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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

SEP 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Telecommunications Relay Services)
and Speech-to-Speech Services for)
Individuals with Hearing and Speech)
Disabilities)

CC Docket No. 98-67

REPLY

Interstate TRS Advisory Council
c/o NECA TRS Administration
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September 14, 1998

**Interstate TRS Advisory Council
Reply -- September 14, 1998**

CC Docket No. 98-67

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ATTACHMENT A -- List of Commenters

SUMMARY

In its Reply, the interstate Telecommunications Relay Services (TRS) Advisory Council addresses issues raised by commenting parties regarding the role of the Council, nationwide advertising of the availability of TRS service, the Commission's proposal to require notification by the states if substantive changes are made in the state TRS program within 60 days of the effective date of the change, and the need for a Further Notice of Proposed Rulemaking (FNPRM) to establish standards for any new services the Commission determines are appropriate for recovery from the Interstate TRS Fund.

The Council acknowledges the comments made primarily by consumer organizations seeking to invest greater authority and responsibility in this committee or establishing a new committee to address quality of service issues and suggests that rule changes would be required to expand the Council's role. If the Commission determines that a nationwide outreach program would further national policy goals, it may be appropriate to fund such a program from the interstate TRS fund, and have the Council coordinate such an effort. Finally, the Council supports the Commission's proposal to require a timely public display by a state that its TRS program continues to meet the mandatory minimum standards in the event of a substantive change to the program, as well as the Commission's definition of substantive change. The Council also suggests that an FNPRM is needed to address certain issues that arose from this proceeding.

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REPLY

Pursuant to the Commission's May 20, 1998 *Notice of Proposed Rule Making* (NPRM) in the above-captioned proceeding,¹ the interstate Telecommunications Relay Services (TRS) Advisory Council (Council), hereby submits the following reply to Comments submitted on July 20, 1998.²

I. INTRODUCTION

The Commission's May 20, 1998 NPRM proposes rule amendments that it believes will enhance the quality of TRS and broaden the potential universe of TRS users, improve the overall effectiveness of the TRS program, and improve the Commission's oversight of certified state programs and its ability to compel compliance with the minimum Federal TRS standards.³

¹ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, *Notice of Proposed Rulemaking*, CC Docket No. 98-67, FCC 98-90, (rel. May 20, 1998) (NPRM).

² 50 Parties submitted comments in this proceeding on July 20, 1998. A list of these commenters is attached as Attachment A.

³ NPRM at ¶¶ 2-4.

II. BACKGROUND

The TRS Advisory Council was established in 1993 under Commission rule, to provide guidance to the administrator (currently the National Exchange Carrier Association, Inc., (NECA)) on TRS cost recovery matters.⁴ The Council is a non-paid voluntary advisory committee comprised of persons from the hearing and speech disability community, TRS users (voice and text telephone), interstate service providers, state representatives, state relay administrators and TRS providers. Members of the Council have been selected to serve by their individual constituent groups. As the advisory body to the administrator of the interstate TRS fund, the Council brings a valuable cross-section of perspectives to TRS cost recovery issues.

III. DISCUSSION

These Reply Comments address issues raised by commenting parties regarding the role of the Council, nationwide advertising of the availability of TRS service, the Commission's proposal to require notification by the states if substantive changes are made in the state TRS program within 60 days of the effective date of the change, and the need for a Further Notice of Proposed Rulemaking (FNPRM) to establish standards for any new services the Commission determines are appropriate for recovery from the interstate TRS fund.

A. Role of the Council

Several commenters have suggested that the Commission either expand the role of the Council

⁴ See 47 C.F.R. §64.604(c)(4)(iii)(H).

or in the alternative, establish a separate national body to address issues related to the quality of TRS service.⁵

In its comments in the Notice of Inquiry (NOI) preceding the current NPRM, the interstate TRS Advisory Council offered its assistance to the Commission in its review of TRS. The Council stated in that proceeding that

the Council, working with the administrator, is well positioned to provide assistance in whatever way the Commission deems appropriate, (*e.g.*, gathering and assimilating data, review of proposed standards revisions, *etc.*) The Council represents a cross-section of the TRS industry and brings together not only those who provide and pay for interstate TRS, but those who use, regulate, and administer state programs around the country. The group has valuable experience in dealing with the complex issues related to TRS.⁶

Over the past five years, the Council has assisted the administrator in formulating procedures to ensure consistency and accuracy in the data provided to the administrator by TRS providers, thereby ensuring that compensation for the providers would be equitable and in compliance with Commission rules.

The Council acknowledges the comments made primarily by consumer organizations seeking to invest greater authority and responsibility in this committee or a new one with particular attention to quality of service issues for both intra and interstate TRS. Current rules do not appear to permit such a role.⁷ The TRS Advisory Council takes no position on expanding its role but wishes to point

⁵ See, *e.g.*, National Association of the Deaf and the Consumer Action Network (filing jointly), Comments at 28; Self Help for Hard of Hearing People, Inc., Comments at 11-12.

⁶ TRS Advisory Council, Telecommunications Relay Service, the Americans with Disabilities Act of 1990, and the Telecommunications Act of 1996, *Notice of Inquiry*, Comments at 3, filed March 17, 1997.

⁷ 47 C.F.R. § 64.604(c)(4)(iii)(H).

out that, if the Commission chooses to expand the Council's role, a change in rules will be required.

B. Nationwide Advertising

The State of Maryland in its comments stated that

[it] believes that a coordinated national advertising campaign should be implemented. Authorizing NECA to establish guidelines and a procedure to fund a coordinated national television campaign would surely broaden the potential universe of TRS users. Thus, meeting one of the two main objectives of this NPRM. This single event could truly enhance the lives of millions of Americans.⁸

The State of Maryland further suggests that the Federal Universal Service Fund be used to fund an annual advertising campaign of generic TRS, stating that "millions of Americans who are still unaware of TRS could benefit from this effort."⁹

The Council believes that while carriers have complied with the provisions of the Commission's rules governing public awareness¹⁰, the level of consumer awareness continues to be low. This is particularly true for business customers, who often refuse to accept TRS calls or hang-up on TRS users. The Council agrees that a coordinated national effort may increase TRS awareness of individuals and businesses. If the Commission determines that a nationwide outreach program would further national policy goals, it could consider funding such a program from the interstate TRS fund, and have the TRS Advisory Council coordinate such an effort.

⁸ State of Maryland Department of Management and Budget, Comments at 13.

⁹ *Id.*

¹⁰ 47 C.F.R. § 64.604(c)(2).

C. Notification of Changes by the States

The Commission proposes in the NPRM that states be required to notify the Commission of substantive changes in their state TRS program, in order to increase the effectiveness of the Commission's certification process.¹¹ The Commission further proposes that states must document that the program continues to meet the Commission's mandatory minimum standards and file this documentation with the Commission within 60 days of the effective date of the change.¹² The Commission also notes in the NPRM that it may, upon its own motion, require a certified state program to submit documentation demonstrating ongoing compliance with the Commission's minimum standards.¹³

Section 64 of the Commission's rules limits participation in the interstate TRS fund to those states and providers who have been certified by the Commission. Section 64.604 states that, "the administrator shall make payments only to eligible TRS providers operating pursuant to the mandatory minimum standards as required in § 64.604."¹⁴ Given this requirement, the Council supports the Commission's proposal to require a timely public display by a state that its TRS program continues to meet the mandatory minimum standards in the event of a substantive change to the program. The Council also supports the Commission's conclusion that substantive changes include but not be limited to, the replacement of the state's TRS vendor, the opening of the state's TRS program to allow multiple vendors, and the changes in the underlying state rules governing the TRS

¹¹ NPRM at ¶ 75.

¹² *Id.*

¹³ *Id.*

¹⁴ 47 C.F.R. § 64.604(c)(4)(iii)(E).

program involving any of the mandatory minimum standards for TRS.¹⁵

D. Further Notice of Proposed Rulemaking

The TRS Advisory Council believes that an FNPRM may be warranted to address several issues stemming from the Commission's ultimate decision in this proceeding, *e.g.*, should the Commission uphold its tentative conclusion that "improved" TRS services such as speech-to-speech (STS) and video relay interpreting (VRI) be recoverable from the interstate Fund, specific standards for the services need to be established. An FNPRM would be the next logical step to establish minimum standards for these services, *e.g.*, are the services to be provided on a twenty-four hours, seven days a week basis; speed of answer requirements different from the existing program; *etc.* Further, the Commission should determine whether it will compensate a VRI provider only for the costs of providing telecommunications services in the event that the VRI provider also provides interpreter services through a video hook-up.¹⁶ In addition to establishing standards for the new services, the Commission must also determine the process for certifying and verifying that the improved TRS service standards are being met.

Finally, the Council believes that there are three additional items that could be included in an FNPRM. Since the inception of the interstate fund in 1993, there has been an ongoing debate as to the meaning of the term "functional equivalency". The intent of Title IV of the Americans with

¹⁵ NPRM at ¶ 75.

¹⁶ With the VRI technology, an interstate call could be placed from a meeting room that has video capability and where the need for sign language interpreters is required, to the VRI center. The interpreters at the VRI center could then serve as sign language interpreters for the meeting, in lieu of having interpreters on site. Without specificity in the standards for VRI, there does not appear to be a prohibition for recovering the costs of this scenario from the interstate TRS fund.

Disabilities Act (ADA) is to provide telecommunications services to individuals with hearing or speech impairments that is “functionally equivalent” to those provided to people without such disabilities.¹⁷ However, a definition of what actually constitutes true “functional equivalency” has never been provided; the Commission should define this term. Secondly, a clarification is required as to the difference between “improved” TRS and “enhanced” TRS. If “improved” TRS is “any form of TRS that goes beyond the current TTY-to-speech and speech-to-TTY model,”¹⁸ how does it differ from “enhanced” TRS? Lastly, the Council believes that the compensation mechanism for providers should be reviewed, *e.g.*, given the improvement in providers’ ability to measure calls since the interstate fund and initial rules were established, it may be more appropriate to require providers to report minutes for compensation purposes at less than “rounded” full minute increments.

IV. CONCLUSION

For the reasons stated herein, the interstate TRS Advisory Council acknowledges the comments made primarily by consumer organizations seeking to invest greater authority and responsibility in this committee or establishing a new committee to address quality of service issues and suggests that rule changes would be required to expand the Council’s role. If the Commission determines that a nationwide outreach program would further national policy goals, it may be more appropriate to fund such a program from the interstate TRS fund, and have the Council coordinate such an effort. Finally, the Council supports the Commission’s proposal to require a timely public

¹⁷ Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, *Report and Order and Request for Comments*, 6 FCC Rcd 4657 (1991).

¹⁸ NPRM at ¶ 10.

display by a state that its TRS program continues to meet the mandatory minimum standards in the event of a substantive change to the program, as well as the Commissions's definition of substantive change. The interstate TRS Advisory Council also suggests that an FNPRM is needed to address certain issues that arose from this proceeding.

Respectfully submitted,

Interstate TRS Advisory Council

By: 
John A. Ricker
NECA Director - TRS Administration
At the Direction of and On Behalf of
The Interstate TRS Advisory Council

September 14, 1998

List of Commenters

- 1 Advisory Commission on State Emergency Communications
- 2 American Speech-Language-Hearing Association
- 3 Ameritech
- 4 AT&T Corp.
- 5 Bell Atlantic
- 6 Sarah Blackstone, Ph.D.
- 7 Public Utilities Commission State of California
- 8 Cellular Telecommunications Industry Association
- 9 David Coco
- 10 Sally F. Davis
- 11 Augusta Goldstein
- 12 Stephen A. Gregory, Member, Interstate Relay Advisory Council
- 13 GTE Service Corporation
- 14 Idaho Telecommunications Relay Service
- 15 Idaho Public Utilities Commission
- 16 Kansas Relay Service, Inc.
- 17 Maryland Department of Budget and Management
- 18 National Association of the Deaf
- 19 Massachusetts Assistive Technology Partnership
- 20 MCI
- 21 National Catholic Office for the Deaf
- 22 The State Education Department, The University of the State of New York
- 23 Northern Virginia Resource Center for Deaf and Hard of Hearing Persons
- 24 Pennsylvania Public Utility Commission
- 25 President's Committee on Employment of People with Disabilities
- 26 Self Help for Hard of Hearing People, Inc.
- 27 Puerto Rico Telecommunications Regulatory Board)
- 28 Bob Segalman, Ph.D.
- 29 Alfred Sonnenstrahl, Sonny Access Consulting
- 30 Southwestern Bell Telephone Company, Pacific Bell, Nevada Bell
- 31 Sprint Corporation
- 32 Telecommunications for the Deaf, Inc.
- 33 Ultratec, Inc.
- 34 United Cerebral Palsy Associations
- 35 University Legal Services, Protection and Advocacy Agency for the District of Columbia
- 36 USA Deaf Sports Federation
- 37 Association of Tech. Act Project
- 38 Loretta Fairman
- 39 Donna Shipley

- 40 Leo LaPointe
- 41 Bruce Fleming
- 42 Rebecca Ladew
- 43 Ann Ratcliff
- 44 Barry Gurdin
- 45 Florida Public Services Commission
- 46 Tom Connors
- 47 J. Roderick Macinnes
- 48 Access to Independence
- 49 Richard Muscat, Advisory Commission
- 50 Pat Wood, Texas Public Utilities Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments was served this 14th day of September 1998, by mailing copies thereof by United States Mail, first class postage paid or by hand delivery, to the persons listed below.

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