

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Provision of Improved Telecommunications)	
Services and Speech-to-Speech Services)	
for Individuals with Hearing and Speech)	CC Docket No. 98-67
Disabilities)	
)	
National Exchange Carrier Association)	
Petition for Interim Waiver and Rulemaking)	

AT&T REPLY COMMENTS

Pursuant to the Commission's Public Notice released June 13, 2003 (DA 03-1939), AT&T Corp. ("AT&T") submits this reply to the comments of other parties that support the above-captioned petition by the National Exchange Carrier Association ("NECA") for an interim waiver providing for compensation from the interstate Telecommunications Relay Service ("TRS") fund for all calls placed from wireless phones, pending the adoption of permanent rules to determine the appropriate jurisdiction of calls placed from such instruments.¹ Like NECA, none of these commenters provides any basis for the Commission to adopt that relief. Accordingly, the petition for interim waiver should be denied.² There is also no need for the Commission

¹ Comments were filed by NECA, Sprint Corp. ("Sprint"), Telecommunications for the Deaf, Inc. ("TDI"), and WorldCom, Inc. ("WorldCom"). The filings by Sprint and TDI were limited to resubmitting the comments on NECA's petition that those parties filed in September 2002.

² TDI's request that the funding waiver be granted on a three-year basis is all the more unjustified and should likewise be denied.

to conduct rulemaking on jurisdictional allocation of wireless calls for TRS fund reimbursement purposes as NECA's petition requests.³

Section 225(d)(3)(B) of the Communications Act provides that the Commission's TRS rules "shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction."⁴ A waiver to permit reimbursement of 100 percent of wireless TRS traffic from the interstate TRS Fund cannot be reconciled with this statutory mandate. Rather, such relief would, as AT&T showed in its Comments (pp. 3-5), create a substantial, unjustified discrepancy between the reimbursement process and the mechanism under which a maximum of 28.5 percent of wireless carriers' revenues are contributed to the interstate TRS Fund and other related support programs.

The Commission established that contribution "safe harbor" based on traffic studies conducted by wireless service providers indicating that a maximum of 28.5 percent of wireless calls are jurisdictionally interstate. Moreover, the Commission found last December that there is "no reason to permit [wireless] carriers to use a different safe harbor for revenue reporting" of TRS and other interstate support

³ However, AT&T supports Commission rulemaking to address and resolve service problems that may otherwise be created when roaming wireless callers place calls to TRS centers using the 711 dialing protocol, as well as Commission evaluation (through pending or separate proceedings) of the impact on TRS of wireless number portability and other anticipated technological changes. AT&T Comments, pp. 1-2, 7-9.

⁴ See 47 U.S.C. § 225(d)(3)(B).

programs.⁵ No evidence has been presented in this proceeding that the jurisdictional character of wireless TRS traffic differs materially from wireless traffic generally. To the contrary, TDI concedes (p. 6) that it “does not have sufficient evidence to determine” whether there are any differences between the overall traffic patterns for wireless traffic and TRS wireless calling.⁶ Any difficulty in identifying the jurisdictional character of certain individual wireless TRS calls, as stated by NECA and comments supporting the petition, cannot justify treating *all* wireless TRS as interstate for TRS Fund reimbursement purposes when there is no record to contradict the evidence indicating that the vast majority -- over 70 percent -- of wireless traffic (including TRS) is jurisdictionally intrastate.

Like NECA, commenters supporting an “interim” waiver allude to the purported similarity between wireless TRS traffic and internet protocol (“IP”) relay calling, for which the Commission has granted a waiver permitting all such traffic to be

⁵ See, *Federal-State Joint Board on Universal Service*, Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 17 FCC Rcd 24,952, 24,965, 24968 (2002).

⁶ While TDI shows commendable candor about its lack of such evidence, the Sprint and WorldCom comments simply ignore this issue entirely. For its part, NECA (p. 3) simply reiterates the petition’s observation that the jurisdictional character of “particular calls” may not always be reliably determinable based solely on the ANI of the wireless telephone number. Just as in the petition, however, NECA again fails to explain why any such difficulty in identifying the jurisdictional character of certain individual calls somehow warrants treating *all* wireless TRS as interstate for TRS Fund reimbursement purposes when there is no record to contradict the evidence indicating that the vast majority (over 70 percent) of wireless traffic (including TRS) is jurisdictionally intrastate.

reimbursed from the interstate TRS fund.⁷ As AT&T demonstrated (Comments, p. 6), this facile analogy is misplaced because, in contrast to wireless TRS traffic, ANI information does not permit an accurate jurisdictional determination for *any* IP relay calling using current technology.

AT&T's Comments (pp. 7-9) demonstrated that there is no such technical or cost barrier to processing wireless calls by roaming customers placing calls to their home state relay center using the 711 Service Access Code ("SAC") reserved for TRS use. A Commission rule requiring wireless providers to translate 711 calls to a toll-free number designated by the TRS center in the roaming caller's home state can assure that all such calls are reliably identified by the center as wireless traffic. This procedure, developed through consultation with the trade association representing wireless providers, will assure that such calls are properly processed by the relay centers and that such traffic will be reimbursed from the appropriate source (i.e., the interstate TRS Fund or a state fund), regardless of a wireless TRS call's ANI. As AT&T also showed (*id.*), mandating adoption of that procedure will also facilitate more accurate end user billing.⁸

⁷ See TDI, p. 3 (noting "the inability of IP Relay carriers to determine whether calls are intrastate or interstate in nature" and asserting that "the same issue exists with respect to wireless calls"); WorldCom, p.2 (wireless TRS presents "essentially the same problem" addressed in the Commission's IP relay waiver decision).

⁸ Thus, TDI is simply attacking a straw man of its own creation in arguing (p. 6) that it would be ineffective and unduly intrusive for TRS centers to rely on customer profiles as a means to correctly identifying the jurisdiction of wireless TRS calls.

CONCLUSION

For the reasons stated above and in AT&T's Comments, the Commission should deny NECA's petition for an interim waiver to reimburse all wireless TRS calls from the interstate TRS Fund.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Karen Kotula, do hereby certify that on this 30th day of July 2003, a copy of the foregoing "AT&T Reply Comments" was served by US first class mail, postage prepaid, on the parties listed below.

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