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April 29, 2010

VIA ELECTRONIC FILING

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

RE: Notice of Ex Parte – CG Docket 10-51

Dear Ms. Dortch:

On April 28, 2010, Sean Belanger, Chief Executive Officer of CSDVRS, and William Cobb, Vice President of Network Engineering of CSDVRS met with Joel Gurin, Mark Stone, and Michael Jacobs of the Consumer Governmental Affairs Bureau and Gregory Hlibok of the Disability Rights Office to discuss and propose a new rate structure for VRS in light of the upcoming expiration of the standing three-year rate.

During the meeting, CSDVRS presented the attached power-point (company confidential information redacted from this filing) and discussed the proposals raised therein. CSDVRS also discussed problems generated by the February 25 Order and how it economically impacts smaller providers. CSDVRS discussed weighted averages and proposed a new five-year rate structure which would allow more competition in the industry, encourage investment in the industry, and ultimately save the Interstate TRS Fund significant sums. CSDVRS concluded with a brief discussion of its upcoming petition on CPE portability.

This letter is being filed for inclusion in the public record of the Commission's docket CG 03-123.

Sincerely Yours,

William Banks, General Counsel
CSDVRS, LLC

Att: Power-Point (redacted)

Cc: Joel Gurin, CGB
Mark Stone, CGB
Gregory Hlibok, DRO

FCC Rate Discussion

Current VRS Rate Structure

- 3 Tier Structure
  - 0 – 50,000 Minutes ($6.7025)
  - 50,001 – 500,000 Minutes ($6.4352)
  - > 500,000 Minutes ($6.2372)

  - Composite Rate is approximately $6.30

Industry Size and Fund Requirement

Year	Industry Minutes	NECA Fund (2)	Per Minute Rate
Jul 06 - Jun 07	65,297,380	$ 433,835,793	$ 6.64
Jul 07 - Jun 08	77,045,113	$ 485,384,212	$ 6.30
Jul 08 - Jun 09	98,011,291	$ 617,471,133	$ 6.30
Jul 09 - Jun 10 (1)	98,011,291	$ 613,550,682	$ 6.26

(1) Assumes 2009-2010 Industry flat vs. 2008-2009

(2) Estimated based on the "Per Minute Rate"

- Due to a saturated market, future growth rates will be flat.

Historical Provider Costs as Reported by NECA

	2007 Actuals*	
Provider 1	$	5.76
Provider 2	$	6.66
Provider 3	$	7.11
Provider 4	$	6.29
Provider 5	$	6.80
Provider 6	**$**	**3.19**
Provider 7	$	5.62
Provider 8	$	6.54
Weighted Avg.	$	4.15

* Excludes two outliers

- In a presentation to NASRA in September 2008 the TRS Fund Administration provided this breakdown of the cost per minute by provider based on 2007 Actuals.
- Based on the attached figures, the provider that submitted 2007 Actual costs of $3.19 per minute would have to be approximately 75% of the market in order to meet the weighted average cost of $4.15
- CSDVRS's 2007 Actuals Cost per minute was $[redacted] prior to any adjustments by NECA

Weighted Average Trends

Year	Weighted Avg.
2007	$ 4.1451
2008	$ 3.9358
2009	$ 3.8081

- As all providers, other than provider 6, operate well above the 2007 weighted average and the industry has grown, it would indicate the dominant provider has increased market share and/or operating margins during the 2008 and 2009 periods.
- The Weighted Average methodology continues to be heavily flawed as it's driven by the dominant provider with other providers' cost structure being ignored.

Costs That Increase Year Over Year

- Payroll (Inflationary and Retention)
- Health Insurance
- Payroll Taxes
- Leased Property
- In-house Interpreting Fees
- Outreach

These 6 items represent [redacted] % of CSDVRS's costs incurred in 2009 (excluding depreciation).

Payroll

- Approximately [redacted]% of CSDVRS's 2009 actual costs submitted to NECA was payroll and contract interpreting costs ([redacted]).
  - A [redacted]% increase in wages would drive an increase in payroll of $ [redacted]

Health Insurance

- Approximately [redacted] % of CSDVRS's 2009 actual costs were related to medical insurance ($[redacted]).
  - CSDVRS's 2010 premiums increased approximately 7% driving an increase of $[redacted]

Payroll Taxes

- Virtually all states have increased Unemployment taxes significantly.
  - Our home state of Florida has increased as follows:

    "The minimum annual rate — charged to an employer with a solid history of retaining employees — will jump almost twelvefold, from $8.40 per employee to $100.30, revenue officials said Wednesday. The maximum rate, currently $378 per employee, would rise to $459." (St. Petersburg Times, 11/19/2009)
- Other Payroll Taxes (FICA and FUTA) will continue to increase year over year.

Rent

- [redacted]% of CSDVRS's 2009 Submission was rent related expenses ($[redacted]). Most leases factor in an annual increase of rent of 3%.
  - Contractual obligations result in approximately $[redacted] in additional costs.

In-House Interpreting

- 61% of CSDVRS's non-interpreting employees are either Deaf or Hard-of-Hearing. These employees now come with additional expenses due to recent FCC clarifications.
  - Employee Phone Calls (Expecting the business to absorb these costs) without a revenue offset.
  - Conference Calls (requiring a larger demand on in-house interpreting)
  - Four (4) full-time in-house interpreters cost approximately $350,000 annually (inclusive of benefits and taxes).

Outreach

- Outreach is primarily labor related.
- Costs will continue to increase due to the same drivers as internal payroll.
- In order to retain and attract competent talent, we've had to increase outreach rates 24%.
- [redacted]% of our 2009 costs were directly Outreach related ($[redacted])
  - A 24% increase would equate to an increase of $[redacted]

Externally Driven Incremental Costs

- CSDVRS's operating expenses could easily increase by $ 2010 vs. 2009 by these 6 items alone. This doesn't factor other issues like E911 and Numbering.

- The assumption that the VRS reimbursement rate should decline year over year is flawed as it doesn't take into account certain portions of the business will get more expense every year

Non-reimbursed Employee Minutes

ROIC Sensitivity		
		TRUE ROIC %
% Employee Minutes	1%	**8.0%**
	2%	**4.8%**
	3%	**1.5%**
	4%	**-1.7%**
	5%	**-4.9%**
	6%	**-8.2%**

* If Employee minutes are more than 3% of the total minutes, Company A has a negative ROIC

- As previously submitted to the FCC on a letter dated March 10, 2010 labeled "February 25, 2010 Declaratory Ruling", CSDVRS noted that the inability for a provider to include employee generated minutes has a material impact on a company's Return on Invested Capital ('ROIC').
- In the example provided to the FCC, a company billing 1M minutes annually would have a negative ROIC if more than 3% of it's minutes were employee based

Default Provider Requirements

- With the introduction of Numbering and the Default Provider, a VRS provider must offer and support video phone devices.

- The exclusion of video phone costs from the reimbursement rate requires providers to absorb the costs of developing and supporting these devices.
  - CSDVRS incurred $[redacted] in costs associated with providing these devices; which was not included in our 2009 cost submission to NECA.
- Companies without phones do not have these expenses.

Numbering and E911

- NECA is proposing the cost of providing Numbering and E911 equates to $.0083 per minute in incremental expense to the provider.
  - We are estimating it will cost us approximately $.08 per minute to support this ruling in 2010. The $.08 per minute needs to cover the following expenses:
    - Cost of the Numbers ($10NRC and $.50 MRC)
    - Personnel responsible for ordering, assigning, and porting of numbers
    - Engineering support to manage the database
    - Continued development for integrating with common carriers
    - Monthly Recurring for 911
    - Costs associated with Porting Numbers ($15 NRC for each port)
  - The dominant provider's incremental costs of providing Numbering and E911 are minimal given their market position.
  - The proposed reimbursement is anticompetitive.

Solution

- The decision by the FCC to move to a tiered multi-year rate was the correct decision.
- This methodology can be improved upon to take into effect the dominant provider's economies of scale allowing it a cost structure well below industry norms
- Adding a 4th and 5th Tier to the current plan, could greatly reduce the contribution requirement to the Fund while providing a more competitive environment.
- Furthermore, the 4th and 5th tiers would take into effect the significantly lower costs at the highest volumes.

Proposed Structure

Tier	Rate	Number of Minutes	
1	$7.55	0	100,000
2	$6.75	100,001	1,000,000
3	$5.85	1,000,001	2,000,000
4	$5.00	2,000,001	3,000,000
5	$4.00	3,000,001	infinity

Year	Fund Size	Savings vs. 2009
2009	$ 613,550,682	
2010	$ 519,238,640	$ (94,312,042)
2011	$ 537,119,547	$ (76,431,135)
2012	$ 541,379,469	$ (72,171,213)
2013	$ 546,428,042	$ (67,122,640)
2014	$ 552,360,018	$ (61,190,664)
		$ (371,227,694)

- This proposed rate structure would save the Fund approximately $94M in 2010, while both allowing competition and providing a profit margin for the dominant provider at the lowest tier.
- True savings to the Fund will be incurred at Tiers 3 through 5 where more than 75% of total minutes currently reside.
- Locking the base rate for a 5 year period with only annual CPI adjustments will allow for providers to plan and manage their business costs.

Summary

- Current regulatory decisions are asking providers to absorb the following costs:
  - Employee Based Minutes
  - Costs associated with Video Phones
  - E911 and Ten Digit Numbering
  - Conference Calls in which a VI is necessary
  - Increases in standard operating expenses
- Current rate is based on a weighted average cost heavily driven by one provider.
- CSDVRS is asking the FCC to ensure a competitive environment by implementing a tiered rate structure as proposed