

legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule will affect grants to States and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities.

List of Subjects in 38 CFR Part 59

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Approved: January 11, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES

■ Accordingly, the interim final rule amending 38 CFR part 59, which was published at 71 FR 46103 on August 11, 2006, is adopted as a final rule without change.

[FR Doc. E7–2465 Filed 2–13–07; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123; FCC 06–182]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities; Internet-Based Captioned Telephone Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification.

SUMMARY: In this document, the Commission grants a request for clarification that Internet Protocol (IP) captioned telephone relay service (IP captioned telephone service or IP CTS) is a type of telecommunications relay service (TRS) eligible for compensation from the Interstate TRS Fund (Fund) when offered in compliance with the applicable TRS mandatory minimum standards. The Commission also grants the request that *all* IP CTS calls be compensated from the Fund until such time as it adopts jurisdiction separation of costs for this services. The Commission conditions its approval on Ultratec's representation that it will continue to license its captioned telephone technologies, including technologies relating to IP CTS, at reasonable rates. Also in this document, the Commission seeks approval from the Office of Management and Budget (OMB) for any Paperwork Reduction Act (PRA) burdens contained in this document that will modify OMB Control Number 3060–1053 to have TRS providers offering IP CTS file annual reports with the Commission.

DATES: Effective April 16, 2007. Written comments on the PRA modified information collection requirements must be submitted by the general public, Office of Management and Budget (OMB), and other interested parties on or before April 16, 2007.

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

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

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

- *E-mail:* Parties who choose to file by e-mail should submit their PRA comments to PRA@fcc.gov and to Allison E. Zaleski at

AllisonE.Zaleski@omb.eop.gov. Please include the docket number 03–123 and/or OMB Control number 3060–1053 in the subject line of the message.

- *Mail/Fax:* Parties who choose to file by paper should submit their PRA comments to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554, and to Allison E. Zaleski, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via fax (202) 395–5167.

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

FOR FURTHER INFORMATION CONTACT:

Thomas Chandler, Consumer and Governmental Affairs Bureau at (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail Thomas.Chandler@fcc.gov. For additional information concerning the PRA information collection requirements contained in the document, send an e-mail to PRA@fcc.gov or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

This document contains modified information collection requirements subject to the PRA of 1995, Public Law 104–13. These will be submitted to OMB for review under § 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection(s) contained in this proceeding. On July 19, 2005, the Commission released Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order (*Two-Line Captioned Telephone Order*), CG Docket No. 03–123, FCC 05–141, which was published in the **Federal Register** on September 14, 2005 (70 FR 54292), concluding that *two-line* captioned telephone service is a type of TRS eligible for compensation from the Fund, effective October 14, 2005. This is a summary of the Commission's document FCC 06–182, adopted December 20, 2006, released January 11, 2007. Document FCC 06–182 addresses issues arising from a *Petition for Rulemaking to Mandate Captioned Telephone Relay Service and Approve IP Captioned Telephone Relay Services (Petition)*, filed October 31, 2005, 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), a *Request for Expedited Clarification for the Provision of and Cost Recovery for Internet Protocol Captioned Telephone Relay Service (Ultratec Petition to Clarify)*, filed January 17, 2006, by Ultratec, Inc. (Ultratec), and a *Request to Amend Petition for Rulemaking to Mandate Captioned Telephone Relay Service; Request for Expedited Clarification on the Provision (Petition to Amend)*, filed January 19, 2006 by Petitioners. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The full text of document FCC 06-182 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document FCC 06-182 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at their Web site: <http://www.bcpweb.com> or call 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Document FCC 06-182 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

Paperwork Reduction Act

Document FCC 06-182 contains modified information collection requirements. The Commission, as part

of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in document FCC 06-182 as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Public and agency comments are due April 16, 2007. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees." In this present document, the Commission has assessed the effects of its determination that IP captioned telephone service is a type of TRS eligible for compensation from the Interstate TRS Fund, and finds that such action will not affect businesses with fewer than 25 employees.

Synopsis

The Petition

Petitioners describe IP CTS as using the Internet to provide captioned telephone service. (*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.) Petitioners ask the Commission to 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. (*Petition* at 19-20.) 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." (*Petition to Amend* at 2.)

Petitioners emphasize that there are multiple methods of using the Internet to provide captioned telephone service. (*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.)) 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. (*See, e.g., Ultratec Ex Parte*.) 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. (*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. *See, e.g., Ultratec Ex Parte* Attachment at 3-7.)

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

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. (*Petition* at 19–20; *see also Ultratec Petition to Clarify* at 6.) Petitioners note that under this arrangement, multiple national providers are able to compete for customers. (*Petition* at 20; *see also Ultratec Petition to Clarify* at 6.) Petitioners also assert that IP CTS providers should be subject to the Commission certification procedures applicable to other Internet-based forms of TRS. (*Petition* at 20.) 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. (*Ultratec Petition to Clarify* at 7–8 (listing waivers)).

The Comments

The *Petition* was placed on Public Notice. (*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, (November 14, 2005); published at 70 FR 71849, November 30, 2005)). Five providers and governmental entities submitted comments and six entities submitted reply comments. (Comments were filed by the California Public Utilities Commission and the People of the State of California (CA PUC) (December 29, 2005); the Florida Public Service Commission (FPSC) (December 21, 2005); Hamilton Relay, Inc. (Hamilton) (December 30, 2005); Sprint Nextel Corporation (Sprint) (December 30, 2005); and MCI, Inc. (now Verizon) (Verizon) (December 30, 2005). Reply comments were filed by Petitioners (January 17, 2006); CA PUC (January 17, 2006); Missouri Public Service Commission (MO PSC) (January 17, 2006); National Association of State Utility Commissioners (NASUCA) (January 17, 2006); Ultratec (January 17, 2006); and Verizon (January 17, 2006)). All of these commenters urge the Commission to recognize IP captioned telephone service as a type of TRS service. (*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.) Numerous individuals also submitted comments, all generally supporting of the *Petition*. (Individual comments can be found in Docket No. 03–123 at <http://gulfoss2.fcc.gov/prod/ecfs/>

comsrch_v2.cgi.) In addition, the 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. (*See* Report of the TRS Working Group to the Federal Communications Commission Consumer Advisory Committee (November 2006) (*CAC TRS Working Group Recommendation*)).

Commenters also support compensating all such calls from the Interstate TRS Fund. (*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, 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.) 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. (Hamilton Comments at 4. No commenters oppose this request.)

Discussion

The Commission concludes that IP CTS is a type of TRS, and that all such calls may be compensated from the Interstate TRS Fund. The Commission also concludes that providers seeking to offer this service and to be compensated from the Fund may seek certification from the Commission pursuant to the recent certification rules adopted by the Commission. (*See Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03–123, Report and Order and Order on Reconsideration, 20 FCC Rcd 1719 (December 12, 2005); published at 70 FR 76208, December 23, 2005 (*TRS Provider Certification Order*)). In addition, the Commission sets forth those TRS mandatory minimum standards inapplicable to the provision of this service. Finally, the Commission

conditions its approval on Ultratec's representation that it will continue to license its captioned telephone technologies, including technologies relating to IP CTS, at reasonable rates.

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 of the Communications Act 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. (*See 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); published at 70 FR 51643, August 31, 2005 (*ASL-to-Spanish VRS Order*) (recognizing ASL-to-Spanish VRS service as a form of TRS); *Two-line Captioned Telephone Order*.) In so doing, the Commission has noted that:

In enacting Section 225 of the Communications Act, 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 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, the Commission has found that the phrase “telephone transmission service” used in Section 225 of the Communications Act, 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. (*See Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16124, paragraph 8; published at 68 FR 55898, September 29, 2003.)

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.

Therefore, the Commission finds that IP captioned telephone service is a type of TRS. The Commission emphasizes 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. (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 (August 17, 2006) (stating that there is a “generic” way to do “captioned IP telephony” with any computer)). 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. (Cf. *Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16127, paragraph 17 (“to avoid authorizing a particular proprietary technology, rather than a particular functionality or service, the Commission defines the captioned telephone * * * service that it recognize as TRS in the *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”). The Commission also notes 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*.) As a result, the Commission does 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. (At this time, the Commission declines 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 CFR 64.604(a)(1)(iii) of the Commission’s rules. The Commission recognizes, 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, paragraph 38 and note 106 (suggesting that with voice recognition technology captions are generated at 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.)

The Commission expects, 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. The Commission does 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, paragraph 2 (August 14, 2006); published at 71 FR 49380, August 23, 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). The Commission also notes 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.) Similarly, although the *Captioned Telephone Declaratory Ruling* explained that the captions were generated by voice recognition technology, and therefore no typing was involved, (See, e.g., *Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16122, paragraph 4, and 16127, paragraph 16), the Commission does 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 enough to appear on the consumer’s device nearly simultaneously with the speech. (See *2006 Captioned Telephone Waiver Order* at paragraph 4 (clarifying that certain requirements does not apply to this service if it is offered via voice recognition technology and not typed text)). 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. (See *Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16127, paragraph 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”). The Commission recognizes that because this service offers consumers additional features—e.g., portability, lower cost and easier availability, greater accessibility for persons with multiple disabilities (see, e.g., *Ultratec Petition to Clarify* at 4–7; *CAC TRS Working Group Recommendation* at 3)—it represents an important step towards functional equivalency. (See *CAC TRS Working Group Recommendation* at 3–4.)

Moreover, the Commission expects that this will not be a service under the control of one vendor or provider. In this regard, the Commission conditions its approval on Ultratec’s representation that it will continue to license its captioned telephone technologies, including technologies relating to IP CTS, at reasonable rates. (See *KPS Consulting, Ex Parte Letter*, CG Docket No. 03–123 (November 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”).

The Commission also concludes that, on an interim basis, all IP CTS calls may be compensated from the Fund if provided in compliance with the Commission's rules. (See *CAC TRS Working Group Recommendation* at 1 (urging that this service be compensated from the Fund)). This is consistent with the present treatment of VRS and IP Relay calls. (The *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, paragraphs 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)). The Commission believes this arrangement will be an incentive for multiple providers to offer this service on a nationwide basis. (See generally *Ultratec Petition to Clarify* at 6.) The Commission notes that this is an interim measure and that we intend to revisit the cost recovery methodology for this service in the future, (as noted above, in the pending *2006 TRS Cost Recovery FNPRM*, the Commission has raised the issue of the appropriate cost recovery methodologies for all forms of TRS), including jurisdictional separation of costs. The Commission will also consider at a future date whether IP CTS and captioned telephone service should be mandatory forms of TRS.).

In addition, the Commission notes 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. (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*, Order, CG Docket No. 03–123, Order, 21 FCC Rcd 7018 (June 29, 2006); *Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16129, paragraph 22.) Because the Commission believes 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. (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, paragraph 23. Because it is presently unclear how many providers may choose to offer IP CTS, and how it will be offered, the Commission similarly concludes 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, the Commission directs 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.)

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 “certification” from the Commission as an eligible provider. (See *TRS Provider Certification Order*, 20 FCC Rcd at 20586–90, paragraphs 17–26.) The Commission noted that the present eligibility criteria for compensation from the Interstate TRS Fund set forth in the Commission's rules do not reflect advances in the way that TRS is offered, particularly with respect to the Internet-based forms of TRS. (See 47 CFR 64.604(c)(5)(iii)(F)(3) of the Commission's rules, 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, paragraphs 18–19.) 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. (*TRS Provider Certification Order*, 20 FCC Rcd at 20586, paragraph 17.) This process is described in that order and

the Commission's rules. (*TRS Provider Certification Order*, 20 FCC Rcd at 20587–90, paragraphs 22–26; 47 CFR 64.605 of the Commission's rules.)

The Commission concludes 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. (In a subsequent rulemaking, the Commission will add IP CTS to these certification rules. See 47 CFR 64.604(c)(5)(iii)(F)(4) and § 64.605 of the Commission's rules.) 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, or by seeking Commission certification. (If eligibility is via a certified state program, the Commission reminds the state programs that they must notify the Commission within 60 days of substantive changes in their program. See 47 CFR 64.605(f)(1) of the Commission's rule.) 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 the *Declaratory Ruling*.

Applicable Mandatory Minimum Standards. The Commission does not mandate the provision of IP captioned telephone service at this time. (Presently VRS, IP Relay, and captioned telephone service are not mandatory TRS services). Because the Commission does not mandate IP captioned telephone service, this service need not be offered 24/7 at this time. See 47 CFR 64.604(b)(4) of the Commission's rules.) 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 (see *Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16130–39, paragraphs 24–54 (addressing mandatory minimum standards that are either inapplicable or waived for captioned telephone service); *Captioned Telephone Waiver Order*) and IP Relay, (see generally *2004 TRS Report and Order*, 19 FCC Rcd at 12594 (summarizing waivers for IP Relay and VRS)), given the nature of these services. Because IP captioned telephone service shares characteristics with both of these services, the Commission sets forth herein those mandatory minimum standards either

inapplicable or presently waived for IP CTS.

Although, as noted above, the Commission recognizes 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 timely, 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 context of captioned telephone service and IP Relay, the Commission concludes that providers of IP captioned telephone service need not, at this time, meet the following requirements: (1) gender preference (the gender preference rule requires relay providers to accommodate a user's requested CA gender. *See* 47 CFR 64.604(a)(1)(vi) of the Commission's rules. This requirement does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16137–38, paragraphs 47–48); (2) handling calls in ASCII and Baudot formats (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 CFR 64.601(3) and (4) of the Commission's rules; 47 CFR 64.604(b)(1) of the Commission's rules. This requirement does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16139, paragraphs 53–54); (3) call release (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 CFR 64.601(5) of the Commission's rules. This requirement does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16138–39, paragraphs 51–52. It is waived for IP Relay until January 1, 2008. *See 2004 TRS Report and Order*, 19 FCC Rcd at 12594); (4) Speech-to-Speech (STS) (captioned telephone service providers need not offer STS at this time. *See Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16131–32, paragraphs 28–31. STS service is waived for IP Relay until January 1, 2008. *See 2004 TRS Report and Order*, 19 FCC Rcd at 12594); (5) Hearing Carry Over (HCO) and VCO services (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 CFR 64.601(18) of the Commission's rules. 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 CFR 64.601(8) of the Commission's rules. HCO does not apply to captioned telephone service. *See Captioned Telephone Declaratory Ruling*, 18 FCC Rcd at 16131–32, paragraphs 28–31. VCO and HCO services are waived for IP Relay until January 1, 2008. *See 2004 TRS Report and Order*, 19 FCC Rcd at 12594); (6) outbound 711 calling (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, paragraph 34); (7) emergency call handling (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 CFR 64.604(a)(4) of the Commission's rules. The Commission notes 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 and Order*, 19 FCC Rcd at 12594; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03–123, Order, DA 06–2532 (released December 15, 2006) (extending VRS waiver until January 1, 2008). The Commission recognizes the importance of access to emergency services for all forms of TRS, however, and anticipates addressing access to 911 services for IP CTS when it addresses 911 access for the other Internet-based forms of TRS pursuant to the *2005 VRS/IP Relay 911 NPRM*; published at 71 FR 5221, February 1, 2006. *See also* Federal Communications Commission E9–1–1 Disability Access Summit, held November 15, 2006 (transcript filed in CG Docket No. 03–123)); (8) equal access to interexchange carriers (This requirement requires providers to relay long distance calls through the consumer's choice of interexchange carrier. *See* 47 CFR 64.604(b)(3) of the Commission rules. 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 and Order*, 19 FCC

Rcd at 12524–25, paragraphs 124–27, and 12594. Similarly, if an IP CTS provider does not offer interexchange carrier of choice, the provider must offer free long distance service to their customers); (9) pay-per-call (900) service (pay-per-call (900) services are calls that include a charge billed to the calling party. *See* 47 CFR 64.604(a)(3)(iv) of the Commission rules. This requirement is waived for IP Relay until January 1, 2008. *See 2004 TRS Report and Order*, 19 FCC Rcd at 12594); (10) three-way calling (three-way calling allows more than two parties to be on the telephone line with the CA. *See* 47 CFR 64.601(16) of the Commission's rules. This requirement is waived for IP Relay until January 1, 2008. *See 2004 TRS Report and Order*, 19 FCC Rcd at 12594); (11) speed dialing (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 CFR 64.601(13) of the Commission's rules. This requirement is waived for IP Relay until January 1, 2008. *See 2004 TRS Report and Order*, 19 FCC Rcd at 12594); and (12) certain rules applying to CAs. (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, paragraphs 36–46. These waivers expired on August 1, 2006. In the *2006 Captioned Telephone Waiver Order*, the Commission 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 CA does not play a role in setting up a call. *See 2006 Captioned Telephone Waiver Order*, at paragraph 4. These requirements also do not apply to IP CTS in similar circumstances.) For those waivers presently contingent on annual reporting requirements, providers of IP CTS must also file such reports. (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 and Order, 19 FCC Rcd at 12594; see also 2004 TRS Report and Order at 12520–21, paragraph 111 (detailing required contents of annual report)).

The Commission recognizes that depending on how IP CTS is offered, providers may be able to offer some of the features and services noted above. The Commission encourages 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. (See also CAC TRS Working Group Recommendation at 3 (setting forth possible features of this service)). The Commission also again emphasizes that providers must offer service in compliance with all applicable non-waived mandatory minimum standards to be compensated from the Fund.

Congressional Review Act

The Commission will not send a copy of the *Declaratory Ruling* pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the adopted rules are rules of particular applicability, granting a request for clarification that IP CTS is a type of TRS eligible for compensation from the Fund.

Ordering Clauses

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 CFR 1.2, 1.3, 64.604 and 64.605, the *Declaratory Ruling* hereby is adopted.

Petition to Amend filed by Petitioners is granted to the extent indicated herein.

Ultratec Petition to Clarify is granted to the extent indicated herein.

The Declaratory Ruling shall be effective April 16, 2007.

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center shall send a copy of the *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.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 013107D]

Atlantic Highly Migratory Species; Small Coastal Shark Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Regional fishery closure.

SUMMARY: NMFS is closing the commercial fishery for small coastal sharks conducted by persons aboard vessels issued a Federal Atlantic shark permit in the Gulf of Mexico region. This action is necessary because the quota for the first 2007 fishing season in the Gulf of Mexico season has likely been exceeded. The commercial small coastal shark fisheries in the South Atlantic and North Atlantic regions are allocated separate quotas and will remain open until further notice.

DATES: The commercial small coastal shark fishery in the Gulf of Mexico region is closed effective from 11:30 p.m. local time February 23, 2007 to May 1, 2007.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

On December 14, 2006 (71 FR 75122), NMFS announced that the small coastal shark quota for the first fishing season of the 2007 fishing year in the Gulf of Mexico region would be 15.1 metric tons (mt) dressed weight (dw) (33,289 lb dw). As of January 26, 2007, preliminary reports from dealers indicate that approximately 6.6 mt dw (14,500 lb dw) were reported landed in the Gulf of Mexico region during the first fishing season of 2007. Under 50 CFR 635.5(b)(1), shark dealers are required to report every two weeks. Fish received by dealers between the 1st and 15th of any month are required to be reported by the 26th of that month. Fish received by dealers between the 16th and the end of any month are required to be reported by the 10th of the following month. As

such, these preliminary reports indicate that in the first reporting period of the fishing season approximately 43.7 percent of the available quota was taken. Assuming the same catch rates continued for the second reporting period in January and will continue for the first reporting period in February, NMFS estimates that approximately 131 percent of the available quota (19.8 mt dw) could be taken by the close of the first reporting period in February (February 15, 2007). NMFS will not have estimates of actual landings through the first reporting period in February until February 26, 2007.

Under 50 CFR 635.28(b)(2), when the fishing season quota for small coastal sharks is reached for a particular region, NMFS will file for publication a notice of closure at least 14 days before the effective date. Accordingly, NMFS is closing the commercial small coastal shark fishery in the Gulf of Mexico region as of 11:30 p.m. local time February 23, 2007. During the closure, retention of small coastal sharks in the Gulf of Mexico region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under 50 CFR 635.4, unless the vessel is permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and no sale provisions may apply (50 CFR 635.22(a) and (c)). The sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of carcasses and/or fins of small coastal sharks harvested by a person aboard a vessel in the Gulf of Mexico region that has been issued a commercial shark limited access permit under 50 CFR 635.4, is prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure, and were held in storage by a dealer or processor.

This closure does not affect the commercial small coastal shark fisheries in the South Atlantic or North Atlantic regions which remain open until further notice. In addition, the commercial pelagic shark fishery remains open until further notice. The large coastal shark fishery in the North Atlantic is currently open, and as was announced on December 14, 2006 (71 FR 75122), will close on April 30, 2007. As announced in that notice, the large coastal shark fishery in the South Atlantic and Gulf of Mexico regions is already closed. The recreational shark fishery is not affected by this closure.

Classification

Pursuant to 5 U.S.C. 553 (b)(B), the Assistant Administrator for Fisheries,