

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

In the Matter of )  
 )  
Telecommunications Relay Services and Speech- ) Docket No. 03-123  
to-Speech Services for Individuals with Hearing )  
and Speech Disabilities )

**REPORT AND ORDER**

**Adopted: August 4, 2020**

**Released: August 5, 2020**

By the Commission:

**I. INTRODUCTION**

1. In this *Report and Order*, we update certain rules governing telecommunications relay services (TRS) to improve the efficiency and cost-effectiveness of TRS for both TRS providers and users. In keeping with current technology and prevailing offerings in the voice communications market, we repeal the “equal access” and “billing options” requirements for state program TRS providers. These rules are no longer necessary to achieve functional equivalence between TRS users and users of voice communications services. We also cease Federal Register publication of state requests for TRS program certifications, relying instead on publication of these applications in the Commission’s electronic document management system and on its website.

**II. BACKGROUND**

2. Section 225 of the Communications Act of 1934, as amended (the Act), requires the Commission to make TRS available for persons who are deaf, hard of hearing, or deafblind, or have speech disabilities, “to the extent possible and in the most efficient manner.”<sup>1</sup> The Commission initially adopted TRS rules in 1991.<sup>2</sup> Since then, advances in technology and other changes have led the Commission to reassess the need for some of those rules.

3. *Equal Access and Billing Options Requirements.* As required by section 225, the Commission’s rules prescribe mandatory minimum standards to ensure that TRS providers offer telephone services for persons with hearing and speech disabilities that are functionally equivalent to voice communication services.<sup>3</sup> The initial set of TRS standards adopted in 1991 reflected the prevailing voice telephone service practices of the time.<sup>4</sup> Carriers generally assessed per-minute rates for long distance calling based on the distance and duration of the call, and long distance services were provided on an unbundled basis by competing interexchange carriers, along with special billing options for those services. The “equal access” rule provides that “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

<sup>1</sup> 47 U.S.C. § 225(b)(1); *see also* 47 U.S.C. § 225(a)(3); 47 CFR § 64.601(a)(42) (definition of TRS).

<sup>2</sup> *See Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, 6 FCC Rcd 4657 (1991) (*First TRS Report and Order*). Our TRS rules were adopted pursuant to the mandate in the Americans with Disabilities Act. Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-39 (1990) (ADA).

<sup>3</sup> *See* 47 CFR § 64.604.

<sup>4</sup> *See First TRS Report and Order*, 6 FCC Rcd at 4660-62, paras. 17, 19-22.

access is provided to voice users,”<sup>5</sup> and the “billing options” requirement directs TRS providers to offer “the same billing options (*e.g.*, sent-paid long distance, operator-assisted, collect, and third party billing) traditionally offered for wireline voice services.”<sup>6</sup>

4. In 2014, the Commission revisited these rules in part, conditionally exempting Internet-based forms of TRS from both the equal-access and billing-options requirements.<sup>7</sup> The Commission recognized that the voice communications marketplace had undergone major changes since the rules were adopted in 1991.<sup>8</sup> As a result, consumers of Voice over Internet Protocol (VoIP) and mobile telephone services routinely received long distance service as a bundled feature of their service plans, with no separate time- or distance-sensitive fees, eliminating the need for equal access and alternative billing options.<sup>9</sup> Therefore, the Commission concluded that these features had also become unnecessary to ensure functional equivalence for Internet-based forms of TRS. The Commission explained that “consumers derive no value from equal access to long distance carriers where . . . they do not pay long-distance charges for [Internet-based ] TRS calls and, consequently, have no interest in ‘price shopping’ for a long distance provider.”<sup>10</sup> The exemptions are conditioned on an Internet-based TRS provider not charging users for long distance service.<sup>11</sup> However, because Internet-based TRS users are not currently billed for service, the conditional exemptions adopted by the Commission effectively render the equal access and billing options rules inapplicable to Internet-based TRS. As a practical consequence of the 2014 rule amendment, the equal access and billing options requirements currently only apply to the three non-Internet-based forms of TRS, which are provided through state programs.<sup>12</sup>

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<sup>5</sup> 47 CFR § 64.604(b)(3).

<sup>6</sup> The billing options requirement is a subset of what has come to be known as the “types of calls” requirement, which directs TRS providers to handle any type of telephone call normally provided by voice service carriers. *See* 47 CFR § 64.604(a)(3)(ii); *First TRS Report and Order*, 6 FCC Rcd at 4600, para. 17.

<sup>7</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waivers of iTRS Mandatory Minimum Standards*, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, CG Docket No. 03-123, 29 FCC Rcd 10697, 10703-06, paras. 11-16 (2014) (*Internet-Based TRS Exemptions Order*). *See* 47 CFR § 64.601(a)(21) (defining Internet-Based TRS). The Internet-based forms of TRS are Video Relay Service (VRS), Internet Protocol Relay Service (IP Relay), and Internet Protocol Captioned Telephone Service (IP CTS). *See* 47 CFR § 64.601(a)(22), (23), (50) (defining these services). At that time, the Commission did not consider whether to adopt a similar exemption for non-Internet based forms of TRS.

<sup>8</sup> *Internet-Based TRS Exemptions Order*, 29 FCC Rcd at 10703-07, paras. 10-19.

<sup>9</sup> *Id.* at 10704, para. 12.

<sup>10</sup> *Id.* at 10706, para. 16.

<sup>11</sup> *Id.* at 10705-06, paras. 14-16; 47 CFR § 64.604(a)(3)(ii), (b)(3)(ii). Alternatively, an Internet-based TRS provider can qualify for the billing options exemption by allowing callers to use calling cards or credit cards to pay for long distance calls. 47 CFR § 64.604(a)(3)(ii).

<sup>12</sup> The non-Internet-based forms of TRS are traditional (TTY-based) TRS, Captioned Telephone Service (CTS), and Speech-to-Speech Relay Service (STS). Under section 225 of the Act, any state wishing to offer TRS through a state program may request FCC certification for such program, whereby intrastate TRS is supported by a state-established funding mechanism and interstate TRS is supported by the Interstate TRS Fund. 47 U.S.C. § 225(f); *see also id.* § 225(d)(3)(B). Currently, all states, as well as the District of Columbia, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, have established TRS programs, which offer those forms of TRS that do not require use of the Internet. When the Internet-based forms of TRS were introduced, the Commission determined that on an interim basis, in order to promote the development of these technologically advanced services, these forms of TRS would be supported entirely by the Interstate TRS Fund. *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, 5153-54, paras. 24-27 (2000) (*2000 TRS Order*); *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals*

(continued....)

5. On September 23, 2015, Sprint Corporation (Sprint) and Hamilton Relay, Inc. (Hamilton) (collectively “Petitioners”), which provide TRS under state programs, filed a joint petition for rulemaking requesting that the Commission broaden the exemptions adopted for Internet-based TRS to include two forms of state-program TRS, traditional TRS<sup>13</sup> and CTS,<sup>14</sup> to the extent that such providers do not assess charges for long distance traffic that they carry.<sup>15</sup> Sprint and Hamilton also separately petitioned for temporary waivers of these requirements.<sup>16</sup> Hamilton subsequently requested a similar exemption and temporary waiver for the third form of state-program TRS, STS.<sup>17</sup> On August 24, 2016, the Consumer and Governmental Affairs Bureau (CGB) granted temporary waivers of the equal access and billing options rules for these services for a two-year period.<sup>18</sup> Subsequently, CGB granted two one-year extensions of these waivers, the second of which expires August 24, 2020.<sup>19</sup> Like the exemption for

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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, 7784-86, para. 15-21 (2002) (*IP Relay Declaratory Ruling & FNPRM*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-Based Captioned Telephone Service*, CG Docket Nos. 13-24 and 03-123, 22 FCC Rcd 379, 390, para. 25 (2007). To date, Internet-based forms of TRS continue to be offered outside the rubric of state TRS programs.

<sup>13</sup> Traditional TRS has been defined by the Commission as text-based TRS that allows a TTY user to type out his or her portion of a conversation and have it voiced to the other party by a communications assistant (CA), after which the CA types back to the TTY user what the other party voices. *See 2000 TRS Order*, 15 FCC Rcd at 5142, para. 2 (2000); 47 CFR § 64.601(a)(43) (definition of TTY).

<sup>14</sup> CTS is a type of TRS that is generally used by a consumer who has the ability to speak and some residual hearing. CTS enables the consumer to speak directly to the other party and, when the other party speaks, to simultaneously both listen to what the other party is saying (to the extent possible) and read captions of what the other party is saying. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, CC Docket No. 98-67, 18 FCC Rcd 16121, 16122-23, paras. 3-5 (2003). The Internet-based form of CTS, IP CTS, is not currently offered through state TRS programs. *See 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, Report and Order, 34 FCC Rcd 11265, 11276-78, paras. 31-32 (2019) (noting that, although states are not precluded from seeking to offer IP CTS, no state had sought approval to do so).

<sup>15</sup> Hamilton and Sprint Joint Petition for Rulemaking, CG Docket No. 03-123, at 4 (filed Sept. 23, 2015), <https://ecfsapi.fcc.gov/file/60001324916.pdf> (Joint Petition for Rulemaking).

<sup>16</sup> Petition for Interim Waiver of Sprint Corporation, CG Docket No. 03-123 (filed Sept. 23, 2015), <https://ecfsapi.fcc.gov/file/60001324928.pdf>; Petition for Interim Waiver of Hamilton Relay, Inc., CG Docket No. 03-123 (filed Mar. 14, 2016), <https://ecfsapi.fcc.gov/file/60001533861.pdf>.

<sup>17</sup> Hamilton, Supplement to Petition for Interim Waiver, CG Docket No. 03-123, (filed Aug. 17, 2016), <https://ecfsapi.fcc.gov/file/10817896919141/Hamilton%20Supplement%20to%20Petition%20for%20Interim%20Waiver.pdf>. STS is a type of TRS that allows individuals with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with speech disabilities and can repeat the words spoken by that person. 47 CFR § 64.601(a)(40).

<sup>18</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Hamilton Relay, Inc. and Sprint Corporation Petitions for Interim Waiver of Section 64.604(b)(3) and 64.604(a)(3)(ii)*, CG Docket No. 03-123, Order, 31 FCC Rcd 9511 (CGB 2016) (*Hamilton and Sprint Waiver Order*).

<sup>19</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Hamilton Relay, Inc. and Sprint Corporation Petitions for Interim Waiver of Section 64.604(b)(3) and 64.604(a)(3)(ii)*, CG Docket No. 03-123, Order, 33 FCC Rcd 8063 (CGB 2018); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Hamilton Relay, Inc. and Sprint Corporation Petitions for Interim Waiver of Section 64.604(b)(3) and 64.604(a)(3)(ii)*, CG Docket No. 03-123, Order, 34 FCC Rcd 7200 (CGB 2019).

Internet-based TRS providers, these waivers are subject to the condition that no long distance charges may be assessed on TRS users.

6. *Federal Register Notice of State Requests for Certification.* Section 225 provides that states choosing to establish state TRS programs for intrastate service must request and receive certification for such programs from the Commission.<sup>20</sup> Since 1991, the Commission's TRS rules have required that, upon the filing of state certification applications, a notice seeking public comment on such applications shall be published in the Federal Register.<sup>21</sup> In 2000, the Commission established an electronic documents management system (EDOCS).<sup>22</sup> Subsequently, in adopting certification requirements for Internet-based TRS, the Commission did not require Federal Register publication of applications for certification to provide Internet-based TRS, relying instead on publication in EDOCS and on the Commission's website to elicit public comment on such applications.<sup>23</sup>

7. *Further Notice of Proposed Rulemaking.* In a Further Notice of Proposed Rulemaking released September 20, 2019, the Commission proposed (1) to repeal the equal access and billing options rules for all TRS providers and (2) to cease Federal Register publication of state TRS certification applications.<sup>24</sup> All parties submitting comments supported our proposals, Hamilton in comments, and Sprint and the Consumer Groups on reply.

### III. DISCUSSION

8. We adopt our proposal to repeal the equal access and billing options rules for all TRS providers. Due to the widespread bundling of local and long distance calling, the elimination of separate long distance charges, and consumers' ever-increasing reliance on mobile phones, these features have largely disappeared from the world of voice services. Therefore, these features are no longer necessary to ensure that TRS is functionally equivalent to voice service. In addition, to improve the efficiency of the Commission's TRS certification process and to conserve administrative resources, we delete the requirement for Federal Register publication of state TRS program certification applications. Such publication is not required by the Administrative Procedure Act (APA),<sup>25</sup> and we conclude that publication in the Commission's electronic systems will provide sufficient notice to enable interested members of the public to comment on such applications.

#### A. Equal Access and Billing Options Requirements

9. *Equal Access Rule.* We repeal the equal access requirement in its entirety. This rule is no longer needed to ensure the functional equivalence of TRS. Because voice customers today typically obtain telephone service by paying a bundled or flat rate without time or distance differentials for long distance calls, the ability to select a long distance provider is no longer an essential aspect of telephone service,<sup>26</sup> and the Commission has terminated equal access requirements for voice service.<sup>27</sup> Further,

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<sup>20</sup> 47 U.S.C. § 225(f).

<sup>21</sup> *First TRS Report and Order*, 6 FCC Rcd at 4665, para. 37; *see also* 47 CFR § 64.606(a)(1).

<sup>22</sup> *See FCC Announces New Electronic Document Management System*, Public Notice, DOC-203412 (June 19, 2000), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-203412A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-203412A1.pdf).

<sup>23</sup> *See Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order, 26 FCC Rcd 10898, 10902-04, paras. 7-12 (2011); 47 CFR § 64.606(a)(2).

<sup>24</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8483, 8488-90, paras. 12-18 (2019) (*TRS Rule Modernization FNPRM*).

<sup>25</sup> 5 U.S.C. Subchapter II.

<sup>26</sup> *See Hamilton and Sprint Waiver Order*, 31 FCC Rcd at 9514-15, paras. 10-11; Joint Petition for Rulemaking at 5.

<sup>27</sup> *See Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks et al.*, WC Docket No. 14-192 et al.,

(continued....)

because our rule only requires TRS to include equal access “to the same extent that such access is provided to voice users,”<sup>28</sup> there are few situations in which a TRS provider would be obligated to provide equal access under the current rule, even if a consumer were to request such access.<sup>29</sup> For all these reasons, we find that the equal access rule is no longer required to ensure that any form of TRS is functionally equivalent to current voice services.

10. This unnecessary rule also burdens TRS providers with the cost of maintaining an equal access infrastructure, hindering the efficient provision of TRS.<sup>30</sup> While the record does not indicate the extent of such costs, the absence of any discernible benefit from retaining the rule and the clear benefits of removing it clearly tip the cost-benefit scales in favor of removal. In addition to harmonizing the rules for state-program and Internet-based TRS, deleting the equal access rule will allow TRS providers to modernize their TRS facilities<sup>31</sup> and discontinue what can be a confusing and time-consuming call setup process.<sup>32</sup>

11. *Clarification Regarding Financial Incentives.* At the request of Hamilton and Sprint, which is supported by the Consumer Groups,<sup>33</sup> we also clarify that, when TRS providers allow consumers to make long distance calls without incurring per-minute charges, such offerings do not constitute an impermissible financial incentive for TRS use. TRS providers are generally prohibited from offering financial incentives to TRS users to make TRS calls they would not otherwise make.<sup>34</sup> Although the Commission previously found that long distance discounts offered by TRS providers could constitute an impermissible financial incentive, that ruling was based on the premise that such discounts would cause the charges for long distance calls by TRS users to be lower than those for voice service users.<sup>35</sup> In today’s marketplace, however, the widespread bundling of long distance and local calling negates any risk that offering free long distance to TRS users would create an impermissible incentive to make long

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Memorandum Opinion and Order, 31 FCC Rcd 6157, 6182-89, paras. 46-54 (2015), *partial recon. denied*, 32 FCC Rcd 3885 (2017) (forbearing from application of long-distance equal access requirements to incumbent LECs, except with respect to legacy presubscribed customers). Because we find that the equal access requirement is no longer necessary to ensure functional equivalence, and because there are no public comments or other record evidence indicating that any TRS user seeks to retain the ability to choose a long distance service provider, we see no need to continue applying the equal access rule with respect to any subset of “legacy” TRS users.

<sup>28</sup> 47 CFR § 64.604(b)(3).

<sup>29</sup> See, e.g., *Hamilton and Sprint Waiver Order*, 31 FCC Rcd at 9513, para. 7, n.23 (users may be charged for long distance calls where the user requests connection to an interexchange carrier that charges for such calls).

<sup>30</sup> Hamilton Comments at 2; Sprint Reply at 2.

<sup>31</sup> See 47 U.S.C. § 225(d)(2) (requiring the Commission to ensure that its TRS regulations encourage the use of existing technology and do not discourage or impair the development of improved technology).

<sup>32</sup> Joint Petition for Rulemaking at 8-9 (noting that users are often unaware of the need to register a preferred provider for long distance calls, and that when a user names an interexchange carrier with which the user does not have an account, the carrier sometimes refuses to complete the call).

<sup>33</sup> See *id.* at 10, n.25; Consumer Groups Reply at 2-3.

<sup>34</sup> See *Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 20 FCC Rcd 1466, 1467, para. 5 (CGB 2005). The Bureau found that financial incentives for TRS users violate the functional equivalence mandate in section 225 of the Act. Financial incentives could encourage TRS users to make calls they otherwise would not make. Since TRS providers are paid for all TRS calls out of the TRS Fund, and TRS customers pay nothing, such calling patterns would not only unnecessarily burden the fund but also give TRS users a financial reward, contrary to the functional equivalence mandate. *Id.* at 1469, para. 8.

<sup>35</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 20 FCC Rcd 12503, 12505-06, para. 6 (CGB 2005).

distance calls.<sup>36</sup> This clarification is limited to the specific issue raised regarding per-minute charges for long distance service and does not, for example, authorize a TRS provider to reimburse or otherwise assume payment for charges currently assessed on TRS users for Internet access or telephone service.

12. *Billing Options Requirement.* We repeal the billing options requirement in its entirety. As the comments on our proposals confirm, this TRS feature has become “a burden with no associated public interest benefit.”<sup>37</sup> Given the widespread bundling of local and long distance calling, the disappearance of per-minute long distance charges, and the ever-increasing reliance on mobile phones, alternative billing options are disappearing from the world of voice services.<sup>38</sup> Thus, alternative billing options such as sent-paid long distance and collect, calling card, and third party billing are no longer essential to ensure that TRS is functionally equivalent to voice service. In addition, there is little likelihood that any TRS provider would actually assess per-minute charges for TRS calls (and thereby trigger a possible need for alternative billing options).<sup>39</sup>

13. Further, eliminating this obligation will make the provision of TRS more efficient. TRS providers will be relieved from any need to maintain obsolete features of circuit-switched networks at a time when they and others within the communications industry have been transitioning to IP-based platforms.<sup>40</sup> In addition to functional equivalence and efficiency, allowing TRS users access to improvements in technology is another one of our mandates under section 225.<sup>41</sup> In summary, repealing the billing options rule will benefit TRS providers and users by allowing technological improvements with no consequential costs or harms to the functional equivalence and efficiency of TRS.

#### **B. Elimination of Federal Register Notice of State Requests for Certification**

14. We delete the requirement that public notices of applications for certification of state TRS programs be published in the Federal Register.<sup>42</sup> This action will improve the efficiency of the Commission’s TRS certification process and conserve administrative resources, and will not conflict with statutory requirements or the Commission’s ability to make informed certification decisions. Federal Register publication of state certification applications is not required by section 225 or the APA. Such certifications do not involve rulemaking (for which Federal Register notice is ordinarily required).<sup>43</sup>

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<sup>36</sup> See *Hamilton and Sprint Waiver Order*, 31 FCC Rcd at 9517, para. 16; see also Consumer Groups Reply at 2-3 (supporting this clarification).

<sup>37</sup> *Hamilton and Sprint Waiver Order*, 31 FCC Rcd at 9515-16, para. 13; see Hamilton Comments at 4; Sprint Reply at 2 (repeal of the rules offers “considerable benefits to consumers, to providers and to the overall TRS program with no identifiable harm”); Consumer Groups Reply at 3 (“the billing options requirement no longer provides a benefit to TRS users in terms of functionally equivalent services”).

<sup>38</sup> See *Hamilton and Sprint Waiver Order*, 31 FCC Rcd at 9515-16, para. 13 (noting that even some wireline carriers are discontinuing these billing options). Hamilton and Sprint also stated that when TRS providers do not assess a charge for long distance service, they receive few, if any, requests for traditional billing options. Joint Petition for Rulemaking at 7.

<sup>39</sup> This is especially unlikely because section 225 and our rules prohibit TRS providers from charging time- and distance-sensitive rates higher than those applicable to functionally equivalent voice communications services—which as noted, are increasingly offered without time-sensitive charges. See 47 U.S.C. § 225(b)(1)(D); 47 CFR § 64.604(c)(4).

<sup>40</sup> See Joint Petition for Rulemaking at 11-12; *Internet-Based TRS Exemptions Order*, 29 FCC Rcd at 10705, para. 14; Sprint Reply at 2; Consumer Groups Reply at 3 (relief from these requirements “should provide increased resources for [TRS providers] to invest in new and improved technologies and services to the benefit of TRS users”).

<sup>41</sup> See 47 U.S.C. § 225(d)(2).

<sup>42</sup> 47 CFR § 64.606(a)(1); *First TRS Report and Order*, 6 FCC Rcd at 4665, para. 37.

<sup>43</sup> Cf. 5 U.S.C. § 553(b) (requiring that notice of proposed rulemaking be published in the Federal Register).

Rather, the Commission determines whether a state's proposed TRS program will meet the standards set by existing rules.<sup>44</sup> The Commission's review is conducted based on the documentation submitted by a state, and no adjudicatory hearing is ordinarily needed to determine whether a state program merits certification.<sup>45</sup> Moreover, for comparable Commission authorization processes, such as certifications for Internet-based TRS providers and common-carrier applications for certificates of "public convenience and necessity,"<sup>46</sup> Federal Register publication is not required by our rules unless special circumstances apply, such as when an application is designated for hearing or an environmental impact statement is required.<sup>47</sup>

15. Ceasing Federal Register publication will not prevent or deter public input on state TRS certification proposals. Since this rule was adopted, the Commission has introduced an Internet-based document management system, which makes public notices requesting comment on applications (as well as the applications themselves) readily accessible through our Electronic Documents Management System (EDOCS) and Electronic Comment Filing System (ECFS). We agree with the Consumer Groups that posting electronic notices of state TRS certification applications via EDOCS and the Commission's website will provide sufficient notice to enable interested members of the public to comment on an application.<sup>48</sup> The Commission's longstanding reliance on this public notice process for comparable types of applications provides further assurance that this approach will provide a sufficient opportunity for public comment to ensure informed Commission decisions on state program authorizations.

#### IV. PROCEDURAL MATTERS

16. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>49</sup> the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is set forth in Appendix C.

17. *Congressional Review Act.* The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>50</sup>

18. *Paperwork Reduction Act Analysis.* This document does not contain new or modified or proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA).<sup>51</sup> Therefore, it

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<sup>44</sup> The Commission reviews the details of a state's TRS program to determine whether it makes intrastate TRS available in a manner that meets or exceeds the Commission's minimum standards, makes available adequate procedures and remedies for enforcing program requirements, and does not conflict with federal law. 47 U.S.C. § 225(f)(2); 47 CFR § 64.606(b)(1).

<sup>45</sup> Cf. 47 U.S.C. § 309(e) (requiring that a radio license application be designated for hearing and that hearing issues be published in the Federal Register in any case where a "substantial or material question of fact" is presented); 47 CFR § 1.221 (providing for Federal Register publication of orders designating applications for hearing).

<sup>46</sup> See 47 CFR § 64.606(b)(2); 47 U.S.C. § 214.

<sup>47</sup> See 47 CFR §§ 1.221, 1.1308. If state TRS applications were to trigger these requirements, the Federal Register publication requirements of those provisions would apply.

<sup>48</sup> Consumer Groups Reply at 4. Public notices issued by the Commission are also published in the FCC Record, and thereby remain readily available over a longer term to interested parties and members of the public. See, e.g., *Pleading Cycle Established for Comment on Applications for State Certification for the Provision of Telecommunications Relay Service*, Public Notice, 33 FCC Rcd 3560 (2018). The applications themselves are made available on the Commission's website. See, e.g., *id.* at 3560.

<sup>49</sup> 5 U.S.C. § 601 *et seq.*

<sup>50</sup> 5 U.S.C. § 801(a)(1)(A).

<sup>51</sup> Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3520 (2016).

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.<sup>52</sup>

19. *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.

#### V. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, and 225, the foregoing Report and Order IS ADOPTED, and the Commission's rules are hereby AMENDED as set forth in Appendix B.

21. IT IS FURTHER ORDERED that this Report and Order and the amendments to the Commission's rules SHALL BE EFFECTIVE 30 days after publication of a summary in the Federal Register.

22. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of the Report and Order, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

23. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>52</sup> 44 U.S.C. § 3506(c)(4).



**APPENDIX A**

List of Commenting Parties

**Comments:**

Hamilton Relay, Inc.

**Reply Comments:**

Sprint Corporation

Telecommunications for the Deaf and Hard of Hearing, Inc., Cerebral Palsy and Deaf Organization, Association of Late-Deafened Adults, National Association of the Deaf, and American Association of the DeafBlind (Consumer Groups)

## APPENDIX B

## Final Rules

The Federal Communications Commission amends Title 47 of the Code of Federal Regulations 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. [to be completed prior to publication in the Federal Register], unless otherwise noted.

2. Amend section 64.604 by removing and reserving paragraph (b)(3) and revising paragraph (a)(3)(ii) 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.

\* \* \* \* \*

(b) \* \* \*

(3) [Reserved]

\* \* \* \* \*

3. Amend section 64.606 by revising paragraph (a)(1) to read as follows:

**§ 64.606 Internet-based TRS provider and TRS program certification.**

(a) *Documentation—(1) Certified state program.* Any state, through its office of the governor or other delegated executive office empowered to provide TRS, desiring to establish a state program under this section shall submit documentation to the Commission addressed to the Federal Communications Commission, Chief, Consumer and Governmental Affairs Bureau, TRS Certification Program, Washington, DC 20554, and captioned “TRS State Certification Application.” All documentation shall be submitted in narrative form, shall clearly describe the state program for implementing intrastate TRS, and the procedures and remedies for enforcing any requirements imposed by the state program. The Commission shall give public notice of state applications for certification.

\* \* \* \* \*

## APPENDIX C

## Final Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act of 1980,<sup>1</sup> as amended (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the Further Notice of Proposed Rulemaking.<sup>2</sup> The Commission sought written public comment on the proposals in the *TRS Rules Modernization FNPRM*, including comment on the IRFA.<sup>3</sup> No comments were received in response to the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>4</sup> The Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>5</sup>

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

2. The Report and Order addresses mandatory minimum standards requiring telecommunications relay service (TRS) providers to allow users to have long distance calls carried by their preferred long distance carrier (equal access requirement) and to offer the same billing options (such as collect, calling card, and third party billing) traditionally offered by wireline telephone companies (billing options requirement).

3. The Commission repeals the equal access requirement because we find that it is no longer necessary to provide TRS that is functionally equivalent to voice telecommunications services. When the equal access requirement was adopted in 1991, providers of telephone service generally assessed per-minute rates for long distance calling based on the distance and time of the call. Today, by contrast, voice telephone subscribers typically pay for their telephone service through a bundled or flat rate, without time or distance differentials for long distance calls. Eliminating this unnecessary requirement will ease technical compliance burdens for TRS providers, benefiting both TRS providers and users.

4. The Commission also repeals the billing options requirement because we find that it also is no longer necessary to provide TRS that is functionally equivalent to voice telecommunications services. Given the increasing migration to telephone service bundles for local and long distance calls, the ability for TRS users to employ various billing options for long-distance is no longer necessary to achieve functionally equivalent service. Eliminating this obligation will make the provision of TRS more efficient because it will relieve TRS providers of the need to maintain obsolete network features at a time when they and others within the communications industry are transitioning to IP-based platforms.

5. In addition, the Commission eliminates the requirement for the Commission to publish in the Federal Register notice of applications for certification of state TRS programs, and instead it will rely on the Commission's public notice release process.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

6. No comments were filed in response to the IRFA.

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, has been 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> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8483, 8490, para 20 (2019) (*TRS Rule Modernization FNPRM*).

<sup>3</sup> *Id.* at 8498, Appx. D.

<sup>4</sup> See 5 U.S.C. § 604.

<sup>5</sup> See *id.* § 604(b).

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

7. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.<sup>6</sup> The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

**D. Description and Estimate of the Number of Small Entities to which the Rules will Apply**

8. 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 rule changes.<sup>7</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>8</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>9</sup> A “small business concern” is one that: (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>10</sup>

9. The amendments to rules adopted in the Report and Order will affect the obligations of non-Internet based TRS providers. These services can be included within the broad economic category of All Other Telecommunications. There are currently two providers of non-Internet based TRS: Hamilton Relay, Inc. and Sprint Communications Company L.P.<sup>11</sup>

10. *All Other Telecommunications.* “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.<sup>12</sup> The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$35 million or less.<sup>13</sup> For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual

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<sup>6</sup> *Id.* § 604(a)(3).

<sup>7</sup> *Id.* § 603(b)(3).

<sup>8</sup> *Id.* § 601(6).

<sup>9</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). 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.” *Id.*

<sup>10</sup> 15 U.S.C. § 632.

<sup>11</sup> On May 1, 2020, Sprint notified the Commission that it had completed a merger with T-Mobile USA, Inc. See Letter from Scott R. Freiermuth, Sprint Communications Company L.P., to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51 (filed May 1, 2020). Sprint became an indirect, wholly owned subsidiary of T-Mobile.

<sup>12</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>13</sup> 13 CFR § 121.201; NAICS Code 517919.

receipts of less than \$35 million.<sup>14</sup> Thus, a majority of “All Other Telecommunications” firms potentially affected by the rules adopted can be considered small.

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

11. Elimination of the equal access and billing options for TRS providers and ceasing Federal Register publication for state TRS program certification applications do not create direct reporting, recordkeeping or other compliance requirements on TRS providers.

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

12. 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>15</sup>

13. Repeal of the equal access and billing options requirements will reduce the burden on small entities subject to the rule. Such entities would no longer need to provide TRS users with the ability to select their long distance carrier or offer billing options, and the providers would no longer be required to configure their networks for such functionalities. Other small entities would not be affected.

14. Eliminating the requirement for the Commission to publish in the Federal Register notice of applications for certification of state TRS programs will have no impact on small entities because only the Commission is burdened by this obligation.

**G. Report to Congress**

15. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>16</sup> In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

**H. Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission’s Proposals**

16. None.

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<sup>14</sup>

[http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

<sup>15</sup> 5 U.S.C. § 603(b).

<sup>16</sup> See 5 U.S.C. § 801(a)(1)(A).