

reimbursement from the Interstate TRS Fund under the TRS rules. TRS enables persons with hearing and speech disabilities to communicate by telephone with a hearing person through a TRS facility. 47 U.S.C. 225. TRS facilities have special equipment and are staffed by communications assistants (CA) who relay conversations between persons who use text telecommunications devices and persons who communicate by voice. In a traditional TRS call, the caller uses a text telephone (TTY) to dial the telephone number of the local TRS facility. For the TTY user, the first step—the inbound call to the TRS facility—is functionally equivalent to receiving a dial tone. The CA, in turn, places an outbound voice call from the TRS facility to the called party. The CA serves as the link in the conversation, converting all typed TTY messages from the TTY user into voice messages, and all voice messages from the called party into typed messages for the TTY user. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 00–56, 15 FCC Rcd 5140 at paragraph 2 (2000); published at 65 FR 38432, June 21, 2000 (*Improved TRS Report and Order*). The process is performed in reverse when a voice telephone user initiates a traditional TRS call to a TTY user. We refer to “traditional TRS calls” as those TRS calls accomplished via text-to-voice or voice-to-text, with text provided via TTY. Such calls are provided through the public switched telephone network (PSTN). There are several types of traditional TRS calls, including VCO. Ultratec’s captioned telephone VCO service is provided through the PSTN using specialized customer premises equipment (CPE) and Ultratec’s proprietary technology. Ultratec’s captioned telephone service uses a telephone that looks similar to a traditional telephone but also has a text display that allows the user, on one standard telephone line, to both listen to the other party speak and simultaneously read captions of what the other party is saying. This way, a typical user of this service who has the ability to speak and some residual hearing, can both listen to what is said over the telephone and read captions for clarification. A CA using specially developed voice recognition technology generates the captions. This *Declaratory Ruling* finds that captioned telephone VCO service is a type of TRS, and that eligible providers of such service are

eligible to recover their costs in accordance with section 225 of the Communications Act.

Final Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996), requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” 5 U.S.C. 605(b). The RFA generally 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” 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**.” 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). 15 U.S.C. 632.

This *Declaratory Ruling* addresses a Petition for Clarification (*Petition*) filed by Ultratec, Inc. (Ultratec), on April of 2002. Ultratec, *Petition for Clarification Provision of Cost Recovery for CapTel, an Enhanced VCO Service* filed April 12, 2002. This *Petition* requests that the Commission clarify that captioned telephone service is a form of VCO TRS and is eligible for reimbursement from the Interstate TRS Fund. The Commission sought comments on the Ultratec *Petition* in a Public Notice. *Pleading Cycle Established for Comments on Petition for Clarification on the Provision of and Cost Recovery for Captioned Telephone as an Improved Voice Carry Over Service for Telecommunications Relay Service*, Public Notice, 17 FCC Rcd 11,933 (2002); published at 67 FR 48415, July

24, 2002. As a result of the Ultratec *Petition* and filed public comments, the Commission is issuing this *Declaratory Ruling*, which will allow Ultratec and any other provider of captioned telephone VCO service to recover its costs of providing interstate captioned telephone service from the Interstate TRS Fund.

As noted in paragraph 22 of the *Declaratory Ruling*, this item imposes a regulatory burden on the Interstate TRS Fund Administrator, requiring it to pay eligible providers of captioned telephone service the costs of providing interstate service. The Interstate TRS Fund is a not-for-profit organization, and therefore is a “small organization.” 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. U.S. Department of Commerce, Bureau of the Census, 1992 Economic Census, Table 6 (special tabulation of data under contract to the Office of Advocacy of the U.S. Small Business Administration). Because the Interstate TRS Fund is the only entity affected by the *Declaratory Ruling*, we conclude that a “substantial number” of small entities will not be affected by the *Declaratory Ruling*. Therefore, we certify that the requirements of this *Declaratory Ruling* will not have a significant economic impact on a substantial number of small entities.

Report to Congress

The Commission will send a copy of the *Declaratory Ruling*, including a copy of the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A). In addition, the *Declaratory Ruling* and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the **Federal Register**. See 5 U.S.C. 605(b).

Ordering Clauses

Pursuant to the authority contained in sections 1.2 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152 and 225, this *Declaratory Ruling* is adopted. Ultratec’s *Petition for Clarification* is granted to the extent indicated herein. The Commission’s Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the *Declaratory Ruling* including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.