

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

In the Matter of)
)
Telecommunications Relay Services And Speech-to-) Docket 98-67
Speech Services for Individuals with Hearing and)
Speech Disabilities)

To: The Commission

PETITION FOR DECLARATORY RULING

Hands On Video Relay Service, Inc. (“Hands On”), by its counsel, petitions for a declaratory ruling with respect to Video Relay Service (“VRS”) that minutes devoted to providing deaf and hard of hearing persons Video VRS Mail is compensatory VRS subject to reimbursement from the Interstate Telecommunications Relay Service Fund administered by NECA. In support, the following is respectfully shown:

Introduction.

Hands On provides branded VRS, through contract to two of the major interstate Telecommunications Relay Service (“TRS”) providers, AT&T Corp. (“AT&T”) and MCI. Hands On also provides service directly to consumers on the HOVRS platform pursuant to contract with the State of Washington. Thus, Hands On is directly affected by the Commission’s requirements for VRS and its determination of what constitutes compensable VRS.

Hands On understands the Commission’s Disability Rights Office of the Consumer and Governmental Affairs Bureau has informally directed NECA not to compensate VRS providers for minutes of VRS interpreting dedicated to providing Video Mail pending a formal ruling on whether Video Mail constitutes VRS. Because that informal action denies deaf and hard of hearing persons

functionally equivalent telecommunications service, Hands On requests the Commission now to determine that Video Mail is compensable VRS subject to payment from the Interstate TRS Fund.

How Video Mail works.

VRS calls ending in a recorded message may be made in one of two ways. The most common is when a deaf or hard of hearing person wishes to make a call. In that circumstance the deaf or hard of hearing person accesses a VRS provider's website and connects with a video interpreter. The video interpreter then places a call over the PSTN to the hearing person the deaf or hard of hearing person is trying to call. If the hearing person does not answer, and the hearing person has voice mail, the deaf or hard of hearing person has the opportunity to leave a message via voice mail through the video interpreter. There is no question that the time it takes the video interpreter to leave a message via voice mail is VRS, and the Commission staff has informally confirmed this fact.

The second way a VRS call can be placed and a message left, is when a hearing person desires to call a deaf or hard of hearing person. In that scenario, the hearing person calls the VRS provider and gives either the IP address or name (if the deaf or hard of hearing person is registered with the VRS service) of the deaf or hard of hearing person to be called. The VRS provider then attempts to place a VRS call to the deaf or hard of hearing person. If the deaf or hard of hearing person does not answer, the hearing calling party would have the option of leaving a Video Mail message if the deaf or hard of hearing person subscribes to the Video Mail service. That Video Mail message would consist of a recorded video message delivered in American Sign Language. In wrapping up the VRS call, the video interpreter would immediately transmit either the stored message to the deaf or hard of hearing person or an email message advising the deaf or hard of

hearing person that he has a Video Mail message and providing a link to immediately access that message. The deaf or hard of hearing person would then be able to retrieve the message upon returning to his computer.

Discussion.

This is a simple issue. Are deaf and hard of hearing persons entitled to receive recorded messages from persons who call them, just like hearing persons do? Deaf or hard of hearing persons can *leave* a voice mail for a hearing person through VRS. They should likewise be able to *receive* a message in video from a hearing person. Functional equivalency demands no less. There is no basis to conclude that the recording of a video ASL message from a hearing person for a deaf or hard of hearing person is not relay service. This is especially true since it is unquestioningly considered to be relay service for the deaf or hard of hearing person to leave a voice mail message for a hearing person.

And the resolution of this issue does not depend on how the video mail is technically accomplished, that is whether it is stored on the hearing person's computer or at a server housed by the VRS provider, or at a third party location. The VRS call ends when the hearing person hangs up after leaving the video message for the deaf or hard of hearing person. What happens after that does not affect whether the call is a relay call. What happens after that is an issue of how the message is stored and how it is retrieved. What happens after that is merely a matter of mechanics. The mechanics of how the deaf or hard of hearing person retrieves the video mail are irrelevant, just as it is irrelevant how a voice mail message is stored and retrieved by a hearing person. Whether the hearing person receiving a message from the deaf or hard of hearing person has an answering

machine, a voice mail server, or whether the telephone company is providing a voice mail service does not change the character of the message from being a compensable video relay call.

The Commission recently considered an analogous service. In its June 17, 2003 Report and Order in Docket 98-67, the Commission determined that TRS providers must provide answering machine retrieval so that a deaf or hard of hearing person can receive recorded messages sent to him by hearing persons when it is from a deaf or hard of hearing person. How the deaf or hard of hearing person receives or accesses the recorded VRS message does not change the character of the VRS call which recorded the message.

The Commission stated: “Currently, there is no reference in our rules to retrieving answering machine messages through TRS.¹ This feature allows a TTY user to retrieve voice messages left on his or her voice mailbox or voice answering machine by an incoming call from

¹ “This is not to be confused with our rule on Voice Mail and Interactive Menus, which addresses TRS calls from a TRS user *to* a called third party that reaches the called party’s voice mail or answering system’s interactive menu. *See* 47 C.F.R. § 64.604(6). The Voice Mail and Interactive Menus rule addresses CAs handling such systems through TRS. Answering Machine Message Retrieval addresses on the process of retrieving messages for a person with a disability from his or her own answering machine or voice mail.”

a third party. Answering machine retrieval through TRS is accomplished when the recipient of the message, the TRS user, calls the TRS facility and has the CA listen to the voice messages. The CA transmits the messages in text back to the TRS user.”

The Commission further explained, “The CA listens to the messages through a telephone handset and relays them back to the user as text.² Retrieving voice mailbox messages works similarly; however, because voice mailboxes generally use an access code or personal identification number (PIN), the TRS user instructs the CA how to access his or her voice mailbox before the CA does so. In addition, these instructions should address how the menu selection process works because the menu choices listed by voice mailboxes generally require a response within a short period of time (or otherwise the system ‘times-out’), and thus the CA often must relay messages quickly.”

The Commission concluded, “Based our responsibility to ensure that TRS users receive functionally equivalent telecommunications services, we conclude that answering machine and voice mail retrieval are TRS features that must be provided to TRS users. The record reflects that TRS providers currently provide these features, it is technologically feasible, and these features are desired by TRS consumers.”

If voice mail retrieval is a necessary component of TRS, then the provision of video mail, which is much more functionally equivalent, should also be considered to be relay service compensable from the Interstate TRS Fund.

² “The CA will be able to both listen to voice messages and send text messages simultaneously if a TTY with an acoustic couple that works with telephone headset and the answering machine do not share the same telephone line. If they do, then the CA will need to listen to the complete messages before relaying the messages in text.”

The goal of TRS in all its forms, including VRS is functional equivalency. Allowing deaf and hard of hearing persons who communicate in ASL to receive recorded ASL messages would contribute to the functional equivalency of relay service. There is no reason not to find that video mail is relay service. Video mail is plainly a desired service. It is plainly technically feasible given that it is already being provided by at least one provider and given that HOVRS is ready wiling and able to provide it. Accordingly, Hands On asks the Commission to declare that Video Mail provided in connection with VRS service is compensable relay service eligible for payment from the Interstate TRS Fund.

Respectfully submitted,

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By _____/s/ _____

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Certificate of Service

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