

Richard T. Ellis  
Executive Director  
Federal Regulatory

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**verizon**

August 30, 2006

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Federal Communications Commission  
Office of Secretary

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Washington, DC 20005  
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Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

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**Re: Telecommunications Relay Services (TRS) and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket 03-123**

Dear Ms. Dortch:

On June 15, 2006, Sherry Ingram, Sandra O'Brien, and Richard Ellis from Verizon met with Monica Desai, Jay Keithley, Thomas Chandler, Andy Molitz and Evan Morris of the Consumer and Governmental Affairs Bureau to discuss issues related to Verizon's for Petition for Declaratory Ruling or, in the alternative, for Waiver of Section 64.604(b)(2)(ii) of the Commission's Rules. Ronald Wood and Faye Cooley-Healy of Verizon participated by telephone.

In the meeting, Verizon reviewed its efforts to meet the FCC's speed of answer requirements and provided information regarding instances where the speed of answer requirement had not been met. The company contends that it has complied substantially with the Commission's telecommunications relay service speed-of-answer rules, and that in almost all cases where the speed-of-answer requirement was not met, the shortfall was caused by circumstances outside of the company's control.

A redacted version of the handout used in the meeting is attached.

Please do not hesitate to contact me if you have any questions about this matter.

Sincerely,

*Richard Ellis*

cc: Monica Desai  
Jay Keithley  
Thomas Chandler  
Andy Molitz  
Evan Morris

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# **IP Relay Service: Speed of Answer Petition for Waiver**

August 29, 2006



## **IP Relay Service Speed of Answer Requirements**

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- The Commission's rules require 85 percent of all IP Relay calls to be answered within 10 seconds, measured daily.
- This rule has been in effect since April 2002; however, the Commission has not enforced this rule through financial penalties.
- On June 15, 2006, the FCC sent Verizon a letter listing XX days between May 2006 and April 2006 when the speed of answer requirement was not met and stated Verizon may potentially have to repay compensation for services provided to consumers on the days speed of answer was missed.
- On July 31, 2006 Verizon submitted a Petition for Declaratory Ruling or, in the alternative, for waiver of Section 64.694(b)(2)(ii).



## Petition for Declaratory Ruling or, in the Alternative, for Waiver

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- Verizon seeks a declaratory ruling that the Commission lacks authority to impose a retrospective penalty or, alternatively, a waiver for the days covered by the June 15 letter because :
  - Verizon substantially complied with the TRS rules consistent with the Commission’s *Publix* decision and Commission practice, and
  - the observed variances from the speed-of-answer benchmark were due to fraud or other events beyond Verizon’s control.
- The Commission’s regulations do not allow the Commission to impose a retroactive penalty, and the Commission has never sought to compel retroactive repayment where the speed-of-answer benchmark was not met.
- Providers have applied for reimbursement on a monthly basis and received payment for handling TRS calls even when the benchmark was not met.



## Missed Days: Outside of Verizon's Control

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- The vast majority, XXXX out of XXXX days missed between May 2005 and June 2006, were due to circumstances beyond Verizon's Control.
- Fraud: Fraudulent calls account for XXXX of the days the benchmark was missed.
  - Misuse of IP Relay services results in unpredictable spikes in call volumes and make it difficult to staff to meet the daily speed-of-answer benchmark.
  - Even when calls do not exceed projected volumes, fraudulent calls also are often concentrated in short bursts within a few hours of each day, straining available resources and causing Verizon to miss the benchmark for the day.
  - Fraudulent calls often last much longer than legitimate IP Relay calls.
- Call Volumes: Unanticipated high call volumes that exceeded projections not related to fraud, caused XXXX missed days.
- Force Majure: Other events such as tornados, power outages, and fiber cuts, caused XXXX of the days to be missed.



## Call Volumes Affect Speed of Answer Results

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- Despite Verizon's best forecasting efforts, call volumes may exceed reasonable call volume projections.
  - On XXXX of the days missed between May 2005 and June 2006, Verizon experienced call volumes that were at least 5 percent greater than reasonable estimates, and on XXXX of those days, the unanticipated call volumes occurred on days not included in the fraud count above.
  - Similarly on XXXX of the days missed, at least 25 percent of the half-hour intervals during the day had call volumes that exceeded 110 percent of forecasted levels. These spikes in half-hour intervals can cause Verizon to miss the speed-of-answer benchmark for the entire day.
- Requiring strict compliance even in the face of unanticipated call volumes would force providers to over-staff, increasing the size of the TRS fund and resulting in higher costs being passed through to consumers.



## Substantial Compliance

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- By providing that *no* compensation will be paid for *any* minutes of use provided for the day in which a speed-of-answer benchmark was missed, fails to recognize that the provider likely was meeting the mandatory minimum standards for a large portion of the calls handled in the applicable day.
  - Between May 2005 and June 2006, Verizon answered XXXX of all calls within 10 seconds, with an average speed of answer of just XXXX seconds, significantly less than the 10 second speed-of-answer benchmark.
- There were only XXXX out of XXXX days in which Verizon's observed variance was not the direct result of events outside Verizon's control.
  - The Commission's precedent has long recognized that providers should be excused from isolated performance lapses, particularly where overall performance is good and the provider's performance has improved over time as Verizon's performance has improved.



## Summary

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- The Commission should grant a declaratory ruling that its rules do not impose an automatic penalty in the form of forfeiting compensation.
- Alternatively, the Commission should waive the speed-of-answer benchmark given Verizon's track record of strong performance and the fact that the overwhelming majority of missed days were due to factors outside Verizon's Control.