



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

***TELECOMMUNICATIONS RELAY SERVICE
State Recertification Application
Commonwealth of Massachusetts
October 4, 2012***

Submitted to:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Submitted by:

Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

In consultation with:

State 911 Department
1380 Bay Street
Taunton, MA 02780

Hamilton Relay, Inc.
1001 Twelfth Street
Aurora, NE 68818

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 - Document 6: MassRelay, Hearing Carry Over (HCO)
 - Document 7: MassRelay, Voice Carry Over (VCO)
 - Document 8: MassRelay, Servicios de relevo telefonico
 - Document 9: MassRelay, See what they say with Captioned Telephone

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Document 10: MassRelay, Relay Friendly Business, Please don't hang up on me, small print

Document 11: MassRelay, Relay Friendly Business, Please don't hang up on me, large print

Document 12: MassRelay, Relay Friendly Business, Protect your business

Document 13: Hamilton Relay, Now it's your call ... anytime, anywhere with MassRelay Service

Document 14: Hamilton Relay, Important Information Regarding MassRelay

5. *Order, Docket No. D.T.C. 07-4, Petition of Verizon New England d/b/a/ Verizon Massachusetts for approval of its Request for Proposals to Provide Dual-Party Relay Service in Massachusetts* (Nov. 13, 2007).
6. *Verizon RFP # R0703826 For Massachusetts TRS Program, Docket No. D.T.C. 07-4, Petition of Verizon New England d/b/a/ Verizon Massachusetts for approval of its Request for Proposals to Provide Dual-Party Relay Service in Massachusetts*, Nov. 19, 2007 (Stamp-Approval by MDTC on Nov. 15, 2007).
7. *CTS RFP, Docket No. D.T.C. 09-10, Petition of the State 911 Department for approval of Request for Response to Procure Services of Captioned Telephone Relay Service Provider*, Dec. 17, 2009 (Stamp-Approval by MDTC on Feb. 25, 2010).
8. *Order, Docket No. D.T.C. 12-3, Petition of the State 911 Department for Approval of Fiscal Year 2012 Expenditures* (May 30, 2012).
9. *Order, Docket No. D.T.C. 11-2, Petition of the State 911 Department for Approval of Fiscal Year 2012 Incentive Grant Regional Emergency Communications Center Category Amount; State 911 Department Emergency Medical Dispatch Grant; and Fiscal Year 2011 Expenditures* (May 27, 2011).
10. *Order on Motion for Entry of Order According to the Terms as Stipulated by the Parties and Set Forth Herein, Docket No. D.P.U./D.T.E. 96-118, Petition of Cape Organization for the Rights of the Disabled, Northeast Independent Living Program, Stavros Center for Independent Living, Western Massachusetts Association for the Deaf and Hearing Impaired, and over twenty (20) customers of MCI Telecommunications Corporation as Telecommunications Relay Service provider, regarding alleged substandard services that are being provided, pursuant to G.L. c. 159, §§ 12(d), 16 and 24* (Apr. 8, 1998).

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I. Introduction

Pursuant to the Public Notice released by the Federal Communications Commission (FCC) on July 25, 2012,¹ the Massachusetts Department of Telecommunications and Cable (MDTC) respectfully submits this fourth application for renewal of the certification of the Massachusetts Telecommunications Relay Service (TRS) program, called MassRelay. FCC approval of the MDTC's application would extend Massachusetts' current certification for an additional five years until approximately July 26, 2018.

The FCC should approve Massachusetts' application because MassRelay meets all federal requirements. In particular:

1. The Massachusetts TRS program meets or exceeds all federal operational, technical, and functions minimum standards contained in § 64.604;
2. The Massachusetts TRS program makes available adequate procedures and remedies for enforcing the requirements of the state program; and
3. Where the requirements of the Massachusetts TRS program exceed the mandatory minimum federal standards contained in § 64.604, these requirements in no way conflict with federal law.

The MDTC's recertification application narrative and materials explain in detail how the Massachusetts TRS program complies with these requirements.

The MDTC prepared this application and accompanying documentation with the assistance of Hamilton Relay, the current TRS provider in Massachusetts,² and the State 911 Department, the TRS Administrator.

II. MassRelay Service Summary

Consistent with federal requirements,³ MassRelay provides traditional (text telephone, or "TTY," based) TRS, interstate Spanish language traditional TRS, and Speech-to-Speech relay (STS) service. MassRelay also offers captioned telephone relay service (CTS). MassRelay does not provide Video Relay Service (VRS) or Internet Relay service.

¹ *Consumer and Governmental Affairs Bureau Reminds State Telecommunications Relay Service Programs to Seek Recertification*, CG Docket No. 03-123, Public Notice, DA 12-1187 (rel. Jul. 25, 2012) (*Recertification Public Notice*).

² See MDTC Letter to FCC, *Notification of Substantive Change in Massachusetts' TRS Program*, CG Docket No. 03-123 (Sept. 11, 2008).

³ *Recertification Public Notice* at 2; 47 C.F.R. § 64.603.

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III. MassRelay Contract Status

The State 911 Department is the Administrator of the MassRelay program.⁴ Hamilton Relay is currently under contract with the State 911 Department to provide relay services in the state for MassRelay (both TRS and CTS). Both of these contracts were awarded after a competitive bidding process, and both expire on June 30, 2013. State law requires MDTC review and approval of any requests for proposals (RFPs) seeking competitive bids for relay services issued by the State 911 Department.⁵ The State 911 Department anticipates filing its RFPs with the MDTC shortly, in order for TRS and CTS services to be provided by MassRelay after June 30, 2013. Should the State 911 Department select a new MassRelay provider, the MDTC will notify the FCC of this change, consistent with federal requirements.⁶

The MDTC's process for review and approval of RFPs includes issuing a request for comment and conducting a public hearing through a formal, docketed proceeding. The MDTC approved the prior TRS and CTS RFPs through MDTC Docket Nos. 07-4 and 09-10. The attached supplemental materials include documentation from these proceedings.⁷

IV. Method of Funding

Massachusetts General Laws (M.G.L.) Chapter 6A, Section 18H, establishes the state funding mechanism for MassRelay.⁸ State law imposes a surcharge on each subscriber or end user whose communications services are capable of accessing and utilizing an enhanced 911 system and mandates that those revenues be expended for the administration and programs of the State 911 Department including, but not limited to, the TRS programs mandated by M.G.L. Chapter 166, Section 15E.⁹ State law grants certain authority to both the State 911 Department and the MDTC over the expenditures of the surcharge revenues.¹⁰

The attached supplemental materials include documentation involving the MDTC's approval of the State 911 Department's expenditures.¹¹

⁴ The State 911 Department took over this function from Verizon Massachusetts (Verizon) in 2008 after changes in state law and assumed the contract that Verizon had with Hamilton Relay in 2009.

⁵ MASS. GEN. LAWS ch. 166, § 15E(e).

⁶ See 47 C.F.R. § 64.606(f)(1).

⁷ See Order, Docket No. D.T.C. 07-4, *Petition of Verizon New England d/b/a/ Verizon Massachusetts for approval of its Request for Proposals to Provide Dual-Party Relay Service in Massachusetts* (Nov. 13, 2007); *Verizon RFP # R0703826 For Massachusetts TRS Program*, Docket No. D.T.C. 07-4, *Petition of Verizon New England d/b/a/ Verizon Massachusetts for approval of its Request for Proposals to Provide Dual-Party Relay Service in Massachusetts*, Nov. 19, 2007 (Stamp-Approval by MDTC on Nov. 15, 2007); *CTS RFP*, Docket No. D.T.C. 09-10, *Petition of the State 911 Department for approval of Request for Response to Procure Services of Captioned Telephone Relay Service Provider*, Dec. 17, 2009 (Stamp-Approval by MDTC on Feb. 25, 2010).

⁸ See MASS. GEN. LAWS ch. 6A, §§ 18(H)(a) and (d).

⁹ *Id.*

¹⁰ See generally MASS. GEN. LAWS ch. 6A, § 18(B).

¹¹ See Order, Docket No. D.T.C. 12-3, *Petition of the State 911 Department for Approval of Fiscal Year 2012 Expenditures* (May 30, 2012); Order, Docket No. D.T.C. 11-2, *Petition of the State 911 Department for Approval of Fiscal Year 2012 Incentive Grant Regional Emergency Communications Center Category Amount; State 911 Department Emergency Medical Dispatch Grant; and Fiscal Year 2011 Expenditures* (May 27, 2011).

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V. The State Program Meets or Exceeds All Federal Minimum Standards.

A state desiring certification of its TRS program must establish that the state program meets or exceeds all operational, technical, and functional minimum standards contained in 47 C.F.R. § 64.604.¹² State law delegates general oversight of the Massachusetts TRS program to the MDTC.¹³ This oversight includes enforcement of any federal minimum standards, which the MDTC has accomplished primarily through MassRelay program monitoring, as well as through the RFP and budgetary process involving the program conducted over the last several years.¹⁴ Should assertions arise as to violations of the federal requirements by the MassRelay provider, then the MDTC would appropriately address those assertions consistent with its enforcement authority.¹⁵ The attached narrative and accompanying documentation prepared by Hamilton Relay details how the Massachusetts TRS program complies with these requirements.¹⁶ As a result, MassRelay meets or exceeds all federal operational, technical, and functional minimum standards.

VI. Adequate Procedures and Remedies Exist for Enforcement of the State Program Requirements.

A state desiring certification of its TRS program must also establish that the state program makes available adequate procedures and remedies for enforcing the state program, including that it makes available to TRS users informational materials on complaint procedures sufficient for users to know the proper procedures for filing complaints.¹⁷ M.G.L. Chapter 166, Section 15E, sets forth the statutory requirements for TRS in Massachusetts.¹⁸ This provision specifically

¹² See 47 C.F.R. 64.606(b)(1)(i).

¹³ MASS. GEN. LAWS ch. 166, § 15E(f) (establishing that the MDTC “in accordance with its certification by the FCC shall have general oversight over all aspects of the provision of the [specialized, customer-premises equipment] SCPE and TRS programs Such oversight shall include, but shall not be limited to, authority over the rates, terms, and conditions, service quality, and enforcement of federal minimum standards for the provision of such services”).

¹⁴ See discussion *supra* at 2.

¹⁵ See, e.g., *Order on Motion for Entry of Order According to the Terms as Stipulated by the Parties and Set Forth Herein*, Docket No. D.P.U./D.T.E. 96-118, *Petition of Cape Organization for the Rights of the Disabled, Northeast Independent Living Program, Stavros Center for Independent Living, Western Massachusetts Association for the Deaf and Hearing Impaired, and over twenty (20) customers of MCI Telecommunications Corporation as Telecommunications Relay Service provider, regarding alleged substandard services that are being provided, pursuant to G.L. c. 159, §§ 12(d), 16 and 24* (Apr. 8, 1998) (*D.P.U./D.T.E. 96-118 Order*).

¹⁶ See *Supplemental Materials Prepared by Hamilton Relay in Consultation with the MDTC and the State 911 Department (Supplemental Materials Prepared by Hamilton Relay)*.

¹⁷ See 47 C.F.R. 64.606(b)(1)(ii).

¹⁸ MASS. GEN. LAWS ch. 166, § 15E. The relevant provisions state:

(b) The [State 911 Department] shall provide and maintain a [specialized, customer-premises equipment] SCPE distribution service, and shall make such services available to any residential subscriber who is: (i) certified by the Massachusetts commission on the deaf and hard of hearing as sufficiently deaf or hard of hearing to be in need of SCPE equipment; (ii) certified by the Massachusetts commission for the blind as sufficiently visually impaired to be in need of SCPE equipment; or (iii) certified by the Massachusetts rehabilitation commission as otherwise sufficiently disabled to be in need of SCPE equipment. Each commission may designate the [State 911 Department] to administer the certification process required under this section. The [State 911 Department], upon the request of a certified subscriber, shall provide SCPE equipment to the requesting subscriber. The SCPE distribution service shall include the reasonable distribution and replacement of SCPE equipment free of charge, to certified subscribers subject to

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delegates general oversight and enforcement of the Massachusetts TRS program to the MDTC, which the MDTC accomplishes through various measures.¹⁹ This authority complements the MDTC's general jurisdictional and enforcement authority over all telecommunications common carriers operating within the Commonwealth.²⁰ In addition, MassRelay makes available to TRS users informational materials on complaint procedures sufficient for users to know the proper procedures for filing complaints. Not only may TRS users contact MassRelay directly with complaints, they may also file or escalate complaints to the MDTC's Consumer Division.²¹ The attached supplemental materials further detail how the Massachusetts TRS program complies with these consumer complaint requirements.²² Finally, the contract entered into between the State 911 Department and the MassRelay provider requires that all state and federal laws be complied with. Failure to do so by the MassRelay provider would be a breach-of-contract for which the State 911 Department could terminate the agreement and seek such other remedies as may be available by law. As a result, Massachusetts makes available adequate procedures and remedies for enforcement of the state program requirements.

VII. Where the State Program Exceeds the Federal Minimum Standards, It Does Not Conflict with Federal Law.

Finally, where a state program exceeds the mandatory minimum federal standards contained in 47 C.F.R. § 64.604, the state must establish that its program in no way conflicts with federal law.²³ The attached narrative and accompanying documentation prepared by Hamilton Relay discusses how the Massachusetts TRS program requirements meet or exceed the federal

this subsection and subsection (c). Such service shall be provided free of charge, or at reduced rates if the [MDTC] first certifies that the requesting subscriber is unable to afford SCPE equipment at its full cost.

(c) Prior to the implementation of services under subsection (b), the [State 911 Department] and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the [MDTC's] review and approval seeking competitive bids from qualified vendors to provide such services. Communications services providers shall be permitted to submit a competitive bid to provide the aforementioned services.

(d) The [State 911 Department] shall encourage prospective vendors of [TRS] to provide such service from a center located within the commonwealth using residents of the commonwealth as employees of such center. Preference in employment at such center shall be given to people with disabilities as defined by this section. Specialty types of TRS shall not be required to be provided from a telecommunications service center located in the commonwealth.

(e) The [State 911 Department] and the Massachusetts commission for the deaf and hard of hearing shall review the services specified in subsection (d) and make recommendations to the [MDTC] as to whether it conforms with the provisions herein. Prior to the implementation of such services, the [State 911 Department] and the Massachusetts commission on the deaf and hard of hearing shall issue a request for proposals subject to the [MDTC's] review and approval seeking competitive bids from qualified vendors to provide the aforementioned services.

¹⁹ *Supra* at 3 and n.13.

²⁰ The MDTC is the exclusive state regulator of telecommunications and cable services within the Commonwealth of Massachusetts. See MASS. GEN. LAWS ch. 25C, § 1; MASS. GEN. LAWS ch. 159, §§ 12(d), 16, and 24.

²¹ See MassRelay Contact Page, available at: <http://www.mass.gov/eopss/agencies/massrelay/contact-us.html> (last viewed Sept. 14, 2012); MDTC Consumer Division Complaint Page, available at: <http://www.mass.gov/ocabr/government/oca-agencies/dtc-lp/consumer-dtc/file-a-complaint.html> (last viewed Sept. 14, 2012).

²² See *Supplemental Materials Prepared by Hamilton Relay*; Outreach and Promotional Materials.

²³ See 47 C.F.R. 64.606(b)(1)(iii).

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standards.²⁴ In particular, since 1998, TRS providers in Massachusetts have been contractually liable for liquidated damages for failure to meet established service quality standards.²⁵ The attached supplemental materials provide additional information on the service quality testing metrics.²⁶

VIII. Conclusion

MassRelay meets all federal requirements for recertification. Specifically: (1) the program meets or exceeds all federal operational, technical, and functions minimum standards contained in § 64.604; (2) the program makes available adequate procedures and remedies for enforcing the requirements of the state program; and (3) where the requirements of the program exceed the mandatory minimum federal standards contained in § 64.604, these requirements in no way conflict with federal law. Therefore, the FCC should approve the MDTC's recertification application for Massachusetts.

²⁴ See Supplemental Materials Prepared by Hamilton Relay.

²⁵ See, e.g., D.P.U./D.T.E. 96-118 Order.

²⁶ See Supplemental Materials Prepared by Hamilton Relay.