

significant benefits once they achieve a 70 percent or greater self-booking rate.

■ 19. Revise § 301–73.102 to read as follows:

**§ 301–73.102 May we grant a traveler an exception from required use of TMS or ETS once we have fully deployed ETS within the agency?**

(a) Yes, your agency head or his/her designee may grant an individual case by case exception to required use of your agency's current TMS or to required use of ETS once it is fully deployed within the agency, but only when travel meets one of the following conditions:

(1) Such use would result in an unreasonable burden on mission accomplishment (e.g., emergency travel is involved and TMS/ETS is not accessible; the traveler is performing invitational travel; or the traveler has special needs or requires disability accommodations in accordance with part 301–13 of this chapter).

(2) Such use would compromise a national security interest.

(3) Such use might endanger the traveler's life (e.g., the individual is traveling under the Federal witness protection program, or is a threatened law enforcement/investigative officer traveling under part 301–31 of this chapter).

(b) Any exception granted must be consistent with any contractual terms applicable to your current TMS or ETS, once it is fully deployed, and must not cause a breach of contract terms.

[FR Doc. E6–13917 Filed 8–22–06; 8:45 am]

BILLING CODE 6820–14–S

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[ET Docket No. 04–37 and ET Docket No. 03–104; FCC 06–113]

### Broadband Over Power Line Systems

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document responds to the petitions for reconsideration of the Commission's rules for Access Broadband over Power Line (Access BPL) devices adopted in the *Report and Order* in this proceeding. The Commission is affirming the technical rules for BPL, and denying petitions for reconsideration that request delay, further study, or the exclusion of particular additional frequencies. The Commission is amending the rules to

change the exclusion zone requirement for the ten listed radio astronomy facilities to a consultation requirement, and to add a new exclusion zone for one Very Large Array (VLA) radio astronomy observatory site at 73.0–74.6 MHz. In addition, it is also amending the rules to add prospective protection for relocated aeronautical facilities and to correct the coordinates and email contact for the aeronautical facilities subject to BPL consultation. The Commission affirms the deadline for requiring certification for any equipment manufactured, imported or installed on BPL systems, with the proviso that uncertified equipment already in inventory can be used for replacing defective units or to supplement equipment on existing systems for one year within areas already in operation. The Commission believes these changes will further the development and growth of BPL devices. It is denying the petitions for reconsideration in all other respects.

**DATES:** Effective September 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** Anh Wride, Office of Engineering and Technology, (202) 418–0577, e-mail: [Anh.Wride@fcc.gov](mailto:Anh.Wride@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order*, ET Docket No. 04–37, and ET Docket No. 03–104, adopted August 3, 2006 and released August 7, 2006. The full text of this document is available on the Commission's Internet site at [www.fcc.gov](http://www.fcc.gov). It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

### Summary of the Memorandum Opinion and Order

1. In the *Memorandum Opinion and Order*, the Commission further amends part 15 of its rules regarding the unlicensed operation of Access broadband over power line (BPL) systems. Specifically, the rules are amended to change the exclusion zone requirement for the ten listed radio astronomy facilities to a consultation requirement, and to add a new exclusion zone for one Very Large Array (VLA) radio astronomy observatory site at 73.0–74.6 MHz. In addition, the

Commission amends the rules to add prospective protection for relocated aeronautical facilities and to correct the coordinates and email contact for the aeronautical facilities subject to BPL consultation. The Commission affirms the July 7, 2006 deadline for requiring certification for any equipment manufactured, imported or installed on BPL systems, with the proviso that uncertified equipment already in inventory can be used for replacing defective units or to supplement equipment on existing systems for one year within areas already in operation. The Commission believes these changes will further the development and growth of BPL devices. The Commission denies the petitions for reconsideration in all other respects.

### A. Notification to the Access BPL Database

2. In the *Report and Order*, 70 FR 1360, January 7, 2005, in this proceeding, the Commission adopted a requirement that the Access BPL industry establish a publicly accessible database for system information. Under this requirement, entities operating Access BPL systems must provide to the BPL industry designated database manager certain information on BPL installations 30 days prior to the initiation of any operation or service. The BPL industry requested elimination of this 30-day advance notification.

3. The Commission denied this request. It stated that the purpose of the database notification requirement is to ensure that licensed users of the spectrum have a publicly accessible and centralized source of information on BPL operations to determine whether there may be Access BPL operations on particular frequencies within their local area so that any incident of harmful interference can be resolved should it occur. The Commission noted that the BPL public database serves a unique function to identify the location and operating characteristics of BPL systems to entities other than those entitled to advance notification. The Commission however provided several clarifications regarding the notification process.

### B. Transition Period

4. The rules adopted in the *Report and Order* require that all Access BPL devices that are manufactured, imported, marketed or installed 18 months or later after the **Federal Register** publication of the *Report and Order*, i.e., after July 7, 2006, must comply with the newly adopted requirements of Subpart G of part 15 for BPL devices, including certification of the equipment. The BPL industry

requested an extension for another 18-month period.

5. The Commission denied this request. It noted that an important element of interference avoidance and mitigation is the next generation of BPL equipment and its adherence to the rules adopted in the *Report and Order*. However, because BPL equipment manufacturers are only now submitting equipment for certification under the new rules, the Order permits for a period of 1 year the installation of existing equipment that otherwise meets the part 15 rules to replace defective units or to supplement equipment on existing systems within the areas where BPL systems are already in operation.

### C. BPL Technical Parameters

6. *Extrapolation factor.* In the *Report and Order*, the Commission specified measurement guidelines that require BPL systems to be tested *in situ* at three typical installations with overhead lines. Because it may not be possible or practicable to measure at the proposed fixed distances of 10 and 3 meters, distance extrapolation would be necessary for *in situ* testing and the *Report and Order* requires the use of the existing part 15 distance extrapolation factors, i.e., 40 dB/decade for frequencies below 30 MHz and 20 dB/decade for frequencies above 30 MHz. ARRL requested that the rules be changed to use 20 dB/decade at all frequencies for testing BPL systems.

7. The Commission denied ARRL's petition. It stated that ARRL did not submit a convincing argument for modifying this requirement, and therefore it retains the existing extrapolation factors in part 15.

8. *Required Notch Depth.* In the *Report and Order*, the Commission required that Access BPL systems have the capability to remotely reduce power and adjust operating frequencies to avoid site-specific, local use of the same spectrum used by licensed services. Notch filters are required to be capable of attenuating emissions to a level at least 20 dB below the applicable part 15 limits in the case of frequencies below 30 MHz and to a level at least 10 dB below the applicable part 15 limits in the case of frequencies above 30 MHz. ARRL requested technical analysis supporting the 20 dB notch depth in the rules.

9. The Commission reiterated that Access BPL operator is required to ensure that its operations do not cause harmful interference to licensed operators and that, if a 20 dB notch is not sufficient to eliminate such interference in specific cases, the operator must take further actions to

eliminate that interference to fixed licensed operations. The Commission also explained in detail its decision for the selection of the 20 dB standard in response to ARRL's petition for reconsideration.

10. The Commission therefore clarified that, except for mobile operations, Access BPL operators are responsible for resolving harmful interference that may occur even where their systems employ a 20/10 dB notch. Where an Access BPL operator implements such notching, the Commission will not provide any further protection to mobile operations, nor will it require the operator to resolve complaints of harmful interference to mobile operations over and above the "notch."

11. *Protection of the amateur radio service.* On October 18, 2005, the ARRL filed a Petition for Issuance of Further Notice of Proposed Rule Making (FNPRM), in which it requested consideration of the same substantive points it submitted in its previous pleadings in this proceeding, e.g., avoid use of amateur radio frequencies by Access BPL systems, avoid use of the HF frequencies by Access BPL systems on overhead medium voltage lines, and require use of a 20 dB extrapolation factor in place of the existing 40 dB extrapolation factor. Although styled as a Petition for Further Notice of Proposed Rule Making, ARRL's pleading effectively constitutes a petition for reconsideration, as it seeks the same results previously sought by ARRL in this proceeding. The Commission therefore treated the Petition for FNPRM as a petition for reconsideration.

12. The Commission denied ARRL's Petition, and noted that the rules adopted in the *Report and Order*, as modified by this *Memorandum Opinion and Order*, adequately address interference concerns and measurement procedures raised by Access BPL. The Commission noted that one "solution" proposed by ARRL in its Petition for FNPRM—the use of wireless links for connection to the home—is not Access BPL, and thus, while a permissible service, is not pertinent to this proceeding. The other proposed "solution"—complete avoidance of all HF frequencies—would needlessly restrict BPL system design and reduce system capacity, without regard to whether there are amateurs that need protection from a particular BPL installation. The Commission concluded that this would result in a grossly inefficient utilization of Access BPL capacity, reducing the potential benefits of BPL and increasing its cost to the

public, without a corresponding benefit or need.

### D. Further Study of Access BPL Characteristics and Other Technical Requests

13. A number of parties requested that all BPL deployments be prohibited pending the adoption of a definition for harmful interference and the completion of all ongoing studies of BPL and the initiation of further studies of BPL interference characteristics. They also requested more stringent technical restrictions on BPL operations.

14. The Commission denied all these requests. It stated that it has taken a proactive approach with regard to protection of licensed radio services in the *Report and Order* by placing additional technical and operational restrictions on BPL systems; and that the rules regarding emission levels and signal notching adopted in the *Report and Order* are adequate to fully protect fixed amateur operations and to protect the reasonable expectations and needs of mobile amateur operations. The Commission also noted that staying the rules as the ARRL requests could leave licensed radio services with less protection than is provided under the rules adopted in the BPL *Report and Order*. It also provided a detailed explanation for the basis of its decision making, and the Commission's statutory responsibilities under the Communications Act.

15. The Commission also disagreed with ARRL's assertion that allegations of interference at some experimental BPL sites demonstrate that the adopted mitigation rules are ineffective. It stated that the BPL rules adopted in the *Report and Order* must be given time to be implemented. It stated that Access BPL equipment currently deployed is typically not designed to fully incorporate the interference mitigation capabilities set forth in the rules that have been put in place. Therefore, until Access BPL operators implement all of the required mitigation techniques, the Commission finds that it is premature to conclude that these rules are ineffective.

### E. Other Requests

16. *Federal Government radio astronomy facility.* The part 15 rules require Access BPL systems to avoid operating on the 73.0–74.6 MHz band used by the ten Very Long Baseline Array facilities of radio astronomy observatories within specific distances. The National Telecommunications and Information Administration (NTIA) requests changes in the exclusion zone requirements for certain radio astronomy facilities, including adding a

new exclusion zone for one Very Large Array (VLA) astronomy observatory site. It also requests a modification in the consultation requirements of the BPL rules to continue to protect the sites no longer covered by the exclusion zones. The Commission granted NTIA's request.

17. *Aeronautical service.* In order to protect aeronautical operations, Access BPL systems operating on medium voltage lines are required to avoid operating in the frequency bands reserved for Aeronautical (R) frequencies and in the 74.8–75.2 MHz band. Aeronautical Radio, Inc. (ARINC) representing the Aeronautical Service requested that both In-House and Access BPL systems operating over low-voltage lines be required to avoid using certain aeronautical frequencies. The Commission denied this request. It stated that it has already fully considered and disposed of this concern in the BPL *Report and Order*, and ARINC has provided no new argument or factual data to warrant reconsideration of this issue. It also noted that no interference complaints from aeronautical users traceable to In-House or low voltage BPL have been received or reported. The Commission however granted ARINC's request that the rules be clarified to state that continued protection will be provided for aeronautical facilities that are relocated.

18. *Broadcast television service.* The part 15 rules allow Access BPL systems to operate between 1.7 and 80 MHz, over medium or low voltage lines. Television channels 2 to 5 are located within the bands from 54 MHz to 82 MHz. The Association for Maximum Service Television, Inc. (MSTV) representing the *Broadcast Television service* requested that BPL operations be confined to below 50 MHz to avoid disruptions TV service, and to Digital Television transition in particular. The Commission denied this request. It noted that MSTV has presented no compelling technical argument to justify this request. It pointed out that all known Access BPL equipment currently operates below 50 MHz, and it stated that if BPL equipment that operates on TV band frequencies were developed in the future to increase capacity, a system using such equipment could avoid any potential for interfering with TV service by operating on channels that are not used by TV stations in the system's service area.

19. *Critical infrastructure industry (CII).* The rules require Access BPL operators to notify and consult with the public safety agencies in their local areas at least 30 days in advance of

initiation of service and to respond to complaints of harmful interference from public safety users within 24 hours. The rules do not, however, make any such provision for protection of CII entities. The American Petroleum Institute (API) requested that oil and natural gas companies be considered as Critical Infrastructure Industries, as identified in the *800 MHz Order*, in order to place them on par with public safety entities. The Commission denied API's request. It stated that its *800 MHz Order* is not directly pertinent to the considerations in the BPL proceeding, and in any event, did not give absolute public safety status to Critical Infrastructure Industries.

20. *Miscellaneous requests for additional operational restrictions on BPL.* A number of parties request placing additional operational and administrative restrictions on BPL operations. The Commission denied all of these requests.

#### Final Regulatory Flexibility Analysis

21. The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."<sup>2</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>3</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>4</sup> 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).<sup>5</sup>

22. The *Report and Order* modified the part 15 rules to allow for Access

<sup>1</sup> The RFA, see 5 U.S.C. 601–612, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>2</sup> 5 U.S.C. 605(b).

<sup>3</sup> 5 U.S.C. 601(6).

<sup>4</sup> 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*."

<sup>5</sup> 15 U.S.C. 632.

Broadband over Power Line (Access BPL) systems, a new type of carrier current system that operates on an unlicensed basis under part 15. A Final Regulatory Flexibility Analysis was incorporated in the *Report and Order*.<sup>6</sup> Following publication of the *Report and Order*, fifteen parties filed for reconsideration regarding various aspects of the part 15 BPL regulations. A list of the petitioners, along with the abbreviations used to identify them and the parties that filed comments in response to the petitions, is attached as Appendix A to the *Memorandum Opinion and Order*. In the *Memorandum Opinion and Order*, the Commission amends the rules to replace the exclusion zone requirement for the ten listed radio astronomy facilities with an exclusion zone for one Very Large Array (VLA) radio astronomy observatory site at 73.0–74.6 MHz, which would significantly reduce potential deployment constraints on Access BPL installations. In addition, we are amending the rules to add prospective protection for relocated aeronautical facilities, which merely continues to provide protection to these stations. Finally, we correct the coordinates and e-mail contacts for the aeronautical facilities subject to BPL consultation.

23. The Commission found that these changes will not result in a "significant economic burden" on manufacturers. Therefore, the Commission certified that the amendments included in this *Memorandum Opinion and Order* will not have a significant economic impact on a substantial number of small entities.

24. The Commission will send a copy of the *Memorandum Opinion and Order*, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.<sup>7</sup> In addition, the *Memorandum Opinion and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

#### Ordering Clauses

25. Pursuant to the authority contained in sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 301, 302, 303(e), 303(f) and 303(r), this *Memorandum Opinion and Order* is *adopted* and part 15 of the

<sup>6</sup> See *Report and Order* in ET Docket No. 04–37, 19 FCC Rcd 21265, 21322 (2004), 70 FR 1360, January 7, 2005.

<sup>7</sup> See 5 U.S.C. 801(a)(1)(A).

Commission's rules *are amended* as set forth in the attached rules change effective September 22, 2006.

26. Pursuant to the authority contained in sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 301, 302, 303(e), 303(f) and 303(r), the request for partial reconsideration filed by the National Telecommunications and Information Administration on February 14, 2005 *is granted* to the extent indicated.

27. Pursuant to the authority contained in sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 301, 302, 303(e), 303(f) and 303(r), the motion for partial reconsideration filed by Current Technologies, LLC, Amperion, Inc., the United Power Line Council, and Aeronautical Radio, Inc. on February 7, 2005 *is granted in part and denied in part* to the extent indicated.

28. Pursuant to the authority contained in sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f) and 303(r), the motion for reconsideration filed by the American Petroleum Institute, the Amateur Radio Relay League, the Association for Maximum Services Television, Inc., and Cohen, Dippell and Everist, P.C. filed on February 7, 2005, W. Lee McVey filed on January 18, 2005, the National Antenna Consortium and the Amherst Alliance filed on January 18, 2005, Steven E. Matda filed on January 19, 2005, G. Scott Davis filed on January 21, 2005, Cortland E. Richmond filed on December 14, 2004, and James Edwin Whedbee filed on October 18, 2004, *is denied* to the extent indicated.

29. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Memorandum Opinion and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 15**

Communications equipment, Radio.

Federal Communications Commission.  
**Marlene H. Dortch,**  
*Secretary.*

**Rules Changes**

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 15 to read as follows:

**PART 15—RADIO FREQUENCY DEVICES**

■ 1. The authority citation for part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

■ 2. Section 15.611 is amended by adding paragraph (c)(1)(iii) to read as follows:

**§ 15.611 General technical requirements.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) At locations where an Access BPL operator attenuates radiated emissions from its operations in accordance with the above required capabilities, we will not require that operator to take further actions to resolve complaints of harmful interference to mobile operations.

\* \* \* \* \*

■ 3. Section 15.615 is amended by removing paragraph (f)(2)(iii) and by revising the introductory text of paragraphs (f)(2), (f)(3), and paragraph (f)(3)(ii) and by adding the point of contact for National Science Foundation, immediately following paragraph (f)(3)(ii) and by revising the point of contact text for ARINC located before Table 3b and by revising Table 3b to read as follows:

**§ 15.615 General administrative requirements.**

\* \* \* \* \*

(f) \* \* \*

(2) *Exclusion zones.* Exclusion zones encompass the operation of any Access BPL system within 1km of the boundary of coast station facilities at the coordinates listed in Tables 2 and 2.1. Exclusion zones also encompass the operation of Access BPL systems using overhead medium voltage power lines within 65 km of the Very Large Array observatory located at the coordinate 34°04'43.50" N, 107°37'03.82" W. Exclusion zones further encompass the operation of Access BPL systems using

overhead low voltage power lines or underground power lines within 47 km of the Very Large Array observatory located at the coordinate 34°04'43.50" N, 107°37' 03.82" W. Within the exclusion zones for coast stations, Access BPL systems shall not use carrier frequencies within the band of 2173.5–2190.5 kHz. Within the exclusion zone for the Very Large Array radio astronomy observatory, Access BPL systems shall not use carrier frequencies within the 73.0–74.6 MHz band.

\* \* \* \* \*

(3) *Consultation areas.* Access BPL operators shall provide notification to the appropriate point of contact specified regarding Access BPL operations at any frequencies of potential concern in the following consultation areas, at least 30 days prior to initiation of any operation or service. The notification shall include, at a minimum, the information in paragraph (a) of this section. We expect parties to consult in good faith to ensure that no harmful interference is caused to licensed operations and that any constraints on BPL deployments are minimized to those necessary to avoid harmful interference. In the unlikely event that a new or relocated aeronautical receive station is established for the 1.7–30 MHz band at a coordinate not specified in Table 3b, Access BPL operators are also required to coordinate with the appropriate point of contact regarding Access BPL operations at any frequencies of potential concern in the new or relocated consultation areas, and to adjust their system operating parameters to protect the new or relocated aeronautical receive station.

\* \* \* \* \*

(f) \* \* \*

(3) \* \* \*

(ii) For frequencies in the 1.7–80.0 MHz frequency range, the areas within 4 km of facilities located at the coordinates specified for radio astronomy facilities in 47 CFR 2.106, Note U.S. 311.

*Point of contact:* Electromagnetic Spectrum Manager, National Science Foundation, Division of Astronomical Sciences, 4201 Wilson Blvd., Suite 1045, Arlington, VA 22230, (703) 292–4896, *esm@nsf.gov*.

\* \* \* \* \*

TABLE 3B.—CONSULTATION AREA COORDINATES FOR AERONAUTICAL RECEIVE STATIONS (1.7–30 MHz)

Locale	Latitude	Longitude
Southampton, NY .....	40°55'15" N	72°23'41" W
Molokai, HI .....	21°12'23" N	157°12'30" W
Oahu, HI .....	21°22'27" N	158°05'56" W

TABLE 3B.—CONSULTATION AREA COORDINATES FOR AERONAUTICAL RECEIVE STATIONS (1.7–30 MHz)—Continued

Locale	Latitude	Longitude
Half Moon Bay, CA .....	37°39'64" N	122°24'44" W
Pt. Reyes, CA .....	38°06'00" N	122°56'00" W
Barrow, AK .....	71°17'24" N	156°40'12" W
Guam .....	13°28'12" N	144°48'0.0" E (note: Eastern Hemi- sphere)
NY Comm Center, NY .....	40°46'48" N	73°05'46" W
Cedar Rapids, IA .....	42°02'05.0" N	91°38'37.6" W
Beaumont, CA .....	33°54'27.1" N	116°59'49.1" W
Fairfield, TX .....	31°47'02.6" N	96°47'03.0" W
Houston, TX .....	29°36'35.8" N	95°16'54.8" W
Miami, FL .....	25°49'05" N	80°18'28" W

Note: Systems of coordinates conform to NAD 83.

Point of contact: ARINC, 2551 Riva Road, Annapolis, MD 21401, Tel: 1-800-633-6882, Fax: 410-266-2329, e-mail: [bpnotifications@arinc.com](mailto:bpnotifications@arinc.com), <http://www.arinc.com>.

\* \* \* \* \*

[FR Doc. E6-13967 Filed 8-22-06; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

[CG Docket No. 03-123; DA 06-1627]

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

**AGENCY:** Federal Communications Commission.

**ACTION:** Clarification.

**SUMMARY:** In this document, the Commission clarifies waivers of certain telecommunications relay services (TRS) mandatory minimum standards for captioned telephone relay service, a form of TRS, which were set forth in a clarification and waiver document. The clarification and waiver document waived the following mandatory minimum standards for the provision of captioned telephone service: communications assistants (CAs) must be competent in interpreting typewritten American Sign Language (ASL); TRS providers must give CAs oral-to-type tests; and CAs may not refuse sequential calls. The Commission clarifies that these requirement do not apply to captioned telephone services that use voice recognition technologies (instead of typing) to convey messages, and that do not have the CA play a role in setting up the calls.

**DATES:** Effective August 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Thomas Chandler, Consumer &

Governmental Affairs Bureau, Disability Rights Office at (202) 418-1475 (voice), (202) 418-0597 (TTY), or e-mail at [Thomas.Chandler@fcc.gov](mailto:Thomas.Chandler@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This document does not contain new or modified information collection requirements subject to the PRA of 1995, Public Law 104-13. In addition, 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). This is a summary of the Commission's document DA 06-1627, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CG Docket No. 03-123, adopted August 14, 2006, released August 14, 2006 clarifying waivers of certain TRS mandatory minimum standards for caption telephone relay service waived in the clarification and waiver document published at 68 FR 55898, September 29, 2003. The full text of document DA 06-1627 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 DA 06-1627 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at its Web site [www.bcpweb.com](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 & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Document DA 06-1627 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

**Synopsis**

*Background*

On September 29, 2003, the Commission published a clarification and waiver document that recognized captioned telephone service as a form of TRS compensable from the Interstate TRS Fund. As a general matter, captioned telephone service uses a special telephone that has a text display. It permits the user—typically someone who has the ability to speak and some residual hearing—to speak directly to the other party to the call, and in return to both listen to what is said over the telephone and simultaneously read captions of what the other person is saying. A CA using specially developed voice recognition technology generates the captions. As a result, there is no typing by the captioned telephone user at any time during the call, and the CA types only in rare instances when, e.g., words or proper names are used that the computer does not recognize. Further, as presently offered, to use this service the consumer directly dials the number he or she wishes to call, not the number of a relay provider, and is automatically connected to the captioned telephone CA at the TRS facility. The Commission concluded that some TRS mandatory minimum standards did not apply to the provision of this service and waived other requirements for limited periods of time.

On June 28, 2006, captioned telephone providers filed their annual report addressing the three outstanding waivers applicable to this service—CA competence in interpreting typewritten ASL, use of oral-to-type tests, and handling sequential calls (as applied to