

# KPS CONSULTING

“Building an Access Bridge in Technology and Telecommunications”

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August 2, 2004

By electronic filing:

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **Ex Parte Presentation**  
CG Docket No. 98-67

Dear Ms. Dortch:

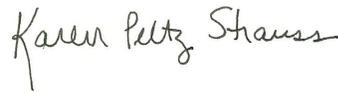
On July 30, 2004, the undersigned, on behalf of Communication Service for the Deaf, Inc. (CSD), met with Bryan Tramont of the Office of Chairman Powell. During the meeting, the following points were made:

- There has been a dramatic reversal in FCC policy on TRS over the past few years. This reversal is in violation of the basic tenets of the Americans with Disabilities Act.
- The FCC appears to be ignoring consumers; over 1000 have sent in comments expressing concern about how VRS is now being handled by the Commission. The FCC also appears to be ignoring its own advisory committees – the NECA Advisory Council (on the rate) and the Consumer Advisory Committee (on outreach).
- The Rate Order is flawed in that it misinterprets relay law and ignores relay history in at least three ways. First, it incorrectly assumes that quality has nothing to do with the VRS rate, when in fact insufficient TRS funding has consistently produced inferior and inadequate services. Second, it assumes that high volumes signify high quality, when history shows that volume can increase despite poor quality. Third, it incorrectly applies a different standard of functional equivalency for VRS just cause it is not mandated by the FCC. For example, the disallowance of R&D for VRS, when this is permitted for TRS, conflicts with the letter of the ADA, as well as the FCC’s own

requirements that providers provide annual reports on their efforts to improve technology. Specifically, without R&D, providers cannot research how to resolve current waivers for emergency calls, 900 calls, improve answer speed, etc.

- Consumers appreciate that the FCC is now considering a mandate for VRS, but this needs to be expedited to ensure functionally equivalent service required by the ADA.
- Handling of the VRS rate has been problematic since last year and it is only fair to keep the \$8.85 rate until all the remaining issues are resolved. To date there are still no set guidelines for what is reimbursable, nor are there consistent standards of quality. If one company provides inferior service at a low rate, everyone's rate is pulled down. This is an anti-competitive model that rewards inferior service and hurts consumers. Effective competitors lose because there are no standards for them upon which to base their business models. Also, without requirements for interoperability, which would be functionally equivalent to voice telephone services, consumers again lose.
- The current rate was also set without having the proper information on rate of return on investment. The result was that again an interim order needed to be issued, keeping the industry in a state of flux. The 2003-04 rate for video relay services (\$8.85 per minute) should remain as the rate for 2004-05, pending a completion of the FCC's review and determination of issues of VRS quality and compensation.

Sincerely,



Karen Peltz Strauss  
Legal Consultant for CSD