

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Provision of Improved)
Telecommunications Relay Services)
and Speech-to-Speech Services for) CC Docket No. 98-67
Individuals with Hearing and Speech)
Disabilities)

**Joint Comments of Telecommunications for the Deaf, Inc.,
National Association of the Deaf, and Self Help for Hard of Hearing People,
and Deaf and Hard of Hearing Consumer Advocacy Network
to Sprint Corporation Petition for Limited Reconsideration**

Telecommunications for the Deaf, Inc. (“TDI”), National Association of the Deaf (“NAD”), Self Help for Hard of Hearing People (“SHHH”), and Deaf and Hard of Hearing Consumer Advocacy Network (“DHHCAN”) (TDI, NAD, SHHH, and DHHCAN collectively, “Joint Commenters”) respectfully submit the following Joint Comments to the Federal Communications Commission (“FCC” or the “Commission”) in response to the Petition for Limited Reconsideration (“Petition”) filed by Sprint Corporation (“Sprint”) on April 14, 2003.¹ Sprint seeks limited reconsideration of the FCC’s March 14, 2003 *Order on Reconsideration* in the above-referenced docket,² insofar as it denied cost recovery to those IP Relay providers who were providing IP Relay service prior to the effective date of the *Order on Reconsideration* that did not meet the applicable TRS mandatory minimum standards, including those concerning HCO (hearing carry over) and 900 number services.³ The Joint Commenters support Sprint’s

¹ Sprint refiled its Petition on April 24, 2003.

² *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, *Order on Reconsideration*, rel. Mar. 14, 2003 (“*Order on Reconsideration*”).

³ Petition at 1.

Petition and respectfully request that the FCC allow all entities that provided IP Relay service after the effective date of FCC's *IP Relay Ruling*,⁴ but for the HCO and 900 service requirements, to be reimbursed for the IP Relay services they provided during that time.

INTRODUCTION

TDI is a national advocacy organization actively engaged in representing the interests of the twenty-eight million Americans who are deaf, hard of hearing, late-deafened, and deaf-blind. TDI's mission is to promote equal access to telecommunications and media for the aforementioned constituency groups through consumer education and involvement, technical assistance and consulting, application of existing and emerging technologies, networking and collaboration, uniformity of standards, and national policy development and advocacy. TDI supports the introduction of technological advances and new services which enable Americans who are deaf or hard of hearing, late-deafened, and deaf-blind to enjoy the opportunities and benefits of the telecommunications revolution to which they are entitled.

NAD is the nation's oldest and largest constituency organization safeguarding the accessibility and civil rights of twenty-eight million deaf, hard of hearing, late deafened, and deaf-blind Americans in a variety of areas, including education, employment, health care, and telecommunications. A private, non-profit organization, NAD is a dynamic federation of state associations and organizational affiliates and direct members. Primary areas of focus include grassroots advocacy and empowerment, captioned media, deafness-related information and publications, legal rights technical assistance, policy development and research, and youth

⁴ *In re Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities - Petition for Clarification of WorldCom, Inc.*, 17 FCC Rcd 7779 ("IP Relay Ruling").

leadership development. NAD works closely with deafness related national organizations and is a member of several coalitions representing the interests of deaf, hard of hearing, late deafened, and deaf-blind individuals.

SHHH is a nonprofit, consumer, educational organization founded in 1979, and devoted to the welfare and interests of those who cannot hear well, their relatives and friends. SHHH, based in Bethesda, Maryland, has 13 state organizations and 250 chapters nationwide. It is the largest consumer organization in the United States representing people with hearing loss. As the voice for the hard of hearing people, SHHH strives to improve the quality of life for hard of hearing people through education, advocacy, and self-help. SHHH influences national policy to improve the rights, services, research, and public awareness of the rights and needs of people with hearing loss.

DHHCAN, established in 1993, serves as the national coalition of organizations representing the interests of deaf, late deafened, hard of hearing, and deaf-blind citizens in public policy and legislative issues relating to rights, quality of life, equal access, and self-representation. DHHCAN also provides a forum for proactive discussion on issues of importance and movement toward universal, barrier-free access with emphasis on quality, certification, and standards.

BACKGROUND

In April 2002, the *IP Relay Ruling* authorized cost recovery for IP Relay services from the interstate TRS fund. In addition, the *IP Relay Ruling* waived certain TRS capabilities that IP Relay providers would otherwise need to meet in order to obtain the certification required under the Commission's rules prior to qualifying for reimbursement. The FCC waived these minimum TRS requirements because it was technically infeasible or inappropriate for carriers to provide

such capabilities in an IP Relay environment. The waivers granted by the Commission did not extend, however, either to the provision of HCO functionality⁵ or the requirement that IP Relay provide access to 900 “pay per call” services.

On July 11, 2002, Sprint filed a Limited Petition for Reconsideration of the *IP Relay Ruling*, requesting that the Commission reconsider its decision not to extend waivers to the provision of HCO functionality and 900 pay per call service. Sprint argued that it was technically impossible to provide these capabilities.⁶ Also in July 2002, Sprint began offering IP Relay without these capabilities. Sprint later sought clarification from the FCC to confirm its eligibility for reimbursement from the TRS Fund notwithstanding its inability to provide the requisite certifications regarding provision of HCO and 900 services. TDI filed comments in support of Sprint’s request for reimbursement.

In its *Order on Reconsideration*, the FCC acknowledged that the same technological obstacles exist for HCO as for other capabilities that were waived in the *IP Relay Ruling*.⁷ In addition, the *Order on Reconsideration* found that there were no viable solutions to meet the 900 number minimum standard.⁸ In light of these findings, the FCC concluded to waive the HCO and 900 number requirements going forward. However, the FCC declined to apply these waivers retroactively, and denied cost recovery to those IP Relay providers who were providing IP Relay

⁵ The Commission’s *IP Relay Ruling* does not clarify whether a carrier must support all HCO functionality or whether support of text leg of the call only (i.e. 2-line HCO) is sufficient to allow an IP Relay carrier to be eligible for reimbursement. *See* 17 FCC Rcd at 7790.

⁶ *See* Petition at 3.

⁷ *Order on Reconsideration*, ¶ 18.

⁸ *Order on Reconsideration*, ¶ 22.

service prior to the effective date of the *Order on Reconsideration* that did not meet the applicable TRS mandatory minimum standards.

COMMENTS

The Joint Commenters respectfully request that the Commission grant Sprint's Petition and authorize Sprint, and other similarly-situated carriers, to receive reimbursement for IP Relay services they provided prior to the effective date of the *Order on Reconsideration*, even though these carriers lacked the ability to strictly comply with the HCO and 900 service requirements. The Joint Commenters believe that the unique circumstances of this case justify reimbursing Sprint and other similarly-situated carriers for the IP Relay services they rendered to deaf and hard-of-hearing individuals.

The Joint Commenters support the development and availability of new products and service offerings that allow greater access to and flexibility of TRS services. For that reason, the Joint Commenters were extremely pleased with the Commission's finding in its *IP Relay Ruling* that IP Relay services should be eligible for TRS reimbursement. The Joint Commenters share the Commission's belief that "IP Relay is a valuable addition to TRS because it permits consumers to access TRS through personal computers and similar devices."⁹ IP Relay has been well-received by deaf and hard-of-hearing individuals, and demand for this service continues to grow strongly.

The Joint Commenters are grateful to Sprint, and other similarly situated carriers, who have made IP Relay service available to deaf and hard-of-hearing individuals. The Joint Commenters understand that the service offered by these carriers was not in exact accordance with the Commission's rules because HCO and 900 service issues were unresolved. Now that

⁹ *Order on Reconsideration*, ¶ 27.

the Commission has found that these capabilities are technically infeasible to provide and waived those minimum requirements, the Joint Commenters believe it would be unjust to penalize Sprint and others by denying retroactive reimbursement for provision of IP Relay services.

Moreover, Sprint and others' respective offering of IP Relay services also yielded a substantial public interest benefit by enabling deaf and hard-of-hearing individuals to access this new technology in a more timely manner than the administrative process would have allowed. Had Sprint and others waited for resolution of the HCO and 900 service issues, deaf and hard-of-hearing individuals would have been unable to have additional choices of IP Relay providers until the effective date of the *Order on Reconsideration*. Sprint's actions enabled deaf and hard-of-hearing individuals to access the services of at least one IP Relay provider months sooner than they otherwise would have. The Joint Commenters respectfully submit that it would be unjust to penalize specific carriers for taking action that had the positive effects of providing persons with disabilities equal access to technology as well as increased choices of service providers in a more timely manner than they otherwise would have received them.

The Joint Commenters understand the Commission's reluctance to authorize reimbursement for services that may fail to meet the minimum standards for TRS. The Joint Commenters agree generally that the Commission should not "encourage common carriers and others to provide regulated services in contravention of [the Commission's] rules, with the hope that they eventually may be retroactively rewarded for the providing the services."¹⁰ In addition, the Joint Commenters appreciate and are sensitive to the fact that other potential providers of IP Relay service declined to enter the marketplace when Sprint did because the HCO and 900

¹⁰ *Order on Reconsideration*, ¶ 26.

service issues were unresolved.¹¹ However, the Joint Commenters also believe that the Commission should retain incentives for TRS providers to offer new, innovative services so that deaf and hard-of-hearing individuals may continue to benefit from these developments. In light of these unique circumstances, where the deaf and hard-of-hearing individuals benefited from the wider range of IP Relay service alternatives and the FCC ultimately determined that it was technically infeasible to provide the minimum requirements at issue, the best way for the Commission to accomplish this objective and promote the future deployment of innovative TRS services is to grant Sprint's Petition.

CONCLUSION

The Joint Commenters respectfully submit that the Commission's policies should support the development and availability of new products and services. At the same time, the Commission's policies should also encourage all TRS vendors, including IP Relay providers, to make new functionalities available at the earliest time possible to maximize the benefit of these new functionalities to deaf and hard-of-hearing individuals. To that end and in light of the unique circumstances presented by this case, the Joint Commenters respectfully request that the Commission grant Sprint's Petition for reimbursement.

Respectfully submitted,

Claude Stout
Executive Director
Telecommunications for the Deaf, Inc.
8630 Fenton Street, Suite 604
Silver Spring, MD 20910

Kelby Brick, Chair
Deaf and Hard of Hearing
Consumer Advocacy Network
814 Thayer Avenue
Silver Spring, MD 20910-4500

¹¹ See Comments of Hamilton Relay, Inc. filed in CC Docket No. 98-67 on April 28, 2003 at 2 ("Hamilton Comments").

Brenda Battat
Director, Public Policy and State Development
Self Help for Hard of Hearing People
7910 Woodmont Avenue, Suite 1200
Bethesda, MD 20814

Nancy Bloch
Executive Director
National Association of the Deaf
814 Thayer Avenue
Silver Spring, Maryland 20910-4500

Dated: May 16, 2003

Service List

I hereby certify that on May 16, 2003, a copy of the foregoing Comments was sent by first-class mail to the following parties:

Gary Cohen
Lionel B. Wilson
Helen M. Mickiewicz
505 Van Ness Ave.
San Francisco, CA 94102

Katherine Keller
Publisher, STSnews.com
P.O. Box 88
Belleville, WI 53508

Michael B. Fingerhut
Richard Juhnke
Sprint Corporation
401 9th Street, N.W., Suite 400
Washington, D.C. 20004

Qualex International
Federal Communications Commission
Room CY-B402
445 12th Street, SW
Washington, DC 20554

Larry Fenster
WorldCom
1133 19th Street, NW
Washington, DC 20036

Mrs. Ronald H. Vickery
404 Benton Dr.
Rome, Georgia 30165

Mark C. Rosenblum
Peter H. Jacoby
AT&T Corp.
295 North Maple Avenue
Basking Ridge, NJ 07920

David O'Connor, Esq.
Counsel for Hamilton Relay
Holland & Knight LLP
Suite 100
2099 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Karen Peltz-Strauss
KPS Consulting
3508 Albemarle Street, NW
Washington, DC 20008

John Archer, Esq.
Hagan, Wilka & Archer
Suite 418
100 S. Phillips Avenue
Sioux Falls, SD 57105

Bernadette T. Clark