

Chairman Michael J. Copps  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

May 28, 2009

Docket 03-123: Regarding Video Relay Service Rates

Dear Chairman Copps,

Please allow me to introduce myself. My name is Ed Bosson. I'm a 20 year Telecommunications Relay Service veteran; I was the State TRS Administrator for the Texas Public Utility Commission for 18 years. I retired from that position last August 2008. I served an 11-year appointment to the NECA Interstate TRS Fund Advisory Council. I was a charter member of National Association of State Relay Administrators and served three terms as Chair of this prestigious organization. I also maintain a consumer-oriented advocacy website with a primary focus on the TRS and VRS industry called [edsalert.com](http://edsalert.com), which gets about 45,000 visits a month. I have received numerous national awards<sup>1</sup> for my work in the TRS industry.

However, I am better known as a "Father" of VRS as I coordinated two VRS trials in Texas in 1995 that ultimately launched nationwide VRS. Because of my work in the VRS field, I was conferred an honorary doctorate from Gallaudet University in May 2008. Suffice to say, I have been in several roles: as a state regulator, private VRS user, consultant, and industry advocate.

To keep the intent of this letter upfront, I am now a principal partner in a VRS venture with three other deaf VRS industry veterans. Our company is called Convo Communications<sup>2</sup>, which was established to operate using a high quality video relay service approach in a way that preserves the fiscal integrity of the NECA TRS Fund and by extension, the promise of video relay services to offer full functional equivalency. The purpose of this correspondence is to propose an actionable response by the FCC to the escalating costs that VRS is exacting from the NECA Fund. Admittedly, it will create some dissension from my industry peers, but strong actions are needed from the Federal Communications Commission if VRS is to remain a viable public service.

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<sup>1</sup> Two national awards from TDI, Computer World Smithsonian, Clerc Award from Gallaudet, etc.

<sup>2</sup> <http://www.convorelay.com> The unique mission is that Convo will be purely consumer-driven.

## VRS Impact:

Please allow me to begin by stating with utmost certainty that VRS, as a great “leveragor”, has had a tremendous impact on the deaf and hard of hearing communities. Many deaf and hard of hearing persons have professionally and personally benefitted solely by utilizing VRS. As a tool to remove barriers to personal opportunity and social equality, VRS has altered the dynamics of the communication exchange with hearing persons, to the point where deaf and hard of hearing persons are considered more as an equal contributor rather than as a less capable, secondary citizen.

## VRS Rates:

While VRS reimbursement rates stand far out above the normal per minute charges of modern telecommunications services, it is a mistake to attribute the elevated fund expense solely to the “high” reimbursement rates. I believe the historical elevated growth of the reimbursement expenditure to VRS providers is primarily due to unethical and illegal practices of quite a few VRS providers (both FCC certified and non-certified).

Examples of these unethical and illegal practices to create “manufactured minutes<sup>3</sup>” are the following:

- VRS Provider(s) paying a person with hearing loss to make VRS calls to its own VRS call centers, with kickback payments tied to minutes incurred.
- Alternatively, persons with hearing loss are also paid by Providers on an hourly basis to place calls all day long to a pre-supplied list of phone numbers that provide information or news
- Some providers pre-supply those callers with business numbers that have long wait times to connect to a live person
- VRS providers forcing its management personnel who have hearing loss and can sign to make multiple video conference calls every day (even though they can have meetings in conference rooms and use their own interpreters instead of utilizing VRS)
- VRS provider creating a to-do list for selected staff to make irrelevant and pointless VRS calls
- VRS provider contract with a telemarketer to make their marketing/sales calls through VRS provider in return for some kickback funds

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<sup>3</sup> “Manufactured Minutes” are the reimbursable minutes created for the sole purpose of artificially ramping up VRS minutes with calls placed at the direction of (or designed by) VRS providers.

- VRS provider advertising on a website for phone-in classes where persons with hearing loss can call and “listen” to lectures using VRS
- VRS provider using its deaf salespersons to make VRS calls where they based Return of Investment on number of VRS minutes, not based on the sales hits.

These are just a few “creative” examples of how “manufactured minutes” are processed.

Because I am well known, I get lot of emails and video calls from all types of deaf, hard of hearing, hearing persons, and video interpreters. Many of these anecdotes from these people show they see wide abuse of VRS.

The public is gradually becoming aware of these unethical and illegal practices. Quite a few deaf and hard of hearing persons have expressed their suspicion that long wait times happen because the unethical and illegal calls are preventing a connection to the provider’s video interpreters. Additionally, a good number of interpreters, either through comments to edsalert.com and to me privately, have expressed unhappiness that they have to interpret these illegal calls; they said it is disheartening to interpret for a deaf person who is not watching them, but working on a computer or reading a book just to ramp up the minutes and earn money for making the VRS call. Consequently, the morale of many video interpreters is low and negative so this impacts their ability to perform at their best when a real call comes online.

These actions by providers have created barriers for its intended customers and should be viewed harshly and punishable by the FCC. The eyes of the VRS user community are looking to the FCC Enforcement Bureau to take action as it should. I strongly believe that when FCC clamps down and disallows these “manufactured minutes”, the total number of VRS minutes (and the TRS Fund expense for VRS) will be reduced significantly. This will provide for a more realistic annual total minutes estimate for projecting the Fund expenditure and the tiered VRS per minute rates. I also believe a good number of the certified and non-certified VRS providers would cease operations because they depend on manufactured minutes to continue.

If FCC were to mandate Enforcement Bureau action, there will be a few long-term positive consequences for the future of VRS. For one, a market realignment of interpreter pool labor costs will enable the FCC to recalculate a new per minute rate more in line with market realities. As some companies fold and free up interpreters to return to community interpreting services, Video Remote Interpreting, educational interpreting, and other type of interpreting, there will be a reduction in hourly interpreter rates as interpreter demand and supply will be more evenly distributed between community and VRS opportunities. Labor pool costs then can be negotiated

from a position of opportunity tradeoffs instead of being based on the backdrop of artificially high salaries driven by manufactured minute payments. Then in a few years, one should see the remaining VRS companies submitting labor cost data at a lower level for FCC to calculate newer, more realistic rates.

From a functional equivalency standpoint, the morale of video industry interpreters would improve to the point where the quality of the caller's VRS experiences will be positively impacted and likely much more accurate.

So I am advocating here for the FCC to initiate a *combination of a reasonably market-corrected (i.e., realistically weighted) per minute rate reduction and a clear cut message that unethical and illegal practices must stop*. Those who continue their nefarious practices should be fined or de-certified in order restore credibility and integrity to the VRS industry. I must reiterate incessantly here that FCC and its Enforcement Bureau actions clarifying what kind of calls are acceptable will have a trickledown effect on the industry in a matter of months.

Some critics have targeted a solution by focusing on the high rates paid to VRS providers. I do not think reducing the rates alone will minimize the illegal and unethical VRS calls; if anything, by lowering reimbursement rates, these VRS calls in all likelihood will increase substantially because VRS providers will need more of these illegal and unethical calls to compensate for the loss of revenue. If VRS rates were reduced drastically, say down to break-even cost points; this may inadvertently stifle competition as companies with the largest call volumes will survive these economies of scale better than start ups companies.

The FCC must seek to preserve competitive opportunities for startups in this altered reimbursement landscape occasioned by FCC action. The NECA Fund has enabled deaf and hard of hearing persons to start their own VRS companies. This cannot be ignored or marginalized as it provides unique social and economic opportunities for deaf and hard of hearing persons. In this regard, the tiered rates strategy is a good solution, but it needs reform. The current NECA VRS rates, based on monthly call volume, are the following:

The first 50,000 VRS minutes: \$ 6.7362 per min

Minute levels between 50,001 and 500,000 minutes: \$6.4675

Minutes above 500,001 and higher: \$6.2685

For example, a company with 623,456 monthly minutes, the first 50,000 minutes would be paid at the first rate, the next 450,001 minutes at the second rate and the remaining 123,455 minutes at the third rate.

I would like to suggest a reimbursement scheme that serves as a reflection of the true cost scenario telecommunications providers generally face. To begin with, VRS providers with less than 50,000 minutes should be paid at the first tiered rate. If VRS provider services over 50,001 minutes but less than 500,000, then the second tiered rate should apply for ALL of the minutes. Then those with 500,001 minutes, then third tiered rate should be paid for ALL of these minutes. The reasoning behind this is that it makes no sense whatsoever to assume the first 50,000 minutes costs a provider more than the subsequent minutes processed at higher tiered volumes for that month. In other words, the provider should not get the higher rate for the first 50,000 minutes if they process calls at a higher volume level. This will enable startups to survive at lower call volumes while allowing cost outlays from the fund to reflect the intent behind the reimbursement schema.

I believe it is equally important for the National Exchange Carrier Association (NECA), FCC, State Telecommunications Regulators, and Public to have access to VRS and Internet-based relay providers' call data. In addition, any certified VRS providers who have subcontracts with non-certified entities should likewise be identified and minute/calls be made public. This category would capture companies that operate behind a Uniform Resource Locator Address (i.e., Web address), that has "VRS" in it or any URL advertised as a Video Relay Service. These should be reported on a monthly basis that is readily accessed by the public as a matter of public information because subscribers are ultimately the rate payers subsidizing the NECA TRS Fund payments.

By separately identifying subcontractor calls and the resulting minutes, this would prevent "laundered minutes". Laundered minutes are created by combining all calls provided by subcontractors in one reimbursement submission from an associated certified VRS provider. This makes it difficult for NECA, the FCC, or any contracted auditor to effectively audit the minutes. This identification approach would allow "good" subcontractors to defend their legit minutes and the FCC would be able to suspend paying the "bad" subcontractors their illegal minutes when they are identified as such. This could be a disincentive for unethical certified VRS providers because, in addition to being charged as an accessory to illegal acts by one or more of their subcontractors, those providers would get no money at all for these illegal minutes.

In summarization, if FCC takes these actions as suggested, VRS will become more respectable and, especially this, deaf, hard of hearing persons, and interpreters will be happier. FCC then can regain its credibility with deaf and hard of hearing communities as well as from VRS providers who practice ethical services.

Sincerely,

Ed Bosson

CC: Commissioner Jonathan S Adelstein  
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