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

In the Matter of	)	
	)	
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	
	)	
Internet-based Captioned Telephone Service	)	

DECLARATORY RULING

Adopted: December 20, 2006 **Released: January 11, 2007**

By the Commission: Chairman Martin and Commissioners Copps, Adelstein, Tate and McDowell issuing separate statements.

I. INTRODUCTION

1. In this *Declaratory Ruling*, we grant a request for clarification that Internet Protocol (IP) captioned telephone relay service[1] (IP captioned telephone service or IP CTS) is a type of telecommunications relay service (TRS)[2] eligible for compensation from the Interstate TRS Fund (Fund) when offered in compliance with the applicable TRS mandatory minimum standards.[3] We also grant the

[1] *See Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling, 18 FCC Rcd 16121 (Aug. 1, 2003) (*Captioned Telephone Declaratory Ruling*) (recognizing captioned telephone service as a form of TRS).

[2] TRS, created by Title IV of the Americans with Disabilities Act of 1990 (ADA), enables an individual with a hearing or speech disability to access the nation's telephone system to communicate with voice telephone users. *See* 47 U.S.C. § 225(a)(3) (defining TRS); 47 C.F.R. § 64.601(14). This is accomplished through TRS facilities that are staffed by specially trained communications assistants (CAs) using special technology. The CA relays conversations between persons using various types of assistive communication devices and persons who do not require such assistive devices. *See generally* 47 U.S.C. § 225(a)(3). As discussed below, TRS is provided in a number of different ways. *See generally Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 90-571 & 98-67, CG Docket 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, 12479-83, paras. 3-8 (June 30, 2004) (*2004 TRS Report & Order*).

[3] *See Petition for Rulemaking to Mandate Captioned Telephone Relay Service and Approve IP Captioned Telephone Relay Service* (filed Oct. 31, 2005) (*Petition*), by Self-Help for the Hard of Hearing (SHHH), the Alexander Graham Bell Association for the Deaf and Hard of Hearing (AG Bell), the American Academy of Audiology (AAA), the American Association of People with Disabilities (AAPD), the American Speech-Language-Hearing Association (ASHA), the Association of Late-Deafened Adults (ALDA), the Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), the League for the Hard of Hearing (LHH), the National Association of the Deaf (NAD), the National Cued Speech Association (NCSA), Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), the California Association of the Deaf (CAD) and the California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH) (Petitioners). On January 17, 2006, Ultratec, Inc. (Ultratec) filed a *Request for Expedited* (continued....)

request that *all* IP CTS calls be compensated from the Interstate TRS Fund until such time as the Commission adopts jurisdictional separation of costs for this service. We condition our approval on Ultratec's representation that it will continue to license its captioned telephone technologies, including technologies relating to IP CTS, at reasonable rates.

II. BACKGROUND

A. The Evolution of TRS

2. Title IV of the Americans with Disabilities Act of 1990 (ADA), which added section 225 to the Communications Act of 1934, as amended,[4] requires the Commission to ensure that TRS is available, to the extent possible and in the most efficient manner, to persons with hearing or speech disabilities in the United States.[5] The statute requires that TRS offer persons with hearing and speech disabilities access to a telephone system that is "functionally equivalent" to voice telephone service.[6] Since the implementation of a uniform nationwide system of TRS in 1993, the Commission has recognized new forms of TRS that offer consumers access to the nation's telephone system in different ways depending on the nature of a consumer's disability and their communications preferences.[7]

3. Consumers cannot be required to pay for the costs of relaying TRS calls.[8] As a result, the statute creates a cost recovery regime whereby providers of TRS are compensated for their costs of providing TRS.[9] As a general matter, the costs of providing *intra*state TRS are recovered by each state. With respect to *inter*state TRS, eligible TRS providers are compensated from the Fund for the costs of providing eligible TRS services.[10] Compensation is presently based on per-minute rates adopted each year by the Commission.[11] There are currently four different compensation rates for the different forms

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Clarification for the Provision of and Cost Recovery for Internet Protocol Captioned Telephone Relay Service (*Ultratec Petition to Clarify*) asserting that the Commission could recognize IP CTS as a form of TRS compensable from the Fund without doing a rulemaking. As a result, on January 19, 2006, Petitioners filed a *Request to Amend Petition for Rulemaking to Mandate Captioned Telephone Relay Service; Request for Expedited Clarification on the Provision of Internet Protocol Captioned Telephone Relay Service* (*Petition to Amend*). Petitioners asserted that although a rulemaking may be necessary on the issue of whether captioned telephone service should be a mandatory form of TRS, a rulemaking was not necessary on the issue of whether IP captioned telephone service is a form of TRS compensable from the Interstate TRS Fund. As a result of the *Petition to Amend,* we address in this *Declaratory Ruling* the provision and compensation of IP-based captioned telephone service. We will address whether captioned telephone service (including IP CTS) should be a mandatory form of TRS in a separate proceeding.

[4] Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990); 47 U.S.C. § 225.

[5] 47 U.S.C. § 225(b)(1).

[6] 47 U.S.C. § 225(a)(3).

[7] *See generally 2004 TRS Report & Order,* 19 FCC Rcd at 12479-86, paras. 2-13 (overview of past TRS orders).

[8] 47 U.S.C. § 225(d)(1)(D) (TRS users cannot be required to pay rates "greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination").

[9] 47 U.S.C. § 225(d)(3).

[10] *See* 47 U.S.C. § 225(d)(3); 47 C.F.R. § 64.604(c)(5).

of TRS: traditional TRS, IP Relay, Speech-to-Speech (STS), and Video Relay Service (VRS). Captioned telephone service is presently compensated at the traditional TRS rate.

4. When section 225 was enacted and implemented, TRS calls were placed using a text telephone device (TTY) connected to the Public Switched Telephone Network (PSTN) (traditional TRS).[12] In March 2000, the Commission recognized several new forms of TRS, including STS and VRS.[13] STS is used by persons with a speech disability. Specially trained CAs who understand the speech patterns of persons with speech disabilities repeat the words spoken to the other party to the call.[14]

5. VRS is an Internet-based form of TRS that allows the TRS user whose primary language is American Sign Language (ASL) to communicate with the CA in ASL, rather than text, through a video link.[15] Because the leg of the call between the person with a hearing disability and the CA uses the Internet, and not the PSTN, VRS providers cannot automatically determine the geographic location of that party to the call. Therefore, presently, all VRS calls are compensated from the Fund.[16] In addition, although the Commission has not made VRS a mandatory service, providers that choose to offer VRS must make it available 24 hours a day, seven days a week.[17]

6. In April 2002, the Commission recognized a second Internet-based form of TRS – IP Relay.[18] Like traditional TRS, IP Relay uses text, but the user connects to the CA via the Internet (rather than the PSTN) and a personal computer or other web-enabled device. The IP Relay user directs the web browser to one of the IP Relay providers' web sites. When the IP Relay user is connected to the IP Relay service provider, the user is immediately routed to a CA, who then makes the outbound call to the hearing person and relays the call between the parties. Because, as with VRS, one leg of the call uses the Internet, presently all IP Relay calls are also compensated from the Fund.[19] In addition, IP Relay, like VRS, is

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[11] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Further Notice of Proposed Rulemaking, 21 FCC Rcd 8379 (July 20, 2006) (*2006 TRS Cost Recovery FNPRM*) (seeking comment on a broad range of TRS cost recovery issues for all forms of TRS).

[12] *See 2004 TRS Report & Order*, 19 FCC Rcd at 12479, para. 3 n.18 (describing how a traditional TRS call works).

[13] *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, 5148-51, paras. 14-20 (STS), 5152-54, paras. 21-27 (VRS) (Mar. 6, 2000) (*Improved TRS Order*).

[14] *Id.* at 5148, para. 14. The Commission made STS a mandatory service so that all states with a certified state TRS program must offer this service. *Id.* at 5149, para. 15; *see generally* 47 C.F.R. § 64.605 (addressing state certification). As with traditional TRS, states compensate providers for the costs of intrastate STS, and the Fund compensates providers for the costs of interstate STS.

[15] *Improved TRS Order*, 15 FCC Rcd at 5152, para. 21.

[16] *See id.* at 5149, para. 15.

[17] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, CC Docket No. 98-67, Report and Order, 20 FCC Rcd 13165 (July 19, 2005). The issue of whether VRS should be a mandatory service was raised in the FNPRM in the *2004 TRS Report & Order*. *See 2004 TRS Report & Order*, 19 FCC Rcd at 12567-68, paras. 243-45. That issue remains pending.

[18] *See Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (Apr. 22, 2002) (*IP Relay Declaratory Ruling*).

[19] *IP Relay Declaratory Ruling*, 17 FCC Rcd at 7786, para. 20.

presently not a mandatory form of TRS.[20] Further, because IP Relay and VRS rely on the Internet, these services present regulatory challenges not associated with the PSTN-based forms of TRS, including cost recovery issues,[21] access to emergency services,[22] fraud and misuse,[23] and the inapplicability of some TRS mandatory minimum standards applicable to the other forms of TRS.[24]

B. Captioned Telephone Service

7. In August 2003, the Commission recognized captioned telephone service as a form of TRS eligible for compensation from the Fund.[25] As the Commission explained, captioned telephone service is generally used by someone who has the ability to speak and some residual hearing.[26] It uses a special telephone that has a text display, so that on one standard telephone line the user can both listen to what is said over the telephone (to the extent possible) and simultaneously read captions of what the other person is saying.[27] A CA using specially developed voice recognition technology generates the captions. No typing is involved. The Commission did not mandate the provision of this service, but did permit providers of *interstate* captioned telephone service to be compensated from the Interstate TRS Fund.[28]

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[20] The issue of whether IP Relay should be a mandatory service was raised in the FNPRM in the *2004 TRS Report & Order*. *See 2004 TRS Report & Order*, 19 FCC Rcd at 12564, paras. 231-32. That issue remains pending. Although IP Relay is presently not required to be offered 24 hours a day, seven days of week (24/7), currently all of the IP Relay providers offer it on that basis.

[21] The issue of separation of costs relating to the provision of IP Relay and VRS is pending pursuant to the FNPRM in the *2004 TRS Report & Order*. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12561-64, paras. 221-30 (IP Relay), 12565-67, paras. 234-42 (VRS); *see also 2006 TRS Cost Recovery FNPRM.*

[22] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Notice of Proposed Rulemaking, 20 FCC Rcd 19476 (Nov. 30, 2005) (*2005 VRS/IP Relay 911 NPRM*) (seeking comment on access to emergency services through IP Relay and VRS).

[23] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Further Notice of Proposed Rulemaking, 21 FCC Rcd 5478 (May 8, 2006) (seeking comment on ways to curtail misuse of IP Relay and VRS).

[24] *See generally 2004 TRS Report & Order*, 19 FCC Rcd at 12594, Appendix E (waivers of mandatory minimum standards for IP Relay and VRS).

[25] This Declaratory Ruling was in response to a Petition for Clarification filed by Ultratec (Apr. 12, 2002). Ultratec sought to implement captioned telephone service and requested that the Commission clarify that the service is a form of TRS and eligible for compensation from the Fund. *Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16121, para. 1.

[26] *Id.* at 16122, para. 3.

[27] *See generally id.* at 16122-23, paras. 3-6 (describing how captioned telephone service works).

[28] *See id.* at 16127-30, paras. 18-23 (addressing cost recovery for providers of captioned telephone service). We recognize that the fact that captioned telephone service is not mandatory, but that only *interstate* calls are compensable from the Fund, creates the anomaly that although states are required to compensate providers for any intrastate calls made, they do not have to permit such calls in the first place. As a result, presently captioned telephone service is not available in all states. *See Petition* at 17; *see generally id.* at 1-2, 15-18 (requesting that the Commission commence a rulemaking on whether captioned telephone service should be mandatory). By comparison, traditional TRS and STS are mandatory services and the states compensate providers for intrastate calls. VRS and IP Relay are *not* mandatory services, but the Fund compensates providers for *all* such calls. Petitioners seek to have IP captioned telephone service be treated similar to VRS and IP Relay in this regard.

8. As presently offered,[29] to use one-line captioned telephone service the captioned telephone user dials the number of the person she wishes to call, not the number of a TRS provider or the 711 TRS access number.[30] The captioned telephone automatically calls a captioned telephone CA at a TRS facility. The TRS provider, in turn, calls the number of the called party, and all three parties (the captioned telephone user, the CA, and the called party) are connected. Unlike "traditional" TRS, where the CA would type what the called party says, the CA instead repeats or re-voices what the called party says, and voice recognition technology automatically transcribes the CA's voice into text, which is then transmitted directly to the user and displayed on the captioned telephone. As a result, the captions appear on the captioned telephone at nearly the same time the user hears the called party's spoken words. Throughout the call the CA is completely transparent and does not participate in the call; there is no interaction with the CA by either party to the call.[31] Calls may be placed *to* captioned telephone users via a provider's toll free access number. When such an "inbound" captioned telephone call is made, the caller is prompted by a recording to enter the number he or she wishes to call, and the call is automatically processed.[32]

9. In recognizing captioned telephone service as a form of TRS compensable from the Fund, the Commission recognized that it provides the same functionality as Voice Carry Over (VCO) service used with traditional TRS.[33] VCO permits a person with a hearing disability, but who is able to speak, to speak directly to the other party to the call (instead of typing text), but receive in return the called party's spoken words as text on the TTY. As a result, VCO calls take less time than traditional TRS calls. With captioned telephone service, the user also speaks directly to the other party, but receives what the other party has said *both* in text and through whatever residual hearing the user may have. The Commission noted that in the context of traditional TRS, the only way to achieve this simultaneous functionality – hearing and reading text together – is by using "two-line VCO," which requires the use of two telephone lines and three-way calling.[34]

10. The Commission also recognized that Ultratec's captioned telephone service was provided only via proprietary equipment and technology, and that Ultratec was the only company offering consumers any type of captioned telephone service.[35] Therefore, to avoid authorizing a particular proprietary technology, rather than a particular functionality or service, the Commission defined captioned telephone service as "any service that uses a device that allows the user to simultaneously listen

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[29] *See infra* para. 10.

[30] *See generally Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16121.

[31] *Id.* at 16122-23, para. 4.

[32] *Id.* at 16122-23, paras. 3-6.

[33] *See* 47 C.F.R. § 64.601(18); *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990,* CC Docket No. 90-571, Report and Order and Request for Comments, 6 FCC Rcd 4657, 4662, para. 24 (July 26, 1991) (*TRS I*) (requiring VCO to be offered as a type of TRS). When *TRS I* was released, the only form of relay available was what we now call traditional TRS; *i.e.,* text-based calls made via a TTY and the PSTN.

[34] *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16125, para. 11. The Commission recognized two-line VCO as a form of TRS in the *Second Improved TRS Order. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67 & CG Docket No. 03-123, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd 12379, 12401-02, paras. 28-30 (June 17, 2003) (*Second Improved TRS Order*).

[35] *Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16127, para. 17.

to, and read the text of, what the other party has said, on one standard telephone line."[36] The Commission added that "TRS providers, therefore, that may choose to offer captioned telephone . . . service are not bound to offer any particular company's service."[37]

11. The Commission subsequently concluded that *two-line* captioned telephone service is also a type of TRS eligible for compensation from the Interstate TRS Fund.[38] The record reflected that two-line captioned telephone service is simply a variation of captioned telephone service that offers, through the use of a second telephone line, additional features including direct inbound dialing, call waiting, call forwarding, direct 911 calling, and the ability to have two or more persons on the call at the same time.[39] In reaching this conclusion, the Commission emphasized that section 225 obligates the Commission both "to ensure that interstate and intrastate [TRS] are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States,"[40] and to "ensure that [the TRS] regulations . . . encourage . . . the use of existing technology and do not discourage or impair the development of improved technology."[41]

12. Finally, the Commission determined that because providers cannot automatically determine the jurisdictional nature of *inbound* two-line captioned calls (*i.e.*, calls made by a voice telephone user *to* a captioned telephone user), it would adopt an allocator to determine which such calls would be compensated by a state and which such calls would be compensated from the Fund.[42] The

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[36] *Id.*

[37] *Id.*

[38] *See Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67 & CG Docket No. 03-123, Order, 20 FCC Rcd 13195 (*Two-line Captioned Telephone Order*) (July 19, 2005). This order was in response to a Request for Clarification filed by Ultratec, Sprint Corporation (Sprint), and Hamilton Relay, Inc. (Hamilton) on December 7, 2004.

[39] *See Two-line Captioned Telephone Order*, 20 FCC Rcd at 13199-200, para. 10. As the Commission explained, with two-line captioned telephone service the first line is set up as the user's primary telephone line, and the second line transmits the captions from the captioned telephone relay service. When a two-line captioned telephone user places an outbound call, he or she dials the number of the party he or she wants to call on the first line, in the same way that a voice telephone call is made to the called party. When this call is being made, the two-line captioned telephone simultaneously connects to the captioned telephone relay service on the second line. When this connection is made, the two-line captioned telephone takes the voice of the party who is called via the first line and sends it to the captioned telephone relay provider over the second line. As with one-line captioned telephone service, the captioned telephone CA then re-voices everything that is said by the called party. Voice recognition technology transcribes what the CA says into text, and sends captions back on the second line to the text display on the two-line captioned telephone. In short, with one-line captioned telephone service the outbound call goes through the captioned telephone service provider to be connected to the called party; with two-line captioned telephone service, the primary telephone line links the calling and called parties directly, and the captioned telephone service is brought in on a second line. *Id.* at 13196-97, paras. 4-5.

[40] 47 U.S.C. § 225(b)(1).

[41] 47 U.S.C. § 225(d)(2).

[42] For inbound calls to a two-line captioned telephone user, the calling party simply dials the telephone number of the person he or she wants to call. The call goes directly to the two-line captioned telephone in the same way a call would come in to any traditional telephone. When the captioned telephone user answers the call, his or her two-line captioned telephone automatically calls the captioned telephone relay service on the second telephone line, and the call then proceeds in the same manner as an *outbound* two-line captioned telephone call. As a result of the way in which *inbound* two-line captioned telephone calls work, the relay center is incapable of determining the location of the calling (*i.e.*, originating) party to the call, and therefore cannot determine the jurisdictional nature of the call in (continued....)

Commission directed the Fund administrator to determine and apply, on an annual basis, an allocation factor for inbound two-line captioned telephone calls that is based on the relationship between interstate and international traditional TRS calls and all intrastate, interstate, and international traditional TRS calls.[43]

C. The Petition

13. Petitioners describe IP CTS as using the Internet to provide captioned telephone service.[44] Petitioners request that the Commission clarify that IP CTS is a form of TRS eligible for compensation from the Fund, and that all such calls be compensated from the Fund.[45] Petitioners state that the Commission has already determined that both captioned telephone service and IP Relay service are forms of TRS, and assert that IP captioned telephone service is simply "an extension of these already-approved services."[46]

14. Petitioners emphasize that there are multiple methods of using the Internet to provide captioned telephone service.[47] The record also reflects that a consumer can use IP CTS with an existing voice telephone and a computer, and therefore, unlike with present captioned telephone service, no specialized equipment is required.[48] For example, an IP captioned telephone call can be set up similar to a two-line captioned telephone call, except that the line from the user to the provider would be via the Internet, not a second PSTN line. The consumer would make a voice to voice call to the other party on a standard telephone and the PSTN; at the same time, the voice of the called party is directed from the consumer's telephone to a personal computer (or similar device) that routes it to the provider via the Internet. The provider, in turn, sends back to the consumer the text of what was spoken. As a result, the consumer can both hear (to the extent possible) what the called party is saying over the standard voice telephone headset, and read the text of what the called party said on the computer or similar device.[49]

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order to report and bill either the state or the Interstate TRS Fund for the call. *Two-line Captioned Telephone Order*, 20 FCC Rcd at 13197-98, paras. 5-8.

[43] *Id.* at 13200, para. 12. The Commission subsequently adopted the Fund administrator's proposed interstate allocation factor of 11 percent. *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 20 FCC Rcd 19327 (Dec. 2, 2005).

[44] *See, e.g., Petition* at 19. Ultratec suggests, for example, that regardless of how the call is set up, IP captioned telephone service should be considered any relay service that "allows the user to simultaneously listen to, and read the text of, what the other party in a telephone conversation has said, where the connection carrying the captions between the service and the user is via an IP addressed and routed link." Karen Peltz Strauss, Legal Consultant for Ultratec, Inc. *Ex Parte* Letter, July 19, 2006 (Ultratec *Ex Parte*), Attachment at 1-2.

[45] *Petition* at 19-20.

[46] *Petition to Amend* at 2.

[47] *Petition* at 19 ("Petitioners have learned that multiple methods of using Internet transport to produce captioned telephone service have already been developed . . . [, which] will allow voice and text to be carried by IP or a combination of IP and circuits over the PSTN."); *Ultratec Petition to Clarify* at 7 ("Ultratec has developed a number of methods for delivering captioned telephone service via IP connections that are ready for deployment upon the FCC's approval"; redacting from public filing a full description of various methods of how the service may be provided).

[48] *See, e.g.*, Ultratec *Ex Parte*.

[49] *See, e.g.*, Ultratec *Ex Parte*, Attachment at 4. Ultratec also notes that there are a number of ways in which IP captioned telephone calls can be set up and handled, and that no special software is required. *Id.*, Attachment at 3-7.

15. Petitioners state that IP CTS benefits consumers by giving them the flexibility of using a computer, PDA, or wireless device to make such a call, without having to purchase special telephone equipment.[50] In addition, they note that captions provided on a computer screen can accommodate a much wider group of individuals, including people with hearing disabilities who also have low vision, because they can take advantage of the large text, variable fonts, and variable colors that are available.[51] Petitioners also note that employers are now routinely equipping their employee's workstations with computers and connections to the Internet, and migrating away from reliance on the PSTN. Petitioners state that captioned telephone users should not be excluded from being able to use Internet technologies to communicate.[52]

16. Petitioners further assert that, like VRS and IP Relay, the Commission should permit all IP captioned telephone service calls to be compensated from the Interstate TRS Fund.[53] Petitioners note that under this arrangement, multiple national providers are able to compete for customers.[54] Petitioners also assert that IP CTS providers should be subject to the Commission certification procedures applicable to other Internet-based forms of TRS.[55] Finally, Ultratec requests that the same waivers of the TRS mandatory minimum standards applicable to captioned telephone service and IP Relay also be made applicable to IP captioned telephone service.[56]

D. The Comments

17. The *Petition* was placed on Public Notice.[57] Five providers and governmental entities submitted comments and six entities submitted reply comments.[58] All of these commenters urge the Commission to recognize IP captioned telephone service as a type of TRS service.[59] Numerous individuals also submitted comments, all generally in support of the Petition.[60] In addition, the

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[50] *Petition* at 19.

[51] *Petition* at 19.

[52] *Petition* at 19; *see also see also Ultratec Petition to Clarify* at 4-7 (addressing benefits of IP captioned telephone service).

[53] *Petition* at 19-20; *see also Ultratec Petition to Clarify* at 6.

[54] *Petition* at 20; *see also Ultratec Petition to Clarify* at 6.

[55] *Petition* at 20.

[56] *Ultratec Petition to Clarify* at 7-8 (listing waivers).

[57] *Petition for Rulemaking Filed Concerning Mandating Captioned Telephone Relay Service and Authorizing Internet Protocol (IP) Captioned Telephone Relay Service*, CG Docket No. 03-123, Public Notice, 20 FCC Rcd 18028 (CGB Nov. 14, 2005).

[58] Comments were filed by the California Public Utilities Commission and the People of the State of California (CA PUC) (Dec. 29, 2005); the Florida Public Service Commission (FPSC) (Dec. 21, 2005); Hamilton Relay, Inc. (Hamilton) (Dec. 30, 2005); Sprint Nextel Corporation (Sprint) (Dec. 30, 2005); and MCI, Inc. (now Verizon) (Verizon) (Dec. 30, 2005). Reply comments were filed by Petitioners (Jan. 17, 2006); CA PUC (Jan. 17, 2006); Missouri Public Service Commission (MO PSC) (Jan. 17, 2006); National Association of State Utility Commissioners (NASUCA) (Jan. 17, 2006); Ultratec (Jan. 17, 2006); and Verizon (Jan. 17, 2006).

[59] *See, e.g.*, FPSC Comments at 3; NASUCA Reply Comments at 2; Ultratec Reply Comments at 2, 21; *see also* Hamilton Comments at 2 (supporting IP CTS as a type of TRS but questioning its general availability at this time). No commenters oppose this request.

[60] Individual comments can be found in Docket No. 03-123 at: http://gullfoss2.fcc.gov/prod/ecfs/comsrch_v2.cgi.

Commission's Consumer Advisory Committee (CAC) TRS Working Group has requested that the Commission recognize IP captioned telephone service as a TRS service eligible for compensation from the Fund.[61]

18. Commenters also support compensating all such calls from the Interstate TRS Fund.[62] Further, Hamilton asserts that because IP CTS is similar to VRS and IP Relay (*i.e.* Internet-based), there should be federal certification of IP CTS providers so that the Commission can ensure the providers are offering service in compliance with the mandatory minimum standards.[63]

III. DISCUSSION

19. We conclude that IP CTS is a type of TRS, and that all such calls may be compensated from the Interstate TRS Fund. We also conclude that providers seeking to offer this service and be compensated from the Fund may seek certification from the Commission pursuant to the recent certification rules adopted by the Commission.[64] In addition, we set forth those TRS mandatory minimum standards inapplicable to the provision of this service. Finally, we condition our approval on Ultratec's representation that it will continue to license its captioned telephone technologies, including technologies relating to IP CTS, at reasonable rates.

20. *IP Captioned Telephone Service and Compensation from the Fund.* The recognition of IP captioned telephone service as a type of TRS pursuant to section 225 follows from the nature of this service. The provision of TRS has evolved as new forms of technology have been developed and as consumers have identified the particularized needs of persons with hearing and speech disabilities. Since the adoption the TRS rules and the provision of TRS as a text-based service via TTYs and the PSTN, the Commission has recognized VRS and STS, IP Relay, and most recently, captioned telephone service.[65] In so doing, the Commission has noted that:

> In enacting section 225, Congress did not narrow its definition of TRS only to a specific category of services otherwise defined in the Communications Act, such as "telecommunications services." Rather, Congress used the broad phrase "telephone transmission services" that is constrained only by the requirement that such service

[61] *See* Report of the TRS Working Group to the Federal Communications Commission Consumer Advisory Committee (Nov. 2006) (*CAC TRS Working Group Recommendation*).

[62] *See, e.g.,* Hamilton Comments at 2-3; Ultratec Reply Comments at 2, 21; FPSC Comments at 3-4. Although Petitioners assert that all calls should be compensated by the Fund so that multiple national providers could offer service and compete for customers, *see supra* para. 16, some commenters also assert that, like VRS and IP Relay, providers cannot determine which calls are intrastate and which are interstate. *See, e.g.,* Hamilton Comments at 2-3; FPSC Comments at 3-4; *cf.* NASUCA Reply Comments at 6-9 (suggesting that IP CTS calls can be separated into intrastate and interstate calls, but not objecting to having the Fund compensate all such calls on an interim basis). Verizon, however, suggests that the Fund should not pay for all IP CTS calls. Verizon Reply Comments at 4.

[63] Hamilton Comments at 4. No commenters oppose this request.

[64] *See Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report & Order and Order on Reconsideration, 20 FCC Rcd 1719 (Dec. 12, 2005) (*TRS Provider Certification Order*).

[65] *See supra* paras. 4-7; see *also Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket No. 03-123, Order on Reconsideration, 20 FCC Rcd 13140 (July 19, 2005) (*ASL-to-Spanish VRS Order*) (recognizing ASL-to-Spanish VRS service as a form of TRS); *Two-line Captioned Telephone Order.*

> provide a specific functionality. The requisite functionality is that the service provides the ability for an individual who has a hearing or speech impairment to communicate by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of individuals without any such impairment to do so. Congress further provided that TRS includes "services that enable two-way communication between an individual who uses a TDD [*i.e.*, TTY] or other nonvoice terminal device and an individual who does not use such a device." In this context, we have found that the phrase "telephone transmission service" used in section 225 should be interpreted broadly to include any transmission service (involving telephonic equipment or devices) to the extent that such transmission provides the particular functionality that the definition specifies.[66]

21. The record reflects that IP captioned telephone service simply describes a new way that consumers with hearing disabilities can access the telephone system through TRS that will accommodate persons who wish to speak to the other party and simultaneously both listen to what the other party is saying and read captions of what is being said. As such, it is a service that borrows from both the IP Relay and captioned telephone services that the Commission has previously recognized as forms of TRS. Like IP Relay, the consumer is connected to the relay provider via the Internet, not the PSTN. Like captioned telephone service, the provider sends to the consumer the text of what the other party is saying.

22. Therefore, we find that IP captioned telephone service is a type of TRS. We emphasize that such service may be initiated, set up, and provided in numerous ways, including using specific telephone equipment or IP-enabled devices, and various combinations of the PSTN and IP-enabled networks.[67] A service will be considered IP captioned telephone service as long as it allows the user to simultaneously listen to, and read the text of, what the other party in a telephone conversation has said, and the connection carrying the captions between the service and the user is via the Internet rather than the PSTN.[68] As a result, we do not set forth in greater detail how this service must be provided, as long as it meets applicable TRS mandatory minimum standards (discussed below) and the captions are delivered via an IP network to the user fast enough so that they keep up with the speed of the other party's speech.[69]

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[66] *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16124, para. 8.

[67] *See* Ultratec *Ex Parte*, Attachment at 3-7 (setting forth various ways in which IP CTS calls can be offered); *CAC TRS Working Group Recommendation* at 3 (noting that "multiple methods of transport are now available for delivering captioned telephone relay service over the Internet" and that the "ability to make calls over one's own computer or IP-enabled device can . . . eliminate the significant costs that are associated with purchasing specially designed captioned telephone devices"); Gregg Vanderheiden, *Ex Parte* e-mail, CG Docket No. 03-123 (Aug. 17, 2006) (stating that there is a "generic" way to do "captioned IP telephony" with any computer).

[68] *Cf. Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16127, para. 17 ("to avoid authorizing a particular proprietary technology, rather than a particular functionality or service, we define the captioned telephone . . . service that we recognize as TRS in this *Declaratory Ruling* as any service that uses a device that allows the user to simultaneously listen to, and read the text of, what the other party has said, on one standard telephone line. TRS providers, therefore, that may choose to offer captioned telephone . . . service are not bound to offer any particular company's service"). We also note that IP captioned telephone service may be offered as either a "one-line" or "two line" service, which gives consumers and providers flexibility in how they use or offer this service. *See generally* Ultratec *Ex Parte*.

[69] At this time, we decline to adopt a quantitative measure for this service that is more stringent than the 60 words per minute (wpm) standard applicable to text-based TRS services. *See Petition* at 22; 47 C.F.R. § 64.604(a)(1)(iii). We recognize, however, that when the captions are generated by voice recognition technology, the captions are generated at a speed well above the 60 wpm standard. *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16134-35, para. 38 & n.106 (suggesting that with voice recognition technology captions are generated at (continued....)

23. We expect, however, as with captioned telephone service, that the service will be provided in a way that is automated and invisible to both parties to the call. For example, presently with captioned telephone service the consumer does not communicate directly with a CA to set up the call; similarly, we expect that IP captioned telephone service should permit the consumer to directly dial the called party and then automatically connect the CA to the calling party to deliver the captions.[70] Similarly, although the *Captioned Telephone Declaratory Ruling* explained that the captions were generated by voice recognition technology, and therefore no typing was involved,[71] we do not preclude providers of IP captioned telephone service from generating the captions in other ways (*e.g.*, typing), as long as the captions are generated quickly to appear on the consumer's device nearly simultaneously with the speech.[72] The principle characteristic of any captioned telephone service is that the consumer nearly simultaneously receives both the actual voice of the other party to the call *and* text of what the party is saying, not that the captions are generated by voice recognition technology or any other particular way.[73] We recognize that because this service offers consumers additional features – *e.g.*, portability, lower cost and easier availability, greater accessibility for persons with multiple disabilities[74] – it represents an important step towards functional equivalency.[75]

24. Moreover, we expect that this will not be a service under the control of one vendor or provider. In this regard, we condition our approval on Ultratec's representation that it will continue to license its captioned telephone technologies, including technologies relating to IP CTS, at reasonable rates.[76]

(Continued from previous page)
approximately 140 wpm). Further, if captions are not keeping up with the speech (although a short delay is inevitable), at some point the provider is no longer offering relay service and the call is not compensable. Therefore, a provider offering this service has a strong incentive to ensure that the text is delivered promptly to the IP captioned telephone user.

[70] *See supra* para. 8 (describing how a captioned telephone call works and noting that user calls the number of the party he or she wishes to call, and is automatically connected to the CA). We do not, however, require that all captioned telephone calls be set up and handled in this manner. *Cf. Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 21 FCC Rcd 9147, 9148, para. 2 (CGB Aug. 14, 2006) (*2006 Captioned Telephone Waiver Order*) (noting that "as presently offered," the consumer directly dials the number of the called party, not the number of the relay center). We also note that for calls initiated by a voice telephone user (inbound calls), the calling party dials an 800 number and then the number of the IP captioned telephone user. *See Petition* at 22.

[71] *See, e.g., Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16122, para. 4, and 16127, para. 16.

[72] *See 2006 Captioned Telephone Waiver Order* at para. 4 (clarifying that certain requirements to not apply to this service *if* it is offered via voice recognition technology and not typed text).

[73] *See Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16127, para. 17 (captioned telephone service is "any service that uses a device that allows the user to simultaneously listen to, and read the text of, what the other party has said").

[74] *See, e.g., Ultratec Petition to Clarify* at 4-7; *CAC TRS Working Group Recommendation* at 3.

[75] *See CAC TRS Working Group Recommendation* at 3-4.

[76] *See* KPS Consulting, *Ex Parte* Letter, CG Docket No. 03-123 (Nov. 27, 2006) (stating that Ultratec "has licensed its technologies at reasonable rates since captioned telephone service first became available . . . and will continue to license its technologies, including technologies relating to IP captioned telephone, going forward").

25. We also conclude that, on an interim basis, all IP CTS calls may be compensated from the Fund if provided in compliance with the Commission's rules.[77] This is consistent with the present treatment of VRS and IP Relay calls.[78] We believe this arrangement will be an incentive for multiple providers to offer this service on a nationwide basis, generating competition that will enhance consumer choice, service quality, and available features.[79] We note that this is an interim measure and that we intend to revisit the cost recovery methodology for this service in the future,[80] including jurisdictional separation of costs. We will also consider at a future date whether IP CTS and captioned telephone service should be mandatory forms of TRS.[81]

26. In addition, we note that presently interstate captioned telephone calls are compensated at the same rate as traditional TRS calls, and IP Relay is compensated at a separate rate.[82] Because we believe that, for cost recovery purposes, the provision of IP captioned telephone service more closely resembles IP Relay service, not captioned telephone service, IP captioned telephone calls shall be compensated at the same per-minute rate as IP Relay service.[83]

27. *Federal Certification for IP CTS Providers.* In the *TRS Provider Certification Order*, the Commission adopted a means by which common carriers seeking to offer IP Relay or VRS may seek Commission "certification" as an eligible provider.[84] The Commission noted that the present eligibility

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[77] *See CAC TRS Working Group Recommendation* at 1 (urging that this service be compensated from the Fund).

[78] *See supra* paras. 5 & 6. This *Declaratory Ruling* does not affect the compensation of captioned telephone calls recognized in the *Captioned Telephone Declaratory Ruling,* which are not Internet-based (*i.e.,* are not calls where the connection carrying the captions between the service and the user is via the Internet). *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16128-29, paras. 19-22 (declining to permit all captioned telephone calls to be compensated from the Fund, noting that for such calls providers can determine if a particular call is interstate or intrastate).

[79] *See generally Ultratec Petition to Clarify* at 6.

[80] As noted above, in the pending *2006 TRS Cost Recovery FNPRM* we have raised the issue of the appropriate cost recovery methodologies for all forms of TRS.

[81] *See supra* note 3 (noting that issue whether captioned telephone service should be a mandatory service presently is pending).

[82] For the 2006-2007 Fund year, traditional TRS and captioned telephone service are compensated at the rate of $1.291 per minute, and IP Relay is compensated at the rate of $1.293 per minute. *See Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket No. 03-123, Order, 21 FCC Rcd 7018 (CGB June 29, 2006); *Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16129, para. 22.

[83] In the *Captioned Telephone Declaratory Ruling,* the Commission concluded that although captioned telephone service would be compensated at the traditional TRS rate, because there was only one provider of the service, which used proprietary technology, the projected costs and minutes of use for captioned telephone service would not be included in determining the traditional TRS rate. *Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16129-30, para. 23. Because it is presently unclear how many providers may choose to offer IP CTS, and how it will be offered, we similarly conclude that the projected costs and minutes of use for IP CTS shall not be included in determining the IP Relay compensation rate, which will apply to IP CTS. At the same time, we direct providers of IP CTS to submit their cost and use data specific to this service to the Fund administrator so that we will be able to monitor and review the costs associated with this service. *Cf. id.*

[84] *See TRS Provider Certification Order*, 20 FCC Rcd at 20586-90, paras. 17-26.

criteria for compensation from the Interstate TRS Fund set forth in the Commission's rules[85] do not reflect advances in the way that TRS is offered, particularly with respect to the Internet-based forms of TRS. As a result, the Commission adopted a Commission certification alternative that would permit common carriers desiring to offer VRS and/or IP Relay, and not the other forms of TRS, to receive compensation from the Fund.[86] This process is described in that order and the Commission's rules.[87]

28. We conclude that an entity desiring to provide IP captioned telephone service, like an IP Relay provider, may choose to seek certification from the Commission under these rules.[88] As a general matter, potential IP CTS providers may become eligible for compensation from the Fund by being accepted into a certified state TRS program or subcontracting with an entity that is part of a certified state program,[89] or by seeking Commission certification. Present eligibility to receive compensation from the Fund for the provision of other forms of TRS (including captioned telephone service) does not confer eligibility with regard to the provision of the IP CTS recognized in this *Declaratory Ruling*.

29. *Applicable Mandatory Minimum Standards.* We do not mandate the provision of IP captioned telephone service at this time.[90] Nevertheless, to be eligible for compensation from the Fund, providers must offer service in compliance with all applicable TRS mandatory minimum standards. The Commission has waived or found to be inapplicable various mandatory minimum standards for the provision of captioned telephone service[91] and IP Relay,[92] given the nature of these services. Because IP captioned telephone service shares characteristics with both of these services, we set forth herein those mandatory minimum standards either inapplicable or presently waived for IP CTS.

30. Although, as noted above, we recognize that IP captioned telephone service can be provided in a variety of ways, its defining characteristics – *i.e.*, that the provider relays captions to the consumer via the Internet, and that the captions are delivered to the consumer in a way that is automated and invisible – make certain mandatory minimum standards inapplicable to the provision of this service. Therefore, consistent with the Commission's treatment of various mandatory minimum standards in the

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[85] *See* 47 C.F.R. § 64.604(c)(5)(iii)(F)(3), setting forth three eligibility categories for TRS providers seeking compensation from the Fund. As the Commission has explained, these categories include being part of a certified state program, contracting with an entity that is part of a certified state program, or being a common carrier obligated to provide TRS in a state that does not have a certified state program. *TRS Provider Certification Order*, 20 FCC Rcd at 20586-87, paras. 18-19.

[86] *TRS Provider Certification Order*, 20 FCC Rcd at 20586, para. 17.

[87] *Id.* at 20587-90, paras. 22-26; 47 C.F.R. § 64.605.

[88] In a subsequent rulemaking, the Commission will add IP CTS to these certification rules. *See* 47 C.F.R. §§ 64.604(c)(5)(iii)(F)(4), 64.605.

[89] If eligibility is via a certified state program, we remind the state programs that they must notify the Commission within 60 days of substantive changes in their program. *See* 47 C.F.R. § 64.605(f)(1).

[90] *See supra* notes 17, 20, & 28 and accompanying text (noting that presently VRS, IP Relay, and captioned telephone service are not mandatory TRS services). Because we do not mandate IP captioned telephone service, this service need not be offered 24/7 at this time. *See* 47 C.F.R. § 64.604(b)(4).

[91] *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16130-39, paras. 24-54 (addressing mandatory minimum standards that are either inapplicable or waived for captioned telephone service); *Captioned Telephone Waiver Order.*

[92] *See generally 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart) (summarizing waivers for IP Relay and VRS).

context of captioned telephone service and IP Relay,[93] we conclude that providers of IP captioned telephone service need not, at this time, meet the following requirements: (1) gender preference[94]; (2) handling calls in ASCII and Baudot formats[95]; (3) call release[96]; (4) Speech-to-Speech[97]; (5) Hearing Carry Over (HCO) and VCO services[98]; (6) outbound 711 calling[99]; (7) emergency call handling[100]; (8) equal access to interexchange carriers[101]; (9) pay-per-call (900) service[102]; (10) three-way calling[103]; (11)

[93] *See supra* para. 29.

[94] The gender preference rule requires relay providers to accommodate a user's requested CA gender. *See* 47 C.F.R. § 64.604(a)(1)(vi). This requirement does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16137-38, paras. 47-48.

[95] Providers of traditional TRS (*i.e.*, text-based TRS calls made via a TTY and the PSTN) must ensure that the TTY can communicate in either the ASCII or Baudot formats. *See* 47 C.F.R. §§ 64.601(3) & (4); 64.604(b)(1). This requirement does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16139, paras. 53-54.

[96] Call release is a TRS feature that allows the CA to drop from the call after the CA has set up a telephone call between two TTY users. *See* 47 C.F.R. § 64.601(5). This requirement does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16138-39, paras. 51-52. It is waived for IP Relay until January 1, 2008. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart).

[97] Captioned telephone service providers need not offer STS at this time. *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16131-32, paras. 28-31. STS service is waived for IP Relay until January 1, 2008. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart).

[98] VCO permits a person with a hearing disability, but who is able to speak, to speak directly to the other party to the call (instead of typing text), but receive in return the called party's spoken words as text on the TTY. *See* 47 C.F.R. § 64.601(18). HCO permits a person with a speech disability, but who is able to hear, to type text to the other party to the call (which is voiced by the CA), but listen in return to what the called party is saying. *See* 47 C.F.R. § 64.601(8). HCO does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16131-32, paras. 28-31. VCO and HCO services are waived for IP Relay until January 1, 2008. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart).

[99] Outbound 711 dialing permits a relay user to dial 711 to reach a relay provider. This requirement does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16131, para. 34.

[100] Emergency call handling requires relay providers to be able to automatically contact the appropriate Public Safety Answering Point when they receive an incoming emergency call. *See* 47 C.F.R. § 64.604(a)(4). We note that this requirement is presently waived for other Internet-based forms of TRS (IP Relay and VRS) until January 1, 2008. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, DA 06-2532 (rel. Dec. 15, 2006) (extending VRS waiver until January 1, 2008). We recognize the importance of access to emergency services for all forms of TRS, however, and anticipate addressing access to 911 services for IP CTS when we address 911 access for the other Internet-based forms of TRS pursuant to the *2005 VRS/IP Relay 911 NPRM. See also* Federal Communications Commission E9-1-1 Disability Access Summit, held Nov. 15, 2006 (transcript filed in CG Docket No. 03-123).

[101] This requirement requires providers to relay long distance calls through the consumer's choice of interexchange carrier. *See* 47 C.F.R. § 64.604(b)(3). This requirement is waived permanently for IP Relay, provided that IP Relay providers offer free long distance service to their customers. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12524-25, paras. 124-27, and 12594, Appendix E (waiver chart). Similarly, if an IP CTS provider does not offer interexchange carrier of choice, the provider must offer free long distance service to their customers.

[102] Pay-per-call (900) services are calls that include a charge billed to the calling party. *See* 47 C.F.R. § 64.604(a)(3)(iv). This requirement is waived for IP Relay until January 1, 2008. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart).

used proprietary technology, the projected costs and minutes of use for captioned telephone service would not be

speed dialing[104]; and (12) certain rules applying to CAs.[105] For those waivers presently contingent on annual reporting requirements, providers of IP CTS must also file such reports.[106]

31. We recognize that depending on how IP CTS is offered, providers may be able to offer some of the features and services noted above. We encourage all IP CTS providers to offer consumers as many of these features as possible if it is technically feasible to do so, and expect that competition between providers will serve as an incentive for providers to do so.[107] We also again emphasize that providers must offer service in compliance with all applicable non-waived mandatory minimum standards to be compensated from the Fund.

IV. PROCEDURAL MATTERS

A. Paperwork Reduction Act Analysis

32. This *Declaratory Ruling* contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we have assessed the effects of our determination that IP captioned telephone service is a type of TRS eligible for compensation from the Interstate TRS Fund, and find that such action will not affect businesses with fewer than 25 employees.

(Continued from previous page)

[103] Three-way calling allows more than two parties to be on the telephone line with the CA. *See* 47 C.F.R. § 64.601(16). This requirement is waived for IP Relay until January 1, 2008. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart).

[104] Speed dialing allows a TRS user to place a call using a stored number maintained by the TRS provider. The TRS user gives the CA a "short-hand" name or number for the user's most frequently called telephone numbers. *See* 47 C.F.R. § 64.601(13). This requirement is waived for IP Relay until January 1, 2008. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart).

[105] The *Captioned Telephone Declaratory Ruling* waived certain requirements applying to the CAs, including that: (1) CAs must be competent in interpreting typewritten American Sign Language (ASL); (2) TRS providers must give CAs oral-to-type tests; and (3) CAs may not refuse sequential calls. *See Captioned Telephone Declaratory Ruling,* 18 FCC Rcd at 16134-37, paras. 36-46. These waivers expired on August 1, 2006. *Id.* In the *2006 Captioned Telephone Waiver Order*, we clarified that these requirements do not apply to captioned telephone services where the user does not type the outbound message, the CA generates text for the user principally using voice recognition technologies (instead of typing), and the communications assistant does not play a role in setting up a call. *See 2006 Captioned Telephone Waiver Order*, at para. 4. These requirements also do not apply to IP CTS in similar circumstances.

[106] Consistent with the present treatment of waivers for IP Relay, IP CTS providers must file annual reports addressing the waivers for STS, emergency call handling, pay-per-call (900) services, VCO and HCO, call release, three-way calling, and speed dialing. These reports must be filed by April 1 of each year, beginning April 1, 2008. *See 2004 TRS Report & Order,* 19 FCC Rcd at 12594, Appendix E (waiver chart and also addressing filing of annual reports); *see also id.* at 12520-21, para. 111 (detailing required contents of annual report).

[107] *See also CAC TRS Working Group Recommendation* at 3 (setting forth possible features of this service).

B. Materials in Accessible Formats

33. To request materials in accessible formats (such as 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 *Declaratory Ruling* can also be downloaded in Word and Portable Document Formats (PDF) at http://www.fcc.gov/cgb.dro.

V. ORDERING CLAUSES

34. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 4(j), 218 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 218 and 225, and sections 1.2, 1.3, 64.604 and 64.605 of the Commission's rules, 47 C.F.R. §§ 1.2, 1.3, 64.604 and 64.605, this *Declaratory Ruling* hereby IS ADOPTED.

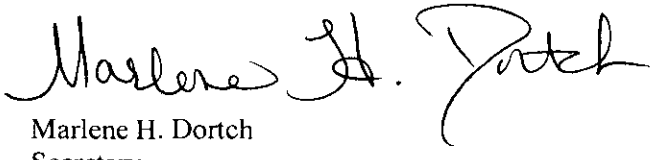
35. IT IS FURTHER ORDERED that the *Petition to Amend* filed by Petitioners IS GRANTED to the extent indicated herein.

36. IT IS FURTHER ORDERED that the *Ultratec Petition to Clarify* IS GRANTED to the extent indicated herein.

37. IT IS FURTHER ORDERED that this *Declaratory Ruling* SHALL BE EFFECTIVE 60 days after publication in the Federal Register.

38. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center SHALL SEND a copy of this *Declaratory Ruling*, including the Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch
Secretary

STATEMENT OF
CHAIRMAN KEVIN J. MARTIN

Re: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service, CG Docket No. 03-123.

Today we take another step to help improve the quality of life for individuals with disabilities. By finding that Internet Protocol (IP) captioned telephone relay service is eligible for reimbursement from the Interstate Telecommunications Relay Services (TRS) Fund, we make progress in fulfilling our statutory goal of ensuring that every person has equal access to this nation's communications services.

IP captioned relay service allows a broader range of individuals to communicate as it permits users to initiate telephone calls from any Internet-enabled device. By not being constrained to a specific piece of equipment that resides in a particular location, users of this service have tremendous flexibility in how and where they use this service. Moreover, this item ensures that individuals with disabilities have access to new technologies and, specifically, realize the benefits of broadband services.

Because we expect, however, that IP captioned telephone service will not be under the control of just one vendor or provider, the Commission's action is conditioned on the licensing of captioned telephone technologies to all providers. And, although we permit this service to be compensable from the Interstate TRS Fund, it is important to emphasize that this is an interim measure. This past summer, we initiated a proceeding to consider the appropriate cost recovery methodology for relay services, including jurisdictional separation of costs. The Commission is committed to taking all necessary actions to ensure that the TRS program is operated as efficiently and effectively as possible. It is only by doing so that we can continue to ensure that individuals with disabilities have the same access to communication technologies as all other Americans.

SEPARATE STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service, CG Docket No. 03-123.

One of the first meetings I had with outside parties at the Commission was with members of the disabilities community. It was then that I was astonished to learn that the unemployment rate among the deaf and hard-of-hearing was an appalling 75 percent. That is national treasure being wasted. It is talent that could be used to move this country forward. I committed myself right then and there to doing something about it. What these folks told me that night was that access to communications technologies and services—functionally equivalent communications technologies and services—can make a huge difference in righting this wrong. Indeed, this is the mandate of the Americans with Disabilities Act. Such access can provide a huge assist to opening the doors of economic opportunity for these good people and, indeed, all our citizens.

By declaring Internet Protocol (IP) captioned telephone service as a type of telecommunications relay service (TRS), we expand the opportunities for consumers to realize functional equivalency. Affected consumers can now take advantage of the flexibility and portability that IP captioned telephone service offers by freeing them from having to use specialized equipment. As long as they have access to a computer or other device that can receive Internet transmissions, they can use this new service. And that translates into new jobs and opportunities and, indeed, into fuller lives.

Still, much remains to be done. We're taking this step to make sure this new technology starts benefiting consumers immediately; however, much of what we have done in this decision has been done on an interim or on a waiver basis. We need to re-commit ourselves to resolving some of the outstanding – and admittedly, difficult – issues, including mandating many of these innovative services and looking at the systemic problems associated with the TRS-reimbursement program. We can and should do more.

Special thanks go to the Bureau and the Disability Rights Office for their very good work on this item.

STATEMENT OF COMMISSIONER JONATHAN S. ADELSTEIN

Re: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service, CG Docket No. 03-123.

I am very pleased to support this *Declaratory Ruling* permitting IP captioned telephone service to be covered by the Interstate TRS fund. This decision clears the way for a new relay service that combines the benefits of two existing relay services, IP Relay and captioned telephone service, and allows our relay services to move more fully into the Internet Age.

I've heard from many individuals with hearing disabilities that captioned telephone services are highly valued because they facilitate a much more natural flow of conversation than that afforded by traditional relay services, and because they offer an important communications link for the many individuals who cannot take advantage of Video Relay Services because they are unable to use sign language. This new IP captioned telephone service will give these citizens even greater flexibility in terms of functionality and types of devices that they can use. The record here suggests that IP captioned telephone service is a great leap forward, and that it will be particularly beneficial in the employment environment and other situations where seamless, real-time communications are so valuable.

Our action today is another step toward ensuring that functionally equivalent services be made available to all Americans, which is the enduring standard of the ADA, and I would like to thank the Consumer and Governmental Affairs Bureau and the Disability Rights Office for their continued efforts in support of that goal.

STATEMENT OF COMMISSIONER DEBORAH TAYLOR TATE

Re: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service, CG Docket No. 03-123.

In 1990, Congress passed the Americans with Disabilities Act, entrusting the Commission to ensure that individuals with disabilities have functionally equivalent access to telecommunications as any other individual. Today, we recognize Internet protocol (IP)-captioned telephone, like analog interstate captioned telephone service, deserves to be supported by the Telecommunications Relay Service (TRS) fund. Recently, I had the opportunity to witness how IP captioned telephone works – allowing the listener to hear and *read* what the person with whom they are speaking is saying. As I participated in this demonstration, I thought about a dear friend of mine who was recently diagnosed with an acute case of presbycusis – the loss of hearing that occurs in most individuals as they grow older. Unfortunately, he decided to close his legal practice as a result of his hearing loss. I couldn't help but think about how wonderful a service like this would be for my friend and the many others out there like him – enabling him to continue to use the telephone system like all other Americans and, perhaps, even for him to be able to continue the work he loved. Moreover, today, we address the IP version of this service, which does not require specialized equipment, allowing a person to converse on the phone, while reading the conversation on their desktop computer, for instance, giving the user all of the customization, such as adjusting the font size, inherent in computing. The addition of this service helps advance the goal of achieving functionally equivalent communications service for persons with disabilities. Accordingly, I am pleased to support today's item. Finally, I'd like to thank the Bureau for its hard work in finalizing today's Order.

STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL

Re: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service, CG Docket No. 03-123.

I am delighted to support this terrific order. Improving the human condition is at the heart of our mission. And this item does exactly that.

The decision to include Internet Protocol captioned telephone relay service (IP CTS) as a telecommunications relay service (TRS) that is eligible for funding is consistent with Section 225 of the Communications Act. Also, it is consistent with past Commission actions to include new technologies in the TRS fund as those technologies are developed. Finally, and most importantly, it helps the hard of hearing, and all Americans, because it supports the use of new technologies to facilitate real-time telephone conversations where a hard of hearing person is a calling party. I am particularly encouraged that the service enabled by this technology is automated and is invisible to both parties to the call.

I look forward to resolution of the remaining IP CTS issues regarding cost recovery, the mandatory nature of the service, and certification. We should take all necessary steps, as soon as possible, to encourage the development and implementation of new technologies that make communications easier and more transparent for the hearing impaired public.

Many thanks to the Bureau for their terrific work on this wonderful order, as well as to John Hunter of my office.

But most importantly, I'd like to say thank you to those members of the deaf and hard of hearing community for their advocacy.