

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

In the Matter of)
Telecommunications Relay Services and Speech-)
to-Speech Services for Individuals with Hearing) CG Docket No. 03-123
and Speech Disabilities)
Hamilton Relay, Inc., and Sprint Corporation)
Petitions for Interim Waivers of Sections)
64.604(b)(3) and 64.604(a)(3)(ii))

ORDER

Adopted: August 19, 2020

Released: August 19, 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), on its own motion, extends the temporary waivers previously granted to Hamilton Relay, Inc. (Hamilton), and Sprint Corporation, now Sprint Communications Company L.P. (Sprint), of two mandatory minimum standards—the “equal access” and “billing options” requirements—for telecommunications relay services (TRS) offered through state TRS programs. To prevent an undesirable lapse in the applicability of these waivers, which expire August 24, 2020, we extend the waivers until the effective date of the Commission’s recent rule amendment deleting these two requirements in their entirety.

II. BACKGROUND

1 The merger of Sprint Corporation and T-Mobile USA, Inc., closed April 1, 2020. Sprint Communications Company L.P., an indirect, wholly owned subsidiary of T-Mobile, now provides state and federal relay services for the merged entity. https://ecfsapi.fcc.gov/file/107010732412869/FCC%20Annual%20Complaint%20Log%20Filing%202020.pdf

2 See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Hamilton Relay, Inc., and Sprint Corporation, Petitions for Interim Waivers of Sections 64.604(b)(3) and 64.604(a)(3)(ii), CG Docket No. 03-123, Order, 34 FCC Rcd 7200 (CGB 2019) (2019 Hamilton and Sprint Waiver Order); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Hamilton Relay, Inc., and Sprint Corporation, Petitions for Interim Waiver of Sections 64.604(b)(3) and 64.604(a)(3)(ii), CG Docket No. 03-123, Order, 33 FCC Rcd 8063 (CGB 2018) (2018 Hamilton and Sprint Waiver Order); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Hamilton Relay, Inc., and Sprint Corporation, Petitions for Interim Waiver of Sections 64.604(b)(3) and 64.604(a)(3)(ii), CG Docket No. 03-123, Order, 31 FCC Rcd 9511 (CGB 2016) (2016 Hamilton and Sprint Waiver Order).

3 Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Report and Order, FCC 20-105 (Aug. 5, 2020) (2020 TRS Modernization Report and Order).

2. TRS enables individuals who are deaf, hard of hearing, or deafblind, or who have a speech disability to engage in “functionally equivalent” telephone communication with others.⁴ The two TRS standards addressed in this Order were adopted almost 30 years ago as a part of the Commission’s first proceeding to implement the TRS program.⁵ The billing options requirement directs TRS providers to offer “the same billing options (e.g., sent-paid long distance, operator-assisted, collect, and third party billing) traditionally offered for wireline voice services.”⁶ The equal access requirement provides that “TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services to the same extent that such access is provided to voice users.”⁷

3. Advances in technology and other changes led the Commission to reassess the need for both rules. In 2014, the Commission exempted Internet-based forms of TRS⁸ from the billing options and equal access requirements.⁹ In 2016, the Bureau granted Hamilton and Sprint temporary, two-year waivers of these rules as applied to non-Internet-based TRS—traditional TRS, speech-to-speech relay service (STS), and captioned telephone service (CTS), which they provide in state TRS programs—pending Commission consideration of the providers’ petition for rulemaking to end the application of the rules to non-Internet-based TRS.¹⁰ In 2018 and 2019, the Bureau granted successive one-year extensions of the waivers, the second of which expires August 24, 2020.¹¹

4. In a Further Notice of Proposed Rulemaking released September 20, 2019, the Commission proposed to repeal the billing options and equal access requirements for all TRS providers.¹²

⁴ 47 CFR § 64.601(a)(42). TRS is provided pursuant to section 225 of the Communications Act of 1934, as amended. See 47 U.S.C. § 225(b)(1) (directing the Commission to make TRS available “to the extent possible and in the most efficient manner”).

⁵ See *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act*, Report and Order and Request for Comments, 6 FCC Rcd 4657, 4660-62, paras. 17-19, 22 (1991) (*First TRS Report and Order*).

⁶ 47 CFR § 64.604(a)(3)(ii); *First TRS Report and Order*, 6 FCC Rcd at 4600, para. 17.

⁷ 47 CFR § 64.604(b)(3).

⁸ Internet based TRS includes Internet Protocol Captioned Telephone Service (IP CTS), Internet Protocol Relay service (IP Relay), and video relay service (VRS). See 47 CFR § 64.601(a)(21), (22), (23), (50) (defining Internet-based TRS, IP CTS, IP Relay, and VRS).

⁹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waivers of iTRS Mandatory Minimum Standards*, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, CG Docket No. 03-123, 29 FCC Rcd 10697, 10703-07, paras. 10-19 (2014).

¹⁰ *2016 Hamilton and Sprint Waiver Order*, 31 FCC Rcd at 9511, para. 1. Traditional TRS is provided to a user equipped with a text telephone (TTY), a “machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.” 47 CFR § 64.601(a)(43). STS “allows individuals with speech disabilities to communicate with voice telephone users through the use of specially trained [communications assistants] who understand the speech patterns of persons with speech disabilities and can repeat the words spoken by that person.” *Id.* § 64.601(a)(40). CTS allows a person who can speak, but who has difficulty hearing over the telephone, to use a telephone with a display to simultaneously listen to the other party and read captions of what the other party is saying. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling, 18 FCC Rcd 16121, 16122-23, para. 4 (2003).

¹¹ See *2018 Hamilton and Sprint Waiver Order*, 33 FCC Rcd at 8063, para. 6; *2019 Hamilton and Sprint Waiver Order*, 34 FCC Rcd at 7202-03, para. 6.

¹² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8483, 8488-89, paras. 12-15 (2019).

On August 4, 2020, the Commission amended its rules to delete the billing options and equal access requirements, concluding that they “are no longer necessary to achieve functional equivalence between TRS users and users of voice communications services.”¹³ The deletion of these rules is effective 30 days after Federal Register publication, which has not yet occurred.

III. DISCUSSION

5. A Commission rule may be waived for good cause shown.¹⁴ In particular, waiver of a rule is appropriate where the particular facts make strict compliance inconsistent with the public interest.¹⁵ In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁶ Waiver of a rule is appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest and will not undermine the policy underlying the rule.¹⁷

6. We find there are special circumstances establishing good cause for a further extension of the expiration date of the equal access and billing options waivers, to avoid an undesirable lapse in the application of these waivers to the relay services provided by Hamilton and Sprint. The Commission’s decision repealing the waived rules was issued August 4, 2020, and the current waivers are due to expire August 24, 2020, before the deletion of the rules becomes effective. In deciding to repeal the equal access and billing options requirements, the Commission found that these rules no longer provide benefits sufficient to justify the cost and burden of compliance.¹⁸ Allowing the waivers to expire before the effective date of the rules’ deletion would needlessly impose costs on Hamilton and Sprint to comply with rules that the Commission has determined are no longer necessary. Therefore, we find good cause to extend these temporary waivers, on our own motion, until such time as the Commission’s rule amendments become effective.

IV. PROCEDURAL MATTERS

7. *People with Disabilities*: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

V. ORDERING CLAUSES

8. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, the temporary waivers of sections 64.604(a)(3)(ii) and 64.604(b)(3) of the Commission's rules, 47 CFR § 64.604(a)(3)(ii), (b)(3), previously granted to Hamilton and Sprint, are extended through the effective date of the Commission’s *2020 TRS Modernization Report and Order*.

9. IT IS FURTHER ORDERED, that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

¹³ *2020 TRS Modernization Report and Order* at 1, para. 1.

¹⁴ 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, for good cause shown).

¹⁵ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁶ *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.

¹⁷ *Northeast Cellular*, 897 F.2d at 1166.

¹⁸ *2020 TRS Modernization Report and Order* at 4-6, paras. 9-13.

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