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

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

COMMENTS OF HANCOCK, JAHN, LEE & PUCKET, LLC

REDACTED FOR PUBLIC INSPECTION

Jeremy M. Jack
Vice President
Star VRS/Star VRSdb
1445 North Loop West #910
Houston TX, 77008
Telephone: 713-807-1176

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TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. THE COMMISSION SHOULD ADOPT THE EMERGENCY PETITION OF THE THREE TIER I PROVIDERS IMMEDIATELY IN ORDER TO MAINTAIN COMPETITION AND ENSURE CONTINUED STEPS TOWARD FUNCTIONAL EQUIVALENCE.....2

III. CONCLUSION.....12

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I. INTRODUCTION

1. The Federal Communications Commission's (FCC/Commission) October 21, 2015 *Notice of Proposed Rulemaking (Notice)*[1] Section II entitled "VRS Compensation Rates" seeks comment on a proposed partial rate freeze of the Tier I rate. Hancock, Jahn, Lee & Puckett, LLC, d/b/a Communication Axess Ability Group and branded Star VRS and Star VRS for the DeafBlind (Star VRSdb) (collectively "CAAG/Star VRS") became a stand-alone VRS provider at the end of 2011. In four years of providing VRS what is apparent to CAAG/Star VRS is that the rate-setting methodology used by the FCC is seriously flawed. As a Tier I provider that has been devastatingly impacted by the current rate-setting methodology and 2013 Reform Order rate cuts, CAAG/Star VRS obviously supports the proposed partial rate freeze. However, it feels the rate freeze must be followed immediately by a proposed rate-setting method that will allow *all* providers to, not only cover the *actual* cost of providing VRS, but to remain competitive after the 16 month proposed freeze, regardless of size.

[1] *In the Matter of Structure and Practices of the Video Relay Service Program* and *Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 10-51 and 03-123, Further *Notice of Proposed Rulemaking*, FCC 15-143 (October 21, 2015) [*2015 Rate FNPRM*].

II. THE COMMISSION SHOULD ADOPT THE EMERGENCY PETITION OF THE THREE TIER I PROVIDERS IMMEDIATELY IN ORDER TO MAINTAIN COMPETITION AND ENSURE CONTINUED STEPS TOWARD FUNCTIONAL EQUIVALENCE

2. CAAG/Star VRS remains disappointed that the FCC chose not to adopt the Joint Proposal of All Six VRS Providers that was wholly supported by both consumers and interpreters. However, as clearly acknowledged by all six providers, the newest and smallest, Community based and minority-owned providers are in immediate need of stabilization in order to "preserve competition and ensure the existence of the newest and smallest providers during the transition to a sustainable rate-setting model.[2]"

3. Additionally, as a Community interpreting agency since 2001 CAAG/Star VRS' focus has been to bring the Community interpreting experience, in line with standard practices of Sign language interpreters, into video relay service. This unique philosophy means that CAAG/Star VRS only hires certified interpreters who are highly qualified and trains and empowers them to interact with VRS consumers in the same way that they would in the field of Sign language interpreting, giving CAAG/Star VRS consumers a much more natural and equivalent phone call experience. In addition, at the time of this filing, CAAG/Star VRS remains the sole provider offering VRSdb in a manner where a DeafBlind consumer calls into a Star VRS interpreter on video and uses American Sign Language to communicate with the VRS interpreter and the VRS

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[2] "The Unified Providers also recognize the unique challenges faced by the newest and smallest three providers of VRS. The Commission has not moved forward to implement on the schedule set forth in the June 2013 Order new programs which the Commission intended to save costs in the provision of VRS. While all providers have had negative impacts as a result of the rate cuts in anticipation of these new program offerings, the most severely affected are the smallest three providers who are least positioned to sustain those cuts. Accordingly, given the reductions that have already occurred, even rate stabilization may not be enough to keep these smallest three providers in business. The Unified Providers therefore support taking equitable measures, particularly with respect to compensation, to preserve competition and ensure the existence of the newest and smallest providers during the transition to a sustainable rate-setting model." April 30, 2015 *"Unified Providers" Comments*

interpreter communicates with the DeafBlind consumer via modified text or braille display. Bringing CAAG/Star VRS' philosophy of Community interpreting interaction within VRS into VRSdb has created a relay environment where DeafBlind consumers can have a more natural and equivalent phone call experience. CAAG/Star VRS has assumed the cost of providing a high end VRS experience along with the additional training costs associated with VRSdb because it believes this philosophy and these services are a critical factor in functional equivalency for Deaf and DeafBlind individuals.

4. The detailed cost data submitted to the FCC from the Fund Administrator and from CAAG/Star VRS[3] shows clearly that CAAG/Star VRS operates well above current compensation rates despite concerted efforts to reduce costs and still maintain the high quality standards set by CAAG/Star VRS as it continues to grow into a sustainable profit margin.

5. While complete cost data for 2015 is not yet available, from 2012 through 2014 CAAG/Star VRS was able to reduce its staff operation's costs by [REDACTED] [REDACTED], its legal and regulatory costs by [REDACTED] [REDACTED], and its marketing costs by an astounding [REDACTED] [REDACTED]. All while minimally increasing per-hour labor cost by [REDACTED] [REDACTED]. This has allowed CAAG/Star VRS to decrease its per minute costs by [REDACTED] [REDACTED]. Notwithstanding these cost reductions and the detrimental impact of a [REDACTED] [REDACTED] loss during this period of time, CAAG/Star VRS was able to grow an incredible [REDACTED] [REDACTED]. Along with a recent re-branding to Star VRS and the release of enhanced iTRS access technology, as well as a niche DeafBlind service, it is clear that CAAG/Star VRS is poised to grow to sustainability and profitability.

[3] April 28, 2015 *CAAG Ex parte*

6. As noted by the FCC, "while these companies generally have achieved significant reductions in their per-minute costs over the last two years, and while they have begun to increase market share to some extent, they have yet to approach the size or efficiency levels of their larger rivals.[4]" For these reasons the Commission should move to immediately adopt the Tier I Provider's *Emergency Petition for a Nunc pro Tunc Waiver* ("*Emergency Petition*")[5] before the next rate cute scheduled for January, 2016. As explained it the Emergency Petition, "The Tier I Providers simply cannot sustain losses of this magnitude on an ongoing basis while awaiting Commission action on the VRS FNPRM.[6]"

7. The FCC seeks comment on how the proposed partial rate freeze should be implemented[7]. CAAG/Star VRS believes a minimum of 16 months beginning July 1, 2015 at the Tier I rate of $5.29 is needed. However, CAAG/Star VRS here again emphasizes that the FCC must use this 16 month freeze period to establish an appropriate and sustainable rate-setting method for all providers, particularly small incumbents.

8. The Commission also seeks comment on the specific structural reform milestones that are most critical for Tier I Providers to compete effectively[8]. The Commission sites "an open source video access platform" as an initiative that "may be particularly relevant to the ability of providers who are currently operating well below the minimum efficient scale to grow sufficiently to be able to provide service at the same rate applicable to more efficient providers.[9]" CAAG/Star VRS here points out that an open source video access software or application does not significantly reduce the cost of technology needed to provide VRS. The brunt of the

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[4] *2015 Rate FNPRM,* at 14
[5] November 25, 2015 *Tier I Providers Emergency Petition for a Nunc pro Tunc Waiver*
[6] November 25, 2015 *Tier I Providers Emergency Petition for a Nunc pro Tunc Waiver,* page 10
[7] *2015 Rate FNPRM,* 1
[8] *2015 Rate FNPRM,* at 19
[9] *2015 Rate FNPRM,* at 16

technology cost to VRS providers is in the creation or leasing and maintenance of the back end customer database, automatic call distributor (ACD) and call detail record (CDR) generator. In fact the additional resources necessary to work with and test what is essentially a seventh iTRS video access point (six of iTRS video access points being what is already currently provided by the six eligible providers of VRS) has created additional financial strains, especially to the Tier I Providers. In addition, any market share that the Tier I Providers would potentially gain by the fact that this open source video access application will allow for all six eligible providers to be easily accessed is entirely dependent on whether the Deaf population actually uses this application. To ensure its widespread use will take tremendous outreach efforts on the part of the FCC and remains to be seen. CAAG/Star VRS feels the Neutral Video Communication Service Provider ("Neutral Platform") would have been the largest cost savings to Tier I Providers but it appears that the FCC has cancelled the procurement of such a platform for the foreseeable future. Second to the Neutral Platform, CAAG/Star VRS feels the National Outreach Coordinator ("NOC") could potentially provide cost savings to marketing and outreach efforts and help improve small provider market share if done by a knowledgeable entity in a neutral manner. It is worth noting that the 4th structural reform of a TRS User Registration Database ("URD") has caused what CAAG/Star VRS feels are additional cost burdens to providers, particularly to Tier I Providers who have limited resources due to financial constraints. Simply put, of the 4 structural reforms, 1 is on hold indefinitely, and 2 are actually costing VRS providers additional monies.

9. The Commission further seeks comment on how rate adjustments should be resumed upon termination of the rate freeze[10]. CAAG/Star VRS believes it is only logical to resume the rate adjustments at the point where the Tier I Providers left off ensuring a sustainable "glide-path." CAAG/Star VRS feels a harsh cut by nearly $1.00 a minute on November 1, 2016 would

[10] *2015 Rate FNPRM,* at 20

only harm any initiative to sustain Tier I Providers in the VRS industry. An every six month reduction should resume after the termination of the rate freeze. However, this is only necessary if the FCC does not take action in the meantime to establish an appropriate and sustainable rate-setting method which CAAG/Star VRS deems critical to the continued success of Tier I Providers.

10. CAAG/Star VRS agrees with the Commission's observation that "some Tier I Providers may not be likely in the foreseeable future to achieve the "minimum efficient scale"...but may nevertheless provide significant value to certain consumer groups.[11]" CAAG/Star VRS acknowledges that some providers are researching and testing VRS calls for DeafBlind consumers through video/modified text or braille display[12]. However, at the time of this filing, CAAG/Star VRS is the only provider offering this service publically. The benefit to DeafBlind consumers has been extraordinary and significantly advances independence and functional equivalence for this particular consumer base. While CAAG/Star VRS does not believe an inefficient provider should be supported indefinitely, it does believe that certain services should be maintained and CAAG/Star VRS believes that VRSdb is certainly one of these services. CAAG/Star VRS also asserts that the manner in which a VRS company provides service should also be considered. ASL Services Holdings, LLC ("ASL/Global VRS") provides ASL/Spanish interpreting under a unique philosophy and additional training that allows for a more natural and equivalent phone call experience for ASL/Spanish consumers. Convo has developed iTRS access technology that addresses the unique needs of Deaf consumers using video to communicate in ASL. As noted above, CAAG/Star VRS provides a high-end consumer experience under a unique philosophy of natural and cultural interaction between its VRS

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[11] *2015 Rate FNPRM,* at 21

[12] October 29, *ASL Services Holdings, LLC Annual Compliance Report*, page 1

interpreters and Deaf consumers allowing for a more equivalent phone call experience. Certain consumer bases use Tier I Providers particularly because of these previously mentioned manners in which they deliver services. Should rate cuts cause any of the Tier I Providers to cease providing VRS, CAAG/Star VRS would assert that these consumers would feel it a detriment to their functional equivalence to lose the *manner* in which the Tier I Provider offers their services by being forced to use one of the larger providers. Provider cost for their individualized services will vary from one small provider to another. For CAAG/Star VRS the additional cost factors are higher pay for high-end interpreters that are qualified to work within CAAG/Star VRS' unique environment and the additional training and ongoing training needed to support both this high-end service and VRSdb. In 2014 CAAG/Star VRS' cost per minute was [REDACTED] [redacted] [REDACTED]. Although cost data is not complete for 2015, CAAG/Star VRS had projected a per minute cost of [REDACTED] [redacted] [REDACTED]. CAAG/Star VRS is clearly improving its per minute rate but its obviously still well above the current VRS compensation rates. At least some of factors contributing to the overage are the high-end service offerings and providing VRSdb. To offset the cost of Tier I Providers offering unique services that are of significant value to certain consumer groups, the FCC could take the per minute rate from the 2015 cost data of the Tier I Providers during the first quarter of 2016 and average the overage amount. This number would give the FCC a ball park figure of how much more its costing Tier I Providers to provide niche technology and services. Regardless, the Commission has an opportunity to use the time frame of the rate freeze to accept proposals and issue an FNPRM on an appropriate and sustainable rate-setting method for the VRS industry.

IV. CONCLUSION

12. As explained in the Emergency Petition, CAAG/Star VRS is one of the Tier I Providers who "are on track to maintain their prior growth and continue providing innovative and specialized products and services." However CAAG/Star VRS also emphasizes that this is "only if the Commission expeditiously grants them regulatory relief." CAAG/Star VRS implores the Commission to act immediately on the Emergency Petition. Non-action will mean "the Tier I Providers may be debilitated for an extended period of time by the interest expense on the debt that they are forced to incur while awaiting Commission action on the VRS FNPRM. Certain providers may even be forced to exit the VRS market completely while awaiting Commission action.[13]" Additionally CAAG/Star VRS urges the Commission to take advantage of the partial rate freeze to shift focus from structural reforms to establishing an appropriate and sustainable rate-setting method for all VRS providers, in particular the Tier I Providers, in order to maintain competition which is a driving factor toward functional equivalence for Deaf and DeafBlind consumers.

[13] November 25, 2015 *Tier I Providers Emergency Petition for a Nunc pro Tunc Waiver,* page 12

Respectfully submitted this 9th of December, 2015,

Hancock, Jahn, Lee & Puckett, LLC

Jeremy M. Jack
Vice President
Star VRS/Star VRSdb
1445 North Loop West #910
Houston TX, 77008
Telephone: 713-807-1176

Request for Confidential Treatment: Pursuant to Section 0.459 of the Commission's rules, and "Exemption 4" of the Freedom of Information Act, CAAG/Star VRS respectfully requests confidential treatment of the non-public, non-redacted version of this letter and its attachment. The confidential version contains proprietary information not intended for public consumption. CAAG/Star VRS would not make this information public under any circumstance. Release of the confidential version of this letter to the public could cause CAAG/Star VRS irreparable and inestimable harm. CAAG/Star VRS requests that the confidential version of this letter be withheld from public inspection. Should disclosure of the confidential version of this letter be requested, CAAG/Star VRS requests that it be informed of such request so that CAAG/Star VRS may take appropriate action to safeguard its interests.

Pursuant to the Commission's Second Protective Order in the above-referenced matter, one copy of the confidential version of this letter and two copies of the redacted public version are enclosed. Two copies of the confidential version are being mailed to Gregory Hlibok, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-B431, Washington, D.C. 20554 and cc via email to Gregory Hlibok and Karen Peltz Strauss.