

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

In the Matter of)	
)	
Telecommunications Relay Services)	CG Docket No. 03-123
and Speech-to-Speech Services for)	
Individuals with Hearing and Speech Disabilities)	
)	
E911 Requirements for IP-Enabled Service)	WC Docket No. 05-196
Providers		

ORDER

Adopted: July 1, 2013

Released: July 1, 2013

By the Acting Chief, Consumer and Governmental Affairs Bureau, and Chief, Wireline Competition Bureau:

1. By this Order, the Consumer and Governmental Affairs Bureau (CGB) and the Wireline Competition Bureau (WCB) extend the waivers of certain telecommunications relay services (TRS)¹ mandatory minimum standards for video relay service (VRS)² and Internet Protocol Relay Service (IP Relay).³ These waivers currently are set to expire on July 1, 2013 pursuant to the Commission’s *2012 TRS Waiver Order*.⁴ The Commission intends to initiate a rulemaking proceeding in the near future to consider the continuing need for and applicability of the rules underlying each of the waivers. In the interim, to maintain the *status quo* pending resolution of that proceeding, and because the service providers’ reported ability to comply with these waivers remains substantially unchanged, we now extend each of the waivers discussed in section I below until July 1, 2014, or until the effective date of an amendment to the applicable rules or other action addressing the merits of the application of such rules to VRS and IP Relay, whichever occurs first. For similar reasons, as explained below, we also are granting certain limited waivers anew for one provider, ASL Services Holdings, LLC (ASL Services). As to the limited waiver of certain rules for service providers serving newly registered customers who use their former default service provider’s customer premises equipment (CPE), discussed in section II below, we extend that waiver until July 1, 2014.

¹ TRS enables a person with a hearing or speech disability to access the nation’s telephone system to communicate with other telephone users through a communications assistant (CA). See 47 U.S.C. § 225(a)(3) (defining TRS); 47 C.F.R. § 64.601(a)(22). The TRS mandatory minimum standards govern the provision of relay service. See 47 C.F.R. § 64.604.

² VRS is a form of TRS that enables the VRS user and the CA to communicate in sign language via a video link over broadband, rather than through text. 47 C.F.R. § 64.601(a)(27) (defining VRS).

³ IP Relay is a form of TRS that permits individuals with hearing or speech disabilities to communicate in text messages via a computer (or other similar device). 47 C.F.R. § 64.601(a)(13) (defining IP Relay).

⁴ *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 and WC Docket No. 05-196, Order, 27 FCC Rcd 7113 (CGB/WCB 2012) (*2012 TRS Waiver Order*). Many of the waivers addressed in this proceeding were first granted at the inception of VRS and IP Relay.

2. Generally, the Commission's rules may be waived for good cause shown.⁵ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁶ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁷ 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.⁸

I. GENERALLY APPLICABLE WAIVERS

3. Regarding the waivers extended in the *2012 TRS Waiver Order*, Internet-based TRS providers filed their most recent annual progress reports in April 2013.⁹ These reports indicate that the status of providers' ability to comply with the waived rules remains largely unchanged. After reviewing the annual waiver reports submitted by providers in April 2013, we find good cause to extend these waivers because, based on the information received, we again believe that each of the waived standards are either technically infeasible for providers to achieve or not applicable to the form of TRS (*i.e.*, IP Relay or VRS) for which the standards are waived. For the same reasons given in the *2012 TRS Waiver Order*,¹⁰ we believe that granting these waivers, in light of this year's submission and current technologies, will continue to be in the public interest. Moreover, as noted above, the Commission intends to initiate a rulemaking proceeding in the near future to consider the continuing need for and applicability of the rules underlying each of these waivers. Therefore, for VRS and IP Relay providers, except as otherwise indicated herein, we extend the waivers of the following rules: (1) types of calls;¹¹ (2) pay-per-call (900) calls;¹² (3) one-line VCO, VCO-to-TTY, and VCO-to-VCO;¹³ (4) one-line HCO,

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

⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁸ *Northeast Cellular*, 897 F.2d at 1166.

⁹ See American Network, Inc., Annual Report of American Network, Inc. (Jan. 4, 2013) (ANI Report); ASL Services Holdings, LLC, 2013 Annual Mandatory Minimum Standards Waiver Compliance Report (Apr. 16, 2013) (ASL Services Report); ASL Services Holdings, LLC, Supplement to 2013 Annual Mandatory Minimum Standards Waiver Compliance Report (Jun. 11, 2013) (ASL Services Supplement); AT&T 2013 Annual Report on IP TRS Waivers (Apr. 1, 2013) (AT&T Report); Hancock, Jahn, Lee & Puckett, LLC d/b/a Communication Axess Ability Group, CAAG's Status Report on Currently Waived Requirements (Apr. 16, 2013) (CAAG Report); Convo Communications, LLC, Minimum Standards Waiver Report (Apr. 16, 2013) (Convo Report); CSDVRS, LLC, Report on Waivers by CSDVRS, LLC (Apr. 15, 2013) (CSDVRS Report); Hamilton Relay, Inc., 2013 Annual Report to FCC Concerning Internet Relay and IP CTS (Apr. 16, 2013) (Hamilton Report); Purple Communications, Inc., Annual Report on Progress of Meeting Waived Requirements (Apr. 11, 2013) (Purple Report); Sorenson Communications, Inc., Minimum Standards Waiver Report (Apr. 15, 2013) (Sorenson Report); Sprint Nextel Corporation, FCC IP Relay Annual Progress Report (Apr. 16, 2013) (Sprint IP Relay Report).

¹⁰ *2012 TRS Waiver Order*, 27 FCC Rcd at 7117-24, ¶¶ 8-21.

¹¹ 47 C.F.R. § 64.604(a)(3)(ii). See *2012 TRS Waiver Order*, 27 FCC Rcd at 7121-22, ¶¶ 16-17.

¹² 47 C.F.R. § 64.604(a)(3)(iv). See *2012 TRS Waiver Order*, 27 FCC Rcd at 7121, ¶¶ 14-15.

¹³ 47 C.F.R. § 64.604(a)(3)(v). See *2012 TRS Waiver Order*, 27 FCC Rcd at 7117-19, ¶¶ 8-9. Based on statements made by CSDVRS in its 2012 report, in the *2012 TRS Waiver Order*, CGB allowed CSDVRS's waivers for VCO-to-TTY and VCO-to-VCO to expire and extended its waiver for one-line VCO only with respect to the provision of this service to users with non-CSDVRS-provided equipment or software. *Id.* at 7118, ¶ 9 n. 49. We take the same action here, extending the waiver of one-line VCO only to the extent that CSDVRS provides this service to users with non-CSDVRS-provided equipment or software.

HCO-to-TTY, and HCO-to-HCO;¹⁴ and (5) call release.¹⁵ In addition, we extend, for VRS providers, the waiver of the requirement for equal access to interexchange carriers,¹⁶ and for IP Relay providers, the waiver of STS requirements for IP Relay.¹⁷ All waivers that we now extend continue to be conditioned on the filing of an annual report, due April 16, 2014, addressing the ability to comply with the mandatory minimum standards and whether it is necessary for the waivers to remain in effect.¹⁸

4. We grant anew waivers of some of these rules to ASL Services. In April 2012, ASL Services filed a waiver report indicating that it no longer needed waivers for the following rules because it had developed the capability to comply with these requirements: (1) types of calls;¹⁹ (2) pay-per-call (900) calls;²⁰ (3) one-line VCO, VCO-to-TTY, and VCO-to-VCO;²¹ (4) one-line HCO, HCO-to-TTY, and HCO-to-HCO;²² and, (5) call release.²³ Therefore, in the *2012 TRS Waiver Order*, while extending waivers of these rules for most other providers, we did not grant ASL Services an extension of its waivers for these rules.²⁴

5. In its April 2013 report and a supplement filed subsequent to the report, however, ASL Services changes its position, indicating that it not only needs waivers of these rules for the upcoming

¹⁴ 47 C.F.R. § 64.604(a)(3)(v). See *2012 TRS Waiver Order*, 27 FCC Rcd at 7119-20, ¶¶ 10-11. Based on statements made by CSDVRS in its 2012 report, in the *2012 TRS Waiver Order*, CGB allowed CSDVRS's waiver for HCO-to-TTY to expire and extended its waivers for (1) HCO-to-HCO with respect to all users and (2) one-line HCO only with respect to the provision of this service to users with non-CSDVRS-provided equipment or software. *Id.* at 7119-20, ¶ 11 n. 60. We take the same action here, extending these waivers for CSDVRS only to the extent that they were extended in that order.

¹⁵ 47 C.F.R. § 64.604(a)(3)(vi). See *2012 TRS Waiver Order*, 27 FCC Rcd at 7120, ¶¶ 12-13.

¹⁶ 47 C.F.R. § 64.604(b)(3). See *2012 TRS Waiver Order*, 27 FCC Rcd at 7122-23, ¶¶ 18-19. The Commission previously waived this requirement indefinitely for IP Relay. See *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779, 7789, ¶ 31 (2002), 17 FCC Rcd at 7789, ¶ 31.

¹⁷ See *Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, 5148-51, ¶¶ 14-20 (2000), 15 FCC Rcd at 5148-51, ¶¶ 14-20; see also 47 C.F.R. § 64.601(a)(20) (defining STS); *2012 TRS Waiver Order*, 27 FCC Rcd at 7123-24, ¶¶ 20-21. The Commission previously waived this requirement indefinitely for VRS. See *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, 12526-27, ¶¶ 134-135 (2004), 19 FCC Rcd at 12526-27, ¶¶ 134-135.

¹⁸ See *2012 TRS Waiver Order*, 27 FCC Rcd at 7117-24, ¶¶ 8-21.

¹⁹ *Id.* at 7122, ¶ 17 n. 81.

²⁰ *Id.* at 7121, ¶ 15 n. 72.

²¹ *Id.* at 7118, ¶ 9 n. 49.

²² *Id.* at 7119, ¶ 11 n. 60.

²³ *Id.* at 7120, ¶ 13 n. 65. In addition, ASL Services stated it did not require a waiver of the equal access requirement; however, CGB determined that, despite this claim, ASL Services did not have the ability to comply with the equal access requirement and therefore extended the equal access waiver for ASL Services as well as for the other providers. *Id.* at 7123, ¶ 19 n. 90.

²⁴ Although we also did not grant certain waivers for Healinc and Snap! VRS in the *2012 TRS Wavier Order*, both providers have since exited the TRS industry.

year, but that, in fact, it required such waivers in 2012.²⁵ In its supplement, ASL Services claims that statements made in its 2012 report that it was capable of meeting the waived mandatory minimum standards were “an expression of the internal technical capabilities of ASL’s platform to process . . . calls from its own subscribers, or through alternative operational procedures, and not a request to allow the waiver exemptions to expire.”²⁶ The supplement also indicates that ASL/Global VRS does in fact have compliance difficulties similar to those reported by other providers.²⁷

6. Based on ASL’s statements indicating that it is, in fact, similarly situated to other providers that have demonstrated good cause for a waiver, and because we intend to continue these temporary waivers in effect only until the Commission completes a rulemaking proceeding regarding the need for further waivers or permanent exemptions, and to avoid imposing compliance burdens on ASL Services alone, we grant ASL Services temporary waivers of the types of calls, pay-per-call (900) calls, one-line VCO, VCO-to-TTY, and VCO-to-VCO, one-line HCO, HCO-to-TTY, and HCO-to-HCO, and call release rules. Each waiver will expire July 1, 2014, or on the effective date of an amendment to the applicable rules or other action addressing the merits of the application of such rules to VRS and IP Relay, whichever occurs sooner.²⁸ All waivers now granted are conditioned on the filing of an annual report, due April 16, 2014, addressing the ability of ASL Services to comply with the mandatory minimum standards and whether it is necessary for the waivers to remain in effect.

II. CPE PORTABILITY WAIVERS

7. We also find good cause to extend waivers of certain TRS mandatory minimum standards for VRS and IP Relay providers that remain unable to meet such standards for newly-registered Internet-based TRS users who are using CPE, or iTRS access technology,²⁹ from a former default service provider. We extend the waivers, which are set to expire on July 1, 2013,³⁰ until July 1, 2014.³¹

8. These waivers were originally granted in 2008, after the Commission required VRS and IP Relay service providers to register users with their preferred “default” service providers and to assign such registered users ten-digit numbers linked to the North American Numbering Plan (NANP).³² In the *Second Internet-based TRS Numbering Order*, the Commission clarified that providers who provide CPE to users “must ensure that their devices are capable of making calls after a change in default provider” and “must make available to other VRS providers enough information about that equipment to enable any

²⁵ See ASL Services Report.

²⁶ ASL Services Supplement at 3.

²⁷ *Id.* at 3-4.

²⁸ This *Order* does not address whether ASL Services should be granted retroactive waivers of these mandatory minimum standards for the period from July 1, 2012 to June 30, 2013, which the Commission will address separately.

²⁹ In the *VRS Reform Order*, the Commission replaced use of term “CPE” in the iTRS context with the term “iTRS access technology,” effective 30 days after publication of the text or summary of the *VRS Reform Order* in the Federal Register. See *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-82, ¶¶ 45-46 (rel. June 10, 2013) (*VRS Reform Order*).

³⁰ See *2012 TRS Waiver Order*, 27 FCC Rcd at 7124, ¶¶ 22-23.

³¹ See *VRS Reform Order*, FCC 13-82, ¶¶ 48-49.

³² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11592-93, ¶ 1 (2008).

VRS provider to perform all its functions as a default provider.”³³ As a corollary, the Commission also ruled that “no provider may begin providing service as a new default provider for a customer until the provider is capable of performing [default provider functions] with respect to any device that was being used with the former default provider’s service.”³⁴

9. Recognizing that standards allowing full compliance with these requirements were not yet in place, the Commission granted a one-year limited waiver of any TRS mandatory minimum requirement that a new default provider is unable to meet “for a new registered user who is using CPE from a former default provider because that new default provider does not have access to the [necessary] technical information about that user’s CPE.”³⁵ The standards subject to limited waiver under this ruling include operational requirements such as the provision of speed dialing,³⁶ emergency call handling requirements,³⁷ and the requirement to offer point-to-point calling as clarified in the *Second Internet-based TRS Numbering Order*.³⁸

10. The Commission encouraged Internet-based TRS providers to work together to develop standards to ensure that default providers could carry out their responsibilities after a change in providers.³⁹ However, the industry did not fully achieve on its own the standardization needed for full interoperability and portability; therefore, the waiver was extended for additional periods in the *2009 TRS Waiver Order*,⁴⁰ *2010 TRS Waiver Order*,⁴¹ *2011 TRS Waiver Order*,⁴² and *2012 TRS Waiver Order*.⁴³ In the *VRS Reform Order*, therefore, the Commission directed Commission staff to participate in the development of voluntary, consensus standards to facilitate interoperability and portability;⁴⁴ authorized CGB to incorporate such consensus standards by reference into the Commission rules;⁴⁵ directed CGB to

³³ *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, CC Docket No. 98-67, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, 820-21, ¶ 65 (2008) (*Second Internet-Based TRS Numbering Order*).

³⁴ *Id.* at 821, ¶ 65.

³⁵ *Id.* at 822, ¶ 68.

³⁶ 47 C.F.R. §64.604(a)(3).

³⁷ 47 C.F.R. §64.605.

³⁸ *Second Internet-based TRS Numbering Order*, 24 FCC Rcd at 820, ¶ 65 (stating, “we clarify that all default providers must support the ability of VRS users to make point-to-point calls without the intervention of an interpreter. Second, we clarify that *all* providers must ensure that their devices are capable of making calls after a change in default provider, including point-to-point calls to other VRS users”).

³⁹ *Id.*

⁴⁰ *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 and WC Docket No. 05-196, Order, 24 FCC Rcd 14721, 14728, ¶ 21 (CGB/WCB 2009).

⁴¹ *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 and WC Docket No. 05-196, Order, 25 FCC Rcd 8437, 8438, ¶ 2 (CGB/WCB 2010).

⁴² *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 and WC Docket No. 05-196, Order, 26 FCC Rcd 9449, 9450-51, ¶ 2 (CGB/WCB 2011).

⁴³ *2012 TRS Waiver Order*, 27 FCC Rcd at 7124, ¶¶ 22-23.

⁴⁴ *VRS Reform Order*, FCC 13-82, ¶ 48.

⁴⁵ *Id.* at ¶ 49.

conduct an accelerated rulemaking, if necessary, to adopt standards for the portability of address book and speed dial list features;⁴⁶ and, generally stated the Commission's intention to take whatever steps are necessary to ensure the development and promulgation of interoperability and portability standards.⁴⁷

11. Because we recognize that a transition period for VRS access technologies or other action is necessary to ensure full interoperability and portability pursuant to the directives in the *VRS Reform Order*, we find that a further extension of the waiver is in the public interest, to allow time for the full implementation of the interoperability and portability standards that will enable Internet-based TRS providers to comply with all mandatory minimum standards regardless of the type of CPE used to access their services. Anticipating that implementation of the *VRS Reform Order* will result in sufficient progress in standardization to allow us to terminate this waiver, we grant a further extension of the CPE waiver until July 1, 2014, at which time we will assess such progress and determine whether the waiver should be terminated.

12. Accordingly, IT IS ORDERED that, pursuant to sections 151, 225, and 251(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 225, and 251(e), and sections 0.91, 0.141, 0.291, 0.361, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.141, 0.291, 0.361, and 1.3, each of the waivers described in section I hereof IS EXTENDED to July 1, 2014, or until the effective date of an amendment to the waived rule addressing the merits of the application of such rule to VRS and IP Relay, whichever occurs first.

13. IT IS FURTHER ORDERED that ASL Services Holdings, LLC, is granted waivers of the types of calls, pay-per-call (900) calls, one-line VCO, VCO-to-TTY, and VCO-to-VCO, one-line HCO, HCO-to-TTY, and HCO-to-HCO, and call release rules, effective from July 1, 2013, until July 1, 2014, or until the effective date of an amendment to the waived rule addressing the merits of the application of such rule to VRS and IP Relay, whichever occurs first.

14. IT IS FURTHER ORDERED that the waivers described in section II hereof are EXTENDED to July 1, 2014.

15. IT IS FURTHER ORDERED that this *Order* shall be effective upon release.

16. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This *Order* can also be downloaded in Word and Portable Document Formats (PDF) at <http://www.fcc.gov/cgb/dro>.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith, Acting Chief
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⁴⁶ *Id.* at ¶ 50.

⁴⁷ *Id.* at ¶ 52.