

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)	CG Docket No. 03-123
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	
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REPLY COMMENTS OF CONVO COMMUNICATIONS, LLC

There was no overt opposition expressed by commenters in this proceeding to a grant of a limited-duration rate freeze for Tier I video relay service (“VRS”) providers.¹ Commenters were either supportive of a rate freeze for Tier I providers or for including other VRS providers in a rate freeze. The Commission has clear information showing that Tier I providers are being compensated less than their reasonable and necessary costs of providing VRS because they have yet to reach scale. Immediate action is necessary by the Commission to provide them with a temporary rate freeze so that they can survive and have an opportunity to continue to grow to scale consistent with the Commission’s goal of a robust number of competitive providers providing diverse services to diverse communities. Further, commenters expressed the need to concentrate the VRS program on improving the quality of its services. Convo Communications, LLC (“Convo”) commented about proven standards and practices for effective interpreting and the need to apply them to VRS. A granular rate plan is needed to enable service features that accomplish functional equivalency in addition to a base rate which equitably compensates for

¹ See *Structure and Practice of the Video Relay Service Program*, Further Notice of Proposed Rulemaking, Section II, CG Docket Nos. 10-51, 03-123, FCC 15-143 (adopted Oct. 21, 2015) (“*VRS FNPRM*”). The FCC defined Tier I VRS providers as those providers that relay less than 500,000 minutes of calls per month, *VRS FNPRM*, ¶ 4 n.9.

services that fulfill the mandatory TRS minimum standards.²

I. It is Now or Never for a Tier I Rate Freeze

The Tier I providers have filed an Emergency Petition for a Temporary *Nunc Pro Tunc* Waiver to freeze the compensation rates to ameliorate their hemorrhaging losses as a result of being undercompensated while operating less than scale.³ The TRS Fund Administrator Rolka Loube Associates LLC (“Rolka Loube”) has reported, and the Commission has acknowledged, that the average permitted costs of Tier I Providers was \$.15 per-minute greater than the compensation rate effective on July 1, 2015.⁴ In support of their requests, each Tier I Provider filed additional confidential information demonstrating that their actual costs are above the Tier I compensation rate that took effect on July 1, 2015.⁵ Rolka Loube thoroughly reviewed the Tier I providers’ costs as part of the providers’ annual cost and data submission and we are not aware of any concerns raised by Rolka Loube about the Tier I providers’ reported costs.

The Tier I providers described in their *Emergency Petition* the significant meaningful public benefits they have brought to VRS consumers which are different from the services delivered by other providers.⁶ However Tier I providers’ ability to participate in the VRS program is being jeopardized by their substantially deeper loss as a result of the July 1, 2015 rate cut which will at least double with the next rate cut on January 1, 2016 and steadily increase

² *Comments of Convo Communications, LLC*, Section IV, CG Docket Nos. 10-51, 03-123 (December 9, 2015) (“*Convo Comments*”).

³ *Emergency Petition for a Temporary Nunc Pro Tunc Waiver*, Convo Communications, LLC, Hancock Jahn Lee & Puckett, LLC dba CAAG/Star VRS, and ASL/Global VRS Services Holdings, LLC, CG Docket Nos. 10-51, 03-123 (November 25, 2015) (“*Emergency Petition*”).

⁴ *VRS FNPRM*, note 9 (determining that the average allowable VRS per-minute costs of Tier I Providers in 2015 was \$5.33 and the average 2015 compensation rate for Tier I Providers in 2015 was \$5.18 taking into account both the January 1 to June 30 and July 31 to December 31 rate levels. Convo’s calculates its average allowable VRS per-minute costs in 2015 to be lower than the Rolka Loube calculated average for Tier I providers, see *Convo Statement*, note 5, CG Docket Nos. 10-51, 03-123, dated December 9, 2015 (filing confidential information) (“*Convo Statement*”).

⁵ See, e.g., *Convo Statement* (filing under a request for confidentiality a summary of Convo’s operational and financial circumstances); *Comments of Hancock Jahn Lee & Puckett, LLC*, CG Docket Nos. 10-51, 03-123, dated December 9, 2015 (filing redacted confidential information) (“*CAAG/Star VRS comments*”); *Separate Statement of ASL Services Holdings, LLC to Joint Emergency Petition for a Temporary Nunc Pro Tunc Waiver*, CG Docket Nos. 10-51, 03-123 (November 25, 2015) (filing confidential information).

⁶ *Emergency Petition*, section II.

thereafter absent Commission action.⁷ In light of the Tier I providers' information showing the unfeasibility of sustaining their business at a lower rate when they have yet an opportunity to reach scale, Tier I providers urgently requested Commission action – especially before the January 1, 2016 rate cut goes into effect - in adopting a limited-duration compensation rate freeze consistent with the Commission's proposal in the *VRS FNPRM* to compensate them at a rate of \$5.29 per minute for a maximum of 16-months beginning July 1, 2015.

In response to the *VRS FNPRM* rate freeze proposal, Consumer Groups “applauded the Commission’s efforts to keep small providers competitive” stating that “[k]eeping the small providers in the market is an important goal” while making the broader point that “quality standards must be determined first before any further rate cuts.”⁸ Purple Communications, Inc. (“Purple”) advocated a rate freeze for all small providers, agreeing with the Commission that “the timing of structural reforms is of particular importance to the smallest VRS providers, who need a window of opportunity to grow and increase efficiency under fair competitive conditions.”⁹ Purple’s concurrently filed comments supported the rate freeze requested in the Tier I providers’ *Emergency Petition* as “necessary to preserve what competition exists in the VRS market and prevent further consolidation in a single provider”, but submitted that such a rate freeze should apply to providers relaying up to 2.75 million minutes a month.¹⁰ Similarly ZVRS supports a rate freeze for the smallest providers (which ZVRS defines as including themselves as a Tier II provider) because they: “offer needed, unique services to niche and underserved communities”; “do not possess the scale needed to disperse the costs of providing VRS in the manner as

⁷ *Id.*, section III.

⁸ *Comments of Consumer Groups*, pgs. 2-3, CG Docket Nos. 10-51, 03-123 (December 9, 2015) (“*Consumer Groups Comments*”).

⁹ *Comments of Purple Communications, Inc. Video Relay Service Rate Freeze Further Notice of Proposed Rulemaking*, pgs 8-9, CG Docket Nos. 10-51, 03-123 (December 9, 2015) (“*Purple Comments*”).

¹⁰ *Comments of Purple Communications, Inc. on Emergency Petition for a Temporary Nunc Pro Tunc Waiver*, CG Docket Nos. 10-51, 03-123 (December 9, 2015).

Sorenson”; “are stymied by the lack of interoperability with the larger providers’ technology and the absence of portability”; and because “the Tier 1 rates are slated to fall by a greater percentage and total dollar amount than the rates in any other Tier.”¹¹ Sorenson Communications, Inc. agrees that “the rates cuts adopted in the June 2013 VRS Reform Order will drive the three smallest providers out of business in the near term”, but states that the rate freeze should extend to all VRS providers because of the “irreparable harm to VRS users [being caused by the rate cuts], who are guaranteed functionally equivalent service by the Americans with Disabilities Act.”¹² All six VRS providers have jointly expressed that additional funding measures were necessary to sustain the Tier I Providers.¹³

Convo commented that the Commission’s proposed rate freeze period of 16-months would be sufficient to provide it with “a reasonable window of opportunity to achieve the necessary scale and efficiencies to be able to continue providing service.”¹⁴ Convo empathizes with ASL/Global VRS’ point that the VRS program would be better served if a rate freeze was tied to resolving the rate methodology rather than a predetermined length of a rate freeze.¹⁵ All three Tier I providers requested a 16-month rate freeze in their *Emergency Petition* as an immediate and critical step in stabilizing their businesses while awaiting further Commission action on the rate methodology.¹⁶ Thereafter providers have an opportunity, if needed prior to such Commission action, to request

¹¹ *Comments of ZVRS to the Compensation Rate Freeze*, section II, part C, CG Docket Nos. 10-51, 03-123 (December 9, 2015).

¹² *Sorenson Communications Inc. Comments on VRS Compensation Rates*, section I, CG Docket Nos. 10-51, 03-123 (December 9, 2015).

¹³ *See, Joint Ex Parte Letter of All Six VRS Providers*, CG Docket Nos. 10-51, 03-123, (April 30, 2015) (“[w]hile 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.”).

¹⁴ *Convo Statement*, section III; *VRS FNPRM*, ¶ 19.

¹⁵ *Comments of ASL Services Holdings, LLC*, section V, part A, CG Docket Nos. 10-51, 03-123 (December 9, 2015) (“*ASL/Global VRS comments*”).

¹⁶ *Emergency Petition*, section III.

from the Commission a waiver of the rates depending on their individual circumstances or provision of specialized services.

All three Tier I providers commented that, absent the setting of new rate methodology before then, a rate glide path after the end of a rate freeze was necessary to avoid a disruption of the stability of their business.¹⁷ No commenter expressly objected to setting the Tier I dividing line at 500,000 minutes a month.¹⁸

Convo, like the other two Tier I providers, is a minority owned small business of the type that the Commission is committed to sustaining to critically fill service gaps for diverse communities and promote quality-of-service competition.¹⁹ Convo has described how it has delivered tremendous service innovations for VRS consumers, grown highly efficiently, applied rigorous cost controls and steadily reduced its per-minute costs.²⁰ A rate freeze as proposed in the *VRS FNPRM* is necessary to provide Convo and the two other Tier I providers with the opportunity to stay in the market as emergent VRS providers, drive quality-of-service competition and innovation within the VRS industry, and continue to grow into the next tier of the VRS industry.

II. Functional Equivalency Must Serve as the Lodestar for the VRS Program

Commenters universally agreed that there is a significant need to develop quality standards to progress VRS towards functional equivalency.²¹ Consumer and interpreter organizations indicated, as Convo did, that the building blocks for quality standards should

¹⁷ *Convo Comments*, pgs. 8-9; *CAAG/Star VRS comments*, ¶ 9; *ASL/Global VRS comments*, section V, part E.

¹⁸ As noted above, commenters variously expressed that the rate freeze should also extend to Tier II providers, to those providers with less than 2.75 million minutes a month, or to all VRS providers.

¹⁹ *Emergency Petition*, section II.

²⁰ See *Convo Statement*, sections I-II.

²¹ See e.g., *Consumer Groups Comments*, section I; *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*, section I, CG Docket Nos. 10-51, 03-123 (December 9, 2015) (“*RID Comments*”); *Purple Comments*, section V; and *Convo Comments*, section IV.

include the Consumer Groups' TRS Policy Statement, NAD's position statement on functionally equivalent telecommunications and RID's Standard Practice Papers.²² Convo further offered in its comments examples of proven in-person interpreting practices which are either disallowed or not supported in VRS such as permitting matching the customer with the interpreter.²³

The *VRS FNPRM* is an opportunity for stakeholders to propose inclusive processes for identifying and implementing VRS quality standards so we can take decisive and coordinated steps in fulfilling the ADA requirement of accessible telecommunications. Convo believes that a granular rate plan is needed to achieve functional equivalency above a base rate which compensates for services which meet minimum mandatory TRS standards.²⁴ Moreover, Convo regards an incentive-based compensation plan connected with achieving high quality standards (and not tied with measures designed to increase call volume) as a superior mechanism to impel progress towards functional equivalency.²⁵ Convo agrees with commenters that now is the time for the Commission to implement a process to identify and adopt service quality standards across the board, and to adequately compensate providers to deliver service at that level.

Respectfully submitted,

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²² See *Consumer Groups Comments*, section I; *RID Comments*, and *Convo Comments*, section IV.

²³ *Convo Comments*, section IV.

²⁴ *Id.*

²⁵ *Id.*