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Via ECFS

January 4, 2016

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

RE: *Structure and Practices of the Video Relay Service program, 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*

Dear Secretary Dortch:

Attached for submission to the Commission are the *Comments of ASL Services Holdings, LLC* ("ASL/Global VRS") in response to Section III of the Commission's November 3, 2015 *Further Notice of Proposed Rulemaking* in the above-referenced proceedings, FCC 15-143.

Sincerely,

MILLER ISAR, INC.

A handwritten signature in blue ink, appearing to read "Andrew O. Isar", is written over a horizontal line.

Andrew O. Isar

Regulatory Consultants to  
ASL Services Holdings, LLC

Attachment

**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 Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123

**COMMENTS OF ASL SERVICES HOLDINGS, LLC  
(Section III)**

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January 4, 2016

## SUMMARY

After several years of considering speed-of-answer, skills-based routing, and other video relay service (“VRS”) enhancements, it is time to initiate these improvements. ASL/Global VRS generally supports the Commission’s recommendations with additional considerations. ASL/Global VRS is encouraged by the Commission’s acknowledgement of an enhanced speed-of-answer (“SoA”) metric based on monthly measurement, and the opportunity accorded to providers for self-exception in instances of failing to meet the SoA metric outside of the provider’s control. Now is the time to begin skills-based routing as a trial and collect data needed to implement skills-based routing on a permanent basis, as Commissioner Pai urges. Now is also the time to adopt other enhancements including use of Deaf interpreters, removal of work at-home interpreter prohibitions, and assignment of ten digit iTRS numbers to Hearing individuals.

Each of these initiatives has the propensity to impose additional costs on providers. To that end, ASL/Global VRS urges the Commission to adopt a sliding scale on provider non-compliance with SoA requirements. ASL/Global VRS further urges the Commission to at a minimum, compensate smaller providers for their costs in trialing skills-based routing rather than effectively preclude their participation in skills-based routing trials by virtue of an inability to assume the added costs of the trial, and to generally consider smaller provider compensation consistent with ASL/Global VRS’ comments on Section II of the *VRS FNPRM*.

Lastly, ASL/Global VRS urges the Commission to clearly delimitate its guidelines and expectations to providers in each of these functional areas. Providers should not, as they have in the past, be compelled to interpret certain Commission expectations and guidelines as best as possible in the absence of explicit direction. Providers want to fully comply with Commission requirements. A clear establishment of guidelines and expectations will enable the smooth implementation of these initiatives to the benefit of promoting functional equivalency and enhancing the Deaf Community’s ability to effectively communicate.

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Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123

**COMMENTS OF ASL SERVICES HOLDINGS, LLC  
(Section III)**

ASL Services Holdings, LLC (“ASL/Global VRS”) hereby comments on Section III, VRS Improvements, of the Commission’s *Further Notice of Proposed Rulemaking* in the above referenced matter.<sup>1</sup> ASL/Global VRS has previously provided comment on many of the Commission’s proposed recommendations, and generally supports the Commission’s recommended improvements, with certain additional considerations addressed below. These proposed improvements stand to further bring video relay services (“VRS”) closer to functional equivalency for the Deaf Community, consistent with previous provider recommendations. The improvements also represent a commendable Commission effort to further recognize provider challenges in meeting VRS standards and serving the public.

Although ASL/Global VRS maintains that the Commission must first and foremost grant the compensation relief sought by the smaller providers underscored in ASL/Global VRS’

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<sup>1</sup> *Structure and Practice of the Video Relay Service Program*, CG Docket Nos. 10-51 and 03-123, *Further Notice of Proposed Rulemaking*, FCC 15-143 (rel. November 3, 2015)[*VRS FNPRM*]

comments regarding Section II to the *VRS FNPRM*, ASL/Global VRS urges the Commission to adopt the proposed service improvements in accordance with the following recommendations.

**I. THE PROPOSED STRENGTHENING OF SPEED-OF-ANSWER REQUIREMENTS IS APPROPRIATE, UNDER A SLIDING SCALE WITHHOLDING METHODOLOGY FOR NON-COMPLIANCE.**

**A. The Proposed Speed-of-Answer Metric Measured Monthly is Appropriate and Consistent with the Record in this Proceeding.**

A speed-of-answer (“SoA”) requirement that 80 percent of all video relay service (“VRS”) calls be answered within 45 seconds measured on a monthly basis is reasonable. ASL/Global VRS has readily supported a strengthening of speed-of-answer metric. ASL Global VRS commends the Commission for its recognition of the challenges faced by providers in ensuring VRS interpreter availability<sup>2</sup> and the resulting need for monthly SoA measurement under the improved standard. ASL/Global VRS supports the strengthening of the SoA standard on this basis.

ASL/Global VRS does not view the cost associated with implementing the proposed SOA requirement as significant. ASL/Global VRS’ SoA has historically exceeded Commission SoA standards. ASL/Global VRS is capable of fiscally implementing the proposed SoA standard without significant change in its current staffing practices. The proposed SoA standard will not impact ASL/Global VRS while allowing the Company to continue providing exceptional service to subscribers and protecting the health and well-being of its interpreters.

At issue has been adoption of a more ambitious daily measurement metric.<sup>3</sup> The record in this proceeding is replete with provider evidence, including evidence provided by ASL/Global

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<sup>2</sup> Particularly for ASL/Global VRS in its need to staff Spanish language interpreters.

<sup>3</sup> See, e.g. *Comments of ASL/Global VRS, Structure and Practices of the Video Relay Services Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, *Report and Order and Further Notice of Proposed Rulemaking*, 28

VRS, that underscores the harm and added risk providers would assume if being compelled to adopt a daily SoA measure, particularly in light of decreasing compensation. Daily measurement would be counterproductive and do not take into account circumstances that are outside of provider control. Further SoA statistics can, despite the best statistical tools, significantly vary on any given day. Far from creating “incentives” for better performance, daily measurement would create further disincentives for providers to maintain ongoing risk of compensation withholding outside of their control.

Stability in program framework coupled with the compensation reform that providers have requested, will result in providers being able to focus on providing the best subscriber experience possible to attract and retain subscribers. As technology gets leveraged, all service metrics will become business tools for service improvements. Competitive advantage will drive SOoA without the need for added regulation. Daily SoA measurement is unnecessary, imposes undue provider risk and cost for factors that may well be outside of their control, increases interpreter stress, and ultimately achieves little in user-recognizable benefits. ASL/Global VRS supports the improved SoA metric measured monthly, accordingly.

**B. Withholding of Funds for Non-Compliance Should be Implemented on a Sliding Scale that Acknowledges the Difference in Circumstances Between Smaller and Incumbent Providers.**

The Commission has historically focused on an “all or nothing” approach to withholding provider compensation. Yet this “all or nothing” approach results in punitive penalties for non-compliance.

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FCC Rcd 8618 (2013) (*VRS Reform Order*), aff’d in part and vacated in part sub nom. Sorenson Communications, Inc. v. FCC, 765 F.3d 37 (D.C. Cir. 2014)(August 18, 2013) at page 17.

ASL/Global VRS has never failed to meet the SoA and therefore has never experienced a loss of compensation. Nevertheless, the prospect of forfeiting revenue for the entire day would have a devastating impact, particularly for smaller providers as they endeavor to compete against entrenched incumbent dominant providers. Further, the imminent threat of all or nothing penalties means that each month the provider's operations are at risk if it has been unable to properly forecast unforeseen or unanticipated demand, or otherwise been unable to meet SoA metrics. Again, far from an incentive, the threat of financial risk and instability created by the risk stands to undermine provider operations and increase staff stress.

ASL/Global VRS readily recognizes past circumstances that supported an all or nothing approach to SoA withholding. Indeed prior to 2011 when more than fifty certified and white label providers operated, many providers were apparently not appropriately investing in their interpreters and operations. With the Commission's reforms implemented since that time, the underlying need for such an approach has been eliminated. The providers have demonstrated their commitment to their success in the provision of VRS. To maintain an all or nothing SoA non-compliance withholding process will now simply inhibit providers from properly managing their workforce.

A sliding-scale is far more appropriate, particularly for smaller providers who are expected to grow their business. Well-established incumbent providers have a legacy of consistent call trends and volumes. Despite smaller providers now entering their fifth year of operations, smaller providers have had to constantly adapt to new reforms, and a decreasing compensation structure, while seeking to make competitive inroads. Smaller providers have been constantly in a state of flux in a tireless effort to stabilize their growing operations. It is ASL/Global VRS' experience that call patterns will remain dynamic as the Company continues

to grow its subscriber base and met ongoing Commission requirements. Adoption of a sliding scale enables smaller providers to remain mindful of their ongoing obligations to properly staff and meet SoA metrics, without being under constant risk of losing an entire day's compensation. An all or nothing approach would be an unsustainable practice for the smaller legitimate providers who now provide service under the federal Telecommunications Relay Service Fund.

ASL/Global VRS further supports adoption of an incentive based system for SoA, so long as consideration is given the relative size of the provider. Incumbent providers are in a far better financial position to invest funds into driving a lower SOA and benefit from incentives, where smaller providers do not have that financial luxury. As has been addressed in ASL/Global VRS' comments to Section II of the *VRS FNPRM*, smaller companies were not able to achieve the economies of scale that incumbent providers were able to receive long before smaller provider provision of VRS at the end of 2011. Smaller providers entered the market at a time of significant Program reforms and compensation reductions, which now make any type of investment challenging.

ASL/Global VRS maintains that any incentive should be in proportion to company size and average usage in minutes. An incumbent provider may drive SoA to 80 percent in 30 seconds which would result in a 20 percent improvement while a smaller provider achieving the same results may reflect a 50% improvement. Such an approach is fair as not all providers carry the same volume of calls and must manage and invest funds differently to achieve success.

At the same time, there should be a reasonable limit up to which incentives may be provided, as the incentive for any improvements after a certain baseline is met would equate to a

competitive advantage for the provider that should be outside the realm of a financial Program incentive.

**C. A Self-Executing Exemption is Imperative to Account for Unanticipated Circumstances Outside of Providers' Controls and to Avoid Unnecessary Financial Harm to Providers.**

The providers have indeed supported adoption of a “self-executing exemption” from SoA in extraordinary events outside of a provider’s control. To be sure, a process for provider justification of unique, unanticipated and uncontrollable circumstances – not extending to poor workforce management - has been needed and should now be implemented.

Providers should be able to justify, on a case-by-case basis, if they maintain that there are uncontrollable circumstances that prevented the SoA from being met, including:

- Acts of God - Hurricanes/tornados/snow storms/natural disasters, fires, and other acts outside of the provider’s control, which precluded interpreters from making it to work, or precluded the opening of a call center altogether;
- Unforeseeable government actions that impacted provider operations such as implementation of new programs that caused unusually high call volumes, social security issues, etc.
- Immediate and unexpected call volume increases that are entirely inconsistent with historical volumes and could not have been anticipated despite company growth. If a provider suddenly experiences a significant influx of clients/calls and can demonstrate through historical data that this increased call volume was entirely unforeseeable, despite the provider’s documented immediate efforts to remedy resolve the higher call volumes – such as hiring more people within that month – providers should not be penalized.

Provider operations are dependent on compensation. Any delay in acting on a self-executing exemption could have the same effect as withholding compensation altogether, particularly for smaller providers. ASL/Global VRS proposes that the Fund Administrator serve as decision maker on such self-executing exemptions and is in a position to make timely recommendations. The current process for reconsideration of compensation withholding, which may take in upwards of thirteen months, would undermine the utility of an exemption process.

A self-executing exemption process should not result in providers having to wait for months for a decision to be made on the withholding of funds. In the absence of exemption requests that may require further independent Commission corroboration, self-executing exemptions should be acted on in no more than thirty days.

## **II. THE COMMISSION SHOULD NOW BEGIN ADOPTION OF SKILLS-BASED ROUTING IN FURTHERING FUNCTIONAL EQUIVALENCY.**

### **A. The Commission Should Adopt a Skills-Based Routing Trial.**

ASL/Global VRS believes that now is the time for the Commission to adopt skills-based routing, even if under a trial basis, consistent with Commissioner Pai's reasoned proposal.<sup>4</sup> Providers and other organizations have provided ample discussion regarding the benefits of skill-based routing. Now is the time to begin implementation to further promote functional equivalency.

The Commission's concern over adoption of skill-based routing as precipitating use of video relay service as a substitute for video relay interpreting ("VRI") is not warranted. The Commission has already instituted clear regulations establishing that calls intended for VRI may not use VRS technology and resources. Providers have also implemented clear Whistleblower regulations that empower Interpreters to immediately terminate and report any form of abuse, including efforts to misuse VRS as VRI.

ASL/Global VRS' sister companies ASL Services, Inc. and ASL Services: Latino have more than 30 years of experience in working with Deaf Communities providing on-site interpreting and VRI services. Through years of such experience the separation between VRI and

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<sup>4</sup> See, *VRS FNPRM*, Statement of Commissioner Ajit Pai, "A trial will give participating VRS providers the opportunity to route designated calls to specialized relay interpreters...this trial will give us the facts we need to assess the costs and benefits of skills-based routing and evaluate whether or not it works."

VRS is readily apparent and practiced each day. At times an onsite interpreter is warranted. At other times a virtual meeting using VRI is requested. Yet a phone call can be made to coordinate a meeting or conduct a meeting using VRS.

The basis for implementing skills-based routing should be one of functional equivalency. Hearing people conduct business with specialized professionals over the phone daily. The Deaf Community *also* contact attorneys, doctors' offices and other highly technical service entities over the telephone in the same manner as do other members of the public. It is the way people conduct their business and communicate. To assume that an increase in VRI situations would be allowed by providers as a result of implementing skill-based routing is unfounded. Providers and Interpreters will continue to uphold the current regulations already implemented by the Commission that already address this concern.

**B. Skills-Based Routing is Necessary to Achieve Functional Equivalency and Should be Tried.**

Section 225 of title 47 adopted under the Americans with Disabilities Act of 1990 (“ADA”)<sup>5</sup> explicitly requires that those with a hearing or speech impairment be able to “engage in communication ... with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services.” Adoption of skill-based routing is entirely consistent with this obligation.

Skill-based routing enables Deaf callers to accurately and fully understand and be understood, which facilitates important communications, enhances the caller's experience, and moreover, directly contributes to functional equivalency. Each specialized field has its own

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<sup>5</sup> 47 U.S.C. §225

“language” despite the commonality of ASL, English, Spanish, or any other language. Certain fields such as medicine, law, and commerce, among others, have their own terminology and understood definitions, which are not commonly known or understood by those not in that profession. Particularly important conversations, as determined by the caller, should appropriately be routed to interpreters who have the knowledge and experience to accurately translate those conversations. An interpreter without a specialized skill set simply cannot accurately translate key aspects of such calls.

All interpreters are expected to have a general proficiency of the English (or Spanish) language; yet not all interpreters understand - or could be expected to understand - the linguistic terminology or nomenclature<sup>6</sup> of a given industry. When a Hearing person connects to a technical support line the caller connects to an individual who is expected to understand the technical issue raised by the caller. Similarly, a Deaf person should have the same expectation of an interpreter who is experienced in the subject matter to which a call specialized pertains. That any interpreter may be generally proficient as an interpreter does not necessarily equate to the interpreter being capable of accurately translating a medical or legal call. Such proficiency demands years of training and experience.

As a community-oriented enterprise, ASL/Global VRS readily understands community interpreting and is well aware of the ADA obligations as well as the cultural linguistics needed to match the best appropriate interpreter in a given circumstance. This experience translates directly to the realm of VRS.

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<sup>6</sup> Defined as a system or set of terms or symbols in a particular type of science, discipline or art.

The Commission should now enable providers to give callers the opportunity to select skills-based interpreters consistent with the ADA's mandate. Otherwise the Deaf will continue to be forced to rely on any interpreter available to interpret critical specialized calls and risk poor or mistranslation of critical communications. Perpetuation of the status quo for skills-based routing appears inconsistent with the directives of the ADA.

In so far as implementation of skills-based routing, the Commission expresses concern that skills-based routing would be difficult to reconcile with current requirements for receiving calls in the order received and subject to SoA. Again, ASL/Global VRS acknowledges the Commission's concerns, yet does not believe that the existing rules should become an impediment for a trial of what essentially represents a new service with new standards. Otherwise no exploration and trial could be possible.

Consistent with Commissioner Pai's comments regarding a trialing skills-based routing to collect data, ASL/Global VRS recommends that providers create new queues for skills-based routed calls, that are not be subject to SoA. During a trial period calls in each skill-based calling queue should be taken in the order received. Calls can be easily tracked by automatic call detail records. Additionally, providers should provide notice to callers of the potential for increased wait times to callers in skill-based queues and give callers the option of being transferred to the next interpreter available if the caller does not wish to wait. This would give callers ultimate control over their call and experience. If the caller maintains that the call is of such import to wait for a specialized interpreter in certain instances, it is then the caller's affirmative decision to do so.

Current regulatory frameworks should not impede the testing of concepts that stand to materially bring Deaf callers closer to functional equivalency.

**C. Defining What Constitutes a Skills-Based Call.**

ASL/Global proposes that the Commission view interpreter profiling for skills-based routing into two general categories which distinguish between Generalist Interpreters and the Specialist Interpreters.

**Generalist Interpreter Routing:** Generalist interpreters would process all calls through the main company queue. Callers could select an interpreter based on interpreter background and profile. While Generalist interpreters may not have been trained in a specialty skill set, they are qualified to process all VRS calls much like the current VRS experience today. Currently however, Generalist interpreters must stay with these calls for a minimum of 10 minutes and can only transfer them prior to that if a male/female interpreter is requested or another language (English/Spanish).

A suggested way to improve this experience is to allow Generalist Interpreters to be able to determine the topic of the conversation and immediately be able to transfer that call to another interpreter on shift who might have more experience with the caller's concurrence. The Deaf caller would have the option to have control over this option when facilitating their call. This could be efficiently accomplished if providers could develop internal interpreter profiles that would enable callers to be transferred to another interpreter with specific experience, backgrounds, and capabilities in general topics of discussion such as scuba diving, automobile mechanics, etc.

These types of more specialized calls would entail no additional costs. For example, a Deaf caller is calling a mechanic to go over the details of their car repair. If the interpreter who receives this call does not have any experience in car repair, but notices on the internal list that another Interpreter does, the interpreter might propose that the call be transferred to the more experienced interpreter in this arena. This option would enable the transfer of calls to interpreters that may be better suited for processing certain calls giving not only provide a better experience for the Deaf caller, but also potentially expediting the call. Though not as critical as addressing needs of specialty skill-based routing calls, this type of discretionary caller selection of skills-based routing would improve call accuracy and enhance the caller's experience at not further cost, utilizing the experience base of each provider's interpreter pool.

**2) Specialist Interpreter Routing:** The second type of skills-based call routing would entail the type of calls that would more commonly be considered as specialized skills-based calling. These calls would entail interpreters with highly specific backgrounds, in industries having very specific terminology and nomenclature such as Spanish, legal, medical, commercial, technical support, Deaf/Blind, etc. These are calls where interpreters would need highly specialized knowledge, training, and experience and could expect additional compensation for their skills.

Generalized interest calls would entail no additional costs as callers would simply be selecting interpreters that already possessed certain skills and knowledge based on the interpreter's own interests. Additional compensation can also encourage Interpreters to work vigorously to expand their profile based skills as generalist or specialist Interpreter resulting in better quality of services overall. Costs associated with specialized skills should however be

compensable, based on the specific costs identified by the Commission through a separate proceeding.

**D. Defining the Additional Costs to Implement Skills-Based Call.**

ASL/Global VRS proposes that the Commission initiate a separate proceeding to specifically identify what specialized skills would be subject to skill-based routing, what additional costs would be assumed by providers in the way of salaries, training, and support, and establish a separate rate of compensation for such skills for a limited trial period pending ultimate adoption.

From ASL/Global VRS' experience in the provision of Spanish language translation, specialized skilled interpreters would impose additional needs and associated costs on providers, including:

- **Technical Costs.** Providers would assume costs for implementing routing capabilities, interpreter profiling, preparation of technical presentations on selecting desired skill set by clients from their videophones/applications, and the re-working of reporting and customer detail records to reflect the information required by the Fund Administrator and the Commission, among other implementation costs.
- **Recruitment of Specialized Interpreters.** Specialized interpreters are limited and in high demand. This necessarily translates to enhanced compensation packages including benefits plans.
- **Specialized Ongoing Training.** Specialty interpreters will be expected to attend ongoing workshops, training, and continued education courses to be processed in the specialty field each year to stay current. Providers will have to assume direct costs as well as indirect costs of maintaining sufficient specialized interpreters during training-related absences.
- **Higher Hourly Compensation.** Providers will have to compensate interpreters in accordance with their skills, and provide competitive compensation lest providers risk losing skilled interpreters to competing providers. Specialized interpreters rightly expect additional compensation to reflect their specialized skills and experience.

- Higher Staffing Requirements. Providers will need to employ more specialized staff to account for training, as noted above, as well as day to day staffing requirements such as providing needed breaks to account for specialized call workloads.
- Translation Costs. In addition to those costs listed above, Spanish language interpreters will require translation of company communications into Spanish, specialized Spanish language training and support.

ASL/Global VRS has addressed its concerns associated with the current compensation structure. In adopting skills-based routing, ASL/Global VRS urges the Commission to focus on the *additional* costs associated with each type of skill and develop an equivalent per minute amount to be added to the per minute compensation levels applicable to conventional, non-skills-routed calls.

**E. An Eight Month Trial Period is Appropriate Subject to Established Trial Parameters.**

ASL/Global VRS supports the proposed eight month skills-based routing trial period. If given clear metrics to follow, all providers should be able to capture needed/Commission requested data within an eight month trial period. Of concern is what the Commission envisions to occur following the trial period. Would the Deaf Community then no longer be able to select skills-based routing and be left with a void of specialty services?

ASL/Global VRS proposes that providers should provide their estimates of the amount of skills-based calls and the Commission prior to the trial. The Commission should then establish, with the benefit of provider cost data, an interim per minute compensation rate additive for each skill subject to amendment. Providers should then be reasonably compensated based on estimates and necessary adjustments at the conclusion of the trial.

Further, the Commission should establish some threshold of success. To the extent that this threshold of usage is not met despite outreach efforts, then the trial can be ended, evaluated and a determination can be made on what if any further action is needed. If the threshold is met, the trial should be extended pending final amendments to standards, rules, and compensation for permanent implementation on a date certain.

**F. Voluntary, Uncompensated Participation in a Skills-Based Trial Would Unfairly Discriminate Against Smaller Providers.**

The Commission's suggestion that skills-based routing trial be voluntary and not subject to compensation unfairly discriminates against smaller providers who have already demonstrated that they are not financially capable of assuming added costs under a declining compensation structure, let alone sustaining their current operations. As has been noted and the Commission acknowledges, the cost of providing specialized interpretation are far greater than generalized interpretation. ASL/Global VRS continues to assume the higher costs of Spanish language interpretation, though cannot assure the Commission that this will be sustainable in the long run. If the Commission wishes to ensure smaller provider participation, at least smaller provider costs – as documented to the Commission – would need to be compensated to support involvement their involvement. The Commission should at a minimum consider compensating smaller providers in accordance with their submitted skills-based cost estimates. As smaller providers, the impact on the TRS Fund during a trial period would likely be negligible at best, subject to confirmation by smaller provider cost estimates. Otherwise the Commission will be unfairly engaging in discrimination against smaller providers, however, unintentional. As has been repeatedly noted, the smaller providers are simply not in a position to assume greater costs, and certainly not for a trial. This is an investment smaller providers cannot make.

### **G. Additional Considerations.**

In so far as the impact to the TRS Fund, each provider should have the ability to forecast anticipated costs of providing skills-based routing once the specific parameters of a trial are identified by the Commission. ASL/Global VRS proposes that initial projections be provided as part of a separate investigation into skill-based routing and that a separate skill-based line item be added to monthly reports to be overseen by the Fund Administrator during the trial period.

The Commission expresses concern as to whether the added costs to attract and retain specialized interpreters could create a migration to higher paying specialized interpreter positions and undermine the quality of non-specialized interpreters. A distinction between qualified interpreters and specialized interpreters does not suggest that both cannot, and do not, already exist without one type of interpreter affecting the other. There are ample examples outside of the interpreting world that would suggest the Commission's concerns are unfounded. It is not unusual in any profession where the existence of a specialist has no impact on the need for generalist. A general practitioner physician, for example, may refer a patient to a specialist, such as a cardiologist. That does not mean that the general practitioner is unqualified or would want to transfer into cardiology, only that the patient needs highly specialized assistance that the general practitioner does not have. The general practitioner remains qualified to practice medicine and improve her skills, but does not need and may not wish to become a cardiologist. The same applies to VRS.

### **III. USE OF DEAF INTERPRETERS.**

ASL/Global VRS readily supports use of Deaf interpreters. Though ASL/Global VRS is not able to determine the percentage of the calling population that would benefit from use of Deaf interpreters, and has not quantitatively tracked instances where Deaf interpreters have been

needed, the Company is aware of instances in its own experience where Deaf interpreter skill sets are warranted.

Consistent with the costs associated with attracting and employing special skills interpreters, and given the small pool of Deaf interpreters, there are additional costs associated with employing Deaf interpreters. Such costs include, recruiting, compensation, training, administrative support costs, translation of Company manuals and policies, and technical implementation costs. Training would be conducted most effectively in person at Company call centers where teaming with another interpreter could be done. Virtual connection would require an additional capital investment for three way virtual video connection capabilities.

In the absence of calling history, ASL/Global VRS cannot estimate what level of need may exist to support Deaf interpreters. ASL/Global VRS can confirm from its long term experience that the need for Deaf interpreters in community and VRI is being utilized more regularly.

Regarding qualifications, there are two groups to consider. Deaf Interpreters (“DI”) and Certified Deaf Interpreter (“CDI”). ASL/Global VRS maintains that Deaf interpreters should be subject to the same qualification and certification standards as other interpreters. Providers internally screen each and every applicant to determine skill sets and review all available qualifications and certifications. CDIs have been able to complete the necessary degrees and pass the currently suspended RID National Certification Testing. CDI’s who are credentialed are capable of documenting their capabilities and would command a higher rate of pay. In addition, ASL/Global VRS affiliate companies regularly work with DI and CDI’s in the community and

VRI who also have a trilingual skill set (English-ASL-Spanish) and would also command a higher pay compensation as a DI or CDI.

#### **IV. COMMISSION REFORMS HAVE REMOVED THE NEED TO PROHIBIT AT-HOME INTERPRETING SUBJECT TO PROPOSED SAFEGUARDS.**

The prohibition on at-home interpreting was well founded following abuses perpetrated during the time when uncertified white label providers were able to provide service. With the significant reforms adopted by the Commission, increased Commission oversight, and the passage of time, ASL/Global VRS believes that providers should now be able to employ responsible interpreters to work at home under proposed safeguards. ASL/Global VRS supports CSDVRS' recommendation that no more than ten percent of interpreters be allowed to work from home, and that work at home interpreters be subject to scrutiny, ongoing training, an onsite work and training requirement at periodic intervals, and aggressive oversight.

ASL/Global VRS does not believe that operational costs of employing work at home interpreters would necessarily be lower. Labor costs, the largest cost to providers, would remain unchanged. Costs for additional safeguards and operation support functions would be considered additional investment by the providers to expand their workforce management options.

ASL/Global VRS proposes that interpreters be given the opportunity to work at home only after working with a provider for a minimum period of time, such as a three or six month probation period, and having demonstrated their responsibility, ability to work independently, and ability to maintain the Commission's minimum standards. Once working at home, the interpreter would continue to be monitored closely. Any failure to meet required standards such

as a secured room, privacy, secure internet access, video quality, etc. would be subject to loss of work at home privileges and in exceptional cases, to immediate termination.

**V. VRS PROVIDERS SHOULD BE ALLOWED TO ASSIGN TEN DIGIT iTRS NUMBERS TO HEARING INDIVIDUALS.**

ASL/Global VRS supports provider assignment of ten digit iTRS numbers to hearing individuals in concept to support direct point to point access to Deaf to reduce the number of VRS calls, though has not data to support this position. Yet direct number assignment will impose additional costs on providers that should be reportable and compensable from the Fund on a case by case basis. Such costs would include:

- Cost to secure the phone number through the provider numbering partner;
- Staff time to revise online registration process;
- Cost to enhance the user registration database submissions to identify/include Hearing user data;

It is unclear that billing to any party is necessary to provide this service.

In order to remain consistent with the Commission requirements the self-certification requirements applicable to the Deaf should be extended to Hearing individuals when assigning iTRS numbers to verify the Hearing person's intent to use VRS. Number assignments should be completed in English and Spanish.

Assignment of iTRS numbers to Hearing individuals raises some questions that should be addressed by the Commission prior to implementation: If a Hearing individual maintains an assigned number, but allows a Deaf person borrow their phone, should the video interpreter process the call from a ten digit number assigned to a Hearing individual? Should Hearing individual ten digit numbers be automatically restricted *only* to point-to-point calls and be

rejected by Interpreters to process the call? Commission guidance on these questions and other criteria should be clearly established before implementation to ensure provider compliance and avoid potential misinterpretation of Commission expectations.

## **VI. CONCLUSION.**

After several years of considering speed-of-answer, skills-based routing, and other VRS service enhancements, it is time to initiate these improvements. ASL/Global VRS generally supports the Commission's recommendations with additional considerations. ASL/Global VRS is encouraged by the Commission's acknowledgement of an enhanced SoA metric based on monthly measurement, and the opportunity accorded to providers for self-exception in instances of failing to meet the SoA metric outside of the provider's control. Now is the time to begin skills-based routing as a trial and collect data needed to implement skills-based routing on a permanent basis, as Commissioner Pai urges. Now is also the time to adopt other enhancements including use of Deaf interpreters, removal of work at-home interpreter prohibitions, and assignment of ten digit iTRS numbers to Hearing individuals.

Each of these initiatives has the propensity to impose additional costs on providers. To that end, ASL/Global VRS urges the Commission to adopt a sliding scale on provider non-compliance with SoA requirements. ASL/Global VRS further urges the Commission to at a minimum, compensate smaller providers for their costs in trialing skills-based routing rather than effectively preclude their participation in skills-based routing trials by virtue of an inability to assume the added costs of the trial, and to generally consider smaller provider compensation consistent with ASL/Global VRS' comments on Section II of the *VRS FNPRM*.

Lastly, ASL/Global VRS urges the Commission to clearly delimitate its guidelines and expectations to providers in each of these functional areas. Providers should not, as they have in

the past, be compelled to interpret certain Commission expectations and guidelines as best as possible in the absence of explicit direction. Providers want to fully comply with Commission requirements. A clear establishment of guidelines and expectations will enable the smooth implementation of these initiatives to the benefit of promoting functional equivalency and enhancing the Deaf Community's ability to effectively communicate.

Respectfully submitted this 4<sup>th</sup> day of January 2016.

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