

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98-67; FCC 02-121]

Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification.

SUMMARY: This document clarifies that Internet protocol relay services (IP Relay) fall within the definition of Telecommunications Relay Services (TRS). Because there is no automatic method for determining if a call placed over IP Relay is intrastate or interstate, we authorize IP Relay providers to recover their costs from the Interstate TRS Fund on an interim basis, until such time as we decide whether and how a methodology can be devised to allocate cost recovery between the Interstate TRS Fund and the states. This document also waives certain TRS minimum standards for IP Relay, and directs the National Exchange Carriers Association, which is the current administrator of the Interstate TRS Fund, to begin paying cost recovery to eligible providers of Internet-based TRS, upon release of this *Declaratory Ruling* by the Commission.

DATES: Effective April 22, 2002.

FOR FURTHER INFORMATION CONTACT:

Sean O'More, of the Consumer and Governmental Affairs Bureau at (202) 418-2453 (voice), (202) 418-7870 (TTY), or e-mail scomore@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Declaratory Ruling*, adopted April 18, 2002, and released April 22, 2002. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402,

Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com. Copies of this document in other alternative formats (computer diskette, large print, and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer and Governmental Affairs Bureau at (202) 418-7426 (voice), (202) 418-7365 (TTY), or e-mail bmillin@fcc.gov. This *Declaratory Ruling* can also be downloaded in Text and ASCII formats at: <http://www.fcc.gov/cgb/dro>.

Synopsis

In this *Declaratory Ruling*, the Commission responds to a *Petition for Clarification* filed by WorldCom, Inc., requesting that we clarify that WorldCom's IP Relay is TRS, and is therefore eligible for recovery of its costs of providing TRS. We find that because IP Relay and other Internet-based TRS "provide[s] the ability for an individual who has a hearing impairment or a speech impairment to engage in communication by wire or radio with a hearing individual." 47 U.S.C. 225(a)(3), such service is TRS, and are eligible for cost recovery. Ordinarily, "costs caused by interstate [TRS] shall be recovered from all subscribers for every interstate service and costs caused by intrastate [TRS] shall be recovered from the intrastate jurisdiction." 47 U.S.C. 225(d)(3)(B). There is, however, no automatic means of determining the origination of IP Relay calls. In the absence of this information, TRS providers cannot determine, or report to the TRS Fund Administrator, whether a call is interstate or intrastate. Therefore, as an interim measure, we authorize providers of IP Relay to recover costs from the Interstate TRS Fund. We also waive certain TRS minimum standards, see 47 CFR 64.604.

Final Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA, see 5 U.S.C. 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law No. 104-121, Title II, 110 Stat. 857 (1996). 5 U.S.C. 605(b). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small

governmental jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 5 U.S.C. 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless 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**." 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). 15 U.S.C. 632.

This *Declaratory Ruling* addresses a *Petition for Clarification (Petition)* filed by WorldCom, Inc. (WorldCom) in December of 2000. WorldCom, *Petition for Clarification*, CC Docket No. 90-571, *Telecommunications Services for Individuals with Hearing and Speech Disabilities*, Dec. 22, 2000. This *Petition* requests that the Federal Communications Commission (Commission) clarify that Internet Protocol (IP) telecommunications relay services (TRS) are eligible for reimbursement from the Interstate Telecommunications Relay Service Fund. The Commission sought comments on the WorldCom *Petition* in a Public Notice. Consumer Information Bureau Seeks Additional Comment on the Provision of Improved Telecommunications Relay Service, DA 01-1555, *Public Notice*, 16 FCC Rcd 13100, Jun. 29, 2001; published at 66 FR 37631, Jul. 19, 2001. As a result of the WorldCom *Petition* and filed public comments, the Commission is issuing this *Declaratory Ruling* which will allow WorldCom to recover such costs.

As noted in paragraph 59 of the *Declaratory Ruling*, this item imposes a regulatory burden on the Interstate TRS Fund Administrator, requiring it to pay qualified providers of IP telecommunications relay services (TRS) for their costs caused by their TRS. The Interstate TRS Fund is a not-for-profit organization, and therefore is a "small organization." A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." 5 U.S.C. 601(4). Nationwide, as of 1992, there were approximately 275,801 small

organizations. U.S. Department of Commerce, Bureau of the Census, 1992, Table 6 (special Tabulation of data under contract of the Office of Advocacy of the U.S. Small Business Administration). Because the Interstate TRS Fund is the only entity affected by the *Declaratory Ruling*, we conclude that a "substantial number" of small entities will not be affected by the *Declaratory Ruling*.

Therefore, we certify that the requirements of this *Declaratory Ruling* will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *Declaratory Ruling*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A). In addition, the *Declaratory Ruling* and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the **Federal Register**. See 5 U.S.C. 605(b).

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1,2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152 and 225, this *Declaratory Ruling is adopted*.

It is further ordered that WorldCom's *Petition for Clarification is granted* to the extent indicated herein.

It is further ordered that the waivers requested by WorldCom in its *Petition for Clarification*, regarding certain of the minimum standards for TRS contained in 47 CFR 64.604, *ARE GRANTED*, to the extent indicated herein.

It is further ordered that the Administrator of the Interstate Fund, the National Exchange Carriers Association, shall upon release of this *Declaratory Ruling* by the Commission, pay eligible providers of IP Relay the costs of providing IP Relay using the PSTN-based TRS formula rate per minute.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Declaratory Ruling*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-1153; MM Docket No. 00-245; RM-9971, 10185, 10186]

Radio Broadcasting Services; Alberta and Dinwiddie, VA and Whitakers and Garysburg, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 65 FR 79327 (December 19, 2000), this document allots Channel 276A to Garysburg, North Carolina as its first local aural transmission service, substitutes Channel 299A for Channel 276A at Alberta, Virginia, and modifies Station WSMY-FM's authorization accordingly. This document denies a request by Dinwiddie Radio Company that Channel 299A be allotted to Dinwiddie, Virginia and that Channel 276A be retained at Alberta. This document also denies a request by Station WSMY-FM to substitute Channel. 276C3 for Channel 276A at Alberta, Virginia, and to reallocate Channel 276C3 from Alberta, Virginia to Whitakers, North Carolina. The coordinates for Channel 276A at Garysburg, North Carolina are 36-26-30 North Latitude and 77-35-00 West Longitude.

DATES: Effective July 8, 2002.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-245, adopted May 8, 2002, and released May 17, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW, Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail: qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by adding Garysburg, Channel 276A.

3. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by adding Channel 299A at Alberta and removing Channel 276A at Alberta.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-1249; MM Docket No. 01-69; RM-10081]

Radio Broadcasting Services; Parker, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 66 FR 17843 (April 4, 2001), this document allots Channel 247C3 to Parker, Arizona, and provides Parker with its fourth local aural transmission service. The coordinates for Channel 247C3 at Parker are 34-03-11 North Latitude and 114-17-18 West Longitude.

DATES: Effective July 8, 2002.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-69, adopted May 8, 2002, and released May 17, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202 863-2893, facsimile 202 863-2898, or via e-mail qualexint@aol.com.