

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

ORDER

Adopted: March 26, 2014

Released: March 26, 2014

By the Acting Chief, Consumer and Governmental Affairs Bureau:

1. By this Order, the Consumer and Governmental Affairs Bureau (CGB), on its own motion and pursuant to delegated authority, grants a partial waiver, as described below, of the requirement for providers of Internet-based relay services, also known as iTRS providers, to file waiver status reports by April 16, 2014.

2. Since 2004, the Commission has waived various provisions of our telecommunications relay services (TRS) rules imposing minimum service standards for providers of certain forms of iTRS. Some of these waivers are conditioned on the filing of annual reports, which are designed to help the Commission determine whether technological advances have occurred that will enable providers to

1 See 47 C.F.R. §§ 0.141, 0.361, 1.3.

2 iTRS is "[a] telecommunications relay service . . . in which an individual with a hearing or a speech disability connects to a TRS communications assistant using an Internet Protocol-enabled device via the Internet, rather than the public switched telephone network." 47 C.F.R. § 64.601(a)(15). Three forms of iTRS are recognized by the Commission: VRS, IP Relay, and Internet Protocol Captioned Telephone Service (IP CTS). See 47 C.F.R. §§ 64.601(a)(16), (17), (40) (defining IP CTS, IP Relay, and VRS).

3 The waiver adopted by this Order applies to the reporting requirements imposed in a 2013 order extending previously granted waivers of certain rules applicable to telecommunications relay services (TRS). See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers, CG Docket No. 03-123, WC Docket No. 05-196, Order, 28 FCC Rcd 9246 (CGB/WCB 2013) (2013 TRS Waiver 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).

4 See e.g., 2013 TRS Waiver Order; 2012 TRS Waiver Order, 27 FCC Rcd at 7114, ¶ 3. See generally 47 C.F.R. Part 64, Subpart F (TRS rules).

comply, going forward, with the affected mandatory minimum standards.⁵ For each of the past several years, the content of the reports submitted by iTRS providers, with few exceptions, have remained substantially the same, revealing no technological advances that would enable providers to meet currently waived standards. In November 2009, in an effort to reach a permanent resolution of the status of these waivers, several iTRS providers requested the Commission to extend indefinitely all iTRS waivers of limited duration and to clarify what Petitioners view as discrepancies in some of the waivers.⁶ Since the request was filed, each year the Commission has continued to renew the waivers, conditioned on the continued filing of annual status reports.⁷

3. On July 1, 2013, CGB and the Wireline Competition Bureau released the *2013 TRS Waiver Order*, again extending the waivers until July 1, 2014 or until the effective date of amendments to the applicable rules, whichever occurs first.⁸ The waivers were conditioned on the filing of an annual report, due April 16, 2014, which was directed to address the ability to comply with the mandatory minimum standards and the need for the waivers to remain in effect.⁹ On September 5, 2013, the Commission issued a Notice of Proposed Rulemaking (*2013 TRS Waiver NPRM*) seeking comment on proposals to exempt certain iTRS providers permanently from the mandatory minimum standards that are the subject of the waiver Orders¹⁰ and to codify certain exemptions from the mandatory minimum standards that apply to captioned telephone service (CTS) providers.¹¹

⁵ See *2013 TRS Waiver Order*, 28 FCC Rcd at 9248, ¶ 3. See also, e.g., *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, 12520, ¶ 111 (2004).

⁶ 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, CG Docket No. 03-123 (filed Nov. 19, 2009) (Hamilton Joint Request). The Hamilton Joint Request generally asked the Commission to exempt IP Relay and VRS providers permanently from certain mandatory minimum standards because of the technical infeasibility or inapplicability of these standards in an IP environment.

⁷ See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 25 FCC Rcd 8437 (2010) (*2010 TRS Waiver Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 26 FCC Rcd 9449 (2011) (*2011 TRS Waiver Order*); *2012 TRS Waiver Order*; *2013 TRS Waiver Order*. In 2009, the waivers were extended for six months, rather than a year. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Order, 24 FCC Rcd 14721 (2009) (*2009 TRS Waiver Order*).

⁸ *2013 TRS Waiver Order*, 28 FCC Rcd at 9246, ¶ 1.

⁹ *2013 TRS Waiver Order*, 28 FCC Rcd at 9248, ¶ 3.

¹⁰ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waivers of iTRS Mandatory Minimum Standards*, CG Docket No. 03-123, Notice of Proposed Rulemaking, 28 FCC Rcd 13514 (2013). The NPRM also sought comment on whether there is any public interest need to continue to waive various other mandatory minimum standards, given the current state of the technologies pertaining to these standards and in light of recent annual reports submitted by providers reporting the ability to comply with such mandatory minimum standards. The goal of this proceeding is to provide greater certainty for iTRS and CTS users and providers with respect to the TRS mandatory minimum standards and to obviate the need for iTRS providers to file further periodic waiver filings regarding these standards. *Id.* at 13515, ¶ 1.

¹¹ CTS permits people who can speak, but who have difficulty hearing over the telephone, to simultaneously listen to the other party and read captions of what that 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 (continued . . .)

4. Generally, the Commission's rules may be waived for good cause shown.¹² The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹³ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁴ 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.¹⁵

5. As noted above, pursuant to an open proceeding initiated in September 2013, the Commission currently is considering action that would make permanent exemptions to certain TRS mandatory minimum standards.¹⁶ It is unlikely that this proceeding will be concluded prior to the April 16, 2014 filing deadline for the annual reports. Given that the Commission is in the midst of conducting this review, we find that requiring VRS and IP Relay providers to file new status reports this year – which are, at least in large part, expected to repeat what has been reported to the Commission on multiple prior occasions, as has been the case in prior years' reports – would serve little purpose and impose an unnecessary burden on the providers at this time. We therefore find good cause to waive, on our own motion, the 2014 annual status report filing requirement for each iTRS provider, with respect to the re-submission of information that the provider already filed with the Commission in its April 16, 2013 status report. We believe that the annual status reports filed by providers over the past several years, which have largely remained the same from year to year, contain ample information on which to base a resolution of the waived standards in 2014, and, therefore, the 2014 reports are not necessary at this time insofar as they would simply repeat information provided before. However, we require providers to conduct the assessments that underlie their compliance reporting and, to the extent that any provider's ability to comply with any waived requirement has changed since the date of its last report, such provider continues to have an obligation to submit a status report covering such new information by April 16, 2014 under the conditions of the *2013 TRS Waiver Order*.¹⁷ This approach will enable the Commission to obtain the relevant information necessary to determine the outcome of the waivers for 2014 without unnecessarily burdening the iTRS providers, while the Commission examines the complex issues raised regarding these waived standards.

6. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4(i)–(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)–(j), and 225, and sections 0.141, 0.361 and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361 and 1.3, this Order IS ADOPTED.

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Ruling, 18 FCC Rcd 16121 (2003) (*CTS Declaratory Ruling*). CTS providers are not required to file annual reports addressing the mandatory minimum standards that were waived for CTS. *Id.*

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

¹³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹⁵ *Northeast Cellular*, 897 F.2d at 1166.

¹⁶ See generally *2013 TRS Waiver NPRM*.

¹⁷ The effect of this decision is to waive the relevant TRS rules to the same extent granted in the *2013 TRS Waiver Order*, but conditioned on the more targeted reporting requirements specified here.

7. IT IS FURTHER ORDERED that the requirement for iTRS providers to file status reports detailing their progress in meeting the existing waived mandatory minimum TRS standards, pursuant to the *2013 TRS Waiver Order*, IS WAIVED to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Acting Chief
Consumer and Governmental Affairs Bureau