

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

In the Matter of)
Telecommunications Relay Services and)
Speech-to-Speech Services for) CG Docket No. 03-123
Individuals with Hearing and Speech Disabilities) CC Docket No. 98-67
E911 Requirements for IP-Enabled Service) WC Docket No. 05-196
Providers)

SECOND REPORT AND ORDER AND ORDER ON RECONSIDERATION

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

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I. INTRODUCTION

1. In this Second Report and Order and Order on Reconsideration (*Order*), we address several issues relating to our June 24, 2008 *Internet-based TRS Order*, in which we adopted a system to assign users of Internet-based Telecommunications Relay Service (TRS), specifically Video Relay Service (VRS) and Internet-Protocol (IP) Relay, ten-digit numbers linked to the North American Numbering Plan (NANP).¹ The Commission determined that the numbering system will ensure that VRS and IP Relay users (collectively “Internet-based TRS users”) can be called in the same manner that voice telephone users are called – using a standard ten-digit telephone number – and that emergency calls placed by Internet-based TRS users will be routed directly and automatically to appropriate emergency services authorities by the Internet-based TRS providers.² The Commission mandated that the new numbering and emergency call handling plan be implemented by December 31, 2008.³ In an accompanying Further Notice of Proposed Rulemaking (*Further Notice*), the Commission sought comment on additional issues relating to the implementation of the ten-digit numbering plan and emergency call handling requirements for Internet-based TRS.⁴

2. The issues we address in this *Order* are critical to ensuring a successful transition to ten-digit numbering by December 31, 2008. Specifically, we address 911 implementation issues, the timing for user registration, use of toll free numbers for Internet-based TRS service, eligibility requirements and verification procedures, assignment of telephone numbers, and numbering cost issues. We also address a petition for reconsideration filed by CSDVRS, GoAmerica, Viable, and Snap;⁵ a petition for clarification filed by CSDVRS;⁶ a petition for reconsideration and clarification filed by Sorenson regarding 911 and E911 issues;⁷ a petition for limited waiver filed by Sorenson regarding the use of “proxy” and “alias”

¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) (*Internet-based TRS Order*).

² *Internet-based TRS Order*, 23 FCC Rcd at 11592–93, para. 1. We use the term “Internet-based TRS” herein to refer to both VRS and IP Relay, unless otherwise specified. Although IP captioned telephone service (IP CTS) is also an Internet-based form of TRS, as noted in the *Internet-based TRS Order*, the Commission has determined to address any issues relating to IP CTS, if appropriate, in a separate order because IP CTS raises distinct technical and regulatory issues. See *id.* at 11592 n.5 (deferring action on IP CTS); *id.* at 11594 n.15 (describing captioned telephone service and IP CTS).

³ *Internet-based TRS Order*, 23 FCC Rcd at 11592–93, 11627–28, paras. 1, 102. In the meantime, the Commission has awarded a contract to construct and operate the numbering directory. See Public Notice, *Commission Awards Contract to NeuStar Inc. to Build and Operate Centralized Database for Internet Based Telecommunications Relay Service Numbering System*, CG Docket No. 03-123 & WC Docket No. 05-196, DA 08-2069 (rel. Sept. 10, 2008).

⁴ *Id.*, 23 FCC Rcd at 11628–46, paras. 105–49.

⁵ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Petition for Reconsideration and Clarification by CSDVRS, LLC, GoAmerica, Inc., Viable, Inc., and Snap Telecommunications, Inc. (filed Aug. 15, 2008) (Petition for Reconsideration).

⁶ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Petition for Clarification by CSDVRS, LLC (filed Aug. 15, 2008) (Petition for Clarification).

⁷ Sorenson Communications, Inc. Petition for Reconsideration and Clarification, CG Docket No. 03-123, WC Docket No. 05-196 (filed Aug. 18, 2008) (Sorenson Petition for Reconsideration).

numbers;⁸ and a petition for clarification filed by NENA and the Association of Public-Safety Communications Officials International (APCO) concerning the types of information a VRS communications assistant may provide to emergency personnel when relaying an emergency VRS call.⁹

II. BACKGROUND

3. Title IV of the Americans with Disabilities Act of 1990 (ADA) requires the creation of a nationwide TRS program to allow persons with hearing and speech disabilities access to the nation's telephone network.¹⁰ TRS must be available to the extent possible and in the most efficient manner,¹¹ and must offer telephone system access that is "functionally equivalent" to voice telephone services, as reflected in the TRS mandatory minimum standards.¹² The functional equivalency standard serves as the benchmark in determining the services and features TRS providers must offer to consumers.¹³ In some circumstances, TRS equipment also permits persons with hearing disabilities to communicate directly with each other (*i.e.*, point-to-point calls).¹⁴

4. When Congress adopted section 225, relay calls were placed using a text telephone device (TTY) connected to the Public Switched Telephone Network (PSTN). Since then, the Commission has recognized new forms of TRS, including Internet-based forms of TRS such as VRS,¹⁵ IP Relay,¹⁶ and IP CTS.¹⁷ Because Internet-based relay services have not been linked to a uniform telephone numbering scheme and, instead, have used shifting (or "dynamic") IP addresses, there has been no consistent means by which to reach an Internet-based TRS user.¹⁸ Also, because IP addresses have not necessarily correlated to an Internet-based TRS user's geographic location, there has been no consistent means by which an Internet-based TRS provider can directly and automatically route an Internet-based TRS emergency call to an appropriate public safety answering point (PSAP).¹⁹

⁸ Sorenson Petition for Limited Waiver, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 30, 2008) (Sorenson Petition for Limited Waiver).

⁹ NENA and APCO Request for Expedited Clarification of Section 64.602(a)(2) of the Rules, CC Docket No. 98-67, CG Docket No. 03-123, WC Docket No. 05-196 (filed Oct. 24, 2008) (NENA and APCO Request for Expedited Clarification).

¹⁰ Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990); 47 U.S.C. § 225.

¹¹ 47 U.S.C. § 225(b)(1).

¹² 47 U.S.C. § 225(a)(3); *see also* 47 C.F.R. § 64.604.

¹³ *See* 47 C.F.R. § 64.604.

¹⁴ Such calls, however, are not TRS calls, which, pursuant to section 225, must involve a person with a hearing or speech disability calling a voice telephone user or vice versa. *See* 47 U.S.C. § 225(a)(3).

¹⁵ *See 2000 TRS Order*, 15 FCC Rcd at 5152-54, paras. 21-27.

¹⁶ *See IP Relay Declaratory Ruling & Second FNPRM*, 17 FCC Rcd at 7783-84, paras. 10-14.

¹⁷ *See supra* note 2.

¹⁸ *See Internet-based TRS Order*, 23 FCC Rcd at 11594-95, paras. 4-8.

¹⁹ *See id.*, 23 FCC Rcd at 11596-97, para. 11.

5. The *Internet-based TRS Order* addressed both of these issues.²⁰ First, to ensure that voice telephone users can call a VRS or IP Relay user simply by dialing a ten-digit number, *i.e.*, in the same manner that they would call another voice telephone user, the Commission required Internet-based TRS providers to assign NANP telephone numbers to persons who use their service.²¹ The Commission determined that Internet-based TRS users should obtain telephone numbers directly from an Internet-based TRS provider, given that such a process is functionally equivalent to the process by which voice telephone subscribers obtain telephone numbers.²² The Commission also determined that to obtain a telephone number, an Internet-based TRS user must register with his or her selected (or “default”) Internet-based TRS provider.²³ In addition, the Commission extended its local number portability (LNP) obligations to Internet-based TRS providers, so that the full array of obligations relating to the porting of numbers from one service provider to another will apply when an Internet-based TRS user wishes to port his or her telephone number to a new default provider.²⁴

6. To make it possible for providers to route a call from a voice telephone user to a VRS or IP Relay user, using the TRS user’s ten-digit telephone number, the Commission adopted a central numbering directory mechanism that maps the Internet-based TRS user’s ten-digit NANP telephone number to the current Internet address of his or her end device.²⁵ The Commission concluded that Internet-based TRS providers would provision routing information directly to the central numbering directory on behalf of their registered users.²⁶ The Commission also determined that this routing information will be in the form of a Uniform Resource Identifier (URI). A telephone number assigned for IP Relay use will have an associated URI containing a domain name and user name, and a telephone number assigned for VRS use will have an associated URI containing an IP address and device-specific protocol information.²⁷ The Commission further determined that building, maintaining, and operating the central numbering directory would best be accomplished by a neutral third-party administrator under

²⁰ The June 2008 *Internet-based TRS Order* was preceded by the *Interim Emergency Call Handling Order*, which terminated the temporary waivers of the emergency call handling rule for VRS, IP Relay, and IP CTS and noted that the Commission intended to adopt a ten-digit numbering plan for Internet-based TRS in a forthcoming Commission order. See *Telecommunications Relay Services And Speech-to-Speech Services For Individuals With Hearing And Speech Disabilities; E911 Requirements For IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Report and Order, 23 FCC Rcd 5255 (2008) (*Interim Emergency Call Handling Order*). The *Interim Emergency Call Handling Order* required Internet-based TRS providers to accept and handle emergency calls and to access, either directly or via a third party, a commercially available database that will allow the provider to identify an appropriate PSAP that corresponds to the caller’s location, and to relay the call to that entity. *Id.*; see also *Internet-based TRS Order*, 23 FCC Rcd at 11595–98, paras. 9–13 (addressing the *Interim Emergency Call Handling Order*). Throughout this *Order*, we intend the term “PSAP” to include a designated statewide default answering point or appropriate local emergency authority.

²¹ See *Internet-based TRS Order*, 23 FCC Rcd at 11601–02, para. 22. The Commission also instructed providers to cease issuing “proxy” or “alias” numbers by December 31, 2008. *Id.*

²² See *id.*, 23 FCC Rcd at 11602, 11603–04, paras. 25, 28.

²³ See *id.*, 23 FCC Rcd at 11609–10, paras. 42–45. Internet-based TRS providers may obtain their numbering resources either by commercial agreement with their numbering partners or, if eligible, directly from the North American Numbering Plan Administrator (NANPA) or the Pooling Administrator (PA). See *id.*, 23 FCC Rcd at 11604–06, paras. 29–33.

²⁴ See *id.*, 23 FCC Rcd at 11606–07, paras. 34–36. The Commission found that Internet-based TRS providers would be subject to the portability requirements, with the sole exception of contributing to meet shared numbering administration costs and LNP costs. *Id.*, 23 FCC Rcd at 11606–08, paras. 34–38.

²⁵ See *id.*, 23 FCC Rcd at 11610–13, paras. 46–53.

²⁶ See *id.*, 23 FCC Rcd at 11614–16, paras. 55–63.

²⁷ See *id.*, 23 FCC Rcd at 11612–13, paras. 50–53.

contract with the Commission and compensated through the Interstate TRS Fund (Fund).²⁸ The Commission concluded that, for security reasons, only Internet-based TRS providers should be authorized to query the central numbering directory for the purpose of obtaining information from the numbering directory to complete calls.²⁹

7. Second, to ensure that Internet-based TRS users can make emergency calls that will be directly and automatically routed to the appropriate PSAP, the Commission required that Internet-based TRS providers, prior to the initiation of service, obtain consumer location information from each of their registered users.³⁰ Further, the Commission required each Internet-based TRS provider to transmit all 911 calls to the PSAP, designated statewide default answering point, or appropriate local emergency authority that services the caller's Registered Location and that has been designated for telecommunications carriers under the Commission's Part 64 rules. Each such 911 call must carry a call back number, the name of the relay provider, the communications assistant's (CA's) identification number, and the caller's Registered Location.³¹ The Commission further instructed that such calls must be routed through the use of ANI (or pseudo-ANI, if necessary) via the dedicated Wireline E911 Network, and the Registered Location must be available from or through the ALI Database.³² The Commission made clear that Internet-based TRS providers may not fulfill their 911 obligations by routing 911 calls to ten-digit NPA-NXX numbers (so called "administrative numbers") of PSAPs where a selective router is utilized.³³

8. In the *Further Notice*, we sought comment on fourteen different issues relating to the assignment and administration of ten-digit telephone numbers for Internet-based TRS.³⁴ Specifically, we sought comment on: (1) certain peripheral issues concerning the proper handling of 911 calls placed via Internet-based TRS; (2) registration period; (3) the eligibility of Internet-based TRS users to receive multiple telephone numbers; (4) the use of toll free numbers; (5) what steps the Commission should take, if any, to facilitate implementation of standards-based signaling between service providers; (6) the assignment of a single telephone number to multiple services; (7) multi-line telephone systems; (8) eligibility to obtain Internet-based TRS telephone numbers; (9) the regulatory treatment of IP CTS; (10) additional security measures designed to ensure the integrity of the TRS system and Internet-based TRS equipment and networks; (11) verification of registration; (12) application of the anti-slamming rules to protect relay consumers against unauthorized default provider changes; (13) the extent to which the CPNI rules should apply to Internet-based TRS providers; and (14) whether, and to what extent, in connection with the compensation of Internet-based TRS providers for their reasonable actual costs of

²⁸ See *id.*, 23 FCC Rcd at 11618–20, paras. 73–78; *supra* note 3.

²⁹ See *id.*, 23 FCC Rcd at 11616–17, paras. 64–67.

³⁰ See *id.*, 23 FCC Rcd at 11620–21, paras. 79–80. This location will be the physical location at which the service will first be utilized. The Commission also required providers of Internet-based TRS that can be utilized from more than one physical location to provide their registered users one or more methods of updating the users' Registered Location information. *Id.* at 11620–21, para. 80. We note that these Registered Location requirements mirror those adopted by the Commission for interconnected voice over Internet Protocol (VoIP) services. See *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36, 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10271, para. 46 (2005) (*VoIP 911 Order*) (establishing Registered Location requirements), *aff'd*, *Nuvio Corp. v. FCC*, 473 F.3d 302 (D.C. Cir. 2006); 47 C.F.R. § 9.5(d).

³¹ See *Internet-based TRS Order*, 23 FCC Rcd at 11620–21, para. 82.

³² See *id.*

³³ See *id.*, 23 FCC Rcd at 11621, para. 84.

³⁴ See *Further Notice*, 23 FCC Rcd at 11628, para. 105.

complying with the *Internet-based TRS Order*, the costs of acquiring numbers, and porting fees, should be passed on to Internet-based TRS users. The Commission received numerous comments on these issues.³⁵

9. On August 15, 2008, CSDVRS, GoAmerica, Viable and Snap filed a petition seeking reconsideration and clarification of the Commission's *Internet-based TRS Order* with respect to the obligations of default and former default providers to route consumer information.³⁶ The petitioners request that the Commission revise its rule to allow the consumer either (1) to continue to use the devices once they have ported their number with the understanding that their routing information will continue to be provisioned by the original provider that supplied the device or (2) to acquire a new device from the new default provider.³⁷ Sorenson filed an opposition to the Petition for Reconsideration³⁸ and the TDI Coalition and Hamilton filed comments in response to the Petition for Reconsideration.³⁹ CSDVRS and GoAmerica filed replies to Sorenson's opposition to the Petition for Reconsideration.⁴⁰

10. On August 15, 2008, CSDVRS also filed a petition seeking clarification that the Commission's rules require VRS providers to provide fully interoperable relay service.⁴¹ CSDVRS requests that the Commission clarify that every VRS provider has an obligation to ensure that it is as easy for a VRS user to place outbound calls via competing providers as it is to place outbound calls via the user's default provider.⁴² Sorenson filed an opposition to CSDVRS's Petition for Clarification⁴³ and CSDVRS and GoAmerica filed replies to Sorenson's opposition.⁴⁴ On August 18, 2008, Sorenson filed a petition for reconsideration and clarification seeking the Commission to: (1) allow the continued use of "proxy" numbers; (2) recognize that 911 calls must be routed over administrative lines in certain circumstances; and (3) clarify the date by which E911 must be fully implemented.⁴⁵ The TDI Coalition

³⁵ See Appendix A for a list of commenters.

³⁶ Petition for Reconsideration at 1.

³⁷ *Id.* at 4.

³⁸ See Sorenson Opposition to Petition for Reconsideration and Clarification, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 15, 2008) (Sorenson Opposition to Petition for Reconsideration).

³⁹ See Comments of the TDI Coalition to Petition for Reconsideration and Clarification, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 15, 2008) (TDI Coalition Comments to Petition for Reconsideration); Comments of Hamilton Relay to Petition for Reconsideration and Clarification, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 15, 2008) (Hamilton Relay Comments to Petition for Reconsideration).

⁴⁰ See CSDVRS Reply to Sorenson's Opposition to the Petition for Reconsideration and Clarification, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 25, 2008) (CSDVRS Reply to Opposition to Petition for Reconsideration); GoAmerica Reply to Sorenson's Opposition to the Petition for Reconsideration and Clarification, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 25, 2008) (GoAmerica Reply to Opposition to Petition for Reconsideration).

⁴¹ Petition for Clarification at 1. Rule 64.611(a)(2) sets forth the VRS and IP Relay providers' obligations, as default providers, to "route and deliver all of that user's inbound and outbound calls unless the user chooses to place a call with, or receives a call from, an alternate provider." 47 C.F.R. § 64.611(a)(2).

⁴² Petition for Clarification at 7.

⁴³ Sorenson Opposition to Petition for Clarification, CG Docket No. 03-123, WC Docket No. 15-196 (filed Aug. 25, 2008) (Sorenson Opposition to Petition for Clarification).

⁴⁴ See CSDVRS Reply to Opposition to Petition for Clarification, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 2, 2008) (CSDVRS Reply to Opposition to Petition for Clarification); GoAmerica, Inc. Reply to Opposition to Petition for Clarification, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 5, 2008) (GoAmerica Reply to Opposition to Petition for Clarification).

⁴⁵ Sorenson Petition for Reconsideration at 1.

filed an opposition to Sorenson's Petition for Reconsideration⁴⁶ and the Joint Responders filed a partial opposition.⁴⁷ AT&T filed reply comments.⁴⁸ On September 30, 2008, Sorenson filed a petition for limited waiver of the prohibition on the use of "proxy" and "alias" numbers.⁴⁹ CSDVRS, GoAmerica, Hamilton Relay, and TDI Coalition filed oppositions to Sorenson's petition for limited waiver.⁵⁰ Sorenson filed a reply to the oppositions.⁵¹

11. On October 24, 2008, NENA and APCO filed a request for clarification that the Commission's rule governing the non-disclosure by a CA of the content of a relayed conversation does not prohibit a VRS CA, when relaying an emergency call, from disclosing background visual and auditory information to emergency personnel.⁵² Sorenson and the TDI Coalition filed *ex partes* in support of this request.⁵³

III. DISCUSSION

A. 911 Issues

1. 911 Calls and the Call Completion Rule

12. Our rules require Internet-based TRS providers to use a system that ensures that the provider will answer an incoming emergency call before other non-emergency calls, *i.e.*, that the provider will prioritize emergency calls and move them to the top of the queue.⁵⁴ In the *Further Notice*, the Commission sought comment on whether, as an additional step to ensure the prompt handling of emergency calls, the call completion rule should be modified so that if an Internet-based TRS provider's CA is handling a non-emergency relay call and identifies an incoming 911 call that would be placed in

⁴⁶ TDI Coalition Opposition to Sorenson Petition for Reconsideration, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 15, 2008) (TDI Coalition Opposition to Sorenson Petition for Reconsideration).

⁴⁷ Joint Responders Partial Opposition to Sorenson Petition for Reconsideration, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 15, 2008) (Joint Responders Partial Opposition to Sorenson Petition for Reconsideration).

⁴⁸ AT&T Reply to Sorenson Petition for Reconsideration, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 25, 2008) (AT&T Reply to Sorenson Petition for Reconsideration).

⁴⁹ Sorenson Petition for Limited Waiver at 1.

⁵⁰ CSDVRS Opposition to Sorenson Petition for Limited Waiver, CG Docket No. 03-123, WC Docket No. 05-196 (filed Oct. 15, 2008) (CSDVRS Opposition to Sorenson Petition for Limited Waiver); GoAmerica Opposition to Sorenson Petition for Limited Waiver, CG Docket No. 03-123, WC Docket No. 05-196 (filed Oct. 15, 2008) (GoAmerica Opposition to Sorenson Petition for Limited Waiver); Hamilton Relay Opposition to Sorenson Petition for Limited Waiver, CG Docket No. 03-123, WC Docket No. 05-196 (filed Oct. 15, 2008) (Hamilton Relay Opposition to Sorenson Petition for Limited Waiver); TDI Coalition Opposition to Sorenson Petition for Limited Waiver, CG Docket No. 03-123, WC Docket No. 05-196 (filed Oct. 15, 2008) (TDI Coalition Opposition to Sorenson Petition for Limited Waiver).

⁵¹ See Sorenson Reply to Oppositions to Sorenson Petition for Limited Waiver, CG Docket No. 03-123, WC Docket No. 05-196, at 3-4 (filed Oct. 21, 2008) (Sorenson Reply to Oppositions to Petition for Limited Waiver).

⁵² NENA and APCO Request for Expedited Clarification.

⁵³ Letter from Ruth Milkman, Counsel to Sorenson, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196, at 2 (Nov. 3, 2008) (Sorenson Nov. 3, 2008 *Ex Parte* Letter); Letter from Danielle Burt, Counsel to Telecommunications for the Deaf and Hard of Hearing, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 98-67, CG Docket No. 03-123, WC Docket No. 05-196 (Nov. 26, 2008) (TDI Coalition Nov. 26, 2008 *Ex Parte* Letter).

⁵⁴ See 47 C.F.R. § 64.605(a)(2)(ii), adopted in the *Internet-based TRS Order*; see also *Interim Emergency Call Handling Order*, 23 FCC Rcd at 5275, App. B (adopting 47 C.F.R. § 64.605(a)).

queue, the CA may terminate the existing call to answer the 911 call immediately.⁵⁵ As the Commission noted, under the current call completion rule, a CA may not terminate an ongoing call for any reason, including to answer a 911 call that would otherwise wait in a queue for the next available CA.⁵⁶

13. Based on the record, we conclude that we should not modify the call completion rule to allow CAs to terminate an existing call in order to answer a 911 call.⁵⁷ As several providers note, allowing CAs to terminate a non-emergency call is inconsistent with the principle of functional equivalency and the role of the CA as a dial tone.⁵⁸ Moreover, the assumption that the CA would be terminating a call to answer a call that is more urgent may, in fact, not always be true. As Sprint Nextel notes, a call between a patient and her doctor might be terminated to answer an emergency call that presents less life-threatening issues.⁵⁹ Further, several providers note that there is little evidence in the record to demonstrate that 911 calls made to Internet-based TRS providers have been substantially delayed, or that there is otherwise any compelling reason to modify the current call completion rule, particularly in view of the requirement that providers prioritize incoming 911 calls.⁶⁰ For these reasons, we decline to modify our rules to permit CAs to terminate existing calls to answer 911 calls. We will revisit this issue in the future, however, if we receive information that, notwithstanding the emergency call prioritization rule, emergency callers have had to wait more than a minimal amount of time to reach a CA.

2. Prioritization of “Call Backs” if 911 Call is Disconnected

14. As noted above,⁶¹ in the *Interim Emergency Call Handling Order*, the Commission required providers to implement a system to ensure that incoming emergency calls are answered before other non-emergency calls so that an emergency caller does not have to wait in a queue for the next available CA.⁶² The interim rules also require the CA to give the emergency personnel, at the beginning of the call, the CA’s callback number so that the emergency personnel can call back the CA if the call gets disconnected.⁶³ The latter rule was superseded by the *Internet-based TRS Order*, which requires, effective December 31, 2008, that the CA give the emergency personnel *the caller’s* ten-digit number, rather than *the CA’s* call back number.⁶⁴

⁵⁵ *Internet-based TRS Order*, 23 FCC Rcd at 11628–29, para. 106; see 47 C.F.R. § 64.604(a)(3)(i) (“Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services.”).

⁵⁶ *Internet-based TRS Order*, 23 FCC Rcd at 11629, para. 106.

⁵⁷ See generally AT&T *Further Notice* Comments at 3; CSDVRS *Further Notice* Comments at 2; GoAmerica *Further Notice* Comments at 3; NENA *Further Notice* Comments at 3; Sprint Nextel *Further Notice* Comments at 2–3; TDI Coalition *Further Notice* Comments at 3.

⁵⁸ See, e.g., AT&T *Further Notice* Comments at 5 (noting that 911 calls routed over voice telephone networks occasionally receive a busy signal or are placed on hold if the lines are busy and that ongoing calls are not interrupted); see also CSDVRS *Further Notice* Comments at 2; GoAmerica *Further Notice* Comments at 3; TDI Coalition *Further Notice* Comments at 3.

⁵⁹ Sprint Nextel Comments at 2–3.

⁶⁰ See GoAmerica *Further Notice* Comments at 3 (adding that the existing requirement to prioritize 911 calls should be sufficient to ensure prompt handling of such calls); AT&T *Further Notice* Comments at 3; Sprint Nextel *Further Notice* Comments at 2.

⁶¹ See *supra* para. 12, note 54.

⁶² See 47 C.F.R. § 64.605(a), adopted in the *Interim Emergency Call Handling Order*; see also 47 C.F.R. § 64.605(a)(2)(ii) adopted in the *Internet-based TRS Order*.

⁶³ See 47 C.F.R. § 64.605(a), adopted in the *Interim Emergency Call Handling Order*.

⁶⁴ See 47 C.F.R. § 64.605(a)(2)(ii), adopted in the *Internet-based TRS Order*.

15. As we stated in the recent *VRS Numbering Waiver Order*,⁶⁵ the requirement that VRS providers implement a system to ensure that all incoming emergency calls are prioritized and do not have to wait in a queue also applies to callbacks from the emergency services personnel.⁶⁶ Therefore, we again remind providers that they must ensure not only that incoming 911 calls are prioritized, but also that callbacks from the emergency services personnel to the consumer via the consumer's ten-digit number are answered by the provider before non-emergency calls.

3. Relay of Visual and Auditory Information to Emergency Personnel

16. Recognizing the Commission's commitment to adapt our rules to "ensure that people with disabilities who desire to use interconnected" IP-enabled services "obtain access to E911 services,"⁶⁷ NENA and APCO request clarification that VRS CAs may, "when reasonably necessary, . . . provide visual information to a 9-1-1 telecommunicator that will protect the life of the caller and/or others, including first responders."⁶⁸ Authorizing such actions would "allow interpreters to step in and describe a situation accurately when the deaf user is unable to do so."⁶⁹ NENA and APCO further ask that we clarify that VRS CAs may retain records of what they see and hear during an emergency call.⁷⁰

17. We agree in part and so clarify. Our rules (and the statute) generally prohibit a CA from "intentionally altering a relayed conversation"⁷¹ and from "keeping records of the content of any conversation beyond the duration of a call."⁷² We read these provisions to preserve the content and privacy of the "relayed conversation," but background visual and auditory information regarding an emergency that a CA may see and hear during a VRS call is not part of the "conversation." Thus relaying background visual and auditory information to emergency personnel regarding an ongoing emergency does not contravene the statutory and regulatory protections for "relayed conversations."⁷³ Bolstering our

⁶⁵ See *Telecommunications Relay Services And Speech-to-Speech Services For Individuals With Hearing And Speech Disabilities; E911 Requirements For IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 23 FCC Rcd 13747, 13751, para. 9 (Sept. 19, 2008) (*VRS Numbering Waiver Order*).

⁶⁶ See NENA *Further Notice* Comments at 7; Sorenson *Further Notice* Comments at 2; GoAmerica *Further Notice* Reply at 3 (supporting prioritization of callbacks from the emergency personnel).

⁶⁷ *E911 Requirements For IP-Enabled Service Providers*, WC Docket No. 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10249, para. 63 (2005) (*VoIP 911 Order*).

⁶⁸ See Letter from Brian Fontes, CEO, NENA, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 98-67, CG Docket No. 03-123, WC Docket No. 05-196 (Nov. 14, 2008); see also NENA and APCO Request for Expedited Clarification.

⁶⁹ Sorenson *Further Notice* Comments at 3.

⁷⁰ NENA and APCO Request for Expedited Clarification at 3-4.

⁷¹ 47 C.F.R. § 64.604(a)(2)(ii); 47 U.S.C. § 225(d)(1)(G).

⁷² 47 C.F.R. § 64.604(a)(2)(i); 47 U.S.C. § 225(d)(1)(F).

⁷³ Similarly, we find that VRS CAs may relay background visual and auditory information during non-emergency calls as well. In the *2004 TRS Report and Order & FNPRM*, the Commission sought comment on confidentiality with respect to what a VRS CA sees on the screen and on "any other issues concerning the appropriate behavior and language of VRS CAs." 19 FCC Rcd at 12573, para. 258. Among the scenarios posed by the Commission were the VRS CA witnessing "illegal acts (e.g., domestic violence or child abuse), either by the VRS caller or by individual(s) in the VRS caller's background." *Id.* at 12571-72, para. 255 n.690. Because Congress intended that relay calls take the place of direct voice to voice calls, CAs who conduct traditional text-to-voice calls routinely relay everything that they hear (such as running water or sirens) regardless of whether the individual speaking takes note of that background event. We therefore find that, just as CAs relay information about what they hear, VRS CAs may relay information about what they see in the context of all VRS calls (including evidence of illegal acts), in which case the voice user may contact the appropriate authorities. This conclusion is consistent with the (continued....)

interpretation is our recognition that just as emergency personnel garner important information from the sounds they hear during an emergency call with a hearing user (the crackling of a fire, the explosion of a gunshot), emergency personnel may get functionally equivalent information from the sights a CA sees during an emergency call with a VRS user (the flames of a fire, the brandishing of a gun).⁷⁴ Allowing a VRS CA to relay visual and auditory information regarding an ongoing emergency to emergency personnel should help protect the safety and lives of VRS users and emergency responders.⁷⁵ Thus we clarify that, consistent with the Commission's rules and the Act, a CA may relay background visual and auditory information regarding an ongoing emergency to assist emergency personnel in responding to an emergency VRS call. Moreover, because of the importance of quick action in the face of an ongoing emergency, we clarify that VRS CAs may retain a record of background visual and auditory information regarding an emergency for a reasonable time after an emergency call has terminated for the sole purpose of providing that information to emergency personnel should they call back.⁷⁶

B. Registration Period

18. In the *Internet-based TRS Order*, the Commission required that every Internet-based TRS provider offer its users the capability to register with that provider as the "default provider" and provide or port for that user a NANP telephone number.⁷⁷ In addition, the Commission required Internet-based TRS providers to obtain registration information from all new users and assign all new users a NANP telephone number.⁷⁸ The Commission explained that requiring users to register and assigning them NANP telephone numbers has benefits that include facilitating the effective provision of 911 service.⁷⁹ In the *Further Notice*, the Commission sought comment on the length of the registration period during which Internet-based TRS providers will register existing users, obtain their initial Registered Location, and provide the users new ten-digit NANP telephone numbers.⁸⁰ We also sought comment on whether there should be a cut-off date for users' registration with a default provider.⁸¹

19. The Commission received a number of comments on this issue. AT&T proposes a three-month registration period and a three-month permissive calling period.⁸² During these periods, AT&T recommends education and outreach efforts.⁸³ AT&T recommends that at the end of the permissive calling period, Internet-based TRS providers cease completing the non-emergency calls of unregistered

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functional equivalency standard because hearing callers often can hear background noises in connection with their typical (non-emergency) telephone conversations.

⁷⁴ See Sorenson *Further Notice* Comments at 3 n.6; TDI Coalition Nov. 26, 2008 *Ex Parte* Letter at 2 (noting that "a visual or auditory description would help a public safety responder better analyze a potential life and death situation, particularly if a caller becomes incapacitated or hysterical"); Sorenson Nov. 3, 2008 *Ex Parte* Letter at 2.

⁷⁵ Sorenson Nov. 3, 2008 *Ex Parte* Letter at 2 ("[T]his clarification will protect VRS users by permitting critical information to be relayed in real time to PSAPs and first responders."); see also TDI Coalition Nov. 26, 2008 *Ex Parte* Letter at 2 (asserting that the Commission should "clarify its rules to ensure that an interpreter can provide visual and auditory descriptions that would assist public safety professionals responding to 911 calls by VRS users").

⁷⁶ *Interim Emergency Call Handling Order*, 23 FCC Rcd at 5267, para. 19.

⁷⁷ *Internet-based TRS Order*, 23 FCC Rcd at 11609, para. 42.

⁷⁸ See *id.*, 23 FCC Rcd at 11610, para. 44; 47 C.F.R. § 64.611(b) (requiring mandatory registration of new users).

⁷⁹ See *id.*, 23 FCC Rcd at 11609, para. 42.

⁸⁰ *Id.*, 23 FCC Rcd at 11629, para. 109.

⁸¹ See *id.*

⁸² AT&T *Further Notice* Comments at 6.

⁸³ *Id.*

Internet-based TRS users.⁸⁴ The TDI Coalition recommends a six-month period conditioned on the Commission undertaking periodic review of actual registrations resulting from outreach and education efforts of the Commission and Internet-based TRS providers.⁸⁵ CSDVRS recommends a 12-month registration period with the requirement that each VRS provider submit its number of new registrations on a quarterly basis to the Commission.⁸⁶ CSDVRS also recommends procedures to be put in place after the cut-off date in which callers will be routed to customer service to become registered.⁸⁷

20. Several commenters recommend no cut-off of calling capabilities for unregistered users. NENA claims that education of Internet-based TRS users is preferable to cutting off service.⁸⁸ Sorenson also does not recommend a cut-off period.⁸⁹ Rather, Sorenson recommends promoting registration and education about the benefits of signing-up with a default provider, but not refusing service to individuals who choose not to register.⁹⁰ GoAmerica recommends that registration should be required to obtain a ten-digit number, but not required to use Internet-based TRS service, *i.e.*, users should not be forced to register if they do not want to.⁹¹ GoAmerica further comments that mandatory registration is “contrary to functional equivalence” as hearing people do not have to register.⁹²

21. As we stated in the *Internet-based TRS Order*, registration is essential to the assignment and use of NANP telephone numbers and has important public safety benefits.⁹³ We disagree with GoAmerica that registration is contrary to functional equivalency. For traditional voice communications services, users “register” when they sign up for service by providing their name and address, and in the case of interconnected VoIP, registration is mandatory.⁹⁴ We repeat that Internet-based TRS providers must register eligible new users before providing them service.⁹⁵ For example, any newly-provisioned user (*i.e.*, a user being sent a new device, or application software download) must be given a NANP telephone number. We also adopt AT&T’s recommendation to provide, for eligible existing users, a three-month registration period followed by a three-month permissive calling period; during this six-month period Internet-based TRS providers will engage in consumer education and outreach efforts. As noted by AT&T, the permissive calling period is comparable to the permissive calling period that is used in area code relief situations to provide flexibility as consumers adapt to the new numbering scheme.⁹⁶ Accordingly, Internet-based TRS users may place and receive calls via the method used before December 31, 2008 during the three-month registration and three-month permissive calling periods. Once an

⁸⁴ *Id.* at 7.

⁸⁵ TDI Coalition *Further Notice* Comments at 6.

⁸⁶ CSDVRS *Further Notice* Comments at 7.

⁸⁷ *Id.* at 8. Ultratec supports the requirement that Internet-based TRS users register with a default provider. *See* Ultratec *Further Notice* Comments at 3.

⁸⁸ NENA *Further Notice* Comments at 4.

⁸⁹ Sorenson *Further Notice* Comments at 5.

⁹⁰ *Id.*

⁹¹ GoAmerica *Further Notice* Comments at 6.

⁹² *See* GoAmerica *Further Notice* Reply at 4.

⁹³ *See Internet-based TRS Order*, 23 FCC Rcd at 11609, para. 42. Moreover, rule 64.605(b)(2)(i) states that, as of December 31, 2008, “VRS or IP Relay providers must, as a condition of providing service to a user, provide that user with E911 service as described in this section.” 47 C.F.R. § 64.605(b)(2)(i).

⁹⁴ *VoIP 911 Order*, 20 FCC Rcd at 10271–73, paras. 46–49.

⁹⁵ *See* 47 C.F.R. § 64.611(b).

⁹⁶ *See* AT&T *Further Notice* Comments at 6.

Internet-based TRS user obtains a NANP telephone number, the user may still be reached by his or her “proxy” or “alias” number, but the Internet-based TRS provider will provide a message notifying the caller of the user’s new NANP telephone number and advising the caller that after June 30, 2009, the user may only be reached by the NANP telephone number.

22. Providers should have no trouble getting most of their users with hearing and speech disabilities registered by the three-month target deadline, but the permissive calling period provides flexibility for a transition period in case, for some reason, some users need more time to register. Moreover, during the permissive calling period, Internet-based TRS providers can continue to engage in targeted education and outreach.⁹⁷ As discussed in our *Internet-based TRS Order*, registration is necessary for Internet-based TRS providers to associate an Internet-based TRS user’s telephone number with his or her IP address to allow for the routing and completion of calls.⁹⁸ Moreover, mandatory registration is critical to the effective handling of 911 calls. Specifically, registration allows Internet-based TRS providers to provide first responders with location information for emergency calls placed over Internet-based TRS.⁹⁹ We note that the TDI Coalition agrees that registration is necessary for users to benefit from effective 911 call handling.¹⁰⁰ In addition, mandatory registration will facilitate the implementation of appropriate network security measures by reducing access to the Internet-based TRS providers’ databases and therefore, limit the exposure of the databases to abuses, such as hacking.¹⁰¹ In order to ensure that Internet-based TRS users can realize the benefits of the numbering system adopted in the *Internet-based TRS Order*, we believe that registration must be mandatory with a definitive cut-off date by which Internet-based TRS providers may not complete the non-emergency calls of unregistered users.¹⁰²

23. We establish the following registration schedule: The registration period will begin on December 31, 2008, the implementation date of the new ten-digit numbering system. The three-month registration period will end on March 31, 2009, and the permissive calling period will end on June 30, 2009. At the end of the permissive calling period, existing Internet-based TRS users who have not registered with a default provider will be treated like new Internet-based TRS users. Internet-based TRS providers must register these eligible users before they may make non-emergency calls, in accordance with the E911 goals set forth in the *Internet-based TRS Order*.¹⁰³ We encourage all Internet-based TRS providers to register their eligible users during the three-month registration period, but acknowledge that there may be a need for additional time and therefore, allow a three-month permissive calling period. We

⁹⁷ See *id.* at 6–7 (proposing that providers: (1) send at least one notice (electronically or by U.S. mail) to existing unregistered users with whom the providers have a relationship reminding the users to register and outlining consequences of not registering; and (2) provide the same information on their websites via a screen that the user sees before connecting to a CA).

⁹⁸ See *Internet-based TRS Order*, 23 FCC Rcd at 11609, para. 42; see also AT&T *Further Notice Comments* at 5 (stating that the goals of the Commission’s ten-digit numbering system “will not be fulfilled until all Internet-based TRS users are registered and associated with a ten-digit number”).

⁹⁹ See *id.*; see also *Interim Emergency Call Handling Order*, 23 FCC Rcd at 5269, para. 23.

¹⁰⁰ TDI Coalition *Further Notice Comments* at 6 (“Because it is important that users ultimately obtain the benefit of ten-digit numbering, including the benefits associated with 9-1-1 emergency calling, the [TDI Coalition] currently agrees that the Commission may require Internet-based TRS providers to deny service (other than emergency calls) to unregistered users six months after all Internet-based TRS providers are capable of registering consumers”); see also Letter from Eliot J. Greenwald, Counsel to TDI, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196, at 1 (filed Oct. 6, 2008) (TDI Coalition Oct. 6, 2008 *Ex Parte* Letter).

¹⁰¹ See *Internet-based TRS Order*, 23 FCC Rcd at 11609, para. 42.

¹⁰² As noted, the TDI Coalition agrees that Internet-based TRS providers may deny non-emergency service to unregistered users after the registration period. See TDI Coalition *Further Notice Comments* at 6.

¹⁰³ See *Internet-based TRS Order*, 23 FCC Rcd at 11610, para. 44.

also encourage Internet-based TRS providers to keep us apprised of the status of customer registrations during the registration period through *ex parte* filings in these dockets.

24. Some providers have stated that they are unable to distinguish a new user from an “existing” user who is dialing around the default provider with which he or she is registered.¹⁰⁴ We note that, as a new user is “an individual that has not previously utilized VRS or IP Relay,” someone to whom the provider has already issued a proxy number, for example, or someone who has been issued a device that is contact with a provider’s server, would not fall into the category of a “new” user.¹⁰⁵ In support of mandatory registration for new users as of December 31, 2008, we permit providers to request a user’s ten-digit NANP number, which can be used to verify whether the user is registered with another provider. Such verification can be made with a simple query to the Numbering Directory using the ten-digit number. This interim solution will be available to providers as of December 31, 2008. However, we may consider enhancing this method with the capability to do a reverse directory lookup of identifying information in the incoming call against the URIs of registered users, or we may adopt some other solution if operational experience and the record in this proceeding indicate that another method would be preferable. In any event, if a provider is unable to discern whether someone attempting to use its service is an existing user, then it should treat such user as a new user.

25. The TDI Coalition recommends that once users register with a default provider, they should be able to place relay calls immediately, at least on a temporary basis, through, for example, the assignment of a temporary “guest” or application number/identification system.¹⁰⁶ Similar to the TDI Coalition, Sorenson claims that providers must be prepared to assign a user a NANP number within an acceptable period of time (*e.g.*, three days, but no longer than a week).¹⁰⁷ We believe that under our registration and permissive calling plan, there should be no delay problems for existing Internet-based TRS users, as they may continue to place calls without a ten-digit, geographically appropriate number until the end of the permissive calling period. For new users, we agree with the TDI Coalition and conclude that to the extent technically feasible, Internet-based TRS providers must allow newly registered users to place calls immediately.

26. *Sorenson Petition for Reconsideration and Clarification.* Sorenson raises two issues in its Petition for Reconsideration and Clarification related to registration and routing of 911 calls.¹⁰⁸ First, Sorenson requests that the Commission clarify that its new rules applicable to E911 Service, which are effective December 31, 2008, only apply to 911 calls of registered users.¹⁰⁹ Because the new rules require providers to make available certain information that they can obtain only from registered users, such as Registered Location information, we hereby amend the new rules to apply to 911 calls placed by registered

¹⁰⁴ See, *e.g.*, GoAmerica *Further Notice* Comments at 5-6; Letter from George L. Lyon, Jr., Counsel to GoAmerica, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, Attach. 3, 11 (filed Sept. 17, 2008) (GoAmerica Sept. 17, 2008 *Ex Parte* Letter).

¹⁰⁵ See 47 C.F.R. § 64.611(b).

¹⁰⁶ TDI Coalition *Further Notice* Comments at 7.

¹⁰⁷ Sorenson *Further Notice* Comments at 7. GoAmerica also recommends that consumers be able to register immediately and obtain numbers well in advance of December 31, 2008. See GoAmerica *Further Notice* Comments at 6.

¹⁰⁸ Sorenson Petition for Reconsideration and Clarification at 3-7.

¹⁰⁹ *Id.* at 5-7. See also Joint Responders’ Partial Opposition to Sorenson Petition for Reconsideration at 8 (agreeing with Sorenson that unless a user has been assigned a ten-digit NANP number, a 911 call from that user cannot be routed via the 911 selective router network or automatically provide the caller’s Registered Location via the Automatic Location Information (ALI) database); TDI Coalition Opposition to Sorenson Petition for Reconsideration at 7-8 (same); AT&T Reply to Sorenson Petition for Reconsideration at 4 (same).

users.¹¹⁰ Sorenson also requests permission to route 911 calls to the administrative lines of PSAPs in certain cases, such as when a user's Registered Location is in a geographic area not served by a Wireline E911 Network, or when a non-default provider is handling a 911 call but does not have access to the 911 caller's Registered Location or other relevant information.¹¹¹ We recognize that in certain circumstances such as these, the new rules may not be fully applicable. Therefore, we amend our emergency calling rules to specify that the new rules only apply to 911 calls placed by users whose Registered Location is in a geographic area served by a Wireline E911 Network and is available to the provider handling the call.¹¹²

27. *Sorenson Petition for Limited Waiver.* Finally, Sorenson requests that the Commission grant it a one-year waiver of the Commission's prohibition on the use of "proxy" or "alias" numbers after December 31, 2008.¹¹³ Sorenson claims a waiver is necessary to avoid user disruption associated with the transition to NANP numbers by allowing Sorenson users to continue receiving calls dialed using proxy numbers.¹¹⁴ There is strong opposition in the record to Sorenson's petition. Contrary to Sorenson's position, the TDI Coalition claims that continued use of proxy numbers will actually create more confusion for users.¹¹⁵ Specifically, the TDI Coalition argues that many proxy numbers are duplicates of NANP numbers and therefore, using proxy numbers once NANP numbers are assigned could cause confusion for users and interoperability problems for Internet-based TRS providers.¹¹⁶ Parties also highlight that callers using proxy numbers will not have their location information automatically transmitted to the appropriate PSAP or receive emergency callbacks through alternative VRS providers in the case of a disconnect.¹¹⁷ Moreover, commenters argue that granting Sorenson's petition would allow Sorenson to continue to maintain its closed directory system to the detriment of other competing VRS providers.¹¹⁸ There is

¹¹⁰ See Appendix B.

¹¹¹ Sorenson Petition for Reconsideration and Clarification at 3–5; see also Joint Responders' Partial Opposition to Sorenson Petition for Reconsideration at 8–9 (agreeing that, in certain limited circumstances, in which the inability to use administrative lines would potentially render call completion impossible, the continued use of administrative lines is justified); AT&T Reply to Sorenson Petition for Reconsideration at 2 (same). As we stated in the *Internet-based TRS Order*, in instances in which an Internet-based TRS user places an emergency call through an Internet-based TRS provider other than the user's default provider, the alternative provider may not have access to the user's Registered Location information. *Internet-based TRS Order*, 23 FCC Rcd at 11622, para. 86. In the *Further Notice*, we sought comment on possible ways in which Registered Location information may be made available to alternative providers for the purpose of routing emergency calls. *Id.* at 11629, para. 107.

¹¹² See Appendix B.

¹¹³ See Sorenson Petition for Limited Waiver at 2 (citing 47 C.F.R. § 64.611(d)). Sorenson had requested in its petition for reconsideration and clarification that the Commission allow Sorenson to continue to issue and use proxy numbers after December 31, 2008. See Sorenson Petition for Reconsideration and Clarification at 2–3. In its petition for limited waiver, Sorenson requests only that its existing users continue to receive calls made through proxy numbers until December 31, 2009.

¹¹⁴ See Sorenson Petition for Limited Waiver at 3.

¹¹⁵ TDI Coalition Opposition to Sorenson Petition for Limited Waiver at 2; see also TDI Coalition Oct. 6, 2008 *Ex Parte* Letter at 1.

¹¹⁶ TDI Coalition Opposition to Sorenson Petition for Limited Waiver at 2–3.

¹¹⁷ See *id.* at 3; see also Hamilton Relay Opposition to Sorenson Petition for Limited Waiver at 3; GoAmerica Opposition to Sorenson Petition for Limited Waiver at 7.

¹¹⁸ GoAmerica Opposition to Sorenson Petition for Limited Waiver at 1 (claiming that Sorenson's petition is part of its "continuing campaign to maintain a dominant market share through the operation of a closed, non-interoperable directory system"); CSDVRS Opposition to Sorenson Petition for Limited Waiver at 4 (arguing that "preservation of the restricted dialing network that Sorenson has maintained for the past several years is hardly necessary to allow Sorenson's users to transition to their new NANP telephone numbers"); TDI Coalition Opposition to Sorenson Petition for Limited Waiver at 3 (stating that the closed directory with proxy numbers only aids Sorenson's business (continued...))

consensus among the commenters that any customer confusion that may arise by the termination of “proxy” and “alias” numbers with the assignment of ten-digit NANP numbers can be adequately addressed by a message provided by Sorenson that notifies that caller of the new NANP number of the called party.¹¹⁹ As stated above, an Internet-based TRS user may be reached by his or her “proxy” or “alias” number until the end of the permissive calling period.¹²⁰ Additionally, we concluded that Internet-based TRS providers must provide a message notifying callers that after June 30, 2009, the user may only be reached by his or her NANP telephone number.¹²¹ Accordingly, consistent with the record in this proceeding, we deny Sorenson’s petition for limited waiver.

28. *Sua Sponte Clarification and Reconsideration.* We also clarify, on our own motion, that all users of Internet-based TRS must be assigned ten-digit, geographically appropriate numbers, meaning numbers within their local rate centers. In our June 24, 2008 *Internet-based TRS Order*, we noted that in “unusual and limited circumstances,” Internet-based TRS providers could encounter difficulty obtaining truly local telephone numbers for their users.¹²² We suggested that in such circumstances, Internet-based TRS providers could “temporarily employ suitable workarounds,” such as assigning a user a telephone number reasonably close to the user’s rate center or using remote call forwarding, but only until a geographically appropriate number became available.¹²³ First, we clarify that under no circumstances should a toll free number be assigned to a user as such a workaround. As we state below, toll free numbers must always route to a user’s ten-digit, geographically appropriate number.¹²⁴ We clarify this because we are concerned that the assignment of a toll free number as a user’s primary identifier could degrade the provision of E911 service to that user – a concern made more acute by the short time that providers, users, and the database administrator have to implement the new numbering system. Second, we reconsider our prior suggestion that Internet-based TRS providers can use workarounds in instances where they cannot obtain geographically appropriate numbers, such as assigning a non-local but “close” telephone number or using remote call forwarding. We anticipate that the instances in which geographically appropriate numbers will be unavailable from wholesale carriers will be rare, but in those rare instances we now require Internet-based TRS providers to bring the situation to our attention, and we will work with the carriers in that area and other entities to resolve it so that all users of Internet-based TRS service will have truly local geographically appropriate ten-digit numbers. To be clear, Internet-based TRS providers must assign to each user a locally-rated, ten-digit, geographically appropriate number. We delegate to the Wireline Competition Bureau the authority necessary to work with the Internet-based TRS providers, the carriers, and the numbering administrators to resolve any such situations.

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because the Sorenson customer network cannot be penetrated without obtaining a Sorenson issued proxy number, and this inhibits the functional equivalency of the Internet-based VRS calling system); Hamilton Relay Opposition to Sorenson Petition for Limited Waiver at 3 (claiming that a likely result of granting Sorenson’s petition would be “that Sorenson would aggressively market its proxy numbers, rather than 10-digit NANP numbers, in an attempt to maintain the competitive benefits it has achieved through its closed directory system”).

¹¹⁹ See TDI Coalition Opposition to Sorenson Petition for Limited Waiver at 3; GoAmerica Opposition to Sorenson Petition for Limited Waiver at 8-9; CSDVRS Opposition to Sorenson Petition for Limited Waiver at 4; Hamilton Relay Opposition to Sorenson Petition for Limited Waiver at 3

¹²⁰ See *supra* para. 21. In response to Sorenson’s scenario of a doctor’s office that tries to place a call to a VRS user using a proxy number and is notified that the VRS user has a new NANP number, there is no reason why the call from the doctor’s office would not be completed, via the proxy number, until June 30, 2009. See Sorenson Reply to Oppositions to Petition for Limited Waiver at 3-4.

¹²¹ See *supra* para. 21.

¹²² *Internet-based TRS Order*, 23 FCC Rcd at 11608, para. 41.

¹²³ *Id.*, 23 FCC Rcd at 11609, para. 41.

¹²⁴ See *infra* para. 53.

C. Use of Toll Free Numbers for Internet-based TRS

29. In the *Further Notice*, the Commission sought comment on the use of toll free numbers for Internet-based TRS, including any impact the use of such numbers may have on the provision of 911 service.¹²⁵ AT&T claims that Internet-based TRS users should be discouraged from using toll free numbers, and those users who elect to retain their toll free numbers should be required to pay for their use.¹²⁶ AT&T also advocates transitioning away from toll free numbers due to concerns about the ability of 911 databases to effectively route 911 calls when associated with a toll free number because, by design, toll free numbers operate as inbound numbers only.¹²⁷ GoAmerica claims that toll free numbers go beyond functional equivalency, and recommends that all Internet-based TRS users who are assigned toll free numbers be assigned geographically appropriate numbers.¹²⁸ GoAmerica argues that, should an Internet-based TRS user want a toll free number, the user should be able to get one,¹²⁹ and, like AT&T, GoAmerica recognizes that toll free numbers do not work with E911 systems.¹³⁰

30. The TDI Coalition encourages the use of geographically appropriate numbers and argues that if a provider offers toll free numbers, “such offering must be no more than an optional alternative to geographic numbers.”¹³¹ The TDI Coalition also argues that mechanisms can be put in place to facilitate the provisioning of 911 services through the use of pseudo-ANI, similar to VoIP 911.¹³² Sorenson also believes that Internet-based TRS users should be able to obtain toll free numbers, should not have to surrender their toll free numbers – *i.e.*, they should be able to have a geographically appropriate number and a toll free number, provided both numbers are assigned by the same provider.¹³³ Sorenson argues that the providers should be responsible for the costs of the users’ numbers and should be permitted to submit costs to the Interstate TRS Fund in connection with only one number (toll free or geographic) per device.¹³⁴

31. CSDVRS recommends that VRS providers be allowed, but not required, to issue toll free numbers and that users should be able to obtain toll free numbers from any provider, not just the default provider.¹³⁵ With respect to 911 service, CSDVRS states that since toll free numbers do not have access to 911 services, devices assigned only a toll free number will need to carry clear disclaimers about their 911 limitations.¹³⁶

32. We conclude, for the reasons discussed above in connection with registration, that Internet-based TRS users should transition away from the exclusive use of toll free numbers to ten-digit,

¹²⁵ *Internet-based TRS Order*, 23 FCC Rcd at 11630, para. 111.

¹²⁶ AT&T *Further Notice* Comments at 10.

¹²⁷ *Id.* at 11.

¹²⁸ GoAmerica *Further Notice* Comments at 11.

¹²⁹ *Id.*; GoAmerica *Further Notice* Reply at 6.

¹³⁰ GoAmerica *Further Notice* Comments at 11.

¹³¹ See TDI Coalition *Further Notice* Comments at ii–iii, 8–10.

¹³² *Id.* at 10.

¹³³ Sorenson *Further Notice* Comments at 9.

¹³⁴ *Id.*

¹³⁵ CSDVRS *Further Notice* Comments at 9. CSDVRS further comments that toll free numbers allow toll free users, deaf entrepreneurs and small business owners to have functionally equivalent telephone services. *Id.* See also CSDVRS *Further Notice* Reply at 5.

¹³⁶ *Id.* at 9.

geographically appropriate numbers, in accordance with our numbering system. Important to our finding is that ten-digit NANP numbers will ensure that emergency calls will be routed directly and automatically to the appropriate PSAP.¹³⁷ Accordingly, similar to our registration plan, Internet-based TRS users are allowed a three-month period to transition to ten-digit, geographically appropriate numbers, with an additional three-month permissive calling period for unregistered users.¹³⁸ At the end of the permissive calling period, we require Internet-based TRS providers to have assigned ten-digit, geographically appropriate numbers to all current holders of toll free numbers who wish to continue using those toll free numbers. An Internet-based TRS user may retain a current toll free number or obtain a new toll free number so long as that toll free number is directed to the ten-digit, geographically appropriate number.¹³⁹ As discussed below in section III.F.2, voice telephone users are responsible for the costs of obtaining and using their individual toll free numbers and therefore, functional equivalency does not require that the use of toll free numbers in connection with Internet-based TRS should be compensable from the Interstate TRS Fund.

D. Eligibility Requirements and Verification Procedures

33. In the *Further Notice*, the Commission sought comment on who should be eligible to obtain telephone numbers.¹⁴⁰ Specifically, the Commission sought comment on the need for eligibility requirements or verification procedures when telephone numbers are assigned; *e.g.*, must the recipient have a hearing or speech disability and therefore need to use TRS to access the telephone system and, if so, should the recipient be required to verify that fact, or can a number be assigned to a voice telephone user who may desire to communicate directly (video-to-video) with a TRS user? The Commission also sought comment on related issues, including the effect of particular proposals on the Interstate TRS Fund, potential number exhaustion concerns, possible other means by which the Commission or providers can facilitate the provision of “point-to-point” Internet-based calls, and the scope of section 225 with regard to these questions.¹⁴¹

34. *Eligibility to Obtain Ten-Digit Numbers.* We conclude that, at this time, only individuals with a hearing or speech disability will be eligible to obtain ten-digit telephone numbers under the numbering system adopted in the *Internet-based TRS Order*. Although several commenters request that the Commission also allow hearing persons to obtain ten-digit numbers from Internet-based TRS providers

¹³⁷ We acknowledge that Sorenson claims that it has designed a system whereby it can support E911 functionality for toll free numbers; however, based on the record here, we are not convinced that there is an industry standard for E911 functionality for toll free numbers, which is a critical factor in our decision making at this time. *See Sorenson Further Notice Reply* at 10, 12–13.

¹³⁸ As with the registration period, the transition period will begin on December 31, 2008. The transition period will end on March 31, 2009, and the permissive calling period will end on June 30, 2009. *See supra* para. 21.

¹³⁹ *See AT&T Further Notice Reply* at 5 (arguing that the Internet-based TRS user who chooses to have a toll free number should obtain a ten-digit, geographically appropriate number, which will be “tied” to the toll free number). We expect a user will be able to keep the same toll free number even after porting the associated ten-digit, geographically appropriate number to a new default provider.

¹⁴⁰ *Internet-based TRS Order*, 23 FCC Rcd at 11631, para. 115.

¹⁴¹ *Id.* The Commission also sought comment on effective methods of verifying the accuracy of initial registration information to reduce the use of IP Relay for fraudulent purposes. *See id.*, 23 FCC Rcd at 11632, para. 118; *see generally Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Misuse of Internet Protocol (IP) Relay Service and Video Relay Service*, CG Docket No. 03-123, Further Notice of Proposed Rulemaking, 21 FCC Rcd 5478 (2006) (seeking comment on ways to prevent misuse of VRS and IP Relay, including IP Relay calls made to defraud merchants).

for the purpose of enabling point-to-point video communications (*i.e.*, non-relay calls) between a hearing person and an individual with a hearing or speech disability, we decline to do so at this time.¹⁴²

35. While we recognize the potential benefits of facilitating direct communication between TRS users and voice telephone users,¹⁴³ we nevertheless limit the assignment of ten-digit numbers to persons with hearing and speech disabilities at this time. First, we are cognizant of the limitations imposed by section 225, which instructs the Commission to prescribe regulations governing the provision of “telecommunications relay services,” and specifically authorizes the recovery of costs “caused by...telecommunications relay services.”¹⁴⁴ Direct point-to-point calling is not a “telecommunications relay service” under section 225. In addition, the assignment of telephone numbers to voice telephone users for the purpose of point-to-point calls raises cost recovery issues. The Commission must ensure that costs specific to facilitating such calls are excluded from those costs for which providers may seek compensation from the Fund (and also are not included in those costs that determine the compensation rate). For example, costs associated with assigning a telephone number to a hearing person to facilitate direct calls, including costs related to obtaining the number, record keeping, and technical support activities, would not be compensable from the Fund. We therefore find that further evaluation is needed of the specific costs that would be associated with both assigning numbers to voice telephone users for the purpose of making point-to-point calls, and with the processing of such calls, in order to establish safeguards to ensure that such costs would not be borne by the Fund.¹⁴⁵ Finally, we note that our paramount concern at this time is to ensure that we facilitate calls to Internet-based TRS users with hearing or speech disabilities and provide these users with automatic 911 access consistent with the functional equivalency mandate. For these reasons, we conclude that only individuals with a hearing or speech disability will be eligible to obtain ten-digit telephone numbers under the numbering system adopted by the Commission at this time.

36. *Eligibility and Verification Procedures.* The Commission also sought comment on what safeguards should apply, such as eligibility requirements and/or verifications, when a user registers with a default provider and is assigned a ten-digit telephone number.¹⁴⁶ In addition, we sought comment on how providers might verify the accuracy of initial registration information in order to curb IP Relay fraud.¹⁴⁷ Commenters generally support registration verification as a means of ensuring that registration information provided by users is accurate and preventing the improper use of Internet-based TRS, particularly IP

¹⁴² See TDI Coalition *Further Notice* Comments at 14–15; GoAmerica *Further Notice* Comments at 15; CSDVRS *Further Notice* Comments at 15. These commenters assert that allowing hearing persons to communicate through point-to-point calls with deaf and hard of hearing individuals will further the goal of functional equivalency by enabling parties to converse directly with each other without the need for a CA.

¹⁴³ For example, voice telephone users who can also communicate through American Sign Language (ASL) or lip reading can communicate via a direct video-to-video link with a person who is deaf who communicates through ASL or lip reading. Assigning ten-digit telephone numbers to hearing persons may help to facilitate such point-to-point calls between parties who prefer this form of communication. Further, because the costs of such calls are not compensable from the Fund, to the extent that they reduce the need for TRS calls, point-to-point calls may reduce costs to the Fund.

¹⁴⁴ 47 U.S.C. § 225(d)(1), (3).

¹⁴⁵ We do not address in this item whether the Commission has authority under the Act to adopt rules governing the assignment of telephone numbers to voice telephone users for the purpose of making point-to-point calls to individuals with a hearing or speech disability.

¹⁴⁶ *Internet-based TRS Order*, 23 FCC Rcd at 11631, para. 115.

¹⁴⁷ *Id.*, 23 FCC Rcd at 11632, para. 118.

Relay.¹⁴⁸ At the same time, commenters emphasize that registration verification procedures should not unduly burden Internet-based TRS users in the process of obtaining ten-digit numbers.¹⁴⁹

37. To verify the accuracy of initial registration information and to help ensure that VRS and IP Relay are used only for their intended purpose, we conclude that Internet-based TRS providers must institute procedures to verify the accuracy of registration information, including the consumer's name and mailing address, before issuing the consumer a ten-digit telephone number. In addition, to ensure that registered users are aware of the eligibility limitations set forth above, the verification procedures must include a self certification component requiring consumers to verify that they have a medically recognized hearing or speech disability necessitating their use of TRS.¹⁵⁰

38. In taking these actions, we do not mandate the use of any particular verification procedures. Instead, we require only that Internet-based TRS providers implement a reasonable means of verifying registration and eligibility information that is not unduly burdensome.¹⁵¹ Such means may include, for example: (1) sending a postcard to the mailing address provided by the consumer, for return to the default Internet-based TRS provider;¹⁵² (2) in-person or on camera ID checks during registration;¹⁵³ or (3) other verification processes similar to those performed by voice telephone providers and other institutions (such as banks and credit card companies).¹⁵⁴ Such registration should be accompanied by consumer education and outreach efforts designed to inform Internet-based TRS consumers of the importance of providing accurate registration information.¹⁵⁵ We expect that these measures will reduce

¹⁴⁸ See, e.g., TDI Coalition *Further Notice* Comments at 18 (asserting that registration verification will make it more difficult for people to take advantage of the anonymity that IP Relay currently affords); Sprint Nextel *Further Notice* Comments at 7 (asserting that “any benefits [flowing from a registration system] will be *de minimis* unless providers are required to verify the information provided by the registrant”); CSDVRS *Further Notice* Comments at 20 (suggesting that individuals seeking to use relay services be required to “positively identify themselves to the TRS provider during the registration process” in order to receive a ten-digit number); see also Sorenson *Further Notice* Comments at 11; Sorenson *Further Notice* Reply at 14; AT&T *Further Notice* Comments at 8–9; GoAmerica *Further Notice* Comments at 19–20; NeuStar *Further Notice* Reply at 8.

¹⁴⁹ TDI Coalition *Further Notice* Comments at 18–19; Sorenson *Further Notice* Comments at 11; Sorenson *Further Notice* Reply at 14. The TDI Coalition advocates the use of an automatic verification system, if possible, and, if not, contends that any verification procedure adopted should involve “no more than the standard verification procedure for voice telephone users” or otherwise not unduly burden TRS users. TDI Coalition *Further Notice* Comments at 18–19.

¹⁵⁰ See *supra* paras. 34–35, *supra* (stating that, at this time, only individuals with a hearing or speech disability will be eligible to obtain ten-digit numbers). If the Commission determines in a future order that hearing persons may obtain telephone numbers, this self-certification also may be used at that time to distinguish recipients of telephone numbers who have a hearing or speech disability from those who do not for purposes of identifying TRS calls.

¹⁵¹ See, e.g., Sorenson *Further Notice* Reply at 14–15 (suggesting that the Commission allow the “marketplace” to devise the most effective and least burdensome means of verification); Sprint Comments at 7 (urging the Commission not to prescribe one verification method and instead leave it to each provider to design and implement its own verification method).

¹⁵² See, e.g., TDI Coalition *Further Notice* Reply at 7 (suggesting that initial registrations could be verified “through the mail system to the registered address”).

¹⁵³ See, e.g., CSDVRS *Further Notice* Comments at 20 (recommending that VRS applicants be required to positively identify themselves during the registration process, for example, by holding valid state or federally issued identification papers that include a photograph of the individual up to the video camera).

¹⁵⁴ See, e.g., TDI Coalition *Further Notice* Reply at 7 (suggesting that initial registrations could be verified through the use of “processes similar to credit checks”).

¹⁵⁵ See generally *Internet-based TRS Order*, 23 FCC Rcd at 11622–23, paras. 87–90 (requiring Internet-based TRS providers to include on their websites and in any promotional materials a consumer advisory addressing the numbering and Registered Location requirements contained in the *Internet-based TRS Order*).

the misuse of Internet-based TRS by those who may take advantage of the anonymity currently afforded users, particularly IP Relay users, without unduly burdening legitimate Internet-based TRS consumers seeking to obtain ten-digit telephone numbers.¹⁵⁶ The consumer education and outreach materials also should make clear that: (1) the consumer may obtain a telephone number from, and register with, his or her provider of choice (notwithstanding any prior relationship the consumer may have had with another provider); (2) the consumer may change default providers at any time and, in doing so, retain his or her telephone number by porting the number to the new default provider; (3) the consumer may make calls through, and receive calls from, any provider (and the consumer is not limited to making or receiving calls through his or her default provider); and (4) the provider cannot condition the ongoing use or possession of equipment, or the receipt of different or upgraded equipment, on the consumer continuing to use the provider as its default provider.¹⁵⁷

E. Assignment of Telephone Numbers

39. In the *Further Notice*, the Commission sought comment on the Consumer Groups' claim that functional equivalency requires that deaf and hard-of-hearing users have one ten-digit, NANP number for multiple devices.¹⁵⁸ The Commission also sought comment on whether, if such a system were in place, the cost of the additional functionalities should be passed on to the Internet-based TRS user.¹⁵⁹ In their comments in response to the *Further Notice*, the Consumer Groups clarified their position and stated that functional equivalency does not require that a user must have the option of using the same telephone number with multiple types of TRS services, but rather, that some type of call forwarding would be sufficient.¹⁶⁰ With respect to the cost of the call forwarding service, the Consumer Groups urge the Commission to consider their opinion that the functionality of call forwarding is commonly included in services provided to telephone users at no charge and that the additional administrative costs to assess and collect such a fee, which they believe will be nominal, will exceed the cost of providing the functionality.¹⁶¹

¹⁵⁶ These requirements will apply to those users who have registered and obtained a ten-digit number beginning December 31, 2008, except that any requirements containing information collection requirements under the Paperwork Reduction Act (PRA) are subject to Office of Management and Budget (OMB) approval and, as such, will become effective upon publication by the Commission of a public notice in the Federal Register announcing OMB approval of those requirements. Such requirements subject to OMB approval include the outreach and education obligations set forth in this paragraph, as well as the verification and self-certification requirements. Because these requirements are subject to OMB approval, we do not require providers to implement these provisions until they have received such approval and are in effect. Once the verification and self-certification requirements become effective, however, providers will be required to verify the accuracy of any registration information that was obtained prior to the effective date, as well as obtain self-certifications from users who acquired ten-digit numbers, in compliance with these requirements.

¹⁵⁷ 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 Declaratory Ruling, 22 FCC Rcd 20140, 20175, para. 94 (Nov. 19, 2007).

¹⁵⁸ *Internet-based TRS Order*, 23 FCC Rcd at 11630–31, para. 113.

¹⁵⁹ *Id.*

¹⁶⁰ TDI Coalition *Further Notice* Comments at 12.

¹⁶¹ *Id.* at 13. The TDI Coalition maintains that functional equivalency requires that a consumer with multiple devices on the same premises, using the same service, such as VRS, should be able to obtain one telephone number for all such devices – just as a voice telephone user has extensions in different rooms in his or her home – and that achieving this functional equivalency may necessitate the use of certain standards or protocols (*i.e.*, SIP). See *id.* at 11.

40. AT&T believes that the Commission should not mandate a single telephone number for multiple services.¹⁶² AT&T believes that Internet-based TRS providers can implement call forwarding and other services to offer a one-number solution to users who have registered with that provider as their default provider.¹⁶³ CSDVRS recommends that providers be allowed, but not required, to offer such a functionality as it is an enhanced functionality rather than a functionally equivalent feature.¹⁶⁴ GoAmerica shares the same view as CSDVRS, but argues that it may be problematic to have the same number assigned for different services that have different technologies, platforms and endpoints.¹⁶⁵ Sorenson recommends deferring the issue to focus resources on the immediate challenges of implementing the new numbering system.¹⁶⁶ Similarly, NeuStar argues that, “[a]s technology evolves, it may be possible for a single [telephone number] to be associated with multiple services in an IP environment, but that time is not here yet.”¹⁶⁷

41. *Assignment of numbers for multiple types of service.* We agree that functional equivalency does not require that an Internet-based TRS user be assigned a single ten-digit, NANP number for multiple types of services. Given the short timeframe to implement our numbering system and the importance of public safety, we determine that a ten-digit, geographically appropriate number will be associated with the URI of one user, for one type of service, *e.g.*, IP Relay or VRS. Nothing in this *Order* is intended to restrict an Internet-based TRS provider from offering a feature that would automatically forward an incoming call for the user at one service (*e.g.*, VRS) to the user at another service (*e.g.*, IP Relay) in those cases where the user has obtained numbers for both services from the same provider if it does not result in additional costs to the Fund. However, a provider that is not a default provider may not be able to replicate the same feature based on the information available in the Numbering Directory. As we garner experience with our numbering system, we will be better able to analyze possible solutions to allow a single number to be associated with multiple types of services consistent with our emergency handling and interoperability rules.

42. *Assignment of telephone numbers for multiple URIs for the same type of service.* We do not place limits at this time on the quantity of telephone numbers that an Internet-based TRS user may obtain from Internet-based TRS providers.¹⁶⁸ For example, a VRS user may obtain different numbers for VRS devices at different locations such as home and office. We find that this meets basic functional equivalency and provides more reliable E911 location information. Nothing in this *Order* is intended to restrict an Internet-based TRS provider that has provisioned a user with multiple numbers for the same service from offering call-forwarding-type features that automatically forward an incoming call for the user at a URI associated with one telephone number to the user at a URI associated with another telephone number if it does not result in additional costs to the Fund. We note, however, that an Internet-based TRS provider that is not the default provider of these numbers may not be able to replicate the same feature based on the information in the Numbering Directory. Consistent with our rules, we require each provider of Internet-based TRS to obtain from each registered Internet-based TRS user the physical location at which the service will be first utilized for each number and to provide the user one or more methods for updating the physical location for each number.

¹⁶² AT&T *Further Notice* Comments at 12. AT&T argues that such a system is problematic unless all the services are served by a single TRS provider, as a given telephone number must route to one place on the PSTN. *Id.*

¹⁶³ *Id.*

¹⁶⁴ CSDVRS *Further Notice* Comments at 12–13.

¹⁶⁵ GoAmerica *Further Notice* Comments at 12–13; GoAmerica *Further Notice* Reply Comments at 7.

¹⁶⁶ Sorenson *Further Notice* Comments at 10–11.

¹⁶⁷ NeuStar *Further Notice* Reply at 6.

¹⁶⁸ *See infra* note 185.

43. *Assignment of telephone numbers for multiple URIs at the same location.* Because we do not place limits at this time on the quantity of telephone numbers that an Internet-based TRS user may obtain from Internet-based TRS providers, a user may also obtain numbers for different devices on the same premises, such as multiple VRS devices in the home. Although the central Numbering Directory does not permit a single telephone number to be shared by multiple devices at the same location, nothing in this *Order* restricts an Internet-based TRS provider or an independent equipment supplier from developing and implementing a solution that provides a “multiple extensions” feature if it does not result in additional costs to the Fund. As we garner experience with our numbering system, we will be better able to analyze possible solutions to allow a single number to be associated with multiple devices consistent with our emergency handling and interoperability rules.

44. *Assignment of telephone numbers for a single URI.* Given the short timeframe to implement our numbering system and the importance of public safety, we find that if multiple ten-digit, geographically appropriate telephone numbers are associated with a single URI, they must all be provided by a single Internet-based TRS provider. Thus, only one Internet-based TRS provider is responsible for managing the Registered Location information associated with that URI. This requirement will reduce the likelihood of conflicting Registered Location information for the same URI.

45. *Recapturing unused numbers.* Because we anticipate and expect that providers will not encourage consumers to obtain more telephone numbers than they actually intend to use,¹⁶⁹ we decline to put into effect a means to recapture unused numbers at this time, but will monitor the situation and reserve the right to do so at a later date.

F. Numbering Costs

46. In the *Internet-based TRS Order*, the Commission concluded that Internet-based TRS providers may seek compensation from the Fund for their reasonable actual costs of complying with the requirements adopted in that order.¹⁷⁰ The order further concluded that costs recoverable from the Fund may include those directly related to: (1) ensuring that database information is properly and timely updated and maintained; (2) processing and transmitting calls made to ten-digit numbers assigned pursuant to the *Internet-based TRS Order*; (3) routing emergency calls to an appropriate PSAP; (4) other implementation tasks directly related to facilitating ten-digit numbering and emergency call handling; and (5) consumer outreach and education related to the requirements and services adopted in the *Internet-based TRS Order*.¹⁷¹

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*, 23 FCC Rcd at 11626–27, paras. 96–99.

¹⁷¹ *Id.*, 23 FCC Rcd at 11627, para. 100. The Commission noted, however, that these costs are recoverable only to the extent they are not already recovered as part of, or factored into the calculation of, current rates. *Id.*, 23 FCC Rcd at 11627, para. 100 n.246. In addition, we directed Internet-based TRS providers seeking compensation for their costs of complying with the requirements in the *Internet-based TRS Order* to submit to the Fund administrator a detailed explanation of those costs. *Id.*, 23 FCC Rcd at 11626–27, para. 99. We further required that these costs be submitted every three months, beginning three months after the release date of the *Internet-based TRS Order*, for costs incurred during the prior three-month period. *Id.* By these terms, the initial submission of costs would have been due September 24, 2008. In a September 22, 2008, Public Notice, however, the timeframe for the initial submission of costs was extended to January 30, 2009, for the period of June 24, 2008 through December 31, 2008. *Consumer & Governmental Affairs Bureau Modifies Cost Submission Timeframes Associated With Implementation of The Numbering System For Internet-Based Telecommunications Relay Services*, CG Docket No. 03-123, WC Docket No. 05-196, Public Notice, DA 08-2130 (Sept. 22, 2008). Further, to ensure that providers’ filings include costs incurred up to and including the final date of the reporting period, the September 22, 2008, Public Notice modified the reporting timeframes to allow providers an additional 30 days to file their costs after the end of a reporting period and, for administrative convenience, conformed the three-month reporting periods to calendar quarters.

47. At the same time, the Commission stated that those numbering costs compensable from the Fund did not include “those costs directly related to consumers’ acquiring a ten-digit number or to the costs associated with number portability.”¹⁷² Noting that voice telephone users generally bear these costs, the Commission sought comment on “whether Internet-based TRS users acquiring ten-digit numbers should also bear these costs.”¹⁷³ In addition, the Commission sought comment on whether other specific costs associated with numbering should, consistent with costs paid by voice telephone users, be passed on to consumers, “including, for example, E911 charges.”¹⁷⁴ As explained more fully below, we conclude that certain costs, which typically are borne by consumers of voice communication services, are not compensable from the Fund and, at the election of each provider and subject to Commission approval (as explained below), may be passed on to Internet-based TRS users who are registered with that provider. These costs include: (1) costs associated with an Internet-based TRS consumer’s acquisition of a ten-digit geographic telephone number, (2) costs associated with an Internet-based TRS consumer’s acquisition and usage of a toll free telephone number; and (3) any E911 charges that may be imposed on Interstate TRS providers under a state or local E911 funding mechanism. We also address below number portability costs.

1. Costs Relating to the Acquisition of a Ten-Digit Geographic Number

48. Section 225 states that the Commission’s regulations shall “require that users of [TRS] pay rates no 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.”¹⁷⁵ As noted in the *Further Notice*, Congress therefore contemplated that TRS consumers would pay certain costs associated with making a call, just not the additional costs that are attributable to the use of a relay service to facilitate the call.¹⁷⁶ Because number acquisition costs are not attributable to the use of relay to facilitate a call, and because the record reflects that these costs generally are borne by users of voice communication services,¹⁷⁷ we find, consistent with section 225 and the functional equivalency mandate, that number acquisition costs are not compensable from the Fund. Therefore, a provider that assigns a telephone number to a consumer may pass the costs on to that consumer. However, to ensure that only these customer-specific, actually incurred costs are passed on, we require that any Internet-based TRS provider wishing to pass on numbering-related costs to its users first obtain Commission approval. We delegate to the Consumer and Governmental Affairs Bureau the authority to rule on such requests.

49. We find that commenters’ arguments that costs of obtaining ten-digit telephone numbers should not be borne by consumers are insufficient to justify treating Internet-based TRS users differently than users of voice communication services with respect to passing through number assignment costs to end users. First, some commenters contend that number assignment costs are “generally small” and, as such, do not justify the administrative expense that would be involved in recovering them from

¹⁷² *Internet-based TRS Order*, 23 FCC Rcd at 11646, para. 147.

¹⁷³ *Id.* (citing 47 C.F.R. §§ 52.17, 52.32 (requiring carrier contributions to support numbering administration and number portability) and 47 C.F.R. § 52.33 (setting forth method by which carriers may recover number portability costs)).

¹⁷⁴ *Id.*, 23 FCC Rcd at 11646, para. 149.

¹⁷⁵ *See* 47 U.S.C. § 225(d)(1)(D).

¹⁷⁶ *Internet-based TRS Order*, 23 FCC Rcd at 11646, para. 148.

¹⁷⁷ *See* AT&T *Further Notice* Comments at 13 (noting that voice telephone users “generally bear the costs of number assignment”); Sprint Comments at 5 (noting that voice telephone users, including interconnected VoIP users, typically bear number acquisition costs through “special surcharges or in the rates they pay for the services they receive”).

consumers.¹⁷⁸ We disagree. Internet-based TRS providers reasonably may take into consideration the administrative cost of billing consumers in determining whether to pass certain numbering costs on to consumers and, if so, how much to charge. The fact that providers may incur administrative expenses, however, does not justify treating Internet-based TRS users differently from users of voice communication services.¹⁷⁹

50. Second, we disagree with the contention that we should allow costs associated with acquiring numbers to be reimbursed by the Fund to the extent that anticipated “cost savings” resulting from the *Internet-based TRS Order* (associated with a possible future reduction in IP relay fraud) can be expected to “outweigh” the cost of acquiring numbers.¹⁸⁰ Potential “cost savings” to the Fund resulting from a reduction in IP Relay fraud similarly does not provide a basis for treating Internet-based TRS users differently in this context, given that the approach we adopt here is consistent with the language and functional equivalency objective of section 225.¹⁸¹

51. Finally, GoAmerica asserts that it is “discriminatory” to charge deaf and hard of hearing persons for telephone numbers because Internet-based TRS users already “pay more for the ability to communicate than hearing persons.” In particular, GoAmerica suggests that Internet-based TRS users must incur the cost of high speed Internet access, in addition to the cost of a regular telephone line, in order to have both TTY access and access to VRS.¹⁸² The record, however, does not support this claim.¹⁸³ The record reflects that hearing consumers who use interconnected VoIP services may pay as much, if not more, than Internet-based TRS users for service costs that may include number assignment charges, other associated fees, and broadband Internet access.¹⁸⁴ We therefore find that Internet-based TRS consumers’ costs to obtain ten-digit telephone numbers are not compensable from the Interstate TRS Fund and, at the election of each provider and subject to Commission approval (as explained above), may be passed on to the consumer.¹⁸⁵

¹⁷⁸ TDI Coalition *Further Notice* Comments at 8; *see also* GoAmerica *Further Notice* Comments at 40 (asserting that the administrative cost involved in recovering from consumers the “relatively nominal” cost of assigning a number would likely exceed the amount of the bill itself).

¹⁷⁹ TDI Coalition also notes that costs associated with assigning a ten-digit number to a hearing telephone user are generally not assessed as an independent line item, but instead are subsumed within the overall fee charged for telephone service. TDI Coalition *Further Notice* Comments at 7–8. Either way, however, the cost is borne by the consumer.

¹⁸⁰ TDI Coalition *Further Notice* Comments at 8.

¹⁸¹ *See* 47 U.S.C. § 225(d)(1)(D).

¹⁸² GoAmerica *Further Notice* Comments at 40.

¹⁸³ *Id.*

¹⁸⁴ *See, e.g.,* AT&T *Further Notice* Comments at 13–14 (calculating that the amount paid by Internet-based TRS users for a number, associated fees, and broadband Internet access “should be comparable to, if not less than, similar charges incurred by hearing consumers who use VoIP services”). In addition, we expect that once the 911 system adopted in the *Internet-based TRS Order* is fully operational, it should no longer be necessary for VRS and IP Relay consumers to retain a PSTN line for the purpose of making a 911 call.

¹⁸⁵ By precluding reimbursement for the costs associated with obtaining numbers, we anticipate that providers will be less likely to encourage consumers to obtain more telephone numbers than they actually intend to use (*e.g.,* by assigning numbers to devices that the consumer does not intend to use). Because this approach should help to promote the efficient use of ten-digit numbers, we do not place limits at this time on the quantity of telephone numbers an Internet-based TRS user may obtain from an Internet-based TRS provider.

2. Costs Relating to the Acquisition and Use of a Toll Free Number

52. The Commission also sought comment on allowing the continued use of toll free numbers by Internet-based TRS users.¹⁸⁶ In addition, the Commission sought comment on whether Internet-based TRS users should be subject to a fee for the use of toll free numbers, as are voice telephone users.¹⁸⁷

53. Although we permit the continued use of toll free numbers by Internet-based TRS users to the extent provided in Section III.C *supra* (discussing the use of toll free numbers during and after the registration period), we agree with commenters who assert that the costs associated with obtaining and using a toll free number should not be compensable from the Fund. As AT&T asserts, for example, users who elect to retain their toll free number “should be required to pay for the use of that number” and doing so “would make Internet-based TRS more functionally equivalent.”¹⁸⁸ We therefore find that Internet-based TRS providers may not seek compensation from the Fund for the cost of assigning a toll free number that has been assigned to an Internet-based TRS consumer after December 31, 2008.¹⁸⁹ Internet-based TRS providers similarly may not seek compensation from the Fund for usage charges associated with any toll free number held by an Internet-based TRS user after June 30, 2009 (marking the end of the registration period).¹⁹⁰ Moreover, any toll free number held by an Internet-based TRS user should, on or before June 30, 2009, point to the user’s assigned ten-digit, geographically appropriate number. After June 30, 2009, Internet-based TRS providers may *not* route calls to users’ telephone numbers other than their ten-digit, geographically appropriate numbers that have been associated with the users in the numbering database. To be clear, costs associated with users’ toll free numbers will not be compensable and in no event will an Internet-based TRS provider be compensated twice for the same call, such as when an inbound call to a user’s toll free number is then routed to that user’s ten-digit, geographically appropriate number.

54. The TDI Coalition asserts that the Fund should compensate providers for the acquisition costs of a toll free number and the toll charges in connection with the use of such numbers by Internet-based TRS users.¹⁹¹ They note that the Fund currently compensates providers for toll charges associated with a toll free call to a relay provider to initiate a relay call, and contend that requiring Internet-based TRS users to pay toll charges associated with calls to their personal toll free number would discourage the use of such numbers for making relay calls.¹⁹² Nothing in the record, however, supports this assertion. In any event, it is reasonable to compensate providers for the cost of toll free calls to their centers by persons initiating a relay call, but not to compensate consumers for the toll costs of personal toll free numbers consumers may choose to use instead of a geographically appropriate ten-digit number. Toll free access to an Internet-based TRS provider’s call center offers the equivalent of dial-tone service to voice telephone

¹⁸⁶ See *supra* Section III.B (discussion of registration period) (citing *Internet-based TRS Order*, 23 FCC Rcd at 11630, para. 111).

¹⁸⁷ *Internet-based TRS Order*, 23 FCC Rcd at 11630, para. 111.

¹⁸⁸ AT&T *Further Notice* Comments at 10–11; see also Sprint Comments at 8 (“there is simply no justification for allowing Internet-based TRS users desiring to use personal toll free numbers terminating at their devices to obtain such numbers and service free of charge, thereby forcing customers of wireline and wireless carriers to subsidize the service”); GoAmerica *Further Notice* Comments at 11 (asserting that the TRS Fund should not pay for toll free numbers and that providers should “absorb the cost” of toll free numbers or consumers who want them should “pay their costs directly”).

¹⁸⁹ We note that, to the extent that Internet-based TRS providers do not obtain compensation from the Fund for the charges associated with these toll free numbers today, this Order simply preserves the status quo.

¹⁹⁰ See *supra* note 189.

¹⁹¹ TDI Coalition *Further Notice* Comments at 9.

¹⁹² *Id.*

users who wish to call an Internet-based TRS user who lives in the same local calling area as the caller but who has not yet obtained a ten-digit geographic telephone number. In addition, such toll free access allows an Internet-based TRS user who does have a ten-digit number to place or receive a call via an Internet-based TRS provider other than the user's default provider as a "dial-around" call. Therefore, providing compensation from the Fund to providers for toll free calls in these situations is consistent with the functional equivalency mandate. Providing compensation from the Fund for the use of an individual toll free number is not because there is a cost associated with an individual's use of a toll free number, whether the person is a voice telephone user or an Internet-based TRS user.

3. E911 Charges Imposed Under State or Local E911 Funding Mechanisms

55. In the *Internet-based TRS Order*, the Commission concluded that Internet-based TRS providers may seek compensation from the Fund for their actual reasonable costs of complying with the requirements adopted in that order including, among other things, costs directly related to routing emergency calls to an appropriate PSAP and other implementation tasks directly related to emergency call handling.¹⁹³ In the *Further Notice*, we sought comment on whether any specific costs that result from the requirements adopted in the *Internet-based TRS Order* should, consistent with the costs paid by voice telephone users, be passed on to consumers, including, for example, E911 charges.¹⁹⁴

56. Although we conclude that Internet-based TRS providers may continue to seek compensation from the Fund for their actual reasonable costs of complying with the emergency call handling requirements adopted in the *Internet-based TRS Order*, we conclude that any E911 charges imposed under a state or local E911 funding mechanism are not compensable from the Fund.¹⁹⁵ We note that these charges are generally passed on to voice telephone users, as well as to traditional PSTN-based TRS users, in the form of a small recurring charge on their local telephone bills. As such, to the extent that Internet-based TRS providers incur charges in connection with a state or local E911 funding mechanism, each default Internet-based TRS provider may choose to pass these E911 charges on to registered users of that provider to the extent permitted by state and local laws.

4. Number Portability Costs

57. Section 251(e)(2) of the Act provides that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."¹⁹⁶ Through its rules and orders, the Commission has established a cost recovery mechanism for shared local number portability (LNP) costs under section 251(e)(2), and has determined that telecommunications carriers and

¹⁹³ *Id.*, 23 FCC Rcd at 11627, para. 100.

¹⁹⁴ *Id.*, 23 FCC Rcd at 11646, para. 149.

¹⁹⁵ The availability of 911 service is due in large part to the efforts of state and local authorities, who assume responsibility, among other things, for establishing and designating PSAPs or appropriate default answering points, purchasing customer premises equipment (CPE), retaining and training PSAP personnel, purchasing 911 network services, and implementing a cost recovery mechanism to fund all of the foregoing. See *VoIP 911 Order*, 20 FCC Rcd at 10249, para. 7.

¹⁹⁶ 47 U.S.C. § 251(e)(2). The Act and the Commission's rules define number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carriers to another." 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(l). The Commission has interpreted this language to mean that consumers must be able to change carriers while keeping their telephone number as easily as they may change carriers without taking their telephone number with them. See *Telephone Number Portability; Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, CC Docket No. 95-116, Memorandum Opinion and Order, 18 FCC Rcd 20971, 20975, para. 11 (2003).

interconnected VoIP providers should bear such costs on a competitively neutral basis.¹⁹⁷ Under this cost recovery mechanism, shared LNP costs are allocated to carriers and interconnected VoIP providers in proportion to each of those entity's end-user revenues.¹⁹⁸ Interconnected VoIP providers and telecommunications carriers, other than incumbent LECs, are permitted to recover the amount of shared LNP costs allocated to that carrier or provider "in any manner consistent with applicable state and federal laws and regulations."¹⁹⁹

58. In the *Internet-based TRS Order*, we imposed number portability obligations on Internet-based TRS providers and their numbering partners in connection with the numbering plan adopted in that order.²⁰⁰ At that time, we specifically declined to require Internet-based TRS providers to contribute to shared LNP costs.²⁰¹ In doing so, we noted that Internet-based TRS providers would have been unable to recover their costs from end users because, at least at that time, end users were not required to register with an Internet-based TRS provider.²⁰² Notwithstanding this determination, in the *Further Notice*, we sought comment on whether, and to what extent, the costs associated with number portability should be passed on to Internet-based TRS users, and not paid for by the Fund, because these costs "generally are borne by voice telephone users."²⁰³ The *Further Notice* noted that because Internet-based TRS users will now have a default provider – e.g., the provider from which they obtained their number or a provider to which they ported their number – that provider can pass number portability costs to the user.²⁰⁴

59. We decline to extend to Internet-based TRS providers the obligation to contribute to shared LNP costs at this time. As noted above, the shared costs of number portability are allocated to interstate telecommunications carriers and interconnected VoIP providers in proportion to each of those entity's end-user revenues (contributors file their revenue information on the FCC Form 499-A, the "Telecommunications Reporting Worksheet"). Unlike those entities, however, Internet-based TRS providers do not have "end-user revenues" and, instead, their costs of providing Internet-based TRS are reimbursed by the Interstate TRS Fund. Therefore, although we believe that Internet-based TRS users should be required to bear number portability costs to the same degree as voice telephone users, we must first determine how to calculate Internet-based TRS providers' share of LNP costs given that these

¹⁹⁷ See 47 C.F.R. §§ 52.32 (allocation of shared LNP costs), 52.33 (methods by which contributors may recover LNP costs) (internal citations omitted); see also *See Telephone Number Requirements for IP-Enabled Services Providers; Local Number Portability Porting Interval and Validation Requirements; IP-Enabled Services; Telephone Number Portability; Numbering Resource Optimization*, WC Docket Nos. 07-243, 07-244, 04-36, CC Docket Nos. 95-116, 99-200, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531, 19536, 19551, paras. 9–10, 38 (2007) (*VoIP LNP Order*), *pet. for review pending sub nom. National Telecomms. Cooperative Ass'n v. FCC* (D.C. Cir. No. 08-1071).

¹⁹⁸ See *VoIP LNP Order*, 22 FCC Rcd at 19536–37, paras. 9–11 (internal citations omitted); see also 47 C.F.R. § 52.32(b) (instructing all telecommunications carriers providing service in the United States to complete and submit a "Telecommunications Reporting Worksheet," which sets forth the information needed to calculate contributions to meet shared LNP costs).

¹⁹⁹ See 47 C.F.R. § 52.33(b).

²⁰⁰ *Internet-based TRS Order*, 23 FCC Rcd at 11606–07, paras. 34–36.

²⁰¹ *Id.*, 23 FCC Rcd at 11608, para. 38.

²⁰² *Id.* Noting that Internet-based TRS providers' costs are reimbursed by the Fund (the funding for which is provided by telecommunications carriers and other providers – many of which already contribute to meet shared LNP costs), the Commission also pointed out that it would make little sense to require Internet-based TRS providers to make payments toward shared LNP costs if reimbursements for such payments would simply be derived from the Fund. *Id.*

²⁰³ *Id.*, 23 FCC Rcd at 11646, para. 147; see also *id.*, 23 FCC Rcd at para. 149.

²⁰⁴ *Id.*, 23 FCC Rcd at 11646, para. 149.

providers have no end-user revenues. Until the Commission can further evaluate how best to allocate shared LNP costs to Internet-based TRS providers, we will not extend to these providers the obligation to make payments toward shared LNP costs. The Commission may elect to revisit this issue in a future order.

G. Petitions for Reconsideration and Clarification Regarding Interoperability and Default Provider Changes

1. CSDVRS, GoAmerica, Viable and Snap Petition for Reconsideration and Clarification

60. As stated above, on August 15, 2008, CSDVRS, GoAmerica, Viable and Snap filed a Petition for Reconsideration with respect to the obligations of default and former default providers to route information from an Internet-based TRS user who has CPE of one provider, but is using a different provider as his or her default provider (*i.e.*, the user has ported his or her number).²⁰⁵ The petitioners contend that there is tension between the rule prohibiting a provider that gave out the CPE, but is no longer the default provider, from acquiring routing information from the user,²⁰⁶ and the rule requiring a provider that has issued CPE to ensure that the CPE delivers the routing information to the user's new default provider.²⁰⁷ The petitioners claim that once a user ports his or her number to a new default provider, who is not the provider that furnished the CPE, that new provider does not have the ability to collect the routing information from that CPE, cannot update the central numbering directory without the assistance of the provider of the CPE, and certain features and functionalities of the CPE may not work.²⁰⁸ Accordingly, the petitioners recommend that the Commission revise its rules to give the consumers who have received a video device from a VRS provider the option of either: (1) continuing to use the video device once they have ported their number with the understanding that their routing information will continue to be provisioned by the original provider that supplied the device (and with the understanding that the device may not retain all the features and functionalities); or (2) acquiring a new device from the new default provider.²⁰⁹

61. The TDI Coalition filed comments in response to the Petition for Reconsideration seeking full interoperability and urging Internet-based TRS providers to work to ensure that routing information is directed to the user's default provider.²¹⁰ The TDI Coalition also notes that the issues raised in the Petition for Reconsideration regarding number porting will also arise when a user applies for a new NANP number from an Internet-based TRS provider that is not the provider who provided the videophone.²¹¹ The TDI Coalition advocates for extensive consumer outreach to help the deaf and hard-of-hearing community understand how their CPE may be affected if they switch default providers.²¹² Hamilton Relay agrees with

²⁰⁵ See *supra* para. 9; Petition for Reconsideration at 1. GoAmerica also raised this issue in an *ex parte* letter. See GoAmerica Sept. 17, 2008 *Ex Parte* Letter. Rule 64.611(c)(1) sets forth the obligations of the default providers to obtain current routing information, provision such information to the central numbering directory, and maintain such information in their internal numbering directory and the central numbering directory. 47 C.F.R. § 64.611(c)(1). Paragraphs 60 and 61 of the *Internet-based TRS Order* also set forth the obligations of the default providers and former default providers. See *Internet-based TRS Order*, 23 FCC Rcd at 11615.

²⁰⁶ Petition for Reconsideration at 2 (citing 47 C.F.R. § 64.611(c)(2)(j); *Internet-based TRS Order*, 23 FCC Rcd at 11615, para. 61).

²⁰⁷ Petition for Reconsideration at 2 (citing 47 C.F.R. §§ 64.611(c)(2)(ii)(A), 64.611(e); *Internet-based TRS Order*, 23 FCC Rcd at 11615, paras. 60–61).

²⁰⁸ Petition for Reconsideration at 2–4.

²⁰⁹ *Id.* at 4.

²¹⁰ TDI Coalition Comments on Petition for Reconsideration at 2-3.

²¹¹ *Id.* at 4.

²¹² *Id.* at 5–8.

the petitioners that when a user changes his or her default provider, the new provider does not have the ability to collect the routing information from the user's device.²¹³ Hamilton Relay does not oppose the recommendations of the petitioners, but also recommends that the Commission clarify that IP-based relay providers that do not distribute their own end-user equipment may use software or commercially available third-party router equipment to route and update IP address information to the central numbering directory provider or similar solutions.²¹⁴

62. Sorenson filed an opposition to the Petition for Reconsideration, stating that the Commission's rules correctly place the responsibility for updating and maintaining routing information on the default provider and limit the information that may be acquired by the former default provider.²¹⁵ Sorenson states that "[i]mplementation of the new rules will require development of an industry standard to ensure that each provider can accept routing information delivered by devices distributed by another provider."²¹⁶ In response to Sorenson's opposition, CSDVRS and GoAmerica argue, among other things, that Sorenson has not provided any guidance on the development or timeline of its proposed industry standard to allow any provider to accept routing information delivered by devices distributed by another provider.²¹⁷ Sorenson has committed, for one, to move forward to create an industry standard that will "enable each provider to accept routing information delivered by devices distributed by another provider."²¹⁸

63. We deny the Petition for Reconsideration. We reiterate our conclusion in the *Internet-based TRS Order* that an Internet-based TRS user's CPE should directly provide necessary routing information to the Internet-based TRS user's default provider.²¹⁹ We further clarify that rule 64.611(e) means that an Internet-based TRS provider's CPE that is being used with a default provider other than the one that issued that CPE must automatically connect with the new default provider just as it did with the previous default provider that provided the CPE. In this situation, the user should not have to manually dial the default provider first, and then dial the called party. Moreover, the CPE must be capable of delivering routing information to the new default provider just as it did to the previous default provider that provided the CPE once the porting process is complete. In addition, at a minimum, an Internet-based TRS provider's CPE that is being used with a new default provider must be capable of: (1) accepting a URI or IP address that the new provider uses for call setup purposes;²²⁰ and (2) allowing a user to dial a

²¹³ Hamilton Relay Comments on Petition for Reconsideration at 2.

²¹⁴ *Id.* at 3.

²¹⁵ Sorenson Opposition to Petition for Reconsideration at 3.

²¹⁶ *Id.* Sorenson also argues that if the Petition for Reconsideration were granted, then two providers would share the routing responsibility, which would raise questions about which provider would be responsible for problems. *See id.*

²¹⁷ *See* CSDVRS Reply to Opposition to Petition for Reconsideration at 2; GoAmerica Reply to Opposition to Petition for Reconsideration at 2.

²¹⁸ *See* Letter from Ruth Milkman, Counsel for Sorenson Communications, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 (filed Oct. 2, 2008) (Sorenson Oct. 2, 2008 *Ex Parte* Letter).

²¹⁹ *See Internet-based TRS Order*, 23 FCC Rcd at 11615, para. 60; *see also* 47 C.F.R. §§ 64.611(e)(1) ("Every VRS or IP Relay provider must ensure that all CPE they have issued, leased, or otherwise provided to VRS or IP Relay users delivers routing information or other information only to the user's default provider, except as is necessary to complete or receive 'dial around' calls on a case-by-case basis."); 64.611(e)(2) ("All CPE issued, leased, or otherwise provided to VRS or IP Relay users by Internet-based TRS providers must be capable of facilitating the requirements of this section.").

²²⁰ For example, a VRS provider that has distributed CPE must disclose the protocols necessary to enable a new default provider to communicate with that CPE so that the new default provider can direct the CPE to send routing information to one IP address and outgoing video connections to another IP address.

number that the CPE automatically forwards to the new default provider.²²¹ However, at this time based on the record before us, we disagree with GoAmerica's request that a default provider that furnishes CPE to a consumer must ensure that the CPE's enhanced features (*e.g.*, missed call list, speed dial list) can be used by the consumer if the consumer ports his or her number to a new default provider and uses the CPE with the new default provider.²²² Providers may offer such features on a competitive basis, which will encourage innovation and competition.

64. *Point-to-point calling.* We also clarify a few aspects of providers' responsibilities with regard to point-to-point calling between VRS users.²²³ GoAmerica asserts that Sorenson has recently tendered a proposed industry standard that "supports its effort to disable functionality and further restrict consumer choice," in part because the Sorenson proposal allegedly would not enable a device to continue to originate point-to-point calling after the user's ten-digit number has been ported and the device has been paired with a new default provider.²²⁴ Sorenson replies that the proposed standard that it put forward had been designed under extreme time pressure and had been developed in a way that contemplated how the specification would be enhanced in the future to allow for point-to-point calling.²²⁵ Sorenson states that it is now preparing the additional specifications required to allow users to make point-to-point calls using ten-digit numbers, and will add those to the proposed standard.²²⁶

65. While point-to-point calls between VRS users are not relay calls, and thus are not compensable from the Fund, they do constitute an important form of communication for many VRS users, and any loss of such basic functionality is simply not acceptable.²²⁷ First, we clarify that all default providers must support the ability of VRS users to make point-to-point calls without the intervention of an interpreter. Second, we clarify that *all* providers must ensure that their devices are capable of making calls after a change in default provider, including point-to-point calls to other VRS users. Thus, all providers who provision equipment must make available to other VRS providers enough information about that equipment to enable any VRS provider to perform all its functions as a default provider, including enabling point-to-point communications between VRS users, whether those users have the same or different default providers. For example, as noted above, Sorenson has stated that it is preparing the additional specifications required to allow users to make point-to-point calls using ten-digit numbers, and will add those to the proposed standard. We expect that Sorenson will do so expeditiously, and we will be

²²¹ This is necessary to ensure that a user can complete a call without finger-spelling the number. The user interface, *e.g.*, keyboard, can be used to dial the number, and the CPE will automatically communicate that dialed number to the new default provider.

²²² See GoAmerica Sept. 17, 2008 *Ex Parte* Letter, Attach.; see also Sorenson Oct. 2, 2008 *Ex Parte* Letter (opposing GoAmerica's request).

²²³ See *Further Notice*, 23 FCC Rcd at 11631, para. 115 (requesting comment on the "means by which the Commission or industry can or should facilitate the provision of 'point-to-point' Internet-based communications").

²²⁴ See Letter from George L. Lyon, Jr., Director, Regulatory Compliance, GoAmerica, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123 & WC Docket No. 05-196, Attach. (filed Dec. 19, 2008).

²²⁵ See Letter from Ruth Milkman, Counsel for Sorenson Communications, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123 & WC Docket No. 05-196 (filed Dec. 18, 2008).

²²⁶ *Id.*

²²⁷ See Letter from Sheri A. Farinha, CEO, NorCal Services for Deaf & Hard of Hearing, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123 (filed Dec. 18, 2008) (explaining that consumers want "the freedom to choose their default [p]rovider," to be able to make VRS calls using a local NANP telephone number, and to be "able to make VP to VP (peer to peer) calls, without any problems or barriers"); *Further Notice*, 23 FCC Rcd at 11631, para. 115; GoAmerica *Further Notice* Comments at 15 (asserting that "the FCC has two reasons to do everything it can to promote and enable point to point communications: (1) such calls are frequently the most functionally equivalent form of telecommunications for many individuals; and (2) such calls reduce charges to the Interstate TRS Fund"); see also Viable *Further Notice* Comments at 3; CSDVRS *Further Notice* Reply at 4.

monitoring events closely to ensure that this happens. As a corollary to the former default provider's obligations, no provider may begin providing service as a new default provider for a customer until the provider is capable of performing the functions described above and in this paragraph with respect to any device that was being used with the former default provider's service. Finally, we require that all providers check the Numbering Directory for routing information for ten-digit numbers, other than those of their own users before setting up a relay call or routing the call to the public switched telephone network (PSTN). Checking the Numbering Directory to see whether the user is dialing another registered VRS user – that is, requesting a point-to-point communication – will ensure that providers do not establish a relay call when it is unnecessary and inappropriate to do so.

66. We recognize that point-to-point communication between registered VRS users is not “telecommunications relay service” as defined in section 225 because it occurs between persons with hearing or speech disabilities, not between a person with such a disability and a hearing person.²²⁸ Nonetheless, the Commission has ample authority to regulate the provision of point-to-point calls between Internet-based TRS subscribers. First, the Commission has authority pursuant to its ancillary jurisdiction. Ancillary jurisdiction may be employed, in the Commission's discretion, when Title I of the Act gives the Commission subject matter jurisdiction over the service to be regulated and the assertion of jurisdiction is “reasonably ancillary to the effective performance of [its] various responsibilities.”²²⁹ As we concluded in the *Internet-based TRS Order*, the Commission has subject matter jurisdiction over Internet-based TRS services, a form of “interstate communication by wire or radio.”²³⁰ And requiring that providers facilitate point-to-point communications between persons with hearing or speech disabilities is reasonably ancillary to the Commission's responsibilities in several parts of the Act – sections 225, 255, and 1.²³¹

67. First, facilitating point-to-point calls furthers the purposes of section 225 itself. Section 225(b)(1) directs the Commission to ensure that relay services are available “[i]n order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation.”²³² While that section refers to relay services, point-to-point services even more directly support the named purposes: they are more rapid in that they involve direct, rather than interpreted, communication; they are more efficient in that they do not trigger the costs involved with interpretation or unnecessary routing; and they increase the utility of the Nation's telephone system in that they provide direct communication – including all visual cues that are so important to persons with hearing and speech disabilities. Second, section 255 – entitled “Access by Persons with Disabilities” – requires that manufacturers of telecommunications equipment or customer premises equipment ensure that “the equipment is designed, developed, and fabricated to be accessible and usable by individuals with disabilities, if readily achievable,”²³³ and goes on to require providers of telecommunications services to ensure that their services are similarly usable.²³⁴ These sections both contain clear statements from Congress that it intended persons with disabilities to have the fullest possible access to the Nation's

²²⁸ See 47 U.S.C. § 225(a)(3) (defining “telecommunications relay services” as services that provide the ability for individuals with hearing or speech impairments to communicate with hearing individuals). We remind all parties that these calls are not relay calls and are not compensable from the Fund.

²²⁹ See *United States v. Southwestern Cable Co.*, 392 U.S. 157, 177–78 (1968); see also, e.g., *VoIP LNP Order*, 22 FCC Rcd at 19544–47, paras. 24–27 (providing a fuller discussion of the Commission's ancillary jurisdiction).

²³⁰ See 47 U.S.C. § 151; *Internet-based TRS Order*, 23 FCC Rcd at 11600–01, 11607, paras. 19, 35.

²³¹ See *TDI Coalition Further Notice Comments* at 26-27 (supporting use of the Commission's ancillary jurisdiction over point-to-point services in the context of CPNI requirements).

²³² 47 U.S.C. § 225(b)(1).

²³³ 47 U.S.C. § 255(b).

²³⁴ *Id.*

communications system. Requiring point-to-point communications capabilities serves these goals. Third, section 1 itself charges the Commission with making available “so far as possible, to *all* the people of the United States . . . a rapid, efficient, Nation-wide . . . wire and radio communications service.”²³⁵

Facilitating direct communication – without an unnecessary third-party interpreter – between citizens with hearing or speech disabilities furthers our mandate to make communications available to “*all* the people.”

68. We encourage Internet-based TRS providers to work together to develop systems and standards that will facilitate compliance with our rules. To the extent, however, a default provider is unable to meet any mandatory minimum standards under our rules²³⁶ or prior orders for a new registered user who is using CPE from a former default provider because that new default provider does not have access to the technical information about that user’s CPE that would be necessary to provide service in compliance with those rules and orders, we waive those rules for a period of one year (unless the Commission indicates otherwise).²³⁷ This waiver is limited in that it has no effect on the requirements of providers of Internet-based TRS services in general to meet their mandatory minimum standards unless and until they become a default provider for a user who already has CPE from a former default provider, and the new provider lacks sufficient information to provide certain features to that user, such as speed dialing. A temporary, limited waiver is necessary in the public interest so that Internet-based TRS providers may focus on ensuring that ten-digit numbering and E911 services function smoothly at this time of transition to the new ten-digit dialing system. This limited waiver also has no effect on the requirements for all providers to share information about their CPE as required by this *Order* and to be prepared to provide service to customers who port their numbers in from other providers as required by this *Order*. We also reiterate our enforcement authority to resolve any customer complaints that arise from switching default providers.²³⁸ The Commission will act expeditiously to ensure that consumers have the option to switch providers. Finally, we find that with the clarifications discussed in this section, we do not need to modify any existing rules and therefore, deny the Petition for Reconsideration.

2. CSDVRS Petition for Clarification

69. CSDVRS also filed a Petition for Clarification requesting clarification that rule 64.611(a)(2), which lays out a default provider’s call routing obligations, does not negate the requirement that VRS providers provide fully interoperable relay service.²³⁹ CSDVRS claims that the role of the default provider, as set forth in the *Internet-based TRS Order*, may give default providers the impression that they may make it difficult for consumers to access alternative providers by dialing around, by means such as pop-up screens or warning messages, or degradation of the TRS call, video quality, or video

²³⁵ 47 U.S.C. § 151 (emphasis added).

²³⁶ See, e.g., 47 C.F.R. §§ 64.604(a)(3); 64.605.

²³⁷ Generally, the Commission’s rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of the Commission’s rules is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

²³⁸ See *Internet-based TRS Order*, 23 FCC Rcd at 11608, para. 40; see also 47 U.S.C § 1.1 (authorizing interested parties to petition the Commission to open, among other things, an enforcement proceeding); 47 C.F.R. § 64.604(c)(6) (establishing the complaint procedures for alleged violations of the TRS rules).

²³⁹ Petition for Clarification at 1. Rule 64.611(a)(2) sets forth the VRS and IP Relay providers’ obligations, as default providers, to “route and deliver all of that user’s inbound and outbound calls unless the user chooses to place a call with, or receives a call from, an alternate provider.” 47 C.F.R. § 64.611(a)(2).

interpreter capabilities.²⁴⁰ GoAmerica also expresses concern with the interplay of the Commission's default provider rule and the interoperability rule.²⁴¹

70. There is opposition to CSDVRS's Petition for Clarification on the record, arguing that the default provider registration requirement does nothing to undermine the Commission's interoperability rules and regulations, and that prohibiting a specific list of practices is unwarranted.²⁴² To reiterate and clarify to the extent necessary, under the new numbering system, Internet-based TRS users must be able to dial around to competing providers just as they do today.²⁴³ We agree with CSDVRS that default providers that distribute equipment may not configure that equipment in a manner that would increase the difficulty of dialing alternative providers beyond what consumers need to do to reach these providers today. Rule 64.611(a)(2) – which requires that a default provider “route and deliver” a user's inbound and outbound calls, unless the user *chooses* to place a call with, or receives a call from, an alternate provider – does not inhibit or hinder dial around calling by Internet-based TRS users.²⁴⁴ Furthermore, a provider may not penalize or retaliate against a consumer who exercises his right to dial around his default provider.²⁴⁵ We also reiterate our enforcement authority should consumers be unable to dial around to competing Internet-based TRS providers once the new numbering system is implemented.²⁴⁶ While CSDVRS's basic point is correct – that consumers need to be able to dial around to any provider without delays, warnings, distractions, or other obstacles that might impede or discourage such calls²⁴⁷ – we decline at this time to address specific practices without the benefit of a more developed record. Therefore, CSDVRS's Petition for Clarification is granted only to the extent provided herein, and otherwise is denied.

H. Consumer Protection Issues

71. In the *Further Notice*, the Commission sought comment on whether to establish rules to protect relay users from unauthorized default provider changes (*i.e.*, “slamming”) and to ensure the privacy and security of relay users' personal information.²⁴⁸ In response, commenters generally favor the implementation of consumer protection measures to ensure that relay users' default providers are not changed without their consent, and to guard against the unauthorized disclosure of consumer

²⁴⁰ Petition for Clarification at 2–3 (citing 47 C.F.R. §64.611(a)(2), *Internet-based TRS Order*, 23 FCC Rcd at 11609–10, paras. 42–43).

²⁴¹ GoAmerica Reply to Opposition to Petition for Clarification at 3 (citing 47 C.F.R. §§ 64.611(a)(2), 64.611(e)(2)).

²⁴² Sorenson Opposition to Petition for Clarification at 3–4. Sorenson urges the Commission to decline CSDVRS's petition – claiming that it would create a lengthy list of specific rules – and rather, maintain broader public interest rules while allowing technology to evolve. *Id.* at 4.

²⁴³ See Petition for Clarification at 7–8.

²⁴⁴ 47 C.F.R. § 64.611(a)(2). GoAmerica also was concerned that our default registration rule was unclear with regard to the possibility that Internet-based TRS providers may configure their CPE to make dial-around calling difficult. See GoAmerica Reply to Opposition to Petition for Clarification at 3. To repeat, under such a scenario, such a provider would be in violation of our interoperability rules and regulations.

²⁴⁵ See Letter from Karen Peltz Strauss, Legal Consultant to CSDVRS, LLC, to Marlene Dortch, Secretary, FCC, CG Docket No. 03-123 & WC Docket No. 05-196 (filed Dec. 16, 2008); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5442, 5456, para. 34 (2006) (mandating interoperability among VRS services and prohibiting “the practice of providing degraded service quality to consumers using VRS equipment or service with another provider's service”).

²⁴⁶ See *supra* note 238.

²⁴⁷ Petition for Clarification at 3.

²⁴⁸ See *Internet-based TRS Order*, 23 FCC Rcd at 11633–45, paras. 119–46.

information.²⁴⁹ For example, TDI Coalition states that, just as a voice telephone user reasonably expects that his or her preferred service provider will not be changed and his personal information will not be disclosed without the user's authorization, an Internet-based TRS user should be entitled to the same expectation.²⁵⁰ We share this view and, for this reason, emphasize that the unauthorized change of an Internet-based TRS user's default provider and the unauthorized disclosure of an Internet-based TRS user's personal information are both prohibited. We anticipate adopting rules more specifically addressing these prohibitions in a future order.

IV. PROCEDURAL MATTERS

72. *Regulatory Flexibility Certification.* As required by the Regulatory Flexibility Act of 1980 (RFA),²⁵¹ the Commission has prepared a Final Regulatory Flexibility Certification in which it concludes that, under the terms of the RFA, there is no significant economic impact on small entities by the policies and rules addressed in this document. The certification is set forth in Appendix B.

73. *Paperwork Reduction Act.* The *Order* contains new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Public and agency comments are due 60 days after the date of publication of this document in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

74. In addition, pursuant to the Small Business Paperwork Relief Act of 2002,²⁵² we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

75. In this present document, we have assessed the effects of imposing a requirement that Internet-based TRS providers institute procedures to verify the accuracy of registration information. We have taken steps to minimize the information collection burden for small business concerns, including those with fewer than 25 employees. For example, Internet-based TRS providers may choose their use of verification procedures. Indeed, we only require that Internet-based TRS providers implement a reasonable means of verifying registration and eligibility information that is not unduly burdensome. Moreover, the Commission concludes that all Internet-based TRS providers, including small entities, will be eligible to receive compensation from the Interstate TRS Fund for their reasonable costs of complying with the verification requirements adopted in the *Order*. These measures should substantially alleviate any burdens on businesses with fewer than 25 employees.

76. *Congressional Review Act.* The Commission will send a copy of this *Report and Order and Further Notice of Proposed Rulemaking* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.²⁵³

²⁴⁹ See, e.g., TDI Coalition *Further Notice* Comments at 19–33; Sorenson *Further Notice* Comments at 12–17; GoAmerica *Further Notice* Comments at 21–39.

²⁵⁰ See TDI Coalition *Further Notice* Comments at 20, 29.

²⁵¹ See 5 U.S.C. § 604.

²⁵² Public Law 107-198, see 44 U.S.C. § 3506(c)(4).

²⁵³ See 5 U.S.C. § 801(a)(1)(A).

V. ORDERING CLAUSES

77. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 251, 303(r), this *Second Report and Order and Order on Reconsideration* IS ADOPTED.

78. IT IS FURTHER ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 251, 303(r), the Petition for Reconsideration and Clarification filed by CSDVRS, LLC, GoAmerica, Inc., Viable, Inc., and Snap Telecommunications, Inc. on August 15, 2008 in CG Docket No. 03-123, WC Docket No. 05-196 IS DENIED.

79. IT IS FURTHER ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 251, 303(r), the Petition for Clarification filed by CSDVRS, LLC, on August 15, 2008 in CG Docket No. 03-123, WC Docket No. 05-196 IS GRANTED only to the extent provided herein, and OTHERWISE DENIED.

80. IT IS FURTHER ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 251, 303(r), the Petition for Reconsideration and Clarification filed by Sorenson Communications, Inc., on August 18, 2008 in CG Docket No. 03-123, WC Docket No. 05-196 IS GRANTED to the extent described herein.

81. IT IS FURTHER ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 251, 303(r), the Petition for Limited Waiver filed by Sorenson Communications, Inc., on September 30, 2008 in CG Docket No. 03-123, WC Docket No. 05-196 IS DENIED.

82. IT IS FURTHER ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 251, 303(r), the Request for Expedited Clarification of Section 64.604(a)(2) of the Rules filed by NENA and APCO on October 24, 2008 in CC Docket No. 98-67, CG Docket No. 03-123, and WC Docket No. 05-196, IS GRANTED to the extent described herein.

83. IT IS FURTHER ORDERED that, pursuant to rule 1.427(b) of the Commission's rules, 47 C.F.R. § 1.427(b), this *Second Report and Order and Order on Reconsideration* shall become effective on December 31, 2008,²⁵⁴ except for the information collections, which require approval by OMB under the PRA and which shall become effective after the Commission publishes a notice in the Federal Register announcing such approval and the relevant effective date(s).

²⁵⁴ See 5 U.S.C. § 553(d)(3) ("The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except . . . as otherwise provided by the agency for good cause found and published with the rule."); see also 47 C.F.R. §§ 1.103(a), 1.427(b). As described above, the Commission mandated in the June 24, 2008 *Internet-based TRS Order* that the new numbering system and emergency call handling requirements be implemented by December 31, 2008. See *supra* para. 1. In general, the issues addressed in this Order clarify aspects of the implementation of the new system and affirm prior determinations and are critical to ensuring a smooth transition to the new system. See *supra* para. 2; see also, e.g., Letter from Ruth Milkman, Counsel to Sorenson Communications, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123 & WC Docket No. 05-196 (filed Oct. 9, 2008) (explaining the need for Commission action on certain issues before new rules take effect on December 31, 2008). We do not believe that the shortened implementation period will be a significant burden on any affected parties, who are already working to implement the new system described in the June 24, 2008 *Internet-based TRS Order*. In any event, any burden to the affected parties is outweighed by the need to ensure a smooth transition to the new, more functionally equivalent numbering system for the community of users, including a smooth transition to the new emergency call handling rules.

84. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Second Report and Order and Order on Reconsideration*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123; E911 Requirements for IP-Enabled Service Providers, WC Docket No. 05-196, Further Notice of Proposed Rulemaking

COMMENTERS

Comments	Abbreviation
Association for Information Communications Technology Professionals in Higher Education	ACUTA
AT&T, Inc.	AT&T
CSDVRS, LLC	CSDVRS
GoAmerica, Inc.	GoAmerica
National Exchange Carrier Association, Inc.	NECA
National Emergency Number Association	NENA
Sorenson Communications, Inc.	Sorenson
Telecommunications for the Deaf and Hard of Hearing, Inc., Association of Late-Deafened Adults, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Hearing Loss Association of America	TDI Coalition
Sprint Nextel Corporation	Sprint Nextel
Ultratec, Inc.	Ultratec
Viable Communications, Inc. and Viable, Inc.	Viable

REPLY COMMENTERS

Comments	Abbreviation
AT&T, Inc.	AT&T
CSDVRS, LLC	CSDVRS
GoAmerica, Inc.	GoAmerica
NeuStar, Inc.	NeuStar
Sorenson Communications, Inc.	Sorenson
Telecommunications for the Deaf and Hard of Hearing, Inc., Association of Late-Deafened Adults, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Hearing Loss Association of America	TDI Coalition

PETITION FOR RECONSIDERATION AND CLARIFICATION OF CSDVRS, LLC, GOAMERICA INC., VIABLE INC., AND SNAP TELECOMMUNICATIONS, INC.

CG Docket No. 03-123

WC Docket No. 05-196

COMMENTERS

Comments	Abbreviation
Hamilton Relay, Inc.	Hamilton Relay
Sorenson Communications, Inc.	Sorenson
Telecommunications for the Deaf and Hard of Hearing, Inc., Association	TDI Coalition

of Late-Deafened Adults, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Hearing Loss Association of America	
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REPLY COMMENTERS

Reply Comments	Abbreviation
CSDVRS, LLC	CSDVRS
GoAmerica, Inc.	GoAmerica

PETITION FOR CLARIFICATION OF CSDVRS, LLC

CG Docket No. 03-123

WC Docket No. 05-196

COMMENTERS

Comments	Abbreviation
Sorenson Communications, Inc.	Sorenson

REPLY COMMENTERS

Reply Comments	Abbreviation
CSDVRS, LLC	CSDVRS
GoAmerica, Inc.	GoAmerica

PETITION FOR RECONSIDERATION AND CLARIFICATION OF SORENSON COMMUNICATIONS, INC.

CG Docket No. 03-123

WC Docket No. 05-196

COMMENTERS

Comments	Abbreviation
Communications Access Center, CSDVRS, LLC, GoAmerica, Inc., Hamilton Relay, Inc., and Snap Telecommunications, Inc.	Joint Responders
Telecommunications for the Deaf and Hard of Hearing, Inc., Association of Late-Deafened Adults, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Hearing Loss Association of America	TDI Coalition

REPLY COMMENTERS

Reply Comments	Abbreviation
AT&T, Inc.	AT&T

**PETITION FOR LIMITED WAIVER OF
SORENSEN COMMUNICATIONS, INC.**

CG Docket No. 03-123

WC Docket No. 05-196

COMMENTERS

Comments	Abbreviation
CSDVRS, LLC	CSDVRS
GoAmerica, Inc.	GoAmerica
Hamilton Relay, Inc.	Hamilton Relay
Telecommunications for the Deaf and Hard of Hearing, Inc., Association of Late-Deafened Adults, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Hearing Loss Association of America	TDI Coalition

REPLY COMMENTERS

Reply Comments	Abbreviation
Sorenson Communications, Inc.	Sorenson

APPENDIX B**Final Rule Changes**

Part 64 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 52 – NUMBERING

1. Section 64.605(a)(1) is amended to read as follows:

(1) As of December 31, 2008, the requirements of paragraphs (a)(2)(i) and (a)(2)(iv) of this section shall not apply to providers of VRS and IP Relay **to which section 64.605(b) applies.**

2. Section 64.605(b)(1) is amended to read as follows:

(1) *Scope.* The following requirements are only applicable to providers of VRS or IP Relay. Further, the following requirements apply only to 911 calls placed by **registered** users whose Registered Location is in a geographic area served by a Wireline E911 Network **and is available to the provider handling the call.**

APPENDIX C

Final Regulatory Flexibility Certification

1. The Regulatory Flexibility Act of 1980, as amended (RFA),²⁵⁵ requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”²⁵⁶ The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”²⁵⁷ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.²⁵⁸ A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).²⁵⁹

2. In this *Order*, the Commission addresses several issues relating to the assignment and administration of ten-digit numbers for VRS and IP Relay users. Specifically, the Commission addresses 911 implementation issues, registration, use of toll free numbers for Internet-based TRS service, eligibility for numbers for Internet-based TRS service, assignment of telephone numbers, and cost recovery issues. The Commission also addresses a petition for reconsideration filed by CSDVRS, GoAmerica, Viable, and Snap, and a petition for clarification filed by CSDVRS regarding interoperability concerns related to default provider changes, dial-around capabilities, and VRS CPE. The Commission’s conclusions in this *Order* are necessary to ensure that users of Internet-based TRS receive functionally equivalent telephone service, as mandated by Title IV of the Americans with Disabilities Act. The Commission’s conclusions are not expected to have a substantial economic impact upon providers, including small businesses, because each small business will receive financial compensation for reasonable costs incurred rather than absorb an uncompensated financial loss or hardship.

3. With regard to whether a *substantial number* of small entities will be affected by the requirements set forth in this *Order*, the Commission notes that, of the fourteen providers affected by the *Order*, only four meet the definition of a small entity. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees.²⁶⁰ Currently, fourteen providers receive compensation from the Interstate TRS Fund for providing any form of TRS: Ameritech, AT&T Corp.; CSDVRS; CAC; GoAmerica; Hamilton Relay,

²⁵⁵ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA) Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

²⁵⁶ 5 U.S.C. § 605(b).

²⁵⁷ 5 U.S.C. § 601(6).

²⁵⁸ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

²⁵⁹ Small Business Act, 15 U.S.C. § 632.

²⁶⁰ 13 C.F.R. § 121.201, NAICS code 517110. According to Census Bureau data for 1997, there were 2,225 firms in this category which operated for the entire year. U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 5, NAICS code 513310 (issued Oct. 2000). Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. (The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is “Firms with 1,000 employees or more.”)

Inc.; Hands On; Healinc; Kansas Relay Service, Inc.; Nordia Inc.; Snap Telecommunications, Inc; Sorenson; Sprint; and State of Michigan. Because only four of the providers affected by this *Order* are deemed to be small entities under the SBA's small business size standard, the Commission concludes that the number of small entities affected is not substantial. Moreover, given that all providers affected by the *Order*, including the four that are deemed to be small entities under the SBA's standard, are entitled to receive prompt reimbursement for their reasonable costs of compliance, the Commission concludes that the *Order* will not have a significant economic impact on these small entities.

4. Therefore, we certify that requirements set forth in the *Order* will not have a significant economic impact on a substantial number of small entities.

5. The Commission will send a copy of the *Order*, including a copy of this Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.²⁶¹ This initial certification will also be published in the Federal Register.²⁶²

²⁶¹ 5 U.S.C. § 605(b).

²⁶² 5 U.S.C. § 605(b).

**STATEMENT OF
CHAIRMAN KEVIN J. MARTIN**

Re: *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; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196

Today we take additional steps to enable successful implementation of the ten-digit numbering system for Internet-based Telecommunications Relay Services (TRS) on December 31, 2008. In June, the Commission adopted the ten-digit numbering system and required that it be implemented no later than the end of this year. In this item, we explain additional aspects of the ten-digit numbering system, including access to numbers, cost recovery, and emergency call handling, that are essential to implementation.

We are well aware that there are many Americans with hearing or speech disabilities that depend on TRS services for their daily communication needs. The Commission remains committed to improving the quality of life for individuals with disabilities by ensuring that they have the same access to communication technologies as people without such disabilities.

Ten-digit numbering will enable Internet-based TRS users to make and receive calls like anyone else, eradicating another barrier that stands in the way of functional equivalency. Functional equivalency means individuals with disabilities having access to the same services as everyone else. This equal access is vital to accessing jobs, education, public safety, and simple communications with family, friends, and neighbors. Therefore, I am pleased that today's item will help make the ten-digit numbering system successful.

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: *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; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196

Six months ago the Commission required by the end of the year that deaf and hard of hearing consumers who use Internet-based Telecommunications Relay Service would be able to receive and use a standard ten-digit telephone number and that emergency calls placed by these consumers would be automatically directed to providers of emergency assistance. It took a great deal of work in a short amount of time to make this a reality. I am pleased to support today's item because it addresses several issues critical to ensuring a successful transition to the ten-digit numbering system by December 31. In doing so, deaf and hard of hearing Internet-based TRS users will be able to get a phone number and provide it to friends, employers, their doctors and teachers, and the like, so they can be connected in ways that hearing consumers take for granted today.

The Order addresses important 911 implementation issues, certain user registration processes, requires transparent education and outreach efforts, and makes clear that consumers who choose to change their provider should continue to receive essential phone services, including point-to-point calling between VRS users. The Commission must be vigilant in addressing issues that may arise during the transition, including concerns that were raised regarding the portability of devices, promoting equipment competition, and consumer choices. Even as the Commission takes these important and necessary steps, we must remain mindful that deaf and hard of hearing consumers should be receiving the appropriate services at a reasonable cost to the TRS fund. I look forward to working with the Commission as it takes whatever steps necessary to oversee the administration of the program and to promote functional equivalency for the deaf and hard of hearing users of the program.

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: *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; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196

With this Order, the Commission addresses a number of important issues that are necessary to successfully meet the December 31, 2008 deadline for implementing ten-digit dialing and emergency calling for Internet-based relay services. Consumers have long sought ten-digit dialing and emergency calling -- critical elements of functional equivalency -- and the Commission must do all it can to facilitate a smooth and timely transition. The Commission in this Order provides direction on key details, including clarifying that point-to-point calling must continue to be available to consumers with hearing and speech disabilities, that consumers will continue to be able to dial around to the provider of their choice, and that consumers must be shielded from unauthorized changes to their service.

The Commission and providers now must act swiftly to provide consumers with neutral and objective information about the transition. On December 31st, the Commission, consumers and providers alike will take an important first step toward greater functional equivalency for deaf and hard-of-hearing consumers, but we will need to monitor carefully the process and be ready to act quickly to address consumer questions, concerns, and other issues as they arise. One area for particular vigilance concerns the availability of features and functionality for consumers who switch default providers and the development of competition for customer equipment. As we move forward, we will need to remain particularly watchful about the impact of this transition on consumers, innovation, and the Internet-based relay services market.

Finally, I would like to thank the staff of our Consumer and Governmental Affairs Bureau and the Wireline Competition Bureau, whose dedication and expertise have been instrumental to meeting this deadline.

**STATEMENT OF
COMMISSIONER DEBORAH TAYLOR TATE**

Re: *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; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196

Today, the Commission fulfills its obligation to ensure that telecommunications services and equipment are more accessible to individuals with disabilities. In this Second Report and Order and Order on Reconsideration, we address several issues included in our June 24, 2008 *Internet-based TRS Order* that are critical to ensuring a successful transition to a ten-digit numbering system for users of Internet-based TRS, particularly Video Relay Service and IP Relay.

Specifically, we address 911 implementation issues, reminding providers that they must ensure that both incoming 911 calls are prioritized as well as emergency service personnel callbacks. We also reaffirm user registration requirements and address eligibility requirements, verification procedures, assignment of telephone numbers, and numbering cost issues. By doing so, we clarify and set parameters for providers offering services, address the needs of the deaf and hard-of-hearing community, and ultimately provide a framework for successful implementation of a telephone network that is “functionally equivalent” to voice telephone services at the end of 2008. I commend Chairman Martin for his commitment to this issue and for taking important steps toward making equal access to communications services for *all* Americans a reality.

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL**

Re: *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; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196

I am pleased to support this item, which resolves a number of issues critical to ensuring the successful transition of Internet-based TRS services to ten-digit numbering. As of December 31, 2008, Internet-based TRS users will, for the first time, be able to make and receive calls in the same manner that voice telephone users are called – using a standard ten-digit telephone number. More importantly, 911 calls placed by Internet-based TRS users will be routed directly and automatically to the appropriate public safety answering point. This is a major step towards ensuring that those with hearing and speech disabilities are afforded “functionally equivalent” telephone services.

Our work is not, however, complete. I strongly urge service providers to cooperate to implement standards-based solutions to resolve outstanding issues whenever possible, and trust that the user community will continue to provide us with valuable input as we move forward. We will closely monitor the transition process, and I will continue to work with my colleagues to ensure that we fulfill our statutory mandate.