

Law Offices

HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006

202-955-3000
FAX 202-419-2790
<http://www.hklaw.com>

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* Representative Offices	
MARGOT S. HUMPHREY	
202-457-5915	

Internet Address:
mhumphre@hklaw.com

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VIA ELECTRONIC FILING

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (CC Docket No. 98-67) — WRITTEN EX PARTE PRESENTATION*

Dear Ms. Dortch:

Hamilton Relay, Inc. ("Hamilton") hereby submits the enclosed written *ex parte* presentation to the Commission in connection with the above-captioned proceeding. Hamilton supports the Petitions for Reconsideration of the Commission's Declaratory Ruling in this proceeding (FCC 02-121, rel. Apr. 22, 2002) that were filed by Sprint and WorldCom.

Hamilton urges the Commission to grant Sprint's Petition in part on an expedited basis. Two critical issues are raised by Sprint in its Petition, and these issues are of such urgency that they merit immediate treatment, separate from the other reconsideration and clarification issues. Specifically, Sprint has explained that IP Relay providers are unable to implement pay-per-call 900 standards or Hearing Carryover (HCO) standards due to technology limitations. As a result of these limitations, and the concomitant unavailability of reimbursement from

NECA, Hamilton cannot prudently launch IP Relay services for its customers. Accordingly, Hamilton urges the Commission to grant immediate waivers of the 900 call and HCO service standards, so that all competing IP Relay providers, including Hamilton, may provide IP Relay service and be reimbursed by NECA for providing such services.

Although Sprint and WorldCom have urged the Commission to reconsider other important issues raised in the Declaratory Ruling, the issue of waivers for 900 call and HCO service standards are of such importance that they should be resolved immediately. To this end, the Commission should issue a clarifying Order confirming that IP Relay providers may receive NECA reimbursements despite current technological limitations which render 900 calls and HCO services impossible via IP Relay. In a subsequent decision, the Commission may then decide upon the merits of other aspects of the petitions for reconsideration filed in this proceeding. Hamilton urges a speedy resolution of the 900 call and HCO issues so that it may begin serving the needs of hearing and speech impaired Americans.

Respectfully submitted,

/s/ Margot S. Humphrey

Margot Smiley Humphrey
Counsel for Hamilton Relay, Inc.

Enclosure

cc (w/encl.): Cheryl King, CGB
Pam Gregory, CGB

**Hamilton Ex Parte Comments Concerning
Waivers for 900 Call and Hearing Carryover (HCO)**

I. What is IP Relay?

On April 22, 2002, the Commission issued a declaratory ruling establishing the framework for provision of Internet Protocol Relay Services (IP Relay). IP Relay makes Telecommunications Relay Services (TRS) for persons with hearing and speech disabilities accessible over the Internet. Computers and other Internet devices can be used rather than a text telephone to place a relay call. Relay users access a webpage to establish a relay call. IP Relay is a convenient and inexpensive alternative to accessing traditional TRS via toll-free numbers or the 711 telephone number. In addition, unlike traditional TRS users, IP Relay users can initiate multiple calls and even browse the Internet while making a call. (Declaratory Ruling, paras. 4, 8). Currently, IP Relay is reimbursed from the federal TRS fund, while the Commission considers other funding mechanisms. The Commission has waived some minimum TRS requirements temporarily for IP Relay because of current technology limitations. However, many commenters in this proceeding have expressed concern that the Commission has not waived standards that are viewed as currently infeasible.

Of particular and most immediate concern to Hamilton is its inability to implement 900 call standards and hearing carryover (HCO) standards over IP Relay, the resulting unavailability of reimbursement from NECA and Hamilton's consequent inability to prudently launch competitive IP Relay service for customers unless and until the Commission issues an expedited decision granting waivers to remedy these two pressing problems.

II. Pay-per-call 900 Service Standards Should Be Waived Via an Immediate Expedited Grant of Waiver Relief

As with regular telephone service, the 900 (or pay-per-call) service is intended to be available to TRS users. However, Sprint, in its Petition for Reconsideration, and AT&T, in its comments in support of Sprint, agree that 900 calls over IP Relay are impossible due to technological limitations.

Specifically, Sprint argues (Pet. for Recon. at 3-4) that 900 service cannot be provided via IP Relay because IP Relay is accomplished without Automatic Number Identification (ANI). Without ANI, IP Relay providers are unable to pass the calling party's telephone number to the carrier providing the 900 service. Sprint

states that the switches of the 900 carrier will reject the call if it is not accompanied by ANI.

Hamilton's comments support Sprint on this issue, and suggest that most 900 carriers will not accept third party billing for 900 calls because of the potential for fraud. In addition, Hamilton states that 900 service represents a *de minimis* percentage of Hamilton's total TRS traffic — approximately .01%. Hamilton believes that this figure is representative of other carriers' percentages for 900 traffic. Accordingly, an indefinite waiver should have a *de minimis* impact on the vast majority of consumers.

AT&T (comments at 2-3) also agrees with Sprint, and states that the ANI of a calling party is indispensable to the correct billing and handling of a 900 service call. Without such information, AT&T believes that erroneous billing will occur (*id.* at 2). In addition, AT&T notes that many pay-per-call providers do not allow for billing to a credit card, meaning that the IP Relay provider cannot track the appropriate billing name and address. As a result, AT&T asserts (*id.* at 2-3) that the IP Relay provider, as the call originator, will ultimately be billed for the call rather than the relay user.

III. Hearing Carryover Is Equivalent to Voice Carryover and Should Be Similarly Waived Via an Immediate Expedited Grant of Waiver Relief

In the Declaratory Ruling, the Commission waived the Voice Carryover (VCO) standard, acknowledging that carriers are unable to provide this service due to current technological limitations (Declaratory Ruling at para. 32). VCO allows a person with a hearing disability to speak to the other end user and, in reply, the Communications Assistant (CA) types what is spoken by the standard phone user so that the VCO user can read the conversation.

HCO allows a person with a speech disability to listen to the other end user and then, in reply, to type to the CA so that the CA can read what is typed to the standard phone user.

Unlike VCO, the Commission did not grant IP Relay providers a one year waiver of HCO requirements. The petitioners have asked the Commission to reconsider this decision, and to implement a waiver similar to the waiver granted for VCO services.

Specifically, Sprint states (Petition for Recon. at 4-5) that the technology needed to provide HCO is much like VCO. Both services require voice messaging during one leg of the call. Therefore the same technological limitations prevent both VCO and HCO, Sprint explains, and a waiver is justified for both services.

Telecommunications for the Deaf, Inc. (TDI), an advocacy group for the hearing-impaired, agrees with Sprint that current technology does not permit the offering of HCO or VCO services at an acceptable level of quality (TDI July 2001 comments at 9).

AT&T (comments at 6) supports a waiver of the HCO requirement because it is not currently possible to provide HCO through an ASCII connection. AT&T seeks clarification whether the Commission's HCO mandate is limited to situations in which an ASCII-based IP Relay caller requests a relay call that terminates to a Baudot HCO user. If this is not the case, AT&T supports a waiver extension for providing HCO in the same way as for VCO.

Hamilton supports both Sprint and TDI, and confirms that HCO is not now feasible for IP Relay services. In addition, Hamilton states that HCO represents a *de minimis* percentage of total TRS traffic — approximately 0.2% of Hamilton's total TRS traffic. Hamilton believes that this figure is representative of other carriers' percentages for HCO traffic. Accordingly, an indefinite waiver should have a *de minimis* impact on the vast majority of consumers.

In light of these grave concerns, the Commission should immediately grant a one year waiver of the 900 call requirement and HCO services. Potential IP Relay providers, such as Hamilton, are ready and willing to commence service to persons with hearing and speech disabilities. As noted, Hamilton is currently unable to provide 900 calls and HCO services via IP Relay due to the technological difficulties discussed above. The technology and reimbursement impasse prevents Hamilton from providing competing IP Relay services of *any* kind until the Commission confirms that IP Relay providers are eligible for reimbursement even if they are unable to provide 900 call service or HCO services. Accordingly, Hamilton urges the Commission to issue an expedited remedial order granting Sprint's petition in part and extending the current waiver to 900 calls and HCO services.

These requests are not opposed and are ready for immediate action. Until an expedited waiver is granted, the unavailability of the technology to provide this service is preventing reimbursement from NECA and causing Hamilton to defer offering any competitive IP Relay services to meet customer needs.

IV. Conclusion

The Commission must acknowledge from the great weight of comments that 900 call service and HCO are infeasible standards for IP Relay providers at the current time. Hamilton therefore urges the Commission to issue an immediate expedited decision granting waivers for 900 call and HCO service requirements via IP Relay. Only with such expedited waivers, and a confirmation of reimbursement

from NECA, can customers receive the benefits the Commission intends and IP Relay providers obtain NECA reimbursements that may be currently unlawful solely because of technology obstacles. An expedited decision granting essential waivers will immediately enable Hamilton to offer valuable IP Relay services, will permit clearly lawful NECA reimbursement, and will spur competition to the benefit of end users. Accordingly, the Commission should act now on these two vital issues by waiving 900 call and HCO service standards, and confirming that carriers unable to meet such standards may be reimbursed by NECA.

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