

D. Description of Projected Reporting, Record Keeping and Other Compliance Requirements

51. The rule adopted in the Report and Order will require no additional reporting, record keeping, and other compliance requirements.

E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

52. 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.

53. Because the Report and Order imposes no compliance or reporting requirements on any entity, only the last of the foregoing alternatives is material. The Report and Order takes note in paragraph 13 above that nothing in the record suggests that small carriers are particularly disadvantaged by exclusivity prohibitions, or that the cost/benefit analysis for consumers differs when small carriers are involved.

F. Report to Congress

54. The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Final Paperwork Reduction Act of 1995 Analysis

This document does not contain new or modified 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, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission will send a copy of this Report and Order and Order on Remand in a report to be sent to

Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

55. Accordingly, *It is ordered*, pursuant to sections 1, 2(a), 4(j), 4(i), 201, 202, 205, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 154(j), 201, 202, 205, and 405, and pursuant to section 706 of the Telecommunications Act of 1996, 47 U.S.C. 157 nt., that the Report and Order in WT Docket No. 99-217 is adopted, and that Part 64 of the Commission's Rules, 47 CFR part 64, is amended as set forth in Appendix B of the order. It is the Commission's intention in adopting these rule changes that, if any provision of the rules is held invalid by any court of competent jurisdiction, the remaining provisions shall remain in effect to the fullest extent permitted by law.

56. *It is further ordered* that the rules and the requirements of this Report and Order *shall become effective* July 14, 2008.

57. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, telecommunications, telephone.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR 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. 151, 152(a), 154(i), 154(j), 201, 202, 205, 405, and 157 nt.

■ 2. Section 64.2500 is revised to read as follows:

§ 64.2500 Prohibited agreements.

(a) No common carrier shall enter into any contract, written or oral, that would in any way restrict the right of any commercial multiunit premises owner, or any agent or representative thereof, to permit any other common carrier to

access and serve commercial tenants on that premises.

(b) No common carrier shall enter into or enforce any contract, written or oral, that would in any way restrict the right of any residential multiunit premises owner, or any agent or representative thereof, to permit any other common carrier to access and serve residential tenants on that premises.

■ 2. Section 64.2501 is revised to read as follows:

§ 64.2501 Scope of limitation.

For the purposes of this subpart, a multiunit premises is any contiguous area under common ownership or control that contains two or more distinct units. A commercial multiunit premises is any multiunit premises that is predominantly used for non-residential purposes, including for-profit, non-profit, and governmental uses. A residential multiunit premises is any multiunit premises that is predominantly used for residential purposes.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 04-36; WT Docket No. 96-198; CG Docket No. 03-123 and CC Docket No. 92-105; DA 08-821]

IP-Enabled Services; Implementation of Sections 255 and 251(a)(2) of The Communications Act of 1934, as Enacted by The Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons With Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities; the Use of N11 Codes and Other Abbreviated Dialing Arrangements

AGENCY: Federal Communications Commission.

ACTION: Final rule; extension of waiver.

SUMMARY: In this document, the Consumer and Governmental Affairs Bureau (Bureau) grants interconnected voice over Internet Protocol (VoIP) providers an extension of time to route 711-dialed calls to an appropriate telecommunications relay service (TRS) center in the context of 711-dialed calls in which the calling party's telephone

number may not reflect his or her geographic location. The Bureau also grants traditional TRS providers (those providing relay service via the public switched telephone network (PSTN) and a text telephone (TTY)) an extension of time to fulfill their obligation to implement a system to automatically and immediately call an appropriate Public Safety Answering Point (PSAP) when receiving an emergency 711-dialed call via an interconnected VoIP service. The Bureau takes this action based on information in the record reflecting the significant technical challenges presented by this requirement and on the Bureau's finding that the delivery of the inbound leg of a 711-dialed call by an interconnected VoIP provider to the appropriate relay center is a predicate to the delivery by the relay center of the outbound leg of such a call to an appropriate PSAP.

DATES: Document DA 08-821 became effective on April 4, 2008. Interconnected VoIP providers are granted a waiver, until March 31, 2009, of the requirement to route 711-dialed calls to an appropriate relay center, but only in the context of 711-dialed calls in which the calling party is using a non-geographically relevant telephone number or a nomadic interconnected VoIP service. Traditional TRS Providers are granted an extension of time, until March 31, 2009, to implement a system to automatically and immediately call an appropriate PSAP when receiving an emergency 711-dialed call via an interconnected VoIP service.

FOR FURTHER INFORMATION CONTACT: Lisa Boehley, Consumer and Governmental Affairs Bureau at (202) 418-7395 (voice), or e-mail: Lisa.Boehley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Order, DA 08-821, adopted and released April 4, 2008. The full text of DA 08-821, 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. DA 08-821 and copies of any subsequently filed documents in this matter also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at its Web site, <http://www.bcpweb.com>, or by calling 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 and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). DA 08-821 also can be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.html#orders>.

Synopsis

On June 15, 2007, the Commission released IP-Enabled Services; Implementation of sections 255 and 251(a)(2) of The Communications Act of 1934, as Enacted by The Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; the Use of N11 Codes and Other Abbreviated Dialing Arrangements, WC Docket No. 04-36, WT Docket No. 96-198, CG Docket No. 03-123 and CC Docket No. 92-105, Report and Order, 22 FCC Rcd 11275 (2007) (*2007 VoIP TRS Order*), published at 72 FR 43546, August 6, 2007. In the *2007 VoIP TRS Order*, which became effective October 5, 2007, the Commission extended the TRS requirements contained in part 64 of the Commission's rules to providers of interconnected VoIP services. Among the requirements extended to interconnected VoIP providers was the obligation to offer 711 abbreviated dialing access to traditional TRS via a voice telephone or a text telephone (TTY). Following release of the *2007 VoIP TRS Order*, several parties filed petitions for waiver raising issues concerning (1) the ability of interconnected VoIP providers to route the inbound leg of a 711-dialed call to an appropriate TRS provider, particularly when the caller's telephone number does not correspond to the caller's geographic location, and (2) the ability of TRS providers that receive, via an interconnected VoIP service, a 711-dialed call concerning an emergency to determine an appropriate PSAP to call.

In IP-Enabled Services; Implementation of sections 255 and 251(a)(2) of The Communications Act of 1934, as Enacted by The Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; the Use of N11 Codes and

Other Abbreviated Dialing Arrangements, WC Docket No. 04-36, WT Docket No. 96-198, CG Docket No. 03-123 and CC Docket No. 92-105, Order and Public Notice Seeking Comment, 22 FCC Rcd 18319 (Cons. Govt. Aff. Bur. 2007) (*October 2007 Order and Notice*), published at 72 FR 61813 and 73 FR 61882, November 1, 2007, the Bureau clarified the 711-dialing requirement adopted in the *2007 VoIP TRS Order* and granted interconnected VoIP providers a six-month waiver of the requirement to route the inbound leg of a 711-dialed call to an "appropriate TRS provider." The Bureau also granted traditional TRS providers a six-month waiver of their obligation to implement a system to automatically and immediately call an appropriate PSAP when receiving an emergency 711-dialed call via an interconnected VoIP service.

In the *October 2007 Order and Notice*, the Bureau sought comment on "technical solutions" that would enable interconnected VoIP providers to route 711 calls to "an appropriate relay center," as clarified in the *October 2007 Order and Notice*, and that would enable relay centers "to identify the appropriate PSAP to call" when receiving an emergency call via 711 and an interconnected VoIP service.

In DA 08-821, the Bureau extends and modifies the current waivers, as they apply to interconnected VoIP providers and traditional TRS providers. First, the Bureau finds good cause to grant interconnected VoIP providers an extension of time, until March 31, 2009, to route 711-dialed calls to an appropriate relay center, but only in the context of 711-dialed calls in which the calling party's telephone number may not reflect his or her geographic location (because the caller is using a "non-geographically relevant" telephone number or a "nomadic" interconnected VoIP service). The record demonstrates that the technical difficulties associated with identifying the geographic location of a caller using a nomadic interconnected VoIP service or a non-geographically relevant telephone number when dialing a 711 call will not be resolved by the time the current waiver expires after April 5, 2008. Taking into account the progress providers have made to date, and in view of the extension petitions filed by Qwest Communications Corporation and Verizon, which detail the timetable for completion of developmental work that is, according to these providers, currently underway, the Bureau finds that providing interconnected VoIP providers this additional time to bring

themselves into compliance is warranted.

The Bureau also, however, does not think additional time beyond March 31, 2009 is necessary, and therefore denies the request of Verizon to the extent it seeks to extend the current waiver for two years. In declining to grant a longer extension, the Bureau also agrees with the Coalition of Organizations for Accessible Technology that, in assessing the necessity of a waiver in this context, the Commission should proceed cautiously, insofar as granting an extension may postpone the ability of persons with speech and hearing disabilities to access emergency services via TRS. For this reason, the Bureau limits the duration of the waiver and, as discussed above, limits the scope of the waiver to the routing of 711-dialed calls to an appropriate relay center where the calling party's telephone number may not reflect his or her geographic location.

The Bureau emphasizes the limited scope of this waiver and notes that, upon expiration of the prior waiver (after April 5, 2008), interconnected VoIP providers are required to route to the appropriate relay center (as defined in the *October 2007 Order and Notice*) those 711-dialed calls using a service in which the calling party's telephone number does reflect his or her geographic location. Further, notwithstanding the limited relief provided in DA 08–821, interconnected VoIP providers are nevertheless required to continue to accept nomadic and non-geographically relevant 711-dialed calls and route them to a relay center, even if it is not necessarily to the “appropriate relay center.” In addition, during the pendency of this waiver period, interconnected VoIP providers must continue to take steps to remind persons with speech or hearing disabilities to call 911 directly in the case of an emergency rather than making a 711-dialed TRS call.

Regarding the obligation of traditional TRS providers to handle emergency calls in accordance with the Commission's rules, the Bureau also finds good cause to extend, until March 31, 2009, the current waiver of 47 CFR 64.604(a)(4), as applied to TRS providers' handling and routing of

emergency 711-dialed calls placed via TTY by interconnected VoIP customers. Section 64.604(a)(4) requires TRS providers to use a system for incoming emergency calls that “automatically and immediately” routes the outbound leg of a TRS call to an appropriate PSAP. The Bureau's reasons for extending the waiver for TRS providers are three-fold. First, the record reflects that the routing of the outbound leg of a VoIP-originated, 711-dialed call to an appropriate PSAP by a TRS provider continues to present significant technical and operational challenges. Second, to the extent that interconnected VoIP providers are unable to consistently deliver the inbound leg of a 711-dialed call to the appropriate relay center, particularly when the caller's phone number does not reflect the caller's geographic location, the Bureau agrees with commenters that the successful accomplishment of this task is a predicate to the delivery by the relay provider of the outbound leg of such a call to an appropriate PSAP. In particular, until interconnected VoIP providers are technically able to route a “nomadic” 711-dialed call to the “appropriate” TRS provider (*i.e.*, the TRS provider serving the state where the calling party is located or corresponding to the caller's last registered address), the TRS provider that receives such a call in error may contact a PSAP that corresponds to the caller's telephone number, but not the caller's actual location. Third, as noted by commenters, addressing these challenges will require a joint effort and the collaboration of TRS providers, interconnected VoIP providers and their vendors, PSAPs, the emergency services community, and the disability community. Although the Bureau applauds the steps undertaken thus far by various stakeholders, the record reflects that further collaboration is needed. For these reasons, the Bureau grants TRS providers an extension of the current waiver of the emergency call handling requirement until March 31, 2009.

During the period of this waiver, pursuant to § 64.604(a)(4), the Bureau continues to require a TRS provider that cannot automatically and immediately route to an appropriate PSAP the

outbound leg of an emergency 711 call placed via TTY by an interconnected VoIP user to implement a manual system for doing so, to the extent feasible, that accomplishes the proper routing of emergency 711 calls as efficiently as possible. Further, during this period, TRS providers are instructed to continue to take steps to remind individuals with hearing or speech disabilities to dial 911 directly (as a text-to-text, TTY-to-TTY call) in an emergency, whether using a PSTN-based service or interconnected VoIP service, rather than making a TRS call via 711 in an emergency. The Bureau also expects TRS providers will continue to collaborate with industry stakeholders in order to address any remaining issues, such that a further extension of this waiver will be unnecessary.

Ordering Clauses

Pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, and 225, and §§ 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR 0.141, 0.316 and 1.3, DA 08–821 is adopted.

Interconnected VoIP providers are granted a waiver, until March 31, 2009, of the requirement to route 711-dialed calls to an appropriate relay center, but only in the context of 711-dialed calls in which the calling party is using a non-geographically relevant telephone number or a nomadic interconnected VoIP service.

State TRS Providers are granted an extension of time, until March 31, 2009, to implement a system, as set forth in 47 CFR 64.604(a)(4), to automatically and immediately call an appropriate PSAP when receiving an emergency 711-dialed call via an interconnected VoIP service.

The petitions filed by Qwest Communications Corporation and Verizon are granted to the extent described in DA 08–821.

Federal Communications Commission.

Pam Slipakoff,

Chief of Staff, Consumer and Governmental Affairs Bureau.

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