

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

In the Matter of)
)
Misuse of Internet Protocol (IP) Captioned) CG Docket No. 13-23
Telephone Service)
)
Telecommunications Relay Services and Speech-) CG Docket No. 03-123
to-Speech Services for Individuals with Hearing)
and Speech Disabilities)
)
Petition for Reconsideration)

ORDER

Adopted: January 14, 2021

Released: January 14, 2021

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. By this Order, the Consumer and Governmental Affairs Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) dismisses as moot the Petition of Hamilton Relay, Inc. (Hamilton)1 for partial reconsideration of the Commission’s 2019 Order on Internet Protocol Captioned Telephone Service (IP CTS).2 Hamilton asks the Commission to reconsider the restrictions that the 2019 Order placed on IP CTS providers’ recovery of exogenous costs incurred in connection with the Telecommunications Relay Services (TRS) User Registration Database (User Database, or Database) during the period covered by interim IP CTS compensation rates.3 On November 30, 2020, Hamilton submitted a filing to withdraw the Petition.4 Because the interim rate regime ended prior to the commencement of Database implementation, we dismiss the Petition as moot.

II. BACKGROUND

2. In June 2018, the Commission adopted a notice of proposed rulemaking to establish a new TRS Fund compensation methodology for IP CTS.5 Pending completion of this rulemaking, the

1 Petition for Reconsideration of Hamilton Relay, Inc., CG Docket Nos. 13-24 and 03-123 (filed April 8, 2019), https://ecfsapi.fcc.gov/file/1040816929886/Hamilton_Petition_for_Reconsideration_of_2019_IPCTS_URD_Order.pdf (Petition).

2 Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13-24 and 03-123, Report and Order, Further Notice of Proposed Rulemaking, and Order, 34 FCC Red 691, 696-707, paras. 13-32 (2019) (2019 Order).

3 Petition at 10.

4 Withdrawal of Petition for Reconsideration of Hamilton Relay, Inc., CG Docket Nos. 13-24 and 03-123 (filed Nov. 30, 2020), https://www.fcc.gov/ecfs/filing/120177712254 (Hamilton Withdrawal).

5 See Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13-24 and 03-

Commission set interim compensation rates for IP CTS providers for service provided between July 1, 2018, and June 30, 2020, pending adoption of a new rate-setting methodology.⁶ Subsequently, this interim rate period was extended through November 30, 2020.⁷

3. In February 2019, the Commission amended its rules to require that IP CTS providers enter the identities of all their registered users in the User Database, a system of user records previously established by the Commission to prevent waste, fraud, and abuse in the TRS program.⁸ To allow IP CTS providers to recover their reasonable costs of implementing the Database requirement during the interim rate period, the Commission determined that providers could recover such costs in accordance with exogenous cost recovery guidelines previously established for video relay service (VRS), another form of TRS.⁹ In its Petition, Hamilton claims that application of these guidelines to limit recovery of IP CTS Database implementation costs is unlawful. Among other reasons, Hamilton argues that it is unreasonable to require that exogenous costs “belong to recoverable cost categories,” claiming no such cost categories have been adopted for IP CTS.¹⁰ On June 5, 2019, the Bureau placed the Petition on public notice and sought comment.¹¹

4. On September 30, 2020, the Commission adopted a new compensation methodology and rates for IP CTS, which became effective December 1, 2020.¹² In its November 30, 2020 Withdrawal, Hamilton states that its Petition is now moot “in light of the Commission’s further action in this proceeding.”¹³

III. DISCUSSION

5. We agree that the Petition is now moot. The *2019 Order* addressed Database implementation cost recovery only for the interim rate period. During that period, which ended November 30, 2020, IP CTS providers were not required to take any actions to implement the registration

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123, Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, 33 FCC Rcd 5800, 5836-47, paras. 68-100 (2018) (*2018 IP CTS Program Management Order*).

⁶ *Id.* at 5813-16, paras. 23-26.

⁷ *See Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Services Program*, CG Docket Nos. 13-24, 03-123, and 10-51, Report and Order, Order, and Further Notice of Proposed Rulemaking, 35 FCC Rcd 10866, 10886-87, para. 40 (2020) (*2020 IP CTS Compensation Order*).

⁸ *2019 Order*, 34 FCC Rcd at 696-707, paras. 13-32.

⁹ *Id.* at 703-04, para. 26.

¹⁰ Petition at 2-4. Hamilton also claims that the requirement for a provider to demonstrate that failure to recover exogenous costs “may cause a provider’s current allowable-expense-plus-operating margin to exceed its IP CTS revenues” is procedurally improper, conflicts with the Commission’s stated goals for the service, and compounds alleged defects in the interim compensation regime. Petition at 4-10.

¹¹ *See Consumer and Governmental Affairs Bureau Seeks Comment on Hamilton Relay, Inc. Petition for Partial Reconsideration of Internet Protocol Captioned Telephone Services Report and Order, Further Notice of Proposed Rulemaking, and Order*, CG Docket Nos. 13-24 and 03-123, 34 FCC Rcd 4602 (CGB 2019). Two parties filed comments in support of the Petition. *See* Comments of ClearCaptions, LLC, CG Docket Nos. 13-24 and 03-123 (rec. July 3, 2019); Comments of CaptionCall, LLC, CG Docket Nos. 13-24 and 03-123 (rec. July 3, 2019). Hamilton filed a letter in response. *See* Letter from David A. O’Connor, Counsel to Hamilton, to Marlene H. Dortch, Secretary, FCC (rec. July 24, 2019).

¹² *2020 IP CTS Compensation Order*, 35 FCC Rcd at 10873-80, 10886-87, paras. 18-27, 39-40.

¹³ Hamilton Withdrawal at 1.

of IP CTS users in the Database, and no IP CTS provider has submitted claims for recovery or otherwise asserted that it incurred Database implementation costs.¹⁴ Going forward, any recovery of Database implementation costs will be subject to the compensation regime adopted in the *2020 IP CTS Compensation Order*. Therefore, the alleged error that Hamilton identifies in the *2019 Order* has had and will have no practical effect.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 225, and the authority delegated in sections 0.141 and 0.361 of the rules, 47 CFR §§ 0.141, 0.361 that the Petition for Reconsideration of the *2019 Order* filed by Hamilton IS DISMISSED as moot.

7. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre
Chief
Consumer and Governmental Affairs Bureau

¹⁴ See 47 CFR § 64.611(j)(2)(iv) (requiring IP CTS providers to submit information to the Database beginning one year following notice from the Commission that the Database is ready to accept such information); see also *2019 Order*, 34 FCC Rcd at 699, para. 17 (“[W]hen the Database is ready to accept IP CTS user data, the Commission or CGB will release a public notice initiating a data submission period for uploading registration information on all current IP CTS users.”). The public notice has not been issued.