

(1) State, tribal or other Federal certification data upon which the EPA certification is based.

(2) Data provided by the requesting applicator at the time of its request for EPA certification.

(3) Data generated by EPA in the processing of the EPA certification.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:**

None.

[FR Doc. 2010-20081 Filed 8-12-10; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

[CG Docket No. 03-123; FCC 10-115]

**Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; approval of new rates.

**SUMMARY:** In this document, the Commission adopts per-minute compensation rates for the July 1, 2010 through June 30, 2011 Interstate Telecommunications Relay Services (TRS) Fund (Fund) year. This action is necessary because the rates for the previous Fund year expired on June 30, 2010. The intended effect of this action is to establish reimbursement rates for TRS providers and an appropriate funding requirement for the 2010-2011 Fund year.

**DATES:** The new rates became effective July 1, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Diane Mason, Consumer and Governmental Affairs Bureau, Disability Rights Office at (202) 418-7126 (voice), (202) 418-7828 (TTY), or e-mail at [Diane.Mason@fcc.gov](mailto:Diane.Mason@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, document FCC 10-115, adopted June 18, 2010, and released June 28, 2010 in CG Docket number 03-123 (*Order*). On April 30, 2010, the Fund administrator, the National Exchange Carrier Association, Inc. (NECA), filed its annual Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate for the period of July 1, 2010 through June 30, 2011. That same day, the Commission's Consumer and Governmental Affairs Bureau (Bureau)

released a public notice requesting comment on NECA's filing. See *National Exchange Carrier Association Submits the Payment Formula and Fund Size Estimate for the Interstate Telecommunications Relay Services Fund for the July 2010 Through June 2011 Fund Year*, CG Docket No. 03-123, public notice, document DA 10-761, published at 75 FR 26701, May 12, 2010 (*2010 TRS Rate PN*). Over 22,000 comments, reply comments, and *ex partes* were filed in response to the *2010 TRS Rate PN*.

The full text of document FCC 10-115 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document FCC 10-115 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor, BCPI, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. via its Web site <http://www.bcpweb.com> or by calling 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Document FCC 10-115 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.html#orders>.

**Synopsis**

*The Compensation Rates for VRS for the 2010-2011 Fund Year*

1. The Commission adopts interim, one-year rates of \$6.2390 for Tier I, \$6.2335 for Tier II, and \$5.0668 for Tier III for VRS by averaging NECA's proposed per-minute rates calculated as a measure of actual, historical provider costs, and the current rates, which were based on providers' projected costs. Projected costs for VRS for a given Fund year have consistently proven to be higher than actual costs for that Fund year, and there is currently no "true-up" mechanism for reconciling, after the Fund year, the rates at which providers are reimbursed from the Fund and their actual costs for the Fund year. By NECA's calculation, the rates based on actual, historical costs would be \$5.7754 for Tier I, \$6.0318 for Tier II, and \$3.8963 for Tier III for the 2010-2011 Fund year, all of which include

allowances of 1.6% for cash working capital, 3.2% for growth in expenses, and \$0.0083 per minute for ongoing E911 and ten-digit numbering costs. However, in light of concerns expressed by providers and users, and to ensure sufficient, quality service for users while the Commission considers broad reform, the Commission declines to reduce the VRS rates to that level at this time.

2. *Interim VRS Rates for the 2010-2011 Fund Year.* The Commission finds that adopting a multi-year rate structure would be premature at this time. The Commission believes that establishing multi-year VRS rates at this time may hamper the Commission's efforts to implement in a timely manner reforms that the Commission may determine are needed as a result of the *2010 VRS NOI* proceeding. See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Notice of Inquiry, FCC 10-111, published at 75 FR 41863, July 19, 2010 (*2010 VRS NOI*).

3. *Rates Based on Actual vs. Projected Costs for VRS.* The Commission finds that NECA's use of providers' actual, historical costs in proposing VRS rates provides a valuable point of reference for setting VRS rates. Specifically, a comparative analysis by NECA of providers' projected and actual cost and demand over the past several years reveals that there is a substantial disparity between providers' reported projected costs and demand, and what turns out to be their actual costs and demand. In particular, based on the data received from providers, NECA indicates that VRS providers' weighted average actual per-minute costs as submitted to NECA were \$4.4603 in 2006, \$3.9604 in 2007, \$4.1180 in 2008, and \$4.1596 in 2009. By contrast, the compensation rates were in the following ranges for each of those years: \$6.644 in 2006, \$6.444 to \$6.77 in 2007, \$6.30 to \$6.7632 in 2008, and \$6.2373 to \$6.7362 in 2009. In addition, in the past, the Commission has not provided a process for reconciling providers' actual costs to their compensation from the Fund, and the Commission declines to do so here.

4. With the benefit of four years' data showing that providers' projections consistently overstate their costs, the Commission concludes that it can no longer justify basing VRS compensation rates only on projected costs. Furthermore, NECA, which has been the Fund administrator since the inception of the Fund, used weighted averages in proposing tiered rates based on actual costs. To the extent that one provider commands a substantial share of the VRS market, the Commission finds that

NECA's use of weighted averages is appropriate, and properly balances, on one side, the greater relative costs incurred by smaller providers with, on the other, not penalizing providers operating at lower costs for their greater efficiency. The Commission therefore concludes that NECA's methodology, and use of actual cost information submitted by the providers and certified under penalty of perjury to be true and correct, were reasonable.

5. The Commission has an obligation to protect the integrity of the Fund and to deter and detect waste. It has therefore sought to find a reasonable balance between the past rates based on projections that consistently overstate true costs and overcompensate VRS providers, and the NECA-proposed rates based on actual costs that would represent a significant and sudden cut to providers' compensation. The Commission concludes that adjusting NECA's proposed rates based on actual costs for a one-year, interim period strikes the correct balance. The Commission also notes that the rates adopted in the *Order* fall within the range of rates proposed by providers for each of the tiers. As such, the Commission expects that the interim rates adopted will permit service providers to continue offering service in accordance with the Commission's rules to consumers, while the Commission considers the *2010 VRS NOI*. In the interim, the Commission is obliged to adopt a set of rates that compensates VRS providers for reasonable costs caused by their provision of VRS "in the most efficient manner" possible, and is otherwise consistent with the Communications Act of 1934, as amended (Act) and the Commission's rules.

6. Sorenson argues that "any decision to create a new methodology—based on historical costs or any other approach that deviates from the incentive-based (or projected-'cost') approach adopted in 2007—would amount to a rule change that could be adopted only pursuant to a new rulemaking proceeding." Even if Sorenson is correct that, by adopting these interim VRS rates, the Commission is somehow changing a "rule," the Commission has provided ample notice and opportunity for public comment regarding this action. For example, the Commission has twice expressly sought comment recently in this proceeding on the use of actual cost data as a basis for determining rates. Moreover, the Commission is taking the additional precaution of establishing VRS rates on an interim basis to address a significant disparity between actual costs and provider compensation while

the Commission undertakes to examine VRS compensation more broadly in a formal rulemaking proceeding. The Commission notes that in the past, it has been afforded substantial deference when imposing regulations on an interim basis, particularly where it is acting in the public interest. The Commission therefore finds Sorenson's arguments in this regard to be without merit.

7. Further, provider criticisms of NECA's proposal relying on actual cost data to set VRS rates—based on the argument that costs allowed by NECA do not include all of the true costs of providing VRS—should, in theory, apply equally to reliance on projected cost data in VRS rate setting because the categories of compensable costs are the same whether actual or projected. Therefore, they are not persuasive as a challenge to reliance on actual cost data.

8. *Tiered Rate Structure*. The Commission concludes that for the 2010–2011 Fund year, the interim rate shall continue to be tiered based on the demand thresholds established in *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling, CG Docket No. 03–123, document FCC 07–186, published at 73 FR 3254, Jan. 17, 2008. (*2007 TRS Rate Methodology Order*): Tier I shall include monthly minutes submitted in the range of 0–50,000, Tier II shall include monthly minutes from 50,001 to 500,000, and Tier III shall include monthly minutes submitted above 500,000. The rationale for adopting the tiers in the *2007 TRS Rate Methodology Order* remains applicable; that is, providers with a relatively small number of minutes generally have higher costs. Further, the Commission lacks sufficient record evidence to depart from the existing tier structure in favor of any particular alternative. The Commission therefore declines to change the tier structure at this time.

9. *Consistency of this Action with the ADA*. The Commission concludes that the adoption of the VRS rates herein is consistent with its obligations under Title IV of the Americans with Disabilities Act, codified as section 225 of the Communications Act. In complying with these statutory requirements, the Commission often must balance the interests of contributors to the Fund, who are ratepayers, with the interests of users of TRS. Because the rates adopted in the *Order* exceed the VRS providers' average actual costs as reported by them, the Commission concludes that they are consistent with the

requirements in section 225 of the Act, and furthermore reflect a full awareness of the Commission's obligations under section 225 and a commitment to further the goals of functional equivalency through strengthening and sustaining VRS.

#### *The Compensation Rate for TRS and STS for the 2010–2011 Fund Year*

10. The Commission adopts NECA's proposed per-minute base rate of \$2.0256 for traditional TRS and STS for the 2010–2011 Fund year. The base rate for TRS and STS is formulated by NECA following the MARS analysis adopted in the *2007 TRS Rate Methodology Order*.

11. Although the base rate for STS is the same as for TRS, in the *2007 TRS Rate Methodology Order*, the Commission recognized that many potential STS users were not being made aware of this important service. Therefore, for the 2007–2008 Fund year, the Commission added an additional amount of \$1.131 per minute to the STS compensation rate calculated under the MARS plan to be used for outreach purposes. The Bureau decided to retain the outreach payment for the 2008–2009 and 2009–2010 Fund years. The Commission will continue the additional funding for STS as adopted in the *2007 TRS Rate Methodology Order* for the 2010–2011 Fund year in light of NECA's and commenters' belief that continued additional support for outreach is needed. However, the Commission will monitor the impact of this funding for the next cycle and consider alternative approaches to STS outreach in the future.

#### *The Compensation Rates for Captioned Telephone Service (CTS) and Internet-Protocol (IP) CTS for the 2010–2011 Fund Year*

12. The Commission adopts NECA's proposed per-minute compensation rate of \$1.6951 for CTS and IP CTS for the 2010–2011 Fund year. These rates are also calculated using the MARS formula adopted in the *2007 TRS Rate Methodology Order*.

#### *The Compensation Rate for IP Relay for the 2010–2011 Fund Year*

13. The Commission adopts NECA's proposed per-minute compensation rate of \$1.2985 for IP Relay for the 2010–2011 Fund year. This rate includes \$0.0503 per minute for ongoing ten-digit numbering and E911 costs and \$0.0204 per minute as a rate of return on capital investment as explained in NECA's filing. Beginning July 1, 2010, all numbering and E911 costs associated with IP Relay, as well as VRS, will be compensated on a per-minute basis. The

Commission adopted a price cap formula in the *2007 TRS Rate Methodology Order* for three years which expires June 30, 2010. The Commission finds it appropriate to continue to use the price-cap methodology used in setting the previous rates for IP Relay, and to adopt NECA's proposed rate for the 2010–2011 Fund year based on IP Relay providers' projected costs and demand.

14. Unlike VRS, for IP Relay, the Commission explicitly stated that at the end of the first three-year cycle, it would adopt IP Relay rates for another three-year cycle. Therefore, NECA's proposed rate for the 2010–2011 Fund year for IP Relay will serve as a base rate for a new three-year cycle for IP Relay that will expire June 30, 2013. As has been done in the previous cycle based on the *2007 TRS Rate Methodology Order*, this rate will be adjusted annually by an inflation factor and an efficiency factor, and will include any appropriate exogenous costs submitted by providers. The inflation factor is the Gross Domestic Product minus the Price Index (GDP – PI), and the efficiency factor is the inflation factor minus 0.5 percent to account for productivity gains.

#### *The Carrier Contribution Factor and Funding Requirement*

15. Because the Commission adopts NECA's proposed compensation rates for the various forms of TRS, with the adjustment of VRS rates to prevent a steep and disruptive decrease in per-minute compensation, and because the Commission agrees that NECA's projected minutes of use for each service are supported by the record and thus reasonable, the remaining issue to resolve is the treatment of NECA's March 30, 2010 *Supplemental Filing* recommending a decrease in 2009–2010 funding requirements from \$891 million to \$701.8 million, and a reduction in the carrier contribution factor from 0.01137 to 0.00886. NECA made this recommendation based on the finding that actual VRS minutes for a seven-month period of July 2009 through January 2010 consistently averaged 18% below projections. The Commission declines to reduce the 2009–2010 Fund size as recommended, and instead concludes that the most administratively reasonable approach is to apply NECA's recommended Fund adjustment to the funding requirement for 2010–2011. Based on this, the Commission adopts a total funding requirement of \$433,990,484.98 and carrier contribution factor of 0.00585 which will result in a total Fund size of \$705,048,502.19.

#### **Paperwork Reduction Act**

16. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act 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**

17. The Commission will send a copy of this *Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A).

#### **Ordering Clauses**

Pursuant to the authority contained in section 225 of the Communications Act of 1934, as amended, 47 U.S.C. 225, and § 64.604(c)(5)(iii) of the Commission's rules, 47 CFR 64.604(c)(5)(iii), document 10–115 *is adopted*.

NECA shall compensate providers of interstate traditional TRS for the July 1, 2010 through June 30, 2011 Fund year, at the rate of \$2.0256 per completed interstate conversation minute.

NECA shall compensate providers of interstate Speech-to-Speech service for the July 1, 2010 through June 30, 2011 Fund year, at the rate of \$3.1566 per completed interstate conversation minute.

NECA shall compensate providers of interstate captioned telephone service and intrastate and interstate IP captioned telephone service for the July 1, 2010 through June 30, 2011 Fund year, at the rate of \$1.6951 per completed conversation minute.

NECA shall compensate providers of intrastate and interstate IP Relay service for the July 1, 2010 through June 30, 2011 Fund year, at the rate of \$1.2985 per completed conversation minute.

NECA shall compensate providers of intrastate and interstate Video Relay Service at the rates of \$6.2390 for the first 50,000 monthly minutes (Tier I), \$6.2335 for monthly minutes between 50,001 and 500,000 (Tier II), and \$5.0668 for minutes above 500,000 (Tier III) per completed conversation minute for the July 1, 2010 through June 30, 2011 Fund year.

The Interstate TRS carrier contribution factor shall be 0.00585, and the funding requirement shall be \$433,990,484.98, and the, for the July 1, 2010 through June 30, 2011 Fund year.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 2010–20047 Filed 8–12–10; 8:45 am]

**BILLING CODE 6712–01–P**

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## **FEDERAL RESERVE SYSTEM**

### **Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 27, 2010.

**A. Federal Reserve Bank of St. Louis** (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *George J. Shackelford*, Coila, Mississippi; to acquire additional voting shares of Peoples Commerce Corporation, and thereby indirectly acquire additional voting shares of Peoples Bank and Trust Company, both of North Carrollton, Mississippi.

**B. Federal Reserve Bank of Dallas** (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *John D. Mican*, Bastrop, Texas; Robert E. Berryhill, Smithville, Texas; Tammy L. Goertz, Rosansky, Texas; and Dianna L. Kana, Bastrop, Texas, individually and collectively as co-trustees of the Bastrop Bancshares, Inc. Employee Stock Ownership Plan (“ESOP”) and on behalf of ESOP; to acquire voting shares of Bastrop Bancshares, Inc., and thereby indirectly acquire voting shares of The First National Bank of Bastrop, both of Bastrop, Texas.

Board of Governors of the Federal Reserve System, August 9, 2010.

**Robert deV. Frierson,**  
*Deputy Secretary of the Board.*

[FR Doc. 2010–19948 Filed 8–12–10; 8:45 am]

**BILLING CODE 6210–01–S**