

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 INTERIM WAIVER

Hamilton Relay, Inc. (“Hamilton”), by its counsel and pursuant to Section 1.3 of the Commission’s rules,¹ hereby requests an interim waiver of Sections 64.604(a)(3)(ii) and 64.604(b)(3) of the Commission’s rules,² in connection with Hamilton’s traditional Telecommunications Relay Service (“TRS”) and Captioned Telephone Service (“CTS”) offerings, as more fully described below.

On September 23, 2015, Hamilton and Sprint Corporation (“Sprint”) filed a joint Petition for Rulemaking (the “Petition”) seeking revisions to certain mandatory minimum requirements that currently apply to traditional Telecommunications Relay Service (“TRS”) and Captioned Telephone Service (“CTS”).³ Specifically, the Petition urged the Commission to modify: (1) Section 64.604(b)(3) of the rules, which requires TRS and CTS providers to offer consumers

¹ 47 C.F.R. § 1.3.

² *Id.* §§ 64.603(a)(3)(ii), 64.604(b)(3).

³ Hamilton Relay, Inc. and Sprint Corporation, Joint Petition for Rulemaking, CG Docket No. 03-123 (filed Sept. 23, 2015). The Petition remains pending. Hamilton encourages the Commission to seek comment on the Petition due to the important issues raised in the Petition.

access to their interexchange carrier of choice to the same extent that such access is provided to voice users (the “equal access” requirement); and (2) Section 64.604(a)(3)(ii), which requires TRS and CTS providers to be capable of handling any type of call normally provided by telecommunications carriers, to the extent that it requires providers to offer users 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).

On September 23, 2015, Sprint separately filed a Petition for Interim Waiver of those rules, pending a Commission determination of whether to grant a permanent exemption from these requirements.⁴ For the reasons set forth herein, Hamilton is requesting similar relief to that requested by Sprint in its Petition for Interim Waiver. Specifically, Hamilton requests an interim waiver of the equal access and billing option requirements, and requests that such waiver remain in effect until the effective date of any permanent exemption from these rules with respect to Hamilton’s TRS and CTS offerings.

Hamilton’s request for interim relief satisfies the traditional requirements for a waiver.⁵ As Hamilton and Sprint noted in their Petition, the equal access and billing option requirements were adopted more than twenty years ago, when 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.

⁴ Sprint Corporation, Petition for Interim Waiver, CG Docket No. 03-123 (filed Sept. 23, 2015).

⁵ *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)).

Similarly, the various billing options that were once popular choices for users are now essentially unnecessary. Hamilton notes that even underlying carriers are actively seeking to discontinue such services. For example, AT&T has filed a petition to discontinue operator services, among other services.⁶ A waiver under these circumstances would simply be an acknowledgment that the policy rationale underpinning the requirements is no longer applicable.⁷

Accordingly, for the reasons set forth in this request, the Petition, and Sprint's separate Petition for Interim Waiver, Hamilton requests an interim waiver of the equal access and billing option requirements, and requests that such waiver remain in effect until the effective date of any permanent exemption from these rules with respect to Hamilton's TRS and CTS offerings.

Respectfully submitted,

HAMILTON RELAY, INC.

/s/ David A. O'Connor

David A. O'Connor

Wilkinson Barker Knauer, LLP

1800 M Street NW, Suite 800N

Washington, DC 20036

Tel: 202.783.4141

Its Counsel

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⁶ See *Comments Invited on Application of AT&T Services, Inc. on Behalf of Affiliates to Discontinue Domestic Telecommunications Services*, Public Notice, WC Docket No. 16-13, Comp. Pol. File No. 1274 (Jan. 15, 2016).

⁷ Hamilton is required to provide equal access and certain billing options under various state TRS contracts for intrastate TRS. Hamilton will continue to comply with those contractual requirements, until such time as those contractual requirements change, even if the waiver requested herein is granted. Hamilton does not charge users for long distance services directly; however, if a caller connects to a long distance carrier through relay, the user may be billed by that carrier for the relay call. In addition, certain relay calls, such as inmate relay calls, typically are made through collect calling or through the use of calling cards. Those options, which are primarily designed to avoid the misuse of relay, may remain in place even if the requested waiver is granted.