

B. Review Under Procedural Statutes and Executive Orders

We have reviewed this final rule under the following statutes and executive orders governing rulemaking procedures: The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Executive Order 12866 (Regulatory Planning and Review), as amended by Executive Order 13258; and Executive Order 13132 (Federalism). Since this rule merely extends the expiration date of subpart E, the information in the compliance statements that we published on April 17, 2003 with the existing rule continues to apply.

List of Subjects in 45 CFR Part 160

Administrative practice and procedure, Computer technology, Electronic transactions, Employer benefit plan, Health, Health care, Health facilities, Health insurance, Health records, Hospitals, Investigations, Medicaid, Medical research, Medicare, Penalties, Privacy, Reporting and record keeping requirements, Security.

Dated: September 7, 2005.

Michael O. Leavitt,
Secretary.

[FR Doc. 05-18254 Filed 9-13-05; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98-67 and CG Docket No. 03-123; FCC 05-141]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Clarification.

SUMMARY: In this document, the Commission concludes that *two-line* captioned telephone service is a type of telecommunications relay service (TRS) eligible for compensation from the Interstate TRS Fund. The Commission also approves the National Exchange Carrier Association, Inc. (NECA), the Interstate TRS Fund Administrator, proposed allocation methodology for determining the number of *inbound two-line* captioned telephone minutes

that should be compensated from the Interstate TRS Fund. Also in this document, the Commission seeks approval from the Office of Management and Budget (OMB) for any Paperwork Reduction Act (PRA) burdens contained in this document that will modify OMB Control No. 3060-1053 to have TRS providers offering *two-line* captioned telephone service along with TRS providers offering *one-line* captioned telephone service file annual reports with the Commission.

DATES: Effective October 14, 2005. Written comments on the PRA modified information collection requirements must be submitted by the general public, Office of Management and Budget (OMB), and other interested parties on or before November 14, 2005.

ADDRESSES: You may submit PRA comments identified by [CG Docket No. 03-123 and/or OMB Control Number 3060-1053], by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- *E-mail:* Parties who choose to file by e-mail should submit their comments to Leslie Smith at Leslie.Smith@fcc.gov and to Kristy L. LaLonde at Kristy.L.LaLonde@omb.eop.gov. Please include the docket number and/or OMB Control number in the subject line of the message.

- *Mail:* Parties who choose to file by paper should submit their comments to Leslie Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone (202) 418-0539 or TTY: (202) 418-0432.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, Consumer & Governmental Affairs Bureau at (202) 418-1475 (voice), (202) 418-0597 (TTY), or e-mail Thomas.Chandler@fcc.gov. For additional information concerning the PRA information collection requirements contained in the document, contact Leslie Smith at (202) 418-0217, or via the Internet at Leslie.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: This *Order* contains modified information collection requirements subject to the PRA of 1995, Public Law 104-13. These will be submitted to OMB for review under section 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection(s) contained in this proceeding. This is a summary of the Commission's *Order*, adopted July 14, 2005, released July 19, 2005. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The full text of the *Order* and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Order* and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI at their Web site: www.bcpweb.com or call 1-800-378-3160. 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 or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This *Order* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

Paperwork Reduction Act

The *Order* contains modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in the *Order* as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Public and agency comments are due November 14, 2005. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees." In this present document, the Commission has assessed the effects

of its determination that *two-line* captioned telephone service is a type of TRS eligible for compensation from the Interstate TRS Fund, and finds that such action will not affect businesses with fewer than 25 employees.

Synopsis

One-Line and Two-Line Captioned Telephone Service

In the August 2003 *Captioned Telephone Declaratory Ruling*, the Commission concluded that captioned telephone Voice Carry Over (VCO) service is a type of TRS, and that eligible providers of such services are eligible to recover their costs in accordance with Section 225 of the Communications Act. *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, August 1, 2003, published at 68 FR 55898, September 29, 2003, (*Captioned Telephone Declaratory Ruling*) recognizing captioned telephone service as a form of telecommunications relay service (TRS). Captioned telephone service uses a special telephone that has a text display. It permits, on one standard telephone line, the user—typically someone who has the ability to speak and some residual hearing—to both listen to what is said over the telephone and simultaneously read captions of what the other person is saying. A communications assistant (CA) using specially developed voice recognition technology generates the captions. No typing is involved. The *Captioned Telephone Declaratory Ruling* permits providers of interstate captioned telephone service to be compensated from the Interstate TRS Fund.

To use *one-line* captioned telephone service, the captioned telephone user dials the number of the person she wishes to call. Unlike with other forms of TRS, the user does not dial the number of a TRS provider (or the 711 access number). Although the user has dialed the number of the other party, the captioned telephone automatically calls a captioned telephone CA at a TRS facility. The TRS provider, in turn, calls the number of the called party, and all three parties (the captioned telephone user, the CA, and the called party) are connected. Unlike “traditional” TRS, where the CA would type what the called party says, the CA instead repeats or re-voices what the called party says and voice recognition technology automatically transcribes the CA’s voice into text, which is then transmitted

directly to the user and displayed on the captioned telephone. As a result, the captions appear on the captioned telephone at nearly the same time the user hears the called party’s spoken words. Throughout the call the CA is completely transparent and does not participate in the call by voicing any part of the conversation; there is no interaction with the CA by either party to the call. Calls may be placed to captioned telephone users via a provider’s toll free access number. When such an “inbound” captioned telephone call is made, the caller is prompted by a recording to enter the number he or she wishes to call, and the call is automatically processed.

The *Captioned Telephone Declaratory Ruling* did not address two-line captioned telephone service, and Petitioners now seek clarification that this type of captioned telephone service is also a type of TRS eligible for compensation from the Interstate TRS Fund. *See Ultratec, Inc., Sprint Corporation, and Hamilton Relay, Inc., Request for Clarification*, CC Docket No. 98-67 and CG Docket No. 03-123, filed December 7, 2004 (*Ultratec Petition*). The Commission refers to Ultratec, Inc., Sprint Corporation, and Hamilton Relay, Inc. as Petitioners). As Petitioners explain, two-line captioned telephone service requires the user to have two standard telephone lines connected to a captioned telephone. *See, e.g., Ultratec Petition* at 2. The first line is set up as the user’s primary telephone line, and the second line transmits the captions from the captioned telephone relay service. When a two-line captioned telephone user places an outbound call, he or she dials the number of the party he or she wants to call on the first line, in the same way that a voice telephone call is made to the called party. An outbound call occurs when a captioned telephone user initiates (dials) a call from his or her captioned telephone hardware device. When this call is being made, the two-line captioned telephone simultaneously connects to the captioned telephone relay service on the second line. When this connection is made, the two-line captioned telephone takes the voice of the party who is called via the first line and sends it to the captioned telephone relay provider over the second line. As with one-line captioned telephone, the captioned telephone CA then re-voices everything that is said by the called party. Voice recognition technology transcribes what the CA says into text, and sends captions back on the second line to the text display on the two-line captioned telephone. In short, with one-line

captioned telephone service the outbound call goes through the captioned telephone service provider to be connected to the called party; with two-line captioned telephone service, the primary telephone line links the calling and called parties directly, and the captioned telephone service is brought in on a second line.

For inbound calls to the two-line captioned telephone user, the calling party simply dials the telephone number of the person he or she wants to call. An inbound call occurs when a captioned telephone user receives a call from a voice telephone caller. The call goes directly to the two-line captioned telephone in the same way a call would come in to any traditional telephone. When the captioned telephone user answers the call, his or her two-line captioned telephone automatically calls the captioned telephone relay service on the second telephone line, and the call then proceeds in the same manner as an outbound two-line captioned telephone call. *Ultratec Petition* at 3.

Petitioners cite several benefits that two-line captioned telephone service offers that are not available with one-line captioned telephone service. First, because a two-line captioned telephone allows direct inbound dialing, no special “relay” numbers are needed and users can give out their own telephone numbers to persons who may want to call them, not the number of a captioned telephone relay service provider. Second, because two-line captioned telephone service directly connects both parties to the call on the same telephone line and adds the captioned telephone relay service on a second telephone line, it allows the user access to other telephone network features available to voice telephone users such as *69 to receive information about the last incoming call and to return such call, call waiting, and call forwarding. In addition, and for the same reason, this service makes it possible for users to directly access 9-1-1 emergency services in the same way that hearing telephone users access these services (while simultaneously receiving captions back on the second telephone line). Two-line captioned telephone service also allows two or more persons to be on the call at the same time *e.g.*, by using another telephone extension in the same house because the primary connection is a direct voice connection, just like with any other call. In contrast, one-line captioned telephone service uses a single connection to carry both voice traffic and captioning information, which are encoded into a single data stream. This data stream would be unintelligible to a user who picks up a

separate phone connected to the line on which one-line captioned telephone service is being used. Finally, unlike with one-line captioned telephone service, the captions service can be added to a call at any time during the call even after the call is in progress by engaging the second line which is the call to the captioned telephone service.

Jurisdictional Separation of Costs and Inbound Two-Line Captioned Telephone Service

Petitioners and NECA acknowledge that although providers can readily determine which one-line captioned telephone calls are interstate and which are intrastate for reimbursement purposes, and can also make that determination for outbound two-line captioned telephone calls, they cannot do so for inbound two-line captioned telephone calls. See the National Exchange Carrier Association, Inc., CC Docket No. 98–67 and CG Docket No. 03–123, Petition for Declaratory Ruling, filed December 10, 2004 (NECA Petition). Therefore, NECA proposes that we adopt an allocation methodology for the jurisdictional compensation of the inbound two-line captioned telephone calls; *i.e.*, for determining which such calls shall be compensated by a state, and which such calls shall be compensated from the Interstate TRS Fund.

As NECA explains, for one-line captioned telephone service the relay center is able to determine whether each call is intrastate or interstate because such calls go through the relay center, and therefore the center can determine where the call originates from the automatic number identification (ANI) of the caller's telephone number and where it ends from the called party's telephone number. NECA Petition at 1–2; see also *Ultratec Petition* at 6. In other words, the TRS providers (*i.e.*, call center) captures network information from both the caller's and the called person's telephone numbers. This applies to both inbound and outbound one-line captioned telephone calls. For outbound two-line captioned telephone calls, the process of determining the jurisdictional nature of the call is the same as for one-line captioned telephone service. *NECA Petition* at 2. The telephone captures the number of the called party that is dialed, and automatically forwards that number to the relay center through the second line. See *Ultratec Petition* at 6. As a result, in this situation the call center receives from the calling party the user of the two-line captioned telephone the telephone number of both the calling and called parties. For inbound two-line

captioned telephone calls, however, the relay center is incapable of determining the location of the calling (*i.e.*, originating) party to the call. This is because the originating inbound caller calls the captioned telephone user directly, and the captioned telephone does not receive information about the calling party that can be forwarded to the relay center when the captioned telephone calls the relay center on the second line. *NECA Petition* at 2; *Ultratec Petition* at 7. As a result, the relay center does not receive the calling party's ANI, and therefore cannot determine the jurisdictional nature of the call in order to report and bill either the state or the Interstate TRS Fund for the call. *NECA Petition* at 2; *Ultratec Petition* at 7. Petitioners suggest that although Caller ID might provide the necessary information, “this would not offer a consistent solution because it is often blocked or unavailable,” and also note that Caller ID is a fee-based service that may put an unfair additional financial burden on the user. According to NECA, presently states are compensating providers of inbound two-line captioned telephone calls for all such calls.

The problem of determining the jurisdictional nature of inbound two-line captioned telephone calls was addressed at the Interstate TRS Advisory Council's (Council) April 2004 and September 2004 meetings. NECA, on behalf of the Council, now requests that the Commission adopt an allocation methodology to determine the portion of such calls that will be considered intrastate, and the portion that will be considered interstate. NECA notes that an allocation methodology has been approved and is currently used for toll free (800) and pay-per-call (900) number calls because providers cannot determine the jurisdictional nature of such calls. In those cases, the share of minutes compensable from the Interstate TRS Fund is based on the relationship of interstate and international TRS minutes to intrastate toll, interstate, and international TRS minutes. Because this allocation is a means of estimating the percentage of 800 and 900 number calls that are interstate, and 800 and 900 number calls are not local calls, only intrastate calls that are toll calls, and not *all* intrastate calls, are included in the denominator of this calculation. NECA requests that a similar interstate allocation factor be calculated and applied to all inbound two-line captioned telephone calls. However, for such calls NECA proposes that the allocation factor be based on the relationship between the number of interstate and international traditional

TRS minutes to the total number of all traditional TRS minutes (*i.e.*, including *all* intrastate minutes, as well as all interstate and international minutes). In other words, although NECA proposes that the same allocation methodology used for 800 and 900 calls also be used to determine an allocation factor for inbound two-line captioned telephone calls, the allocation factor applied would not be the same for 800/900 calls and for inbound two-line captioned telephone calls because the denominator would not be the same. NECA notes that based on this proposed allocation methodology, the allocation factor for the 2004–2005 Fund year (using the traditional TRS data projected for the calendar years 2004 and 2005) would be 10 percent. Pursuant to this methodology and allocation factor, 10% of the two-line inbound captioned telephone minutes would be allocated to the interstate jurisdiction for payment from the Interstate TRS Fund, while the remaining 90% of the two-line inbound captioned telephone minutes would continue to be billed to the intrastate jurisdiction. On December 16, 2004, the *Ultratec Petition* and *NECA Petition* were placed on Public Notice. *Request for Clarification Filed by Ultratec, Inc., Sprint Corporation and Hamilton Relay, Inc. and Petition for Declaratory Ruling Filed by The National Exchange Carrier Association, Inc. Concerning Two-Line Captioned Telephone Voice Carry Over, A Form of Telecommunications Relay Service*, CC Docket No. 98–67, CG Docket No. 03–12, Public Notice (December 16, 2004) (*Two-line Captioned Telephone Public Notice*). Comments were filed by the California Coalition of Agencies Serving the Deaf and Hard of Hearing (California Coalition Comments) (January 6, 2005) and Telecommunications for the Deaf, Inc. (TDI Comments) (January 7, 2005). Ultratec, Inc. (Ultratec) filed reply comments to the NECA Petition on January 18, 2005 (Ultratec Reply Comments). All commenting parties support both petitions.

Discussion

Two-line Captioned Telephone Service as a Type of TRS

The Commission concludes that two-line captioned telephone service is a type of TRS eligible for compensation from the Interstate TRS Fund. As noted above, in the August 2003 *Captioned Telephone Declaratory Ruling* the Commission concluded that one-line captioned telephone is a type of TRS eligible for compensation from the Interstate TRS Fund. The record reflects that two-line captioned telephone

service is simply a variation of captioned telephone service that offers the same functionality while also offering the user additional features, noted above. *Ultratec Petition* at 2–6; see also California Coalition Comments at 1–3; TDI Comments at 1–2. These additional features “including direct inbound dialing and the ability to use call waiting, call forwarding, directly call 911, and have two or more persons on the call at the same time” represent another step forward toward functional equivalency. Therefore, the Commission clarifies that two-line captioned telephone service, like one-line captioned telephone service, is a type of TRS eligible for compensation from the Interstate TRS Fund. In reaching this conclusion, the Commission is mindful that Section 225 obligates the Commission to ensure that interstate and intrastate TRS are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States, and to ensure that the TRS regulations encourage the use of existing technology and do not discourage or impair the development of improved technology. 47 U.S.C. 225 (b)(1); 47 U.S.C. 225 (d)(2). The Commission also notes that no commenters oppose this conclusion.

Compensation from the Interstate TRS Fund

The Commission concludes that the same allocation methodology presently used for 800 and 900 number call minutes should be used for inbound two-line captioned telephone call minutes. In enacting Section 225, Congress provided for the compensation of TRS providers for their costs of providing TRS. See 47 U.S.C. 225(d)(1)(D). The users of TRS cannot be required to pay for the service; see also *Captioned Telephone Declaratory Ruling*. This cost recovery regime distinguishes between interstate and intrastate TRS: the providers of interstate TRS are compensated from the Interstate TRS Fund, and providers of intrastate TRS are compensated from the states. See, e.g., 47 U.S.C. 225(c) and (d)(3); 47 CFR 64.603, 64.604(c)(5). Presently the costs of providing certain types of intrastate TRS are compensated from the Interstate TRS Fund, including VRS and IP Relay. See *Captioned Telephone Declaratory Ruling*. As noted above, however, with inbound two-line captioned telephone calls, there is currently no way for the provider to determine the jurisdictional nature of the call. As a result, the provider cannot determine which calls should be reported and billed to the states, and

which should be reported and billed to the Interstate TRS Fund. In these circumstances, NECA has proposed an allocation methodology by which an interstate allocation factor is calculated and applied to all inbound two-line captioned telephone minutes. NECA notes that the impact of the use of its allocation methodology on the fund would be minimal. *NECA Petition* at 4. NECA states that although captioned telephone minutes are growing, they are not a significant portion of the TRS provider payments (less than 1% of the monthly fund requirements), and that inbound captioned telephone minutes are in turn a small portion of total captioned telephone minutes. No party filed an alternate proposal or an opposition to NECA’s proposal.

The Commission agrees with NECA’s recommendation that the same allocation methodology presently used for 800 and 900 number call minutes should be used for inbound two-line captioned telephone call minutes. Application of this methodology will ensure that the Interstate TRS Fund compensates providers of inbound two-line captioned telephone calls only for such minutes reasonably estimated to be interstate in nature. As a result, the Commission adopts NECA’s proposed methodology and instructs the Interstate TRS Fund Administrator to determine and apply, on an annual basis, an allocation factor for inbound two-line captioned telephone calls that is based on the relationship between interstate and international traditional TRS calls and all intrastate, interstate, and international traditional TRS calls. As with the determination of the allocation factor for 800 and 900 number calls, the Fund Administrator will generally use the providers’ projected minutes of use for traditional TRS. This allocation factor, along with the allocation factor for 800 and 900 number calls, shall be reflected in the Interstate TRS Fund Administrator’s annual filing with the Commission proposing the TRS compensation rates for the upcoming TRS Fund year. Upon release of the Order, NECA shall determine an allocation factor for inbound two-line captioned telephone calls as specified herein and submit it to the Commission. After Public Notice and an opportunity for comments, the Commission will issue an order approving or modifying the proposed factor. Finally, the Commission notes that Ultratec suggests that we monitor the usage data of one-line and two-line captioned telephone service to ensure that any allocation methodology adopted accurately reflects the usage of two-line captioned

telephone service. Ultratec Reply Comments at 4–5. The Commission will do so as part of its general oversight of the regulation and compensation of TRS.

Final Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 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), Public Law Number 104–121, Title II, 110 Statute 857 (1996). The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” 5 U.S.C. 601(6). In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. 5 U.S.C. 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**. 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). 15 U.S.C. 632. Nationwide, there are approximately 1.6 million small organizations. Independent Sector, the New Nonprofit Almanac & Desk Reference (2002).

The Order addresses two petitions concerning the regulation and compensation of captioned telephone service, a form of telecommunications relay service (TRS). As noted in the Order, in August 2003, the Commission concluded that captioned telephone Voice Carry Over (VCO) service is a type of TRS, and that eligible providers of such services are eligible to recover their costs in accordance with Section 225 of the Communications Act. See *Captioned Telephone Declaratory Ruling*. The *Captioned Telephone*

Declaratory Ruling did not address two-line captioned telephone service, and petitioners now seek clarification that this type of captioned telephone service is also a type of TRS eligible for compensation from the Interstate TRS Fund.

As noted in the Order, the record reflects that two-line captioned telephone service is simply a variation of captioned telephone service that offers the same functionality while also offering the user additional features. These additional features represent another step forward toward functional equivalency. Therefore, in the Order the Commission clarifies that two-line captioned telephone service, like one-line captioned telephone service, is a type of TRS eligible for compensation from the Interstate TRS Fund.

The Commission does not believe this clarification will have a significant economic impact; however, in the event that it does, the Commission also notes that there are not a substantial number of small entities that will be affected by our action. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees. 13 CFR 121.201, NAICS code 517110 changed from 513310 in October 2002. According to Census Bureau data for 1997, there were 2,225 firms in this category which operated for the entire year. U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 513310 issued October 2000. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more". Currently, only three providers are providing captioned telephone service and being compensated from the Interstate TRS Fund: CapTel, Inc., Hamilton and Sprint. The Commission expects that only one of the providers noted above may be a small entity under the SBA's small business size standard. In addition, the Interstate Fund Administrator is the only entity that will be required to pay to eligible providers of two-line captioned telephone service the costs of providing interstate service. The Commission will send a copy of the Order, including a

copy of this Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. (5 U.S.C. 605(b)).

Congressional Review Act

The Commission will send a copy of the Order in a report to Congress and the Governmental Accountability Office pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Pursuant to the authority contained in Sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, and 225, this Order is hereby *adopted*.

The Request for Clarification submitted by Ultratec, Inc, Sprint Corporation, and Hamilton Relay, Inc., *is granted* to the extent indicated herein.

The Petition for Declaratory Ruling filed by the National Exchange Carrier Association, Inc. (NECA), on behalf of the Interstate Telecommunications Relay Service Advisory Council, *is granted* to the extent indicated herein.

The Order shall be effective October 14, 2005.

The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center shall send a copy of the Order, including the Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 05-18029 Filed 9-13-05; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03-123; DA 05-2066]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification.

SUMMARY: In this document, the Consumer & Governmental Affairs Bureau (the Bureau) clarifies under delegated authority, that telecommunications relay service (TRS) providers offering free or discount long distance service to TRS consumers as an incentive to use a particular TRS provider's relay service, or as an incentive for a consumer to make more or longer TRS calls, constitutes an

impermissible financial incentive in violation of the *Financial Incentives Declaratory Ruling*. TRS providers in violation of the *Financial Incentives Declaratory Ruling* will be ineligible for compensation from the Interstate TRS Fund.

DATES: Effective January 12, 2006.

FOR FURTHER INFORMATION CONTACT:

Thomas Chandler, Consumer & Governmental Affairs Bureau, (202) 418-1475 (voice), (202) 418-0597 (TTY), or e-mail Thomas.Chandler@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of Commission document DA 05-2066, adopted July 27, 2005, released July 28, in CG Docket No. 03-123. This document does not contain new or modified information collections requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, 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, *sec* 44 U.S.C. 3506(c)(4). Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI at their Web site: <http://www.bcpweb.com> or call 1-800-378-3160. 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 or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb.dro>.

Synopsis

On January 26, 2005, the Bureau, under delegated authority, issued the *Financial Incentives Declaratory Ruling* concluding that any program that offers any kind of financial incentive or reward for a consumer to place a TRS call, including minimum usage arrangements or programs (whether or not tied to the acceptance of equipment), violates section 225 of the Communications Act. *See Telecommunications Relay Services and*