

Before the
Federal Communications Commission
Washington, D.C. 20554

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

ORDER

Adopted: June 30, 2011

Released: June 30, 2011

By the Chief, Consumer and Governmental Affairs Bureau, and Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this *Order*, the Consumer & Governmental Affairs Bureau and the Wireline Competition Bureau extend the waivers of certain telecommunications relay services (TRS)¹ mandatory minimum standards for video relay service (VRS)² and Internet Protocol (IP) Relay Service³ that will expire on July 1, 2011, pursuant to the *2010 TRS Waiver Order*.⁴ Specifically, we extend the waivers for

¹ TRS was created by Title IV of the Americans with Disabilities Act of 1990 (ADA). Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990); 47 U.S.C. § 225. TRS enables a person with a hearing or speech disability to access the nation’s telephone system to communicate with voice telephone users through a relay provider and a communications assistant (CA). A CA relays the call back and forth (*e.g.*, from text to voice, and voice to text) between the calling party and called party. *See* 47 U.S.C. § 225(a)(3) (defining TRS); 47 C.F.R. § 64.601(21). The TRS mandatory minimum standards govern the provision of relay service. *See* 47 C.F.R. § 64.604.

² VRS is a form of TRS that that enables the VRS user and the CA to communicate in sign language via a video link, rather than through text. VRS presently requires a broadband Internet connection. *See generally Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, 5152-54, at ¶¶ 21-27 (March 6, 2000) (*2000 TRS Report & Order*) (recognizing VRS as a form of TRS); 47 C.F.R. § 64.601(26) (defining VRS).

³ IP Relay is a form of TRS that permits individuals with hearing or speech disabilities to communicate in text messages via a computer (or other similar device), rather than with a teletypewriter (TTY) over the public switched telephone network (PSTN). *See Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (April 22, 2002) (*IP Relay Declaratory Ruling & Second FNPRM*) (recognizing IP Relay as a form of TRS); 47 C.F.R. § 64.601(13) (defining IP Relay).

⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, E911 Requirements for IP-Enabled Service Providers, WC Docket No. 05-196, Order, 25 FCC Rcd 8437 (2010) (*2010 TRS Waiver Order*). The Commission has granted the waivers addressed in this proceeding since the inception of VRS in 2000, and of IP Relay in 2002. *See e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98-67, 17 FCC Rcd 157 (2001) (waiving certain requirements for VRS in response to Hamilton and Sprint’s

one year until July 1, 2012, conditioned upon the filing of a status report due April 16, 2012, detailing the progress made in complying with the requirement to provide the following services: (1) one-line Voice Carry Over (VCO), VCO-to-TTY, and VCO-to-VCO;⁵ (2) one-line Hearing Carry Over (HCO), HCO-to-TTY, and HCO-to-HCO;⁶ (3) call release;⁷ (4) pay-per-call (900) calls;⁸ (5) types of calls;⁹ (6) equal access to interexchange carriers;¹⁰ and (7) Speech-to-Speech (STS).¹¹

2. In addition, we extend the waiver of certain mandatory minimum standards for default Internet-based TRS providers that are unable to meet such standards for newly-registered Internet-based TRS users who port their customer premises equipment (CPE) from a former default provider.¹² Specifically such waiver is needed when the new default provider does not have access to the technical information about the new user's CPE that would be needed to comply with these standards.¹³ As discussed below, the Commission issued a year-long waiver of these requirements in its December 2008 *Second Internet-based TRS Order*,¹⁴ which was extended in the *2009 TRS Waiver Order*¹⁵ and

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requests for waivers) and *IP Relay Declaratory Ruling*, 17 FCC Rcd 7779, at 7790-91 ¶¶ 31-32 (sua sponte waiving certain requirements) In the coming year, the Commission intends to conduct a rulemaking proceeding to take a more in depth look at the merits of continuing or eliminating these waivers.

⁵ See 47 C.F.R. § 64.604(a)(3)(v).

⁶ See *id.*

⁷ See 47 C.F.R. § 64.604(a)(3)(vi).

⁸ See 47 C.F.R. § 64.604(a)(3)(iv).

⁹ See 47 C.F.R. § 64.604(a)(3). The requirement has been waived for IP Relay as long as providers allow calls to be placed using calling cards and/or provide free long distance calls. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123 Order, 23 FCC Rcd at 18338, ¶ 12 n. 40 (*2008 TRS Waiver Order*). See also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, E911 Requirements for IP-Enabled Service Providers, WC Docket No. 05-196, Order, 24 FCC Rcd at 14726, ¶ 15 (*2009 TRS Waiver Order*).

¹⁰ See 47 C.F.R. § 64.604(b)(3). The requirement has been waived indefinitely for IP Relay. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 90-571 & 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, at 12594 (Appendix E: Summary of IP Relay and VRS waivers) (June 30, 2004) (*2004 TRS Report & Order*).

¹¹ See *2000 TRS Report & Order*, 15 FCC Rcd at 5148-51, ¶¶ 14-20 See also 47 C.F.R. § 64.601(19) (defining STS). The requirement has been waived indefinitely for VRS. See *2004 TRS Report & Order*, 19 FCC Rcd at 12594 (Appendix E: Summary of IP Relay and VRS waivers).

¹² See, e.g., 47 C.F.R. §§ 64.604(a)(3); 64.605. We note that the Commission raised relevant issues concerning standards for videophone equipment supplied by VRS providers in its June 28, 2010 Notice of Inquiry. See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Notice of Inquiry, 25 FCC Rcd 8597, 8609, ¶¶ 34-35 (2010) (*VRS Structure and Practices NOI*).

¹³ See, e.g., 47 C.F.R. §§ 64.604(a)(3); 64.605.

¹⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, 822, ¶ 68 (2008) (*Second Internet-based TRS Order*).

¹⁵ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 24 FCC Rcd 14721, 14722, ¶ 2 (2009) (*2009 TRS Waiver Order*) (extending waivers until July 1, 2010).

subsequently extended for a year in the *2010 TRS Waiver Order*.¹⁶ Similar to the other extensions addressed in this *Order*, we grant this extension until July 1, 2012, or until the Commission addresses pending petitions regarding CPE portability, whichever comes first.¹⁷

II. BACKGROUND

3. The Commission's TRS regulations set forth operational, technical, and functional mandatory minimum standards applicable to the provision of TRS.¹⁸ To be eligible for compensation from the Interstate TRS Fund, a TRS provider must offer service in compliance with all applicable mandatory minimum standards, unless they are waived.¹⁹ 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.²⁰

4. Most recently, in the *2010 TRS Waiver Order*, the Commission extended certain waivers until July 1, 2011.²¹ These waivers were conditioned on the continued filing of annual reports, which were due April 16, 2011, addressing whether it is necessary for the waivers to remain in effect.²² In compliance with this directive, providers of VRS and IP Relay filed reports detailing their progress in meeting the waived requirements.²³ On May 19, 2011 Hamilton Relay filed a petition for extension of the existing waivers because the material facts that gave rise to the grant of such waivers in the *2010 TRS Waiver Order* continue to govern the VRS and IP Relay service industry.²⁴ As Hamilton asserts, the

¹⁶ *2010 TRS Waiver Order*, 25 FCC Rcd at 8438, ¶ 2.

¹⁷ As noted in the *2009 TRS Order*, several petitions have been filed by the Internet-based TRS industry regarding CPE portability. See *2009 TRS Order*, 24 FCC Rcd at 14722, n.10.

¹⁸ See 47 C.F.R. § 64.604.

¹⁹ See, e.g., *2000 TRS Report & Order*, 15 FCC Rcd at 5158, ¶ 39. The Interstate TRS Fund compensates relay providers for their reasonable costs of providing interstate TRS services and, presently, for Internet-based forms of TRS, including VRS and IP Relay. See generally *2004 TRS Report & Order*, 19 FCC Rcd at 12482-83, ¶¶ 7-8.

²⁰ These orders are cited below in our discussion of each waived mandatory minimum standard. See also *2010 TRS Waiver Order*, 25 FCC Rcd at 8440-44, ¶¶ 7-20 (addressing waivers of the VCO, HCO, call release, pay-per-call, types of calls, equal access to exchange carriers, STS, and speed dialing requirements, respectively).

²¹ *Id.* at 8437, ¶ 1 (extending for one year the waivers of the one-line VCO, VCO-to-TTY, and VCO-to-VCO; one-line HCO, HCO-to-TTY, and HCO-to-HCO; call release; pay-per-call (900) calls; types of calls; equal access to interexchange carrier; and STS requirements).

²² *Id.*

²³ See American Network, Inc., Waiver Status Report of American Network, Inc. (Apr. 18, 2011) (ANI Report); AT&T 2011 Annual Report on TRS Waivers (Apr. 18, 2011) (AT&T Report); CSDVRS, LLC, Annual Report on Waivers by CSDVRS, LLC (filed under CG Docket No. 10-51) (Apr. 8, 2011) (CSDVRS Report); Hamilton Relay, Inc., 2011 Annual Report to FCC Concerning Internet Relay, VRS and IP CTS (Apr. 8, 2011) (Hamilton Report); Purple Communications, Inc., Annual Report on Progress of Meeting Waived Requirements (Apr. 15, 2011) (Purple Report); Snap Telecommunications, Inc., Annual Report on Progress Toward Meeting Waived Requirements (May 31, 2011) (Snap Report); Sorenson Communications, Inc., Minimum Standards Waiver Report (Apr. 18, 2011) (Sorenson Report); Sprint Nextel Corporation, 2011 Annual Telephone Relay Services Report (Apr. 15, 2011) (Sprint Report).

²⁴ See Hamilton Relay, Inc., Request for Extension of Various iTRS Waivers, CG Docket No. 03-123 (filed May 19, 2011) (*Hamilton Extension Request*). We note that Hamilton requests, in its petition, that the Commission take action in addressing the request filed by several providers on November 19, 2009 to clarify the VRS and IP Relay waivers. See 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*,

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Commission has granted these waivers in the past because compliance with the underlying requirements is technologically infeasible due to the nature of the Internet platform used by VRS and IP Relay providers.²⁵ Hamilton Relay therefore requests that the Bureau extend the waivers until July 1, 2012, or until such time the Commission has addressed the pending Provider Extension Request.²⁶

5. Also, the Commission, in its *First Internet-based TRS Order*, adopted a uniform system for assigning users of Internet-based TRS ten-digit numbers that are linked to the North American Numbering Plan (NANP).²⁷ Consistent with Commission rules, Internet-based TRS providers were obligated to comply with existing mandatory minimum standards under the new numbering regime.²⁸ In the *Second Internet-based TRS Order*, the Commission waived certain rules for default providers that were unable to meet such standards. Specifically, a waiver was granted from the requirement to provide certain functionalities for newly-registered Internet-based TRS users who want to continue using CPE from their former default provider (*i.e.*, port their equipment to a new default provider); this waiver was extended for six months in the *2009 TRS Waiver Order*²⁹ and subsequently extended for a year in the *2010 TRS Waiver Order*.³⁰ The waiver applies in cases where the new default provider does not have access to the technical information about the CPE that would be necessary in order to provide service in compliance with the standards.³¹ Such standards include operational requirements,³² emergency handling requirements,³³ and point-to-point calling as clarified in the *Second Internet-based TRS Order*.³⁴

6. The Commission held that the above waiver was necessary and in the public interest “so that Internet-based TRS providers may focus on ensuring that ten-digit numbering and E911 services function smoothly at this time of transition to the new ten-digit dialing system.”³⁵ The Commission further held that the waiver had no effect on the requirement that all Internet-based TRS providers share necessary information to provide service to customers who port their numbers in from other providers.³⁶ The Commission encouraged Internet-based TRS providers to work together to develop standards to

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CG Docket No. 03-123 (filed Nov. 19, 2009) (*Provider Extension Request*). As noted above, ¶4, *supra*, the Commission plans on addressing this request in a future proceeding.

²⁵ *Hamilton Extension Request* at 2.

²⁶ *Hamilton Extension Request* at 1-2.

²⁷ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11592-93, ¶ 1 (June 24, 2008) (*First Internet-based TRS Order*).

²⁸ *Id.* at 11593, ¶ 2.

²⁹ *2009 TRS Waiver Order*, 24 FCC Rcd at 14728, ¶ 21.

³⁰ *2010 TRS Waiver Order*, 25 FCC Rcd at 8438, ¶ 2.

³¹ See *Second Internet-based TRS Order*, 24 FCC Rcd at 822, ¶ 68, n.236 (citing 47 C.F.R. §§ 64.604(a)(3); 64.605).

³² 47 C.F.R. §64.604(a)(3).

³³ 47 C.F.R. §64.605

³⁴ See 47 C.F.R. §§ 64.604(a)(3); 64.605; see also *Second Internet-based TRS Order*, 24 FCC Rcd at 820, ¶ 65 (stating, “we clarify that all default providers must support the ability of VRS users to make point-to-point calls without the intervention of an interpreter. Second, we clarify that *all* providers must ensure that their devices are capable of making calls after a change in default provider, including point-to-point calls to other VRS users”).

³⁵ See *Second Internet-based TRS Order*, 24 FCC Rcd at 822, ¶ 68.

³⁶ *Id.*

comply with our rules.³⁷ In the *2009 TRS Waiver Order*, the Commission held that an extension of the waiver was in the public interest to allow time for the industry to develop standards for Internet-based TRS providers so they could comply with all mandatory minimum standards regardless of the type of CPE.³⁸

III. DISCUSSION

7. Generally, the Commission's rules may be waived for good cause shown.³⁹ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁴⁰ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁴¹ Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.⁴² After reviewing the submissions in this record, we find good cause to again grant the following waivers.

A. Waivers of TRS Mandatory Minimum Standards for VRS and IP Relay

8. *One-line VCO, VCO-to-TTY, and VCO-to-VCO.* One-line VCO is a type of traditional TTY-based TRS that can be used by persons with a hearing disability but who can speak.⁴³ The VCO user speaks directly to the other party to the call, and the CA types the response back so the VCO user can read it in text. As a result, the CA does not voice any part of the conversation. The Commission waived the requirement for IP Relay providers to provide one-line VCO because the voice leg of a VCO call could not be supported over the Internet with the necessary call quality.⁴⁴ The Commission similarly waived this requirement for VRS.⁴⁵ A VCO-to-TTY call allows a relay conversation to take place

³⁷ *Id.*

³⁸ *2009 TRS Waiver Order*, 24 FCC Rcd at 14729, ¶ 22.

³⁹ 47 C.F.R. § 1.3 (“Any provision of the rules may be waived by the Commission on its own motion . . . if good cause therefore is shown”).

⁴⁰ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁴¹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁴² *Northeast Cellular*, 897 F.2d at 1166.

⁴³ See 64 C.F.R. § 64.601(27); 47 C.F.R. § 64.604(a)(3)(v). We note that the Commission has not waived the requirement that VRS and IP Relay providers provide two-line VCO. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, CG Docket No. 03-123, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd 12379, 12404-05, at ¶¶ 35-36 (2003) (*2003 TRS Report & Order*).

⁴⁴ *2010 TRS Waiver Order*, 25 FCC Rcd at 8441, ¶ 8 (extending waiver until July 1, 2011); see also *IP Relay Declaratory Ruling & Second FNPRM*, 17 FCC Rcd at 7789-90, ¶ 32 (waiving VCO requirement for IP Relay); *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order on Reconsideration, CC Docket 98-67, 18 FCC Rcd 4761, 4766-68, at ¶¶ 13-18 (2003) (*IP Relay Order on Reconsideration*) (extending waiver until January 1, 2008); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 22 FCC Rcd 21869 (2007) (*2007 TRS Wavier Order*) (extending waiver until January 1, 2009); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 23 FCC Rcd 18334, 18336, ¶ 5 (2008) (*2008 TRS Waiver Order*) (extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14725, ¶ 8 (extending waiver until July 1, 2010).

⁴⁵ *Id.*; see also *2004 TRS Report & Order*, 19 FCC Rcd at 12527, ¶ 135 (waiving VCO requirement for VRS until January 1, 2008); *2007 TRS Waiver Order*, 22 FCC Rcd at 21872, ¶ 7 (extending waiver until January 1, 2009);

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between a VCO user and a TTY user; a VCO-to-VCO call allows a relay conversation to take place between two VCO users.⁴⁶ Consistent with its treatment of the VCO requirement, the Commission waived the requirement to provide VCO-to-TTY and VCO-to-VCO calls for VRS and IP Relay.⁴⁷

9. We find good cause to extend the waivers of these requirements for one year. We note that the most recent annual waiver reports reflect that although the quality of voice component of the Internet continues to improve, VRS and IP Relay providers cannot adequately provide these services because the technology is not universally available that would enable providers to simultaneously process voice and data information on the same Internet connection in order to provide a reliable one-line VCO service.⁴⁸ Hamilton, for example, asserts that there is no commercial off-the-shelf technical solution available that would allow providers to meet this requirement.⁴⁹ Hamilton also points out that two-line VCO and HCO services are currently being offered as a workaround for this technological shortcoming.⁵⁰ We find that the parties' assertions in the record are sufficient to demonstrate good cause to grant this waiver. These waivers are again conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waivers to remain in effect, and whether a technical fix is imminent.⁵¹

10. *One-line HCO, HCO-to-TTY, and HCO-to-HCO.* One-line HCO is a type of traditional TTY-based TRS that can be used by persons with a speech disability but who can hear.⁵² The HCO user types what he or she wishes to say to the called party, and the CA voices what the HCO user has typed. The HCO user then listens to what the called party says in response. As a result, the CA does not type any part of the conversation. For the same reason that the Commission waived the VCO requirement for IP Relay, it did so with respect to the HCO requirement.⁵³ The Commission similarly waived this requirement for VRS.⁵⁴ An HCO-to-TTY call allows a relay conversation to take place between an HCO

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2008 TRS Waiver Order, 23 FCC Rcd at 18336, ¶ 5 (extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14725, ¶ 7 (extending waiver until July 1, 2010).

⁴⁶ *2003 TRS Report & Order*, 18 FCC Rcd at 12403-04, ¶¶ 33-34.

⁴⁷ *2010 TRS Waiver Order*, 25 FCC Rcd at 14725, ¶ 8; *see also 2003 TRS Report & Order*, 18 FCC Rcd at 12404-05, ¶ 36 (waiving VCO-to-TTY and VCO-to-VCO requirement for VRS and IP Relay until January 1, 2008); *2007 TRS Waiver Order*, 22 FCC Rcd at 21872, ¶ 7 (extending waiver until January 1, 2009); *2008 TRS Waiver Order*, 23 FCC Rcd at 18337, ¶ 7 (extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14725, ¶ 8 (extending waiver until July 1, 2010).

⁴⁸ *See* AT&T Report at 2; CSDVRS Report at 3; Hamilton Report at 4-5; Purple Report at 2-3; Snap Report at 6-7; Sprint Report at 2-3, 6-7.

⁴⁹ Hamilton Report at 4.

⁵⁰ Hamilton Report at 4, 5.

⁵¹ *See* ¶ 4, *supra*.

⁵² *See* 64 CFR § 64.604(9); 47 C.F.R. § 64.604(a)(3)(v). We note that the Commission has not waived the requirement that VRS and IP Relay providers provide two-line HCO. *See 2003 TRS Report & Order*, 18 FCC Rcd at 12404-05, ¶¶ 35-36; note 16, *supra*.

⁵³ *2010 TRS Waiver Order*, 25 FCC Rcd at 14725, ¶ 8 (extending waiver until July 1, 2011); *2009 TRS Waiver Order*, 24 FCC Rcd at 14725, ¶ 10; *see also IP Relay Order on Reconsideration*, 18 FCC Rcd at 4767-68, ¶¶ 15-18 (waiving HCO requirement for IP Relay until January 1, 2008); *2007 TRS Waiver Order*, 22 FCC Rcd at 21872, ¶ 8 (extending waiver until January 1, 2009); *2008 TRS Waiver Order*, 23 FCC Rcd at 18337, ¶ 7 (extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14725, ¶ 10 (extending waiver until July 1, 2010)..

⁵⁴ *Id.*; *see also 2004 TRS Report & Order*, 19 FCC Rcd at 12527, para 135 (waiving HCO requirement for VRS until January 1, 2008); *2007 TRS Waiver Order*, 22 FCC Rcd at 21872, ¶ 9 (extending waiver until January 1, 2009); *2008 TRS Waiver Order*, 23 FCC Rcd at 18337, ¶ 7, (extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14725, ¶ 10 (extending waiver until July 1, 2010).

user and a TTY user; an HCO-to-HCO call allows a relay conversation to take place between two HCO users.⁵⁵ Consistent with its treatment of the HCO requirement, the Commission waived the requirement to provide HCO-to-TTY and HCO-to-HCO calls for VRS and IP Relay.⁵⁶

11. Consistent with our treatment of one-line VCO, VCO-to-TTY, and VCO-to-VCO, and in light of the same technical barriers confronting providers with respect to those waivers, we find good cause to extend the waivers of requirements pertaining to one-line HCO, HCO-to-TTY, and HCO-to-HCO for an additional year. According to their recent annual waiver reports, VRS and IP Relay providers cannot provide these services because of the same technological shortcomings that are present with VCO functions.⁵⁷ These waivers are also conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waivers to remain in effect.⁵⁸

12. *Call Release.* Call release allows a CA to set up a TTY-to-TTY call that, once established, does not require the CA to relay the conversation.⁵⁹ In other words, this feature allows the CA to sign-off or be “released” from the telephone line, without triggering a disconnection between two TTY users, after the CA connects the originating TTY caller to the called party’s TTY through, e.g., a business switchboard. The Commission waived this requirement for VRS and IP Relay.⁶⁰

13. We find good cause to extend the waiver of this requirement for one year due to technological infeasibility. This conclusion is supported by the providers’ annual waiver reports, which reflect that the Internet leg of the call (via video or text) cannot support call release functionality.⁶¹ This waiver is also conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waiver to remain in effect.⁶²

14. *Pay-Per-Call (900) calls.* Pay-per-call (900) calls are calls wherein the caller pays for the call at a charge greater than the basic cost of the call.⁶³ The Commission waived this requirement for VRS and IP Relay.⁶⁴

⁵⁵ 2003 TRS Report & Order, 18 FCC Rcd at 12403, ¶¶ 31-32.

⁵⁶ *Id.* at 12404-05, ¶ 36 (waiving HCO-to-TTY and HCO-to-HCO requirement for VRS and IP Relay until January 1, 2009); 2008 TRS Waiver Order, 23 FCC Rcd at 18337, ¶ 7, (extending waiver until January 1, 2010); 2009 TRS Waiver Order, 24 FCC Rcd at 14725, ¶ 10 (extending waiver until July 1, 2010).

⁵⁷ See note 45, *supra*.

⁵⁸ See ¶ 4, *supra*.

⁵⁹ See 2003 TRS Report & Order, 18 FCC Rcd at 12418-19, ¶¶ 68-69 (requiring call release as a TRS feature); 47 C.F.R. § 64.604(a)(3)(vi).

⁶⁰ 2010 TRS Waiver Order, 25 FCC Rcd at 8442, ¶ 12; see also 2003 TRS Report & Order, 18 FCC Rcd at 12421, ¶ 76 (waived until January 1, 2008); 2007 TRS Waiver Order, 22 FCC Rcd at 21873, ¶ 11 (extending waiver until January 1, 2009); 2008 TRS Waiver Order, 23 FCC Rcd at 18337, ¶ 9, (extending waiver until January 1, 2010). 2009 TRS Waiver Order, 24 FCC Rcd at 14726, ¶ 12 (extending waiver until July 1, 2010);

⁶¹ See AT&T Report at 3; Hamilton Report at 6; Purple Report at 2; Snap Report at 5-6; Sorenson Report at 3; Sprint Report at 4. Snap suggests eliminating this requirement for VRS because “it is already possible for two deaf or hard of hearing users to call one another directly if they have videoconferencing software or videophones that are compatible with one another.” Snap Report at 5.

⁶² See ¶ 4, *supra*.

⁶³ See 47 C.F.R. § 64.604(a)(3)(iv).

⁶⁴ 2010 TRS Waiver Order, 25 FCC Rcd at 8443, ¶ 14; see also IP Relay Order on Reconsideration, 18 FCC Rcd at 4766-68, ¶¶ 13-18 (waiving this requirement for IP Relay until January 1, 2008); 2004 TRS Report & Order, 19 FCC Rcd at 12525-26, ¶¶ 130-32 (extending waiver of this requirement for VRS until January 1, 2008); 2007 TRS

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15. We find good cause extend the waiver of this requirement for VRS and IP Relay for one year. The providers' annual waiver reports reflect that they could not develop a billing mechanism that would accurately handle the charges associated with pay-per-call calls since the waiver was extended last year.⁶⁵ This waiver is also conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waiver to remain in effect.⁶⁶

16. *Types of Calls (Operated Assisted Calls and Long Distance Calls)*. Commission rules require TRS providers to handle any type of call normally handled by common carriers.⁶⁷ The requirements that VRS providers offer operator-assisted calls and bill certain types of calls to the end user were waived because providers could not determine if a VRS call was local or long distance.⁶⁸ VRS providers are required to allow calls to be placed using calling cards and/or provide free long distance during the waiver period.⁶⁹ In the *2008 TRS Waiver Order*, we also waived, on our own motion, this requirement for IP Relay "as long as the providers allow calls to be placed using calling cards and/or to provide free long distance calls."⁷⁰

17. We find good cause to extend the waiver of this requirement for VRS and IP Relay for one year. The providers' annual waiver reports reflect that the costs for developing a billing mechanism for VRS providers to offer operator-assisted calls and to bill for certain types of long distance calls are prohibitively high. This is because there is no existing contractual relationship between the provider and user, since one leg of the VRS call is transmitted over the Internet.⁷¹ Although we noted in the *2008 TRS Waiver Order* that providers will be able to determine the geographic location of both parties to the call as a result of the ten-digit numbering requirements, providers continue to report that they cannot offer operator-assisted calls or bill for long distance calls, because it would not be cost effective to set up a billing mechanism for this purpose.⁷² Among other things, it is likely to be more costly to bill for these calls than to handle the calls for free, as has been done in the past.⁷³ We therefore waive this requirement

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Waiver Order, 22 FCC Rcd at 21874, ¶ 13 (extending waiver until January 1, 2009); *2008 TRS Waiver Order*, 23 FCC Rcd at 18338, ¶ 11 (extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14726, ¶ 14 (extending waiver until July 1, 2010); see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98-67, 17 FCC Rcd 157, 164, at ¶ 19 (2001) (*2001 VRS Waiver Order*).

⁶⁵ AT&T Report at 1; CSDVRS Report at 6; Purple Report at 2; Hamilton Report at 3; Snap Report at 3; Sorenson Report at 4; Sprint Report at 2, 6.

⁶⁶ See ¶ 4, *supra*.

⁶⁷ See 47 C.F.R. § 64.604(a)(3).

⁶⁸ *2010 TRS Waiver Order*, 25 FCC Rcd at 8443, ¶ 16; see also *2001 VRS Waiver Order*, 17 FCC Rcd at 161, ¶¶ 9-10; *2004 TRS Report & Order*, 19 FCC Rcd at 12521, ¶¶ 113-15; *2007 TRS Waiver Order*, 22 FCC Rcd at 21874, ¶ 15 (extending waiver until January 1, 2009); see also *2007 TRS Waiver Order*, 22 FCC Rcd at 21874, ¶ 14 n.44; *2008 TRS Waiver Order*, 23 FCC Rcd at 18338, ¶ 13 (extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14727, ¶ 17 (extending waiver until July 1, 2010)

⁶⁹ *2001 VRS Waiver Order*, 17 FCC Rcd at 161, ¶ 10; *2004 TRS Report & Order*, 19 FCC Rcd at 12521, ¶ 115.

⁷⁰ *2008 TRS Waiver Order*, 23 FCC Rcd at 18338, ¶ 12 n.40.

⁷¹ CSDVRS Report at 7; Snap Report at 4-5; Sorenson Report at 5; Sprint Report at 2, 5.

⁷² AT&T Report at 2-3; Snap Report at 4-5; Sprint Report at 2, 5.

⁷³ AT&T Report at 2-3 (stating that the substantial costs of setting up a billing mechanism are not justified when compared to the minimal benefit of these features to VRS and IP Relay users, who incur no cost to make calls, including calls that might be considered long distance); Snap Report at 4 (stating that setting up a costly billing mechanism that has a marginal benefit would further increase the size of the TRS Fund.); Sprint Report at 2, 5.

for VRS and IP Relay for one year as long as providers allow calls to be placed using calling cards and/or provide free long distance calls. This waiver is also conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waiver to remain in effect.⁷⁴

18. *Equal Access to Interexchange Carriers.* The TRS rules require that providers offer TRS users their interexchange carrier of choice to the same extent that such access is provided to voice users.⁷⁵ The Commission has waived this requirement for VRS providers, noting that it was not possible to determine if a call is long distance and, in any event, the providers could not automatically route the calls to the caller's long distance carrier of choice.⁷⁶ The Commission also noted that this waiver was contingent on VRS providers providing long distance services free of charge to the caller.⁷⁷ The Commission waived this requirement for IP Relay indefinitely.⁷⁸

19. We find good cause to extend the waiver of this requirement for VRS for one year. The providers' annual waiver reports again confirm that although providers now are able to determine whether a particular call is local or long distance, as discussed above, they do not have an established billing mechanism to charge for long distance calls.⁷⁹ Based on the record, we therefore extend this waiver for VRS for one year as long as the providers provide free long distance calls. This waiver is also conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waiver to remain in effect.⁸⁰ Providers should specifically address the effect of the numbering and registered location requirements on the continuing need for this waiver.

20. *Speech-to-Speech.* In the *2000 TRS Report & Order*, the Commission recognized STS as a form of TRS and required that it be offered as a mandatory service.⁸¹ The Commission waived this requirement indefinitely for VRS,⁸² noting that STS is a speech-based service, whereas VRS is a visual service using interpreters to interpret in sign language over a video connection.⁸³ The requirement for IP Relay is waived until July 1, 2011, because of technical difficulties with respect to voice-initiated calls and the Internet.⁸⁴

⁷⁴ See ¶ 4, *supra*.

⁷⁵ See 47 C.F.R. § 64.604(b)(3); *see also 2003 TRS Report & Order*, 18 FCC Rcd at 12413-15, ¶¶ 54-61. This requirement is also called the "carrier of choice" requirement.

⁷⁶ *2010 TRS Waiver Order*, 25 FCC Rcd at 8444, ¶ 18; *see also 2004 TRS Report & Order*, 19 FCC Rcd at 12524-25, ¶¶ 125-27 (waiving the requirement until January 1, 2008). *2007 TRS Waiver Order*, 22 FCC Rcd at 21874-75, ¶¶ 16-17 (extending waiver until January 1, 2009); *2008 TRS Waiver Order*, 23 FCC Rcd at 18339, ¶ 15 (extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14727, ¶ 18.

⁷⁷ *2010 TRS Waiver Order*, 25 FCC Rcd at 8444, ¶ 18.

⁷⁸ *IP Relay Declaratory Ruling & Second FNPRM*, 17 FCC Rcd at 7789, ¶ 31.

⁷⁹ AT&T Report at 2; CSDVRS Report at 7; Purple Report at 1; Snap Report at 1-2; Sorenson Report at 6; Sprint Report at 5.

⁸⁰ See ¶ 4, *supra*.

⁸¹ *2000 TRS Report & Order*, 15 FCC Rcd at 5148-51, ¶¶ 14-20. STS allows persons with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with disabilities and can repeat the words spoken by that person. See 47 C.F.R. § 64.601(19).

⁸² *2004 TRS Report & Order*, 19 FCC Rcd at 12526-27, ¶¶ 134-35 (waiving indefinitely STS requirement for VRS).

⁸³ *Id.*, 19 FCC Rcd at 12528, ¶ 139.

⁸⁴ *2010 TRS Waiver Order*, 25 FCC Rcd at 8444, ¶ 20; *IP Relay Order on Reconsideration*, 18 FCC Rcd at 4766-67, ¶¶ 13-14 (waiving STS requirement for IP Relay until January 1, 2008); *see also 2007 TRS Waiver Order*, 22 FCC Rcd at 21875, ¶ 19 (extending waiver until January 1, 2009); *2008 TRS Waiver Order*, 23 FCC Rcd at 18340, ¶ 17

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21. We find good cause to extend the waiver of this requirement for IP Relay for one year. Providers continue to report that this service, like the VCO and HCO services, cannot be provided via IP Relay because of erratic voice quality.⁸⁵ This waiver is also conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waiver to remain in effect.⁸⁶

B. Waiver for Default Providers Using Other Providers' CPE

22. We extend the waiver of certain mandatory minimum standards for default Internet-based TRS providers that are unable to meet such standards for newly-registered Internet-based TRS users who port their CPE from a former default provider, in those instances where the new default provider does not have access to the technical information about such CPE that would be necessary in order to comply with these standards.⁸⁷ Specifically, we extend the waiver for operational requirements,⁸⁸ emergency handling requirements,⁸⁹ and point-to-point calling associated with such ported equipment. As discussed above, the Commission has encouraged Internet-based TRS providers to work together to develop industry-wide standards that will facilitate compliance with our rules; however, we recognize that no such standards have been developed.⁹⁰

23. Accordingly, consistent with our rationale in the *Second Internet-based TRS Order* and the *2009 and 2010 TRS Waiver Orders*, we find an extension of our waiver is in the public interest to allow more time for the industry to work on developing standards to enable Internet-based TRS providers to comply with all mandatory minimum standards regardless of the type of CPE used to access their services. We extend this waiver until July 1, 2012, or until the Commission addresses pending petitions regarding CPE portability, whichever comes first.⁹¹

IV. ORDERING CLAUSES

24. Accordingly, IT IS ORDERED that, pursuant to sections 151, 225, and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 225, and 251(e), and sections 0.91, 0.141, 0.291, 0.361, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.141, 0.291, 0.361, and 1.3, this ORDER IS ADOPTED.

25. IT IS FURTHER ORDERED that, for VRS, the waivers of the one-line VCO, VCO-to-TTY, and VCO-to-VCO; one-line HCO, HCO-to-TTY, and HCO-to-HCO; call release; pay-per-call (900) calls, types of calls, and equal access to interexchange carrier requirements are hereby extended for

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(extending waiver until January 1, 2010); *2009 TRS Waiver Order*, 24 FCC Rcd at 14728, ¶ 20 (extending waiver until July 1, 2010).

⁸⁵ AT&T Report at 2; Hamilton Report at 5; Sorenson Report at 6; Sprint Report at 2.

⁸⁶ See ¶ 5-6, *supra*.

⁸⁷ *Id.* see also *VRS Structure and Practices NOI* at ¶¶ 34-35.

⁸⁸ 47 C.F.R. §64.604(a)(3).

⁸⁹ 47 C.F.R. §64.605

⁹⁰ See *supra* ¶¶ 5-6; see also *2009 TRS Order*, 24 FCC Rcd at 14728-29, ¶21, n.68; *2010 TRS Waiver Order* at 8445, ¶ 21, n.74.

⁹¹ We emphasize that the waiver extended in this *Order* is limited to the mandatory minimum standards set forth in the *Second Internet-based TRS Order*. See *Second Internet-based TRS Order*, 24 FCC Rcd at 822, ¶ 68 (citing 47 C.F.R. §§ 64.604(a)(3), 64.605); see also *2009 TRS Order*, 24 FCC Rcd at 14729, ¶22 n.69; *2010 TRS Waiver Order* at 8445, ¶22, n. 75.

one year until July 1, 2012, conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waivers to remain in effect.

26. IT IS FURTHER ORDERED that, for IP Relay, the waivers of the one-line VCO, VCO-to-TTY, and VCO-to-VCO; one-line HCO, HCO-to-TTY, and HCO-to-HCO; call release; pay-per-call (900) calls; types of calls, and STS requirements are hereby extended for one year until July 1, 2012, conditioned on the filing of a report, due April 16, 2012, addressing whether it is necessary for the waivers to remain in effect.

27. IT IS FURTHER ORDERED that, the waiver of certain mandatory minimum standards for default Internet-based TRS providers as set forth in the *Second Internet-based TRS Order* is hereby extended for one year until July 1, 2012, or the Commission's action, whichever is earlier.

28. IT IS FURTHER ORDERED that this *Order* shall be effective upon release.

29. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This *Order* can also be downloaded in Word and Portable Document Formats (PDF) at <http://www.fcc.gov/cgb/dro>.

FEDERAL COMMUNICATIONS COMMISSION

Joel Gurin, Chief
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Sharon Gillett, Chief
Wireline Competition Bureau