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HAWK relay

July 9, 2007

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JUL - 9 2007

Federal Communications Commission
Office of the Secretary

Via Hand Delivery

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Application of Hawk Relay, LLC for Certification of Eligibility for Compensation from the Interstate TRS Fund for Video Relay and IP Relay Services

Secretary Dortch:

Enclosed, please find an original and four copies of the Application of Hawk Relay, LLC for Certification of Eligibility for Compensation from the Interstate TRS Fund for Video Relay and IP Relay Services. Hawk Relay respectfully requests that the Commission certify Hawk Relay as an eligible provider based on the information provided in this application.

If there are any questions about this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

Samuel Hawk
Hawk Relay, LLC
President

Enclosures

cc: Thomas Chandler, Chief, Disability Rights Office, FCC (with enclosure)
Gregory Hlibok, Attorney Advisor, Disability Rights Office, FCC (with enclosure)

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Deaf and Hard of Hearing Owned and Operated

FILED/ACCEPTED
JUL - 9 2007
Federal Communications Commission
Office of the Secretary

Before the
Federal Communications Commission
Washington, D.C. 20554

In re	)	
	)	
HAWK RELAY, LLC	)	CG Docket No. 03-123
	)	
For certification as an eligible Video Relay Service and Internet Protocol Relay Service provider pursuant to Section 64.605(A)(2) to receive reimbursement from the Interstate TRS Fund administered by the National Exchange Carrier Association	)	

To: Chief, Consumer and Governmental Affairs Bureau

APPLICATION FOR CERTIFICATION AS AN ELIGIBLE VRS AND INTERNET PROTOCOL RELAY PROVIDER

Hawk Relay, LLC submits this application for certification that it is eligible to receive reimbursement from the Interstate Telecommunications Relay (TRS) Fund as a Video Relay Service and Internet Protocol Relay provider.

I. Introduction

Hawk Relay, LLC

Hawk Relay, LLC is a Delaware corporation with its principal place of business at 335 N. Duluth Avenue, Sioux Falls, South Dakota, 57104. Hawk Relay, LLC was founded in 2006 to provide Video Relay and Internet Protocol Relay services.

Hawk Video Relay Service

Hawk Relay, LLC provides VRS through the use of high speed Internet and the public switched network, enabling the deaf and hard of hearing to make and receive telephone calls, serving videophones and computer-based videophone software. Hawk Relay, LLC operates 24 hours a day, seven days a week. Hawk Relay Video Relay Service can be accessed at this IP address: *dialhawk.com*.

Hawk Internet Protocol Relay Service

Launched in 2007, Hawk Internet Protocol Relay Service is available for deaf and hard of hearing individuals. For those that are hearing who desire to reach a deaf or hard of hearing caller, they will be able to dial a toll-free number to reach the Internet Protocol Relay service. Despite the glaring differences between Internet Protocol Relay and VRS, i.e., sign language interpreters are not used and no need for videophone equipment, both services are similar in the manners they are provided and operated. Accordingly, the provision of Internet Protocol Relay service was built upon Hawk Relay, LLC's experience and knowledge as an existing VRS provider.

II. Hawk Relay, LLC is a Qualified VRS and Internet Protocol Relay Provider

§65.605(a)(2) lists the requirements for certification as a relay provider. As shown below, Hawk Relay, LLC meets the requirements.

(i) A description of the forms of TRS to be provided:

Hawk Relay, LLC provides VRS and Internet Protocol Relay.

(ii) A description of how the provider will meet all non-waived mandatory minimum standards application to each form of TRS offered

Hawk Relay meets all minimum standards specified in §64.404 that have not been waived for Video Relay and Internet Protocol Relay services.

1. Communication Assistants

Hawk Relay, LLC employs sign language interpreters as Video Interpreters (VI) only after an intensive screening process. For all new employees, initial training for a specific period of time is required and this covers call processes and policies and procedures, will allow the VIs to meet the unique and specialized communication needs of Hawk Relay VRS consumers. Also, during the course of employment, VIs receive periodic and quarterly training. This will ensure that the VIs will interpret effectively, accurately, and without bias.

Communication Assistants (CAs) for Internet Protocol Relay service also receive intensive training to ensure that they facilitate the communication effective, accurately and without bias. Training covers typing, grammar, spelling, interpretation of typewritten ASL, and familiarity of deaf culture, languages, and mannerisms. Requirements for employment include having clear and articulate voice and communication skills and possessing a minimum typing speed of 60 words per minute. CAs are required to meet minimum standards such as staying with a call for a minimum of 10 minutes and allow the call be facilitated in real time.

2. Confidentiality and conversation content

VIs and CAs are prohibited from disclosing the content of any relayed conversation, except as explicitly permitted by §705 of the Communications Act. Furthermore, conversations are to be relayed verbatim and cannot be altered unless expressly requested by the caller.

3. Types of calls

Both Hawk Video Relay and Internet Protocol Relay services do not limit the type or length of calls made. Hawk Relay, LLC will make every effort to address the technological issues to ensure it will be able to perform the types of calls that were given express waivers up to January 1, 2008 (*see* Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking; Released June 17, 2003).

4. Emergency calls

Hawk Relay, LLC recognizes that the FCC has waived the minimum requirement of immediate routing of emergency calls to the nearest Public Safety Answering Point (PSAP) and the passing of the caller's telephone number to the PSAP if the call is disconnected before the connection could be

made. However, when this functionality becomes technically feasible, Hawk Relay will be committed to providing this as a vital service to its customers. In the meantime, Hawk Relay is making it clear on its webpages and promotional materials the dangers of using the services to make an emergency call.

5. In-call replacement of communication assistants/video interpreters

Hawk Relay's VIs and CAs will stay with a call for at least 10 minutes before being changed with another VI or CA. If a customer feels that the call is not being made effectively, a replacement can be made even though it was requested before the 10 minute point.

6. Gender preference

Hawk Relay, LLC will make any and all attempts to accommodate the preferences of each customer and this includes the preferred gender.

7. Speed of Answer

For VRS, Hawk Relay, LLC is meeting the speed of answer requirement and fully expects to continue doing so in 2007 with the changes in the speed of answer requirement, with 80 percent of all VRS calls being answered by 120 seconds measured on a monthly basis. Hawk Internet Protocol Relay currently meets or exceed the speed of answer requirement of 85 percent of calls answered within 10 seconds.

8. Operational Schedule/Operations

Hawk Video Relay and Hawk Internet Protocol Relay are and will be available 24 hours a day and 7 days a week per requirements. Redundancy features are implemented to ensure reliable service and this includes an uninterruptible power supply for use in times of emergency. An adequate number of workstations and facilities will be used and provided to eliminate

busy responses by the service for its customers, allowing it to be functionally equivalent to those using the PSTN.

9. Complaints

Hawk Relay, LLC keeps a database of consumer complaints about the provision of VRS and will implement a separate one for Internet Protocol Relay once the service becomes operational. The fields of the database include: date complaint made, description of complaint, the resolution and date resolved. A report giving the total number of complaints received generated from the databases will be submitted on an annual basis to the FCC by the first of July.

For complaints regarding the service, in addition to requests for information, the contact person for Hawk Relay, LLC is Samuel Hawk of 335 N. Duluth Avenue, Sioux Falls, South Dakota, 57104. He may be reached at 605-376-9975 or via fax at 605-274-8716. He can also be reached by e-mail: sam@hawkrelay.com.

10. Public Access to Information

Hawk Relay, LLC will take certain steps to assure that potential users are aware of the availability of video relay service and IP-relay service (when it becomes available) through an outreach campaign. This includes, but is not limited to, booths at conferences attended by the deaf and hard of hearing population (i.e., National Association of the Deaf and TDI). Hawk Relay, LLC also has an informative website which details the service.

11. Rates

Consumers of Hawk Relay's provisions will pay rates no greater than those paid for functionally equivalent voice calls. At this time, VRS and IP Relay are free to the end user. Hawk Relay also does not charge for calls

placed to locations outside the United States.

12. Jurisdictional separation of costs

At this time, both VRS and IP Relay are paid from the Interstate TRS Fund. Should the Federal Communications Commission determine that VRS and/or IP Relay are capable of jurisdictional separation and orders that the interstate TRS Fund will compensate only the interstate component of such calls, Hawk Relay will comply with such an order.

13. Blocking access to competitors

Hawk Relay, LLC does not distribute relay equipment that prevents access to other providers.

14. Notification of substantive changes

Hawk Relay, LLC will notify the FCC of any and all substantive changes impacting both of its provisions, VRS and Internet Protocol Relay within 60 days of when such changes occur.

(iii) A description of the provider's procedures for ensuring compliance with all applicable TRS rules

In addition to the aforementioned training regimen to ensure all minimum standards are met, especially for the qualifications of the VIs and CAs, all VIs and CAs are to be trained on TRS rules upon employment. Hawk Relay regularly consults with its legal representation and the FCC on various aspects of TRS regulations to ensure compliance with existing rules.

(iv) A description of the provider's complaint procedures

Complaint procedure for Hawk Relay VRS begins with a submission through the customer service section on its web site, www.hawkrelay.com. A complaint can also be received by a customer representative at 605-376-9975 or via fax at 605-274-8716. He can also be reached by e-mail: sam@hawkrelay.com. If one

wishes to write a letter, the mailing address is Hawk Relay, 335 N. Duluth Avenue, Sioux Falls, South Dakota, 57104.

A customer service department handles all types of complaints: technical, operational, industry, and miscellaneous. Each complaint is tagged open until resolution or the point of no possible future action has been reached, e.g., a complaint on VRS reimbursement rate that has been copied to the FCC.

Technical and operational complaints are managed in-house with the technical and operational point-of-contacts reviewing and following up on every individual complaint. Industry complaints are forwarded to the appropriate agency, the FCC in most instances.

Hawk Relay, LLC will make every attempt to ensure that all complaints are followed up on by the next business day.

(v) A narrative describing any areas in which the provider's service will differ from the applicable minimum standards

Not applicable as Hawk Relay, LLC will not provide video relay and IP relay service that differ from the applicable minimum standards.

(vi) A narrative establishing that services that differ from the mandatory minimum standards do not violate applicable mandatory minimum standards

Not applicable.

(vii) Demonstration of status as a common carrier

On July 2, 2007, Hawk Relay, LLC received an interexchange certificate of authority[1] from the South Dakota Public Utilities Commission for the provisions of "Video Relay Services, Internet Protocol Relay Services or other future FCC approved TRS services." This common carrier certification by the South Dakota Public Utilities Commission, per the fourth prong of the eligibility criteria requirement for interstate TRS providers introduced in the Commission's *Report and Order and Order on*

[1] See Attachment #1.

Reconsideration released on December 12, 2005[2] and codified in section 65.605(a)(2) of the Commission's rules, allows Hawk Relay, LLC to be certified as eligible for compensation from the Interstate TRS Fund.

(viii) A statement that the provider will file annual compliance reports demonstrating continued compliance with these rules.

Hawk Relay, LLC will file annual compliance reports demonstrating continued compliance with the rules for both video relay and IP relay service 1 year from the date of certification(s). Furthermore, Hawk Relay, LLC will file reports for both video relay and IP Relay services on April 16th of each year which will address the feasibility of meeting the waived TRS requirements for each service.

III. NECA Notification

NECA is aware that Hawk Relay, LLC is providing VRS and Internet Protocol Relay Service and has submitted requisite materials to Hawk Relay, LLC. Upon receipt of FCC certification, Hawk Relay, LLC will advise the NECA of its updated status.

IV. Conclusion

Hawk Relay, LLC respectfully requests that the Commission grant certification as an eligible video relay service and Internet Protocol Relay service provider based on the information submitted above. In the case more information is requested, please contact the undersigned.

Respectfully submitted,

HAWK RELAY, LLC

By _____
Samuel Hawk, President

[2] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Order on Reconsideration,* CG Docket 03-123, FCC 05-203 (rel. December 12, 2005).

ATTACHMENT #1

INTEREXCHANGE CERTIFICATE OF AUTHORITY

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF HAWK RELAY, LLC FOR A CERTIFICATE OF AUTHORITY TO PROVIDE INTEREXCHANGE TELECOMMUNICATIONS SERVICES IN SOUTH DAKOTA	)))))	ORDER GRANTING CERTIFICATE OF AUTHORITY TC07-014

On February 23, 2007, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, received an application for a certificate of authority from Hawk Relay, LLC (Hawk Relay). Hawk Relay intends to provide Video Relay Services and Internet Protocol Relay Services. The Commission has classified long distance service as fully competitive.

On March 1, 2007, the Commission electronically transmitted notice of the filing and the intervention deadline of March 16, 2007, to interested individuals and entities. No petitions to intervene or comments were filed and at its June 26, 2007, meeting, the Commission considered Hawk Relay's request for a certificate of authority. Commission Staff recommended granting an interexchange certificate of authority, subject to the condition that Hawk Relay not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments and not provide end-user services that require end-user billings without prior approval of the Commission. Commission Staff further recommended a waiver of ARSD 20:10:24:02(8).

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3 and ARSD 20:10:24:02 and 20:10:24:03. The Commission finds that Hawk Relay has met the legal requirements established for the granting of a certificate of authority. Hawk Relay, in accordance with SDCL 49-31-3, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. Further, the Commission finds that there is good cause to waive ARSD 20:10:24:02(8).

The Commission approves Hawk Relay's application for a certificate of authority, subject to the condition that Hawk Relay not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments and subject to Hawk Relay not providing end-user services that require end-user billings without prior approval of the Commission. In the future, should Hawk Relay choose to provide prepaid services (including prepaid calling cards) or accept or require any deposits or advance payments or provide end-user services that require end-user billings, Hawk Relay will have to come before the Commission in another proceeding before being able to provide those services. As the Commission's final decision in this matter, it is therefore

ORDERED, that Hawk Relay's application for an interexchange certificate of authority to provide Video Relay Services, Internet Protocol Relay Services or other future FCC approved TRS services is hereby granted, subject to the condition that Hawk Relay not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments or provide end-user services that require end-user billings without prior approval of the Commission. It is

FURTHER ORDERED, that the Commission waives ARSD 20:10:24:02(8). It is

FURTHER ORDERED, that this order constitutes your Certificate of Authority as described above.

Dated at Pierre, South Dakota, this 2nd day of July, 2007.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Delaine Kolbo

Date: 7/5/07

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

DUSTIN M. JOHNSON, Chairman

GARY HANSON, Commissioner

STEVE KOLBECK, Commissioner