FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123, RM–11820; FCC 22–48; FR ID 96083]

Internet Protocol Relay Service Compensation Formula

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, to ensure that the providers of Telecommunications Relay Service (TRS) are compensated for the provision of internet Protocol Relay Service (IP Relay), the Federal Communications Commission (Commission) adopts a formula to compensate such providers from the Interstate TRS Fund for the provision of service for the next four-year compensation period.

DATES: This rule is effective July 18, 2022.

FOR FURTHER INFORMATION CONTACT: William Wallace, Consumer and Governmental Affairs Bureau, at (202) 418–2716, or email *William.Wallace@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, document FCC 22–48, adopted on June 25, 2022, released on June 30, 2022, in CG Docket No. 03–123 and RM–11820. The Commission previously sought comment on these issues in a Notice of Proposed Rulemaking (*Notice*), published at 86 FR 64440, November 18, 2021. The full text of document FCC 22–48 can be accessed electronically via the FCC's Electronic Document Management System (EDOCS) website at *www.fcc.gov/edocs* or via the FCC's Electronic Comment Filing System (ECFS) website at *www.fcc.gov/ecfs*. 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).

Congressional Review Act

The Commission sent a copy of document FCC 22–48 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 22–48 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. Therefore, it also 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).

Synopsis

1. IP Relay is an internet-based text-to-voice relay service. With IP Relay, an individual with a hearing or speech disability can communicate with voice telephone users by transmitting text via the internet. The text transmission is delivered to an IP Relay call center, where a communications assistant (CA) converts the user's text to speech for the hearing party and converts that party's speech to text for the IP Relay user.

2. IP Relay is supported entirely by the Interstate TRS Fund. Under the current methodology for determining IP Relay provider compensation, a base level of per-minute compensation is determined every three years, based on the weighted average of providers' reasonable costs. The base compensation level approved by the Commission is subject to annual adjustments for inflation and efficiency based on pre-approved factors, as well as ad hoc adjustment in the event that a provider incurs eligible ''exogenous'' costs. The current inflation factor is the Gross Domestic Product—Price Index (GDP–PI). After three years, a new reasonable-cost-based compensation level is determined for the next period. The current compensation period began July 1, 2019, and ended June 30, 2022.

Reasonable-Cost Based Compensation

3. The Commission continues the practice of periodically resetting the base level of IP Relay compensation based on a determination of reasonable provider cost. While certain criteria for determining reasonable IP Relay costs need adjustment in light of subsequent experience, the record does not support more radical changes in the IP Relay compensation methodology. The Commission has developed a consistent approach to determining the reasonable costs of providing TRS, which can be applied without imposing undue administrative burdens on either providers or the Commission. Further, although any ratemaking method is subject to imprecision, provider cost data, which is subject to audit, has been reasonably reliable and consistent. T-Mobile fails to support its claim that the current methodology ''precludes any increase in compensation regardless of the extent to which the costs of supplying the service may have risen.'' To the contrary, over the last eight years, compensation has risen from $1.0147 to $1.7146 per minute, due to rising costs and waivers of certain allowable-cost criteria.

4. *Outreach.* The Commission revises its allowable-cost criteria to provide that reasonable costs associated with IP Relay provider outreach are recoverable from the TRS Fund. The concerns underlying the Commission's 2013 decision to terminate TRS Fund support for IP Relay outreach are no longer applicable. The pilot National Outreach Program, established to provide coordinated national outreach for both video relay service (VRS) and IP Relay, expired in 2017 and has not been reauthorized. In the absence of a Commission-directed outreach program, IP Relay provider outreach activity no longer represents wasteful duplication of effort. Further, the company providing IP Relay appears to be reasonably well positioned to communicate with potential users. In addition, the concern that TRS providers tend to focus on competitive marketing of their own brand, rather than outreach to new users, is not applicable to the current IP Relay context, in which only one company offers the service.

5. The Commission also finds that there is an affirmative need for TRS Fund support of IP Relay outreach. Given the limited current use of the service, the Commission's rules should not discourage providers from making efforts to effectively educate consumers—especially relatively narrow subgroups of eligible users, such as consumers who are deafblind—regarding the availability of and improvements to the service. Further, with only one IP Relay provider, the Commission believes that provider outreach expenditures are more likely to be focused on educating potential new users about the service rather than on encouraging or preventing ''churn'' among existing customers. Finally, the Commission acknowledges the Consumer and Governmental Affairs Bureau's (Bureau) conclusion that a review of the outreach reports submitted by T-Mobile indicates that its outreach activity since 2016 has not shown that it is misdirected toward ineligible users. The Commission does not find it necessary at this time to impose a quantitative limit on allowable outreach

costs or require specific reporting to the Commission on IP Relay outreach activity. When the Commission periodically resets the base compensation level based on a determination of reasonable cost, the administrator's review of reported expenses will help the Commission to assess whether outreach expenses are reasonable and directed toward permissible purposes.

6. *Indirect Overhead.* The Commission concludes that the record does not support modifying, for IP Relay, the current prohibition on TRS Fund support of general overhead costs, where a company has both TRS and non-TRS lines of business and it is not possible to assign such costs directly to the company's TRS. In 2007, the Commission concluded that, when a company provides both TRS and non-TRS services, general overhead costs should not be supported by the TRS Fund. Therefore, overhead costs cannot be allocated to TRS based on a formula, *e.g.,* by multiplying a company's total overhead costs by the percentage of the company's total revenues that are derived from TRS. In adopting the rule, the Commission reasoned that because ''Congress placed the obligation to provide TRS on common carriers that were already offering voice telephone service,'' the rule is necessary for consistency with the statute and to avoid having the TRS Fund subsidize non-TRS services.

7. The comments do not persuade the Commission that this rationale is flawed. Although the Commission sought comment on a number of questions relevant to this issue, none of the comments addresses those questions in any detail. For example, the record does not provide any explanation of what kinds of costs fall into this category, the amount of such costs that would be allocated to TRS, were such allocation allowed, and why overhead costs attributable to TRS could not be directly assigned.

8. *Cost of Telephone Numbers.* The Commission revises its allowable-cost criteria for IP Relay to allow TRS Fund support of an IP Relay provider's reasonable costs of acquiring North American Numbering Plan telephone numbers. There is no valid rationale for prohibiting support of such costs. In 2008, the Commission reasoned that such costs are not attributable to the use of a relay service to facilitate a call, noting that analogous costs incurred by voice service providers are typically passed through to their customers. However, given that the Commission's rules *require* IP Relay providers to issue telephone numbers, the Commission finds it illogical to treat number acquisition costs as ''not attributable to the use of relay to facilitate a call.'' Further, the circumstances relevant to recovery of such costs by voice service providers and IP Relay providers are not equivalent. While voice service providers have a billing relationship with their consumers, IP Relay providers typically do not, and there would be little point in creating such a relationship for the sole purpose of passing through what likely would be a *de minimis* monthly charge for any particular IP Relay user.

9. *Research and Development.* Currently, the TRS Fund supports research and development conducted by a TRS provider to ensure that its service meets the Commission's minimum TRS standards, but it does not support the cost of developing TRS enhancements that exceed this criterion. The question of whether to modify the criterion for research and development affects other forms of TRS and is currently at issue in a parallel proceeding, the *2021 VRS Compensation NPRM,* published at 86 FR 29969, June 4, 2021. For these reasons, the Commission defers resolution of this question to a later time.

Operating Margin

10. The Commission adopts its proposal to allow an IP Relay provider a reasonable operating margin—*i.e.,* an allowance for recovery of a designated percentage of allowed expenses, in lieu of return on capital investment. In the *2017 VRS Compensation Order,* published at 82 FR 39673, August 22, 2017, the Commission acknowledged VRS providers' claims that a percentage return on booked costs for investment in fixed plant was insufficient to compensate them for the cost of raising capital to operate a labor-intensive business like VRS. Accordingly, the Commission amended its compensation rules to specify a percentage of allowable expenses as a reasonable operating margin for VRS providers. The Commission also adopted this approach for internet Protocol Captioned Telephone Service (IP CTS) compensation.

11. Like VRS and IP CTS, IP Relay requires providers to invest relatively little in physical plant. Therefore, for the same reasons as described above, the Commission concludes that allowing an IP Relay provider a reasonable margin over expenses, which is not tied to the relatively low investment in physical plant that is needed for the provision of this service, will help ensure sufficient investment in the provision of this service. Taking this step appropriately harmonizes the Commission's general approach to compensation methodology for all forms of internet-based TRS.

12. When setting the operating margin for VRS, the Commission reviewed the operating margins for various interpretation and translation services and government contractors who are paid for services mandated by law and supervised by the government. The Commission selected the range from 7.6% to 12.35% as a reasonable range of operating margins for VRS. The cost structure of IP Relay is similar to that of VRS in that an IP Relay provider also relies on communications assistants to relay conversations between a hearing party and a non-hearing party. Given these similarities, the range of operating margins deemed reasonable for VRS is also a reasonable range for IP Relay.

13. In setting a margin within this range, the Commission recognizes that, because there is currently only one IP Relay provider, the Commission's risk-benefit analysis is different for IP Relay than for VRS and IP CTS. If the operating margin should turn out to be significantly lower than margins that currently can be earned in comparable lines of business, the current provider might exit the business, leaving consumers stranded. To guard against this risk, the Commission sets the IP Relay operating margin at 12%, near the high end of the reasonable range.

14. The Commission does not agree with T-Mobile's argument that an operating margin *above* the current range is needed. The benchmark advocated by T-Mobile is based on ''the average operating margin obtained by T-Mobile and comparable communications providers'' such as Verizon, AT&T, CCO Holdings, LLC (Charter Communications), and Comcast Corporation. Such businesses are capital intensive rather than labor intensive, requiring more long-term capital investment to build and maintain physical plant. Indeed, the essential *dissimilarity* in capital requirements between such companies and TRS providers is what led the Commission to adopt an operating-margin approach for TRS in the first place.

15. Given these significant differences between TRS and the more capital-intensive market segments in which T-Mobile otherwise operates, the Commission is unpersuaded by T-Mobile's argument that providing an operating margin somewhat lower than those earned by more capital intensive operations would force T-Mobile ''to redirect resources currently allocated to that service to other service offerings,'' or even to exit the IP Relay business altogether. The logic of T-Mobile's

argument is not sound. Although the allowed *operating margin* for IP Relay may be lower than the actual operating margin for more capital-intensive lines of business, the *return on investment*—given the relatively small proportion of capital investment needed for TRS—is likely to be *higher.* Therefore, the capital resources allocated to IP Relay are likely to be well rewarded.

16. The Commission also does not agree that the recent surge of inflation dictates a higher operating margin ''to provide some cushion against the cost increases T-Mobile Accessibility would have to absorb before the next annual adjustment.'' As discussed below, the compensation formula includes an inflation adjustment factor linked to an appropriate index. The Commission does not find a valid reason to include an additional inflation factor in the operating margin. Inflation affects all businesses, and the record does not contain evidence showing such a unique impact on IP Relay as to warrant special treatment in setting the allowed operating margin. Further, if, due to an increase in the inflation rate, the annual adjustment factor applicable to a given year lags behind actual inflation in that year, any resulting losses are likely to be offset by windfall gains in a future year, when the actual inflation rate subsides below the applicable adjustment factor derived from the previous year's higher rate.

Projected vs. Historical Costs

17. The Commission adopts its proposal to use projected costs and demand as the basis for calculating the base compensation level for IP Relay. Historically, this was the Commission's practice in setting cost-based compensation for any form of TRS. However, the Commission found that VRS and IP CTS providers' projections of cost and demand proved unreliable, resulting in overcompensation of providers. For those services, therefore, the Commission has adopted a different approach, averaging providers' projected per-minute costs for the current calendar year and historical per-minute costs for the preceding calendar year. The Commission found that this blended approach was consistently a more accurate predictor of actual costs for both VRS and IP CTS.

18. Until 2019, however, the base level for IP Relay compensation was still set based on projected costs only. In that year, the Bureau switched to the blended approach, to align the IP Relay methodology with those for VRS and IP CTS.

19. As explained in the *2021 IP Relay Compensation NPRM,* provider projections of IP Relay costs have proved to be substantially more accurate than those for VRS and IP CTS. A comparison of T-Mobile's cost projections with the actual cost per minute reported between 2015 and 2019 demonstrates that, in the case of IP Relay, the results of the projected-only approach have proven to be reasonably accurate. The Commission concludes that this difference with its findings regarding VRS and IP CTS justifies a return to the practice of using projected-only costs and demand when setting IP Relay compensation levels.

Compensation Period and Adjustments

20. *Duration of Compensation Period.* The Commission finds that the IP Relay compensation formula established in document FCC 22–48 should remain in place for a four-year period. As the Commission has previously recognized, multi-year compensation periods are generally beneficial in the TRS context. Longer periods give providers more certainty regarding future compensation and provide a significant incentive for increased efficiency, as cost reductions during a multi-year period do not immediately result in reduced compensation the following year. A multi-year compensation period can thus reduce the risk of rewarding inefficiency, discouraging innovation, and incentivizing providers to incur unnecessary costs, all potential effects of annual cost-of-service compensation setting.

21. The Commission concludes that current conditions justify increasing the compensation period from three to four years. IP Relay costs and demand have been relatively stable and accurate in recent years, and T-Mobile does not anticipate any significant changes to the service in the near future. A four-year period will provide T-Mobile a substantial degree of predictability in its reimbursements from the Fund, improving its ability to plan future operations. Although T-Mobile recommends a longer compensation period, the Commission has not previously set a period longer than four years for any form of internet-based TRS. Given the inherent uncertainty of setting compensation formulas in the absence of price competition, the Commission declines at this time to extend the compensation term beyond previous precedent.

22. The Commission delegates authority to the Chief of the Bureau to extend the compensation period by Order, should such extension prove to be necessary to prevent the termination of TRS Fund support for IP Relay (*e.g.,* if, due to unanticipated data issues or other delays, a situation arises where there is insufficient time remaining for the Commission to complete a determination of a revised compensation formula for the next compensation period).

23. *Inflation Adjustment.* The Commission will continue to apply an annual adjustment to IP Relay compensation to account for inflation after the first year of the cycle. As the adjustment factor, the Commission adopts the Bureau of Labor Statistics' Employment Cost Index for professional, scientific, and technical services. The Commission concludes that, because IP Relay is a labor-intensive service, this seasonally adjusted index, which includes translation and interpreting services, will more accurately reflect changes in relevant costs. Although T-Mobile urges continued use of the Gross Domestic Product–Price Index (GDP–PI) as the appropriate inflation factor, it fails to justify the use of such a broad-gauged index, which tracks price increases throughout the economy, including businesses with proportionately lower labor costs, in light of the availability of a more narrowly focused index that is more likely to reflect actual TRS cost changes.

24. The Commission delegates authority to the Chief of the Bureau to approve annual inflation adjustments for IP Relay, beginning with Fund Year 2023–24. The Commission directs the TRS Fund administrator to specify in its annual TRS Fund report, beginning with the report due May 1, 2023, the index values for each quarter of the previous calendar year and the last quarter of the year before that. The Commission also directs the TRS Fund administrator to propose a compensation level for IP Relay that is adjusted from the previous year by a percentage equal to the percentage change in the index between the first and fifth quarters specified in the report. After notice and opportunity for comment, the Chief of the Bureau, acting under delegated authority, shall review the administrator's proposed adjustment and approve it, or make any necessary modifications to ensure consistency with the Commission's rules and orders.

25. *Efficiency Adjustment.* At this time, the Commission does not find it necessary to offset the inflation factor with an efficiency factor analogous to those of price-cap regulation. The paired inflation and efficiency adjustments are a feature of price-cap regulation designed to reflect the likelihood that a regulated company will become more productive or efficient. In 2007, when the Commission made the decision to

apply an efficiency factor to this service, IP Relay was a relatively new service, for which substantial efficiency improvements might be expected. In recent years, by contrast, usage of this 20-year-old service has been relatively stable, and per-minute costs have not decreased. Without the presence of multiple competing providers, there is less likelihood of a competitive incentive to achieve annual efficiency gains. The Commission declines to adopt a *negative* efficiency factor, as recommended by T-Mobile. In adopting the Employment Cost Index for professional, scientific, and technical services as the inflation adjustment factor, the Commission has directly addressed T-Mobile's concern regarding rising labor costs in the TRS sector.

26. *Exogenous Costs.* Under the current methodology, the IP Relay compensation level can be adjusted to permit recovery of exogenous costs. These are defined as ''costs beyond the control of the IP Relay providers that are not reflected in the inflation adjustment,'' such as costs necessitated by a new service requirement adopted by the Commission. In the *Notice,* the Commission asked whether it should align the criteria for exogenous costs in the IP Relay compensation regime with those adopted in the *2017 VRS Compensation Order.* Under the VRS criteria, which also apply to IP CTS compensation, an upward compensation adjustment for well-documented exogenous costs is available for costs that (1) belong to a category of costs that the Commission has deemed allowable, (2) result from new TRS requirements or other causes beyond the provider's control, (3) are new costs that were not factored into the applicable compensation formula, and (4) if unrecovered, would cause a provider's current costs (allowable expenses plus operating margin) to exceed its revenues.

27. The Commission finds that these exogenous cost criteria are also appropriate for IP Relay. Although T-Mobile urges deletion of the last criterion, contending that exogenous cost should be recoverable even if recovery would add to the provider's revenues, the Commission finds that this criterion is appropriate to ensure that exogenous cost recovery is warranted, *i.e.,* necessary for a provider to recover its reasonable costs. Any exogenous cost claims should be submitted to the TRS Fund administrator with the provider's annual cost report, so that the administrator can review such claims and make appropriate recommendations. The Commission delegates authority to the Bureau to make determinations regarding timely submitted exogenous cost claims, following notice and opportunity for comment.

Alternative Compensation Methodology

28. The Commission is unpersuaded that it should derive IP Relay compensation by proxy, from the Multi-State Average Rate Structure (MARS) based compensation formula for interstate traditional (TTY-based) TRS, as advocated by T-Mobile. To implement its proposed approach, T-Mobile explains, the Commission would take as a starting point the current MARS-based formula for interstate traditional TRS, which is calculated annually as a weighted average of the per-minute compensation levels for intrastate traditional TRS (and speech-to-speech relay service (STS)) in each state TRS program. Next, the Commission would (1) multiply the interstate traditional TRS formula by projected IP Relay minutes for the next Fund Year, (2) subtract from that figure those annual costs that are incurred by T-Mobile in providing traditional TRS but not IP Relay, and (3) add in those annual costs that are incurred in providing IP Relay but not traditional TRS. The resulting funding total would be divided by projected IP Relay demand to determine the per-minute compensation level.

29. *Flaws in T-Mobile's Proposal.* The Commission concludes that reliance on T-Mobile's proposed MARS-based methodology would not result in compensation that is commensurate with the reasonable costs of IP Relay. Notwithstanding some functional and operational similarities between IP Relay and traditional TRS, the record does not support T-Mobile's claim that the services have similar cost structures. T-Mobile itself acknowledges that there are substantial differences between the costs of the two services, as illustrated by the substantial subtractions and additions included in its proposal. The record shows that a cost-based compensation level for IP Relay (including a reasonable operating margin), as determined in this Report and Order, is $1.9576, *less than half* the compensation level for traditional TRS ($4.5098). The disparity between per-minute IP Relay costs and traditional TRS compensation has increased over time, and it is reasonable to assume that it will continue increasing.

30. Even if there were not such a large disparity between the proposed proxy and actual costs, T-Mobile's proposed formula must be rejected, as it would be substantially *more* difficult to apply than the current methodology and less likely to result in a compensation formula that that aligns with reasonable provider costs. T-Mobile acknowledges that a substantial portion of the compensation for traditional TRS reflects costs unique to state-program TRS, including sales staff, account management/support staff, equipment distribution programs, outreach programs, and state-mandated call centers, none of which apply to IP Relay. To avoid over-compensation for IP Relay, all these costs (which are not currently reported to the TRS Fund administrator) must be estimated and then subtracted from total compensation for traditional TRS. T-Mobile also asserts that IP Relay includes additional costs not included in state-program TRS—for outreach, website operation, and regulatory compliance. Verifying the accuracy of these complex calculations would require a level of effort much greater than that currently required to review IP Relay costs alone. Although T-Mobile claims that the state-program-specific costs are included in a separate Monthly Recurring Charge (MRC), which is separately reported to the Fund administrator, T-Mobile cautions that some costs relevant to IP Relay are included in some states' MRCs, and therefore argues that the MRCs cannot be subtracted in their entirety. As a further complication, some of the state-program compensation that is used to calculate the interstate traditional TRS formula represents compensation for state-program STS. Since the actual costs of STS may be different from those for providing traditional TRS, ensuring that such differences do not distort the estimates for traditional TRS could require yet another calculation, further increasing the complexity of T-Mobile's proposed methodology.

31. Further, the record does not indicate that T-Mobile's costs for providing traditional TRS are currently reviewed by state regulatory authorities. Therefore, the costs identified by T-Mobile as unique to traditional TRS would need to be collected, reported, and audited by the TRS Fund administrator—even though none of those costs is actually relevant to providing IP Relay. And because these costs are to be *subtracted* in establishing the compensation formula, the provider would have no special incentive to ensure that it has identified all relevant traditional TRS costs. Instead, the burden would be on the TRS Fund administrator, who would have no access to the underlying raw data, to ensure that no costs unique to

traditional TRS have been omitted or underreported. Such a process would not be conducive to producing accurate cost estimates.

32. T-Mobile claims that the calculation could be simplified after the first year by continuing indefinitely to apply the percentage cost difference initially calculated. In subsequent years, T-Mobile suggests, the MARS formula simply could be adjusted by a constant percentage factor, which represents the initially calculated ratio of the net difference in the costs of the two services to total traditional TRS compensation. While such a simplified approach may be less burdensome than repeatedly recalculating the relevant costs, it would remove IP Relay compensation even further from any plausible relationship to actual IP Relay costs. Such reliance on the initially calculated cost difference to set compensation for future years would be especially misleading given the record evidence that the cost difference between the services is continually increasing. By contrast, the methodology the Commission adopts relies on readily available data collected by the TRS Fund administrator from providers of IP Relay with reasonable adjustments based on Department of Labor statistics. The Commission does not need to engage in the unusually complicated calculations entailed by T-Mobile's proposal when a simpler and more accurate methodology is readily available.

Compensation Level for 2022–2023

33. TRS Fund Year 2022–23 will be the first year of a new compensation cycle for IP Relay, which will extend for four years, through June 30, 2026. With the addition of a 12% operating margin to the average of T-Mobile's projected per-minute costs for calendar years 2022 and 2023—based on the most recent submissions of cost and demand data to the Fund administrator—the resulting base compensation formula is $1.9576 per minute, a 14.2% increase from the current compensation level of $1.7146 per minute. This base level of compensation shall be applicable during Fund Year 2022–23. For the second, third, and fourth years, compensation for IP Relay shall be adjusted in accordance with the inflation and exogenous cost adjustment factors adopted above.

Final Regulatory Flexibility Analysis

34. As required by the Regulatory Flexibility Act of 1980, as amended, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the *2021 IP Relay Compensation NPRM.* The Commission sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. No comments were received in response to the IRFA.

35. *Need for, and Objectives of, the Rules.* Document FCC 22–48 addresses how telecommunications relay service (TRS) providers receive compensation from the Interstate TRS Fund for the provision of Interstate Protocol Relay Service (IP Relay). The Commission adopts a new four-year compensation formula using a cost-based methodology with the initial year's compensation level based on an average of providers' projected costs and demand for the next two years, with annual adjustments for inflation and unanticipated exogenous costs, if any. The methodology ensures that IP Relay providers are compensated for the reasonable costs of providing the service and increases the assurance that IP Relay is made available in the most efficient manner.

36. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were filed in response to the IRFA.

37. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

38. *Description and Estimate of the Number of Small Entities to which the Rules will Apply.* All Other Telecommunications.

39. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* Adoption of a new compensation methodology for IP Relay does not result in any new or modified reporting, recordkeeping, or other compliance requirements on IP Relay providers.

40. *Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered.* By reforming the compensation methodology for IP Relay, the Commission is (1) taking steps to ensure that providers of IP Relay are fairly compensated for the provision of IP Relay; and (2) to ensure that functionally equivalent service and an efficient IP Relay market are maintained over the long term in accordance with the Commission's statutory obligations. Reforming the compensation methodology for IP Relay will not affect the burdens on IP Relay providers or other small entities.

Ordering Clauses

41. Pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 51, 152, and 225, document FCC 22–48 is adopted, and the Commission's rules are amended.

42. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the document FCC 22–48, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with Disabilities, Telecommunications, Telephones.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 620, 716, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

Subpart F—Telecommunications Relay Services and Related Customer Premises Equipment for Persons With Disabilities

■ 2. The authority citation for subpart F continues to read as follows:

Authority: 47 U.S.C. 151–154; 225, 255, 303(r), 616, and 620.

■ 3. Add § 64.640 to read as follows:

§ 64.640 Compensation for IP Relay.

(a) For the period from July 1, 2022, through June 30, 2026, TRS Fund compensation for the provision of IP Relay shall be as described in this section.

(b) For Fund Year 2022–23, comprising the period from July 1, 2022, through June 30, 2023, the Compensation Level for IP Relay shall be $1.9576 per minute.

(c) For each succeeding Fund Year through June 30, 2026, the per-minute Compensation Level (L_{FY}) shall be determined in accordance with the following equation:

$$L_{FY} = L_{FY-1} * (1+IF_{FY})$$

where IF_{FY} is the Inflation Adjustment Factor for that Fund Year, determined in accordance with paragraph (d) of this section.

(d) The inflation adjustment factor for a Fund Year (IF_{FY}), to be determined annually on or before June 30, is 1/100 times the difference between the values of the Employment Cost Index compiled by the Bureau of Labor Statistics, U.S. Department of Labor, for total compensation for private industry workers in professional, scientific, and technical services, for the following periods:

(1) The fourth quarter of the Calendar Year ending 6 months before the beginning of the Fund Year; and

(2) The fourth quarter of the preceding Calendar Year.

(e) In addition to L_{FY}, an IP Relay provider shall be paid a per-minute exogenous cost adjustment if claims for exogenous cost recovery are submitted by the provider and approved by the Commission on or before June 30. Such exogenous cost adjustment shall equal the amount of such approved claims divided by the provider's projected minutes for the Fund Year. Exogenous cost adjustments, if any, are not included in the previous Fund Year's per-minute Compensation Level (L_{FY-1}) for purposes of paragraph (c) of this section.

(f) An exogenous cost adjustment shall be paid if an IP Relay provider incurs well-documented costs that:

(1) Belong to a category of costs that the Commission has deemed allowable;

(2) Result from new TRS requirements or other causes beyond the provider's control;

(3) Are new costs that were not factored into the applicable compensation formula; and

(4) If unrecovered, would cause a provider's current allowable-expenses-plus-operating margin to exceed its revenues.

[FR Doc. 2022–15278 Filed 7–15–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 220216–0049; RTID 0648–XC174]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2022 total allowable catch of Pacific ocean perch in the West Yakutat District of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 13, 2022, through 2400 hours, A.l.t., December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR parts 600 and 679.

The 2022 total allowable catch (TAC) of Pacific ocean perch in the West Yakutat District of the GOA is 1,409 metric tons (mt) as established by the final 2022 and 2023 harvest specifications for groundfish of the GOA (87 FR 11599, March 2, 2022).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2022 TAC of Pacific ocean perch in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,309 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing of Pacific ocean perch in the West Yakutat district of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 12, 2022.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 13, 2022.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–15286 Filed 7–13–22; 4:15 pm]

BILLING CODE 3510–22–P