

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Structure and Practices of the Video Relay ) CG Docket No. 10-51  
Service Program )  
 )

**REQUEST FOR WAIVER**

American Network, Inc. (“ANI”), by its counsel and pursuant to Section 1.3 of the rules of the Federal Communications Commission (“FCC” or “Commission”)<sup>1/</sup> and the invitation extended by the Commission in its Report and Order in the above referenced proceeding,<sup>2/</sup> hereby requests waiver of Section 64.604(c)(5)(iii)(C)(2) of the FCC’s rules, which will become effective on June 1, 2011.<sup>3/</sup> Waiver of the rules is in the public interest and will ensure that the public continues to receive the valuable Internet Protocol (“IP”) based Telecommunications Relay Services (“TRS”) that ANI provides.

---

<sup>1/</sup> 47 C.F.R. § 1.3 (2010).

<sup>2/</sup> *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545, ¶ 62 (2011) (“*VRS Fraud Order*”); *see also Consumer and Governmental Affairs Bureau Provides Guidance on Filing Requests for Waiver of New Requirements Adopted in the Video Relay Services Fraud Order*, Public Notice, DA 11-893 (rel. May 17, 2011) (“*Public Notice*”).

<sup>3/</sup> Although the *VRS Fraud Order* and *Public Notice* only contemplate waivers of Section 64.604(c)(5)(iii)(N)(1)(iii) of the rules, as discussed below, ANI’s operations do not conform with Section 64.604(c)(5)(iii)(C)(2) of the rules. For the same reason that the Commission recognized that a waiver of 64.604(c)(5)(iii)(N)(1)(iii) would be appropriate, it should also grant a waiver of Section 64.604(c)(5)(iii)(C)(2) so that ANI may continue its existing operations. However, unlike the temporary waiver specified in the *VRS Fraud Order*, ANI seeks a permanent waiver of the rules so that it can continue to use the more advanced IP-based technologies explained herein in connection with its TRS services.

## **Background**

ANI is a provider of Video Relay Service (“VRS”), IP Relay Service, and IP Captioned Telephone Service (“IP-CTS”).<sup>4/</sup> In the *VRS Fraud Order*, the Commission changed many of its regulations governing the provision of IP TRS in general and VRS in particular. In order to continue to provide service to customers, ANI requires waiver of one of those new rules.

## **Waiver Request**

New Section 64.604(c)(5)(iii)(C)(2) of the rules requires that TRS providers seeking compensation from the TRS Fund must submit, among other things, an incoming IP address if the call originates with an IP-based device. Similarly, it requires that providers must submit an outbound IP address if the call terminates to an IP-based address. Because ANI is unable to provide an IP address for users of any of its authorized services (VRS, IP Relay, or IP-CTS), it hereby seeks a permanent waiver of that requirement.

Most IP-based TRS services use so-called H.323 network architecture. That architecture is based on peer-to-peer communications which, among other things, transmits IP addresses and allows the recipient of an IP-based call to determine the IP address of the device making the call. IP-based TRS providers using H.323 architecture can, therefore, comply with the FCC’s new rules.

However, ANI does not use H.323 architecture in its provision of VRS, IP Relay, and IP-CTS service. It employs the more advanced Session Initiation Protocol (“SIP”) architecture. Calls to and from ANI using SIP protocol are routed through a network server (and are not handled in the peer-to-peer format as are H.323 calls). The SIP network server validates the

---

<sup>4/</sup> *Notice of Certification of American Network as a Provider of Internet Protocol Relay Service (IP Relay), Video Relay Service (VRS), Internet Protocol Captioned Telephone Relay Service (IP CTS) Eligible for Compensation from the Interstate Telecommunications Relay Service (TRS) Fund*, Public Notice, 24 FCC Rcd 80 (2009).

identity of the calling device through the associated telephone number and not through the associated device IP address. Assuming the validity of the call, the network server then passes on the call, ultimately to ANI. When the network server passes on the call, the IP address of the network server, and not the IP address of the end user device, is transmitted. Therefore, when ANI receives a call, it receives information related to the telephone number of the end user device and the IP address of the network server. It is simply unable to know the IP address of the calling party. Similarly, when ANI contacts a customer it does so using SIP protocol and knows only the telephone number of the called device, and not the IP address of that device.

ANI's IP-based TRS services operate like any voice over IP ("VoIP") service in that the IP address is converted to a telephone number and the call is handled like a standard public switched telephone network ("PSTN") call. While ANI is aware of the telephone number from which the call is made (and is able to verify that it is being made from its customer), it is not able to identify an IP address because that information is not transmitted by the network server.

It is appropriate for the Commission to grant ANI a waiver of the rules so that it is not required to provide the IP address of its IP-CTS calls. The Commission may grant a waiver of its rules for "good cause shown."<sup>5/</sup> In particular, a party must show that grant of the waiver would be in the public interest.<sup>6/</sup> In this case, waiver is appropriate because the purpose of the

---

<sup>5/</sup> 47 C.F.R. § 1.3.

<sup>6/</sup> See, e.g., *FPC v. Texaco, Inc.*, 377 U.S. 33, 398 (1964) (providing that a waiver may be granted where a party can demonstrate that "in the public interest the rule should be waived"); *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971) (finding that all relevant factors should be considered when determining if good cause exists to grant a waiver request); *Northeast Cellular Telephone Company, L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("The agency must explain why deviation better services the public interest, and articulate the nature of the special circumstances, to prevent discriminatory application and to put future parties on notice as to its operation."). The Commission has applied this standard in the past to find that waiver of the TRS rules is appropriate to account for technological challenges in delivering TRS through different forms. See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 20 FCC Rcd 19327, ¶¶ 1, 6 (2005) (granting waiver of the emergency (911)

rule will continue to be served despite the technical limitations associated with ANI's use of SIP protocol to handle IP-based TRS calls (and to make such calls). The purpose of the new rule is to ensure that the National Exchange Carrier Association ("NECA") has the data required to properly detect anomalies in the submitted minutes, which will enable the TRS Fund administrator to inquire about, and if necessary, conduct an investigation into the legitimacy of such minutes.<sup>7/</sup> However, by providing all of the remaining data, NECA will have all of the information it requires to track any anomalies.

Moreover, all of ANI's customers are associated with a unique telephone number (*i.e.*, each customer has its own telephone number, which is how ANI's system processes calls). Even if ANI were able to capture the IP address initiated from a customer's IP-based device, the minutes of use associated with that IP address would be no different from the minutes of use associated with the telephone number also associated with that device.<sup>8/</sup> Therefore, there would be no separate benefit to NECA obtaining both an IP address and telephone number for the device – the minutes associated with both would be identical. If the Commission does not waive the requirement imposed by the new rule, ANI would be required to make potentially costly

---

call handling requirement for VRS providers "in view of continued technological challenges to determining the geographic location of TRS calls that originate via the Internet"); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 19 FCC Rcd 2993, ¶ 5 (2004) (granting waiver of the rule requiring TRS providers to provide three-way calling functionality because such functionality "is presently not technologically possible"); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, 18 FCC Rcd 16121, ¶¶ 26-27 (2003) (granting certain waivers for captioned telephone voice carry over services "based on the technological infeasibility of meeting the particular requirements in some cases," and in other cases, based on the fact that "such requirements are simply inapplicable to this type of TRS").

<sup>7/</sup> *TRS Fraud Order* ¶ 73.

<sup>8/</sup> Indeed, if there were multiple IP-based TRS devices used by a customer and ANI were able to capture IP addresses, there would still likely be no difference between the minutes of use associated with that customer's IP address and the customer's telephone number. All calls may appear to originate from the same IP address in a customer's home because calls often pass through a customer's router or modem. Under those circumstances, the minutes of use associated with the router's IP address would be the same as the minutes of use associated with the customer's telephone number.

modifications to its existing operations, without any corresponding benefit to its users.

Accordingly, it is in the public interest for the Commission to grant ANI waiver of its rules so that it can continue to provide this service, despite the fact that it is unable to provide all of the data otherwise required for reimbursement by the TRS Fund.

**Conclusion**

American Network, Inc. hereby requests waiver of the Commission's rules so that it can continue to provide the IP-based TRS services it offers today. The public interest would be better served by the Commission's grant of a rule waiver than requiring ANI to make costly modifications to the manner in which it provides services. Waiver of the rules will not dilute the Commission's ability to administer IP TRS services.

Respectfully submitted,

*/s/ Russell H. Fox*

Russell H. Fox  
Jennifer A. Cukier  
Mintz, Levin, Cohn, Ferris,  
Glovsky and Popeo, P.C.  
701 Pennsylvania Avenue N.W.  
Suite 900  
Washington, D.C. 20004  
Tel: (202) 434-7300  
Fax: (202) 434-7400  
rfox@mintz.com  
jacukier@mintz.com  
*Counsel for American Network, Inc.*

Dated: May 24, 2011