Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Structure and Practices of the Video Relay Service	)	CG Docket No. 10-51
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123

THE REGISTRY OF INTERPRETERS FOR THE DEAF, INC. IN RESPONSE TO PUBLIC NOTICE SEEKING ADDITIONAL COMMENTS ON STRUCTURE AND PRACTICES OF THE VIDEO RELAY SERVICE (VRS) PROGRAM

The Registry of Interpreters for the Deaf, Inc. (RID) respectfully submits these comments in response to the Federal Communications Commission's ("Commission") Further Notice of Proposed Rulemaking ("FNPRM") in the above-referenced proceedings.[1] In these comments, RID responds to Section II: VRS Compensation Rates.[2] RID respectfully requests that the Commission carefully consider the prudence of making decisions related to rate methodology, including rate cuts, in the absence of quality standards to ensure a functionally equivalent VRS.

[1] *In the Matter of Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Notice of Proposed Rulemaking, CG Docket Nos. 10-51 and 03-123, FCC 13-82 (rel. November 3, 2015).
[2] RID will respond to the questions posed in Section III of the FNPRM in a separate filing.

I. FUNCTIONAL EQUIVALENCE IS NOT A GOAL, IT IS A STATUTORY MANDATE

Throughout the FNPRM, the Commission references "advancing the goal of functionally equivalent service."[3] However, Title IV of the Americans with Disabilities Act (ADA) is not a suggestion but a mandate that a nationwide Telecommunications Relay Service (TRS) be established that allows those who are deaf, hard of hearing, or speech disabled to communicate "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."[4] Referring to functional equivalence as a "goal" minimizes the statutory obligation to administer a functionally equivalent TRS.

Further, the Commission wrongly equates "mandatory minimum standards" with the statutory mandate for functionally equivalent TRS. The Commission states that claims of service quality deterioration as a result of rate cuts seem inconsistent with statements made "by two of the three largest providers that, notwithstanding the four-year rate schedule, they could continue to provide service in accordance with the applicable mandatory minimum standards."[5] This assumes that the current mandatory minimum standards are sufficient to support a functional equivalent VRS. Further, in its report released in April 2015, the GAO found that the Commission had not adequately determined performance goals for the TRS program.[6] Finding

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[3] *Id.* at n.17.
[4] 47 U.S.C. § 225(a)(3), as amended by section 103 of P.L. 111-260.
[5] FNPRM *supra* at n.28.
[6] "Telecommunications Relay Service: FCC Should Strengthen Its Management of Program to Assist Persons with Hearing or Speech Disabilities," Report to the Honorable Jeff Sessions (April 2015), United States Government Accountability Office, available at http://www.gao.gov/products/GAO-15-409. ("GAO Report")

that the Commission had established some performance measures but had not linked those measures to performance goals, the GAO rightly speculates that the "FCC may be spending its time and resources, and those of the service providers or program administrator, on efforts not well linked to key dimensions of the program."[7] We believe that significant engagement on this topic is necessary before making any determinations about future rates, including rate cuts. Great weight should be given to Consumer Groups' position and Disability Advisory Committee (DAC) recommendations on the effectiveness of the current mandatory minimum standards in achieving functional equivalence, as well as those groups' recommendations of performance goals and quality standards.

II. SETTING RATES WITHOUT ESTABLISHING QUALITY STANDARDS IS ANTITHETICAL TO ACHIEVING FUNCTIONAL EQUIVALENCE

The Commission seeks comment on its proposed partial freeze of the Tier I rate, implementation of a partial rate freeze, and alternatives to the proposed rate freeze.[8] While we can appreciate the Commission's efforts to eliminate waste, fraud, and abuse, we are concerned that the Commission is continuing to make decisions about compensation rates without a definition of functional equivalence and with no established quality standards for VRS calls, particularly metrics to ensure interpreting quality.

The GAO Report noted that the "FCC lacks any goal related to interpreter accuracy, which consumer groups we met with stressed was critical to achieving quality services."[9] This is

[7] *Id* at 19.
[8] FNPRM, *supra* at 8-13.
[9] GAO Report, *Supra* at 18.

a critical area that has yet to be addressed by the Commission, despite numerous requests from both RID and Consumer Groups to make interpreting quality a priority. We wholly agree with the GAO's point that "without goals related to important dimensions of service quality, such as interpreter accuracy, it becomes difficult to determine if this attribute of functional equivalency is being met and to identify whether programmatic changes need to be made."[10]

While RID is not in a position to say whether any given rate is too high or too low, we strongly believe that the reimbursement rate should be guided by what Consumer Groups recommend and what video interpreters are able to reasonably support. We believe that setting or cutting a rate without addressing issues such as interpreting quality and considering the position of Consumer Groups and recommendations of RID is antithetical to the Commission's work to improve VRS.

III. RESEARCH AND DEVELOPMENT FUNDS SHOULD BE ALLOCATED TO ADDRESS INTERPRETER QUALITY ISSUES

We believe that further research and inquiry is needed into how the Commission's reimbursement rate and service requirements, specifically the speed of answer requirements, impact the hiring, retention, and staffing practices of the VRS providers. Meeting the ADA mandate of functional equivalence requires the use of qualified, professional video interpreters with the requisite knowledge, skills, and abilities to accurately interpret VRS calls. We are concerned that the Commission's efforts to cut rates while increasing service standards like speed of answer, without any measures in place to ensure qualified video interpreters are being

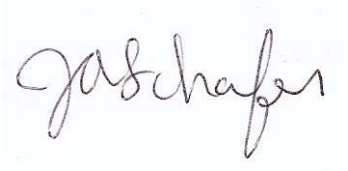
[10] *Id.*

used, undermines the Commission's ability to meet its mandate of providing a functionally equivalent TRS. Accordingly, we ask that the Commission allocate funds to address the impact of its regulations on interpreting quality in VRS as a critical first step in making progress on setting standards for interpreting in VRS.

CONCLUSION

RID respectfully requests that the Commission consider the points discussed herein when considering ways to improve the structure and efficiency of the VRS program, including the proposed rate freeze. RID also supports and echoes the points made in Consumer Groups' filing on this FNPRM.

Respectfully Submitted,



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Dated: December 9, 2015