

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

In the Matter of)
)
Telecommunications Relay Services)
And Speech-to-Speech Services for) CC Docket No. 98-67
Individuals with Hearing and Speech)
Disabilities)

ORDER

Adopted: February 22, 2001

Released: February 23, 2001

By the Deputy Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On March 6, 2000, the Commission released a *Report and Order and Further Notice of Proposed Rulemaking (Improved TRS Order)* amending its rules governing the delivery of telecommunications relay services (TRS).¹ The *Improved TRS Order* expands the kinds of relay services available to consumers and requires improvements in the quality of relay services, based on our ten years of experience with TRS and changes in available technologies.²

2. Title IV of the Americans with Disabilities Act of 1990 (ADA), which is codified at section 225 of the Communications Act of 1934, as amended (Communications Act) requires the Commission to ensure that TRS is available, to the extent possible and in the most efficient manner, to individuals with hearing and speech disabilities in the United States.³ Section 225 defines relay service to be a telephone transmission service that provides the ability for an individual with a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner functionally equivalent to someone without such a disability.⁴ Section 225 requires the Commission to ensure that interstate and intrastate relay services are available throughout the country and to establish regulations to ensure the quality of relay service.⁵ To fulfill this mandate, the Commission first issued rules in 1991.⁶

¹ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 98-67, 15 FCC Rcd 5140 (2000) (*Improved TRS Order*).

² *Improved TRS Order*, 15 FCC Rcd at 5141, ¶ 1.

³ Pub. L. No. 101-336, § 401, 104 Stat. 327, 366-69 (1990) (adding section 225 to the Communications Act of 1934, as amended, 47 U.S.C. § 225).

⁴ 47 U.S.C. § 225(a)(3).

⁵ *Id.* at § 225(b).

TRS has been available on a uniform, nationwide basis since July 26, 1993.⁷ The *Improved TRS Order* is designed to improve the quality of TRS by increasing the availability and usefulness of the telecommunications network for Americans with speech and hearing disabilities.⁸ The Commission's Rules set forth the minimum operational, technical, and functional standards for TRS.⁹

3. On June 5, 2000, the Commission, on its own motion, amended the effective date by which parties must comply with most of the amended rules adopted in the *Improved TRS Order*.¹⁰ The *Improved TRS Order on Reconsideration* also established a fixed date for the annual submission of complaint log summaries by states and TRS providers to the Commission of July 1 of each year.¹¹ The Commission also more rigorously conformed the text of the rules concerning the submission of contact information and the treatment of emergency calls to the precise language in the *Improved TRS Order*. Finally, the Commission clarified the requirement regarding the transfer of customer profile information between outgoing and incoming TRS providers,¹² clarified the review process and possible disposition of informal complaints under our amended TRS rules and made certain non-substantive changes.

4. TRS enables persons with hearing and speech disabilities to communicate by telephone with persons who may or may not have such disabilities.¹³ Today, TRS centers have special equipment and are staffed by communications assistants (CAs) who relay conversations between people who use text telecommunications devices and people who communicate by voice. In addition, as of March 1, 2001, our rules require TRS centers to provide speech-to-speech services, which facilitate telephone conversations for people who have difficulty speaking. The *Improved TRS Order* is intended to improve the quality of traditional relay services and lead to the widespread establishment of new types of relay services. As a result, many Americans who currently have limited or no practical access to telecommunications services will have access to services that are functionally equivalent to those enjoyed by Americans without disabilities.

(Continued from previous page) _____

⁶ 47 C.F.R. § 64.604; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, Report and Order and Request for Comments, 6 FCC Rcd 4657 (1991)(*First Report and Order*).

⁷ Under section 225, common carriers providing telephone voice transmission services were required to begin providing TRS, throughout the areas they served, as of July 26, 1993. See 47 U.S.C. § 225(c). Prior to this time, some states offered relay services, but the services offered differed from state to state, and were subject to many limitations. See Strauss, Title IV - Telecommunications, in *Implementing the Americans with Disabilities Act* at 156-158 (Gostin & Beyer ed. 1993).

⁸ *Improved TRS Order*, 15 FCC Rcd at 5144, ¶ 8.

⁹ See 47 C.F.R. § 64.601 *et. seq.*

¹⁰ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order on Reconsideration, CC Docket No. 98-67, FCC 00-200 (rel. June 5, 2000) (*Improved TRS Order on Reconsideration*).

¹¹ *Id.* at ¶ 2.

¹² *Id.*

¹³ 47 C.F.R. §§ 64.601(5), (7).

5. In this Order, we resolve seven petitions¹⁴ seeking temporary waivers of certain requirements established in the *Improved TRS Order*.¹⁵ These petitions request an extension of time from the December 18, 2000 due date for compliance with the provisions of the *Improved TRS Order*. There are three types of waiver requests before us: (1) requests from states for additional time to comply with the requirements of the *Improved TRS Order* to facilitate collection of cost justification information from Sprint pertaining to Sprint's provision of relay services for the states,¹⁶ (2) requests for additional time to comply with various service quality standards (i.e., typing speed, in-call replacement of CAs, and speed of answer),¹⁷ and (3) requests for additional time to comply with the requirement that relay providers automatically transfer emergency calls to the nearest Public Safety Answering Point (PSAP).¹⁸ These waiver requests are explained in greater detail below. Petitioners request anywhere from a two and one-half to a six-month extension of time. For the reasons discussed herein, we grant the Petitioners a three-month waiver to collect their cost justification information from Sprint and to comply with the aforementioned service quality standards. We also grant the Petitioners a six-month waiver to allow Sprint to complete its database and comply with the emergency call requirements.

II. DISCUSSION

A. Cost Justification

1. Background

6. While the statutory obligation to deliver relay services falls on common carriers, the law and the Commission's rules give states a strong role by considering carriers to be in compliance with this obligation if they operate in a state that has a relay program certified as compliant by this Commission.¹⁹ All states have certified programs today, and most states competitively select a relay provider through a

¹⁴ See Sprint Communications Company L.P. Motion for a Limited Temporary Waiver (filed Nov. 7, 2000) (Sprint Waiver Request); New Hampshire Public Utilities Commission Request for Temporary Waiver for Extension of Time to Implement FCC Report and Order No. FCC 00-56 as Amended by Order No. 00-200 (filed Nov. 8, 2000) (NHPUC Waiver Request); California Public Utilities Commission and the People of the State of California Request for Temporary Waiver for Extension of Time (filed December 6, 2000) (California Waiver Request); Arizona Commission for the Deaf and Hard of Hearing Request for Extension of Time (filed Dec. 14, 2000) (Arizona Waiver Request); Verizon Communications, Inc. Request for Temporary Waiver (filed December 15, 2000) (Verizon Waiver Request); North Carolina Telecommunications Relay Service Administration Request for Extension of Time (filed Nov. 6, 2000) (North Carolina TRS Waiver Request); SBC Communication, Inc. request for Temporary Waiver (filed Dec. 11, 2000) (SBC Waiver Request). Collectively "the Petitioners."

¹⁵ An eighth petition was filed by the Florida Public Service Commission. See Florida Public Service Commission Request for Temporary Waiver for Extension of Time to Implement FCC Report and Order No. 00-200 (filed Oct. 24, 2000). This request, however, was withdrawn on January 17, 2001. See Florida Public Service Commission Notice of Withdrawal of Request for Temporary Waiver (filed Jan. 17, 2001).

¹⁶ See North Carolina TRS Waiver Request, NHPUC Waiver Request, Arizona Waiver Request and California Waiver Request.

¹⁷ See SBC Waiver Request and Arizona Waiver Request.

¹⁸ See Sprint Waiver Request, SBC Waiver Request, Verizon Waiver Request and California Waiver Request.

¹⁹ 47 U.S.C. § 225(a), (c).

competitive bidding process. In general, a state administrator, or a statewide trade association of common carriers contracts with a relay provider for relay services for their state. These contracts are specifically at issue in four of the waiver requests before us.²⁰ Four states request additional time to obtain cost justification information from Sprint, their relay provider, so that the states can in turn, enter into new contracts for the provision of compliant services.

7. New Hampshire, North Carolina, Arizona and California request temporary waivers to implement certain requirements of the *Improved TRS Order*.²¹ Each of these states is currently in the process of negotiating with Sprint, its relay provider, and has requested additional cost justification information to ensure that the amended franchise will be reasonable, compliant with the rules and cost-effective.²² The states explain that they cannot evaluate Sprint's proposed price increase and enter into a new contract without such information.²³ On January 9, 2001, Sprint stated that it has resolved, or expects to resolve shortly, the cost increase issues with its state customers.²⁴

2. Discussion

8. We believe that a three-month waiver will provide the states the time they need to enter into new contracts with their relay providers and comply with sections 64.603 and 64.604 of our rules. Because the Petitioners require additional cost justification information to ratify their contracts with Sprint, we grant these petitioners a three-month waiver of our rules in sections 64.603 and 64.604, i.e., until March 16, 2001. This additional time should result in compliant contracts and improved services for TRS users.

9. We caution, however, that this additional time should not be used to further delay the implementation of the *Improved TRS Order*. Rather, we expect that the states, relay providers and carriers will continue to act in good faith to comply with the new relay requirements. The *Improved Services Order* was designed to improve the quality, availability and usefulness of the telecommunications network for Americans with speech and hearing disabilities.²⁵ Thus, to the extent that relay providers are providing compliant services during this negotiating period, we commend them for doing so and encourage such improvements to continue during the extension of time.

²⁰ See North Carolina TRS Waiver Request, NHPUC Waiver Request, Arizona Waiver Request, and California Waiver Request.

²¹ NHPUC Waiver Request at 1 (New Hampshire requests an extension until March 1, 2001); North Carolina TRS Waiver Request (North Carolina Request a three month waiver request); Arizona Waiver Request at 1-2 (Arizona requests a three and one-half month waiver until April 1, 2001) and California Waiver Request at 1-2 (California requests a six month waiver until June 15, 2001).

²² *Id.*

²³ *Id.*

²⁴ See Letter from Michael B. Finger Hut, Counsel for Sprint, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 98-67 (filed Jan. 11, 2001).

²⁵ *Improved Services Order*, 15 FCC Rcd at 5144, ¶ 8.

B. Access to Emergency Services

1. Background

10. We have before us four requests for a waiver of the December 18, 2000 due date to implement section 64.604(a)(4) of our rules²⁶ which establishes the mandatory minimum standards for the handling of emergency TRS calls.²⁷ Section 64.604(a)(4) states that “[p]roviders must use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to the nearest PSAP. In addition, a CA must pass along the caller’s telephone number to the PSAP when a caller disconnects before being connected to emergency services.”²⁸ As we stated in the *Improved TRS Order*, with a voice caller, a PSAP will automatically receive the caller’s telephone number even if the call is disconnected. We believe our requirement is necessary to ensure functionally equivalent service and will allow the PSAP to follow its normal procedures for a call that is disconnected before being handled by an emergency services operator.²⁹

11. While Department of Justice regulations require state and local government entities to make emergency services directly accessible to TTY users,³⁰ some individuals with hearing and speech disabilities continue to contact emergency services via a TRS center.³¹ These calls require the CA to locate and call the PSAP serving the area where the call originated from, as well as provide the relay function for the call.³² Thus, the Commission adopted section 64.604(a)(4) of our rules in the *Improved TRS Order* to ensure that relay calls to 911 are functionally equivalent to a direct call to 911.

12. In order to implement the new emergency call requirements, Sprint, the relay provider in many areas of the country, argues that it must create a new database that includes all of the PSAPs in the country.³³ Sprint and an independent contractor retained by Sprint are currently developing such a database.³⁴ Sprint asserts that it needs until June 15, 2001 to have the database populated, fully tested and operational.³⁵

13. Verizon explains that in all but one of the states within its footprint, it does not directly

²⁶ See Sprint Waiver Request, SBC Waiver Request, Verizon Waiver Request and California Waiver Request. (All of the Petitioners request a six month waiver, except SBC which requests a five month waiver.)

²⁷ See 47 C.F.R. § 64.604(a)(4).

²⁸ *Id.*

²⁹ *Improved TRS Order*, 15 FCC Rcd at 5193, ¶ 101.

³⁰ 28 C.F.R. § 35.162.

³¹ *Improved TRS Order*, 15 FCC Rcd at 5192, ¶ 100.

³² Sprint Waiver Request at 2.

³³ *Id.* at 1.

³⁴ *Id.*

³⁵ *Id.*

provide TRS service.³⁶ Thus, Verizon relies on vendors selected by the state commissions. Verizon has been working with these vendors to meet the Commission's emergency call handling requirements in a timely manner.³⁷ Sprint is one of Verizon's largest vendors.³⁸ Thus, because Sprint needs additional time to make sure that its database is compliant, Verizon argues that it will also need more time to have a functional database. In the interim, Verizon has taken steps to ensure that TTY users who call the TRS center have access to emergency services.³⁹ In addition, Verizon is urging its TTY users, in the event of an emergency, to dial 911 directly rather than accessing the TRS center.⁴⁰

14. California has also requested a six-month waiver in which to implement the provisions of section 64.604(a)(4) of the Commission's Rules.⁴¹ California is unique insofar as the provision of relay services is concerned because it has two relay providers. MCI is the primary relay service provider and Sprint is the secondary relay service provider.⁴² California expects Sprint to be in compliance with all of the provisions of the *Improved TRS Order*, except the PSAP requirements, by the December 18, 2000 due date.⁴³ In their petition, California stated that it expects MCI to be fully compliant by the December 18, 2000 due date.⁴⁴

15. SBC, which serves as its own relay provider in three locations, has requested a five-month waiver to comply with section 64.604(a)(4) of our rules.⁴⁵ SBC has been working with a private contractor to develop its own PSAP database, similar to the one Sprint is developing, to comply with the rule.⁴⁶ Based upon the vendor's best estimate, the database should be operational by May 15, 2001.⁴⁷ SBC, however, notes that they cannot guarantee this date and that an additional waiver may be required.⁴⁸

2. Discussion

16. We agree with Sprint, Verizon and SBC that "good cause" exists for granting the

³⁶ Verizon Waiver Request at 1 (Hawaii, where Verizon has been awarded the contract, is the exception).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at 2.

⁴⁰ *Id.*

⁴¹ California Waiver Request.

⁴² *Id.* at 1.

⁴³ *Id.*

⁴⁴ *Id.* at 2.

⁴⁵ SBC Waiver Request.

⁴⁶ *Id.* at 2.

⁴⁷ *Id.* at 4.

⁴⁸ *Id.* at 2, 4.

requested temporary extension pursuant to section 1.3 of the Commission's Rules.⁴⁹ We therefore grant all of the carriers and states using Sprint as their relay provider a six-month extension, until June 18, 2001, to comply with the new automated PSAP emergency call requirements as set forth in section 64.604(a)(4) of our rules. Sprint currently gives emergency calls to its relay centers the highest priority and has procedures in place for handling such calls.⁵⁰ Because Sprint is working expeditiously to complete its database, and because procedures for handling emergency calls are consistent with the Commission's goal of providing access to users with speech and hearing disabilities, we believe that a six-month waiver of the automated transfer of emergency calls to the nearest PSAP is reasonable. For similar reasons, we also grant SBC a six-month waiver of section 64.604(a)(4) of our rules. As a relay provider, SBC also needs additional time to populate its database in the states where it is the relay provider. Until the databases are populated and fully operational, however, all carriers must continue giving emergency relay calls the highest priority and greatest care to ensure the safety of relay users. Consistent with the requirements established in the *Improved TRS Order*, relay providers must direct emergency calls as quickly as possible to the correct PSAP, and provide the caller's telephone number to the PSAP quickly and in a format the PSAP can use to determine the location of the caller.

C. Service Quality Standards

1. Background

17. As stated above, the *Improved TRS Order* amended the Commission's Rules to expand and improve the kinds of relay services available to TRS consumers.⁵¹ As a result, the Commission adopted new mandatory minimum operational and technical standards. Some of the service quality standards impose certain requirements on the CAs who handle relay calls. Because of the varying skill levels and the contracts with the CAs, however, some Petitioners ask for additional time to bring their CAs and their systems into compliance.⁵²

18. SBC seeks a temporary waiver of the 60 words per minute (wpm) typing speed requirement for CAs.⁵³ Specifically SBC seeks a waiver until May 31, 2001, in which to fully comply with this mandatory minimum operational standard.⁵⁴ SBC explains that while many of its CAs are meeting this requirement, there are numerous incumbent CAs with considerable seniority who have not yet passed SBC's newly instituted oral-to-text typing test.⁵⁵ SBC explains that full compliance will require additional testing, training or re-training employees, and if necessary and possible, replacing employees.⁵⁶ In addition,

⁴⁹ See 47 C.F.R. § 1.3. See also Sprint Waiver Request at 1-5, Verizon Waiver Request at 1-2 and SBC Waiver Request at 3-4.

⁵⁰ Sprint Waiver Request at 2-3

⁵¹ *Improved TRS Order*, 15 FCC Rcd at 5141, ¶1.

⁵² See SBC Waiver Request and Arizona Waiver Request.

⁵³ See 47 C.F.R. § 64.604(a)(1).

⁵⁴ SBC Waiver Request at 1.

⁵⁵ *Id.* at 1-2.

⁵⁶ *Id.* at 2.

some of SBC's TRS centers are staffed by employees working under collective bargaining agreements.⁵⁷ If these employees do not meet the 60 wpm standard, they could become unqualified and lose their jobs.⁵⁸ SBC contends that such action could make it difficult to adequately staff the TRS centers.⁵⁹ In addition, SBC seeks a waiver of the requirement that TRS providers must give oral-to-type tests of CA speed.⁶⁰ SBC states that the failure of the incumbent employees to pass the oral-to-text typing test could negatively impact customer service.⁶¹

19. Arizona also seeks a waiver of some of the new mandatory minimum standards.⁶² Specifically, Arizona requests an additional three and one-half-months, until April 1, 2001, in which to fully comply with the new typing speed requirements for CAs,⁶³ the in-call replacement times for CAs,⁶⁴ and the new speed of answer requirements.⁶⁵ Like SBC, Arizona faces some contractual hurdles to compliance with the new mandatory minimum standards.⁶⁶

2. Discussion

20. We grant SBC and Arizona until May 31, 2001, to comply with the aforementioned service quality standards referenced in their waiver requests. We agree with SBC and Arizona that a waiver in these limited circumstances is appropriate. Providing the CAs additional time to meet our requirements, will provide little disruption to the provision of compliant services. Furthermore, an extension in time will allow current relay center employees the opportunity to improve their skills and meet the mandatory minimum standards. Thus, we grant SBC a waiver until May 31, 2001 to comply with Section 64.604(a)(1) of our rules. We also grant Arizona a waiver until May 31, 2001 to comply with sections 64.604(a)(1), 64.604(a)(5) and 64.604(b)(2) of our rules.

III. ORDERING CLAUSES

21. Accordingly, IT IS ORDERED, pursuant to the authority contained in section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, that the California Public Utilities Commission and the People of the State of California, The Arizona Commission for the Deaf and Hard of Hearing, the New Hampshire Public Utilities Commission and the North Carolina Telecommunications Relay Services are granted a

⁵⁷ *Id.* Presently, 149 employees are covered by the AIT-CWA Collective Bargaining Agreement.

⁵⁸ *Id.*

⁵⁹ *Id.* at 3.

⁶⁰ *Id.* at 1.

⁶¹ *Id.* at 3.

⁶² *See* Arizona Waiver Request at 1.

⁶³ *See* 47 C.F.R. § 64.604(a)(1).

⁶⁴ *See* 47 C.F.R. §64.604(a)(5).

⁶⁵ *See* 47 C.F.R. §64.604(b)(2).

⁶⁶ Arizona Waiver Request at 2 nn.4-6.

three-month waiver, until March 16, 2001, to comply with sections 64.603 and 64.604 of the Commission's Rules, 47 C.F.R. §§ 47 C.F.R. 64.603 and 64.604.

22. IT IS FURTHER ORDERED that, all carriers using Sprint Communications Company, L.P. as their relay provider and SBC are granted a six-month waiver, until June 18, 2001, to comply with section 64.604(a)(4) of the Commission's Rules, 47 C.F.R. § 64.604(a)(4).

23. IT IS FURTHER ORDERED that, the Arizona Commission for the Deaf and Hard of Hearing and SBC Communications, Inc. shall be granted a waiver until May 31, 2001, to comply with sections 64.604(a)(1), 64.604(a)(5) and 64.604(b)(2) of the Commission's Rules, 47 C.F.R. §§ 64.604(a)(1), 64.604(a)(5) and 64.604(b)(2).

FEDERAL COMMUNICATIONS COMMISSION

Yog R. Varma
Deputy Chief, Common Carrier Bureau