

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

In the Matter of)
)
Telecommunications Relay Services) CC Docket No. 98-67
and Speech-to-Speech Services for)
Individuals with Hearing and Speech)
Disabilities) CG Docket No. 03-123
)
Americans with Disabilities Act of 1990)

**AT&T PETITION FOR LIMITED
RECONSIDERATION AND FOR WAIVER**

Pursuant to Section 1.429 of the Commission’s Rules, 47 C.F.R § 1.429, AT&T Corp. (“AT&T”) requests that the Commission reconsider one aspect of its *June 17 Order* amending existing rules and promulgating new rules for the provision of Telecommunications Relay Services (“TRS”).¹ Additionally, pursuant to Section 1.3 of the Commission’s Rules, 47 C.F.R. § 1.3, AT&T requests that the Commission waive AT&T’s obligations to comply with limited portions of the additional requirements specified in the *June 17 Order*, and to extend certain waivers related to the *June 17 Order* that are otherwise due to expire December 31, 2003.

The Commission adopted the *June 17 Order* and its accompanying

¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Americans with Disabilities Act of 1990*, CC Docket No. 98-67 and CG Docket No. 03-123, Second Report and Order, Order on Reconsideration and Notice of Proposed Rulemaking, FCC 03-112, 18 FCC Rcd 12379, released June 17, 2003 (“June 17 Order”).

regulations to improve the overall effectiveness of TRS by requiring providers to offer certain improved services based on local exchange carrier (“LEC”) offerings.² As part of that decision, the Commission required providers to deploy, where technologically feasible, several additional TRS call types, services and features.³ Additionally, the Commission in that decision revised the requirements for handling of emergency calls by TRS providers.⁴

AT&T supports the Commission’s objective of assuring that hearing- and speech-impaired users have access to telecommunications services that are functionally equivalent to those available to customers without such disabilities, in accordance with the requirements of Title IV of the Americans with Disabilities Act of 1990 (“ADA”).⁵ However, the Commission should reconsider the *June 17 Order* insofar as it addresses handling of emergency calls by TRS centers to avoid unintended consequences of that decision that would frustrate the Commission’s overarching objective of fulfilling the mandate of the ADA.

Moreover, compliance with the requirements for processing three-way TRS calls adopted in the *June 17 Order* cannot be implemented by AT&T within the six month time frame specified in the Commission’s order. Provision of this feature would

² See *id.* at 12388 (¶ 10).

³ *Id.*. In particular, the Commission mandated that all TRS service providers make the 711 dialing code available for access to Speech-to-Speech (“STS”) relay service. See *id.* at 12410-11 (¶¶ 49-51).

⁴ *Id.* at 12405-8 (¶¶ 37-42).

⁵ Pub. L. No. 101-336, *codified at* 47 U.S.C. § 225.

in all events create substantial financial burdens that AT&T believes were not contemplated by the *June 17 Order*. Accordingly, AT&T requests waiver of those requirements to the extent described below.

Finally, to promote administrative convenience and in light of continuing technological and market limitations that originally prompted the Commission staff to grant certain waivers of minimum standards for VRS that are currently due to expire on December 31, 2003, AT&T requests that the Commission extend until January 1, 2008 so as to make those waivers run concurrently with other waivers of VRS standards granted in the *June 17 Order*.

Request for Limited Reconsideration of Emergency Call Handling

The *June 17 Order* concludes that for purposes of handling emergency calls from wireline TRS customers, the “appropriate” Public Safety Answering Point (“PSAP”) to which such traffic should be routed is the same PSAP that would receive such a call directly dialed on an NPA-NXX-XXXX basis.⁶ The decision requires all TRS providers to implement this capability by August 24, 2004.⁷ The Commission’s decision further requires that in order to provide functionally equivalent service, TRS facilities must “ensure that any database used to route a TRS emergency call to a PSAP will be updated *on the same schedule* that PSAP routing databases are updated for 911 calls placed by voice telephone users.”⁸

⁶ *Id.* at 12407 (¶ 41).

⁷ *Id.* at 12407-8 (¶ 42) (making requirement effective twelve months from Federal Register publication date; *see* 68 FR 50973 (August 25, 2003)).

⁸ *Id.* (emphasis supplied).

AT&T has already endorsed the revised definition of the appropriate PSAP for purposes of routing emergency TRS traffic adopted in the *June 17 Order*.⁹ However, as AT&T has also explained, for reasons that are beyond their control TRS providers would face serious constraints in updating their PSAP databases concurrently with the changes that are made in databases that determine the PSAPs for routing voice callers' 911 traffic.

Specifically, as the *June 17 Order* correctly notes, AT&T TRS currently relies upon a national PSAP database maintained by a third party vendor.¹⁰ The database is a "snapshot" of state PSAPs and is updated by the vendor at intervals on a state-by-state basis using information supplied by state agencies. However, AT&T demonstrated in response to the *PSAP Public Notice* that, because there may be delays in the provision of such data by the state agencies, the vendor's PSAP database may not be fully up-to-date at any given time, and for this reason would not reflect the same PSAP information used for routing voice callers' 911 traffic.¹¹

Mirroring changes in PSAPs in the manner contemplated by the *June 17 Order* will impose significant compliance burdens on AT&T and other TRS providers. In AT&T's case, this obligation will require that its third party vendor establish new arrangements with each state public agency that maintains and updates the list of PSAPs

⁹ See AT&T Comments, filed August 29, 2002, at pp. 2-3 ("AT&T PSAP Comments") in *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, DA 02-1826, released July 29, 2002 ("PSAP Public Notice").

¹⁰ *June 17 Order*, 18 FCC Rcd at 12407 (¶ 41 and n. 160).

¹¹ See *AT&T PSAP Comments*, pp. 2-3.

in that jurisdiction, to assure that the list of PSAPs used for routing TRS traffic is concurrently modified to reflect changes for routing traditional voice callers' emergency traffic. This process would be necessary not only for each of the ten states for which AT&T is currently the contracted provider of relay services, but because AT&T also offers nationwide relay service similar arrangements would need also to be established for all remaining jurisdictions in which AT&T offers TRS.

The *June 17 Order* failed to take account of these substantial burdens in finding that “the record does not reflect that a longer period [than twelve months] is necessary for providers to make this change” in their systems to contemporaneously reflect any changes in the PSAPs for traditional wireline callers.¹² Thus, if the current deadline is kept in place, the Commission on reconsideration should at a minimum exercise its authority over the LECs that serve wireline 911 callers as they update their own PSAP databases to concurrently make the same information available to TRS providers.

Contemporaneous provision of those data from local wireline carriers would reduce – but, as AT&T has already shown in this proceeding, by no means eliminate – discrepancies between the PSAP routing for voice callers and TRS users. Although AT&T's database for TRS emergency call routing is accurate to the exchange level (i.e., NPA-NXX), multiple PSAPs support each exchange, and the calling party's automatic number identification (“ANI”) alone is insufficient to identify the correct

¹² *June 17 Order*, 18 FCC Rcd at 12408 (¶ 42).

PSAP.¹³ For this reason TRS providers must determine a calling party's exact location before ascertaining the correct emergency number. Traditional voice callers that use local wireline carriers' 911 service are not required to provide such supplementary information, because their serving LEC has automated access to information regarding those subscribers' addresses. TRS providers also require provision of such address data from LECs in order to process wireline emergency TRS calls in accordance with the *June 17 Order*.¹⁴

However, even mandating that LECs provide such PSAP data promptly to TRS services will not alleviate the significant economic burden on any single relay provider of servicing the extremely small volume of emergency calls through separate PSAP databases. The desirability of maintaining a single nationwide database for all emergency TRS calls from a customer service perspective has already been recognized by public safety agencies.¹⁵ Moreover, the costs of maintaining separate PSAP databases

¹³ See *AT&T's PSAP Comments* (pp. 2-3. For example, in densely-populated areas a local exchange may serve over 100,000 lines within a diameter in excess of 10 miles, and the PSAPs supporting those customers' specific addresses may vary accordingly.

¹⁴ AT&T therefore requests that the Commission also clarify the *June 17 Order* to expressly permit TRS providers such as AT&T to continue to direct relay customers placing emergency calls to hang up and directly dial 911, thereby routing the call via their wireline local carrier to the appropriate PSAP which is already required under the ADA to be TTY compatible. Simultaneously, the TRS center may place a second call to the caller's PSAP reflected in the relay provider's database to assure that the caller's ANI is correctly passed to the emergency services provider. Such a two-tiered, redundant approach will assure that the TRS customer's emergency call and related information will be routed expeditiously to the appropriate PSAP. See *AT&T PSAP Comments*, p. 4.

¹⁵ See *id.*, pp. 3-4.

for this modest volume of traffic is economically inefficient and unnecessarily raises the costs for which relay providers are compensated from the TRS Fund and, correlatively, the amount of the TRS fund assessment on all carriers.

To address these economic inefficiencies and to provide more uniform and responsive service to TRS customers, AT&T therefore requests that the Commission on reconsideration mandate the development and deployment of such a single database jointly by all TRS providers, in consultation with NECA as TRS Fund administrator, state relay administrators and the TRS Fund Advisory Committee. Such a system will assure the ability of TRS customers in every jurisdiction to receive the same quality of service in processing emergency calls now enjoyed by voice callers to 911 services in those same areas, thereby furthering the functional equivalence mandate imposed by Section 225. The ability of all LECs that provide database updates to deal with a single point of contact with the nationwide database, rather than supplying those same data to multiple TRS providers on a state-by-state basis, will also greatly simplify those carriers' task by eliminating unnecessary duplication of effort and lack of uniformity in formats and procedures for furnishing such information. In light of the clear service and cost benefits that would flow from such a system, establishing a single nationwide PSAP database for TRS is clearly in the interest of relay customers and the broader public interest.

Request for Waiver and Extension of Existing Waivers

A. Three-Way Calling

The *June 17 Order* also mandated that TRS providers offer certain additional features and functions not previously required, and provided that these new

service requirements must be implemented within six months after Federal Register publication of that decision, i.e., by February 24, 2004. While AT&T supports the Commission's objective of making additional features available to TRS customers which are already available to the general public, one of those additional features is technically infeasible for AT&T to provide in the manner apparently contemplated in the *June 17 Order* and within the timeframe prescribed in that decision.¹⁶

Specifically, the *June 17 Order* required TRS providers to provide three-way calling capability, noting that this functionality "has long been available to voice telephone users."¹⁷ While the decision's observation is clearly correct, it overlooked the fact that such three-way calls are established by the end user(s) using either a LEC-provided custom calling service ("CCS") feature or by bridging together two lines via customer terminal equipment. Although end users may use these methods to establish a three-way call with a relay center, the TRS center does not have the ability to use the LEC network CCS feature to establish the two legs of such conference calls.

¹⁶ Additionally, the *June 17 Order* mandated that relay providers offer call release functionality, so that a CA who has established a connection between two TTY customers can then sign off, or be "released" from that conversation. *See* 18 FCC Rcd at 12418 (¶ 69). The decision indicates (*see id.*) that only the minutes of use prior to call release are eligible for reimbursement from the TRS Fund -- despite the fact that the TTY users continue to make use of the relay center's facilities, and that these calls may last for a considerable time. The Commission should reconsider this aspect of the decision, which imposes potentially significant uncompensated costs upon TRS providers without adequate justification. Moreover, the Commission should clarify the appropriate basis for billing the end users that are parties to a TTY-to-TTY call following call release by the CA.

¹⁷ *See id.* at 12419 (¶ 72).

AT&T's relay centers do not have the ability without additional development and modification to establish a three-way call via the center, because this functionality was not contemplated at the time the centers' systems were placed in service. The adoption of an obligation to originate three-way calling from the relay centers raises numerous significant and as yet undetermined issues that must be resolved before the necessary system modifications can be undertaken. For example, although the *June 17 Order* appears to contemplate that the parties to a TRS call between a TTY user and a voice caller would request establishment of a three-way call to another voice caller, nothing in the order would appear to preclude those parties requesting connection to another TTY user. Processing a call in the latter scenario would pose serious operational problems for relay center personnel.¹⁸ Similarly, although the *June 17 Order* addressed the issue of reimbursement for CA time on three-way calls, the decision did not address

¹⁸ Indeed, GTE's filing cited in the *June 17 Order* (18 FCC Rcd at 12420, fn 240) as support for mandating three-way TRS calling expressly acknowledged that such calls "may be very difficult for a single CA to manage." Comments of GTE Service Corporation ("GTE Comments") p. 15, filed May 5, 2000 in *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Further Notice of Proposed Rulemaking, FCC 00-56, released March 6, 2000.

Moreover, although the *June 17 Order* (18 FCC Rcd at 12419-20, ¶ 73) cites the GTE Comments for the proposition that "several TRS providers currently offer [three-way calling] service," GTE did not represent that it was already providing that feature for TRS. Rather, GTE stated that it was already offering three-way calling "in a traditional 'non-TRS' environment," and that its "preliminary assessment" indicated that with investment in additional lines and equipment this feature "could be performed" in a TRS environment. *See* GTE Comments, pp. 12, 14-15

appropriate billing by the TRS center of the end users that are parties to the conference call.

Absent Commission determination of these and other issues, AT&T is unable to prepare specifications for its vendor to provide software modifications necessary to furnish three-way TRS calling via its relay centers. This serious roadblock to implementation of that feature cannot be resolved by AT&T by the February 2004 deadline established in the *June 17 Order*. Accordingly, AT&T requests that the Commission waive that deadline for establishing three-way calling capability in its relay centers, subject to further clarification by the Commission staff regarding delineation of three-way calling implementation issues and periodic reporting by AT&T thereafter concerning its further progress in deploying that functionality.

B. Extension of Waivers for IP Relay and VRS

Subject to annual reporting by TRS providers to the Commission on technological developments in these areas, the *June 17 Order* waived until January 1, 2008 the requirement that internet protocol (“IP”) Relay and Video Relay Service (“VRS”) providers offer voice carryover (VCO) to TTY, hearing carryover (HCO) to TTY, VCO to VCO, and HCO to HCO features for these forms of relay service. The Commission granted the foregoing waivers to preserve consistency with other limited waivers of minimum standards for IP Relay and VRS services that it has previously granted.¹⁹

¹⁹ See *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, , FCC 03-46, 18 FCC Rcd 4761, released

AT&T and other relay providers are also operating under other existing waivers of certain minimum standards for VRS that were granted by the Commission staff in December 2001, and which are due to expire on December 31 of this year.²⁰ As that waiver order recognized, application of those minimum standards to VRS would be costly and technically complex to implement, and would be unduly burdensome in the context of limited volumes of VRS calling. Moreover, as AT&T and other TRS providers have recently shown, the Commission staff's recent substantial interim reduction of the VRS reimbursement rate has further complicated the ability of relay providers economically to serve VRS traffic.²¹

Accordingly, AT&T requests that the Commission also extend these VRS waivers to January 1, 2008, so as to run concurrently with the waivers granted in the *June 17 Order*. As part of such extension of the waivers, the annual reports required from

(Footnote continued from preceding page)

March 14, 2003; *Telecommunications Services for Individuals with Hearing and Speech Disabilities (Request by Hamilton Telephone Company for Clarification and Temporary Waivers)*, CC Docket No. 98-67, Memorandum Opinion and Order and further Notice of Proposed Rulemaking, FCC 01-371, 16 FCC Rcd 22948, released December 21, 2001.

²⁰ See *Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, DA 01-3029, 17 FCC Rcd 157, released December 31, 2001. These waivers apply to the requirement that VRS providers be able to provide operator assisted calls and to bill certain other types of calls to the end user; to handle incoming emergency calls by automatically transferring that traffic to a PSAP; compliance with speed of answer standards applicable to other TRS traffic; equal access to an interexchange carrier of the customer's choice; and handling pay-per-call traffic.

²¹ See AT&T Petition for Reconsideration, filed July 30, 2003 in *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67.

VRS providers by the *June 17 Order* should also be required to address technical and economic developments affecting the features subject to that extension.

CONCLUSION

For the reasons stated, the Commission should (a) clarify, or in the alternative reconsider, its *June 17 Order* and (b) grant AT&T's requests for limited waiver of the requirements of that decision, and to extend the duration of certain existing waivers.

Respectfully submitted,

AT&T CORP.

By /s/ Peter H. Jacoby
Leonard J. Cali
Lawrence J. Lafaro
Peter H. Jacoby

Its Attorneys

Room 3A251
One AT&T Way
Bedminster, NJ 07921
(908) 532-1830

September 24, 2003

CERTIFICATE OF SERVICE

I, Theresa Donatiello Neidich, do hereby certify that on this 24th day of September 2003 a copy of the foregoing “AT&T Petition for Limited Reconsideration and for Waiver” was served by US first class mail, postage prepaid, on the parties in the list attached hereto.

/s/ Theresa Donatiello Neidich
Theresa Donatiello Neidich

Service List

Gil Becker
MD Dept of Budget & Management
301 West Preston Street-Suite 1008A
Baltimore, MD 21201

National Association for
State Relay Administration
301 West Preston Street-Suite 1008A
Baltimore, MD 21201

Gretchen Jurek
065 Sylvan Glen Place
Auburn, CA 95603-3258

Russ Zochowski, Disability Specialist
Student with Mobility, Med, &
Visual Disabilities
University of California
1 Shields Avenue
Davis, CA 95616-8714

Mary Bell
4124 Lund Court
N Highlands, CA 95660

Cheryl Bergen
The Access Center of San Diego
1295 University Avenue 10
San Diego, CA 92103

Don Gulley
5412 Shirt Court
Fair Oaks, CA 95628-2834

Dana Longstreth, MS CCC
Dept of Communicative Disorders
University of Wisconsin-Madison
1976 Willow Drive
Madison, WI 53706

Andrea Gough
5250 Standish Road
Sacramento, CA 95820

Paul & Helen Goodman
408 Chermont Drive
El Paso, TX 79912

Isadora Kunitz
174 Elmerston Road
Rochester, NY 14620

Pamela Hoye
1902 Adams Avenue
San Diego, CA 92116

Tracy Rackensperger
988 Stonewood Lane
Maintland, FL 32751

Marsha Spector
10841 Acama Street
Toluca Lake, CA 91602

Bruce Gibbings, Community Organizer
Center for Independent Living
South Valley
121 E. Main Street, Suite 10
Visalla, CA 93291

David McNaughton
Assistance Professor
Dept of Education and School
Psychology & Special Ed, PSU
227 Cedar Building
University Park, PA 16802-1915

C. Hugh Marsh
2799 Sycamore Canyon Road
Santa Barbara, CA 93108-1915

Marybeth M. Banks
Richard Juhnke
SPRINT CORPORATION
401 9th Street, NW #400
Washington, DC 20004

William A. Born
SBC Communications, Inc.
1401 I Street, NW – 11th Floor
Washington, DC 20005

Julie E. Rones
United States Telecom Association
1250 Connecticut Avenue, NW-Suite 200
Washington, DC 20036

Cheryl A. Heppner
10363 Democracy Lane
Fairfax, VA 22030

CA Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

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

John Jaco
Self Help for Hard of Hearing People Inc.
7910 Woodmont Avenue-Suite 1200
Bethesda, MD 20814

D. Anthony Mastano
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW – Suite 300
Washington, DC 20007-5116
*Counsel for Telecommunications for
the Deaf, Inc.*

Lawrence W. Katz
VERIZON
1515 No Courthouse Rd-Suite 500
Arlington, VA 22201

Andre J. Lachance
VERIZON
1515 No Courthouse Rd-Suite 500
Arlington, VA 22201

Joyce H. Robbins
736 Ojai Avenue
Sun City Center, FL 33573

Lawrence Fenster
WorldCom, Inc.
1133 19th Street, N.W.
Suite 755
Washington, DC 20036

Marc D. Poston
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

John F. Archer
Wilka & Archer, PC
PO Box 964
Sioux Falls, SD 57101-0964
*Counsel for Communication Service for
the Deaf, Inc.*

Richard Muscat
The Gonzalez Law Firm
PMD #117
8127 Mesa Drive-Suite B206
Austin, TX 78759
*Counsel for Commission on State
Emergency Communications*

Alfred Sonnenstrahl
Deaf Seniors of American
10910 Brewer House Road
Rockville, MD 20852

James R. Hobson
Miller & Van Eaton
1155 Connecticut Avenue, NW
Suite 1000
Washington, DC 200034-4320
Counsel for NENA and APCO

Martha Jenkins
Intrado Inc.
1225 I Street, NW-Suite 500
Washington, DC 20005