

February 26, 2007

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VIA ELECTRONIC FILING (ECFS)

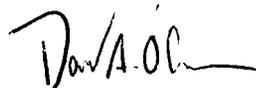
Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: **EX PARTE PRESENTATION**
Telecommunications Relay Services and Speech-to-Speech Services for Individuals
with Hearing and Speech Disabilities
CG Docket No. 03-123
Erratum to February 12, 2007 Ex Parte Filing

Dear Ms. Dortch:

On February 12, 2007, Hamilton Relay, Inc. ("Hamilton") filed an ex parte letter in the above-captioned proceeding. In the letter, Hamilton provided further details about the proposed Multistate Average Rate Structure (or MARS) Plan, but Hamilton inadvertently transposed the Numerator and the Denominator in the MARS calculation. A corrected version of the February 12, 2007 filing is attached, and Hamilton respectfully requests that the corrected version replace the original filing in the record.

Respectfully submitted,
HOLLAND & KNIGHT LLP



David A. O'Connor
Counsel for Hamilton Relay, Inc.

Enclosure

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February 12, 2007

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VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: **EX PARTE PRESENTATION** (*Corrected Version*)
Telecommunications Relay Services and Speech-to-Speech Services for Individuals
with Hearing and Speech Disabilities
CG Docket No. 03-123

Dear Ms. Dortch:

On February 9, 2007, the undersigned counsel appeared on behalf of Hamilton Relay, Inc. ("Hamilton") in a meeting with Jay Keithley and Thomas Chandler of the Consumer & Governmental Affairs Bureau. John Nelson, the President of Hamilton, and Dixie Ziegler, the Vice President of Hamilton, participated by telephone. Hamilton discussed how the proposed Multi-state Average Rate Structure (or "MARS" Plan) could be implemented as the rate methodology for interstate traditional relay, Speech-to-Speech, captioned telephone and Internet Relay services, and clarified various issues raised in previous Hamilton filings. Specifically, the following points were discussed:

- A 1.4% allowance for working capital would be unnecessary under the MARS Plan, because working capital is already built into the various state rates that would form the basis of the interstate TRS rate pursuant to the MARS calculation.
- **State TRS Costs Are Presumptively Reasonable.** The Commission certifies each state's TRS program; therefore, the individual state TRS programs' costs should presumptively be reasonable and deemed not to include any extraneous costs. Hamilton also believes that the MARS Plan is beneficial in that it accounts for states with low TRS rates as well as those with high TRS rates, and that an average of those competitive rates will result in a reasonable, competitively-based interstate TRS rate. In addition, Hamilton believes that the administrative burden of examining each state's rate to determine whether extraneous costs are used to derive the rate would be more costly than any expected savings from filtering out extraneous costs, if indeed there are any such extraneous costs.
- **Data to Calculate the MARS Rate Are Readily Available.** Because the Commission certifies each state TRS program, the Commission has the authority to obtain from the states the intrastate TRS rate information required to implement the MARS Plan. Such information is routinely provided in state TRS certification

filings, and requesting the intrastate TRS rate data on an annual basis would not be unduly burdensome to states. In addition, the Commission could obtain the same information from providers, who could be required by the Commission to provide such data in order to be compensated from the Interstate TRS Fund.

- **Confidentiality and Transparency.** Certain states require that their intrastate TRS rate remain confidential. With the MARS Plan, the Commission may respect that confidentiality while still offering more transparency than exists under the present rate methodology. For example, the Commission could publicly disclose the Total Intrastate TRS Dollars and the Total Intrastate Conversation Minutes (the Numerator and Denominator in the MARS calculation, respectively) and the rate derived thereby. In this way, the public would be advised of the critical aspects of the rate calculation, yet the confidentiality of individual state rates would be maintained. The Commission could provide further transparency by disclosing any state TRS rates that are not subject to confidential treatment. Alternatively, the Commission could assign a unique number to each state and disclose each state TRS rate, so that all of the rate data is disclosed without matching the rate to the state. The Commission previously used this approach for compiling relay call center data.
- **Calculating the MARS Rate (Session Minutes vs. Conversation Minutes).** Hamilton also discussed the method for calculating the interstate TRS rates using the MARS Plan. Specifically, we clarified why a conversion factor between session minutes and conversation minutes is unnecessary.¹ Hamilton originally proposed a conversion factor to convert session minutes to conversation minutes. However, Hamilton no longer believes that a conversion factor is necessary if the Commission were to adopt the modifications identified in Hamilton's November 13, 2006 Reply Comments. Under the modified MARS Plan, the rate is calculated as follows:

$$\text{Total Intrastate TRS Dollars} \div \text{Total Intrastate Conversation Minutes}$$

Under the modified MARS Plan, conversation minutes and session minutes are collected from each state, whether the state uses conversation minutes or session minutes to calculate its rate. Regardless of the units used to bill a specific state,

¹ As background, some states use session minutes, which include not only the actual conversation but also call set-up, call wrap-up and general assistance. Conversation minute states, in contrast, do not compensate for call set-up, call wrap-up or general assistance, but only for the actual conversation. As one would expect, session minute states typically have a lower per-minute intrastate TRS rate with higher total minutes of use, and conversation minute states typically have a higher per-minute rate with lower total minutes of use.

the rate per unit times the total units purchased by that state is used to calculate the total Intrastate TRS Dollars spent. Thus, if a state is a session minute state, the total state session minutes are used to derive the Intrastate TRS Dollars for that state by multiplying the state's total session minutes by the state TRS rate. Similarly, if a state is a conversation minute state, the total state conversation minutes are used to derive the Intrastate TRS Dollars for that state by multiplying the state's total conversation minutes by the state TRS rate. The sum of each state's Intrastate TRS Dollars equals the Numerator (i.e., Total Intrastate TRS Dollars).² However, only a state's conversation minutes are used to calculate the Denominator (i.e., Total Intrastate Conversation Minutes), regardless of whether the state is a session minute state or a conversation minute state. Doing so eliminates the need for a conversion factor and establishes an interstate relay rate based on conversation minutes, which is what the Commission currently uses.

- **STS Rates Should Be Tied to Traditional TRS Rates.** Finally, we discussed whether to separate the STS rate from the traditional TRS rate. Hamilton noted that in the last two years it has responded to 18 state relay Requests for Proposals ("RFPs"), and in each RFP the state requested that the rate for TRS include STS. Hamilton is unaware of any state that separates the STS rate from the TRS rate. Because the majority of states (if not all states) tie the STS rate to the TRS rate, Hamilton believes that it is reasonable for the Commission to tie the interstate STS rate to the interstate TRS rate, and to use the MARS Plan to calculate both. Moreover, in March 2006, the TRS Advisory Council voted to combine the STS and TRS rates, which further justifies a single rate for TRS and STS.

This filing is made in accordance with Section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2). In the event that there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

HOLLAND & KNIGHT LLP

/s/ David A. O'Connor

David A. O'Connor

Counsel for Hamilton Relay, Inc.

cc (via e-mail): Attendees
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² Once the Total Intrastate TRS Dollars amount is derived, session minutes become irrelevant. Dollars are dollars regardless of whether the state is a conversation minute state or a session minute state.