

collection(s) contained in this *Second Report and Order*, *Order on Reconsideration* as required by the PRA of 1995, Public Law 104-13. Public and agency comments are due October 24, 2003.

Synopsis

In this *Second Report and Order*, the Commission establishes new rules and amends existing rules governing TRS to further advance the functional equivalency mandate of section 225 of the Communications Act of 1934, 47 U.S.C. 225. First, the Commission requires that TRS providers offer certain improved services and features where technologically feasible, as well as several additional types of TRS calls. In addition, the Commission requires that all TRS providers implement 711 dialing access for STS users. Further, the Commission revises the requirements for handling emergency calls and provides guidance for public access to TRS-related information. In the *Order on Reconsideration*, the Commission addresses certain requirements for communications assistants and other matters relating to TRS.

Final Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 603 *et seq.*, an Initial Regulatory Flexibility (IRFA) was incorporated in the further notice of proposed rule making to which this *Second Report and Order* responds. See *Improved TRS Order and FNPRM*. The Commission sought written public comment on the proposals in the *Improved TRS Order and FNPRM*, including comment on the IRFA incorporated in that proceeding. The comments we have received discuss only the general recommendations, not the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. See 5 U.S.C. 604. We also expect that we could certify the *Second Report and Order* under 5 U.S.C. 605, because it appears that only one TRS provider is likely a small entity (because it is a non-profit organization). Therefore, there is not a substantial number of small entities that may be affected by our action.

Need for, and Objective of This Report and Order

This proceeding was initiated to address the requirement that telecommunications relay services (TRS) users have access to telephone services that are functionally equivalent to those available to individuals without

hearing or speech disabilities. Our specific concerns were to examine the mandatory minimum standards for TRS with regard to enhanced features available to the non-disabled telecommunications consumer, and to address emergency call handling and Speech-to-Speech (STS) services. The Commission issued the *Improved TRS FNPRM* to further develop the record with the goal of making the full range of telecommunications services and features available to TRS users, consistent with Congress' direction that TRS regulations encourage the use of existing technology and not discourage or impair the development of improved technology. See 47 U.S.C. 225(d)(2). The *Improved TRS FNPRM* also sought comment on outreach programs, the accessibility of emergency services to TRS, and whether SS7 technology should be made available to TRS facilities.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No comments were filed directly in response to the IRFA in this proceeding. The Commission has nonetheless considered potential significant economic impact of the rules on small entities and as discussed below has concluded that the rules adopted may imposed some economic burden on at least one small entity that is a TRS provider.

Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. 5 U.S.C. 694(a)(3). The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" 15 U.S.C. 632). Pursuant to the 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." A small business concern is

one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies an additional criterion established by the Small Business Administration (SBA). 15 U.S.C. 632. A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." 5 U.S.C. 601(4). Nationwide, as of 1992, there were approximately 275,801 small organizations. The term "small governmental jurisdiction" is defined as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." 5 U.S.C. 601(5). As of 1997, there were approximately 87,453 governmental jurisdictions in the United States. U.S. Census Bureau, *Statistical Abstracts of the United States: 2000*, Section 9 pages 299-300, Tables 490 and 492. This number includes 39,044 county governments, municipalities, and townships of which 37,546 (approximately 96.2%) have populations of fewer than 50,000 and 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer.

Below, we further describe and estimate the number of small entity licensees and regulatees that, in theory, may be affected by these rules. For some categories, the most reliable source of information available at this time is data the Commission publishes in its *Trends in Telephone Service Report*. FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, Page 5-5 (May 2002) (*Trends in Telephone Service*). FCC Web site location (see online page 24): <http://www.fcc.gov/Bureaus/CommonCarrier/Reports/FCC-StateLink/IAD/trend502.pdf>.

Local Exchange Carriers. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." 15 U.S.C. 632. The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the