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

In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities NECA's Structure and Practices of the Video Relay Service Program	))))))))))))	CG Docket No. 03-123 (DA-10-761)

Comments of Convo Communications, LLC

Convo Communications, LLC ("Convo"), by and through its Vice President of Regulatory Affairs, Ed Bosson, comes now before the FCC to provide Comments in response to the April 30, 2010 NECA filing. Convo is a non-certified video relay service (VRS) provider. On September 18, 2009, Convo was registered as an Interexchange Carrier (IXC) within the State of Texas. On October 30, 2009, Convo submitted an application to the FCC to be certified as a VRS provider.

The underlying mission of Convo Communications is to provide functionally equivalent telephone relay interpreting services between persons with hearing loss who sign and hearing persons who use voice communications. Since its inception, Convo has ethically provided video relay services and has submitted compensation minutes in full compliance with federal regulations.

1. Introduction.

On April 30, 2010, National Exchange Carrier Association submitted its annual payment formulas and funding requirements estimates for the Interstate TRS Fund for period of July 1, 2010 through June 20, 2011. Consumer and Government Affairs Bureau of FCC seeks comment on NECA's proposed compensation rates for TRS features. CGAB particularly is seeking comments on whether the Commission should adopt NECA's proposed rates for the 2010-2010 Fund years based on the 2009 average historical actual cost data submitted to NECA by VRS providers instead of utilizing projected cost data.

Convo acknowledges the accounting difficulty that NECA and FCC have in creating compensable rates for VRS. Convo supports the concept of Tiered Rates, but submits that the methodology as adopted by NECA does not reflect the true cost of VRS industry particularly small VRS companies. Consequently, Convo intends to be open in this comment to show how a start-up/small VRS companies by outlining factors that Convo feels FCC need to know to better understand small VRS providers and its related costs. Convo will only focus on tiers I and II simply because Convo has data and projections to support the costs involved in these levels of VRS operations.

Convo believes overall the accounting methodology that NECA adopted makes good economic sense, but needs a few tweaks here and there to ensure a more balanced tiered rates.

NECA proposed three tiered rates for Video Relay Service (VRS):

- $5.7754 for Tier I;
- $6.0318 for Tier II; and
- $3.8963 for Tier III.

NECA maintains that calculation used to reach these tiered rates are based on historical weighted average actual cost data grouped by tier (based on the volumes of reporting units). Convo has issues with these proposed tiered rates particularly if 2009 actual cost and demand was used for calculating new future rates. From the perspective of Convo, the first two tier compensations scheme does not fairly compensate small, or start-up companies that endeavor to become a certified VRS provider as their long-term business strategy. Convo is concerned that several factors may have not been included in the calculation for Tier I and II. Smaller companies like Convo face different cost challenges related to fixed cost economies of scale.

2. Current Tiered Financial Environment.

Convo believes that the reason rates need to be tiered is that some costs are fixed and some costs are variable to reflect a true cost of start-up/small companies. Convo believes that the reason rates need to be tiered differently is that a large part of start-up costs costs are fixed and variable costs become addressable only after a certain level of minutes are achieved.

Convo agrees with the tiering structure because it reflects that the costs of VRS providers include both fixed and variable elements. Even fixed costs increase with growth but they don't increase in proportion to the increase in volume. Convo does not have the cost data reported to NECA by provider volume. But NECA could and should use this data to establish the tiers and the reimbursement rates. NECA just needs to be sure that costs of inflation and the cost of compliance with new 2010 rules are adjusted in determining the 2010/ 2011 rates.

Fixed costs in the VRS business include legal, finance, HR, facilities, insurance, IT and product development functions. Variable costs include the salaries and benefits paid to interpreters and the fees paid to outside agencies for billing, technical support and contract call centers. Semi fixed costs include the cost of call center supervision and scheduling, the facility, equipment and telecom costs of a call center and customer service. These semi fixed costs increase like a step function as volume increases.

For Convo, our initial costs have been very low because of necessity. Many services have been provided on a pro bono basis and at rates significantly lower than customary commercial levels. When Convo submitted our costs for 2009 and our projections for 2010 and 2011, Convo took these special start up arrangements into account. If all of Convo costs were paid at commercial rates, Convo would have much higher historical and projected costs. Convo knows that the cost submission was not significant in NECA's decisions on the rates because Convo volumes are very small. But, if Convo data was factored into the decision for Tier 1 rates, the rates would end up too low for everyone.

In our observation of the industry, the companies who are billing in Tier 2 minutes are certified providers who have been in the business for several years and have been established. So history would be a good indicator for this tier as long as adjustments for inflation and new services are factored in to the 2010/ 2011 rates.

In further analyzing, the need for tiered rates is an entirely different issue than the NECA's presentation of weighted average cost. These weighted average costs all came low because it is dominated (or weighted down) by the highest volume provider's lower cost per minute processed.

We definitely believe tiered rates are appropriate. If a provider's cost/minute is not significantly less when they handle a volume of 5 million minutes per month to when they handle 30,000 minutes per month, it does raise questions.

3. Examples of Cost Items.

For example, the cost of 24/7staffing has been a struggle for Convo. There is a very little traffic in the late nights and there is requirement Convo must have VRS CA to handle any call. To remain in compliance, Convo must staff at least 1 person for 8 hours every night, 7 days a week. If Convo had 10 times as many customers (i.e. minutes), Convo needs to add another person. The 2nd person would then be cost-ineffective until Convo has 20 times as many customers/minutes. So this type of cost acts like a "step function" in which 100% of the cost is absorbed as a loss and only reaches break-even at a point inordinately difficult to reach for most start ups and young companies, especially so when historical costs of the more mature providers are used. So this cost is like a "step function". It starts out stratospherically high on a per minute basis and takes a long time to have enough late night traffic to make it "variable".

Another example, in one of Convo's call center, there is an office of which can support 6 stations, but Convo never have 6 VRS CA at the same time. So the office and equipment costs also are "step functions". They start at a certain level and when they are full, they need to be increased, but it is not practical to increase space fractionally. This is another example of costs which start out very high (per minute processed) and gradually go down until Convo reach the next step.

Still another example is the salaries of CEO, and Vice Presidents (all owners) in a relatively new company such as Convo's could be seen as a fixed cost. Other VRS providers pay same positions considerably more than Convo does. These costs (when expressed in cost/minute processed) cause the cost curve to decrease. This is one example of Convo having artificially low costs because we are a start up or a new company.

There is nothing specific about Convo's costs which are important for Convo, it is just that they include fixed costs, semi-fixed costs and variable costs just like any other VRS providers. The fixed and semi-fixed costs make the per minute cost of operating Convo (or other VRS providers) go down when volume goes up.

4. Declaratory Ruling: VRS Calls as Business Expense.

FCC issued a Declaratory Ruling[1] which addresses the compensability from the Interstate TRS Fund of certain types of calls made through Video Relay Service (VRS). The ruling stipulates that a VRS call made by the VRS provider's employee (or the employee of VRS provider's subcontractor) using the providers VRS platform while engaged in VRS work for that provider are not eligible for compensation from the TRS Fund on a per-minute basis from the Interstate TRS Fund (Fund). Providers were instructed to submit costs associated these calls as business expenses.

Based on talking with other VRS providers, it appears that these VRS calls made by VRS employee to its VRS provider were in fact not submitted as business expense to the NECA. In NECA's report, it indicated tiered rates were based on 2009 cost submitted by the VRS providers; if that were the case, then the tiered rates are not accurate since VRS providers did not include the VRS calls made by VRS employees as business expense in the 2009 submitted costs. Regular telephone expense (without VRS) were submitted as business expense.

[1] Declaratory Ruling: CG Docket # 10-51, DA 10-314 released on February, 2010

There is a considerable cost difference between regular telephone and VRS usages, The usage is magnified when companies like Convo, with a large deaf workforce dependent on the efficiencies of doing business with VRS calls must bear more of that cost burden than other companies with fewer deaf employees. Based on Convo using 2 full time interpreters at about $6K a month, Convo estimates this rule will add significantly to its cost on a 12 month basis and, at our volumes, this cost will be $.14 cents per minute. Convo strongly suggest that NECA revisit this particular cost for all Tiered Rates.

In the past, Convo has suggested an alternative option of modified reduced rate solely for VRS employees using its own VRS providers for business reasons.[2] Convo still believes this option is the best solution to address employees of VRS providers making VRS calls to their own VRS providers.

5. Tier Minute Suggestion.

To achieve a balanced tiered rates, Convo suggest the following:

Tier I:	0 through 100K
Tier II:	100.1K through 250K
Tier III:	250.1 through 500K
Tier IV:	500.1K through 1M
Tier V:	1.1M and up

As for the rates, Convo does not have sufficient data to support suggested rates. Convo suggests that FCC or TRS Fund Administrator find a reasonable accounting methodology to balance the actual costs and projected costs to estimate the tiered rates. Convo suggests that accounting issues listed in this comment (such as business expense of VRS employees making VRS calls not being factored into business expense) be taken into consideration for calculating all tiered rates. Convo suggests that cost items unique to start-ups or small companies as listed in this comment be considered for the first few tiered rates.

6. Annual Relay Services Data Request by NECA.

NECA has sent email to all providers including these providers (also known as subcontractors, white label companies) who are not certified. In reading NECA's letter, it appears that all costs of providers (certified and non-certified) costs are factored into VRS rates with a few exceptions (extremes). Non-certified providers submit their minutes to their certified VRS providers so presumably NECA needs cost items from these non-certified providers as well to calculate reimbursable minutes.

Convo was confused by lopsided reimbursable rates for Tier I and II. Tier I at $5.77 being lower than Tier II at $6.03. It just does not make sense. Common business sense would indicate that to the nature of typical business VRS providers with low call volume would cost more than the VRS providers with higher call volume thus would require higher reimbursable rate than the next tiered rate.

Without seeing actual cost breakdown, Convo can only speculate how this may have happened: non-certified providers submitted their costs to NECA (especially the "white label" providers that have no intention of becoming certified) showing comparably lower administrative costs, typically using one or two persons acting as CEO,/CFO and Operations Manager/Human Resources Manager, etc. Also, quite a few white label companies only provide interpreters to perform video relay services to a certified VRS provider and have no need to purchase or lease technical equipment to operate a call billing and routing platform. Thus the cost for these providers may be limited only to marketing expenses. If that is the case, then their submitted cost to the NECA would be low and skew the calculations for other Tier I companies

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[2] Convo: Partial Petition for Reconsideration; CG Docket 10-51 and CG Docket 03-123

with full service. Convo believes Tier I costs and thus reimbursement rates should be higher than Tier 2 costs based on the prevailing view regarding economies of scale.

Convo strongly suggests that NECA revisit this issue.

Convo suggests that NECA clearly identify which of providers are included in the calculation of the reimbursable rates as to reassure public that NECA is doing due diligence on calculation. Convo suggests that NECA clearly identify which uncertified providers are included in the calculation of the reimbursable rates so as to reassure the public that NECA has properly considered provider size and other cost factors in its calculation.

Convo, as yet uncertified, operates much like a full-fledged VRS provider as Convo offers 24/7 service, owns its call centers, and meets all TRS regulations. In this confidential filing Convo owners have decided that they will open up its business model to the FCC so FCC will have better understanding of how a start-up/small VRS provider deals with cost issues. Please review Exhibit A and B which shows the business model of Convo.

7. Non-certified Provider Issues.

Non-certified VRS providers who intends to become certified VRS providers and have submitted applications to the FCC are trapped into having business arrangements with certified VRS providers while awaiting approval or rejection from FCC. Typically certified providers charge between 7% to 15% of the NECA VRS rates to submit call data to certified providers to submit minutes to NECA. If certified providers are at Tier III, then non-certified providers will be reimbursed at Tier III rates even though the minutes are less than 50K. Additionally, start-ups typically use certified VRS provider's technical platform; the cost can vary from 10% up to 20% of the NECA VRS rates. Still another cost issue that non-certified providers may have its own call center, but not able to provide 24 hour service, so during off-hours, these non-certified providers will have arrangement with certified providers that calls can overflow to certified providers. Typically, the overflow cost between 45% up to 75% of NECA rates and in some instances certified providers get all of the minutes and none for non-certified providers.

These factors may skew up the calculation for a balanced tiered rates. Convo strongly suggests NECA consider these issues to calculate tiered rates.

Convo also strongly suggest that FCC consider Provisional Certification as an alternative option to temporary certificate providers who intends to become full fledged VRS providers. This has been discussed in an ex-parte meetings with legal advisors to the Commissioners[3]. Provisional Certificate will resolve the skewed cost data as providers provisional certified by FCC will report directly to the FCC and TRS Fund Administrator.

8. Transparency and Audit.

Convo encourages transparency and Convo will be willing to do that if all VRS providers (certified and non-certified) also practice that. Until that time happens, most of these comments that are proprietary to Convo are to be redacted when filed electronically. A clean copy with "Confidential" labeling will be shared with specific FCC personnel involved in the determination of TRS provider compensation pursuant to Commission rules.

In order to ensure that provider cost transparency is honored by all providers, Convo also encourages the FCC to conduct periodically thorough audits of all VRS providers. Companies that refuse to allow such audits should not be permitted to submit, nor should the NECA TRS Fund accept, their billings.

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[3] Convo Presentation: http://fjallfoss.fcc.gov/ecfs/document/view?id=7020408888

9. Conclusion.

In conclusion, Convo believes FCC should re-evaluate the Tier I and II rates to ensure that the reimbursable rates are reasonable for companies who are committed to developing a service for the deaf and hard of hearing communities that meets all TRS regulations. Tier I and II should include costs that are unique to start-up and small companies.

With that in mind, Convo strongly recommends that FCC go forward with the provisional certification to ensure that there is full oversight and clear requirements for any providers who want to provide VRS, thus removing the white brand providers that have no intention of becoming certified. By utilizing Provisional Certificate instead of anchoring with certified providers would ensure that Provisional Certified providers would be paid full tiered rates based on the actual minutes accumulated instead of later tiered rates based on certified provider's call volume.

Convo also recommends that FCC adopt a greater amount of tiers to appropriately reflect the changes in the reimbursable cost which includes break even cost and 11.25% return on investment which may allow the greater savings to the fund while creating a more competitive field with innovation and focus on quality of service.

Respectfully Submitted,

Robin Horwitz
CEO

Ed Bosson
VP Regulatory Affairs

10. Description.

This model shows actual/projected costs which is broken into quarterly (3 months). Currently our volume puts us in Tier 1 category with Q4 possibly in the Tier 2 category.

Call Center - Variable: Payroll, taxes, insurance
Call Center - Fixed: Staff interpreters, extended hours coverage (overnight/weekend), Rent, Internet
Billing - Utilizing a certified provider to bill for reimbursement
Technical - Technical platform, Bandwidth, phone costs, long distance charges

Gross Profit - after all the costs
Operating costs - Convo employees

Net Profit - after all the costs and operating costs

Minutes (thousands) show traffic usage in 3 months increments with revenue (based on our billing partner's specific tiered rate for reimbursement)

Revenue, directed costs and operating expense show how much of the reimbursable rate is being utilized accordingly.

All the costs are also broken by Facilities, CA Related, NON-CA Related and indirect.

Bottom of the spreadsheets show the break even cost (in green highlighted row) for all costs associated with Video Relay Service company plus 11.25% ROI.

The Exhibit B shows the projected costs for Tier 2 category (current tier rate system).

EXHIBIT A (ACTUAL/PROJECTED COSTS FOR 2010)

	Q1-2010	Q2-2010	Q3-2010	Q4-2010	2010 Total
Revenue	$ 409	$ 661	$ 779	$ 1,118	$ 2,967
Call Center- variable	222	288	337	462	1,309
Call Center- Fixed	46	58	75	128	307
Billing	35	46	55	78	214
Technical	60	86	101	127	373
Total Cost	363	479	567	795	2,204
Gross Profit	46	182	212	323	763
Operating costs	40	180	252	288	759
Net Profit	$ 6	$ 2	$ (39)	$ 35	$ 4

	Q1-2010	Q2-2010	Q3-2010	Q4-2010	2010 Total
Minutes (thousands)	62.9	102.7	129.2	185.3	480.1
Revenue	$ 6.50	$ 6.44	$ 6.03	$ 6.03	$ 6.18
Direct Costs	5.77	4.66	4.39	4.29	4.59
Oper Expense	0.63	1.75	1.95	1.55	1.58
Profit	$ 0.10	$ 0.02	$ (0.30)	$ 0.19	$ 0.01

	Q1-2010	Q2-2010	Q3-2010	Q4-2010	2010 Total
Facilities	15	23	21	26	84
CA related	222	288	337	462	1,309
Non-CA related	131	164	201	295	791
Indirect	35	183	260	301	778
Depreciation					
Marketing					
Outreach					
Other					
Return on Investment	6	2	(39)	35	4
	409	661	779	1,118	2,967

	Q1-2010	Q2-2010	Q3-2010	Q4-2010	2010 Total
Facilities	0.23	0.23	0.16	0.14	0.18
CA related	3.53	2.81	2.61	2.49	2.73
Non-CA related	2.07	1.60	1.56	1.59	1.65
Indirect	0.56	1.78	2.01	1.62	1.62
Depreciation					
Marketing					
Outreach					
Other					
Break even cost	6.40	6.41	6.34	5.84	6.17
w 11.25% ROI	7.21	7.23	7.14	6.58	6.95

EXHIBIT B (PROJECTED COSTS FOR TIER I and II)

	Q1-2011	Q2-2011	Q3-2011	Q4-2011	2011 Total
Revenue	$ 1,259	$ 1,395	$ 1,517	$ 1,802	$ 5,973
Call Center- variable	515	570	632	751	2,467
Call Center- Fixed	156	171	210	236	773
Billing	88	98	106	126	418
Technical	137	147	159	181	625
Total Cost	896	986	1,108	1,294	4,283
Gross Profit	364	409	409	508	1,690
Operating costs	347	369	398	431	1,546
Net Profit	$ 16	$ 40	$ 11	$ 77	$ 144

	Q1-2011	Q2-2011	Q3-2011	Q4-2011	2011 Total
Minutes (thousands)	208.8	231.3	258.3	306.9	1,005.3
Revenue	$ 6.03	$ 6.03	$ 5.87	$ 5.87	$ 5.94
Direct Costs	4.29	4.26	4.29	4.22	4.26
Oper Expense	1.66	1.60	1.54	1.41	1.54
Profit	$ 0.08	$ 0.17	$ 0.04	$ 0.25	$ 0.14

	Q1-2011	Q2-2011	Q3-2011	Q4-2011	2011 Total
Facilities	26	30	38	38	130
CA related	515	570	632	751	2,467
Non-CA related	339	367	415	473	1,594
Indirect	364	389	421	464	1,638
Depreciation					
Marketing					
Outreach					
Other					
Return on Investment	16	40	11	77	144
	1,259	1,395	1,517	1,802	5,973

	Q1-2011	Q2-2011	Q3-2011	Q4-2011	2011 Total
Facilities	0.12	0.13	0.15	0.12	0.13
CA related	2.46	2.46	2.45	2.45	2.45
Non-CA related	1.62	1.59	1.61	1.54	1.59
Indirect	1.75	1.68	1.63	1.51	1.63
Depreciation					
Marketing					
Outreach					
Other					
Break even cost	5.95	5.86	5.83	5.62	5.80
w 11.25% ROI	6.71	6.60	6.57	6.33	6.53