through pay-per-call services that involve no payment per call. We do not and need not address this argument, because we base our determination that iTRS providers should be exempt from the requirement to handle pay-per-call calls on the lack of a billing relationship between iTRS providers and iTRS users. See ¶ 19, *infra*.

<sup>81</sup> Comments of Joint Providers at 5.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 5-6.

<sup>84</sup> Sorenson 2013 Report at 5.

<sup>85</sup> Comments of Joint Providers at 6.

<sup>86</sup> See *id.* at 5; see also AT&T 2013 Report at 1-2; CAAG 2013 Report at 3; Convo 2013 Report at 3; CSDVRS 2013 Report at 5; Purple 2013 Report at 2; Sorenson 2013 Report at 4-5.

<sup>87</sup> AT&T 2013 Report at 2; CAAG 2013 Report at 3; see also Comments of Joint Providers at 5.

<sup>88</sup> Providers report that there is little or no demand for pay-per-call calls placed over TRS. ASL Services 2013 Report at 3 (stating that ASL Services does not receive pay-per-call calls often); AT&T 2013 Report at 2 (noting the decline in calls to pay-per-call services across the telecommunications industry); CAAG 2013 Report at 3 (stating that at the time the report was filed, CAAG was not receiving requests from customers to place pay-per-call calls); Purple 2013 Report at 2 (stating that Purple has not received substantial interest from relay users for pay-per-call service).

<sup>89</sup> Given the above justification for exempting iTRS providers from this requirement, we find it unnecessary to make a determination that pay-per-calls provide “virtually no benefit,” to iTRS users (Comments of Joint Providers at 5) or rule on the likelihood that these calls will subject CAs to sexual harassment, as proposed by Joint Providers (*id.* at 6).

<sup>90</sup> 47 C.F.R. § 64.604(a)(3)(vi)(3).

same time with the CA.<sup>91</sup> The Commission granted IP CTS providers an indefinite waiver of the three-way calling requirement when it approved IP CTS as a form of reimbursable TRS.<sup>92</sup> Petitioners, however, ask the Commission to terminate the indefinite waiver for IP CTS providers because most, if not all, IP CTS providers now offer this functionality.<sup>93</sup> The Joint Providers agree that the Commission should terminate the waiver of the three-way calling requirement for the same reason.<sup>94</sup> Because the record demonstrates that IP CTS providers are capable of offering three-way calling functionality, we hereby terminate the indefinite waiver of the Commission's three-way calling requirement previously granted to IP CTS providers.<sup>95</sup>

21. *Speed Dialing.* We terminate the indefinite waiver for IP CTS providers of the Commission's speed dialing requirement. The Commission's rules require TRS providers to provide speed dialing functionality,<sup>96</sup> which allows a TRS user to use a "short-hand" name or number for the user's most frequently called telephone numbers. This permits users to place calls without having to remember or locate the number they want to call.<sup>97</sup> The Commission granted IP CTS providers an indefinite waiver of the speed dialing requirement, contingent on the providers filing annual reports addressing the waiver.<sup>98</sup> As the Commission noted in the *TRS Waiver NPRM*, Sprint has reported that it has implemented speed dialing for IP CTS.<sup>99</sup> Accordingly, the Commission asked for comment on whether the Commission should terminate the speed dialing waiver for IP CTS providers.<sup>100</sup>

22. The Joint Providers state that they have "no objection" to terminating the waiver of the speed dialing requirement for IP CTS providers "as long as the Commission clarifies that providers can meet this requirement by offering speed-dial capability such as one-touch dialing on the customer's iTRS access technology."<sup>101</sup> The Joint Providers are concerned by the Commission's previous descriptions of speed dialing as a feature that allows a TRS user to communicate the speed dial "short hand" name or number directly to the CA.<sup>102</sup> They note that an IP CTS user typically dials his or her call *before* being connected to the CA, and, consequently, IP CTS providers cannot implement speed dialing in the manner described by the Commission in the past.<sup>103</sup>

23. We now terminate the indefinite waiver for IP CTS providers of the Commission's speed dialing requirement, with the clarification of that requirement requested by the Joint Providers. Sprint has reported that it has implemented speed dialing for IP CTS,<sup>104</sup> and the Joint Providers do not object to the

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<sup>91</sup> *Id.* § 64.601(a)(34).

<sup>92</sup> *IP CTS Declaratory Ruling*, 22 FCC Rcd at 392, ¶ 30.

<sup>93</sup> Hamilton Joint Request at 10.

<sup>94</sup> Comments of Joint Providers at 6.

<sup>95</sup> The Commission had previously granted limited duration waivers of this requirement for VRS and IP Relay providers, which have since expired, and are not at issue in this proceeding. *2007 TRS Waiver Order*, 22 FCC Rcd at 21876, ¶ 24.

<sup>96</sup> 47 C.F.R. § 64.604(a)(3)(vi)(2).

<sup>97</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13524-25, ¶ 19.

<sup>98</sup> *IP CTS Declaratory Ruling*, 22 FCC Rcd at 393, ¶ 30 & n.106.

<sup>99</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13525, ¶ 20 (citing Sprint IP CTS Report at 3).

<sup>100</sup> *Id.*

<sup>101</sup> Comments of Joint Providers at 6.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13525, ¶ 20 (citing Sprint IP CTS Report at 3).

termination of the waiver.<sup>105</sup> We further recognize that IP CTS users may dial calls before being connected to a CA. Accordingly, IP CTS providers will be permitted to fulfill the speed dialing requirement contained in the Commission's rules by offering speed dialing capability through users' iTRS access technology, such as through one-touch dialing. Based on the input received, we conclude that IP CTS providers need not offer a feature that allows a TRS user to communicate the speed dial "short hand" name or number directly to the CA in the context of an IP CTS call to comply with this requirement.

### **B. Mandatory Minimum Standards to Provide Specific TRS Features**

24. The second group of waivers relates to standards mandating the provision of specific communication services needed by people with disabilities, including VCO, HCO, text to voice and voice to text, STS, ASCII/Baudot, and call release. We address each of these in turn.

25. *VCO and HCO.* We conclude that certain iTRS providers must provide some, but not all, forms of VCO and HCO.<sup>106</sup> With VCO, a deaf or hard of hearing person who is able to speak communicates by voice directly to the other party to the call without intervention by the CA, and the CA relays the other party's voice response as text or in sign language.<sup>107</sup> With HCO, a person who has a speech disability, but who is able to hear, listens directly to the other party's voice without intervention by the CA, and in reply has the CA convert his or her typed or signed responses into voice.<sup>108</sup> There are multiple forms of both VCO<sup>109</sup> and HCO.<sup>110</sup> The Commission has granted fixed-duration waivers for VRS and IP Relay of all of the VCO and HCO mandatory minimum standards except two-line VCO and two-line HCO, based on providers' representations that Internet connections are unable to deliver voice and data over a single line with the necessary quality.<sup>111</sup> The Commission also previously granted

<sup>105</sup> Comments of Joint Providers at 6.

<sup>106</sup> 47 C.F.R. § 64.604(a)(3)(v)(2), (3) (generally requiring VCO and HCO).

<sup>107</sup> *See id.* § 64.601(a)(42) (defines VCO in the context of TTY-based relay service, but the same general concept would be applicable to IP Relay and VRS).

<sup>108</sup> *See id.* § 64.601(a)(13) (defines HCO in the context of TTY-based relay service, but the same general concept would be applicable to IP Relay and VRS).

<sup>109</sup> With one-line VCO, the same telephone line is used both to transmit the user's voice and to receive text transmissions back from the relay center. As offered by PSTN-based providers, there is no interrupt capability, and each party to the call must take turns speaking. *See 2003 TRS Report & Order*, 18 FCC Rcd at 12402, ¶ 28, n.121. Two-line VCO enables consumers to use one line for voicing and the other for receiving text transmissions. *See* 47 C.F.R. § 64.601(a)(42). VRS and IP Relay providers can offer two-line VCO by having the caller speak directly to the called party on a telephone line and, in turn, having the caller receive what the called party is saying in either sign language (VRS) or text (IP Relay) via an Internet connection. Another type of VCO, known as VCO-to-TTY, allows a relay conversation to take place between a VCO user and a TTY user, and VCO-to-VCO allows a relay conversation to take place between two VCO users. *See id.*

<sup>110</sup> With one-line HCO, the same telephone line is used both to send text transmissions to the relay center and to transmit the called party's voice back to the caller. As offered by PSTN-based providers, there is no interrupt capability and each party to the call must take turns speaking. *See 2003 TRS Report and Order*, 18 FCC Rcd at 12402, ¶ 28, n.123. Two-line HCO enables consumers to use one line for receiving voice transmissions and the other for transmitting text. *See* 47 C.F.R. § 64.601(a)(13). VRS and IP Relay providers can offer two-line HCO by having the caller transmit to the relay center in sign language (VRS) or text (IP Relay) via an Internet connection and receive voice transmissions directly from the called party on a telephone line. HCO-to-TTY, the third type of HCO, allows a relay conversation to take place between an HCO user and a TTY user, and HCO-to-HCO allows a relay conversation to take place between two HCO users. *See id.* § 64.601(a)(13).

<sup>111</sup> Providers have maintained that the quality of voice calls via a computer and the Internet depends on the quality of the user's customer premises equipment, and so CAs are not able to relay all conversations reliably and accurately. *2004 TRS Report and Order*, 19 FCC Rcd at 12527, ¶ 135 & n.384 (extending the one-line VCO and HCO waivers to VRS); *see also IP Relay Declaratory Ruling*, 17 FCC Rcd at 7790, ¶ 32 (initially waiving the one-line VCO requirement for IP Relay for a period of one year); *IP Relay Order on Reconsideration*, 18 FCC Rcd at 4766, ¶¶ 13-

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indefinite waivers of all of the VCO and HCO mandatory minimum standards for IP CTS.<sup>112</sup> Finally, the Commission previously granted an indefinite waiver of its mandatory minimum standards addressing HCO for CTS.<sup>113</sup>

26. In the *TRS Waiver NPRM*, the Commission sought comment “on whether, given advances in Internet technologies and the availability of one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY by some providers for some IP-based relay services, waivers for these features continue to be necessary.”<sup>114</sup> In addition, it requested input on the extent to which these services are technically feasible over a broadband connection, as well as the availability and convenience of two-line VCO and HCO as substitutes for single line versions of these services.<sup>115</sup> Next, the Commission sought feedback on whether it should condition continued waivers of this TRS standard on providers’ absorbing the cost of subscriptions for a second line that might be needed for the voice leg of the telephone service.<sup>116</sup> Finally, the Commission sought comment “on amending our rules to permanently exempt CTS and IP CTS providers from providing any form of HCO” because of its inapplicability to these forms of TRS.<sup>117</sup>

27. *One-line VCO and one-line HCO for VRS Providers.* As discussed below, we generally will allow the existing waivers for one-line VCO and one-line HCO for VRS providers to expire, although we extend for one year a waiver of the requirement to offer one-line VCO and one-line HCO for VRS providers ASL Services and CAAG, as discussed below. The record reveals that many of the problems that historically stood as barriers to VRS providers implementing this requirement are, or can be, surmounted. We thus no longer find a broad exemption appropriate for all VRS providers, given that these requirements benefit users by eliminating the need for consumers to pay for an additional line. To the extent that some technical issues do remain, we clarify the application of the requirements in a way that addresses certain of those issues and extend waivers of the rule in other respects to address existing limitations.

28. In their 2009 petition, Petitioners had requested that the mandatory minimum standards for one-line VCO and one-line HCO be waived indefinitely for VRS providers so long as the provider was capable of a “work-around” solution, such as offering the ability to use two-line VCO and HCO over the Internet at no additional charge to users.<sup>118</sup> For the past several years, VRS providers have supported this waiver request with arguments that their equipment was unable to simultaneously process voice and data information on the same Internet connection in order to reliably enable one-line VCO or HCO.<sup>119</sup> In

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14, 4768, ¶ 18 (extending the one-line VCO waiver for five years and approving a waiver for one-line HCO for the same period, based on provider representations that the same technological obstacles exist for HCO as for VCO); *2003 TRS Report and Order*, 18 FCC Rcd at 12404-05, ¶ 36 (extending the waiver for IP Relay and VRS providers to VCO-to-TTY, HCO-to-TTY, VCO-to-VCO, and HCO-to-HCO types of TRS calls).

<sup>112</sup> See *IP CTS Declaratory Ruling*, 22 FCC Rcd at 392, ¶ 30.

<sup>113</sup> See *CTS Declaratory Ruling*, 18 FCC Rcd at 16132, ¶ 31.

<sup>114</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13527, ¶ 24.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.* at 13527, ¶ 25.

<sup>118</sup> Hamilton Joint Request at 8.

<sup>119</sup> See, e.g., CAAG 2013 Report at 2 (stating that CAAG “remains concerned that the quality of voice transmissions through the Internet is not consistently equal to the quality available using a telephone line”); Hamilton 2013 Report at 2-3; American Network, Inc. (ANI), Waiver Status Report of American Network, Inc. at 2 (Apr. 16, 2012) (ANI 2012 Report) (stating that providers cannot offer one-line VCO “because the Internet cannot support the voice leg of a VCO call with the necessary call quality” and that providers cannot offer one-line HCO for the same reasons); AT&T, 2012 Annual Report on IP TRS Waivers at 2 (Apr. 10, 2012) (AT&T 2012 Report) (stating that “AT&T is

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addition, in the past, providers have maintained that “the quality of voice calls via a computer and the Internet depends on the quality of the user’s customer premises equipment,” limiting the ability of VRS providers to provide voice-initiated calls.<sup>120</sup>

29. However, in their recent filings, VRS providers report that newer customer premises equipment (CPE) now can enable VRS providers to support one-line VCO or one-line HCO and that a blanket waiver for providers who can make this CPE available for distribution is no longer necessary.<sup>121</sup> These providers explain, however, that despite the capabilities of their new equipment, many VRS users wish to keep their legacy CPE, notwithstanding its ability to handle only two-line VCO and HCO.<sup>122</sup> VRS providers further report that two providers, CAAG and ASL Services, currently do not provide any hardware equipment to users and presently cannot meet a requirement to handle one-line VCO and HCO calls.<sup>123</sup> While the current versions of the respective software that CAAG and ASL Services each distribute do not support one line HCO and VCO, the Joint Providers report that the next versions of such software will be able to provide this capability.<sup>124</sup>

30. Additionally, Sorenson reports that even where providers can offer one line VCO and HCO capabilities on their own latest equipment and software, they may be unable to place dial-around calls using one-line VCO or one-line HCO or handle dial-around one-line VCO or HCO involving other providers’ equipment and software, because “there is no H.323 standard for signaling user one-line VCO or HCO preferences, and providers have not included that feature in past interoperability testing.”<sup>125</sup> However, Sorenson reports that the Session Initiation Protocol (SIP) Forum is in the process of developing standards for signaling one-line HCO and VCO.<sup>126</sup> In this regard, CSDVRS reports that it can support one-line VCO and one-line HCO dial-around calls from another provider’s equipment “if the

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still unable to simultaneously process voice and data information on the same Internet connection in order to reliably enable voice or hearing carry over and does not foresee the ability to provide this feature in the near future”); CAAG, CAAG’s Status Report on Currently Waived Requirements at 2 (Apr. 16, 2012) (CAAG 2012 Report) (stating that it offers only two-line VCO because it “remains concerned that the quality of voice transmissions through the Internet is not consistently equal to the quality available using a telephone line”); Sorenson, Minimum Standards Waiver Report at 2 (Apr. 12, 2012) (Sorenson 2012 Report); ANI, Waiver Status Report of American Network, Inc. at 2 (Apr. 18, 2011) (ANI 2011 Report); AT&T, 2011 Annual Report on IP TRS Waivers at 2 (Apr. 18, 2011) (AT&T 2011 Report); Sorenson, Minimum Standards Waiver Report at 2 (Apr. 18, 2011) (Sorenson 2011 Report); Sprint, 2011 Annual Telephone Relay Services (“TRS”) Report at 2 (Apr. 15, 2011) (Sprint 2011 Report).

<sup>120</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13526, ¶ 22 n.100 (citing *2004 TRS Report and Order*, 19 FCC Rcd at 12527, ¶ 135 & n.384); see also *2004 TRS Report and Order*, 19 FCC Rcd at 12527, ¶ 134.

<sup>121</sup> See Comments of Joint Providers at 7 (stating that “many of the VRS providers now support one-line VCO with their newest CPE”); Joint Providers April 8, 2014 *Ex Parte* at 1 (stating that “[a]s with VCO, many of the VRS providers now support one-line HCO with their newest CPE”); Convo 2013 Report at 2 (offers one-line VCO and HCO for its SIP-based products); CSDVRS 2013 Report at 2-4 (can offer one-line VCO and HCO when user’s customer premises equipment (CPE) supports this capability); Sorenson 2013 Report at 2-3 (can provide one-line VCO with its newer equipment, but not with previous equipment still in use).

<sup>122</sup> Joint Providers April 8, 2014 *Ex Parte* at 1 (asserting that such users “have already learned to use [this legacy equipment] and prefer not to have to learn how to use new equipment”); Comments of Joint Providers at 7 (same).

<sup>123</sup> Joint Providers April 8, 2014 *Ex Parte* at 2.

<sup>124</sup> *Id.*

<sup>125</sup> Letter from Mark D. Davis, Counsel for Sorenson Communications, Inc., Debtor-in-Possession to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, at 1 (April 18, 2014) (Sorenson April 18, 2014 *Ex Parte*).

<sup>126</sup> *Id.*; Letter from Mark D. Davis, Counsel for Sorenson Communications, Inc., Debtor-in-Possession to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, at 1-2 (April 28, 2014) (Sorenson April 28, 2014 *Ex Parte*).

other provider's equipment does not limit this capability."<sup>127</sup> CSDVRS adds that it is unable to support one-line VCO and one-line HCO from a Sorenson VP200.<sup>128</sup> Similarly, Convo reports that it supports "one-line VCO and one-line HCO dialed around to Convo VRS using other providers' products provided those products support the standard G.711 codec."<sup>129</sup> Convo specifies that "[t]he only limitation" in providing one-line VCO or one-line HCO using other providers' products "are when such products either do not have internal microphones or speakers, do not support or send/receive audio using G.711, or if the microphone or speaker of the product has been turned off or muted."<sup>130</sup>

31. Sorenson also describes the process by which it implements one-line VCO and one-line HCO. It explains that users "activate [one]-line VCO or HCO by selecting 'one-line VCO,' which enables audio in both directions."<sup>131</sup> For outgoing (deaf-to-hearing) calls, users enable these features on a contact-by-contact basis. . . ."<sup>132</sup> When a user selects one-line VCO, his or her outgoing call is routed to an interpreting station capable of handling one-line VCO or HCO calls.<sup>133</sup> For incoming calls, Sorenson adds, "the deaf user must request one-line VCO or HCO, at which point the interpreter will re-queue the call to an interpreter at a VCO- and HCO-capable station."<sup>134</sup> In contrast, CSDVRS explains it routes one-line VCO and one-line HCO calls in the same manner that it handles other VRS calls, and that all of its interpreting stations support one-line VCO and one-line HCO.<sup>135</sup>

32. The Joint Providers indicate that they would not object to expiration of the waivers for one-line VCO and one-line HCO so long as "(1) providers are not required to replace legacy iTRS access technology that is not capable of providing one-line VCO and one-line HCO unless a consumer requests upgraded iTRS access technology capable of providing one-line VCO and one-line HCO; and (2) providers can satisfy the minimum standard by offering at least one option that supports one-line VCO and one-line HCO; in other words, providers need not support these features with every version of the iTRS access technology they distribute."<sup>136</sup> Sorenson and Purple add that they would not object to expiration of the waivers so long as, in addition to the above two conditions, "providers do not need to support one-line VCO and HCO on equipment distributed by a different provider until the SIP standards-development process is complete and then only for software or equipment that implements the new SIP standards;" and "the specific implementation [of one-line VCO and one-line HCO calls] described [by Sorenson] meets the mandatory minimum standard."<sup>137</sup> However, CSDVRS argues that limitations on the provision of one-line VCO and one-line HCO "is not a standards issue," but rather "a basic limitation of the older technology" and can be solved only with upgrades of iTRS access technology.<sup>138</sup> CSDVRS also

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<sup>127</sup> Letter from Sean Belanger, CEO, CSDVRS, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, at 2 (April 21, 2014) (CSDVRS April 21, 2014 *Ex Parte*).

<sup>128</sup> *Id.*

<sup>129</sup> Letter from Jeff Rosen, General Counsel, Convo Communications, LLC to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, at 1 (April 22, 2014) (Convo April 22, 2014 *Ex Parte*).

<sup>130</sup> *Id.*

<sup>131</sup> Sorenson April 18, 2014 *Ex Parte* at 1.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.* Sorenson explains that this routing is necessary "[b]ecause not all interpreter stations are capable of supporting one-line VCO and HCO." *Id.* In addition, Sorenson notes that the routing may sometimes result in longer wait times for one-line VCO or HCO calls. *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> CSDVRS April 21, 2014 *Ex Parte* at 2.

<sup>136</sup> See Joint Providers April 8, 2014 *Ex Parte* at 2.

<sup>137</sup> Sorenson April 18, 2014 *Ex Parte* at 2;

<sup>138</sup> CSDVRS April 21, 2014 *Ex Parte* at 2.



argues that Sorenson's method of providing one-line VCO and one-line HCO constitutes impermissible skill-based routing.<sup>139</sup>

33. Because the Joint Providers confirm that it is now technologically feasible for VRS providers to offer their users one-line VCO and one-line HCO capabilities, we decline Petitioners' original request to exempt all VRS providers from these mandatory minimum standards, and we terminate the current waiver for these required features 60 days after publication of this Order in the Federal Register. VRS providers may meet this obligation so long as they provide, upon a consumer's request for an equipment upgrade, at least one form of iTRS access technology that supports one-line VCO and one-line HCO. In other words, VRS providers need not support one-line VCO and one-line HCO in every version of the iTRS access technology that they distribute. Rather, VRS providers that provide at least one form of iTRS access technology that supports one-line VCO and one-line HCO will be in compliance with the mandatory minimum standard for one-line VCO and one-line HCO.<sup>140</sup> This will allow the continued use of legacy VRS hardware for consumers who wish to keep their devices and who do not wish to use one-line versions of VCO or HCO.

34. In addition, we waive the requirement for VRS providers to support one-line VCO and one-line HCO on VRS access technology distributed by another provider until the release of a Public Notice by the Commission indicating that the SIP standards-development process for VRS has progressed to the point where support for one-line VCO and one-line HCO on VRS access technology distributed by another provider is possible or the VRS access technology reference platform is implemented, whichever comes first. At that point, this waiver would no longer be necessary.

35. Generally, the Commission's rules may be waived for good cause shown.<sup>141</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>142</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>143</sup> For the following reasons, we find good cause to waive the requirement for VRS providers to support one-line VCO and one-line HCO on VRS access technology distributed by another provider for a limited time.

36. As noted above, Sorenson and Convo report that VRS providers' ability to provide one-line VCO and one-line HCO using other providers' iTRS access technology is limited absent standards for signaling the user's one-line VCO or HCO preferences.<sup>144</sup> This will no longer be a problem once the SIP standards-development process for VRS has progressed to the point where support for one-line VCO and one-line HCO on VRS access technology distributed by another provider is possible or the VRS access technology reference platform is implemented. The Commission has ordered the development of a VRS access technology reference platform to "allow providers to ensure that any VRS access technology they develop or deploy is fully compliant with [the Commission's] interoperability and portability requirements."<sup>145</sup> Once the VRS access technology reference platform is tested and available for use, the

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<sup>139</sup> *Id.* Sorenson denies that by routing one-line VCO and one-line HCO calls to interpreting stations that are capable of supporting these features, it engages in skill-based routing. See Sorenson April 28, 2014 *Ex Parte* at 1.

<sup>140</sup> See Joint Providers April 8, 2014 *Ex Parte* at 2.

<sup>141</sup> 47 C.F.R. § 1.3 ("Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown").

<sup>142</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>143</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

<sup>144</sup> See Sorenson April 18, 2014 *Ex Parte* at 1; see also Convo April 22 *Ex Parte* at 1; CSDVRS April 21, 2014 *Ex Parte* at 2 (stating that CSDVRS cannot support one-line VCO and one-line HCO from a Sorenson VP200).

<sup>145</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8644, ¶ 53 (2013) (*VRS Reform Order*).

Commission has explained that “no VRS provider shall be compensated for minutes of use generated by the provider’s VRS access technologies that are found to be non-interoperable with the reference platform.”<sup>146</sup>

37. Although we acknowledge CSDVRS’s point that providers’ limitations in providing one-line VCO and one-line HCO can be solved by an upgrade of VRS access technology,<sup>147</sup> we believe that a waiver for VRS providers to support one-line VCO and one-line HCO on access technology distributed by another provider is necessary at this time in light of current and ongoing work being done on the SIP standards-development process for VRS and to implement the VRS access technology reference platform, either of which will ensure that VRS access technology is fully interoperable. Once the VRS access technology reference platform is complete and VRS access technology is interoperable for all purposes, including one-line VCO and one-line HCO, or the SIP standards development process has progressed to the point where support for one-line VCO and one-line HCO on VRS access technology distributed by another provider is possible, this waiver will no longer be necessary. As noted above, the Commission will release a Public Notice announcing the completion of the VRS access technology reference platform or the progression of the SIP standards development process to the point where support for one-line VCO and one-line HCO on VRS access technology distributed by another provider is possible, and the resulting termination of this waiver.

38. Although we terminate the current, broadly-applicable waivers for one-line VCO and one-line HCO for VRS providers generally, we extend for one year the waiver of these requirements for ASL Services and CAAG. As noted above, the Joint Providers have informed the Commission that neither ASL Services nor CAAG distribute hardware VRS access technology, that the current version of the software that ASL Services and CAAG distribute does not support one-line HCO or one-line VCO, and that the next version of their respective software is expected to have this capability.<sup>148</sup> ASL Services and CAAG request that the Commission “allow them one year in which to meet any new requirement related to one-line VCO and HCO.”<sup>149</sup>

39. We find good cause to waive the requirement to provide one-line VCO and one-line HCO for ASL Services and CAAG for one year from the date of this Order. While covered by the prior waivers, ASL Services and CAAG nonetheless have engaged in efforts to develop solutions to provide these TRS features, as evidenced by their commitment to meet these mandatory minimum standards within one year.<sup>150</sup> Moreover, no consumers or consumer groups opposed the original request to waive one line VCO and HCO indefinitely for VRS providers, suggesting that the lack of availability of these features by two out of six of the VRS providers for one additional year will not create a detriment for consumers or therefore, be inconsistent with the public interest. Based on the Joint Providers’ statement that ASL Services and CAAG will be technically capable of offering their users these capabilities within one year,<sup>151</sup> we conclude that a waiver of this limited duration is appropriate.

40. Lastly, Sorenson and Purple ask that the Commission confirm that the specific implementation of one-line VCO and one-line HCO described in Sorenson’s April 18, 2014 *Ex Parte* Letter meets the mandatory minimum standards for one-line VCO and one-line HCO.<sup>152</sup> As described

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<sup>146</sup> *Id.* at 8646, ¶ 58.

<sup>147</sup> See CSDVRS April 21, 2014 *Ex Parte* at 2.

<sup>148</sup> See Joint Providers April 8, 2014 *Ex Parte* at 2.

<sup>149</sup> *Id.*

<sup>150</sup> See *id.* (stating that “the next version of the [iTRS access] software [ASL Services and CAAG] release will support one-line HCO and VCO. Accordingly, these providers requested that the Commission allow them one year in which to meet any new requirement related to one-line VCO and HCO.”).

<sup>151</sup> *Id.*

<sup>152</sup> Sorenson April 18, 2014 *Ex Parte* at 2.

above, Sorenson explains that “[b]ecause not all interpreter stations are capable of supporting one-line VCO and HCO, deaf-to-hearing single-line VCO and HCO calls are routed to interpreting stations capable of handling those calls.”<sup>153</sup> We confirm that this method of handling one-line VCO and one-line HCO calls satisfies the mandatory minimum standards for one-line VCO and one-line HCO. We reject CSDVRS’s argument that routing an HCO or VCO call to a station that is technically capable of handling such calls would be skill-based routing,<sup>154</sup> which is not permitted.<sup>155</sup> As the Commission has explained previously, skill-based routing “would allow a VRS caller to select preferred VRS CAs according to the CAs’ skill sets – in particular their interpreting, transliteration, and signing styles, and/or areas of knowledge (e.g., medicine, law, or technology).”<sup>156</sup> In contrast, the one-line VCO and one-line HCO routing process described by Sorenson routes the call based on technical capability to handle the call, not the skill of the CA.<sup>157</sup> Accordingly, we conclude that Sorenson’s method of implementing one-line VCO and one-line HCO does not use skill-based routing and meets the mandatory minimum standards for the provision of one-line VCO and one-line HCO.<sup>158</sup>

41. *One-line VCO and one-line HCO for IP Relay Providers.* We exempt IP Relay providers from the requirement to offer one-line VCO and one-line HCO. The Joint Providers report that because IP Relay providers have designed their applications to provide text only with no audio component, it is not currently possible to provide one-line VCO and one-line HCO, and that “substantial architectural and engineering expansion of existing IP Relay platforms” would be necessary to provide one-line VCO and one-line HCO.<sup>159</sup> The Joint Providers further explain that there has been “little known demand” for one-line VCO or one-line HCO over IP Relay.<sup>160</sup> Finally, the Joint Providers explain that iTRS users who require the functionalities that would be provided by one-line VCO and one-line HCO over IP Relay have access to alternative forms of iTRS that provide similar functionalities, such as IP CTS.<sup>161</sup>

42. We are persuaded by the Joint Providers that the significant engineering changes necessary to support one-line HCO and one-line VCO “would not be practical given the current level of demand for one-line VCO or HCO.”<sup>162</sup> The Joint Providers report that “there has been little known demand from IP Relay customers to have one-line VCO or HCO functionality.”<sup>163</sup> We also agree that

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<sup>153</sup> *Id.* at 1.

<sup>154</sup> CSDVRS April 21, 2014 *Ex Parte* at 1.

<sup>155</sup> *VRS Reform Order*, 28 FCC Rcd at 8691, ¶ 180.

<sup>156</sup> *Id.*

<sup>157</sup> See Sorenson April 18, 2014 *Ex Parte* at 2 (stating that one-line VCO and HCO calls are “routed to interpreting stations capable of handling those calls”).

<sup>158</sup> Sorenson states that its wait times for one-line VCO and one-line HCO “may sometimes be longer.” *Id.* at 1. Although we conclude that Sorenson’s method of providing one-line VCO and one-line HCO meets the mandatory minimum standards for one-line VCO and one-line HCO, we remind providers that the provision of one-line VCO and one-line HCO through select CA stations cannot excuse them from the Commission’s speed of answer requirements. See 47 C.F.R. § 64.604(b)(2).

<sup>159</sup> Joint Providers April 8, 2014 *Ex Parte* at 2; see also Sprint 2013 IP Relay Report at 2 (stating that it cannot currently provide one-line VCO and one-line HCO through its IP Relay Service); Purple 2013 Report at 2 (stating that it is currently technically impossible for it to provide voice-based services when a voice call to an IP Relay center is originated by a called party).

<sup>160</sup> See Joint Providers April 8, 2014 *Ex Parte* at 2.

<sup>161</sup> *Id.* at 2.

<sup>162</sup> *Id.*

<sup>163</sup> *Id.* In addition, the current record does not show any consumer objections to the waivers, nor have consumers responded to the most recent requests by providers to make these waivers permanent.

because alternatives, such as IP CTS, are available to take the place of one-line VCO and HCO used in conjunction with IP Relay, the significant time and resources that would be associated with creating these features over IP Relay is not justified. As a result, we amend our rules to exempt IP Relay providers from the requirement to offer one-line VCO and one-line HCO.

43. *VCO-to-TTY and HCO-to-TTY for VRS and IP Relay Providers.* We exempt VRS and IP Relay providers from the requirement to offer VCO-to-TTY and HCO-to-TTY.<sup>164</sup> The Joint Providers report that “demand for VCO-to-TTY and HCO-to-TTY services with iTRS calls is very low if non-existent.”<sup>165</sup> They further note the difficulties that VRS providers would have if required to provide VCO-to-TTY calls, because VRS CAs cannot sign in ASL and type at the same time.<sup>166</sup>

44. We conclude that the provision of these features is not necessary to achieve functionally equivalent telephone service in the most efficient manner. This conclusion is reinforced by the low to non-existent demand for VCO-to-TTY and HCO-to-TTY using VRS and IP Relay reported by providers and the lack of consumer comment in support of applying these TRS features.. Moreover, with so little interest by the user community in accessing these services and the impracticality of providing such calls, we conclude that it would not be an efficient use of TRS resources to require VRS and IP Relay providers to develop a solution to enable them.<sup>167</sup> Accordingly, we amend our rules to exempt VRS and IP Relay providers from the requirement to offer VCO-to-TTY and HCO-to-TTY.<sup>168</sup>

45. *VCO-to-VCO and HCO-to-HCO for VRS and IP Relay Providers.* In 2003, the Commission adopted minimum standards mandating the provision of HCO-to-HCO and VCO-to-VCO calls by TRS providers.<sup>169</sup> There is little discussion associated with the Commission’s decision to require TRS providers to provide VCO-to-VCO and HCO-to-HCO in the *2003 TRS Report and Order*.<sup>170</sup> In that Order, the Commission stated that “[a]n HCO-to-HCO call allows a TRS conversation to take place between two HCO users, with a CA transliterating or interpreting as required by the parties to the call” and, similarly, “[a] VCO-to-VCO call allows a conversation to take place between two VCO users, with the conversation being relayed by the CA transliterating or interpreting as required by the parties to the call.”<sup>171</sup>

46. Upon further analysis, we eliminate the VCO-to-VCO and HCO-to-HCO requirements with respect to VRS and IP Relay providers. The Commission’s rules define VCO as “[a] form of TRS where the person with the hearing disability is able to *speak directly* to the other end user. The CA types

<sup>164</sup> The Joint Providers report that “[d]ual-relay calls, also referred to as multiple-CA calls, are the only feasible way to connect an iTRS user to a TTY user.” Joint Providers April 8, 2014 *Ex Parte* at 3. They also note that the amended definition of TRS adopted in the CVAA incorporates “the concept of multiple CA calls.” *Id.* n.3. In the FNPRM, we propose to amend the definition of TRS in the Commission’s rules to conform to the changes made to this definition in the CVAA, to allow compensability of TRS calls between two or more individuals with disabilities using different types of TRS, including when more than one CA is required to handle the call. See ¶¶ 61, 65 *infra*.

<sup>165</sup> Joint Providers April 8, 2014 *Ex Parte* at 3.

<sup>166</sup> See *id.*; see also *2007 TRS Waiver Order*, 22 FCC Rcd at 21872, ¶ 7 n.24 (citing Hands On Video Relay Services, Inc., 2007 Report on Progress of Meeting Waived Requirements at 7 (filed on April 16, 2007) (noting that, with respect to VRS providers handling VCO-to-TTY calls, such calls would require the VRS CA to sign in ASL and type at the same time, which the VRS CA cannot do)).

<sup>167</sup> See generally 47 U.S.C. §225(b)(1) (requiring the Commission to ensure the provision of interstate and intrastate TRS “to the extent possible and in the most efficient manner”).

<sup>168</sup> In the accompanying FNPRM, we propose that handling such calls by more than one CA be compensable, in light of the CVAA’s amendment to the TRS definition.

<sup>169</sup> *2003 TRS Report and Order*, 18 FCC Rcd at 12403, ¶¶ 31-34.

<sup>170</sup> See *id.* (discussing HCO-to-TTY and HCO-to-HCO jointly and VCO-to-TTY and VCO-to-VCO jointly).

<sup>171</sup> *Id.*, ¶¶ 31, 33.

the response back to the person with the hearing disability.”<sup>172</sup> Similarly, the Commission’s rules define HCO as “[a] form of TRS where the person with the speech disability is able to listen *to the other end user* and, in reply, the CA speaks the text as typed by the person with the speech disability.”<sup>173</sup> Under these definitions, if two individuals were to use VCO or two individuals were to use HCO in the context of VRS or IP Relay services, then both would have to be able to speak as well as hear what the other party is saying, and a CA would not be necessary to provide functionally equivalent communication.<sup>174</sup> For example, as noted by the Joint Providers,<sup>175</sup> if individuals were to make a VCO-to-VCO call, they would be speaking directly to each other, and thus, the call would not require a CA. The same would hold true in an HCO-to-HCO call, in which both parties would be able to hear each other. Because HCO-to-HCO calls and VCO-to-VCO calls make use of CAs, but with the exception of CTS and IP CTS,<sup>176</sup> do not require CAs for functionally equivalent communication, we find they should not be compensable relay calls. Therefore, we conclude that the handling of HCO-to-HCO and VCO-to-VCO calls by VRS and IP providers, to the extent that such calls would result in point-to-point calls for which a CA is involved even though not needed, is not required and thus not compensable from the TRS Fund.

47. *HCO for CTS and IP CTS Providers.* As noted above, IP CTS providers already have an indefinite waiver of all of the HCO mandatory minimum standards.<sup>177</sup> In addition, an indefinite waiver of the Commission’s mandatory minimum standards addressing HCO already is in place for CTS providers.<sup>178</sup> We now exempt IP CTS and CTS providers from all of the HCO mandatory minimum standards, because we conclude that these TRS features are not applicable to captioned telephone-based relay services. As Hamilton notes, CTS and IP CTS are a form of VCO in that they enable a person with hearing loss to speak directly to the other party to the call and to receive the text of the other party’s response.<sup>179</sup> The Commission has previously explained that HCO involves “particular functionalities that

<sup>172</sup> 47 C.F.R. § 64.601(a)(42) (emphasis added).

<sup>173</sup> *Id.* § 64.601(a)(13) (emphasis added).

<sup>174</sup> By contrast, this is not the case for VCO over CTS and IP CTS, as discussed below. See ¶ 49, *infra*.

<sup>175</sup> Joint Providers April 8, 2014 *Ex Parte* at 3 (stating that “in a VCO-to-VCO call, both users would speak directly to each other without the assistance of a CA” and that “[t]he same is true of HCO”).

<sup>176</sup> There is one exception in which VCO-to-VCO call requires a CA to relay the call between the parties. As discussed below, CTS is a form of VCO. See ¶ 47, *infra*. When a CTS or IP CTS user calls another CTS or IP CTS user, two CAs are necessary to provide functionally equivalent communication. CTS and IP CTS users can both speak and hear, but also require a CA to provide the text of the other party’s speech. See *CTS Declaratory Ruling*, 18 FCC Rcd at 16122, ¶ 3 (explaining that the typical user of CTS has the ability to speak and some residual hearing, and can both listen to what is said over the telephone and read captions for clarification). As a result, two CTS or IP CTS users would be able to speak directly to each other, while also requiring a CA to relay the text of the other party’s speech. Accordingly, as discussed in more detail at ¶ 49, *infra*, a CTS or IP CTS user that calls another CTS or IP CTS user is the only possible form of VCO-to-VCO that is also a compensable relay call.

<sup>177</sup> See *IP CTS Declaratory Ruling*, 22 FCC Rcd at 392, ¶ 30.

<sup>178</sup> See *CTS Declaratory Ruling*, 18 FCC Rcd at 16132, ¶ 31.

<sup>179</sup> See Hamilton 2013 Report at 3 (stating that the VCO and HCO requirements should be permanently waived for IP CTS without the need for filing annual reports, because those services are not applicable to any form of CTS, and CTS is, in fact, a form of VCO); see also Comments of Joint Providers at 9, 11. Compare 47 C.F.R. § 64.601(a)(42) (defining VCO as “[a] form of TRS where the person with the hearing disability is able to speak directly to the other end user. The CA types the response back to the person with the hearing disability. The CA does not voice the conversation”) with *id.* § 64.601(a)(16) (defining IP CTS as “[a] telecommunications relay service that permits an individual who can speak but who has difficulty hearing over the telephone to use a telephone and an Internet Protocol-enabled device via the Internet to simultaneously listen to the other party and read captions of what the other party is saying”) and *CTS Declaratory Ruling*, 18 FCC Rcd at 16122, ¶ 3 (stating that CTS “allows the user, on one standard telephone line, to both listen to the other party speak and simultaneously read captions of what the other party is saying”).

do not apply to captioned telephone calls” because “HCO users rely on the CA to speak the text as typed, but do not rely on printed text as the HCO user can hear the called party’s response.”<sup>180</sup> In contrast, when using CTS, “a person with some residual hearing can speak to the other party and in return both listen to what the other party is saying and read text of what that party is saying.”<sup>181</sup> Accordingly, CTS “is simply not able to handle . . . HCO relay calls.”<sup>182</sup> For similar reasons, the Commission has also exempted providers that offer the Internet-based form of CTS from the requirement to provide HCO services.<sup>183</sup> Because the defining characteristics of CTS and IP CTS make requirements for HCO, two-line HCO, HCO-to-TTY, and HCO-to-HCO inapplicable to CTS and IP CTS, we exempt IP CTS and CTS providers from these mandatory minimum standards, and we amend our rules accordingly.

48. *VCO for CTS and IP CTS Providers.* The Commission has previously granted IP CTS providers indefinite waivers for all of the VCO mandatory minimum standards.<sup>184</sup> The Commission has not previously waived any of the mandatory minimum standards relating to VCO for CTS providers. As noted above, in the *TRS Waiver NPRM*, the Commission sought comment on whether waivers for one-line VCO, VCO-to-TTY and VCO-to-VCO for providers of IP-based relay services continue to be necessary.<sup>185</sup> We now conclude that waivers for the requirements to provide two-line VCO and VCO-to-TTY for IP CTS providers are unnecessary because IP CTS already is a form of VCO.<sup>186</sup> However, because IP CTS typically involves two lines, *i.e.*, a telephone line and an IP line, we do not find it efficient to require IP CTS providers to provide one-line VCO, and we amend our rules to exempt them from that requirement.<sup>187</sup> For the same reason that waivers of the VCO requirements are unnecessary for IP CTS providers – *i.e.*, because CTS is a form of VCO – we conclude that waivers for the provision of one-line VCO, two -line VCO, and VCO-to-TTY are unnecessary for CTS providers.

49. With respect to VCO-to-VCO, we conclude that calls between two captioned telephone relay users are essentially a form of VCO-to-VCO and, accordingly, that a waiver of the VCO-to-VCO requirement is unnecessary for IP CTS and CTS providers. We agree with the Joint Providers that multiple CAs currently are necessary to complete calls between two captioned telephone relay users.<sup>188</sup> Specifically, each captioned telephone user must communicate through an individual CA, who re-voices what the other party says to that user. Similarly, multiple CAs currently are necessary for captioned

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<sup>180</sup> *Id.* at 16131-32, ¶ 29.

<sup>181</sup> *Id.* at 16131, ¶ 29.

<sup>182</sup> *Id.*

<sup>183</sup> *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30 (stating that the “defining characteristics [of IP CTS] -- *i.e.*, that the provider relays captions to the consumer via the Internet, and that the captions are delivered to the consumer in a way that is automated and invisible -- make certain mandatory minimum standards inapplicable to the provision of this service”).

<sup>184</sup> *See id.* at 392, ¶ 30.

<sup>185</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13527, ¶ 24.

<sup>186</sup> *See CTS Declaratory Ruling*, 18 FCC Rcd at 16127, ¶ 16 (explaining that captioned telephone service provides the same functionality as VCO); Hamilton 2013 Report at 3 (CTS is a form of VCO). We note that elimination of the waivers discussed in this paragraph does not require IP CTS providers to alter the way that they currently provide service; nor does it result in applying other traditional VCO requirements to IP CTS providers.

<sup>187</sup> Specifically, IP CTS allows a user “to use a telephone and an Internet Protocol-enabled device via the Internet to simultaneously listen to the other party and read captions of what the other party is saying.” 47 C.F.R. § 64.601(a)(16); *see also* Joint Providers April 8, 2014 *Ex Parte* at 4. Because we exempt IP CTS providers from providing one-line VCO, we do not require IP CTS providers to offer their service over a single line. *See id.* at 5 (requesting confirmation that such new requirements are not created by a ruling that eliminates the need for a VCO waiver for IP CTS providers).

<sup>188</sup> *See id.*

telephone-to-TTY calls and captioned telephone-to-VRS calls. Captioned telephone-to-TTY calls and captioned telephone-to-VRS calls require one CA to voice what the TTY or VRS user says to the captioned telephone user (which the captioned telephone user hears using residual hearing) and to type or sign what the captioned telephone relay user says to the TTY or VRS user, as well as another CA to re-voice what the TTY or VRS user says, through the TTY or VRS CA, to the captioned telephone user (which the captioned telephone user reads on his or her device). Because these calls currently cannot be completed without the use of multiple CAs, we now amend our rules to make clear that compensation from the TRS Fund is allowed for such calls.<sup>189</sup>

50. *Text-to-Voice and Voice-to-Text.* In the *TRS Waiver NPRM*, the Commission proposed to amend 47 C.F.R. § 64.604(a)(3)(v) to exempt VRS providers from providing text-to-voice and voice-to-text functionality and to exempt CTS and IP CTS providers from providing text-to-voice.<sup>190</sup> No comments were filed in opposition to or support of this proposal. For the reasons described below, we adopt our proposed exemptions. VRS allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment.<sup>191</sup> A VRS user, through a CA, speaks to the called party using sign language and receives the called party's response in sign language.<sup>192</sup> Accordingly, text-to-voice, in which the user types his or her message and has it read aloud by the CA, and voice-to-text, in which the user receives the called party's message as text, is not compatible with VRS, a service based on sign language. As a result, we exempt VRS providers from the requirement to provide text-to-voice and voice-to-text, and we amend our rules accordingly. In addition, for the reasons discussed above – *i.e.*, that CTS and IP CTS are forms of VCO, we find that text-to-voice is inapplicable to CTS and IP CTS. By their nature, CTS and IP CTS allow the user to speak directly to the called party.<sup>193</sup> Throughout a CTS and IP CTS call, the CA “is completely transparent and does not participate in the call by voicing any part of the conversation.”<sup>194</sup> As a result, text-to-voice, which requires the CA to re-voice text typed by the TRS user, is incompatible with CTS and IP CTS. We therefore exempt CTS and IP CTS providers from this standard, and amend our rules accordingly.

51. *STS.* We exempt VRS, IP Relay, IP CTS, and CTS providers from the STS requirement, and we amend our rules accordingly. The Commission's rules mandate the provision of STS by common carriers providing telephone voice transmission services.<sup>195</sup> The Commission has waived this requirement on a limited-duration basis for IP Relay providers<sup>196</sup> and indefinitely for CTS,<sup>197</sup> IP CTS,<sup>198</sup> and VRS

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<sup>189</sup> In practice, the Commission has been permitting compensation for dual relay captioned telephone-to-captioned telephone calls, captioned telephone-to-TTY calls, and captioned telephone-to-VRS calls. The amendment to our rules adopted in this Order codifies this practice.

<sup>190</sup> *TRS Waiver Order*, 28 FCC Rcd at 13535, Appendix A.

<sup>191</sup> 47 C.F.R. § 64.601(a)(40).

<sup>192</sup> *See id.*

<sup>193</sup> *See CTS Declaratory Ruling*, 18 FCC Rcd at 16125, ¶ 11 (recognizing CTS as a form of VCO); *IP CTS Declaratory Ruling*, 22 FCC Rcd at 388, ¶ 21 (stating that IP CTS will accommodate “persons who wish to speak to the other party and simultaneously both listen to what the other party is saying and read captions of what is being said”).

<sup>194</sup> *CTS Declaratory Ruling*, 18 FCC Rcd at 16123, ¶ 4.

<sup>195</sup> 47 C.F.R. § 64.603.

<sup>196</sup> *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7790, ¶ 32. The Commission has extended this waiver on multiple occasions. *See, e.g., IP Relay Order on Reconsideration*, 18 FCC Rcd at 4766-67, ¶¶ 13-14; *2012 TRS Waiver Order*, 27 FCC Rcd at 7123-24, ¶¶ 20-21; *2013 TRS Waiver Order*, 28 FCC Rcd at 9248, ¶ 3.

<sup>197</sup> *CTS Declaratory Ruling*, 18 FCC Rcd at 16132, ¶ 31.

<sup>198</sup> *IP CTS Declaratory Ruling*, 22 FCC Rcd at 392, ¶ 30. Nevertheless, the Commission required IP CTS providers to file annual reports addressing this waiver. *Id.* at 393, ¶ 30 n.106; *see also 2004 TRS Report and Order*, 19 FCC

(continued....)

providers.<sup>199</sup> Petitioners request that the Commission also waive the STS requirement indefinitely for IP Relay, because they argue that IP Relay is incapable of providing STS because one leg of an IP Relay call is entirely text-based without any speech capabilities.<sup>200</sup>

52. The Commission sought comment on amending our rules to exempt CTS, IP CTS, and VRS providers from the STS requirement and whether to exempt IP Relay providers from offering STS.<sup>201</sup> The Joint Providers support amending our rules to exempt CTS, IP CTS, VRS, and IP Relay from offering STS.<sup>202</sup> They contend that STS, which is speech-based, “simply does not apply to VRS, IP CTS, and IP Relay.”<sup>203</sup> No consumers opposed this outcome.

53. We are persuaded that VRS, IP Relay, IP CTS, and CTS providers should be exempt from the STS requirement. We agree with the Joint Providers that STS is inapplicable to VRS, IP Relay, IP CTS, and CTS. Specifically, STS is purely speech-based, while IP Relay, CTS and IP CTS require the CA to provide communication in text, and, under our current rules, VRS requires the CA to provide communication in sign language.<sup>204</sup> Because, as the Joint Providers have stated, there are no speech capabilities in the relay leg of these text and video based forms of TRS, we conclude that IP Relay, VRS, IP CTS, and CTS providers should be exempt from the requirement to offer STS.<sup>205</sup> We amend our rules accordingly.

54. *ASCII/Baudot.* We exempt iTRS, CTS and STS providers from the ASCII/Baudot requirement. The Commission’s rules require TRS providers to support communications using the ASCII<sup>206</sup> and Baudot<sup>207</sup> formats, at any speed generally in use.<sup>208</sup> The Commission sought comment on a proposal to amend its rules to explicitly exempt all forms of iTRS from the ASCII/Baudot requirement and to codify as permanent exemptions the existing waivers for CTS and IP CTS.<sup>209</sup> We agree with the

(Continued from previous page) \_\_\_\_\_

Rcd at 12520-21, ¶ 111 (detailing required contents of annual report), 12594-96, Appx. E (table addressing filing of annual reports).

<sup>199</sup> *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, 22957, ¶ 26 (2001) (*2001 TRS Order*) (declining to make the provision of STS mandatory for VRS providers at that time); *2004 TRS Report and Order*, 19 FCC Rcd at 12527-28, ¶¶ 138-39 (clarifying that the general requirement for TRS providers to offer STS is waived for VRS).

<sup>200</sup> Hamilton Joint Request at 7.

<sup>201</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13529, ¶ 27.

<sup>202</sup> Comments of Joint Providers at 9.

<sup>203</sup> *Id.* at 9.

<sup>204</sup> 47 C.F.R. § 64.601(a)(40).

<sup>205</sup> In a separate proceeding, the Commission may explore the use of and need for video-assisted STS over an IP-based network; however this will have no bearing on the exemptions adopted in this order. *See generally, Speech-to-Speech and Internet Protocol (IP) Speech-to-Speech Telecommunications Relay Services; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 08-15, 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 10702, 10714-25, ¶ 26-27 (2013).

<sup>206</sup> 47 C.F.R. § 64.601(a)(5). ASCII is an acronym for American Standard Code for Information Interexchange. It employs an eight bit code.

<sup>207</sup> *Id.* § 64.601(a)(7). Baudot is a seven bit code, only five of which are information bits.

<sup>208</sup> *Id.* § 64.604(b)(1).

<sup>209</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13529, ¶ 28. *See also id.* at 13535, Appendix A (proposing to apply the ASCII/Baudot requirements to TTY-based relay service only).



Joint Providers that the ASCII/Baudot requirement is not applicable in the context of iTRS because iTRS do not use ASCII or Baudot protocol for their relay transmissions.<sup>210</sup> Similarly, we conclude that the ASCII/Baudot requirement is not applicable in the context of CTS and STS, because CTS and STS providers do not use ASCII or Baudot protocol for their relay transmissions.<sup>211</sup> Thus, we exempt iTRS, CTS and STS providers from the requirement to handle ASCII or Baudot protocol in relay calls and amend our rules accordingly.

55. *Call Release.* We exempt iTRS and CTS providers from the call release functionality requirement. The Commission's rules require TRS providers to offer "call release," a feature that allows the CA to drop out – or be "released" – from the relay call after setting up a direct TTY-to-TTY connection between the caller and the called party.<sup>212</sup> The Commission has waived this requirement indefinitely for CTS and IP CTS providers<sup>213</sup> and on a limited-duration basis for VRS and IP Relay providers.<sup>214</sup> Petitioners ask the Commission to extend this waiver indefinitely for VRS and IP Relay providers because, as the Commission had previously noted, "the Internet leg of the call (via video or text) cannot support call release functionality."<sup>215</sup> The Commission sought comment on the inapplicability and/or technical infeasibility of the call release feature in an IP environment and consequently whether it should amend its rules to exempt all iTRS providers and CTS providers from compliance with this standard.<sup>216</sup>

56. We received no comments in response to our request for input on the call release requirement. However, as noted in the *TRS Waiver NPRM*, in their annual waiver reports, providers have asserted that call release is inapplicable to VRS and IP Relay because users of these services can already communicate directly via the Internet with other video and text users.<sup>217</sup> In addition, some providers stated in their annual reports that the call release feature is not technically feasible<sup>218</sup> or would raise numerous technological challenges.<sup>219</sup> Finally, the Commission has previously concluded that call release is inapplicable to CTS and IP CTS because "[c]aptioned telephone service, by its nature, requires the CA to remain on the line for the duration of the call, as the CA re-voices the called party's end of the conversation to ensure that the captioned telephone user does not miss any part of the called party's

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<sup>210</sup> Comments of Joint Providers at 9.

<sup>211</sup> See *CTS Declaratory Ruling*, 18 FCC Rcd at 16139, ¶ 53 (noting Ultratec's explanation that its captioned telephone service uses simultaneous voice and data protocol based on the V.32 standard, and the current TTY protocols referenced in the Commission's rules do not support captioned telephone's need for the transmission of both voice and data simultaneously).

<sup>212</sup> See 47 C.F.R. §§ 64.601(a)(8), 64.604(a)(3)(vi).

<sup>213</sup> See *CTS Declaratory Ruling*, 18 FCC Rcd at 16138-39, ¶¶ 51-52; *IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30.

<sup>214</sup> *2003 TRS Report and Order*, 18 FCC Rcd at 12421, ¶ 76; *2012 TRS Waiver Order*, 27 FCC Rcd at 7120, ¶ 13.

<sup>215</sup> Hamilton Joint Request at 9 (*quoting 2008 TRS Waiver Order*, 23 FCC Rcd at 18337-38, ¶ 9).

<sup>216</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13531, ¶ 31.

<sup>217</sup> *Id.* (*citing* ASL Services 2013 Report at 2; AT&T 2013 Report at 3; CAAG 2013 Report at 3; Convo 2013 Report at 3; CSDVRS 2013 Report at 4; Purple 2013 Report at 2; Sorenson 2013 Report at 4). We also note that, with full implementation of 10-digit dialing, videophone users can make point-to-point calls to other videophone users from any location.

<sup>218</sup> Sprint 2013 IP Relay Report at 3 (reporting that the two legs of the call are not compatible); *see also* Hamilton 2013 Report at 3-4 (raising concerns about having to develop processes to drop CAs from IP-based communications and needing to ensure that sufficient bandwidth is available for this functionality).

<sup>219</sup> Sorenson 2013 Report at 4.

conservation.”<sup>220</sup> As a result, the Commission concluded that, necessarily, the CA would never be “released” from this type of call. Based on the undisputed evidence from providers in their annual reports, we exempt VRS and IP Relay providers from the call release functionality requirement. In addition, because the Commission has previously found that call release is inapplicable to CTS and IP CTS, we exempt CTS and IP CTS providers from this requirement. Accordingly, we amend our rules to exempt iTRS and CTS providers from the call release functionality requirement.

### C. Annual Reports

57. The Commission sought comment in the *TRS Waiver NPRM* on its proposal to eliminate the requirement to file annual reports for those mandatory minimum standards for which the Commission decides to adopt permanent exemptions in place of existing waivers.<sup>221</sup> The Joint Providers submitted comments in support of this proposal. They claim that because any permanent exemptions granted will be for standards that are either inapplicable in the context of iTRS or CTS or technologically infeasible for reasons that are “unlikely to be eliminated any time in the near future,”<sup>222</sup> requiring providers to file annual reports for such exemptions would be a waste of resources.<sup>223</sup> For the reasons offered by the Joint Providers, we will no longer require providers to file annual reports for those mandatory minimum standards for which the Commission by this Order has adopted exemptions. In addition, because we expect the temporary waiver extensions granted herein to be of a limited duration,<sup>224</sup> at this time, we do not require the submission of annual reports to justify their continuance.

## IV. DECLARATORY RULING

58. *Spanish Language Service over iTRS and CTS.* In this Declaratory Ruling, we confirm that Spanish language versions of IP Relay, IP CTS, and CTS are not mandatory relay services. The Commission’s rules require that each common carrier providing telephone voice transmission services provide interstate Spanish language relay service.<sup>225</sup> The Commission previously has ruled that VRS providers are not required to offer ASL-to-Spanish language services, because VRS is not a mandatory service.<sup>226</sup> However, the Commission has ruled that VRS providers may be compensated for ASL-to-

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<sup>220</sup> *CTS Declaratory Ruling*, 18 FCC Rcd at 16139, ¶ 52; *see also IP CTS Declaratory Ruling*, 22 FCC Rcd at 391-92, ¶ 30.

<sup>221</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13531, ¶ 32.

<sup>222</sup> Comments of Joint Providers at 10.

<sup>223</sup> *Id.* at 10.

<sup>224</sup> In this Order, the Commission waives the requirement for VRS providers to support one-line VCO and one-line HCO on VRS access technology distributed by another provider but notes that this waiver will no longer be necessary once the SIP standards-development process progresses to the point where support for one-line VCO and one-line HCO on VRS access technology distributed by another provider is possible or the VRS access technology reference platform is implemented. In other words, we expect that VRS providers will eventually be capable of supporting one-line VCO and one-line HCO on VRS access technology distributed by another provider. In addition, we extend for one year the waiver to ASL Services and CAAG regarding the provision of one-line VCO and one-line HCO.

<sup>225</sup> 47 C.F.R. § 64.603.

<sup>226</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, CG Docket No. 03-123, Order on Reconsideration, 20 FCC Rcd 13140, 13155-56, ¶ 32 (2005) (*Spanish ASL VRS Order*) (stating that “[b]ecause presently VRS is not a mandatory service, we . . . do not make ASL-to-Spanish VRS a mandatory service at this time”); *2001 TRS Order*, 16 FCC Rcd at 22957-58, ¶ 27 (stating that VRS providers are not required to provide Spanish relay services “at this time” because “[g]iven the fact that VRS is still in its infancy and is not yet required, it is not feasible to require that it be provided in languages other than American Sign Language (ASL)”).

Spanish language services that they offer voluntarily.<sup>227</sup> In the *TRS Waiver NPRM*, the Commission sought comment on a proposal to conclude that Spanish language versions of IP Relay, CTS,<sup>228</sup> and IP CTS are not mandatory.<sup>229</sup>

59. Because IP Relay, IP CTS, and CTS are voluntary services,<sup>230</sup> as with VRS we similarly conclude that Spanish-to-Spanish forms of these services are also voluntary. In other words, section 64.603 of the Commission's rules<sup>231</sup> requires Spanish language relay service for mandatory services, but does not require providers of voluntary services to provide Spanish language relay service.<sup>232</sup> We recognize that several providers have been receiving compensation for their voluntary provision of IP Relay, IP CTS, and CTS in Spanish.<sup>233</sup> Providers are permitted to continue seeking compensation for the provision of these services, so long as they are provided in compliance with section 225 of the Act and the Commission's rules and orders. Further, we note that the population of Spanish-speaking persons with disabilities is likely to increase as the overall population of Spanish-speaking individuals living in the United States continues to climb.<sup>234</sup> Because, as these populations proliferate, the need for iTRS in Spanish versions will continue to grow, we encourage providers to provide Spanish versions of these services as necessary to meet the needs of this population. If we find that the communications needs of Spanish-speaking individuals with disabilities are not being met by the services provided, we may reconsider our decision not to make provision of iTRS communication in Spanish a mandatory minimum standard for iTRS providers.<sup>235</sup>

60. *Calls by Employees or Subcontractors of TRS Providers.* In this Declaratory Ruling, we also remind providers that the existing ban on per minute compensation for TRS calls by employees or subcontractors of TRS providers remains intact.<sup>236</sup> In addition, we note that in accordance with prior Commission rulings, legitimate TRS calls are those that would otherwise be made by consumers without financial incentives offered by providers, and TRS calls may not be initiated for the purpose of generating

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<sup>227</sup> *Spanish ASL VRS Order*, 20 FCC Rcd at 13149, ¶ 19; *see also 2001 TRS Order*, 16 FCC Rcd at 22957-58, ¶ 27.

<sup>228</sup> Although Petitioners did not mention CTS in the Hamilton Joint Request, the Commission noted that, like IP Relay and IP CTS, CTS is a voluntary service, and it sought comment on the applicability of the Spanish language service requirement to CTS. *TRS Waiver NPRM*, 28 FCC Rcd at 13529-30, ¶¶ 29-30.

<sup>229</sup> *Id.* at 13530, ¶ 30.

<sup>230</sup> *See 2004 TRS Report and Order*, 19 FCC Rcd at 12564, ¶¶ 231-32 (raising issue of whether IP Relay should be a mandatory service); *IP CTS Declaratory Ruling*, 22 FCC Rcd at 390, ¶ 25; *CTS Declaratory Ruling*, 18 FCC Rcd at 16129, ¶ 22; *see also 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, 20142 nn. 7, 8 (2007) (*2007 TRS Report and Order*).

<sup>231</sup> 47 C.F.R. § 64.603.

<sup>232</sup> *See* Comments of Joint Providers at 10; *see also* Hamilton Joint Request at 5.

<sup>233</sup> *TRS Waiver NPRM*, 28 FCC Rcd at 13529, ¶ 29, n.135.

<sup>234</sup> *See* U.S. Census Bureau, Hispanic Heritage Month 2013: Sept. 15 – Oct. 15, at 4 (July 30, 2013), [https://www.census.gov/newsroom/releases/pdf/cb13ff-19\\_hispanicheritage.pdf](https://www.census.gov/newsroom/releases/pdf/cb13ff-19_hispanicheritage.pdf) (stating that in 2011, 37.6 million U.S. residents ages five and older spoke Spanish at home, a 117% increase since 1990).

<sup>235</sup> In the *TRS Waiver NPRM*, the Commission also sought comment on whether it should amend its rules to codify the Commission's ruling that VRS providers are not required to offer ASL-to-Spanish language service. 28 FCC Rcd at 13530, ¶ 30. Because we find that 47 C.F.R. § 64.603 does not require the provision of Spanish language relay service for involuntary services, we find that there is no need to amend the rule.

<sup>236</sup> *See Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Declaratory Ruling, 25 FCC Rcd 1868, 1869-70, ¶ 3-5 (2010) (*Compensable VRS Calls Declaratory Ruling*); *see also id.* at 1869, n.5 (applying principles of *Compensable VRS Calls Declaratory Ruling* to all forms of TRS).

compensable minutes for providers.<sup>237</sup> The Commission will be vigilant to ensure that provider activities do not result in abuse of the TRS Fund.

## V. FURTHER NOTICE OF PROPOSED RULEMAKING

61. In this FNPRM, we seek comment on a proposed amendment to the definition of TRS contained in the Commission's rules,<sup>238</sup> to conform to changes made to this definition in the CVAA,<sup>239</sup> which allows compensation for TRS calls between two or more individuals with disabilities. The proposed amendment would allow such calls, including those whose handling may require more than one CA.<sup>240</sup> We also seek comment on eliminating the mandatory minimum standard requiring TRS providers to provide HCO-to-HCO and VCO-to-VCO.

62. *Proposed amendment to the definition of TRS.* As originally drafted, section 225 defined TRS as a telecommunication service between a person with a hearing or speech disability and a "hearing" individual.<sup>241</sup> This definition, adopted when there was only one type of relay service (TTY-to-voice), generally did not allow compensation for calls between and among two or more persons with a disability when no hearing person was a party to the call.<sup>242</sup> For example, a call between a person with a speech disability using STS and a person with hearing disability using VRS or text-based TRS was not necessarily considered a compensable TRS call under the previous definition.<sup>243</sup>

63. Section 103(a)(3) of the CVAA amended section 225 of the Act to make clear that TRS are intended to enable people who are deaf, hard of hearing, deaf-blind, or who have a speech disability to communicate by telephone (wire or radio) with any individual, removing the specification that such individual be hearing. Specifically, the new definition states:

The term "telecommunications relay services" means telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing

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<sup>237</sup> See *id.* at 1870, ¶ 6.

<sup>238</sup> 47 C.F.R. § 64.601(a)(32).

<sup>239</sup> CVAA, § 103(a).

<sup>240</sup> As discussed further below, these proposals are intended to facilitate calls between people who have hearing or speech disabilities only when a relay service is needed, not where such individuals are able to communicate directly without the assistance of TRS. See ¶ 66, *infra*.

<sup>241</sup> 47 U.S.C. § 225(a)(3) (1990) (defining "telecommunications relay services" as "telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication 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 impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.").

<sup>242</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 24 FCC Rcd 11985, 11986, ¶ 4 (2009) (stating that "VRS calls not involving a hearing individual unambiguously are *not* compensable under current law" and citing the definition of TRS under section 225 in effect at that time). As discussed above, the Commission has made some exceptions to this general principle, including an exception for calls made between two CTS or IP CTS users, as well as calls between a CTS or IP CTS user and a TTY or VRS user. See ¶ 49, *supra*.

<sup>243</sup> At times, providers may have handled such calls at their own expense – *i.e.*, without receiving compensation.

individual who does not have a speech disability to communicate using voice communication services by wire or radio.<sup>244</sup>

64. Congressional guidance on the amended definition recognizes that there are many different forms of relay services and that there may be times when two or more individuals using different types of TRS may need to communicate with each other, even when a hearing person is not a party to the call. Specifically, the Senate and House Reports on the CVAA explain that in addition to defining TRS as the ability of a person who is deaf, hard of hearing, deaf-blind or has a speech disability to use TRS to communicate with hearing individuals, “these services may be used where individuals with disabilities need to communicate with other relay users with disabilities, where necessary to achieve functionally equivalent communication. This will be the case, for example, when two or more individuals to a call each have disabilities, but use different types of relay services, depending on their communication needs. In order for communication between or among such individuals to be achieved, more than one type of relay service may be needed to complete the call.”<sup>245</sup>

65. In accordance with the CVAA and its legislative history, we propose to amend the definition of TRS in the Commission’s rules at 47 C.F.R. §64.601(a)(32) to conform to the definition adopted in the CVAA. Additionally, in accordance with the revised definition, we tentatively conclude that the proposed new rule will allow compensation from the TRS Fund for relay calls involving two or more persons using different forms of relay services, including calls whose handling may require more than one CA.<sup>246</sup> We seek comment on these proposals.

66. With the exception of CTS and IP CTS, we emphasize that the proposed changes, if adopted, will not permit compensation from the TRS Fund for relay calls involving two or more persons using the *same* type of relay service, which in effect would be a form of point-to-point communications. In other words, although multiple CA calls may be necessary to facilitate TRS communication between and among individuals using different forms of TRS, compensation is not appropriate for TRS calls in which a CA is not needed to relay service between users. For example, a call using a video link that allows parties to sign directly to each other would be a point-to-point communication that does not require a CA to relay messages between the parties and would not be compensated from the TRS Fund. Similarly, a call in which both parties are using TTYs to send text to each other would not be compensable because it does not require a CA to bridge the communication between these callers.<sup>247</sup> The exceptions to this prohibition are calls between two CTS or two IP CTS users, or a CTS user to IP CTS user, because, as noted above,<sup>248</sup> each CTS user currently must communicate through their own CA, who re-voices what the other party says to that user. As noted in the accompanying order, the Commission has approved compensation for such dual CTS calls in the past, and will now codify such approval.

67. *HCO-to-HCO and VCO-to-VCO.* The Commission’s rules currently require all TRS providers to provide VCO-to-VCO and HCO-to-HCO.<sup>249</sup> As we indicate in the accompanying Order, we believe that we should not have minimum standards mandating the provision of HCO-to-HCO and VCO-

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<sup>244</sup> 47 U.S.C. § 225(a)(3).

<sup>245</sup> H. Report No. 111-563, 111<sup>th</sup> Cong., 2d Sess. at 23 (2010); S. Report No. 111-386, 111<sup>th</sup> Cong., 2d Sess. at 6-7 (2010).

<sup>246</sup> For example, according to the Joint Providers, multiple CA calls “are the only feasible way to connect an iTRS user to a TTY user.” Joint Providers April 8, 2014 *Ex Parte* at 3.

<sup>247</sup> Therefore, a VCO-to-VCO or HCO-to-HCO call between two callers using VRS would not be compensable, as these users could achieve functionally equivalent communication through a point-to-point VRS call. Similarly, a VCO-to-VCO or HCO-to-HCO call between two callers using IP Relay would not be compensable, as these users could achieve functionally equivalent communication by directly communicating with each other through text.

<sup>248</sup> See ¶ 49, *supra*.

<sup>249</sup> 47 C.F.R. § 64.604(a)(3)(v)(2), (3).

to-VCO calls by TRS providers.<sup>250</sup> Specifically, under the Commission's rules, in order for two individuals to use VCO or HCO on the same call, both people to the call would have to be able to speak and hear what the other party is saying.<sup>251</sup> This means that a CA would not be necessary to provide functionally equivalent communication during either type of call. As we note in the Order, the exceptions to this are when a CTS or IP CTS user calls another CTS or IP CTS user, which is essentially a way of completing an enhanced VCO-to-VCO call, and for which the use of multiple CAs has been permitted (though not mandated) by the Commission for compensation because of its specific function.<sup>252</sup> Accordingly, we propose to amend section 64.604(a)(3)(v) of the Commission's rules<sup>253</sup> to remove as a mandatory minimum standard the requirement that TRS providers to provide VCO-to-VCO and HCO-to-HCO, subject to the exceptions for CTS and IP CTS. We seek comment on this proposal.

## VI. PROCEDURAL MATTERS

### A. Comment Filing Procedures

68. Pursuant to sections 1.415 and 1.419 of the Commission's rules,<sup>254</sup> interested parties may file comments and reply comments regarding the *FNPRM* on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).<sup>255</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

69. People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

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<sup>250</sup> See ¶¶ 45-46, *supra*, citing 2003 TRS Report and Order, 18 FCC Rcd at 12403, ¶¶ 31-34.

<sup>251</sup> See 47 C.F.R. § 64.601(a)(13) (defining HCO as “[a] form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability” (emphasis added)); *id.* § 64.601(a)(42) (defining VCO as “[a] form of TRS where the person with the hearing disability is able to speak directly to the other end user” (emphasis added)).

<sup>252</sup> See ¶ 49, *supra*.

<sup>253</sup> 47 C.F.R. § 64.604(a)(3)(v).

<sup>254</sup> *Id.* §§ 1.415, 1.419.

<sup>255</sup> See *Electronic Filings of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

**B. Ex Parte Presentations**

70. The FNPRM proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>256</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission’s rules.<sup>257</sup> In proceedings governed by section 1.49(f) of the rules<sup>258</sup> or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

**C. Regulatory Flexibility**

71. *Final Regulatory Flexibility Certification.* With respect to this Order, a Final Regulatory Flexibility Certification (FRFC) is contained in Appendix C. As required by Section 605(b) of the Regulatory Flexibility Act,<sup>259</sup> the Commission certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Order*, including the FRFC, to the Chief Counsel for Advocacy of the Small Business Administration.

72. *Initial Regulatory Flexibility Analysis.* With respect to this FNPRM, an Initial Regulatory Flexibility Analysis (IRFA) is contained in Appendix D. As required by Section 603 of the Regulatory Flexibility Act,<sup>260</sup> the Commission has prepared an IRFA of the possible significant economic impact on small entities of the policies and rules addressed in the FNPRM. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

**D. Paperwork Reduction Act**

73. *Paperwork Reduction Act of 1995 Analysis.* This document does not contain new or revised information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.<sup>261</sup>

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<sup>256</sup> 47 C.F.R. §§ 1.200 *et seq.*

<sup>257</sup> *Id.* § 1.1206(b).

<sup>258</sup> *Id.* § 1.49(f).

<sup>259</sup> 5 U.S.C. § 605(b).

<sup>260</sup> *Id.* § 603.

<sup>261</sup> 44 U.S.C. § 3506(c)(4).

74. *Initial Paperwork Reduction Act of 1995.* The FNRPM does not propose new or revised information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not propose any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.<sup>262</sup>

## VII. ORDERING CLAUSES

75. Accordingly, IT IS ORDERED, pursuant to the authority contained in Sections 1, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 225, that this Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking IS ADOPTED and the Commission's Rules ARE HEREBY AMENDED as set forth in Appendix A.

76. IT IS FURTHER ORDERED that the Order adopted herein SHALL BE EFFECTIVE 60 days after publication in the *Federal Register* unless otherwise noted below.

77. IT IS FURTHER ORDERED that the termination of the waivers of sections 64.604(a)(3)(vi)(2) and (3) of the Commission's rules, 47 C.F.R. §§ 64.604(a)(3)(vi)(2) and (3), for IP CTS providers adopted herein SHALL BE EFFECTIVE 60 days after release of this Order.

78. IT IS FURTHER ORDERED that the Declaratory Ruling adopted herein shall be effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>262</sup> *Id.*



## APPENDIX A

## Final Rules

The Commission amends 47 C.F.R. part 64 as follows:

## Part 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254 (k); secs. 403 (b)(2)(B), (c), Public Law 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254 (k) unless otherwise noted.

2. Revise § 64.603 to read as follows:

**§64.603 Provision of Services.**

Each common carrier providing telephone voice transmission services shall provide, in compliance with the regulations prescribed herein, throughout the area in which it offers services, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. Interstate Spanish language relay service shall be provided. Speech-to-speech relay service also shall be provided, except that speech-to-speech relay service need not be provided by IP Relay providers, VRS providers, captioned telephone relay service providers, and IP CTS providers. In addition, each common carrier providing telephone voice transmission services shall provide access via the 711 dialing code to all relay services as a toll free call. A common carrier shall be considered to be in compliance with these regulations:

\* \* \* \* \*

3. Amend § 64.604 by revising paragraphs (a)(3)(ii), (a)(3)(iv), (a)(3)(v), (a)(3)(vi), (b)(1) and (b)(3) and adding paragraph (c)(14) to read as follows:

**§64.604 Mandatory minimum standards.**

\* \* \* \* \*

(a) \* \* \*

\* \* \* \* \*

(3) \* \* \*

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call. Providers of Internet-based TRS need not provide the same billing options (*e.g.*, sent-paid long distance, operator-assisted, collect, and third party billing) traditionally offered for wireline voice services if they allow for long distance calls to be placed using calling cards or credit cards or do not assess charges for long distance calling. Providers of Internet-based TRS need not allow for long distance calls to be placed using calling cards or credit cards if they do not assess charges for long distance calling.

\* \* \* \* \*

(iv) Relay services other than Internet-based TRS shall be capable of handling pay-per-call calls.

(v) TRS providers are required to provide the following types of TRS calls: (1) Text-to-voice and voice-to-text; (2) one-line VCO, two-line VCO, VCO-to-TTY, and VCO-to-VCO; (3) one-line HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO. VRS providers are not required to provide text-to-voice and voice-to-text functionality. IP Relay providers are not required to provide one-line VCO and one-line HCO. IP Relay providers and VRS providers are not required to provide (1) VCO-to-TTY and VCO-to-VCO; (2)

HCO-to-TTY and HCO-to-HCO. Captioned telephone service providers and IP CTS providers are not required to provide (1) text-to-voice functionality; (2) one-line HCO, two-line HCO, and HCO-to-TTY, HCO-to-HCO. IP CTS providers are not required to provide one-line VCO.

(vi) TRS providers are required to provide the following features: (1) call release functionality (only with respect to the provision of TTY-based relay service); (2) speed dialing functionality; and (3) three-way calling functionality.

\* \* \* \* \*

(b) Technical standards—(1) ASCII and Baudot. TTY-based relay service shall be capable of communicating with ASCII and Baudot format, at any speed generally in use. Other forms of TRS are not subject to this requirement.

\* \* \* \* \*

(3) Equal access to interexchange carriers. TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services to the same extent that such access is provided to voice users. This requirement is inapplicable to providers of Internet-based TRS if they do not assess specific charges for long distance calling.

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(14) TRS calls requiring the use of multiple CAs. The following types of calls that require multiple CAs for their handling are compensable from the TRS Fund:

(i) VCO-to-VCO calls between multiple captioned telephone relay service users, multiple IP CTS users, or captioned telephone relay service users and IP CTS users;

(ii) Calls between captioned telephone relay service or IP CTS users and TTY service users; and

(iii) Calls between captioned telephone relay service or IP CTS users and VRS users.

**APPENDIX B****Proposed Rules**

The Commission proposes to amend 47 C.F.R. part 64 as follows:

**Part 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254 (k); secs. 403 (b)(2)(B), (c), Public Law 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254 (k) unless otherwise noted.

2. Amend § 64.601 by revising paragraph (a)(32) to read as follows:

(32) Telecommunications relay services (TRS). Telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.

3. Amend § 64.604 by revising paragraph (a)(3)(v) to read as follows:

(v) TRS providers are required to provide the following types of TRS calls: (1) Text-to-voice and voice-to-text; (2) one-line VCO, two-line VCO, and VCO-to-TTY; (3) one-line HCO, two-line HCO, and HCO-to-TTY. VRS providers are not required to provide text-to-voice and voice-to-text functionality. IP Relay providers are not required to provide one-line VCO and one-line HCO. IP Relay providers and VRS providers are not required to provide VCO-to-TTY and HCO-to-TTY. Captioned telephone service providers and IP CTS providers are not required to provide (1) text-to-voice functionality; (2) one-line HCO, two-line HCO, and HCO-to-TTY. IP CTS providers are not required to provide one-line VCO.

## APPENDIX C

## Final Regulatory Flexibility Certification

## CG Docket No. 03-123

1. The Regulatory Flexibility Act of 1980, as amended (“RFA”),<sup>1</sup> requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that the rule will not have “a significant economic impact on a substantial number of small entities.”<sup>2</sup> The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>3</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>4</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>5</sup>

2. After consideration of the comments received in response to the *TRS Waiver NPRM*,<sup>6</sup> the Order amends the Commission’s rules to exempt Telecommunications Relay Services (TRS) providers using the Internet to provide services such as Video Relay Service (VRS), Internet Protocol Relay Service (IP Relay), and Internet Protocol Captioned Telephone Service (IP CTS) as well as providers offering traditional Captioned Telephone Service (CTS) from certain operational, technical, and functional mandatory minimum standards applicable to the provision of TRS. The Order adopts exemptions to these mandatory minimum standards for VRS, IP Relay, IP CTS, and CTS, either because it is not technologically feasible for providers to meet the requirement or the mandatory minimum standards are inapplicable to a particular form of TRS. The Order incorporates these exemptions into the Commission’s rules (1) to obviate the need for annual waivers to be applied for and granted; and (2) to harmonize the treatment of all TRS providers to which these mandatory minimum standards do not apply, given the technology through which the service is provided. Specifically, the Order:

- Exempts Internet-based TRS (iTRS) providers from mandatory minimum standards for certain “types-of-calls,” equal-access to interexchange carriers, pay-per-call, speech-to-speech relay services (STS), ASCII/Baudot-compatible services, and call-release;
- Exempts CTS providers from mandatory minimum standards for STS, ASCII/Baudot-compatible services, and call-release;
- Exempts VRS providers from mandatory minimum standards requiring text-to-voice and

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>2</sup> 5 U.S.C. § 605(b).

<sup>3</sup> *Id.* § 601(6).

<sup>4</sup> *Id.* § 601(3) (incorporating by reference the definition of “small business concern” in Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>5</sup> 15 U.S.C. § 632.

<sup>6</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waivers of iTRS Mandatory Minimum Standards*, CG Docket No. 03-123, Notice of Proposed Rulemaking, 28 FCC Rcd 13514 (2013) (*TRS Waiver NPRM*).

voice-to-text features and exempts CTS and IP CTS providers from mandatory minimum standards requiring text-to-voice features;

- Exempts IP Relay providers from mandatory minimum standards requiring one-line voice carry over (VCO), VCO-to-text telephone (TTY), one-line hearing carry over (HCO), and HCO-to-TTY;
- Exempts VRS providers from mandatory minimum standards requiring VCO-to-TTY and HCO-to-TTY.
- Concludes that VRS and IP Relay providers are not required to provide HCO-to-HCO and VCO-to-VCO services because HCO-to-HCO and VCO-to-VCO, with one exception for IP CTS and CTS, are not compensable relay calls;
- Exempts IP CTS and CTS providers from mandatory minimum standards requiring one-line HCO, two-line HCO, HCO-to-TTY, and HCO-to-HCO;
- Exempts IP CTS providers from mandatory minimum standards requiring one-line VCO; and
- Eliminates the requirement for iTRS and CTS providers to file annual reports for those mandatory minimum standards for which the Commission by this Order has adopted exemptions and for waivers adopted in this Order.

3. The Order terminates or declines to extend some existing waivers for mandatory minimum standards. Specifically, the Order:

- Terminates the existing waiver for IP CTS providers for the mandatory minimum standards requiring three-way calling and speed dialing functionalities;
- Terminates the existing waivers for VRS providers for mandatory minimum standards requiring one-line VCO and one-line HCO, but extends for one year the waiver for VRS providers ASL Services Holdings, LLC (ASL Services) and Hancock, Jahn, Lee and Puckett, LLC d/b/a “Communications Axess Ability Group” (CAAG) and extends the waiver for providers’ support of one-line VCO and one-line HCO on VRS access technology distributed by another provider;
- Determines that a waiver for CTS providers for the mandatory minimum standard requiring one-line VCO is unnecessary; and
- Determines that waivers for IP CTS and CTS providers for mandatory minimum standards requiring two-line VCO, VCO-to-TTY, and VCO-to-VCO are unnecessary.

4. Finally, the Declaratory Ruling confirms that providers of IP Relay, IP CTS, and CTS, which are non-mandatory relay services, are not required to offer Spanish-to-Spanish service as is already the case for VRS providers and reminder providers of the existing ban on per minute compensation for TRS calls by VRS providers’ employees or subcontractors and that legitimate TRS calls may not be initiated for the purpose of generating compensable minutes for providers.

5. In this Order, the Commission adopts its proposal to codify exemptions to certain mandatory minimum standards and determines, as it concluded in the Initial Regulatory Flexibility Certification, that this codification will not place any financial burden on iTRS or CTS providers, including small businesses, because these entities will be relieved from the necessity to periodically file for new waivers of the TRS mandatory minimum standards and from incurring unnecessary expenses in research and development of features or services that are inapplicable to certain types of TRS services. Therefore, those rules as amended in this Order that exempt certain TRS mandatory minimum standards will not have a significant economic impact on any entities, including small businesses.

6. In addition, with respect to those waivers that are terminated or that are not extended, in

the Initial Regulatory Flexibility Certification, the Commission concluded that the proposed rules would not impose a financial burden on entities, including small businesses, because the record showed that, as a result of technological advances, providers were generally providing the features that had been waived. No commenters opposed this proposal or the associated initial regulatory flexibility certification.

7. In this Order, the Commission terminates or declines to extend waivers of certain mandatory minimum standards and determines that this action will not place any financial burden on iTRS or CTS providers, including small businesses, because the record shows that the providers are generally providing the features that had been waived. For example, the record shows that IP CTS providers are now able to offer three-way calling and speed dialing. Additionally, the record shows that all but two VRS providers are now able to offer one-line VCO and one-line HCO. Moreover, the record shows that the two VRS providers that are not currently capable of offering one-line VCO and one-line HCO plan to be able to do so when they each release the next version of their software. The Commission has extended for one year the waiver of this mandatory minimum standard to afford those two VRS providers sufficient time to implement their planned software release. The Order also determines that waivers for mandatory minimum standards for VCO for CTS and IP CTS are unnecessary. However, because the Order concludes that CTS and IP CTS are a form of VCO, and, as a result, the mandatory minimum standards for the provision of various forms of VCO are subsumed in the provision of CTS and IP CTS, this action will not place any financial burden on IP CTS or CTS providers.

8. Finally, the Order eliminates the requirement that providers file annual reports for those mandatory minimum standards for which the Commission adopts exemptions or the waivers adopted in this Order and determines that this action will not place any financial burden on iTRS or CTS providers because providers benefit by being relieved from the necessity to file annual reports regarding their ability to provide services that are either inapplicable to their services or technologically infeasible.

9. Therefore, the Commission certifies that the requirements in this Order will not have a significant economic impact on a substantial number of small entities.

10. The Commission will send a copy of the Report and Order, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.<sup>7</sup> In addition, the Report and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the Federal Register.<sup>8</sup>

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<sup>7</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>8</sup> *Id.* § 605(b).

## APPENDIX D

## Initial Regulatory Flexibility Analysis

## CG Docket No. 03-123

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on the FNPRM provided in the item. The Commission will send a copy of the entire FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (“SBA”).<sup>2</sup> In addition, the FNPRM and the IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

**A. Need For, and Objectives of, the Proposed Rules**

2. The Commission initiates this further review relating to TRS in response to section 103(a)(3) of the Twenty-First Century Video and Accessibility Act of 2010 (CVAA),<sup>4</sup> which amended the definition of TRS in section 225(a)(3) of the Communications Act of 1934, as amended (Act).<sup>5</sup> The objective of this proceeding is to amend the Commission’s rule defining TRS to conform to the statutory definition of TRS. As described more fully below, the Commission also seeks comment on whether, under the revised definition of TRS, providers may be compensated from the TRS Fund for communication among TRS users using multiple forms of TRS.

3. The FNPRM seeks comment on (1) whether the Commission should revise the definition of TRS found in section 64.601 of the Commission’s rules<sup>6</sup> to conform to the amended definition of TRS included in section 225 of the Act;<sup>7</sup> (2) the compensability of calls between two or more individuals with disabilities using TRS, even when a hearing person is not on the call; (3) the compensability of TRS calls that require multiple CAs to provide functionally equivalent communication; and (4) whether the Commission should amend section 64.604(a)(3)(v) of the Commission’s rules<sup>8</sup> to remove the mandatory minimum standard requiring TRS providers to provide VCO-to-VCO and HCO-to-HCO.

**B. Legal Basis**

4. The authority for this proposed rulemaking is contained in sections 1, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 225.

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601–612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> See 5 U.S.C. § 603(a).

<sup>3</sup> See *id.*

<sup>4</sup> Pub. L. No. 111-260, 124 Stat. 2751 § 103(a) (Oct. 8, 2010), *technical amendments*, Pub. L. No. 111-265, 124 Stat. 2795 (Oct. 8, 2010), *codified at* 47 U.S.C. § 225(a)(3).

<sup>5</sup> 47 U.S.C. § 225(a)(3).

<sup>6</sup> 47 C.F.R. § 64.601(a)(32).

<sup>7</sup> 47 U.S.C. § 225(a)(3).

<sup>8</sup> 47 C.F.R. § 64.604(a)(3)(v).

### C. Description and Estimate of the Number of Small Entities Impacted

5. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.<sup>9</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>10</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>11</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>12</sup>

6. *TRS Providers.* These services can be included within the broad economic categories of Wireless Telecommunications Carriers and All Other Telecommunications. Nine providers currently receive compensation from the TRS Fund for providing VRS, IP Relay, IP CTS and CTS: ASL Services Holdings, LLC (ASL Services) (VRS); AT&T Inc. (AT&T) (CTS); CSDVRS, LLC (CSDVRS) (VRS); Convo Communications, LLC (Convo) (VRS); Hamilton Relay, Inc. (Hamilton) (IP CTS and CTS); Hancock, Jahn, Lee and Puckett, LLC d/b/a “Communications Access Ability Group” (CAAG) (VRS); Kansas Relay Service, Inc. (Kansas Relay) (CTS); Purple Communications, Inc. (Purple) (VRS, IP Relay and IP CTS); Sorenson Communications, Inc. (Sorenson) (VRS and IP CTS); and Sprint Corporation (Sprint) (IP Relay, IP CTS and CTS).

7. *Wireless Telecommunications Carriers.* Wireless Telecommunications Carriers is defined as follows: “This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services.”<sup>13</sup> In analyzing whether a substantial number of small entities would be affected by the requirements proposed in the FNPRM, the Commission notes that the SBA has developed the small business size standard for Wireless Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees.<sup>14</sup> TRS providers AT&T and Sprint can be included within the broad economic census category of Wireless Telecommunications Carriers.<sup>15</sup> Under this category and the associated small business size standard, AT&T and Sprint cannot be considered small.

8. *All Other Telecommunications.* All Other Telecommunications is defined as follows: “This U.S. industry comprises establishments primarily engaged in providing specialized

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<sup>9</sup> 5 U.S.C. § 603(b)(3).

<sup>10</sup> *Id.* § 601(6).

<sup>11</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>12</sup> 15 U.S.C. § 632.

<sup>13</sup> U.S. Census Bureau, 2012 NAICS Definitions, “517210 Wireless Telecommunications Carriers,” <http://www.naics.com/naics-code-description/?code=517210> (last visited April 10, 2014).

<sup>14</sup> See 13 C.F.R. § 121.201, NAICS code 517110, NACIS code 517210 (2012).

<sup>15</sup> See AT&T Inc. 2013 Annual Report at 2 (reporting that 54% of AT&T’s revenues for 2013 came from wireless services); Sprint Reports Fourth Quarter and Full Year 2013 Results, February 11, 2014, [http://newsroom.sprint.com/news-releases/sprint-reports-fourth-quarter-and-full-year-2013-results.htm?question\\_box=Sprint](http://newsroom.sprint.com/news-releases/sprint-reports-fourth-quarter-and-full-year-2013-results.htm?question_box=Sprint) 2013 Annual Report&id16=Sprint 2013 Annual Report (last visited May 7, 2013) (reporting that of Sprint’s \$35.5 billion operating revenues for 2013, \$28.6 billion was from wireless services).



telecommunications services . . . Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.”<sup>16</sup> In analyzing whether a substantial number of small entities would be affected by the requirements proposed in the FNPRM, the Commission notes that the SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with gross annual receipts of \$30 million or less.<sup>17</sup> TRS providers ASL Services, CSDVRS, Convo, Hamilton, CAAG, Kansas Relay, Purple, and Sorenson can be included within the broad economic census category of All Other Telecommunications. Under this category and the associated small business size standard, approximately half of these eight providers can be considered small.

#### **D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

9. Certain rule changes proposed in the FNPRM, if adopted by the Commission, would modify rules or add requirements governing reporting, recordkeeping, and other compliance obligations.

10. If the Commission were to revise the definition of TRS found in section 64.601 of the Commission’s rules<sup>18</sup> to conform to the amended definition of TRS included in section 225 of the Act,<sup>19</sup> such a rule may impose new compliance obligations on TRS providers. If the Commission were to conclude that the revised definition of TRS allowed for compensation from the TRS Fund of calls between two or more individuals with disabilities using TRS, even when a hearing person is not on the call and even when TRS calls require multiple CAs to provide functionally equivalent communication, the Commission notes that all providers potentially affected by the proposed rules, including those deemed to be small entities under the SBA’s standard, would benefit because they would be eligible for compensation for additional types of TRS calls. If the Commission were to revise section 64.604(a)(3)(v) of the Commission’s rules<sup>20</sup> to remove the mandatory minimum standard requiring TRS providers to provide VCO-to-VCO and HCO-to-HCO, the Commission notes that all providers potentially affected by the proposed rule, including those deemed to be small entities under the SBA’s standard, would benefit because they would no longer be required to provide VCO-to-VCO and HCO-to-HCO.

#### **E. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered**

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>21</sup>

12. If the Commission were to revise the definition of TRS found in section 64.601 of the Commission’s rules<sup>22</sup> to conform to the amended definition of TRS included in section 225 of the Act<sup>23</sup>

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<sup>16</sup> U.S. Census Bureau, 2012 NAICS Definitions, “517210 Wireless Telecommunications Carriers,” <http://www.naics.com/naics-code-description/?code=517919> (last visited April 10, 2014).

<sup>17</sup> See 13 C.F.R. § 121.201, NAICS code 517919 (2012).

<sup>18</sup> 47 C.F.R. § 64.601(a)(32).

<sup>19</sup> 47 U.S.C. § 225(a)(3).

<sup>20</sup> 47 C.F.R. § 64.604(a)(3)(v).

<sup>21</sup> 5 U.S.C. § 603(b).

<sup>22</sup> 47 C.F.R. § 64.601(a)(32).

and conclude that the revised definition of TRS allowed for compensation from the TRS Fund of calls between two or more individuals with disabilities using TRS, even when a hearing person is not on the call and even when TRS calls require multiple CAs to provide functionally equivalent communication, such regulations may impose new compliance obligations on TRS providers. However, allowing providers to be compensated for additional types of TRS calls may benefit certain small entities by increasing the types of TRS calls for which they may seek compensation. In determining whether to revise the definition of TRS in section 64.601 of the Commission's rules and the compensability of additional types of calls, the Commission will consider the costs and benefits of such a revision while keeping in mind the statutory requirements. Additionally, if the Commission were to amend section 64.604(a)(3)(v) of the Commission's rules<sup>24</sup> to remove the mandatory minimum standard requiring TRS providers to provide VCO-to-VCO and HCO-to-HCO, such regulations would remove current compliance obligations and would not impose new compliance obligations on TRS providers.

**F. Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals**

13. None.

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<sup>23</sup> 47 U.S.C. § 225(a)(3).

<sup>24</sup> 47 C.F.R. § 64.604(a)(3)(v).