

**Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In re )  
 )  
Telecommunications Relay Services and )  
Speech-to-Speech Services for Individuals ) CG Docket No. 03-123  
With Hearing and Speech Disabilities )  
Application for TRS Certification to )  
Provide IP Captioned Telephone Service )

To: Chief, Consumer and Governmental Affairs Bureau,  
Internet-based TRS Certification Application

**MACHINEGENIUS, INC. REQUEST FOR WAIVER**

MachineGenius, Inc. (“MachineGenius” or “Company”), by its attorney, respectfully requests that the Federal Communications Commission (“Commission”), pursuant to Section 1.3 of the Commission’s Rules,<sup>1</sup> waive certain requirements applicable to the Company as an Internet Protocol Captioned Telephone Service (“IP CTS”) provider, compensated by the federal Telecommunications Relay Service (“TRS”) fund. This Request for Waiver is being filed concurrently with the Company’s Application for certification as an IP CTS provider.

The Commission is authorized to waive certain requirements in instances where good cause can be established.<sup>2</sup>

---

<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> 47 C.F.R. § 1.3. The Commission may waive a rule where the circumstances of the case render strict compliance to the rule inconsistent with the public interest. *See Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1165 (D.C. Cir. 1990).

## **I. Background and Request for Waiver**

The MachineGenius solution utilizes Automated Speech Recognition (“ASR”) technology to reduce cost of delivery of IP CTS, prevent waste, fraud, and abuse, and improve user experience of IP CTS. By enabling a fully-automated approach to delivering high-quality, low-latency IP CTS captions, the solution presents an opportunity for substantial cost-savings over currently available IP CTS services that utilize Communications Assistants (“CAs”). Accordingly, MachineGenius is seeking waiver of particular rules relating to the use of CAs in order to provide its IP CTS services.<sup>3</sup>

## **II. Request for Waiver**

Specifically, MachineGenius seeks waiver of Section 64.604(a)(1) of the Commission’s Rules relating to the use of and standards applicable to CAs, including typing speed and call timing minimums.<sup>4</sup> The Company’s ASR service will meet or exceed the requirements without the use of CAs specifically as described in its Application.

The Company will maintain the confidentiality of any relayed conversation, regardless of content and will not intentionally alter any relayed conversation; however, since MachineGenius does not utilize CAs to relay conversations, the Company seeks waiver of

---

<sup>3</sup> As an IP CTS provider, MachineGenius acknowledges that it will not be required to provide the following services, as they have been waived by the Commission: “[W]e conclude that providers of IP captioned telephone service need not, at this time, meet the following requirements: “(1) gender preference; (2) handling calls in ASCII and Baudot formats; (3) call release; (4) Speech-to-Speech; (5) Hearing Carry Over (HCO) and VCO services; (6) outbound 711 calling; (7) emergency call handling; (8) equal access to interexchange carriers; (9) pay-per-call (900) service; (10) three-way calling; (11) speed dialing; and (12) certain rules applying to CAs.” *In the Matter of Telecommunications Relay Servs. & Speech-to-Speech Servs. for Individuals with Hearing & Speech Disabilities Internet-Based Captioned Tel. Serv.*, 22 F.C.C. Rcd. 379, 392–93 (2007) (internal citations omitted).

<sup>4</sup> 47 C.F.R. § 64.604(a)(1)(i)-(vi). MachineGenius will provide real-time captioning, and will stay with a call for its duration, regardless of length. As MachineGenius will not be providing Video Relay Service (“VRS”) or Speech-to-Speech (“STS”) relay, the other provisions in this section are inapplicable.

Section 64.604(a)(2) to the extent that it applies to CAs specifically.<sup>5</sup> The Company will not refuse any single or sequential calls, or limit the length of calls utilizing its services, in accordance with Section 64.604(a)(3)(i)-(ii).<sup>6</sup>

Under the Rules governing the use of voice mail with TRS services, CAs are required to alert users of recorded messages and interactive voice response (“IVR”) systems via a “hot key” on the CAs terminal, and that providers offer answering machine and voice mail retrieval to their users.<sup>7</sup> As discussed in the Application, the Company’s IP CTS service is installed via an application on a user’s mobile device; therefore, voice mail alerts will be rendered automatically as part of the MachineGenius Olelo application. The Company’s ASR will caption voice mail messages and IVRs in the same manner as live calls handled by the MachineGenius service. The Company requests waiver of the requirements that CAs alert the users of recorded messages, as outlined in Section 64.604(a)(3)(vii).<sup>8</sup>

As described in its Application, MachineGenius has a solution in place to ensure that its users may access emergency services through the Olelo application. To the extent applicable, the Company seeks waiver of requirements that pertain to the disclosure of CA identification numbers when connecting emergency calls to the Public Safety Answering Point, specifically Sections 64.605(a)(2)(iv) and 64.605(a)(2)(v) of the Commission’s Rules.<sup>9</sup>

---

<sup>5</sup> 47 C.F.R. § 64.604(a)(2)(i)-(ii).

<sup>6</sup> 47 C.F.R. § 64.604(a)(3)(i)-(ii). As the Company does not utilize CAs, the standards in this part applicable to CAs, specifically that CAs will not refuse calls, is inapplicable. To the extent a waiver is required, MachineGenius requests the same.

<sup>7</sup> 47 C.F.R. § 64.604(a)(3)(vii)-(viii).

<sup>8</sup> 47 C.F.R. § 64.604(a)(3)(vii).

<sup>9</sup> 47 C.F.R. § 64.605(a)(2)(iv)-(v).

Finally, MachineGenius requests waiver of Section 64.604(c)(5)(iii)(D)(2)(ii) of the Commission's Rules.<sup>10</sup> The Company will not be able to provide a CA identification number in its reports to the TRS Administrator for compensation of call minutes because there are no CAs utilized in provision of the service. MachineGenius is able to provide all other required information, and therefore respectfully requests waiver of this requirement.

### **III. Public Interest**

As described in its Application, filed concurrently, MachineGenius is able to meet or exceed the metrics required for IP CTS providers that utilize CAs, as well as any requirement relating to the use of CAs. By eliminating the additional overhead of CAs in favor of using ASR, MachineGenius is able to provide comparable or better service at a lower cost, resulting in a significant cost savings for the federal TRS fund, which is supported by the carriers and consumers of telecommunications services.<sup>11</sup> The Commission may waive its Rules when it is in the public interest.<sup>12</sup>

Further, the U.S. Court of Appeals for the D.C. Circuit has held that “[f]or ‘good cause,’ the Commission may waive ‘[a]ny provision of the rules.’”<sup>13</sup> That court also has held that the FCC may consider issues of hardship, equity, or more effective implementation of an overall policy on an individual basis.<sup>14</sup> Requests for waiver will be granted where:

---

<sup>10</sup> 47 C.F.R. § 64.604(c)(5)(iii)(D)(2)(ii).

<sup>11</sup> 47 C.F.R. § 64.604(c)(5)(iii)(A)-(C).

<sup>12</sup> 47 C.F.R. § 1.3.

<sup>13</sup> See *AT & T Corp. v. FCC*, 448 F.3d 426, 433 (D.C. Cir. 2006), citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1165-66 (D.C. Cir. 1990) (affirming FCC waiver for Verizon and BellSouth to use their 1996 tariff filings to remedy the consequences of an erroneous order from the Common Carrier Bureau to remove certain retirement benefit costs from their Price Cap Index calculations, and allowing Verizon to treat those costs as “exogenous” and beyond Verizon’s control); see also, 47 C.F.R. § 1.3, The Commission may waive a rule where the circumstances of the case render strict compliance to the rule inconsistent with the public interest.

<sup>14</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

(i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>15</sup>

As discussed in the Company's Application, the service provided by MachineGenius implements state-of-the-art technology, which will result in more efficient service to the deaf and hard-of-hearing communities. Chairman Pai cited a service like Olelo's in a speech before Biennial Conference of Telecommunications for the Deaf and Hard-of-Hearing, Inc. earlier this year stating,

In addition to relay services, we're exploring ways for you to have more direct access to communications with the people you call. For example, we are looking at advances in automatic speech recognition programs as a less expensive and superior supplement, and perhaps replacement, for communication assistants who relay text communications.<sup>16</sup>

MachineGenius' Olelo is an embodiment of such an advance. The service provides comparable or superior IP CTS delivery at a lower cost, which may result in a significant savings for the federal TRS fund. The TRS fund is subsidized by contributions from telecommunications carriers, interconnected Voice over Internet Protocol ("VoIP") providers and non-interconnected VoIP providers, and these contributions are passed through end user customers. Thus, any reduction in costs of providing high-quality IP CTS services, resulting in a lower demand on

---

<sup>15</sup> 47 C.F.R. § 1.925(b)(3)(i)-(ii).

<sup>16</sup> Chairman Ajit Pai, Remarks Of FCC Chairman Ajit Pai At Telecommunications For The Deaf And Hard Of Hearing, Inc. Biennial Conference, July 27, 2017, Daily Digest, Vol. 36 No. 143, July 27, 2017, *available at* <https://www.fcc.gov/document/chairman-pai-tdi-biennial-conference>.

federal TRS reimbursement, will benefit all consumers of telecommunications and VoIP services.

Therefore, the Company's Request for Waiver is in the public interest.

#### **IV. Conclusion**

For the foregoing reasons, MachineGenius' respectfully requests that the Commission waive requirements relating to the use of CAs by the Company.

Respectfully submitted,

**MACHINEGENIUS, INC.**

By: 

Katherine Barker Marshall  
Counsel to MachineGenius, Inc.  
Potomac Law Group, PLLC  
1300 Pennsylvania Ave, NW, Suite 700  
Washington, DC 20004  
Telephone: (202) 792-6422  
E-Mail: kmarshall@potomaclaw.com

Dated: October 13, 2017