

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

In the Matter of)
)
Petition for Waiver of Rules Requiring Support of) GN Docket No. 15-178
TTY Technology)
)
Iowa Independent Telephone Companies)
)
)
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ORDER

Adopted: January 13, 2017

Released: January 13, 2017

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. By this Order, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission) grants a temporary, limited waiver of the Commission’s requirements to support text telephony (TTY) technology over Internet-protocol (IP)-based wireless services to 31 small, rural wireless telecommunication carriers that provide wireless telecommunications services in their local communities in Iowa.1 This waiver expires June 30, 2020.

II. BACKGROUND

2. The Commission’s rules contain various requirements for communications service providers and manufacturers to support TTY technology. These include specific requirements for defined classes of service providers to support the use of TTYs to call 911 emergency services,2 utilize telecommunications relay services (TRS),3 and access telecommunications and advanced communications services.4 In 2015 and 2016, AT&T, Verizon, Cellular South and the Competitive Carriers Association

1 See Amu-SkyLink, LLC, et al., Petition for Waiver (filed May 31, 2016) (Iowa ITC Petition); Amended Petition for Waiver (filed June 9, 2016) (adding two petitioners); Second Amended Petition for Waiver (filed Aug. 16, 2016) (adding two additional petitioners) (Iowa ITC Amended Petition). The companies listed in these filings are: Amu-SkyLink, LLC, Andrew Telephone Company, Inc., Baldwin Nashville Telephone Company, Inc., Bernard Communications, Inc., Cedar-Wapsie Communications, Inc., Center Junction Telephone Company, Inc., Central Iowa Wireless Co., CL Tel Wireless, Inc., Communications 1 Network, Inc., Cooperative Telephone Company, Dumont Wireless, Inc., East Buchanan Telephone Cooperative, FMTC Wireless, Inc., FWC Communications, Inc., Kalona Cooperative Telephone Co., Mill Valley Wireless, Inc., Modern Communications, Inc., Olin Telephone Company, Inc., Onslow Cooperative Telephone Association, Radcliffe Telephone Company, Rockwell Cooperative Telephone Association, Sac County Mutual Telephone Co., Scranton Telephone Company, SEI Wireless, LLC, Sharon Telephone Company, SkyLink, LLC, Southwest Wireless, Inc., WCTA Wireless Inc., Wellman Cooperative Telephone Association, West Iowa Wireless, LLC, and Winnebago Cooperative Telecom Association (collectively “Petitioners”).

2 47 CFR § 20.18(c).

3 Id. § 64.603.

4 Id. §§ 6.3(b), 6.5, 7.3(b), 7.5, 14.20, 14.21(d).

(CCA) petitioned for and received waivers of these TTY support obligations.⁵ These waivers were based on reported technical challenges to achieving reliable TTY transmissions over IP networks, the history of declining TTY use with wireless services, and the benefits of allowing the development of new VoIP services using wireless technologies for the public at large, and advanced IP-based accessibility solutions, such as real-time text (RTT), for people with disabilities.⁶ Because, during the waiver period, individuals with disabilities would be unable to access IP-based wireless technologies, each waiver grant was conditioned on a commitment by the grantee to (1) provide notification to customers as to the absence of TTY capabilities for 911 calling over IP-based networks and information on alternative ways to make these calls; and (2) file periodic reports with the Commission describing the grantee's progress toward implementing RTT.⁷ For each service provider receiving a waiver, the Bureaus set the waiver's expiration date as the sooner of December 31, 2017, or the effective date of Commission rules providing for alternative IP-based accessibility solutions.⁸

3. On December 16, 2016, the Commission released a report and order amending the TTY support rules to permit wireless service providers to fulfill their obligations under those rules by supporting RTT in lieu of TTY technology.⁹ In this order, the Commission set initial RTT implementation dates for each class of service provider and extended the expiration dates for all previously granted waivers to the earliest RTT implementation date applicable to each affected provider.¹⁰

4. *Iowa ITC Petition.* Petitioners describe themselves as “small, rural wireless telecommunication carriers that provide wireless telecommunications services in their local communities in Iowa in connection with Iowa Wireless Services, LLC, d/b/a iWireless.”¹¹ Petitioners state that, as independent telephone companies (ITCs) or their affiliates, they “generally serve low population areas that have no more than a few hundred subscribers” and work with iWireless to provide their customers with seamless wireless coverage throughout Iowa.¹²

5. Petitioners seek relief from TTY requirements that is similar to that granted to other TTY waiver petitioners.¹³ They state that, in light of their limited resources, providing IP-based service in

⁵ See *Petition for Waiver of Rules Requiring Support of TTY Technology*, Order, 30 FCC Rcd 10855 (CGB PSHSB WTB WCB 2015) (*AT&T TTY-RTT Transition Waiver Order*); Order, 30 FCC Rcd 12755 (CGB PSHSB WTB WCB 2015) (*Verizon TTY-RTT Transition Waiver Order*); Order, 30 FCC Rcd 14404 (CGB PSHSB WTB WCB 2015) (*Cellular South TTY-RTT Transition Waiver Order*), modified, Letter Order, 31 FCC Rcd 201 (CGB PSHSB WTB WCB 2016) (*Cellular South TTY-RTT Transition Waiver Modification Letter*); Order, 31 FCC Rcd 3778 (CGB PSHSB WTB WCB 2016) (*CCA TTY-RTT Transition Waiver Order*).

⁶ See, e.g., *AT&T TTY-RTT Transition Waiver Order*, 30 FCC Rcd at 10858-62, paras. 9-16.

⁷ See, e.g., *id.* at 10863-64, paras. 18-19. In some cases, petitioners also have had to file an initial report describing their plans to implement RTT. See, e.g., *CCA TTY-RTT Transition Waiver Order*, 31 FCC Rcd at 3784, paras. 17-18.

⁸ See, e.g., *CCA TTY-RTT Transition Waiver Order*, 31 FCC Rcd at 3785, para. 20.

⁹ See *Transition from TTY to Real-Time Text Technology et al.*, Report and Order and Further Notice of Proposed Rulemaking, ___ FCC Rcd ___ (2016), FCC 16-169 (rel. Dec. 16, 2016) (*RTT Report and Order*). We refer readers to the comprehensive discussions contained in that order and the Bureau's prior waiver grants on the declining use and limitations of TTY technology, as well as the benefits of having a reliable and interoperable real-time text-based solution for IP-based wireless voice networks, rather than reiterate these points here. See, e.g., *id.*, paras. 8-10; *AT&T TTY-RTT Transition Waiver Order*, 30 FCC Rcd at 10858-62, paras. 8-16.

¹⁰ *RTT Report and Order*, para. 71.

¹¹ *Iowa ITC Petition* at 2.

¹² *Id.* at 2.

¹³ *Id.* at 1.

compliance with the TTY rules would be extremely onerous and burdensome.¹⁴ While concurring in the wireless industry's commitment to develop and deploy RTT as an alternative solution, Petitioners assert that in light of that commitment, it would not serve the public interest to require Petitioners to attempt to develop and deploy a custom TTY solution that works with IP technology.¹⁵

6. Petitioners explain that although iWireless is a CCA member that has opted into the CCA waiver, the Petitioners themselves are unable to do so because they are not CCA members and cannot afford to become members.¹⁶ Additionally, although Petitioners confirm their intention to comply with the CCA waiver conditions, they explain that they are small carriers, and some have only rudimentary websites for the wireless services operating under the iWireless brand name. In light of these limitations, they propose to use iWireless' website to provide notification to customers about the absence of TTY capabilities for 911 calling over IP-based networks and about alternative means of reaching 911.¹⁷

7. Petitioners further request that, because they work in close coordination with iWireless, they be permitted to rely on progress reports submitted by iWireless through CCA.¹⁸ In the event that iWireless fails to file a report with CCA, Petitioners state that they would be responsible for submitting reports directly to the Commission.¹⁹

III. DISCUSSION

8. A Commission rule may be waived for "good cause shown."²⁰ In particular, a waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.²¹ In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²² Such a waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.²³

9. Pursuant to the *AT&T TTY-RTT Transition Waiver Order*, applicants for waivers of the TTY support rules also must describe the wireless services they provide, explain the difficulties posed by supporting TTY technology over wireless IP networks, and state their expectations as to deploying accessible text alternatives to TTY technology, as well as a commitment to achieving compliance with the reporting requirements and other specified conditions.²⁴

¹⁴ *Id.* at 7-8.

¹⁵ *Id.* at 8-10.

¹⁶ *Id.* at 3-4.

¹⁷ *Id.* at 10. Petitioners confirm that they will comply with the notification requirement in the *CCA TTY Waiver Order* in all other respects.

¹⁸ *Id.* Petitioners claim that any individual reports submitted by Petitioners would be duplicative of those submitted by iWireless.

¹⁹ *Id.*

²⁰ 47 C.F.R. § 1.3.

²¹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²² *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.

²³ *Northeast Cellular*, 897 F.2d at 1166.

²⁴ *AT&T TTY-RTT Transition Waiver Order*, 30 FCC Rcd at 10865-66, para. 22. In addition, the *AT&T TTY-RTT Transition Waiver Order* stated that waiver requests would be viewed most favorably if they specify with sufficient particularity: (1) steps the carrier is taking or intends to take to ensure that the accessibility text alternatives that it intends to deploy will be accessible to people with communication disabilities, interoperable with other IP-based wireless text services, and backward compatible with TTYs; and (2) well-documented timetables and milestones regarding the implementation of these capabilities. *Id.* In light of the Commission's recent adoption of the *RTT*

(continued...)

10. We find that, based on Petitioners' representations, good cause has been demonstrated to grant Petitioners temporary waivers of the Commission's rules requiring that TTY technology be supported for IP-based wireless services.²⁵ Specifically, we are persuaded that Petitioners, to the extent that they offer (or will offer) IP-based wireless service, are similarly situated to AT&T, Verizon, Cellular South, and the participating members of CCA, with respect to their need for a waiver. As holds true for those companies and for the reasons enumerated in the *AT&T TTY-RTT Transition Waiver Order*, we are persuaded that the Commission's goals of ensuring access to communications services specifically for individuals with disabilities and more broadly for the general public will be best served by granting a temporary limited waiver of the Commission's TTY requirements for Petitioners' wireless IP offerings, subject to the conditions set forth in this Order.²⁶

11. Our conclusion that granting waivers to Petitioners serves the public interest is premised on their commitment to provide the same notifications and reports as CCA members,²⁷ with two exceptions: Due to the Petitioners' smaller sizes and collaborative partnerships with iWireless, (1) we find it reasonable for Petitioners' notifications to customers about the absence of TTY capabilities for 911 calling and alternative means of reaching 911 to be provided via the iWireless' website (to the extent that the Petitioners do not distribute information via their own websites), and (2) we find it reasonable for Petitioners' progress reports to be submitted by iWireless as part of its own progress reports, with the understanding that to the extent iWireless does not provide such reports, each affected petitioner will do so.²⁸ Accordingly, we condition the waiver granted herein on each Petitioners' representations that:

- At least 20 days prior to the date that a petitioner subject to this Order commences the provision of IP-based wireless calling services, or within 60 days after the date of this Order, whichever is later, the petitioner shall begin providing customer notification about the absence of TTY capabilities for 911 calling over IP-based networks and about alternative means of reaching 911, which will continue throughout the waiver period.²⁹ Such notification shall be made through effective and accessible channels of communication, including via the service provider's or iWireless' website, billing statements, promotional materials, communications with national consumer organizations, and other effective means of communications. The notice shall be prominently placed and in plain language on the website utilized and in the materials described above.³⁰
- Every six months, Petitioners shall file with the Commission, and make available to their customers using the same channels described above, reports detailing their progress toward implementing RTT.³¹ The first such report shall be filed on July 13, 2017. Petitioners' reports may be submitted as part of the progress report submitted by iWireless, to the extent that separate

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Report and Order, which provides guidance and timetables on implementation of RTT, we conclude that the provision of such information is no longer necessary.

²⁵ The rules subject to this waiver include sections 6.5, 7.5, 14.20, 20.18(c), and 64.603 of the Commission's rules. 47 C.F.R. §§ 6.5, 7.5, 14.20, 20.18(c), 64.603; *see also id.* §§ 6.3(b), 7.3(b), 14.21(d) (providing definitions and performance objectives regarding TTY support).

²⁶ *See AT&T TTY-RTT Transition Waiver Order*, 30 FCC Rcd at 10858-62, paras. 8-16.

²⁷ *CCA TTY-RTT Transition Waiver Order*, 31 FCC Rcd at 3784-85, para. 18.

²⁸ Iowa ITC Petition at 9-10.

²⁹ *See CCA TTY-RTT Transition Waiver Order*, 31 FCC Rcd at 3784, para. 18. The alternative means of reaching 911 should include, without limitation, TTY capability over the PSTN, various forms of PSTN-based and IP-based TRS, and text-to-911 (where available). *Id.*, n.44.

³⁰ *See id.* at 3784, para. 18.

³¹ *See id.*

reports would be duplicative. In the event that iWireless fails to submit such a report, each affected Petitioner shall file a progress report within 30 days after the due date. This report shall convey accurately and with the required level of detail the progress and status of the development of RTT solutions.³² The report shall include, but not be limited to, information on interoperability with the technologies deployed or to be deployed by other service providers, backward compatibility with TTYs, and efforts to ensure delivery of 911 calls to the appropriate PSAP.³³ Any obstacles to achieving such interoperability and backward compatibility with TTY shall be described in detail, as well as the steps being taken to overcome them.³⁴

12. *Waiver Duration.* As noted above,³⁵ prior TTY waiver orders set the expiration date as the sooner of December 31, 2017, or the effective date of Commission rules providing for alternative IP-based accessibility solutions.³⁶ In the *RTT Report and Order*, the Commission amended its rules to provide for the deployment of RTT as the alternative accessibility solution. The Commission set initial RTT implementation dates for each class of service provider and extended the expiration dates for all previously granted waivers to the earliest RTT implementation date applicable to each affected provider.³⁷ Because the earliest RTT implementation date set for Petitioners, who are non-Tier I service providers, is June 30, 2020, we now set this as the expiration date for the waivers granted in this Order.³⁸ On that date, Petitioners that choose to implement RTT in lieu of TTY compliance will have completed initial deployment of RTT and will be relieved of all TTY support obligations.³⁹

IV. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 225, 255, and 617 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 225, 255, 716, 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.

14. IT IS FURTHER ORDERED that the Petitioners' petitions for waiver filed on May 31, 2016, as amended on June 9, 2016, and August 16, 2016, ARE GRANTED to the extent described herein.

15. IT IS FURTHER ORDERED that the temporary waiver of sections 6.5, 7.5, 14.20, 20.18(c), and 64.603 of the Commission's rules, 47 C.F.R. §§ 6.5, 7.5, 14.20, 20.18, 64.603, and any other Commission rules that require support of TTY technology as an accessible solution for VoIP networks, SHALL BE EFFECTIVE upon release, and SHALL EXPIRE June 30, 2020.

³² See *id.*

³³ *Id.* at 3784-85, para. 18.

³⁴ *Id.* at 3785, para. 18. In prior TTY waiver orders, where petitioners did not include in their petitions detailed information regarding their plans and timetables for implementing a replacement accessibility solution such as RTT, petitioners also had to file an initial report describing such plans. See, e.g., *id.* In light of the Commission's adoption of the *RTT Report and Order*, which provides guidance and timetables for implementation of RTT, we conclude that such an initial report is not necessary in this instance.

³⁵ See *supra* para. 2.

³⁶ See, e.g., *CCA TTY-RTT Transition Waiver Order*; 31 FCC Rcd at 3785, para. 20.

³⁷ *RTT Report and Order*, paras. 65-71.

³⁸ See *id.*, paras. 66, 71 & n.262.

³⁹ *Id.*, para. 71.

16. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to: <mailto:fcc504@fcc.gov>, or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

FEDERAL COMMUNICATIONS COMMISSION

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