

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

ORDER

Adopted: March 25, 2022

Released: March 25, 2022

By the Chief, Consumer and Governmental Affairs Bureau:

1. In response to the impact of the ongoing COVID-19 pandemic in the United States, the Consumer and Governmental Affairs Bureau (Bureau) of the Federal Communications Commission (Commission) has waived certain rules governing telecommunication relay services (TRS). The effects of the COVID-19 pandemic continue to be felt by many Americans. The importance of access to communications services by people with hearing or speech disabilities has been underscored by the pandemic and its long-lasting impact. Accordingly, we find good cause to extend our prior waivers of certain TRS rules as described herein. We 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 extension of these waivers.

I. BACKGROUND

2. At the beginning of the COVID-19 outbreak, as states responded with emergency regulations, TRS traffic levels increased sharply and TRS providers’ ability to staff call centers was sharply reduced, severely challenging providers’ ability to answer and process TRS calls. The Bureau temporarily waived certain rules governing TRS to ensure the uninterrupted availability of TRS during these extraordinary circumstances. By granting temporary waivers of certain provisions of the

1 See 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, on the Commission’s own motion or pursuant to a petition, for good cause shown).

2 According to Centers for Disease Control and Prevention (CDC) data, the 7-day average number of new COVID-19 cases reported daily nationwide as of March 18, 2022, was approximately 28,000 cases. CDC COVID Data Tracker, https://covid.cdc.gov/covid-data-tracker/#trends_dailycases (last visited March 21, 2022).

3 See 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).

4 See id.; 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);

(continued....)

Commission's rules on speed of answer, video relay service (VRS) at-home call handling, VRS call-center status notifications, international VRS calling, VRS subcontracting, emergency call handling, and early termination of calls, the Bureau allowed TRS providers greater flexibility to provide service during this difficult period.⁵ These emergency waivers have been extended on several occasions, and the most recent extensions expire March 31, 2022.⁶ The Commission has directed the Bureau to monitor the situation and consider, if necessary, additional extension of these waivers.⁷

II. DISCUSSION

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 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. We find that good cause exists to extend the emergency waivers granted during the pandemic through June 30, 2022. The circumstances necessitating those prior waivers continue to impact

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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) (collectively *Emergency TRS Waiver Orders*).

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.

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) (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) (extending waivers through November 30, 2020); *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 13-24, 03-123, and 10-51, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 35 FCC Rcd 10866, 10892-93, para. 54 (2020) (*October 2020 Commission Order*) (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).

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.

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

TRS providers and users.¹² TRS providers report, as an ongoing effect of the pandemic, that they continue to experience difficulties in hiring and retaining communications assistants and consequently, continue to face challenges and uncertainties in staffing to meet call demand.¹³ Further, the Bureau is not aware of any significant increase in consumer complaints regarding TRS as a result of the emergency waivers, and the TRS Fund administrator has not reported evidence of an increase in waste, fraud, or abuse due to these waivers. Accordingly, to ensure that robust, reliable TRS remains available to persons who are deaf, hard of hearing, deafblind, or have speech disabilities, we find good cause to extend all currently effective COVID-19 waivers for three months. Extending the waivers through June 30, 2022, allows additional time for the benefits of the ongoing COVID-19 vaccination efforts to continue and allows TRS providers an additional window of certainty for planning purposes.

5. *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.

6. *Additional Information.* For further information regarding this item, please contact Joshua Mendelsohn, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-559-7304 (videophone or voice) or by e-mail to Joshua.Mendelsohn@fcc.gov.

7. 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.

8. 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 effectiveness of the currently effective waivers of TRS rules granted in the *Emergency TRS Waiver Orders*, as described herein, is extended through June 30, 2022, subject to the conditions herein.

¹² See CDC COVID Data Tracker, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last visited March 21, 2021).

¹³ See Letter from John T. Nakahata, Counsel to Sorenson Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 4 (filed Jan. 27, 2022) ("Sorenson is finding that it is more difficult to attract interpreters who are already fully qualified."); Letter from Gabrielle Joseph, Chief Operating Officer, ASL Services Holdings, LLC dba GlobalVRS, to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51, at 2 (filed Jan. 28, 2022) (stating that the COVID-19 pandemic continues to impact employment dynamics); Letter from Amanda Montgomery, Chief Legal Officer, Convo Communications, LLC, to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51, at 1 (filed Feb. 11, 2022) (discussing the challenges in interpreter staffing due to pandemic-related labor shortages); Letter from David A. O'Connor, Counsel for Hamilton Relay, Inc., to Marlene H. Dortch, FCC, CG Docket Nos. 13-24 and 03-123, at 3 (filed Feb. 28, 2022) (reporting that labor shortages are affecting provider's ability to meet speed-of-answer standard); Letter from Scott R. Freiermuth, T-Mobile USA, Inc., to Marlene H. Dortch, FCC, CG Docket Nos. 13-24 and 03-123, at 2-3 (filed Mar. 14, 2022) (redacted) (same); Letter from Amanda Montgomery, Convo, to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51, at 1 (filed Mar. 14, 2022) (describing challenges to ensure appropriate availability of VRS due to pandemic-related labor shortages and increased demand for a variety of interpreting services nationwide); Letter from Gregory Hlibok, Chief Legal Officer, ZVRS Holding Company, to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51, at 2-3 (filed Mar. 15, 2022) (discussing the continuation of interpreter staffing shortages).

9. 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