

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Telecommunications Relay Services and	)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals with	)	
Hearing and Speech Disabilities	)	
	)	

To: Secretary, FCC  
For: Chief, Consumer & Governmental Affairs Bureau

**PETITION FOR EXTENSION OF WAIVER**

Hamilton Relay, Inc. (“Hamilton” or “Petitioner”) hereby petitions the Commission, by its counsel and pursuant to Section 1.3 of the Commission’s rules,<sup>1</sup> to request an extension of the waiver of Sections 64.604(a)(3)(ii) and 64.604(b)(3) of the Commission’s rules,<sup>2</sup> in connection with its traditional Telecommunications Relay Service (“TRS”), Captioned Telephone Service (“CTS”), and Speech-to-Speech (“STS”) offerings. Commission staff most recently granted a waiver of these rules to Hamilton and Sprint Corporation (“Sprint”) with respect to TRS, CTS, and STS in August 2016, and that waiver will expire August 24, 2018.<sup>3</sup> Petitioner urges the Commission to extend the current waiver of the requirements for two years or until the effective date of any permanent exemption from these rules with respect to its TRS, CTS, and STS

---

<sup>1</sup> 47 C.F.R. § 1.3 (allowing a Commission rule to be waived for “good cause”).

<sup>2</sup> *Id.* §§ 64.603(a)(3)(ii), 64.604(b)(3).

<sup>3</sup> *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Hamilton Relay, Inc., and Sprint Corporation, Petitions for Interim Waiver of Sections 64.604(b)(3) and 64.604(a)(3)(ii)*, Order, 31 FC Rcd 9511 (CGB rel. Aug. 24, 2016) (waiving the requirements for “two years, or until the effective date of a Commission rulemaking or other decision as to the continuing application of the requirement to traditional TRS, STS, and CTS, whichever occurs first”) (“2016 Waiver”).

offerings, whichever is earlier.<sup>4</sup> Hamilton requests that this waiver be extended for all similarly situated providers, including Sprint.

Section 64.604(a)(3)(ii) provides that relay services must be capable of handling any type of call normally provided by telecommunications carriers, with the same billing options (e.g., sent-paid long distance, operator-assisted, collect, and third party billing) traditionally offered to wireline voice users (the “billing option” requirement). Internet-based TRS providers are exempt from the billing option requirement if they offer free long distance service to users, but this exemption does not apply to providers of PSTN-based traditional TRS, CTS, and STS.<sup>5</sup>

Section 64.604(b)(3) of the rules, in turn, provides that TRS users must have access to their chosen interexchange carrier through the TRS, and to all other operator services, to the same extent that such access is provided to voice users (the “equal access” requirement). Internet-based TRS providers are exempt from the equal access requirement if they offer free long distance service to users, but again this exemption does not apply to providers of PSTN-based traditional TRS, CTS, and STS.<sup>6</sup>

Petitioner’s request for relief satisfies the traditional requirements for a waiver.<sup>7</sup> The equal access and billing option requirements were adopted more than twenty years ago, when

---

<sup>4</sup> Petitioner requests that the Commission act on the joint petition for rulemaking with respect to these requirements. *See* Hamilton Relay, Inc. and Sprint Corporation Joint Petition for Rulemaking to Reform the Commission’s Mandatory Minimum Requirements for Traditional TRS and CTS Providers (filed Sept. 23, 2015).

<sup>5</sup> *See Telecommunications Relay Services And Speech-to-Speech for Individuals with Hearing and Speech Disabilities; Waivers of iTRS Mandatory Minimum Standards*, Report and Order, Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10697, 10703 ¶ 11 (rel. Aug. 22, 2014) (“*iTRS Exemptions Order*”).

<sup>6</sup> *Id.*, at 10705-06 ¶¶ 15-16.

<sup>7</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“FCC may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest”) (*citing WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

long-distance charges were standard and various billing options were necessary to ensure functional equivalence. Today, equal access is unnecessary because Hamilton does not charge users for long-distance services, and increasingly users are migrating to IP-based and wireless services that render equal access inapplicable. In short, forcing the Petitioner to build and maintain the infrastructure necessary to come into compliance with the currently-waived requirements would impose an unnecessary burden on providers and consumers alike.

As observed in the *2016 Waiver*, “the Commission recently found, ‘stand-alone long distance service . . . has become a fringe market.’”<sup>8</sup> Two years on, stand-alone long-distance service is even less relevant to the typical voice telephony user. Accordingly, “[w]here consumers do not pay long distance charges and consequently have no interest in price shopping for a long distance provider . . . they derive no value from having equal access to long distance carriers,” and thus such a rule is not required to provide functionally equivalent service.<sup>9</sup> That is, “when a TRS provider does not charge users for long distance service, there is no public interest reason for continuing to require the TRS provider to offer its users the ability to use an alternative long distance carrier.”<sup>10</sup> A waiver extension under these circumstances would simply be an acknowledgment that the policy rationale underpinning the requirements remains inapplicable.

Equal access is unnecessary as long as the Petitioner does not charge any traditional TRS users, CTS users, or STS users for long-distance services. This would obviate the need for

---

<sup>8</sup> *2016 Waiver*, at ¶ 10 (citing the Commission’s 2013 order, FCC 13-69, forbearing from applying the requirement that independent local exchange carriers (1) inform prospective customers that they may obtain stand-alone long distance service from other carriers and, (2) if requested, read customers a list of long distance carriers).

<sup>9</sup> *Id.* (citing the *iTRS Exemptions Order*).

<sup>10</sup> *Id.*, at ¶ 11.

access to interexchange carriers of choice and operator-assisted services. In addition, the various billing options that were once popular for users are now in many cases unnecessary, and some carriers are no longer offering long distance and/or operator-assisted services. That is, so long as the Petitioner does not charge users for long distance the need for billing options is “eliminated,” and the requirement to offer billing options is a “burden with no associated public interest benefit.”<sup>11</sup>

Accordingly, for the reasons set forth in this request, Petitioner requests an extension of the current waiver of the equal access and billing option requirements.

Respectfully submitted,

/s/ David A. O'Connor

David A. O'Connor

Rachel S. Wolkowitz

Wilkinson Barker Knauer, LLP

1800 M St NW, Suite 800N

Washington, DC 20036

Tel: 202.783.4141

E-mail: [doconnor@wbklaw.com](mailto:doconnor@wbklaw.com)

*Counsel for Hamilton Relay, Inc.*

July 25, 2018

---

<sup>11</sup> See *id.*, at ¶ 13. Hamilton acknowledges that it must continue to comply with the conditions set forth in the 2016 Waiver. See, e.g., *id.*, at ¶ 15 (discussing the treatment of inmate relay calls).