

***HOVRS meeting with Dan
Gonzalez, February 18, 2004***

- Present for HOVRS, President Ronald E. Obray.
- HOVRS legal counsel, George L. Lyon, Jr., Lukas, Nace, Gutierrez & Sachs, Chartered.

About HOVRS

- Contract supplier of VRS to AT&T and MCI.
- Certified VRS provider under the Washington State TRS program.
- Spent more than two years in research and development of VRS platform.

About HOVRS

- Commenced operation in August of 2002 to beta test group.
- Commenced operation under AT&T contract in December of 2002.
- Provided some [confidential data withheld] minutes of billable VRS in January of 2004.

Importance of VRS to the deaf and hard of hearing community

- Patricia Hughes, CEO of Glad: “I have seen how invaluable VRS is to us ... I personally and professionally rely on VRS....”
- Iowa Utilities Board: “How important is VRS? Several members of the DPRC ... have told us they strongly prefer VRS because it allows them to communicate in their own language. VRS provides ... the closest functional equivalence that is technically possible at this time.”

Hands On Video Relay Service discussion of interim VRS rate

- Basis for FCC's in depth examination of VRS rate was mistaken.
- Interim rate was imposed with no notice or comment.
- Legal basis for CGB's right to impose an interim rate is questionable.
- Adjustments made in prescribing the interim rate are unknown and unexplained.

Hands On Video Relay Service discussion of interim VRS rate

- Adjustments to HOVRS's data were not justified.
- Interim rate is causing unjustified hardship to HOVRS, other providers and the deaf and hard of hearing public.
- HOVRS has submitted revised cost data justifying its expenses.

***The FCC's in-depth
examination of the VRS rate
was based on mistaken premises***

- Concerns regarding the high cost of VRS prompted in-depth review of provider's projected costs. The FCC was right to be concerned with the high cost.
- NECA proposed a decrease for VRS compensation from \$17.04 a minute to \$14.023, however.
- Little VRS was ever provided at lower rates, none until the rate was \$9.614 in 2001-02.

***The FCC's in-depth
examination of the VRS rate
was based on mistaken premises***

- Previous VRS had been offered via ISDN lines requiring users to go to specified locations to make use of the service.
- Current VRS is offered on demand to users employing high speed Internet access.
- Thus it was a mistake to compare the previous \$17 VRS rate to the rates existing when VRS was originally developed.

***The FCC's comparison of VRS
with Video Remote Interpreting
was also fallacious***

- Comparison with VRI rates was inapposite.
- VRS is an on demand service; VRI is scheduled.
- VRS is moving toward 24/7 service, VRI is offered only during business hours.
- VRS required complicated networking and software; VRI does not.

***The FCC's comparison of VRS
with Video Remote Interpreting
was also fallacious***

- VRS has substantial regulatory and compliance costs, including complaint reporting; VRI does not.
- VRS must configure its network and personnel for peak volume; VRI does not.
- VRS must perform R&D to meet currently waived requirements; VRI does not.

***The Bureau imposed the interim
VRS rate without adequate
notice or comment***

- Although comments were accepted on NECA's proposed VRS rate, no notice was given that the FCC intended to lower the VRS rate.
- No party suggested lowering the rate.
- The interim rate was released with 12 hour's notice before it became effective.
- The rate was a shock for all providers.

The legal basis for the CGB to impose an interim rate is questionable.

- CGB has no delegated rate making authority, much less the authority to impose interim rates. *See* 47 C.F.R. Sec. 0.141.
- Since the Bureau admitted that novel questions were presented with respect to the VRS rate, 47 C.F.R. Sec. 0.361 denies the Bureau authority to act on the VRS rate issue.

***Adjustments made in
prescribing the interim rate are
unknown and unexplained.***

- The Bureau's method of calculating the interim rate was unknown and unexplained.
- The explanation given is in very general terms and is not susceptible to verification and correction from review of the record.
- The confidential nature of the submissions made to the Bureau are an insufficient reason for its unexplained interim rate. The Bureau could have provided its calculations and adjustments without disclosing from whom the data were obtained.

Adjustments to HOVRS's data were not justified

- The Bureau reduced HOVRS's video interpreter ("VI") expenses in 2003 while acknowledging HOVRS substantially underestimated its VI costs for 2004, but made no upward adjustment for 2004.
- The Bureau reduced HOVRS's engineering expenses based on the arbitrary reason they were more than the other VRS providers without analyzing whether HOVRS's proposed engineering expenses were justified.

Adjustments to HOVRS's data were not justified

- The Bureau arbitrarily imposed a 11.25 percent rate of return *on investment only* in calculating the interim VRS rate.
- The rate of return figure chosen was inappropriate since it was appropriated from a prior proceeding involving LEC interstate access, not from an examination of VRS provider's capital requirements.

Adjustments to HOVRS's data were not justified

- The 11.25 percent rate of return figure was developed for some of the larger companies in the country and has no relation to the capital structure of VRS providers in a start-up industry.
- Rate of return methodology is appropriate only for monopoly capital intensive industries; VRS is a competitive labor intensive service.

Adjustments to HOVRS's data were not justified

- The Bureau should have allowed a profit margin of 10-15 percent of justified costs. If 11.25 is the appropriate profit percentage, it should be on those justified costs.
- A margin based on percentage of costs derives support from the government contracts analogy.

***The interim rate is causing
unjustified hardship to the deaf
and hard of hearing community***

- VRS providers have cut-back hours of operation and reduced service.
- CSD/Sprint abandoned 24/7 operation and laid off VIs.
- Sorenson and CSD have advised users to expect significant wait times.
- HOVRS has laid off VIs, and is experiencing substantial wait times.

The interim rate is causing unjustified hardship to the deaf and hard of hearing community

- Average wait time to place a call has increased on HOVRS's network from 18 seconds in June to approximately a minute in November. *See Attachment.*
- The FCC standard for wait time for TRS is 85 percent of calls placed within 10 seconds.
- HOVRS's dropped calls increased from June to September by 60 percent. 23 percent of calls in November were dropped vs. 8 percent in June.

***The interim rate is causing
unjustified hardship to HOVRS***

- HOVRS lost [confidential data withheld] in July as a result of the deduction in the VRS rate. [Confidential data withheld].
- To stem the losses, HOVRS put its outreach program on hold, laid off VIs, imposed across the board salary cuts, and deferred all expenses possible.
- The cuts HOVRS had to endure caused network outages.

The interim rate is causing unjustified hardship to HOVRS

- The cuts HOVRS has to endure resulted in working VIs past guidelines established by interpreter certification organizations.
- VIs are required to interpret longer than 20 continuous minutes because no one is available to relieve them.
- VIs are required to work beyond the 50 percent standard because no one is available to relieve them.

***The interim rate is causing
unjustified hardship to HOVRS***

- Session times for VIs have regularly exceeded 60 percent since July. *See Attachment.*
- These times seriously risk injuries and worker's compensation claims.
- The engineering staff is regularly putting in 80 hours weeks just to maintain the AT&T, MCI and HOVRS video platforms.

***The interim rate is causing
unjustified hardship to HOVRS***

- Several staff VIs have quit in light of the unsafe working conditions caused by the inadequate VRS rate.
- The inadequate VRS rate is causing wait times to skyrocket.
- The inadequate VRS rate is denying deaf and hard of hearing persons service comparable to that offered hearing persons.

***The interim rate is causing
unjustified hardship to HOVRS***

- HOVRS cannot adequately staff under the interim rate.
- [Confidential data omitted.]

***HOVRS submitted revised data
justifying its projected costs.***

- HOVRS submitted a traffic study based on the Erlang C trunking methodology demonstrating that its 2003 VI costs were accurate and showing that its originally projected 2004 VI costs were substantially understated as the Bureau advised.
- HOVRS submitted fully revised expense estimates reducing certain proposed costs which the Bureau had not even questioned.

HOVRS submitted revised data justifying its projected

- HOVRS submitted a detailed justification for its engineering expenses showing them to be justified to achieve the FCC's goal of functional equivalent service for the deaf and hard of hearing community.
- HOVRS's revised data was based on actual operating results for the first six months of 2003.

***It is critical that the FCC resolve
the matter of the final 2003-
04 VRS rate with expedition***

- HOVRS cannot keep overworking its staff without incurring injuries and loss of personnel.
- Needed improvements in video quality cannot be made under the interim rate.
- [Confidential data omitted].

It is critical that the FCC resolve the matter of the final 2003-04 VRS rate with expedition

- HOVRS's contract partners cannot conduct needed outreach given the non-compensable interim rate.
- Users of VRS are experiencing unsatisfactory service under the interim rate. *See Public Comments in Docket 98-67.*
- HOVRS and other providers cannot conduct needed engineering to meet currently waived standards without a compensable VRS rate.

HOVRS is asking

- That the FCC prescribe a compensable rate which would allow a grade of service of service of at least 85 percent of calls answered within 20 second, allow sufficient engineering efforts to keep VRS on pace with improvements to the general telephone system and include an adequate margin for profit.
- That the final rate be made retroactive to cover costs incurred to date.