

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

In the Matter of	)	
	)	
Transition from TTY to Real-Time Text	)	CG Docket No. 16-145
Technology; Petition for Rulemaking to Update the	)	
Commission's Rules for Access to Support the	)	
Transition from TTY to Real-Time Text	)	
Technology, and Petition for Waiver of the Rules	)	
Requiring the Support of TTY Technology	)	
	)	
Petition for Waiver of Rules Requiring Support of	)	GN Docket No. 15-178
TTY Technology	)	
	)	
United States Cellular Corporation	)	

**ORDER**

**Adopted: December 22, 2020**

**Released: December 22, 2020**

By the Chief, Consumer and Governmental Affairs Bureau:

**I. INTRODUCTION**

1. By this Order, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission) grants United States Cellular Corporation (US Cellular)<sup>1</sup> a retroactive extension of a previously granted waiver of the Commission's accessibility rules to the extent they require Commercial Mobile Radio Services (CMRS) providers, telecommunications carriers, and advanced communication service (ACS) providers to support text telephony (TTY) technology.<sup>2</sup> The previously granted waiver expired June 30, 2020.<sup>3</sup> This extension of US Cellular's waiver of the Commission's TTY support requirements is retroactive only and applies to the period from July 1 through October 26, 2020.

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<sup>1</sup> US Cellular is a CMRS provider, serving 4.9 million customers in 21 states. United States Cellular Corp., Quarterly Report on Form 10-Q, at 3 (Aug. 6, 2020), <https://d18rn0p25nwr6d.cloudfront.net/CIK-0000821130/225bb0fd-914d-463b-9f91-c7f63b4e3988.pdf>.

<sup>2</sup> *Petition for Waiver of Rules Requiring Support of TTY Technology of Competitive Carriers Association*, GN Docket No. 15-178, Order, 31 FCC Rcd 3778 (CGB PSHSB WTB WCB 2016) (*CCA TTY-RTT Transition Waiver Order*). This waiver order applied to all members of the Competitive Carriers Association (CCA) that chose to opt in by July 19, 2016. *Id.* at 3785, para. 21. In its initial report, CCA identified US Cellular as one of its members opting in. *See* CCA, Report, CG Docket No. 15-178, Attach. A, at 35 (filed July 19, 2016) (CCA Initial Report).

<sup>3</sup> *See Transition from TTY to Real-Time Text Technology; Petition for Rulemaking to Update the Commission's Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support of TTY Technology*, CG Docket No. 16-145 and GN Docket No. 15-278, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 13568, 13602, para. 66 (2016) (*TTY-RTT Transition Order*) (extending previously granted waivers for non-Tier 1 CMRS providers, including US Cellular).

## II. BACKGROUND

2. *TTY-RTT Transition.* Sections 225, 255, and 617 of the Communications Act of 1934, as amended (the Act),<sup>4</sup> require the Commission to adopt rules to ensure that certain communications services and equipment are accessible to persons with disabilities. Pursuant to these and other provisions of the Act,<sup>5</sup> the Commission's rules require that mobile services be accessible to and usable by individuals with disabilities, including consumers reliant on TTYs.<sup>6</sup> Section 9.10(c) (formerly 20.18(c)) of the Commission's rules requires covered CMRS providers to be capable of transmitting 911 calls from individuals who are deaf, hard of hearing, deafblind, or who have a speech disability, through means other than mobile radio handsets, such as TTY technology.<sup>7</sup> Section 64.603(a) requires common carriers, including VoIP providers, to offer 711 abbreviated dialing access to traditional telecommunications relay services (TRS) via a voice telephone or TTY.<sup>8</sup> Additionally, Parts 6, 7, and 14 of the Commission's rules require that telecommunications services and equipment and advanced communication services and equipment be accessible and usable by individuals with disabilities, subject to "achievability" conditions.<sup>9</sup> Among the specific requirements of these rules are requirements for TTY connectability and TTY signal compatibility.<sup>10</sup>

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<sup>4</sup> 47 U.S.C. §§ 225 (telecommunications relay services), 255 (telecommunications services), 617 (advanced telecommunication services).

<sup>5</sup> See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 11 FCC Rcd 18676, 18682, para. 10 (1996) (*E911 1996 Order*) (citing 47 U.S.C. §§ 301, 303(r) as authority for adopting 47 CFR § 20.18 (now 47 CFR § 9.10), which includes the provision addressing transmission of TTY-initiated 911 calls).

<sup>6</sup> A TTY is a "machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system," using a legacy transmission technology called 5-level Baudot, which was developed more than 50 years ago. 47 CFR § 64.601(a)(43).

<sup>7</sup> *Id.* § 9.10(c). All Commission 911-related rules were consolidated into Part 9 in 2019. See *Implementing Kari's Law and Section 506 of RAY BAUM'S Act, et al.*, PS Docket No. 18-261, *et al.*, Report and Order, 34 FCC Rcd 6607 (2019).

<sup>8</sup> 47 CFR § 64.603; see also *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Second Report and Order, 15 FCC Rcd 15188, 15191, para. 3 (2000) (*711 Order*). TRS are "telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio." 47 U.S.C. § 225(a)(3). Traditional TRS is a text-based relay service that enables telephone conversations between TTY users and voice telephone users. The Commission adopted 711 dialing access so that TRS users could initiate a relay call, anywhere in the United States, without having to remember and dial different 7- and 10-digit toll free numbers when traveling from state to state. *711 Order*, 15 FCC Rcd at 15191, para. 3.

<sup>9</sup> 47 CFR §§ 6.5, 7.5; 14.20(a). Telecommunications, voicemail, and interactive menu services, as well as the equipment used with these services, must be accessible to and usable by individuals with disabilities, "if readily achievable." *Id.* §§ 6.5, 7.5. Advanced communications services and equipment must be accessible to and usable by individuals with disabilities unless compliance is "not achievable." *Id.* § 14.20(a).

<sup>10</sup> *Id.* §§ 6.3(b)(3), (4), 7.3(b)(3), (4), 14.21(d)(3), (4). To the extent that it is not achievable (or not "readily" achievable, in the case of sections 6.5 and 7.5) to ensure accessibility and usability through built-in functionality (such as by incorporating a TTY keyboard and transmission capability within a mobile handset), covered equipment or services must be compatible with peripheral devices and specialized customer premises equipment commonly used for accessibility by individuals with disabilities—again, subject to achievability. *Id.* §§ 6.5, 7.5, 14.20(a). TTYs are expressly included among the "peripheral devices and specialized customer premises equipment" referenced by these requirements. See *id.* §§ 6.3(b)(3), (4), 7.3(b)(3), (4); 14.21(d)(3), (4).

3. TTYs, which were designed for use on analog, circuit-switched networks, are essentially unusable on IP networks.<sup>11</sup> Therefore, beginning in 2015, various CMRS providers that were preparing to deploy IP-based networks, which support voice services such as Voice over LTE (VoLTE) and Wi-Fi calling, requested and were granted temporary waivers of sections 6.5, 7.5, 14.20, 20.18(c) (now 9.10(c)), and 64.603 of the Commission's rules, to the extent that those rules require support of TTY technology.<sup>12</sup> As a result of these waivers, which were granted based on the providers' representations that they were working to develop and implement a successor technology, such as real-time text (RTT),<sup>13</sup> the grantees were temporarily relieved from their obligations to support the use of TTY technology on IP-based networks. By granting such waivers, the Commission permitted CMRS providers to begin operating IP-based mobile networks for a limited period without the burden of TTY compliance, thus allowing time for the providers to develop and deploy an alternative accessibility solution for IP-based networks—and for the Commission to conduct a rulemaking to recognize RTT as such a permissible accessibility solution.<sup>14</sup> The waivers were set to expire on the sooner of the date specified by the Commission (at the time December 31, 2017) or the effective date of new rules providing for such an alternative solution.<sup>15</sup> The Commission conditioned each waiver on the provider's commitment to (1) provide notice to customers that TTY technology would not be supported for calls to 911 services over IP-based wireless services, (2) inform customers of alternative means by which people with communication disabilities can reach 911, and (3) submit biannual reports to the Commission describing the status of the provider's efforts to deploy new IP-based accessibility solutions, such as RTT.<sup>16</sup> On April 16, 2016, the Commission granted such a waiver to CCA on behalf of many of its members, including US Cellular.<sup>17</sup>

4. In December 2016, the Commission amended its rules to enable all IP-based mobile service providers to select a more modern alternative to supporting TTY technology, as their means of compliance with relevant accessibility requirements.<sup>18</sup> Under these amendments, in lieu of supporting

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<sup>11</sup> *Transition from TTY to Real-Time Text Technology; Petition for Rulemaking to Update the Commission's Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support of TTY Technology*, CG Docket No. 16-145 and GN Docket No. 15-178, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 13568, 13574-75, para. 8 (2016) (*TTY-RTT Transition Order*) (noting commenters' "overwhelmin[g]" agreement that "the technical and functional limitations of TTY technology, which was developed more than 50 years ago for a circuit switched environment, make that technology unsuitable for providing full and effective access to IP-based wireless telephone networks").

<sup>12</sup> See, e.g., *Petition for Waiver of Rules Requiring Support of TTY Technology*, GN Docket No. 15-178, Order, 30 FCC Rcd 10855 (CGB PSHSB WTC WCB 2015) (*AT&T TTY-RTT Transition Waiver Order*); *Petition for Waiver of Rules Requiring Support of TTY Technology*, GN Docket No. 15-178, Order, 30 FCC Rcd 12755 (CGB PSHSB WTB WCB 2015).

<sup>13</sup> See, e.g., *CCA TTY-RTT Transition Waiver Order*, 31 FCC Rcd at 3781, para. 9 (noting CCA's statement that "CCA and its members are strongly committed to accessibility, and are working to develop and implement [RTT] or other IP-based text alternatives").

<sup>14</sup> See *id.* at 3780-81, paras. 5-8. AT&T had filed the initial petition for waiver of the TTY support rules in conjunction with its petition for rulemaking to adopt RTT as a replacement for TTY on IP-based networks. *Id.* at 3780, para. 5. On April 29, 2016, the Commission released a Notice of Proposed Rulemaking to consider rule amendments recognizing RTT as a permitted successor technology to TTY for ensuring accessibility on IP-based networks. See *Transition from TTY to Real-Time Text Technology; Petition for Rulemaking to Update Rules for Access to Support the Transition from TTY to Real-Time Text Technology, and Petition for Waiver of Rules Requiring Support for TTY Technology*, CG Docket No. 16-145 and GN Docket No. 15-178, Notice of Proposed Rulemaking, 31 FCC Rcd 6247 (2016).

<sup>15</sup> *CCA TTY-RTT Transition Waiver Order*, 31 FCC Rcd at 3785, para. 20.

<sup>16</sup> See, e.g., *AT&T TTY-RTT Transition Waiver Order*, 30 FCC Rcd at 10863-64, paras. 18-19.

<sup>17</sup> *CCA TTY-RTT Transition Waiver Order*, 31 FCC Rcd 3778.

<sup>18</sup> *TTY-RTT Transition Order*, 31 FCC Rcd 13568 (amending 47 CFR §§ 6.3, 7.3, 14.10, 14.21, 20.18 (now 9.10), 64.601, and 64.603 (and adding Part 67)).

TTY technology, providers may support RTT, a “reliable and interoperable universal text solution” that is IP-supported, allows text characters to be sent as they are being created, can transmit text simultaneously with voice, and permits the use of off-the-shelf end user devices to make text telephone calls.<sup>19</sup> By adopting rule changes that encourage deployment and use of this modern alternative to TTYs, the Commission sought to ensure that mobile services remain accessible to people who are deaf or hard of hearing—and compliant with applicable accessibility rules—as the wireless industry transitions from legacy 3G technology to Internet Protocol-based technology.<sup>20</sup> The Commission also adopted new part 67 to define what it means to “support RTT,”<sup>21</sup> including requirements for interoperability among RTT providers, backwards compatibility with TTYs, access to all voice telephone numbers, and simultaneous voice and text capability.<sup>22</sup>

5. To allow additional time for service providers and manufacturers to complete the transition from support of TTYs on legacy networks to support of RTT on IP-based networks and equipment, the Commission established timelines in the *TTY-RTT Transition Order* for the implementation of RTT in lieu of TTY and extended the previously granted waivers of TTY support requirements so that their expiration dates corresponded with the RTT implementation timelines. Under the new timelines, Tier I carriers deploying RTT in lieu of TTY were required to achieve initial compliance with the new RTT rules by December 31, 2017, and non-Tier I providers, including those non-Tier I providers covered by CCA’s waiver,<sup>23</sup> were required to achieve initial compliance with RTT service obligations by June 30, 2020.<sup>24</sup> Final compliance was required for Tier I providers by December 31, 2019, and for non-Tier I providers by June 30, 2021.<sup>25</sup> Non-Tier I providers were given additional time to comply with the RTT support requirements due to their “small subscriber populations,” “fewer device options,” and “limited influence on the technical ecosystem,” among other reasons.<sup>26</sup> Under the rule amendments adopted in 2016, CMRS providers who implement RTT on their IP-based networks are relieved of the obligation to support TTY on any of their networks.<sup>27</sup> Finally, the Commission extended the existing limited waivers of TTY support requirements to the earliest applicable RTT compliance

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<sup>19</sup> *Id.* at 13569, para. 1.

<sup>20</sup> *Id.* at 13570-01, paras. 3-4 (discussing need to replace TTY as providers switch from copper to IP-based networks); *id.* at 13574-75, para. 8 (describing the many limitations of TTY technology that make it unsuitable for use with IP-based networks); *id.* at 13575-76, paras. 9-10 (discussing benefits of RTT).

<sup>21</sup> 47 CFR § 67.1(h).

<sup>22</sup> *Id.* § 67.2(a)-(c).

<sup>23</sup> For purposes of this rule, the Commission defined Tier I service providers as “CMRS providers offering nationwide service.” *TTY-RTT Transition Order*, 31 FCC Rcd 13602, para. 66 n.248. At the time, the Tier I providers were AT&T, Verizon, T-Mobile, and Sprint, and the latter two were members of CCA. All other CMRS providers were considered non-Tier I providers. See CCA, Report, CG Docket No. 15-178, at 2 (filed Apr. 20, 2018) (reporting that T-Mobile USA had deployed RTT by December 31, 2017 deadline for Tier I providers); CCA, Report, CG Docket No. 15-278, at 2 (filed Oct. 18, 2019) (reporting that Sprint has deployed RTT in conjunction with its commercial launch of VoLTE).

<sup>24</sup> *TTY-RTT Transition Order*, 31 FCC Rcd at 13602, para. 66. Initial compliance means that a service provider must either (1) offer a downloadable application or plugin that supports RTT or (2) comply with the following: (i) implement in its core network the capability to support RTT; (ii) offer at least one new handset that supports native RTT functionality, and (iii) for all authorized end user devices specified on or after that date, include in future design specifications the requirement to support RTT. *Id.* A carrier must meet these obligations except to the extent that it is not achievable for a particular manufacturer to support RTT on that carrier’s network. *Id.*

<sup>25</sup> Final compliance means that a service provider must support RTT for all new authorized user devices activated on its networks. *Id.* at 13602, para. 67.

<sup>26</sup> *Id.* at 13602-03, para. 68.

<sup>27</sup> *Id.* at 13582-83, paras. 22-23; *id.* at 13604, para. 71.

date.<sup>28</sup> As a non-Tier I CMRS provider,<sup>29</sup> US Cellular's waiver of TTY support requirements, which was set to expire on December 31, 2017, was extended to June 30, 2020.<sup>30</sup>

6. *US Cellular 2020 Petition.* On June 22, 2020, US Cellular filed a petition for a further, six-month extension of its waiver of TTY support rules, requesting deferral of the expiration date from June 30, 2020, to December 31, 2020.<sup>31</sup> According to the petition, US Cellular began preparing for deployment of RTT in 2019.<sup>32</sup> To achieve initial compliance with the RTT rules, US Cellular explains, it has chosen to implement RTT capability in its core network.<sup>33</sup> After meeting with various vendors to investigate available network solutions, US Cellular reports, it identified a vendor in September 2019 and formally approved the RTT project in December 2019.<sup>34</sup> Deployment of RTT in the company's core network required changes to multiple network elements, including (1) a Home Subscription Services upgrade to US Cellular's "blade servers," which support call/session processing, (2) upgrades to the servers in the company's four Regional Connectivity Centers, and (3) the installation of an RTT Application Server.<sup>35</sup> Further, some of the changes had to be sequenced—for example, the blade server upgrade had to be completed before lab testing of the RTT functionality, and the lab testing had to be completed before upgrading the Regional Connectivity Center servers.<sup>36</sup> In addition to modifying its network to accommodate RTT, US Cellular had to work with a handset manufacturer to ensure that at least one handset model can place RTT calls on US Cellular's network.<sup>37</sup> To ensure that 911 calls using RTT can be delivered to PSAPs and are backward compatible with the TTYs on which many PSAPs still rely,<sup>38</sup> upgrades were also needed in the service platforms used by the 911 call delivery service engaged by US Cellular.<sup>39</sup>

7. US Cellular states that it encountered numerous difficulties and delays in completing each of these tasks. The need for a Home Subscription Services upgrade, which was not determined until after the project was approved, delayed the start of lab testing to mid-March 2020, which in turn delayed the Regional Connectivity Center server upgrades.<sup>40</sup> Further, testing of the RTT Application Server in April 2020 revealed compatibility issues between that server and the company's Telephony Application Server, and an attempt to correct this problem caused other issues affecting the company's ability to terminate RTT robocalls.<sup>41</sup> Resolving this further issue, which delayed the start of user-device testing,

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<sup>28</sup> *See id.* at 13604, para. 71.

<sup>29</sup> US Cellular offers service in 21 states. *See supra* note 1.

<sup>30</sup> *See TTY-RTT Transition Order*, 31 FCC Rcd at 13602, para. 66; *CCA TTY-RTT Transition Waiver Order*, 31 FCC Rcd at 3778, para. 1.

<sup>31</sup> US Cellular Request for Waiver and Extension of Time, CG Docket No. 16-145 and GN Docket No.15-178 (filed June 22, 2020), <https://ecfsapi.fcc.gov/file/106220725514520/US%20Cellular%20Request%20for%20Waiver%20and%20Extension%20of%20Time%20-%20FINAL%20REDACTED%20VERSION%20AS%20FILED.pdf> (US Cellular Petition) (redacted).

<sup>32</sup> *Id.* at 4.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 4-5.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 6-7.

<sup>38</sup> *Id.* at 2.

<sup>39</sup> *Id.* at 7-8.

<sup>40</sup> *Id.* at 4-5.

<sup>41</sup> *Id.* at 5.

required an upgrade to yet another server, which supports call routing, and that upgrade was not available from the manufacturer until June 2020.<sup>42</sup> Meanwhile, the company adopted “work arounds” to allow user-device testing to begin.<sup>43</sup> User-device testing was also delayed by issues requiring an upgrade to US Cellular’s billing system. In response, the company worked with the affected handset vendor to manually provision test devices and to shorten the handset-testing schedule. Finally, unanticipated issues developed while the company was upgrading and testing the 911 call delivery platform, and additional delays resulted from problems in scheduling collaborative lab testing of 911 call connections with an RTT-capable PSAP.<sup>44</sup> Due to these multiple problems arising as the project advanced, and despite the reported efforts to work around them, US Cellular reports that it was unable to meet the June 30, 2020 deadline.<sup>45</sup>

8. *Public Notice and Comments.* By public notice issued July 1, 2020, the Bureau sought comment on the US Cellular petition and two other petitions seeking waiver extensions on behalf of various non-Tier I CMRS providers.<sup>46</sup> In their comments on the petitions, the Consumer Groups and Accessibility Researchers raise concerns with the ability of individuals with hearing and speech disabilities to make 911 calls on the petitioning providers’ IP-based networks, suggesting that these and other non-Tier I providers had unreasonably delayed implementation of RTT.<sup>47</sup> While not objecting to an extension of waivers to September 1, 2020, the Consumer Groups and Accessibility Researchers urged the Commission to institute enforcement actions if noncompliance extended beyond that date.<sup>48</sup>

9. In US Cellular’s reply, it acknowledges the concerns of the Consumer Groups and Accessibility Researchers and provides additional detail on its efforts to deploy RTT before the end of 2020.<sup>49</sup> Specifically, US Cellular states it was able to complete all upgrades necessary in its core network, provides an anticipated September 2 date for the completion of 911 testing, and projects the completion of user-device testing in sufficient time to support a launch of the RTT service by “approximately October 26, 2020.”<sup>50</sup> In a subsequent *ex parte* meeting with CGB Staff, while reiterating their position that a six-month extension is “unacceptable and unfortunate,” the Consumer Groups and Accessibility Researchers

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<sup>42</sup> *Id.* at 5-6.

<sup>43</sup> *Id.* at 6.

<sup>44</sup> *Id.* at 7-8.

<sup>45</sup> *Id.* at 9.

<sup>46</sup> See *Consumer and Governmental Affairs Bureau Seeks Comment on Petitions by Certain Mobile Service Providers for Waivers of Deadline to Support Real-Time Text on IP-Based Networks*, CG Docket No. 16-145 and GN Docket No. 15-178, Public Notice, 35 FCC Rcd 6731 (CGB 2020). CCA filed a petition for extension on behalf of six other CCA members on June 16, 2020, and East Kentucky Network d/b/a Appalachian Wireless filed a similar petition on June 29, 2020. The petitions from CCA, Appalachian Wireless, and US Cellular were included in the Public Notice. The Bureau will address the CCA and Appalachian Wireless petitions separately.

<sup>47</sup> Comments on Petitions for Waivers of Deadline to Support Real-Time Text on IP-Based Networks, Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), National Association of the Deaf (NAD), Hearing Loss Association of America (HLAA), Association of Late-Deafened Adults (ALDA), Cerebral Palsy and Deaf Organization (CPADO), American Association of the Deaf-Blind (AADB), Deaf Seniors of America (DSA), National Cued Speech Association (NCSA), Deaf/Hard of Hearing Technology Rehabilitation Engineering Research Center (DHH-RERC), Rehabilitation Engineering Research Center on Universal Interface & Information Technology Access (IT-RERC), CG Docket No. 16-145 and GN Docket No. 15-178 (filed July 31, 2020) (Consumer Groups and Accessibility Researchers).

<sup>48</sup> *Id.* at 6 (filed July 31, 2020).

<sup>49</sup> US Cellular Reply Comments, CG Docket No. 16-145 and GN Docket No. 15-178 (filed Aug. 17, 2020) (US Cellular Reply) (redacted).

<sup>50</sup> US Cellular Reply at 3-4.

“acknowledged US Cellular’s commitment to provide support for RTT services by Dec. 31, 2020 and detailed progress updates on its efforts to come into compliance ahead of that date.”<sup>51</sup>

10. Finally, in an *ex parte* letter filed October 29, 2020, US Cellular informs the Commission that it was in fact able to launch its RTT service on October 26, 2020, and consequently that it no longer needs a waiver extending through the end of the year.<sup>52</sup>

### III. DISCUSSION

11. *Waiver Standard.* A Commission rule may be waived for “good cause shown.”<sup>53</sup> In particular, a waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.<sup>54</sup> In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>55</sup> Good cause for a waiver may be found if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.<sup>56</sup>

12. *Grant of Waiver.* We find good cause to grant US Cellular a retroactive extension of its TTY-support waiver through October 26, 2020, the date of US Cellular’s “consumer launch” of its RTT service. Its petition and reply comments demonstrate that US Cellular faced major, unexpected difficulties that prevented the timely completion of its deployment of an RTT solution in its network, including the capability to deliver 911 RTT calls to PSAPs and its inclusion of a native RTT application in at least one handset model. The particularized showing<sup>57</sup> laid out in US Cellular’s petition indicates that US Cellular missed the June 30 deadline due to a combination of numerous technology issues. We are concerned that the company apparently did not begin preparing for this major network change until 2019<sup>58</sup> and did not communicate with the Commission regarding its compliance issues until shortly before the June 30 deadline, making it impossible for the Commission to act on its request prior to the deadline.<sup>59</sup> We reiterate that applicants for waiver (including a waiver extension, if the initial waiver has expired)

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<sup>51</sup> See Letter from Blake E. Reid, Counsel to Telecommunications for the Deaf and Hard of Hearing, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 16-145 and GN Docket No. 15-178, at 1 (filed Sept. 8, 2020) (Consumer Groups and Accessibility Researchers Sept. 8 *Ex Parte*).

<sup>52</sup> See Letter from Peter M. Connolly, Counsel to US Cellular, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 16-145 and GN Docket No. 15-178 (filed Oct. 29, 2020).

<sup>53</sup> 47 CFR § 1.3.

<sup>54</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>55</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

<sup>56</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>57</sup> See *Rio Grande Radio Fellowship Inc. v. FCC*, 406 F.2d 664, 666 (D.C. Cir. 1968) (“When an applicant seeks a waiver of a rule, it must plead with particularity the facts and circumstances which warrant such action.”).

<sup>58</sup> US Cellular Petition at 4. The record does not reflect the reasons why US Cellular did not finalize its RTT deployment plans until December 2019. The timing does appear late given the work needed to implement RTT by the June 30, 2020 deadline, although US Cellular thought it was on track to meet the deadline. See *id.* at 5-6. Given US Cellular’s subsequent diligence in deploying RTT, the gap in time from the issuance of the *TTY-RTT Transition Order* to December 2019 is not a substantial factor in our conclusion here. However, we remind providers that unexplained delay may be considered in deciding waiver requests. See *Section 68.4 of the Commission’s Rules Regarding Hearing-Aid Compatible Telephones; Petitions for Waiver of Section 20.19 of the Commission’s Rules*, WT Docket 01-309, Memorandum Opinion and Order, 23 FCC Rcd 3352, 3368-69, para. 34 (2008), *rev. denied*, *Blanca Tel. Co. v. FCC*, 743 F.3d 860 (D.C. Cir. 2014) (refusing to grant waivers of hearing aid compatibility rule to carriers who provided no explanation of why they had not met the applicable deadline, noting “inattention does not constitute extraordinary circumstances to support a waiver”).

<sup>59</sup> See US Cellular Petition.

have a duty to comply with all applicable regulations pending a decision on such application.<sup>60</sup> However, while US Cellular's performance could have been improved by allowing more lead time, once it took concrete steps in 2019 toward deploying RTT, it showed reasonable diligence in preparing to deploy RTT and commendable energy in its efforts to overcome the various unexpected obstacles to completing deployment in a timely fashion. As a result of these efforts, the company was able to launch RTT service more than two months prior to the December 31 end date requested in its waiver extension petition.<sup>61</sup> Further, during the approximately four-month period between the June 30 expiration of its existing waiver and the October 26 launch of RTT, it continued to maintain its 3G network, which may have allowed persons reliant on that technology some capability to continue making text calls.<sup>62</sup> Based on these special circumstances, we grant an extension retroactively for the period from July 1 through October 26, 2020.

#### IV. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 225, 255, and 617 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 225, 255, 716, and sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, this Order is ADOPTED.

14. IT IS FURTHER ORDERED that the petition for waiver of US Cellular filed June 22, 2020, IS GRANTED to the extent described herein.

15. IT IS FURTHER ORDERED that the partial waiver of sections 6.5, 7.5, 9.10(c), 14.20, and 64.603 of the Commission's rules, 47 CFR §§ 6.5, 7.5, 9.10(c), 14.20, 64.603 shall apply retroactively to the period from July 1 to October 26, 2020.

16. IT IS FURTHER ORDERED that, pursuant to section 1.102(b) of the Commission's rules, 47 CFR § 1.102(b), this Order SHALL BE EFFECTIVE upon release.

17. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to: [fcc504@fcc.gov](mailto:fcc504@fcc.gov), or call the Consumer & Governmental Affairs Bureau at (202) 418-0530.

FEDERAL COMMUNICATIONS COMMISSION

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Consumer and Governmental Affairs Bureau

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<sup>60</sup> See, e.g., *Blanca Tel. Co. v. FCC*, 743 F.3d 860 (D.C. Cir. 2014) (affirming the Commission's denial of *nunc pro tunc* waivers of hearing aid compatibility rules to non-complying carriers that failed to show they exercised reasonable diligence in attempting to meet compliance deadline set by the Commission).

<sup>61</sup> US Cellular Reply at 4.

<sup>62</sup> US Cellular Petition at 3, 9.