Services and items furnished by physicians and other health care professionals and non-hospital-based entities shall be subject to the payment methodology set forth in § 136.203.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 10–51 and 03–123; FCC 16–25]

Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission modifies its four-year compensation rate plan for Video Relay Service (VRS), adopted in 2013, by temporarily ''freezing'' the rate of compensation paid from the Interstate Telecommunications Relay Services Fund (TRS Fund) to VRS providers handling 500,000 or fewer monthly minutes and directs the TRS Fund administrator to pay compensation to such providers at a rate of $5.29 per VRS minute for a 16-month period.

DATES: Effective April 20, 2016.

FOR FURTHER INFORMATION CONTACT: Robert Aldrich, Consumer and Governmental Affairs Bureau, at 202–418–0996 or email *Robert.Aldrich@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Report and Order, document FCC 16–25, adopted on March 1, 2016, and released on March 3, 2016, in CG Docket Nos. 10–51 and 03–123. The full text of document FCC 16–25 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Document FCC 16–25 can also be downloaded in Word or Portable Document Format (PDF) at: *https://www.fcc.gov/general/disability-rights-office-headlines.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 16–25 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission will not send a copy of FCC 16–25 pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the Commission adopted no rules therein, as defined in 5 U.S.C. 804(3). Rather, the Commission modified the rates applicable to compensation paid to VRS providers from the TRS Fund.

Synopsis

1. In 2013, the Commission adopted a Report and Order amending its telecommunications relay service (TRS) rules to improve the structure, efficiency, and quality of the VRS program, reduce the risk of waste, fraud, and abuse, and ensure that the program makes full use of advances in commercially-available technology. *Structure and Practices of the Video Relay Services Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 10–51, 03–123, Report and Order and Further Notice of Proposed Rulemaking, published at 78 FR 40407, July 5, 2013 (*VRS Reform Order*), and 78 FR 40582, July 5, 2013 (*VRS Reform FNPRM*), *aff'd in part and vacated in part sub nom. Sorenson Communications, Inc.* v. *FCC,* 765 F.3d 37 (D.C. Cir. 2014) (*Sorenson*). The *VRS Reform Order* established the rates at which VRS providers are compensated from the Interstate Telecommunications Relay Service Fund (TRS Fund) for a four-year period beginning July 1, 2013, and adopted structural reforms designed to establish a more level playing field for all VRS providers.

2. Pursuant to the TRS rules, VRS providers submit the number of minutes of service they provide to the TRS Fund administrator on a monthly basis and are compensated for these minutes based on rates set annually by the Commission. The Commission currently uses a three-tier compensation rate structure that allows smaller providers to receive more compensation per minute, on average, than larger providers. A tiered compensation rate structure allows providers to earn a higher compensation rate on the initial minutes of service provided each month. Pursuant to the three-tiered VRS rate structure as modified in the *VRS Reform Order,* the Tier I rate (the highest rate) applies to a provider's first 500,000 monthly VRS minutes, the Tier II rate applies to a provider's second 500,000 monthly minutes, and the Tier III rate (the lowest rate) applies to monthly minutes in excess of 1,000,000. As a result, smaller providers receive more compensation per minute, on average, than larger providers.

3. In the *VRS Reform Order,* the Commission recognized a need to better align VRS compensation rates with the allowable costs of this service, pending a further determination as to VRS compensation methodology. To that end, and as an alternative to immediately reducing rates to a level based on average costs, the Commission adopted a four-year schedule that gradually adjusts the VRS compensation rates downward every six months, beginning July 1, 2013, and ending June 30, 2017. (In document FCC 16–25, the term ''average,'' when used to describe multiple providers' costs, means an average of provider costs weighted in proportion to each provider's total minutes.) Subsequently, in a Further Notice of Proposed Rulemaking released November 3, 2015, the Commission proposed to temporarily freeze the compensation rates of providers handling 500,000 or fewer monthly minutes. *Structure and Practices of the Video Relay Services Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 10–51, 03–123, Further Notice of Proposed Rulemaking, published at 80 FR 72029, November 18, 2015, (*VRS Rate Freeze FNPRM*).

4. The Commission adopts its proposal to temporarily ''freeze'' the compensation rates of providers handling 500,000 or fewer monthly minutes (the smallest VRS providers) and directs the TRS Fund administrator to pay compensation, subject to a possible true-up, at a compensation rate of $5.29 per VRS minute for the period from July 1, 2015, to October 31, 2016.

This rate is applicable to a VRS provider in any month for which the provider submits 500,000 or fewer compensable VRS minutes for compensation from the TRS Fund.

5. The record of this proceeding confirms that for each of the smallest VRS providers, the per-minute costs incurred or projected by the provider in calendar years 2015 and 2016, respectively, are higher than the ''blended'' compensation rate applicable to that provider in that year under the four-year schedule adopted in the *VRS Reform Order.* (A provider's ''blended'' compensation rate for a calendar year is the average of the Tier I rates applicable in the first and second halves of the calendar year, weighted by the provider's projected minutes for each half.) The individual cost information filed by the smallest VRS providers, which the Commission finds to be credible, while updating the cost data previously filed with Rolka Loube, confirms Rolka Loube's initial assessment that the deficits incurred by the smallest VRS providers may be jeopardizing their continuation of service. Further, the smallest VRS providers credibly argue that available financing arrangements will not permit them to maintain operations indefinitely in accordance with the Commission's minimum TRS standards while continuing to operate at a loss. Therefore, the Commission finds that, absent rate relief, it is likely that the smallest providers either (1) will be unable to maintain their operations in 2016 or (2) will be unable to continue to grow their operations significantly in the direction of reaching optimum levels of efficiency. As a result, the Commission's objective to offer such providers ''a reasonable opportunity to . . . reach the optimum scale to compete effectively'' may be undermined. *See VRS Reform Order,* 78 FR 40602, July 5, 2013.

6. As the Commission has previously recognized, the presence of diverse providers can spur improvements in the availability, efficiency, and functional equivalence of VRS. Further, public interest considerations favor the grant of interim relief. The record confirms that certain service features offered by small VRS providers may be uniquely helpful in advancing the goal of functionally equivalent service for certain subsets of VRS consumers. Specialized features offered by the smallest VRS providers include Spanish language VRS and emergency alert functions for schools for the deaf.

7. Based on these various considerations, the Commission concludes that it should temporarily halt the scheduled reduction in the VRS compensation rates applicable to the smallest VRS providers, consistent with its objective in the *VRS Reform Order* to permit smaller providers a reasonable opportunity to grow and to attain efficiencies comparable to those of larger VRS providers. Accordingly, the Commission adopts its proposal in the *VRS Rate Freeze FNPRM* to apply a rate of $5.29 per minute to compensation claimed by the smallest VRS providers for a limited period. This rate, which was in effect prior to July 1, 2015, is lower than the smallest VRS providers' average projected allowable costs for 2015 but higher than their average projected allowable costs for 2016. It is also lower than any individual provider's allowable costs for 2015. The Commission concludes that application of a $5.29 per minute compensation rate to the smallest VRS providers will generally provide a reasonable level of support for the operations of the smallest VRS providers and will not risk providing significant overcompensation for such providers. In addition, application of this rate to the smallest VRS providers, in lieu of the previously scheduled rates, will not impose a heavy cost burden on the TRS Fund.

8. Regarding the period for which this rate freeze should apply, the Commission adopts the proposal in the *VRS Rate Freeze FNPRM* for an adjusted compensation rate of $5.29 per minute to be effective for 16 months, beginning retroactively on July 1, 2015, the beginning of the current Fund Year, and ending on October 31, 2016. This 16-month rate freeze allows the smallest VRS providers the opportunity to achieve market share growth and improvements in efficiency while benefitting from further implementation of structural reforms—such as the establishment of the ACE platform, which will address interoperability and other matters and is scheduled for launch this year.

9. While rates should not be frozen indefinitely, the Commission agrees with a number of commenting parties that, in order to avoid subjecting the smallest VRS providers to a sudden drop in compensation upon the expiration of the 16-month period, the compensation rate for the smallest providers should be adjusted downward in the same increments previously directed in the *VRS Reform Order.* In other words, for the smallest VRS providers the ''glide path'' originally established in the *VRS Reform Order* will resume after a 16-month freeze. The resulting per-minute rates for the smallest VRS providers for the period from January 1, 2015, to the end of the four-year period are: (1) January 2015–October 2016, $5.29; (2) November 2016–April 2017, $5.06; (3) May–June 2017, $4.82.

10. In response to the *VRS Rate Freeze FNPRM,* a number of commenters urge the Commission to expand the proposed scope of the rate freeze beyond the smallest VRS providers. For example, some parties argue that VRS providers that are larger than the smallest providers, but significantly smaller than the largest provider, also have a need for rate relief based on a comparison of their costs with applicable compensation rates. The information provided to the Commission does not indicate that any VRS providers other than the smallest providers will have allowable costs exceeding the average compensation rate applicable to such providers in 2015 and 2016. The Commission recognizes that among the three largest VRS providers, there are substantial differences in per-minute costs. However, as noted in the *VRS Rate Freeze FNPRM,* the Commission previously restructured the rate tiers—and ''froze'' the Tier II rate at $4.82 for the first three years of the transition period—in order to allow the smaller of these providers '' 'a full opportunity to improve efficiencies and achieve scale.' '' Again, these providers have not shown that they will incur allowable costs in excess of their revenues in 2015 and 2016. The Commission notes that several parties attempt to renew claims made in prior proceedings alleging that the categories of allowable costs are too narrow to permit recovery of all reasonable VRS costs. Those claims were considered and rejected in the VRS Reform Order. *See VRS Reform Order,* 78 FR 40599, July 5, 2013. Further, while a number of parties contend that implementation of structural reforms has imposed additional costs, no party has submitted specific estimates or documentation regarding such implementation costs.

11. In summary, while some parties contend that the compensation rates for currently profitable providers should be frozen, allegedly to prevent reductions in the quality of VRS, the Commission does not perceive any immediate risk that any of the larger VRS providers have been or will be unable to continue to provide service that meets the Commission's minimum TRS standards in 2015 and 2016. The Commission notes, however, that there is an open rulemaking on a number of broader VRS ratemaking proposals and issues. *See VRS Reform FNPRM,* 78 FR 40582, July 5, 2013. Some of the comments filed in response to the *VRS Rate Freeze FNPRM* address those matters, as well as raising

new issues regarding quality of service and the viability of future competition in the VRS market. To the extent relevant, the Commission may address these comments when it completes action on the broader VRS rulemaking proposals.

12. In summary, the Commission directs the TRS Fund administrator, Rolka Loube, to compensate the smallest VRS providers at a rate of $5.29 per minute, applicable from July 1, 2015, through October 31, 2016. More specifically, from the effective date of this Report and Order through October 31, 2016, the Commission directs the administrator to pay compensation to the smallest VRS providers at a rate of $5.29 per minute. Second, the Commission directs the administrator to pay each of the smallest VRS providers a one-time lump sum reflecting the difference between the compensation they would have received if they had been paid at a rate of $5.29 per minute and the compensation they actually received at the lower applicable rates, for all compensable calls completed during the period between July 1, 2015, and the effective date of document FCC 16–25. In addition, to avoid subjecting the smallest VRS providers to a sudden drop in compensation upon the expiration of the 16-month period, the Commission directs the administrator to pay compensation to the smallest VRS providers at a rate of $5.06 per minute from November 1, 2016, through April 30, 2017, and at a rate of $4.82 per minute from May 1, 2017, through June 30, 2017.

Final Regulatory Flexibility Act Certification

13. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared the Final Regulatory Flexibility Certification (FRFC) as to the policies and rules adopted in document FCC 16–25. The Commission will send a copy of document FCC 16–25, including the FRFC, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). (*See* 5 U.S.C. 603(a).)

14. After consideration of the comments received in response to the *VRS Rate Freeze FNPRM,* the Commission modifies in part the four-year compensation rate plan for video relay service (VRS) adopted in the 2013 *VRS Reform Order.* Although the Commission believes that the four-year schedule of VRS compensation rate reductions continues to be justified in order to gradually move compensation rates close to a level close to average allowable provider costs, the Commission modifies the schedule as applied to the smallest VRS providers, *i.e.,* those providing 500,000 or fewer compensable minutes of use of VRS per month. Spreading rate reductions over a four-year period was largely intended to provide a reasonable opportunity for the smallest providers to reach minimum efficient scale while benefitting from the *VRS Reform Order* initiatives, which were intended to address many of the issues that have made it difficult for small providers to operate efficiently.

15. The smallest providers have achieved significant reductions in their per-minute costs but have yet to approach the size or efficiency levels of their larger rivals. Further, some small providers offer service features that may be helpful in advancing the goal of functionally equivalent service for certain subsets of VRS consumers, such as Spanish language speakers and deaf-owned businesses. Therefore, the Commission adopts the temporary, limited compensation rate ''freeze'' proposed in the *VRS Rate Freeze FNPRM.* Specifically, from the effective date of document FCC 16–25 through October 31, 2016, the Commission directs the TRS Fund administrator to pay compensation to the three smallest VRS providers at a rate of $5.29 per minute. In addition, the Commission directs the administrator to pay each of the smallest VRS providers a one-time lump sum reflecting the difference between the compensation they would have received if they had been paid at a rate of $5.29 per minute and the compensation they actually received at the lower applicable rates, for all compensable calls completed during the period between July 1, 2015, and the effective date of document FCC 16–25. In addition, to avoid subjecting the smallest VRS providers to a sudden drop in compensation upon the expiration of the 16-month period, the Commission directs the administrator to pay compensation to the smallest VRS providers at a rate of $5.06 per minute from November 1, 2016, through April 30, 2017, and at a rate of $4.82 per minute from May 1, 2017, through June 30, 2017.

16. In document FCC 16–25, the Commission adopts its proposal to temporarily ''freeze'' the compensation rates applicable to the smallest VRS providers and determines, as it concluded in the Initial Regulatory Flexibility Analysis, that this measure will not impose any additional compliance requirements on small businesses and would temporarily ease the impact of existing VRS regulations on small entities by temporarily increasing the VRS compensation rate for small entities above the rate currently in effect. Therefore, the Commission certifies that the rule amendments in document FCC 16–25 will not have a significant economic impact on a substantial number of small entities.

Ordering Clause

Pursuant to the authority contained in sections 4(i), 201(b), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201(b), 225, document FCC 16–25 *is adopted.*

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–06305 Filed 3–18–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160202070–6070–01]

RIN 0648–XE427

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Adjustment of Georges Bank and Southern New England/Mid-Atlantic Yellowtail Flounder Annual Catch Limits

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

ACTION: Temporary rule; adjustment of annual catch limits.

SUMMARY: This action transfers unused quota of Georges Bank and Southern New England/Mid-Atlantic yellowtail flounder from the Atlantic scallop fishery to the Northeast multispecies fishery for the remainder of the 2015 fishing year. This quota transfer is justified when the scallop fishery is not expected to catch the entire allocation of either stock of yellowtail flounder. The quota transfer is intended to provide additional harvest opportunities for groundfish vessels to help achieve the optimum yield for these stocks while ensuring sufficient amounts of yellowtail flounder are available for the scallop fishery.

DATES: Effective April 18, 2016, through April 30, 2016.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978–281–9195.

SUPPLEMENTARY INFORMATION: NMFS is required to estimate the total amount of