

December 6, 2018

**REDACTED FOR PUBLIC INSPECTION**

VIA HAND DELIVERY

Marlene H. Dortch, Esq., Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554  
*Attn: Chief, Consumer & Governmental Affairs Bureau*

Re: Hamilton Relay, Inc.  
CG Docket Nos. 10-51, 03-123  
*Annual Report in Connection with Pending Internet-based TRS Certification Application*

Dear Ms. Dortch:

Transmitted herewith, on behalf of Hamilton Relay, Inc. ("Hamilton") and pursuant to Section 64.606(g) of the Commission's rules, are an original and four (4) copies of Hamilton's annual report in connection with its pending application for certification as a provider of Internet Protocol Captioned Telephone services. Hamilton is concurrently filing a redacted version of the report in ECFS.

Pursuant to Section 0.459 of the Commission's rules, 47 C.F.R. § 0.459, Hamilton hereby requests confidential treatment of the enclosed information. Hamilton has enclosed a separate exhibit justifying the need for confidential treatment.

An extra copy of the filing is enclosed. Please date-stamp the extra copy and return it to the courier. Should there be any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

/s/ David A. O'Connor  
Counsel for Hamilton Relay, Inc.

Enclosure

**HAMILTON RELAY, INC.**  
**December 2018**

**REQUEST FOR CONFIDENTIAL TREATMENT**

Pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457, 0.459, Hamilton Relay, Inc. ("Hamilton") hereby requests that the redacted contents of its annual certification report (the "Report"), in connection with its pending application for certification as a provider of Internet Protocol Captioned Telephone services (the "Application"), be treated as confidential and withheld from public inspection.

In accordance with the requirements of Section 0.459(b), 47 C.F.R. § 0.459(b), Hamilton submits the following:

1. 0.459(b)(1): Identification of the specific information for which confidential treatment is sought: Hamilton requests that the redacted portions of the public version of the Report, including all exhibits (collectively, the "Redacted Materials"), be treated as confidential and withheld from public inspection. The Redacted Materials contain highly sensitive commercial information, trade secrets, and proprietary technical information pertaining to the services offered by Hamilton. Pursuant to the Freedom of Information Act ("FOIA"), public disclosure is not required for documents that are "trade secrets, commercial or financial information obtained from a person and privileged and confidential." For this reason, the Redacted Materials are covered by the FOIA exceptions.
2. 0.459(b)(2): Identification of the Commission Proceeding in which the Information Was Submitted or a Description of the Circumstances Giving Rise to the Submission: The Report is being submitted to the Commission in CG Docket Nos. 10-51 and 03-123 pursuant to 47 C.F.R. §§ 64.606(a)(2) and 64.606(g).
3. 0.459(b)(3): Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged: The Redacted Information contains sensitive information about Hamilton's internal operations, as well as commercial, financial and other trade secrets. Such information "would customarily be guarded from competitors." 47 C.F.R. § 0.457(d)(2).
4. 0.459(b)(4): Explanation of the degree to which the information concerns a service that is subject to competition: IP CTS is a competitive service with at least four competitors to Hamilton.
5. 0.459(b)(5): Explanation of how disclosure of the information could result in substantial competitive harm: Substantial competitive injury would result from the disclosure of the Redacted Materials, by providing Hamilton's competitors with ready

access to confidential information about Hamilton's internal processes and strategic efforts. Hamilton has expended considerable funds and resources for the development of its IP CTS offering, which would be compromised through public disclosure.

6. 0.459(b)(6): Identification of any measures taken by the submitting party to prevent unauthorized disclosure: Hamilton requires that its employees treat the Redacted Materials as confidential and privileged. In keeping with this practice, Hamilton has requested confidential treatment of the Redacted Materials by the Commission.
7. 0.459(b)(7): Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties: The Redacted Materials are proprietary and not routinely available to the public. Certain portions of the Redacted Materials may be submitted to various state TRS programs as part of a Request for Proposal bid process or for a state certification, and portions of that information are submitted in redacted form.
8. 0.459(b)(8): Justification of the period during which the submitting party asserts that material should not be available for public disclosure: Hamilton requests that the Commission withhold the Redacted Materials indefinitely. As long as the Internet-based relay industry remains competitive, the public interest will be served if the Commission maintains the confidentiality of the Redacted Materials, in order to foster an environment in which regulated entities may submit sensitive materials for agency review without risking public disclosure and thus competitive harm.

**HAMILTON RELAY, INC.  
Annual IP CTS Report  
CG Docket No. 03-123**

**December 5, 2018**

Section 64.606(g) of the FCC TRS rules requires certified Internet-based TRS providers to file an annual report. In this report, Hamilton Relay, Inc. ("Hamilton") confirms that it is in compliance with Section 64.604.<sup>1</sup> Hamilton hereby incorporates by reference into this report Hamilton's pending December 5, 2011 federal certification application, as amended (the "Application")<sup>2</sup> which demonstrates compliance with Section 64.604. There are no changes to the information and documentation submitted with the Application, except as follows:

1. Updates to Section II. Certification Information Required by the Second R & O.

C. Additional Information Required Under Section 606(a)(2)(ii)

3. Employee Information

The employee data graphic on page 4 of the original application, submitted on page 8 of the Fourth Amendment, and page 3 of the Fifth Amendment are deleted in their entirety. The current number of employees involved in Hamilton's operations is as follows:

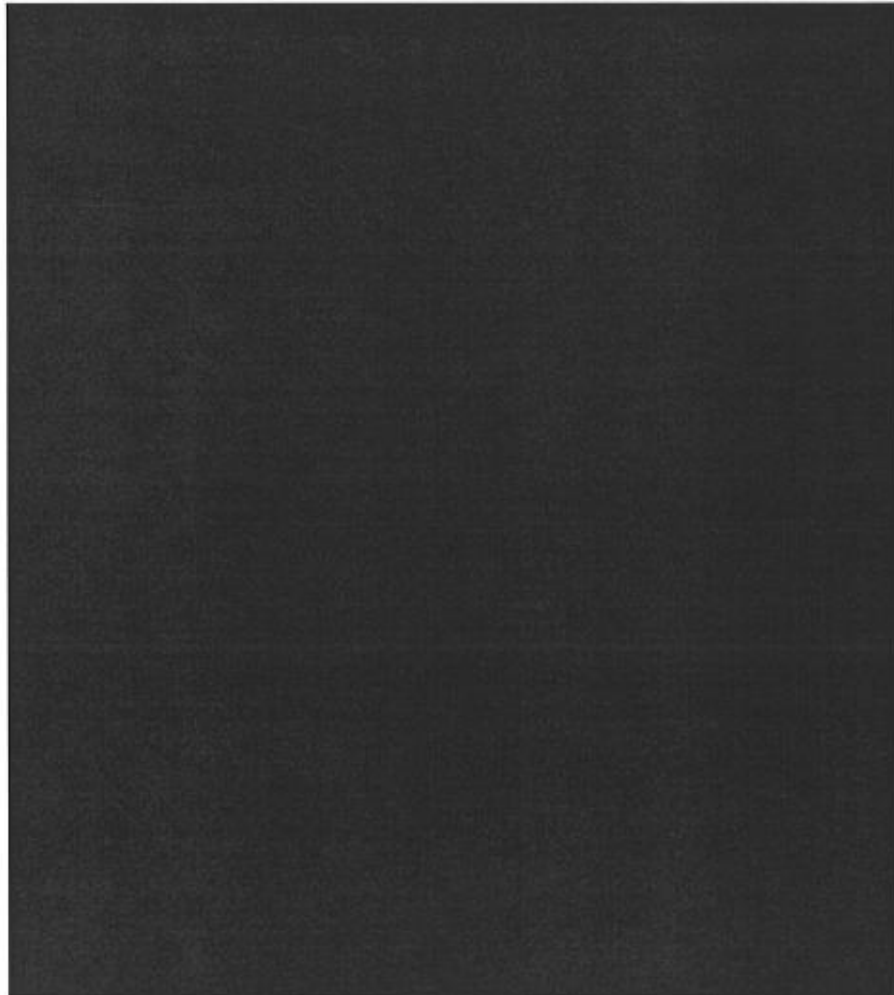


<sup>1</sup> Based on informal guidance from FCC staff in December 2012, Hamilton has not been submitting annual Section 64.606(g) reports, under the assumption that Hamilton is not yet "certified under" Section 64.606(g). However, more recent FCC staff guidance has prompted Hamilton to submit this report, and Hamilton will do so annually on a going-forward basis.

<sup>2</sup> See Application of Hamilton Relay, Inc. for Certification as a Provider of Internet Relay Services and Internet Protocol Captioned Telephone Services, CG Docket Nos. 10-51 and 03-123 (filed Dec. 5, 2011). Previous amendments to the Application were filed on May 8, 2012 ("First Amendment"), January 16, 2013 ("Second Amendment"), July 11, 2013 ("Third Amendment"), December 4, 2014 ("Fourth Amendment"), and December 11, 2017 ("Fifth Amendment") (collectively, the "Application").

## 5. Sponsorship Arrangements

In addition to the sponsorship arrangements relating to IP CTS that Hamilton listed in its original application, Hamilton notes the following additional IP CTS sponsorship arrangements:



## 2. Updates to Section III. Compliance with Operational and Technical Standards.

### B. IP CTS – Operational and Technical Standards

#### 1. Communication Assistants

Hamilton replaces subheading “*1. Communications Assistants,*” with the following paragraphs:

Hamilton's IP CTS complies with non-waived CA requirements.<sup>3</sup> For example, conversations are transmitted in real time.<sup>4</sup> Users of Hamilton's IP CTS do not type the outbound message, voice recognition technology is used to generate text, and IP CTS CAs do not play a role in setting up the call. Therefore, these minimum CA standards related to these functions do not apply to Hamilton's IP CTS offering. All calls make use of a CA to ensure the highest accuracy possible on every call. Hamilton's and CTI's CAs follow the same training process utilizing the same CA training material and procedures manuals. These materials are the property of CTI.

Hamilton original application, pages 25-27; Fifth Amendment, page 5

### C. Compliance with Functional Standards-IP CTS

Hamilton requests to rename Section III.C. "Compliance with Functional Standards-Internet Relay and IP CTS," as "D. Compliance with Functional Standards-IP CTS." In addition, Hamilton amends the section as follows:

Hamilton adds a new subheading "7. *Other Requirements*" as follows:

#### *7. Other Requirements*

For clarity, Hamilton affirms, the following:

- Hamilton will continue to provide certifications to the Interstate TRS Fund Administrator when submitting minutes to the Fund for compensation, in compliance with Section 64.604(c)(5)(iii)(I) of the Commission's rules.<sup>5</sup>
- Hamilton agrees to be bound by the procedures for suspending and withholding payments from the Interstate TRS Fund in accordance with Section 64.604(c)(5)(iii)(L) of the Commission's rules.<sup>6</sup>
- Hamilton complies with, and agrees to continue to comply with, the whistleblower protection requirements in Section

<sup>3</sup> See *IP CTS Waiver Order*, 22 FCC Rcd at 393 ¶ 30 n.105 (clarifying that certain CA requirements do not apply to IP CTS in certain circumstances); *Declaratory Ruling*, at n.184 (noting that the "Commission has adopted a flexible approach with respect to how captions may be generated to provide IP CTS").

<sup>4</sup> *Declaratory Ruling*, at ¶ 60 (noting that IP CTS providers must be able to transmit conversations in "real time" and citing 47 C.F.R. § 64.604(a)(1)(vii)).

<sup>5</sup> *Id.* § 64.604(c)(5)(iii)(I); Hamilton original application page 36.

<sup>6</sup> 47 C.F.R. § 64.604(c)(5)(iii)(L); Hamilton original application page 36.

64.604(c)(5)(iii)(M) of the Commission's rules.<sup>7</sup> Hamilton provides an accurate and complete description of the Commission's TRS whistleblower protections, including the right to notify the FCC's Office of Inspector General or its Enforcement Bureau, to all employees and contractors, in writing. Hamilton's IP CTS subcontractor is also in compliance with this requirement. Hamilton's employee handbook includes an accurate and complete description of these TRS whistleblower protections.

- Hamilton is committed to providing the highest quality relay services and superior customer service. Hamilton continues to follow the Complaint procedures set forth in its original application, pages 39-40.<sup>8</sup>
- Hamilton commits to filing all required annual compliance reports demonstrating its continued compliance with the TRS rules.<sup>9</sup>
- The declaration of a senior executive officer of Hamilton is enclosed with this application, in compliance with Section 64.606(a)(2)(v).<sup>10</sup>
- Hamilton consents to one or more on-site visits at Hamilton's or its subcontractor's premises as part of the Commission's application review process, in accordance with Section 64.606(a)(3) of the rules.<sup>11</sup>

*Incentives for the use of IP CTS.* Hamilton commits to compliance with the Commission's rules to "safeguard the TRS Fund against fraud, waste, and abuse,"<sup>12</sup> such as limitations on incentives for the use of IP CTS. Specifically,

- Hamilton does not offer or provide to any person or entity that registers to use IP CTS any form of direct or indirect incentives, financial or otherwise, to register for or use IP CTS.
- Hamilton does not offer or provide to hearing health professionals<sup>13</sup> any direct or indirect incentives, financial or otherwise, that are tied to a consumer's decision to register for or use IP CTS. Nor does Hamilton offer or provide IP CTS

<sup>7</sup> 47 C.F.R. § 64.604(c)(5)(iii)(M); Hamilton original application page 36.

<sup>8</sup> Hamilton original application pages 39-40 (describing Hamilton's compliance with 47 C.F.R. § 64.606(a)(2)(iii)).

<sup>9</sup> 47 C.F.R. § 64.606(a)(2)(iv); Hamilton original application page 40.

<sup>10</sup> 47 C.F.R. § 64.606(a)(2)(v); Hamilton original application page 40.

<sup>11</sup> 47 C.F.R. § 64.606(a)(3); Hamilton original application page 36; *see also Declaratory Ruling*, at ¶ 60.

<sup>12</sup> *Declaratory Ruling*, at ¶ 60; *see also* 47 C.F.R. § 64.604(c)(8).

<sup>13</sup> Hearing health professionals are defined as "any medical or non-medical professional who advises consumers with regard to hearing disabilities." 47 C.F.R. § 64.604(c)(8)(iv).

equipment, directly or indirectly, to hearing health professionals where such professional makes or has the opportunity to make a profit on the sale of the IP CTS equipment to consumers.

- Hamilton does not have any joint marketing arrangements with hearing health professionals.

*Registration and Certification.* Hamilton continues to use the registration and certification procedures set forth in Hamilton's Fourth Amendment,<sup>14</sup> in accordance with the Commission's registration and certification requirements.<sup>15</sup> Specifically, Hamilton continues to register all new IP CTS Users in accordance with Permanent IP CTS rules adopted on August 28, 2014.<sup>16</sup>

*IP CTS Settings.* The Commission recently revised its rules with respect to devices it distributes, directly or indirectly, so that the devices not only include a button or other comparable feature that is easily operable and requires only one step for the consumer to turn on captioning, but, by no later than December 8, 2018, also allow for any volume control or other amplification feature to be adjusted separately and independently of the caption feature.<sup>17</sup> Hamilton will comply with this rule by December 8, 2018 as each IP CTS telephone distributed, directly or indirectly, by Hamilton includes a button that is easily operable and requires only one step for the consumer to turn on captioning.<sup>18</sup>

*IP CTS Equipment.* In the June 7, 2018 decision, the Commission also revised its *IP CTS Equipment rules*.<sup>19</sup>

Section 64.604(c)(11)(i) continues to be reserved.

Section 64.604(c)(11)(ii) prohibits any person from using IP CTS equipment or software with the captioning on unless the person has registered pursuant to Section 64.604(c)(9) or the person is a Pre-March 7, 2013 User and the use occurs prior to February 24, 2015. Hamilton is in compliance with this provision for the reasons set forth in Section I of the Fourth Amendment.

Section 64.604(c)(11)(iii) requires IP CTS providers to ensure that any newly distributed IP CTS equipment has an

<sup>14</sup> Fourth Amendment, pages 1-4.

<sup>15</sup> 47 C.F.R. § 64.604(c)(9).

<sup>16</sup> See Fifth Amendment, page 7.

<sup>17</sup> *Report and Order*, at ¶¶ 39-40; 47 C.F.R. § 64.604(c)(10).

<sup>18</sup> See Fourth Amendment, page 6 and Exhibit 5.

<sup>19</sup> *Report and Order*, at ¶¶ 41-43; 47 C.F.R. § 64.604(c)(11); see also Fourth Amendment, pages 6-7.



appropriate label on the face of the equipment. Hamilton complies with this requirement as shown in Exhibit 5 of its Fourth Amendment. Hamilton notes that it received a limited waiver of certain labeling requirements.<sup>20</sup> The waiver expired on October 9, 2014 and Hamilton confirms that it is in compliance with all labeling requirements as of that date. Hamilton's web and wireless applications display the required label in a conspicuous location each time a user logs in to his/her account.

Section 64.604(c)(11)(iv) requires IP CTS providers to maintain, with each consumer's registration records, records describing any IP CTS equipment provided, directly or indirectly, to such consumer, stating the amount paid for such equipment, and stating whether the label required by Section 64.604(c)(11)(iii) was affixed to such equipment prior to its provision to the consumer. For equipment distributed prior to July 11, 2014,<sup>21</sup> such records must state whether and when the required label was distributed to such consumer. These records must be maintained by the provider for five years after the consumer ceases to obtain service from the provider. Hamilton complies with each of these requirements.

*Unauthorized and unnecessary use of IP CTS.* The June 7, 2018 *Report and Order* adopted rules prohibiting IP CTS providers from engaging in any practice that knows or has reason to know will cause or encourage: (1) false or unverified claims for TRS Fund compensation; (2) unauthorized use of IP CTS; (3) the making of IP CTS calls that would not otherwise be made; or (4) the use of IP CTS by persons who do not need the service in order to communicate in a functionally equivalent manner. The new rule also prohibits an IP CTS provider from seeking payment for minutes that result from such prohibited practices. IP CTS providers must also report such unlawful practices to the Commission or TRS Fund Administrator.<sup>22</sup>

Hamilton commits that it will not engage in any practice that knows or has reason to know will cause or encourage: (1) false or unverified claims for TRS Fund compensation; (2) unauthorized use of IP CTS; (3) the making of IP CTS calls that would not otherwise be made; or (4) the use of IP CTS by persons who do not need the service in order to communicate in a functionally equivalent manner. Further, Hamilton will not seek payment for

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<sup>20</sup> *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services For Individuals With Hearing And Speech Disabilities*, Order, CG Docket Nos. 13-24, 03-123, 29 FCC Rcd 7948 (rel. June 27, 2014).

<sup>21</sup> Section 64.604(c)(11)(iv) became effective on July 11, 2014. 79 Fed. Reg. at 40,003.

<sup>22</sup> 47 C.F.R. § 64.604(c)(13).

minutes that result from such prohibited practices. Hamilton also commits to report such unlawful practices to the Commission or TRS Fund Administrator if it becomes aware of that such prohibited practices are or have been committed by any person.

3. Exhibits [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]