

**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 and Speech Disabilities)	CG Docket No. 03-123
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	

ORDER

Adopted: June 30, 2022

Released: June 30, 2022

By the Chief, Consumer and Governmental Affairs Bureau:

1. In response to the impact of the COVID-19 pandemic in the United States,¹ the Consumer and Governmental Affairs Bureau has waived certain rules governing the telecommunications relay services (TRS) program to ensure the uninterrupted provision of TRS.² In the *March 2022 Order*, the Bureau noted that, “[w]e will continue to monitor the situation to determine whether an additional extension of any waiver is appropriate, but we anticipate that this will likely be the Bureau’s final

¹ See Executive Office of the President, Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic, 86 FR 11599 (Feb. 26, 2021) (“national emergency declared on March 13, 2020, and beginning March 1, 2020, must continue in effect beyond March 1, 2021”); Executive Office of the President, Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 FR 15337 (Mar. 18, 2020); see also Executive Office of the President, Statement by President Joe Biden on the Omicron COVID-19 Variant (Nov. 26, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/26/statement-by-president-joe-biden-on-the-omicron-covid-19-variant/>; U.S. Dept. of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response, *Renewal of Determination That A Public Health Emergency Exists* (Apr. 12, 2022), <https://aspr.hhs.gov/legal/PHE/Pages/COVID19-12Apr2022.aspx>.

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 2715 (CGB 2020) (*March 2020 Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 3018 (CGB 2020) (*April 2020 Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 4894 (CGB 2020) (*May 2020 Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 14634 (CGB 2020) (*December 2020 Order*); *Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, DA 21-1653 (CGB 2021) (*December 2021 Order*) (allowing certain waivers to expire); *Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, DA 22-324 (CGB 2022) (*March 2022 Order*) (extending current waivers through June 30, 2022).

extension of these waivers.”³ As discussed below, the Bureau finds good cause exists to extend for an additional 60 days, through August 30, 2022, the limited, partial waiver for web and wireless Internet Protocol Captioned Telephone Service (IP CTS) provided by Hamilton Relay, LLC, of 47 CFR § 64.604(a)(3)(i), which prohibits communications assistants (CAs) from refusing single or sequential calls or limiting the length of relay calls. However, the Bureau will allow all other COVID-19 TRS waivers adopted at the Bureau level to expire on June 30, 2022, as scheduled.

2. *Background.* At the beginning of the COVID-19 outbreak, as states responded with emergency regulations, traffic levels for telecommunications relay services (TRS) increased sharply and TRS providers’ ability to staff call centers was sharply reduced, severely challenging providers’ ability to answer and process TRS calls.⁴ To ensure the uninterrupted availability of TRS during these extraordinary circumstances, the Bureau temporarily waived certain provisions of the Commission’s rules on speed of answer, VRS at-home call handling, VRS call-center status notifications, international VRS calling, VRS subcontracting, emergency call handling, and early termination of calls.⁵ These emergency waivers were extended on several occasions, with the most recent extensions scheduled to expire on June 30, 2022.⁶ The Commission has directed the Bureau to monitor the situation and consider, if necessary, additional extension of these waivers.⁷

3. *Waiver Standard.* A Commission rule may be waived for good cause shown.⁸ In particular, waiver of a rule is appropriate where the particular facts make strict enforcement of a rule inconsistent with the public interest.⁹ In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁰ Waiver of a rule is

³ *March 2022 Order* at 1, para. 1.

⁴ *See March 2020 Order*, 35 FCC Rcd 2715.

⁵ *See March 2020 Order*, 35 FCC Rcd at 2715-16, para. 2; *April 2020 Order*, 35 FCC Rcd at 3018, para. 2; *May 2020 Order*, 35 FCC Rcd at 4894-95, paras. 2-3; *December 2020 Order*, 35 FCC Rcd at 14636-38, para. 6.

⁶ *See May 2020 Order* (extending waivers through June 30, 2020); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 6432 (CGB 2020) (June 2020 Order) (extending waivers through August 31, 2020); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 9783 (CGB 2020) (August 2020 Order) (extending waivers through November 30, 2020); *October 2020 Commission Order*, para. 54 (extending waivers through February 28, 2021); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 36 FCC Rcd 4264 (CGB 2021) (*February 2021 Order*) (extending waivers through August 31, 2021); *Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, DA 21-1064 (CGB 2021) (*August 2021 Order*) (extending waivers through December 31, 2021); *December 2021 Order* (extending waivers through March 31, 2022); *March 2022 Order* (extending waivers through June 30, 2022) (collectively *TRS Waiver Extension Orders*).

⁷ *October 2020 Commission Order*, 35 FCC Rcd at 10893-94, para. 56.

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

⁹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁰ *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.

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.¹¹

4. After reviewing the current information available on the COVID-19 pandemic¹² and considering the length of time the previous waivers have remained in place, we have determined that it is appropriate to allow all the current pandemic-related TRS waivers adopted at the Bureau level to terminate, with one exception. The disruption of businesses and travel wrought by stay-at-home orders and other restrictions in earlier phases of the pandemic, which prompted the Bureau's initial grant of TRS rule waivers, has subsided considerably.¹³ As a result, many of the hardships and threats of program disruption experienced by providers earlier in the pandemic are no longer in evidence.¹⁴ Further, as a result of the waivers—most of which have been in place for more than two years—enforcement of important TRS rules, including the “cornerstone” speed-of-answer rule,¹⁵ has been suspended throughout this time period. Restoring the application of these rules allows us to ensure effective governance of the TRS program.

5. Further, to address an ongoing shortage of American Sign Language interpreters qualified to work as VRS CAs, which appears likely to continue well beyond the end of the pandemic, the waivers of certain other rules, which the pandemic experience suggests may no longer be needed in their current

¹¹ *Northeast Cellular*, 897 F.2d at 1166; *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127-128 (D.C. Cir. 2008).

¹² See, e.g., CDC, *COVID Data Tracker*, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last visited June 27, 2022).

¹³ See, e.g., BallotPedia, “Travel restrictions issued by states in response to the coronavirus (COVID-19) pandemic, 2020-2022” (last visited June 7, 2022), [https://ballotpedia.org/Travel_restrictions_issued_by_states_in_response_to_the_coronavirus_\(COVID-19\)_pandemic,_2020-2022#Map_of_active_travel_restrictions_by_state](https://ballotpedia.org/Travel_restrictions_issued_by_states_in_response_to_the_coronavirus_(COVID-19)_pandemic,_2020-2022#Map_of_active_travel_restrictions_by_state); Andy Markowitz, “State-by-State Guide to Face Mask Requirements” (May 26, 2022), <https://www.aarp.org/health/healthy-living/info-2020/states-mask-mandates-coronavirus.html>.

¹⁴ With one exception (the Hamilton request discussed *infra*, para. 6), the more recent requests for continuing the pandemic-initiated waivers of TRS rules rely on factors other than COVID-19 concerns. See Letter from Jeff Rosen, Convo Communications, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 1 (filed May 24, 2022) (asking FCC to extend waivers while Convo's petition for rulemaking regarding at-home CAs and contract CAs remains pending to avoid wind-down and reinstatement costs if the rules are not waived and later modified); *id.* at 1-2 (seeking extension of waiver of cap on at-home call minutes because CAs have become accustomed to working at home); Letter from Greg Hlibok, ZP Better Together, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 4 (filed Mar. 15, 2022) (seeking continued waiver of three-year experience rule because it is not necessary to ensure the quality of VRS “with proper screening, training, teaming, and management” of CAs.). These requests have now been addressed by Commission-level action, as discussed in the text.

¹⁵ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order, 20 FCC Rcd 13165, 13174, para. 17 (2005) (*VRS Report and Order*) (stating that speed-of-answer is “one of the fundamental components of ensuring that TRS users have functionally equivalent access to the telephone system”). Since March 2020, the speed-of-answer rule has been waived for all relay services except VRS. See *March 2020 Order*, 35 FCC Rcd 2715.

form,¹⁶ have been extended beyond June 30 by Commission order pending action on proposed amendments of those rules.¹⁷

6. *Waiver to Allow Temporary Interruption of Certain TRS Calls in Exigent Circumstances.* While we find it appropriate to allow other emergency waivers to expire, good cause exists to extend through August 30, 2022, the partial waiver, applicable only to Hamilton Relay, Inc.'s web and wireless Internet Protocol Captioned Telephone Service (IP CTS), of section 64.604(a)(3)(i) of the rules, which prohibits TRS providers from refusing single or sequential calls or limiting the length of relay calls.¹⁸ This waiver allows the temporary interruption of an IP CTS call in "exigent" circumstances, when such interruption is the only feasible means of replacing the CA handling the call.¹⁹ Hamilton states: "Since March 2022, Hamilton has made substantial progress with respect to call takeover and transfer issues for Hamilton CapTel for Business. To date, Hamilton has completed the majority of the work, and has even engaged contractors to supplement its in-house development staff in an effort to complete this project in a timely manner."²⁰ However, unexpected development obstacles and delays in user rollout have caused it to fall behind schedule in its plans to modify its web and wireless platforms, which would ensure full compliance with this rule.²¹

7. As Hamilton has previously reported, the number of calls affected by the call takeover issue was extremely small at the start of the pandemic (0.0058% of Hamilton's calls, i.e., 58 of every 1 million calls),²² and since then Hamilton found technical solutions for most of the affected services.²³ In light of Hamilton's diligent efforts to resolve this issue and the extremely small number of calls affected, we conclude that there is good cause for waiving the rule for an additional 60 days.

8. *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.

9. *Additional Information.* For further information regarding this item, please contact Ike Ofobike, Disability Rights Office, Consumer and Governmental Affairs Bureau, by e-mail to Ike.Ofobike@fcc.gov.

10. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 225, 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.

¹⁶ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Services Program; Misuse of Internet Protocol (IP) Captioned Telephone Service; Petition for Rulemaking and Interim Waiver of Convo Communications, LLC*, CG Docket Nos. 03-123, 10-51, and 13-24, Report and Order, Notice of Proposed Rulemaking, Order, and Declaratory Ruling, FCC 22-51, para. 26 (rel. June 30, 2022) (*2022 TRS Rules Order*).

¹⁷ *2022 TRS Rules Order*, paras. 61-66.

¹⁸ See 47 CFR § 64.604(a)(3)(i); *December 2021 Order*, para. 12 (extending partial waiver of this rule for Hamilton's web and wireless IP CTS until March 31, 2022); *March 2022 Order*, para. 10 (extending all current waivers until June 30, 2022).

¹⁹ *December 2021 Order*, para. 6.

²⁰ Letter from David A. O'Connor, Counsel to Hamilton Relay, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 13-24, at 2 (filed June 15, 2022)

²¹ *Id.*

²² *December 2020 Waiver Order*, 35 FCC Rcd at 14635, para. 3 n.8.

²³ *Id.* at 2; *December 2021 Order*, para. 6.

11. IT IS FURTHER ORDERED that, pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 225, and sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, the waiver of the rule provision listed in paragraph 1 hereof, originally granted in the *TRS Waiver Orders*, as described herein, is extended through August 30, 2022, to the extent described herein.

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

FEDERAL COMMUNICATIONS COMMISSION

Alejandro Roark, Chief
Consumer and Governmental Affairs Bureau