Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CC Docket No. 98-67
	)	
Communication Service for the Deaf, Inc., Hands on Video Relay Service, Inc., National Video Relay Service Coalition, and Hamilton Relay, Inc. File Petitions for Reconsideration of Telecommunications Relay Service Requirements from the Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 04-137	)	CC Docket No. 90-571 CG Docket No. 03-123

COMMENTS OF THE UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association (USTA)[1] submits its comments through the undersigned, pursuant to the Public Notice[2] issued in the above-referenced matters, stating its support only for the Petition for Reconsideration (Petition)[3] filed by Hamilton Relay, Inc. (Hamilton) in response to the Federal Communications Commission's (FCC's or Commission's)

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[1] USTA is the nation's oldest trade organization for the local exchange carrier industry. USTA's carrier members provide a full array of voice, data, and video services over wireline and wireless networks.

[2] Public Notice, Communications Service for the Deaf, Inc., Hands on Video Relay Service, Inc., National Video Relay Service Coalition, and Hamilton Relay, Inc. File Petitions for Reconsideration of Telecommunications Relay Service Requirements from the Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 04-137, Pleading Cycle Established, CC Docket Nos. 90-571 and 98-67, CG Docket No. 03-123, DA 04-3266 (rel. Oct. 15, 2004).

[3] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Hamilton Relay, Inc. Petition for Reconsideration, CC Docket No. 98-67 (filed Oct. 1, 2004).

June 30, 2004 Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking (Order).[4]

Hamilton's Petition "requests that the Commission set aside its decision [in the Order] to extend rate of return regulation to traditional [telecommunications relay services] TRS" and proposes its Multi-state Average Rate Structure, or MARS Plan, as an alternative.[5] Hamilton maintains "that the Commission committed prejudicial error by going beyond the scope of the proceeding [-- regulation of providers of Video Relay Services (VRS) --] by extending rate of return regulation to traditional TRS providers" and also "failed to determine whether rate of return regulation is appropriate for traditional TRS."[6] USTA agrees.[7]

TRS is, and has always been, a competitive service and its prices in the *intrastate* market have always been based on state-by-state competitive bidding. It simply makes no sense to base *interstate* TRS rates on the rate of return methodology that has traditionally applied to the regulated services of incumbent local exchange carriers when TRS pricing, at least intrastate pricing, already has a competitive foundation. The Commission's actions in applying rate of return regulation for setting interstate TRS prices run counter to the dual goals of the Telecommunications Act of 1996 (Act) – "[t]o promote competition and reduce regulation in

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[4] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, CC Docket No. 90-571, CC Docket No. 98-67 and CG Docket No. 03-123, FCC 04-137 (rel. June 30, 2004).

[5] Petition at iii.

[6] *Id*.

[7] USTA also agrees with Hamilton that the Commission improperly applied a rate structure to TRS, which structure may be appropriate for VRS, but not traditional TRS. Hamilton explains that the Commission failed to consider that VRS and TRS are "fundamentally different" services and it failed to recognize that "their rate structures may and should be regulated differently." Petition at 2, fn 5.

order to secure lower prices and higher quality services for American telecommunications consumers . . . ."[8]

Applying rate of return pricing methodology to interstate TRS would actually increase regulation of that service and would undoubtedly eliminate prices being based on competition. The Commission should reverse its decision to apply the rate of return methodology to interstate TRS pricing and adopt a pricing methodology that favors market participation, not only to fulfill the goals of the Act, but also as a means to foster a reduction in the amount that carriers must assess on end users as contributions to the TRS fund. When pricing of a service is based on competition rather than regulation, the cost or providing the service and the resulting price at which it is offered generally decrease, thereby reducing the amount that carriers must contribute through end user assessments in order to support TRS. In fact, Hamilton has proposed a pricing methodology that is based on the competitive pricing for intrastate TRS. Specifically, Hamilton proposes its MARS Plan, which would "base interstate TRS rates on the average cost for the same services in the competitive intrastate market."[9]

USTA urges the Commission to grant Hamilton's request that the Commission set aside its decision to apply rate of return pricing methodology to interstate TRS and to initiate a proceeding to adopt a pricing methodology that favors market participation and is based on competition.

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[8] Preamble to the Telecommunications Act of 1996.

[9] Petition at 9.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

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November 15, 2004

CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on November 15, 2004, the aforementioned Comments of The United States Telecom Association were electronically filed with the Commission through its Electronic Comment Filing System and were electronically mailed to the following:

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By:_____
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Docket: 98-67

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