

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

In the Matter of	)	
	)	
Telecommunications Relay Services and	)	CG Docket No. 03-123
And Speech-to-Speech Services for	)	
Individuals with Hearing and Speech	)	
Disabilities	)	
	)	
Petition for Clarification on Spanish VRS by	)	
Communications Services for the Deaf	)	

**COMMENTS OF**  
**TELECOMMUNICATIONS FOR THE DEAF AND HARD OF HEARING, INC.**

Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”) hereby submits its comments regarding the Petition for Clarification on Spanish VRS filed by Communication Service for the Deaf (“CSD”) on February 6, 2006. In its petition, CSD asks the Commission to clarify that if Spanish Video Relay Service (“Spanish-ASL VRS”) is offered, it is not required to be offered twenty-four hours a day, seven days a week (“24/7”). For the reasons discussed below, TDI asks the Commission to now find that those providers who offer Spanish-ASL VRS must make it available on a 24/7 basis.

**I. Background**

On July 19, 2005, the Commission granted petitions for reconsideration filed by the National Video Relay Service Coalition, CSD, and Hands On Video Relay Service requesting that the Commission reverse its earlier conclusion<sup>1</sup> that video relay translation between

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<sup>1</sup> *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, 19 FCC Rcd. 12475 at 12504-12505 (June 30, 2004).

American Sign Language (“ASL”) and Spanish is not a form of Telecommunications Relay Service (“TRS”) reimbursable from the Interstate TRS Fund. On reconsideration, when concluding that the provision of Spanish-ASL VRS would be reimbursable, the Commission did not specifically address in the *Spanish VRS Order* the question of whether those who provide Spanish-ASL VRS must offer it on a 24/7 basis.<sup>2</sup>

## **II. Discussion**

Even if CSD is correct, and the *Spanish VRS Order* is ambiguous, the FCC should now make clear that those providers who offer Spanish-ASL VRS must make it available on 24/7 basis. Since VRS remains a non-mandatory service, the fact that Spanish-ASL VRS is non-mandatory should not distinguish it from English-ASL VRS. Moreover, the Americans with Disabilities Act (“ADA”)<sup>3</sup> requires the Commission to establish regulations requiring “that telecommunications relay services operate every day for 24 hours per day,”<sup>4</sup> and that TRS be offered to people who are deaf or hard of hearing in a manner that is “functionally equivalent” to services offered to hearing people. Because voice telephone service is offered on a 24/7 basis, to be functionally equivalent, VRS, including Spanish-ASL VRS, must be offered on a 24/7 basis as well.

In its petition, CSD expresses concern that the low volume demand for Spanish-ASL VRS does not economically justify offering Spanish-ASL VRS on a 24/7 basis. However, the telecommunications portion of the ADA was enacted to ensure that people who are deaf or hard

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<sup>2</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, CG Docket No. 03-123, Order on Reconsideration, FCC 05-139 (July 19, 2005) (“*Spanish VRS Order*”).

<sup>3</sup> Codified at 47 U.S.C. § 225.

<sup>4</sup> 47 U.S.C. § 225(d)(1)(C).

of hearing are provided functionally equivalent access to telecommunications services and does not make any exception for economic considerations. Providing the opportunity to enter the mainstream of society to people with disabilities comes at a cost, and the ADA was drafted knowing that. The framers of the ADA did not want people with disabilities to be left behind. The fact that those who require Spanish-ASL VRS are a minority within a minority does not justify disparate treatment.

There are ways to address CSD's economic concerns without denying functionally equivalent access to telecommunications services. For example, the Commission could ask those VRS providers who offer Spanish-ASL VRS to separately account for the costs associated with Spanish-ASL VRS and have a separate compensation rate for Spanish-ASL VRS. Because the number of Spanish-ASL VRS minutes is small, a higher compensation rate for Spanish-ASL VRS would have a negligible impact on the Interstate TRS Fund. Another way to accomplish the same result would be for the Commission to ask those VRS providers who offer Spanish-ASL VRS to track the incremental personnel costs associated with having Spanish-ASL VRS interpreters available during off-peak hours and reimburse the providers for those specific incremental costs. Again, since this approach would involve costs no greater than the salaries of a few interpreters, the overall impact on the Interstate TRS Fund would be negligible.

TDI does not take a position on what costing methodology ought to be used to compensate those VRS providers who offer Spanish-ASL VRS. Rather, TDI is merely providing examples of what can be done for the purpose of demonstrating that there are ways to address CSD's concerns without denying functionally equivalent service to those who require Spanish-ASL VRS.

### **III. Conclusion**

For the reasons stated herein, Telecommunications for the Deaf and Hard of Hearing, Inc. requests that the Commission now find that those providers that offer Spanish-ASL VRS must make it available twenty-four hours a day, seven days a week.

Respectfully submitted,

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