

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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| In the Matters of |) | |
| |) | |
| Telecommunications Relay Services and |) | CG Docket No. 03-123 |
| Speech-to-Speech Services for Individuals with |) | |
| Hearing and Speech Disabilities |) | |
| |) | |
| E911 Requirements for IP-Enabled Service |) | WC Docket No. 05-196 |
| Providers |) | |

To: Secretary, FCC
For: Chief, Consumer & Governmental Affairs Bureau, and
Chief, Wireline Competition Bureau

**PETITION FOR EXTENSION OF VARIOUS iTRS
WAIVERS**

Hamilton Relay, Inc. (“Hamilton”), by its counsel and pursuant to Section 1.3 of the Commission’s rules,¹ hereby respectfully requests an extension of various waivers granted to providers of Internet-based Telecommunications Relay Service (“iTRS”).² The waivers will expire on July 1, 2011 unless extended. The Consumer & Governmental Affairs Bureau and the Wireline Competition Bureau (“Bureaus”) previously extended these waivers on June 30, 2010.³ Because the reasons for that extension remain valid today, the Bureaus should extend these

¹ 47 C.F.R. § 1.3.

² For purposes of this petition, iTRS providers include Internet Relay providers and Internet Protocol Captioned Telephone Service (“IP CTS”) providers. Many of the waivers addressed herein also apply to Video Relay Service (“VRS”). Hamilton does not currently offer VRS but believes that the current waivers apply equally to VRS because the underlying Internet-based platform for all forms of iTRS is essentially the same.

³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, Order, CG Docket No. 03-123; WC Docket No. 05-196, 25 FCC Rcd 8437 (rel. June 30, 2010) (“*2010 Waiver Order*”).

waivers until July 1, 2012 or until such time as the Commission has addressed the pending *Request for Extension and Clarification of Various iTRS Waivers* (“*Request*”).⁴ Action on the *Request*, which was filed by numerous relay providers and is unopposed, would allow the Commission to comprehensively address these waivers and avoid the administrative burden of annually addressing these issues.

I. BACKGROUND

Sections 64.603 and 64.604 of the Commission’s rules establish operational, technical, and functional mandatory minimum standards for providers of Telecommunications Relay Services (“TRS”).⁵ In order to be compensated from the Interstate TRS Fund, providers must offer service consistent with all the mandatory minimum requirements, unless waived.

The Commission has repeatedly recognized that a number of the requirements in Sections 64.603 and 64.604 are inapplicable to iTRS providers, given the nature of the Internet platform, and has therefore waived many of these requirements as they apply to iTRS providers.⁶ This recognition was set forth most recently in a June 30, 2010 decision in which the Bureaus consolidated and extended a number of waivers for iTRS providers.⁷ Specifically, the *2010 Waiver Order* waived the following requirements until July 1, 2011:

1. One-line Voice Carry Over (“VCO”), VCO-to-TTY, and VCO-to-VCO;

⁴ Hamilton Relay, Inc., AT&T Inc., CSDVRS, LLC, Sorenson Communications, Inc., Sprint Nextel Corporation, and Purple Communications, Inc., *Request for Extension and Clarification of Various iTRS Waivers*, CG Docket No. 03-123 (filed Nov. 19, 2009) (“*Request*”).

⁵ 47 C.F.R. §§ 64.603, 64.604.

⁶ See, e.g., *2010 Waiver Order* ¶ 3 (“The Commission, in various orders, has waived several TRS mandatory minimum standards for VRS and IP Relay either because, as Internet-based services, it is not technologically feasible to meet the requirement or, in the case of VRS, because VRS is a video-based service and the communication is via sign language and not text.”).

⁷ See *2010 Waiver Order*.

2. One-line Hearing Carry Over (“HCO”), HCO-to-TTY, and HCO-to-HCO;
3. Call release;
4. Pay-per-call (900) calls;
5. Types of calls;
6. Equal access to interexchange carrier;⁸ and
7. Speech-to-Speech (“STS”).

The *2010 Waiver Order* conditioned the waivers upon the filing of an annual report by each iTRS provider.⁹ Hamilton filed its most recent report on April 8, 2011, in which it demonstrated that the underlying rationale for each waiver remains valid today.¹⁰

II. THE VARIOUS iTRS WAIVERS SHOULD BE EXTENDED

A review of the annual reports submitted by iTRS providers makes clear that the iTRS waivers should be extended because they remain either necessary and appropriate or wholly inapplicable.

One-line Voice Carry Over, VCO-to-TTY, VCO-to-VCO, One-line Hearing Carry Over, HCO-to-TTY, and HCO-to-HCO: VCO permits a person with a hearing disability, but who is able to speak, to speak directly to the other party to the call (instead of typing text), but to receive in return the called party's spoken words as text on the TTY. HCO permits a person with a speech disability, but who is able to hear, to type text to the other party to the call (which is

⁸ This pleading does not specifically address the equal access issue because the equal access requirement has been waived indefinitely for Internet Relay and IP CTS, both of which Hamilton provides, but not for VRS which Hamilton does not provide. *See Petition for Clarification of WorldCom, Inc.*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 ¶ 31 (Apr. 22, 2002) (“We will therefore waive the carrier of choice requirement for IP Relay permanently, provided that IP Relay providers continue their policy of not charging customers for long distance calls.”); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities Internet-based Captioned Telephone Service*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379 ¶ 30 n.101 (rel. Jan. 11, 2007).

⁹ *See id.* ¶¶ 8, 10, 12, 14, 16, 18, 20.

¹⁰ *See generally* Hamilton Relay, Inc., 2011 Annual Report to FCC Concerning Internet Relay and IP CTS Waivers (filed Apr. 8, 2011) (“Hamilton Report”).

voiced by the CA), but to listen in return to what the called party is saying. VCO, HCO, VCO-to-TTY, HCO-to-TTY, VCO-to-VCO, and HCO-to-HCO have been waived for IP CTS indefinitely; they have been waived until July 1, 2011 for Internet Relay and VRS providers.

The *2010 Waiver Order* noted that VRS and IP Relay providers cannot provide such VCO and HCO services because the Internet cannot support the voice leg of the call with the necessary call quality, and therefore waived these requirements.¹¹ This rationale remains valid today. It continues to be the case that the Internet cannot support the voice leg of such calls with the necessary call quality.”¹² Moreover, no commercial off-the-shelf technical solutions appear to be forthcoming, and users lack the necessary equipment to use one-line VCO/HCO services even if such technical solutions did exist.¹³ Hamilton and other providers continue to offer two-line VCO and HCO services as an adequate workaround.¹⁴ Accordingly, these waivers should be extended for IP Relay and VRS.

Call release: Call release is a TRS feature that allows the Communications Assistant (CA) to drop from the call after the CA has set up telephone call between two TTY users. IP CTS providers have received an indefinite waiver of the requirement to provide call release. The call release waiver for Internet Relay and VRS providers will expire on July 1, 2011.

The *2010 Waiver Order* waived the call release requirement for IP Relay and VRS providers due to technical infeasibility, as the Internet leg of the call cannot support call release

¹¹ *2010 Waiver Order* ¶ 8-10.

¹² Hamilton Report at 4. *See also* Purple Communications, Inc., Annual Report on Progress of Meeting Waived Requirements, CG Docket Nos. 03-123, 10-213, at 2-3 (filed Apr. 15, 2011) (“Purple Report”); Sorenson Communications, Inc., Minimum Standards Waiver Report, CG Docket No. 03-123; WC Docket No. 05-196, at 2 (filed Apr. 18, 2011) (“Sorenson Report”).

¹³ Hamilton Report at 4.

¹⁴ *Id.* at 4, 5.

functionality.¹⁵ This remains true today, as Hamilton and other providers' filed reports demonstrate.¹⁶ Accordingly, this waiver should be extended.

Pay-per-call (900) calls: Pay-per-call (900) services are calls that include a charge billed to the calling party. This requirement has been waived indefinitely for IP CTS providers and until July 1, 2011 for IP Relay and VRS providers.

The *2010 Waiver Order* waived the pay-per-call requirement because the Bureaus recognized there is no billing mechanism available for iTRS providers to handle such charges.¹⁷ Indeed, significant technical hurdles prevent iTRS providers from automatically passing through 900 information and from following up with invoices for 900 service to the appropriate user, given the traditional free nature of relay. In addition, without the ability to confirm the correct Automatic Numbering Information ("ANI") associated with a 900 call, the unacceptable danger is that pay-per-call charges may be billed to the wrong party or fraudulently evaded.

As Hamilton demonstrated in its recent report, no billing mechanism has become available since the waiver was extended last year.¹⁸ Accordingly, this waiver should be extended again.

Types of calls (operator assisted calls and long distance calls): Commission rules require TRS providers to handle every type of call normally handled by common carriers, including operator assisted calls and long distance calls.¹⁹ The "types of calls" requirement has

¹⁵ *2010 Waiver Order* ¶ 12.

¹⁶ Hamilton Report at 6; Purple Report at 2; Sorenson Report at 3; AT&T Services, Inc., 2011 Annual Report on TRS Waivers, CG Docket No. 03-123, WC Docket No. 05-196, at 3 (filed Apr. 18, 2011) ("AT&T Report").

¹⁷ *2010 Waiver Order* ¶ 14.

¹⁸ Hamilton Report at 2-3.

¹⁹ See 47 C.F.R. § 64.604(a)(3).

been waived for Internet Relay and VRS providers until July 1, 2011, as long as providers allow calls to be placed using calling cards and/or provide free long distance calls. The requirement has not been waived for IP CTS providers.

The *2010 Waiver Order* found that it is technically infeasible for IP Relay and VRS providers to determine if a call is long distance, and accordingly waived these requirements for such providers subject to the requirement that providers permit such calls to be placed using calling cards and/or provide free long distance calls. It remains technically infeasible for iTRS providers to offer operator-assisted calls or to bill for long distance calls; however, Hamilton and (to Hamilton's knowledge) all other iTRS providers provide free long distance calls.²⁰

Accordingly, this waiver should be extended and the waiver should apply to all forms of iTRS, including IP CTS.

Speech-to-Speech: The 2010 Waiver Order extended a waiver of the speech-to-speech ("STS") requirement to IP Relay providers due to erratic voice quality using the Internet.²¹ As Hamilton noted in its report, the quality of Internet-transmitted voice remains inadequate to support STS.²² Consequently, this waiver should also be extended.

III. PROMPT COMMISSION ACTION ON THE *REQUEST* WOULD AVOID THE NEED FOR FUTURE ANNUAL WAIVER EXTENSIONS

As the Bureaus noted in the *2010 Waiver Order*, in November 2009 Hamilton and several other iTRS providers filed a petition to clarify and extend all existing iTRS waivers.²³ However,

²⁰ Hamilton Report at 1.

²¹ *2010 Waiver Order* ¶ 20. The Commission had previously waived the STS requirement for VRS indefinitely, since VRS is a video-based, not speech-based, service. *2004 TRS Waiver Order*, 24 FCC Rcd at 12526-27 ¶¶ 134-35.

²² Hamilton Report at 4.

²³ *2010 Waiver Order* n.16 (citing *Request*).

the *2010 Waiver Order* declined to directly address the *Request*, stating that it would be addressed “in a future proceeding.”²⁴ The Commission should move expeditiously to address the *Request* as soon as practicable in order to relieve both the agency and providers of the administrative burden of revisiting these waivers on an annual basis. To this end, Hamilton recommends that the current waivers be extended until the Commission has had an opportunity to reach a decision on the *Request*.

IV. CONCLUSION

As set forth above, the factual premises on which the various iTRS waivers were extended in 2010 continue to exist today. Therefore, Hamilton respectfully requests that the current waivers be extended until July 1, 2012 or until such time as the Commission has issued a decision concerning the *Request*.

Respectfully submitted,

HAMILTON RELAY, INC.

/s/ David A. O'Connor

David A. O'Connor

Neil A. Chilson

Wilkinson Barker Knauer, LLP

2300 N Street, NW, Suite 700

Washington, DC 20037

202.783.4141

Its Counsel

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²⁴ *Id.*