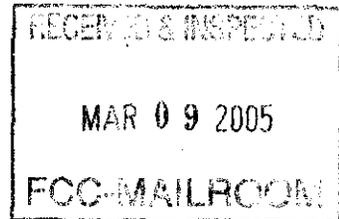


Before the
Federal Communications Commission
Washington, D.C. 20554



In the Matter of)) Provision of Improved Telecommunications Relay) Services and Speech-to-Speech Services for) Individuals with Hearing and Speech Disabilities)))))	CC Docket No. 98-67
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Order on Reconsideration

Adopted: March 1, 2005

Released: March 9, 2005

By the Commission:

I. INTRODUCTION

1. By this *Order on Reconsideration*, the Commission grants petitions filed by Sprint Corporation (Sprint)¹ and WorldCom, Inc. (MCI)² seeking reconsideration of the Commission's March 13, 2003, *IP Relay Reconsideration Order*.³ This matter derives from the April 2002 *IP Relay Declaratory Ruling & FNPRM*,⁴ which recognized IP Relay as a form of telecommunications relay service (TRS), authorized compensation for IP Relay providers from the Interstate TRS Fund, and waived certain mandatory minimum standards as they apply to the provision of IP Relay.⁵ The *IP Relay Declaratory Ruling & FNPRM* did not, however, waive the requirements to provide hearing carry over (HCO)⁶ and pay-per-call (900 number) services. Those requirements were subsequently waived in the *IP*

¹ Sprint, *Petition for Limited Reconsideration*, CC Docket No. 98-67, filed April 24, 2003 (*Sprint Petition*).

² WorldCom, Inc. d/b/a MCI, *Petition for Clarification and/or Reconsideration*, CC Docket No. 98-67, filed May 16, 2003 (*MCI Petition*). We refer to WorldCom, Inc. throughout this order as MCI.

³ *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order on Reconsideration, CC Docket No. 98-67, FCC 03-46, 18 FCC Rcd 4761 (March 13, 2003) (*IP Relay Reconsideration Order*).

⁴ *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC 02-121, 17 FCC Rcd 7779 (April 22, 2002) (*IP Relay Declaratory Ruling & FNPRM*).

⁵ For general background discussion on TRS, IP Relay, and the Interstate TRS Fund, see, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, CC Docket Nos. 90-571 & 98-67, CG Docket No. 03-123, FCC 04-137, 19 FCC Rcd 12475 at ¶¶ 1-13 (June 30, 2004) (*2004 TRS Order*).

⁶ HCO is "[a] form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the [communications assistant] CA speaks the text as typed by the person with the speech disability. The CA does not type any conversation." 47 C.F.R. § 64.601(8); see also 47 C.F.R. § 64.601(7) (defining "communications assistant" or "CA").

Relay Reconsideration Order, but that order denied Sprint's request that it be compensated for its costs of providing IP Relay prior to the date of that order (*i.e.*, prior to the waiver of the HCO and pay-per-call requirements). Sprint and MCI now seek further reconsideration of the *IP Relay Reconsideration Order* to the extent it denied Sprint's request for compensation from the Interstate TRS Fund for its provision of IP Relay services prior to the release date of that order (*i.e.*, from July 2002 to March 2003).

II. BACKGROUND

A. Prior Proceedings

2. *The IP Relay Declaratory Ruling & FNPRM*. On April 22, 2002, the Commission released the *IP Relay Declaratory Ruling & FNPRM*,⁷ finding that IP Relay is a form of TRS and that on an interim basis the cost of providing all IP Relay calls could be compensated from the Interstate TRS Fund.⁸ The Commission also waived for IP Relay providers several of the mandatory minimum standards applicable to TRS,⁹ either because those standards were devised for PSTN-based TRS and therefore were inapplicable to an Internet-based service, or in order to help this new service develop.¹⁰ The Commission waived for one year the TRS mandatory minimum standards regarding emergency call handling and the provision of Voice Carry Over (VCO) and Speech-to-Speech (STS) calls,¹¹ and waived permanently the requirement that providers offer equal access to interexchange carriers.¹² In addressing these waivers and the applicability of the TRS mandatory minimum standards, the Commission explained that “[i]n order to be certified and eligible for reimbursement, IP Relay must meet [the TRS mandatory minimum standards], or request and receive waivers of the standards.”¹³

3. The Commission did not waive, however, the mandatory minimum standard requiring IP Relay providers to provide hearing carry over (HCO) calls. It noted that MCI asserted that it could

⁷ The genesis of the IP Relay ruling was a Petition for Clarification filed by WorldCom, Inc. (MCI) on December 22, 2000, seeking clarification that its IP Relay service was eligible for compensation from the Interstate TRS Fund. We sought comment on the petition pursuant to a Public Notice released on June 29, 2001. *Consumer Information Bureau Seeks Additional Comment on the Provision of Improved Telecommunications Relay Services*, Public Notice, CC Docket No. 98-67, DA 01-1555, 16 FCC Rcd 13100 (June 29, 2001) (*2001 IP Relay Public Notice*). MCI had been providing IP Relay service since November 2000, but was not being compensated from the Interstate TRS Fund for doing so. *Id.* at 2.

⁸ The Commission explained that because with IP Relay the communication between the CA and the text user is accomplished via the Internet, there is no automatic way to determine the location of the party using the Internet to communicate with the TRS facility. This is because Internet addresses have no geographic correlates, and there is currently no Internet address identifier comparable to the Automatic Number Identification (ANI) in the PSTN that can automatically give the location of the Internet user. For this reason, the Commission authorized compensation for all IP Relay calls, whether intrastate or interstate, from the Interstate TRS Fund on an interim basis, until a method of determining whether IP Relay calls were intrastate or interstate could be devised. *See IP Relay Declaratory Ruling & FNPRM* at ¶¶ 20-22.

⁹ *See generally* 47 C.F.R. § 64.604(a)-(b).

¹⁰ *See IP Relay Declaratory Ruling & FNPRM* at ¶¶ 27-35.

¹¹ VCO is “[a] form of TRS where the person with the hearing disability is able to speak directly to the other end user. The CA types the response back to the person with the hearing disability. The CA does not voice the conversation.” 47 C.F.R. § 64.601(18). STS is a “telecommunications relay service that allows people 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 C.F.R. § 64.601(12).

¹² *See IP Relay Declaratory Ruling & FNPRM* at ¶¶ 30-32.

¹³ *Id.* at ¶ 33.

provide VCO, HCO, and STS through IP Relay “provided that the customer has the appropriate customer premises equipment,”¹⁴ and stated that it “s[aw] no reason why IP Relay cannot be used for the text leg of an HCO call” (i.e., the leg of the call from the HCO user to the CA).¹⁵ The Commission also declined to waive the requirement that IP Relay providers accommodate pay-per-call (900) services.¹⁶ The Commission stated that “[i]n cases where the pay-per-call service requires the use of a credit card, the CA can pass along credit card information provided by the customer,” and that “[i]n cases of pay-per-call services that are billed by the minute, IP Relay will be able to provide the caller’s telephone number to the pay-per-call service provider for billing.”¹⁷

4. *The Providers Begin Offering IP Relay.* Shortly after the release of the *IP Relay Declaratory Ruling & FNPRM*, three providers offered IP Relay service. MCI, which, as we have noted, had been providing IP Relay prior to the release of the *IP Relay Declaratory Ruling & FNPRM*, continued to provide IP Relay service after the release date of the order (April 22, 2002).¹⁸ It believed that it was providing the service in compliance with all the applicable TRS mandatory minimum standards, and received compensation from the Interstate TRS Fund beginning in April 2002.¹⁹ AT&T Corp. (AT&T) also provided IP Relay service and was compensated for doing so beginning in June 2002.

5. Sprint provided IP Relay after release of the *IP Relay Declaratory Ruling & FNPRM* and reported minutes to NECA for the provision of the service beginning in July 2002.²⁰ Sprint acknowledged, however, that it could not provide one-line HCO or pay-per-call service; as a result,

¹⁴ *Id.* at ¶ 32. In its comments, MCI stated that “IP Relay is capable of handling services such as HCO, VCO, STS, and VRS, provided the user’s computer is equipped with a speaker[], a microphone, a sound card, a video card, or a camera. ... The quality of these relay services in an IP context depends heavily on the quality of the above-mentioned computer equipment.” WorldCom, Inc. d/b/a MCI Comments. at 7 (July 30, 2001). We note that Sprint, in its comments, stated only that HCO, VCO, and STS “cannot, at the present time, be offered via IP Relay because of the technological limitations associated with modem transport.” Sprint Comments at 4 (July 31, 2001). AT&T suggested in its comments that IP Relay could not be used for VCO or HCO, but that it was working on enhancements that might allow for these functionalities in the future. AT&T Comments at 11 (July 30, 2001).

¹⁵ *Id.* at ¶ 32. We note that there is a form of HCO called two-line HCO where the leg of the call from the person with a speech disability to the CA is carried on one telephone line or other access pathway, and the voice response from the called party is carried via a second line directly to the person with the speech disability. In other words, one line is used for hearing (the CA does not type the words of the called party) and the other line is used by the HCO user to transmit text on the TTY, which is then read to the other party by the CA. Two-line HCO is important because, e.g., with one-line HCO there is no interrupt capability. See generally *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, CC Docket No. 98-67, CG Docket No. 03-123, FCC 03-112, 18 FCC Rcd 12379 at ¶¶ 28-30 (June 17, 2003) (*Second Improved TRS Order*).

¹⁶ *Id.* at ¶ 34.

¹⁷ *Id.* In its comments, Sprint asserted that “[t]he provision of pay-per-call services should not be required since there is no way to accurately bill the end user for such calls.” Sprint Comments at 5 (July 31, 2001). MCI, in its reply comments and in response to Sprint’s comments, stated: “Sprint proposes exempting providers of IP-Relay service from the Commission’s requirement to connect relay users to pay per call services because it would be impossible to accurately bill the user for such calls. It is true that it would be impossible for the pay-per-call provider to bill to the caller’s ANI if the call was placed via IP-Relay, but it would be possible for pay-per-call providers to use other billing arrangements, such as credit cards, to bill for their services placed via IP Relay.” WorldCom, Inc. d/b/a MCI Reply Comments at 7 (August 20, 2001).

¹⁸ See *IP Relay Declaratory Ruling & FNPRM* at ¶ 57 (permitting compensation of eligible IP Relay providers as of the date of release of the *IP Relay Declaratory Ruling & FNPRM*, which was April 22, 2002).

¹⁹ WorldCom, Inc. d/b/a MCI Reply Comments at iii (July 1, 2003).

²⁰ See Sprint *Ex Parte Letter* dated October 31, 2002.

NECA informed Sprint that it could not be compensated for the IP Relay minutes Sprint had provided and was currently providing.²¹ Sprint, therefore, did not begin receiving compensation for the provision of IP Relay until March 2003, after release of the *IP Relay Reconsideration Order* that waived the HCO and pay-per-call mandatory minimum standards. Therefore, for a nine month period – between July 2002 and March 2003 – Sprint provided IP Relay service to TRS consumers but was not compensated for doing so because, by its own admission and based on its understanding of what the rules required, it could not provide one-line HCO and the pay-per-call services. It is for the provision of IP Relay service during this nine month time period that Sprint now seeks compensation.

6. Finally, a fourth TRS provider, Hamilton Relay, Inc. (Hamilton), desired to offer IP Relay after release of the *IP Relay Declaratory Ruling & FNPRM*, but did not do so because it believed that it was unable to provide HCO and pay-per-call services, and therefore that it could not offer IP Relay in compliance with all non-waived mandatory minimum standards.²² Hamilton began providing IP Relay in March 2003, *i.e.*, after release of the *IP Relay Reconsideration Order* that waived the HCO and pay-per-call requirements.

7. *The Initial Petitions for Reconsideration of the IP Relay Declaratory Ruling.* On July 11, 2002, Sprint filed a petition for reconsideration of the *IP Relay Declaratory Ruling & FNPRM*, asking that the Commission grant waivers of, *inter alia*, the HCO and pay-per-call requirements that had not been waived.²³ Sprint asserted that it was impossible for IP Relay providers to offer HCO and 900 services with then-current technology. First, Sprint asserted that IP Relay cannot provide 900 pay-per-call services because such services require the ANI of the caller to be included in the signaling stream sent into its switch, and there is no ANI provided when a caller contacts IP Relay via the Internet. Sprint stated that, as a result, the only way to provide pay-per-call service via IP Relay would be either to provide the IP Relay facility's ANI and pay the per-minute cost of the pay-per-call service, or to ask the calling customer for a valid telephone number to insert into the signaling stream, which Sprint claimed would lead to an unacceptably high likelihood of fraud.²⁴

8. Sprint also asserted that the HCO requirement should have been waived for IP Relay because “the technological limitations that prevent the offering of VCO functionality through IP Relay [which the Commission waived] apply equally to HCO functionality.”²⁵ Sprint explained that “[b]oth

²¹ See *Sprint Ex Parte Letter* dated October 31, 2002 (“When Sprint began offering IP Relay in July 2002, it told NECA that its IP Relay offering could not provide 900 pay-per-call service or one-line HCO functionality. NECA, in turn, informed Sprint that it could not reimburse Sprint for the IP Relay minutes Sprint has been and is providing”).

²² See Comments of Hamilton Relay, Inc. at 2 (April 28, 2003) (as a result of the Commission’s *IP Relay Declaratory Ruling & FNPRM*, “Hamilton did not commence its IP Relay services ... because [it] was unable to certify to the Fund Administrator that it was providing HCO and 900 services, and thus was unable to recover its costs from the Interstate TRS Fund”).

²³ See *Sprint, Petition for Limited Reconsideration of the IP Relay Declaratory Ruling & FNPRM*, filed July 11, 2002, at 3-5. Earlier, on May 22, 2002, MCI also filed a petition for reconsideration of the *IP Relay Declaratory Ruling & FNPRM*, requesting that the Commission extend the waivers granted in the *IP Relay Declaratory Ruling & FNPRM*, either indefinitely or for a five-year period. MCI, *Petition for Reconsideration* (filed May 22, 2002). Its petition did not address the HCO or 900 number pay-per-call requirements.

²⁴ See *id.* at 3-4. Sprint also noted that some pay-per-call providers might require the calling party to bill the call to a credit card. *Id.* at 3 n.4. But Sprint further stated that it understood that most pay-per-call providers want the carriers providing the 900 service to provide the billing and collection service. *Ibid.* This suggests that Sprint understood the pay-per-call requirement to mean that the 900 service carrier would do the billing the collection services for the call, and therefore that the TRS facility has to be able to pass along the calling party’s telephone number.

²⁵ See *id.* at 5.

services require text messaging during one leg of the call. The only difference is the directional flow of such text. In the case of VCO, because the hearing-impaired individual can speak to but [not] hear the response from the other party, the CA sends such response to the hearing-impaired customer as a text message. In the case of HCO, because the [speech]-impaired individual can hear but not speak to the other party, the [speech]-impaired individual sends a text message to the CA who then reads it to the other party.²⁶ For these reasons, Sprint requested that the Commission reconsider its refusal in the *IP Relay Declaratory Ruling & FNPRM* to waive for IP Relay the TRS mandatory minimum standards requiring pay-per-call services and HCO.²⁷ All commenters supported both Sprint's and MCI's petitions for reconsideration.²⁸

9. While the reconsideration petitions were pending, the petitioners and other interested parties took further steps to address these issues with the Commission. On October 9, 2002, Hamilton filed a written *ex parte* urging that the Commission promptly address waiver of the pay per-call and HCO requirements so that Hamilton could launch its IP Relay service and be reimbursed for doing so.²⁹ Hamilton stated that the Commission "should issue a clarifying Order confirming that IP Relay providers may receive NECA reimbursement despite current technological limitations which render 900 calls and HCO services impossible via IP Relay."³⁰ Hamilton also noted that 900 number service represented approximately .01% of its total TRS traffic, and that HCO service represented approximately 0.2% of its total TRS traffic, and thus that waiver of these requirements for IP Relay would have a *de minimis* impact on consumers.³¹

10. On October 30, 2002, Sprint met with Commission staff to discuss its petition.³² Sprint acknowledged that NECA had informed it that it could not be reimbursed for the IP Relay minutes it "ha[d] been and is providing," and therefore that "at the present time ...[it] is unable to recover any of the costs it incurs in furnishing IP Relay."³³ Sprint also stated that it planned to file an additional request asking that in granting its reconsideration petition, the Commission instruct NECA to compensate all IP Relay providers for the entire past period in which such carriers offered IP Relay.³⁴ Sprint emphasized that time was of the essence in granting its petition (and therefore waiving the pay-per-call and HCO requirements), and also reiterated its view that it was not possible to offer pay-per-call services and HCO via IP Relay. Sprint asserted that it had tested all IP Relay providers, and none was offering HCO or pay-

²⁶ See *id.* at 4-5.

²⁷ See *id.* at 5. Sprint noted that in its comments in the proceeding leading to the *IP Relay Declaratory Ruling & FNPRM*, it had stated that it would be impossible for IP Relay to provide pay-per-call services or HCO. *Id.* at 3.

²⁸ Five parties filed comments on the initial Sprint and MCI petitions. AT&T agreed with Sprint that pay-per-call is technically infeasible because of the absence of ANI, and supported Sprint's request for a waiver of the HCO mandatory minimum standard (August 13, 2002). Communications Services for the Deaf, Inc. (CSD) supported permanent waivers of mandatory minimum standards which IP Relay is technically incapable of fulfilling (September 2, 2002). Hamilton supported immediate waiver of the pay-per-call and HCO requirements because of the technological inabilities of IP Relay. Telecommunications for the Deaf, Inc. (TDI) agreed that the Commission should waive the pay-per-call and HCO requirements, but stated that the waivers should be limited to one year. Self Help for Hard of Hearing People (SHHH) supported the requested waivers, but opposed permanent waivers because it believes that technological infeasibility is a temporary condition (August 5, 2002).

²⁹ Hamilton *Ex Parte Letter* dated October 9, 2002.

³⁰ *Id.* at 2.

³¹ *Id.* (attachment at 2-3).

³² See Sprint *Ex Parte Letter* dated October 31, 2002 (attaching explanatory handout).

³³ *Id.*

³⁴ *Id.*

per-call services.³⁵

11. Also on October 30, 2002, Hamilton met with Commission staff and urged the Commission to expeditiously waive these requirements so that providers could qualify for reimbursement for providing IP Relay.³⁶ Hamilton noted that it “has been unable to launch its IP Relay service because it does not qualify for reimbursement.”³⁷ Hamilton added that it “is placed at a severe and costly competitive disadvantage now and as long as other TRS providers are not only providing IP Relay, but are drawing funds” without providing HCO or 900 service.³⁸ Hamilton also explained that “despite an apparently inaccurate claim in the record, current technology does not allow carriers to provide HCO service” and that the “record considered in issuing the [*IP Relay Declaratory Ruling & FNPRM*] failed to alert the Commission that it is not possible to provide 900 Service via IP Relay.”³⁹

12. Subsequently, on November 18, 2002, Sprint filed a letter with the Commission, reiterating its position that its petition for reconsideration should be expeditiously granted, and that the providers should be compensated for all the past IP Relay service they have provided because it was impossible to provide 900 and HCO service via IP Relay.⁴⁰ Sprint also again noted that it had informed the fund administrator that it was not offering 900 or HCO service via IP Relay, and that therefore it was not receiving compensation from the Interstate TRS Fund. Sprint also stated that it would be unfair to penalize Sprint in this way if the providers who certified compliance with all the non-waived mandatory minimum standards received compensation for their provision of IP Relay service, but the IP Relay provider that did not certify compliance with the TRS mandatory minimum standards did not, when it is clear that none of the providers could offer 900 call and HCO service.⁴¹

13. On November 19, 2002, MCI met with Commission staff and urged the Commission to permanently waive the pay-per-call and HCO requirements.⁴² MCI also explained how it believed it was then meeting these requirements. MCI stated that it believed that the HCO mandate applied to the text leg of such a call, and that the *IP Relay Declaratory Ruling & FNPRM* intended that providers make two-line HCO available, not one-line HCO.⁴³ MCI also explained the steps it had taken to provide pay-per-call services, and stated that although it had provided that service, it believed the requirement should be eliminated because there are very few such calls.⁴⁴ Finally, MCI recommended that the Commission reimburse all providers of IP Relay from the date they began offering the service even if they were not offering HCO or pay-per-call services.⁴⁵

³⁵ See *id.* (page 5 of handout).

³⁶ Hamilton *Ex Parte Letter* dated November 1, 2002.

³⁷ *Id.* at 2.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See Sprint *Ex parte* letter, dated November 18, 2002 (titled “Clarification to Sprint’s Petition for Limited Reconsideration of *Declaratory Ruling* (FCC 02-121) released April 22, 2002”).

⁴¹ See *id.*

⁴² WorldCom, Inc. d/b/a MCI *Ex Parte* letter, dated November 20, 2002.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* Subsequently, interested parties further met or spoke with various Commission staff, or submitted additional comments, to further address these issues. On December 2, 2002, Hamilton file *ex parte* comments again requesting that the Commission promptly address the waiver of the pay-per-call and HCO requirements. Hamilton *Ex Parte Letter*, dated December 2, 2002. Hamilton also noted that providers were already offering IP Relay service, and that

(continued...)

14. *The March 14, 2003, IP Relay Reconsideration Order.* On March 14, 2003, the Commission released the *IP Relay Reconsideration Order*, which granted an extension of the waivers granted in the *IP Relay Declaratory Ruling & FNPRM* for a period of five years. The Commission also granted the requested waiver of the requirement to provide one-line HCO for a period of five years.⁴⁶ The Commission noted comments stating that it was currently not possible for IP Relay providers to offer one-line HCO, and concluded that “the same technological obstacles exist for HCO as for VCO and STS.”⁴⁷ The Commission also noted that the providers and several consumer groups supported the waiver.⁴⁸

15. The Commission also granted the requested waiver of the pay-per-call requirement, stating that “we agree that the options proposed by the industry are not viable solutions for compliance with the 900 number call minimum standard.”⁴⁹ The Commission noted that “[i]ndustry commenters agree with Sprint that the Commission should waive the 900 services TRS mandatory minimum standard,” and that the consumer groups also supported a waiver.⁵⁰ The Commission cited various technical difficulties in handling pay-per-call calls via IP Relay, and also noted that “900 number service is infrequently used by TRS users.”⁵¹

16. The Commission further concluded, however, that Sprint (and any other similarly situated IP Relay provider) was not entitled to compensation for the provision of IP Relay service during the time in which it acknowledged that it was not in full compliance with the applicable non-waived mandatory minimum standards.⁵² The Commission stated that permitting compensation in these circumstances would be tantamount to applying the newly adopted waivers retroactively, “a result that is not generally favored under existing law.”⁵³ The Commission also stated that Sprint had not “demonstrated that it is in the public interest to retroactively apply the effective date of the waivers.”⁵⁴ The Commission noted that Sprint and other IP Relay providers chose to provide service knowing that

(...continued from previous page)

the uncertainty surrounding the pay-per-call and 900 requirements created substantial financial risk for those offering the service, a risk that was growing every day. *Id.* at 2. In addition, on December 4, 2002, staff met with CSD. CSD similarly stated that HCO and pay-per-call services cannot be provided over the Internet, and therefore that suspensions of the HCO and pay-per-call mandatory minimum standards were appropriate. *See CSD Ex Parte* letter, dated December 5, 2002.

⁴⁶ *See IP Relay Reconsideration Order* at ¶ 18.

⁴⁷ *See id.* As noted above, in the *IP Relay Declaratory Ruling & FNPRM* the Commission waived the VCO requirement but not the HCO requirement. *See IP Relay Declaratory Ruling & FNPRM* at ¶ 32. In the *IP Relay Reconsideration Order*, the Commission, summarizing Sprint’s arguments, explained the similarity between VCO and HCO this way: “For VCO calls, the deaf or hard-of-hearing individual can speak to, but not hear the response from, the other party; the communications assistant sends such a response to the deaf or hard-of-hearing customer as a text message. For HCO calls, the individual with a speech disability can hear, but not speak to, the other party; the individual with a speech disability sends a text message to the communications assistant who then reads it to the other party. Sprint asserts that the technological limitations that prevent the offering of VCO functionality through IP Relay apply equally to HCO functionality.” *IP Relay Reconsideration Order* at ¶ 15 (footnotes omitted).

⁴⁸ *See id.* at ¶¶ 16-17. SHHH and TDI supported a one year waiver, agreeing that it was not currently possible for IP Relay providers to offer one-line HCO. *Id.* at ¶ 17.

⁴⁹ *See id.* at ¶ 22.

⁵⁰ *See id.* at ¶ 20.

⁵¹ *See id.* at ¶ 22 & n.74.

⁵² *Id.* at ¶¶ 23-27.

⁵³ *Id.* at ¶ 25.

⁵⁴ *Id.*

they were not in compliance with the TRS mandatory minimum standards, and that therefore they had no settled expectation of compensation for those services.⁵⁵ The Commission further explained that it did not want to encourage common carriers to provide regulated services in nonconformity to the Commission's rules in the expectation of future waivers and retroactive rewards. Finally, the Commission expressed concern for potential IP Relay providers who had chosen *not* to provide service because they were unable to meet the mandatory minimum standards, believing that such potential providers would be penalized for their compliance with our rules if we permitted compensation to providers who did not comply with our rules.⁵⁶

B. Petitions for Reconsideration of the *IP Relay Reconsideration Order*

17. On April 14, 2003, Sprint filed a petition for "limited reconsideration" of the *IP Relay Reconsideration Order*, requesting that the Commission reconsider its decision not to make the waivers granted in the *IP Relay Reconsideration Order* retroactive, and therefore not to compensate providers of IP Relay (Sprint) during the time period in which they offered the service but may not have been complying with the then non-waived HCO and pay-per-call requirements.⁵⁷

18. Sprint makes numerous arguments in support of its petition. It argues that there is no legal bar to providing payment for services rendered before the grant of the HCO and pay-per-call waivers, distinguishing the cases cited by the Commission for the proposition that the retroactive application of waivers is not favored.⁵⁸ Sprint asserts, for example, that the waivers it seeks are "merely to correct mistakes made by the Commission in the [*IP Relay Declaratory Ruling & FNPRM*] as of the date of that ruling."⁵⁹ Sprint also argues that the *IP Relay Declaratory Ruling & FNPRM* was not "final" because of the pendency of the petitions for reconsideration, and that therefore the risk Sprint took was that the Commission might deny its petition for waiver of the 900 pay-per-call and HCO requirements on the merits (which, had that occurred, would have precluded it from reimbursement), but not that the Commission might grant the petition but disallow reimbursement.⁶⁰

19. Sprint also argues that "rigid adherence to all TRS requirements is inconsistent with other TRS precedent."⁶¹ Sprint asserts that the Commission has found in other contexts that TRS providers are eligible for compensation even if they do not meet every requirement of the Commission's rules, stating that "absolute compliance with each component of the rules may not always be necessary to fulfill the purposes of the statute and the policy objectives of the implementing rules, and that not every minor deviation would justify withholding funding from a legitimate TRS provider."⁶² In this regard, Sprint emphasizes that the Commission has recognized that HCO and pay-per-call services are infrequently used, and that therefore IP Relay providers, like Sprint, have substantially complied with the TRS

⁵⁵ See *id.* at ¶ 26.

⁵⁶ See *id.*

⁵⁷ See Sprint, *Petition for Limited Reconsideration* at 1 (filed April 14, 2003). Sprint refiled this petition on April 24, 2003.

⁵⁸ *Id.* at 11-12. Sprint asserts that the Commission has often granted waivers with retroactive effect. See *id.* at 14-17.

⁵⁹ *Id.* at 11.

⁶⁰ *Id.* at 12-13 & n.12 (citing *Verizon v. FCC*, 269 F.3d 1098, 1110-11 (D.C. Cir. 2001)).

⁶¹ *Id.* at 12.

⁶² See *id.* at 13-14 (quoting *Publix Network Corporation; Customer Attendants, LLC; Revenue Controls Corporation; SignTel, Inc.; and Focus Group, LLC; Order to Show Cause and Notice of Opportunity for Hearing*, 17 FCC Rcd 11487 at ¶ 19 (June 19, 2002) (*Publix Show Cause Order*)).

mandatory minimum standards.⁶³

20. Sprint also contends that the Commission “cannot lawfully single out Sprint for non-payment” of compensation, asserting that the Commission’s conclusion in the *IP Relay Reconsideration Order* that it is not technically feasible to provide HCO and pay-per-call services via IP Relay means that no IP Relay provider could have been providing these services in compliance with the rules during the period between the release of the *IP Relay Declaratory Ruling & FNPRM* (April 2002) and the waiver grant in the *IP Relay Reconsideration Order* (March 2003).⁶⁴ Therefore, according to Sprint, it is improper to refuse to compensate Sprint for its provision of IP Relay when the Commission has compensated other providers during that period for providing the same service.⁶⁵ Sprint notes that there are two ways to cure this inequity: compensate Sprint for the service it provided during the period, or institute enforcement actions against other IP Relay providers to require them to return compensation received during the period.⁶⁶ Sprint favors the first approach, which it argues is in the public interest.⁶⁷

21. On May 16, 2003, MCI filed a petition styled “Petition for Clarification and/or Reconsideration.”⁶⁸ MCI requests that the Commission reconsider its apparent decision to eliminate two-line HCO as a means of satisfying the HCO mandatory minimum standard, asserting that the HCO requirement “only made sense as two-line HCO,”⁶⁹ and clarify the meaning of the now-waived pay-per-call mandatory minimum standard and whether it was satisfied by attempting to have the pay-per-call service accept alternate billing information, *i.e.*, a billing method other than automatic billing to the caller’s telephone bill.⁷⁰ MCI also asserts that providers should be compensated for providing IP Relay service even if they did not meet the pay-per-call and HCO standards.⁷¹ Although MCI does not expressly support Sprint’s position, it argues that absolute compliance with all mandatory minimum standards is not the standard the Commission has used,⁷² that the Commission in the past has issued retroactive waivers to promote the public interest,⁷³ and that in the circumstances of this matter – including the fact that new technologies are involved – the public interest supports compensating the providers for the IP Relay services provided.⁷⁴

C. Commenters

22. On May 22, 2003, Sprint’s and MCI’s petitions were placed on public notice.⁷⁵ Hamilton

⁶³ See *id.* at 14 (citing *IP Relay Reconsideration Order* at ¶ 16).

⁶⁴ *Id.* at 18-20.

⁶⁵ See ¶ 4, *supra*. AT&T received compensation for its provision of IP Relay beginning in June 2002. MCI received compensation for its provision of IP Relay beginning in April 2002.

⁶⁶ See *id.* at 19-20.

⁶⁷ *Id.* at 20-24.

⁶⁸ See WorldCom, Inc. d/b/a MCI, *Petition for Clarification and/or Reconsideration*, (filed May 16, 2003).

⁶⁹ *Id.* at 7.

⁷⁰ *Id.* at 10-13.

⁷¹ *Id.* at 14-23.

⁷² *Id.* at 15-16 (citing *Publix Show Cause Order*).

⁷³ *Id.* at 16-18.

⁷⁴ *Id.* at 18-23.

⁷⁵ See *Petitions for Reconsideration of Action in Rulemaking Proceedings*, Public Notice, Report No. 2608 (released May 22, 2003).

and consumer groups (filing jointly) filed comments, and both Sprint and MCI filed reply comments.⁷⁶ Hamilton asserts that the Commission was correct in denying retroactive compensation for the provision of IP Relay during the time period in which the service was offered but was not in compliance with the non-waived mandatory minimum standards and, further, that the providers that were compensated for such service should be required to return the compensation received.⁷⁷ Hamilton states that the Commission's decision to deny retroactive compensation treats all IP Relay providers equally, and that all compensation paid to IP Relay providers prior to the *IP Relay Reconsideration Order* was improper because no IP Relay provider was capable of meeting the HCO and pay-per-call standards.⁷⁸ Hamilton further argues that the public interest is best served by competition in the IP Relay market. It notes that it did not begin providing IP Relay until after the HCO and pay-per-call waivers were granted in the *IP Relay Reconsideration Order*, and asserts that only large IP Relay providers can provide service before a waiver is granted and gamble on retroactive compensation.⁷⁹ Finally, Hamilton emphasizes that maintenance of the high quality of service demanded by TRS users, including IP Relay users, depends on enforcement of the mandatory minimum standards, and that allowing retroactive compensation would give IP Relay providers an incentive to ignore the TRS mandatory minimum standards and provide lower quality service.⁸⁰

23. The Joint Commenters support Sprint's petition and request that the Commission compensate all providers of IP Relay service even if they did not provide HCO and 900 call services.⁸¹ They assert that "the unique circumstances of this case justify reimbursing Sprint and other similarly-situated carriers for the IP Relay services they rendered to deaf and hard-of-hearing individuals."⁸² They further assert that it would be unjust to penalize Sprint for not providing services that the Commission has found to be "technically infeasible to provide."⁸³ Finally, they assert that in light of "these unique circumstances, where deaf and hard-of-hearing individuals benefited from a wider range of service alternatives and the FCC ultimately determined that it was technically infeasible to provide the minimum requirements at issues, the best way for the Commission to accomplish th[e] objective [of encouraging new services] and promote the future deployment of innovative TRS services is to grant Sprint's Petition."⁸⁴

24. In its reply, Sprint asserts that Hamilton's assertion that it would be harmed by allowing Sprint and others retroactive compensation is inaccurate because by not providing IP Relay service, Hamilton incurred no costs.⁸⁵ Sprint also states that competitive harm would be more likely to occur if

⁷⁶ Hamilton filed comments on both petitions (April 28, 2003, and June 16, 2003). TDI, the National Association of the Deaf (NAD), SHHH, and the Deaf and Hard of Hearing Consumer Advocacy Network (collectively, the Joint Commenters) filed a joint comment on the Sprint petition (May 16, 2003). Sprint and MCI filed reply comments (July 1, 2003).

⁷⁷ See Hamilton Comments at 5-9 (June 16, 2003). Hamilton had earlier filed comments on April 28, 2003, which were resubmitted on June 16, 2003.

⁷⁸ See *id.* at 6.

⁷⁹ See *id.* at 11.

⁸⁰ See *id.* at 12-13. Hamilton cautions that reliance on the *Publix Show Cause Order* could lead to a "slippery slope" with the Commission authorizing compensation for ever-greater departures from the TRS mandatory minimum standards.

⁸¹ Joint Commenters Comments at 5 (May 16, 2003).

⁸² *Id.*

⁸³ *Id.* at 6.

⁸⁴ *Id.* at 7.

⁸⁵ See Sprint Reply Comments at 4 (June 26, 2003).

the Commission refuses to provide retroactive compensation, because potential providers of new TRS services will be deterred from beginning service until all uncertainties about standards are completely resolved.⁸⁶ In its reply, MCI asserts that, in fact, it complied with the HCO and pay-per-call standards as articulated in the *IP Relay Declaratory Ruling and FNPRM* by providing two-line HCO and pay-per-call standards to the extent possible.⁸⁷ MCI also states that retroactive waivers and compensation will benefit the public by compensating IP Relay providers for costs they actually incurred in providing service, and that the Commission supports reimbursement where the mandatory minimum standards have been substantially complied with.⁸⁸ Finally, MCI denies that retroactive waivers will encourage rule violations, asserting that the circumstances that gave rise to the initiation of IP Relay service were unusual and unlikely to recur.⁸⁹

III. DISCUSSION

25. We conclude that, in the unique circumstances of this proceeding, Sprint is entitled to compensation for its provision of IP Relay prior to the March 2003 *IP Relay Reconsideration Order*. At the same time, we take this opportunity to again remind providers that, as a general matter, they must offer TRS services in compliance with all non-waived mandatory minimum standards to be eligible for compensation from the Interstate TRS Fund.

26. First, based on our review of this proceeding as a whole, we find that we cannot conclude that Sprint was in fact offering IP Relay service in violation of our rules. We recognize that the initial *IP Relay Declaratory Ruling & FNPRM* was not entirely clear in describing what providers had to do to meet the requirements to provide HCO and pay-per-call service. As MCI has noted, for example, the HCO requirement could reasonably be read to mean that providers must provide 2-line HCO (given the reference to the "text leg" of the call and the need for appropriate customer premises equipment).⁹⁰ Similarly, the discussion of the pay-per-call requirement expressly notes that the CA can make such a call by passing along the caller's credit card number.⁹¹ MCI maintains that it satisfied these two requirements in those ways. We do not find that that is an unreasonable interpretation of those requirements as they were spelled out in the *IP Relay Declaratory Ruling & FNPRM*. At the same time, however, Sprint asserted it could not meet those requirements based, as is now apparent, on its interpretation of what meeting those requirements entailed (*i.e.*, one-line HCO and providing 900 service by passing along the ANI of the calling party into the signaling stream). If, however, the HCO and pay-per-call requirements could be met by means other than those understood by Sprint, then Sprint may not, in fact, have been offering IP Relay in violation of the mandatory minimum standards. In other words, Sprint was offering the service in violation of the mandatory minimum standards, and therefore could have been ineligible for compensation on that basis, only if its interpretation of what the HCO and pay-per-call requirements entail was the *only* reasonable interpretation of those requirements as described in the *IP Relay Declaratory Ruling & FNPRM*.

27. Upon our review of the record in these proceeding as set forth above, we cannot conclude that Sprint's interpretation of the HCO and 900 call requirements is the only reasonable interpretation of those rules, and therefore we cannot conclude that Sprint was in fact offering IP Relay service in violation of the rules. Sprint's interpretation of those requirements as described in the *IP Relay Declaratory Ruling*

⁸⁶ See *id.* at 5.

⁸⁷ See MCI Reply Comments at 1-2 (July 1, 2003).

⁸⁸ See *id.* at 3-4.

⁸⁹ See *id.* at 5-6.

⁹⁰ *IP Relay Declaratory Ruling & FNPRM* at ¶ 32.

⁹¹ *Id.* at ¶ 34.

& *FNPRM* is not necessarily correct because those requirements were not made sufficiently clear, and therefore that we cannot conclude that its assertions that it was offering the service in violation of our rules is necessarily true.⁹²

28. Second, as a matter of equity, the fact that all parties agree that it was not technologically feasible to provide one-line HCO and 900 service as understood by Sprint, and that for this reason the Commission ultimately waived those requirements in the *IP Relay Reconsideration Order*, supports the conclusion that Sprint should not be penalized for not offering these services in the manner it described (*i.e.*, for not doing what no one could do) prior to the *IP Relay Reconsideration Order*. We believe that it would be unfair to penalize Sprint for either its candor in acknowledging that these requirements could not be met (as it understood them), or for a mistaken belief as to what these services entailed, particularly when the discussion of these features in the initial *IP Relay Declaratory Ruling & FNPRM* is ambiguous. Further, it is implicit in the *IP Relay Reconsideration Order* that these requirements should have been waived in the initial *IP Relay Declaratory Ruling & FNPRM*.

29. Third, upon our complete review of the record, we believe our conclusion best comports with the public interest. Sprint provided the IP Relay service for which it now seeks compensation, and had it not handled those calls, the calls would have been handled either by other IP Relay providers or as traditional TRS calls. Further, Sprint began offering IP Relay service when it was a new service, involving, for relay, new technology that providers and consumers desired to have available as soon as possible.⁹³ The fact that the *IP Relay Declaratory Ruling & FNPRM* waived many of the mandatory minimum standards for this service shows that as new technologies develop and are applied to relay, it is not always easy to fit them into the pre-existing regulatory regime, especially a regime developed when relay calls were made entirely over the PSTN. Therefore, there may be more uncertainty as to what pre-existing requirements mean when applied to new technology. In addition, Sprint repeatedly told the Commission that it could not, in its view, offer HCO and 900 services, and repeatedly asked that we promptly waive these requirements (and compensate it for its ongoing service). Therefore, this is not a case where a provider was "caught" violating longstanding rules (indeed, as we have noted, we have not concluded that Sprint was violating the rules at all). Finally, as MCI has noted, it is unlikely that the set of circumstances that led the Commission to first deny the waivers, then to grant them upon reconsideration, and now to have to determine what the Commission initially intended in requiring those services, will occur again.⁹⁴

30. Further, although we are not unmindful that Hamilton has likely suffered some disadvantage from its decision to delay offering the service until the HCO and pay-per-call issues were resolved, Sprint and other providers that offered IP Relay during this period did incur real costs in doing so. For example, money was paid out for the salaries of CAs and managers, for the equipment necessary to provide the service, and for other ancillary costs related to providing service. Further, any harm

⁹² In this regard, we note that we recently granted Sprint's petition on 711 access to pay-per-call services, stating that we "do not require that pay-per-calling be available through TRS in any particular manner or via a particular technology." *2004 TRS Order* at ¶ 145. We further stated that "Sprint's solution provides pay-per-call functionality to TRS users, and ... there can be multiple ways to provide this particular functionality." *Id.* Therefore, in the absence of a specific directive on how a particular functionality must be offered, we cannot conclude that a provider is violating a service requirement simply because that functionality is offered one way rather than another.

⁹³ Consumers place great emphasis on having access to the latest TRS innovations as soon as they are technologically available in the market. For example, in response to the *2002 IP Relay Public Notice* seeking comment on MCI's petition seeking clarification that IP Relay is a form of TRS compensable from the Interstate TRS Fund, the Commission received numerous comments from individuals urging the Commission to expeditiously recognize IP Relay as a form of TRS so that the new service would quickly be available to consumers. See *IP Relay Declaratory Ruling & FNPRM* at ¶ 6 n.12.

⁹⁴ See WorldCom, Inc. d/b/a MCI, *Petition for Clarification and/or Reconsideration* at 23 (May 16, 2003).

Hamilton might have suffered from not offering the service is not dependent on whether Sprint (and the other providers) may be compensated for the service they offered, but from the fact that they offered it at all and therefore were first to the market.

31. Finally, as the parties have noted, we recognize that in the context of an enforcement action against a TRS provider and in determining whether the provider complied with the standards of section 64.604 and therefore was entitled to compensation from the fund, we stated that “absolute compliance with each component of the rules may not always be necessary to fulfill the purposes of the statute ..., and that not every minor deviation would justify withholding funding from a legitimate TRS provider.”⁹⁵ We also stated that “a TRS provider is eligible for TRS Fund reimbursement if it has substantially complied with Section 64.604.”⁹⁶ We need not address, however, whether Sprint is entitled to compensation under that standard because we have concluded that Sprint did not offer the service in violation of the rules given their initial ambiguity. At the same time, we do note that the number of HCO and 900 calls handled by the providers at that time was *de minimis* and that, as is now apparent, *no provider* could offer HCO and pay-per-call service as understood by Sprint.

32. Although we conclude that, in view of the unusual circumstances of this matter, payment to Sprint is warranted for the IP Relay service it provided, we caution all TRS providers, current and potential, that we expect them to offer service in compliance with all non-waived mandatory minimum standards. It bears repeating that TRS is an accommodation for persons with disabilities. As such, TRS providers are required to offer service that is functionally equivalent to voice telephone service, as defined by all non-waived mandatory minimum standards applicable to the particular form of TRS. It is therefore the consumers of TRS who suffer when the service is not provided consistent with our rules. We will remain vigilant in ensuring that providers do not offer service that short-changes the intended beneficiaries of these services. To that end, the leverage that we have is to deny compensation from the Interstate TRS Fund for the provision of service that is not in compliance with our rules. This *Order on Reconsideration*, therefore, should not be read to suggest that common carriers and others can provide regulated services in contravention of our rules, with the hope that they nevertheless will eventually be rewarded for providing service.⁹⁷ We view the circumstances of this case to be unique, and trust that this will prove to be the case.

IV. CONCLUSION

33. For the reasons set forth above, we grant Sprint’s *Petition for Limited Reconsideration* and MCI’s *Petition for Clarification and/or Reconsideration* to the extent they seek that Sprint be compensated for its provision of IP Relay prior to the release of the March 13, 2003, *IP Relay Reconsideration Order*. As a result, IP Relay providers who provided service between the date of the *IP Relay Declaratory Ruling & FNPRM* (April 22, 2002) and the date of the *IP Relay Reconsideration Order* (March 13, 2003) are entitled to receive compensation for the IP Relay service they provided during that period notwithstanding whether, or how, they offered HCO and pay-per-call 900 services.

V. PROCEDURAL MATTERS

34. *Final Regulatory Flexibility Certification*. The Regulatory Flexibility Act of 1980, as amended (RFA)⁹⁸ requires that a regulatory flexibility analysis be prepared for rulemaking proceedings,

⁹⁵ *Publix Show Cause Order* at ¶ 19.

⁹⁶ *Id.*

⁹⁷ *Cf. IP Relay Reconsideration Order* at ¶ 26.

⁹⁸ The RFA, see 5 U.S.C. § 601 *et. Seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Act of 1996 (SBREFA).

unless the agency certifies that “the rule will not have a significant economic impact on a substantial number of small entities.”⁹⁹ The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹⁰⁰ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹⁰¹ 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.

35. The Commission concludes in this item that public interest is best served by compensating Sprint for its provision of IP Relay services prior to the March 2003 *IP Relay Reconsideration Order* that waived the HCO and pay-per-call requirements for IP Relay service. The Commission believes that it would be unfair to penalize Sprint and withhold compensation for the following reasons: (1) Sprint had a mistaken belief as to what constituted satisfaction of the HCO and pay-per-call requirements which may have been fostered by a discussion of the requirements in the initial *IP Relay Declaratory Ruling & FNPRM* that can be read to be ambiguous; (2) the *IP Relay Reconsideration Order* demonstrates that HCO and pay-per-call requirements should have been waived at the onset; (3) no *IP Relay provider* could offer HCO and pay-per-call services as understood by Sprint; and (4) Sprint acknowledged and repeatedly notified the Commission that based upon their interpretation of the mandatory minimum standards for TRS calls they could not meet the requirements for the provision of HCO and pay-per-call IP Relay calls.

36. This item affects IP Relay providers, but imposes no regulatory burden upon them. Currently, only four entities are providing IP Relay: AT&T, Hamilton, MCI, and Sprint. Moreover, this item imposes no significant economic impact on small entities, but in fact confers a benefit rather than an adverse impact on small entities by compensating an entity that provided a nascent service in good faith. Even if the compensation to Sprint could be hypothetically construed as a significant economic impact, the fact that only four entities provide the service, and that only one company is receiving compensation, means that no “substantial number of small entities” is affected.

37. Therefore, certification is in order since both prongs of the legal test – i.e., (a) no significant economic impact; and (b) no impact upon a substantial number of small entities – are satisfied. The entity affected by the item is not a small entity; and if the entity were small, there is no significant economic impact since the result of the Order is a benefit. Finally, if the economic impact were to hypothetically be construed as a significant economic impact, there are not a substantial number of small entities affected by this Order. Accordingly, the Commission certifies that the requirements of this *Order on Reconsideration* will not have a significant economic impact on a substantial number of small entities.

38. *Paperwork Reduction Act.* This *Order on Reconsideration* does not contain new or modified information collection 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 107-198.¹⁰²

⁹⁹ 5 U.S.C. § 605(b).

¹⁰⁰ 5 U.S.C. § 605(b).

¹⁰¹ 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 and 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*.”

¹⁰² See 44 U.S.C. § 3506(c)(4).

39. *Congressional Review Act.* The Commission will send a copy of this *Order on Reconsideration*, including a copy of this final certification, in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act of 1996.¹⁰³ In addition, the *Order on Reconsideration* and this final certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the *Federal Register*.¹⁰⁴

VI. ORDERING CLAUSES

40. Accordingly, IT IS ORDERED, 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, that this ORDER ON RECONSIDERATION IS ADOPTED.

41. IT IS FURTHER ORDERED that the *Petition for Limited Reconsideration* filed by Sprint IS GRANTED to the extent indicated herein.

42. IT IS FURTHER ORDERED that the *Petition for Clarification and/or Reconsideration* filed by MCI IS GRANTED to the extent indicated herein.

43. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Order on Reconsideration*, including a copy of this final certification, to the Chief Counsel for Advocacy of the Small Business Administration.

44. To request materials in accessible formats (Braille, large print, electronic files, or 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 *Order on Reconsideration* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb/dro>.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch
Secretary

¹⁰³ See 5 U.S.C. § 801(a)(1)(A).

¹⁰⁴ See 5 U.S.C. § 605(b).