



ANDREW O. ISAR

4423 POINT FOSDICK DRIVE, NW
SUITE 306
GIG HARBOR, WA 98335
TELEPHONE: 253.851.6700
FACSIMILE: 866.474.3630
WWW.MILLERISAR.COM

Via Electronic Comment Filing System

June 22, 2010

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
9300 E. Hampton Drive
Capitol Heights, MD 20743-3813

RE: Application of Say-Hey, Inc. for Eligibility to be Compensated From the Interstate Telecommunications Relay Service Fund For the Provision of Video Relay Services and IP Relay, CG Docket No. 03-123

Dear Ms. Dortch:

Enclosed for filing with the Commission is the attached Application of Say-Hey, Inc. and supporting exhibits, submitted in the above-referenced proceeding. By this Application, Say-Hey, Inc. respectfully requests a Commission finding that Say-Hey, Inc. has met the requirements set forth in 47 C.F.R. §64.606(a)(2), Mandatory Minimum Standards for the provision of relay services pursuant to 47 C.F.R. §64.604, and additional requirements established under 47 C.F.R. §§64.605, 64.606, 64.611 and 52.34, and relevant Commission orders, and that Say-Hey, Inc. be found eligible for compensation from the interstate Telecommunications Relay Service Fund for the provision of video relay services and Internet Protocol Relay.

Thank you for your attention to this matter. Questions may be directed to the undersigned.

Sincerely,

MILLER ISAR, INC.

Andrew O. Isar

Regulatory Consultants to
Say-Hey, Inc.

Attachment

cc: Ms. Karen Peltz-Straus (via electronic mail)
Messrs. Mark Stone and Greg Hlibok (via electronic mail)

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

In the Matter of)
)
Application of Say-Hey, Inc. for Eligibility to)
be Compensated From the Interstate)
Telecommunications Relay Service Fund For the)
Provision of Video Relay Services and IP Relay)

CG Docket No. 03-123

**SAY-HEY, INC.
VIDEO RELAY SERVICE AND IP RELAY
CERTIFICATION APPLICATION**

ANDREW O. ISAR
Miller Isar, Inc.
4423 Point Fosdick Drive NW
Suite 306
Gig Harbor, WA 98335
Telephone: 253.851.6700

Regulatory Consultant to
Say-Hey, Inc.

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VIDEO RELAY AND IP RELAY SERVICE CERTIFICATION APPLICATION

Say-Hey, Inc. (“Applicant” or “Say-Hey”), pursuant to section 64.606(a)(2) of the Commission’s rules,¹ Requirements for VRS and Internet Protocol (“IP”) Relay Provider FCC Certification, respectfully applies to the Commission for a finding that Say-Hey is eligible for compensation from the federal Telecommunications Relay Service (“TRS”) Fund (“Fund”) for the provision of advanced-technology Video Relay Services (“VRS”) and Internet Protocol Relay. By the instant Application, Say-Hey demonstrate that it 1) meets, or has the capability to meet and exceed, the Commission’s Mandatory Minimum Standards, for the provision of telecommunications (and video) relay services set forth in sections 64.604 and 64.605, 64.606, 64.611 and 52.34 of the Commission’s rules, as amended; 2) that it meets or is working to meet the remaining Commission-waived Mandatory Minimum Standards for the provision of VRS; 3) that it is complying with recent Commission orders governing subscriber emergency 911 access and ten-digit dialing capabilities of the provision of VRS; and 4) that it should be certified as eligible

¹ 47 C.F.R. §64.606(a)(2); formerly 47 C.F.R. §64.605(a)(2).

for compensation from federal TRS Fund for the provision of its advanced-technology IP-based VRS and IP relay. In support of its Application, Say-Hey states as follows.

I. INTRODUCTION

By the instant Application, Say-Hey seeks Commission certification that the Company currently complies with, and can demonstrate ongoing compliance with, applicable FCC operational, technical, and functional Mandatory Minimum Standards (“MMS”) for the provision of VRS and IP Relay to all subscribers and users of its VRS as set forth in section 64.604(a) and (b) and applicable provisions of sections 64.605, 64.606, 64.611 and 52.34 of FCC regulations. Say-Hey seeks Commission certification of compliance for purposes of drawing upon federal Telecommunications Relay Service program funding for the provision of VRS services, pursuant to section 64.604 (c)(5)(ii), Cost Recovery, of FCC regulation.

Applicant recognizes that the instant Application comes at a time when similar applications for Fund eligibility before the Commission remain pending during Commission deliberations on a host of industry matters. Say-Hey recognizes too that the outcome of these pending matters may ultimately temper actions taken by the Commission on this and other pending applications. Nevertheless, Applicant wishes to pursue the instant Application on the basis that it is meeting the requirements for seeking a Commission determination of the Company’s eligibility for Fund compensation under currently codified Commission rules. Applicant has invested significant resources and obtained commitments from members of the Deaf Community and others to enable Say-Hey to provide a responsible, reliable, and effective alternative to existing VRS.

Applicant has invested significant funds into the development of a compliant VRS platform that advances technology and innovation in the provision of VRS. Applicant is also aware of the desperate need for reliable, responsible VRS alternatives such as Applicant's service expressed by the Deaf Community.² Applicant respectfully requests that the Commission duly consider the merits of Applicant's instant Application in a timely manner, accordingly and is prepared to accept a conditional grant of eligibility if this will ensure a more timely grant of its Application.

Say-Hey also acknowledges that the instant Application comes in the wake of the Commission's *Declaratory Ruling, Order, and Notice of Proposed Rulemaking*.³ This NPRM stands to have wide sweeping impact on the VRS industry and the manner in which the industry provides relay services to the public. The NPRM is an exceptional step toward establishing more explicit obligations on providers generally and on Say-Hey specifically. Say-Hey is relieved to see that the Commission does not appear to anticipate a foreclosing of new competitive entry into the relay services market. Yet, the Commission seeks to adopt more extensive industry oversight, including additional obligations on providers. Say-Hey applauds the Commission for its efforts, and avers to comply with such additional regulations and policies that may result from Commission action in this proceeding, generally, and as are addressed specifically in this Application.

² See e.g. Comments by Deaf Community panelists at the Commission's December 17, 2009 relay services workshop.

³ See, e.g. *In the Matter of Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, *Declaratory Ruling, Order, and Notice of Proposed Rulemaking*, FCC 10-88 (May 27, 2010) [the "NPRM"]..

Say-Hey is a provider of video relay services with nearly one year of experience in providing VRS under the auspices of a VRS provider eligible to draw from the TRS. Applicant is owned by members of the Deaf Community. The Company's senior management team maintains management and operational experience that is exceptionally well suited to support the Company's successful, compliant provision of VRS. The senior management team has more than thirty years of collective relay services experience. Further, Senior Management has played major roles at major VRS Companies and held key positions in Customer Care, IT, Sales, Operations, Marketing, Finance, and Outreach. An overview of Say-Hey's senior management team is attached hereto at **Exhibit A**. Say-Hey further employs and contracts with certified Communications Assistants ("CAs") having extensive interpreting skills and experience, typified by the individual whose *curriculum vitae* is also included at **Exhibit A**. Applicant's management and CAs maintain long-standing associations with the Deaf Community. Management has close ties to national organizations such as RID, NAD, USADSF, Alexander Graham Bell Association, National Association for the Deaf, and Hearing Loss Association of America. Management sits on two boards: No Limits (a national theater group for the deaf and hard of hearing) and TAG (a training and advocacy group for mainstreamed deaf and hard of hearing students). Applicant's senior managers have also been a featured speaker on the national circuit on issues ranging from Newborn Hearing Screening programs to communication issues facing deaf and hard of hearing adults.

Say-Hey's senior management team founded the Company in an effort to meet the needs of the Deaf Community, which they maintain are not being met, particularly by

entrenched, long-standing providers. Among them, are a perceived disenfranchisement between service providers and their customers leading to impersonal service. In recognizing these failings, and with the advent of a more competitive environment for the provision of VRS services, Say-Hey's founders drew on their technical, managerial, and Deaf Community experience in organizing the Company to deliver reliable, flexible, and inclusive personalized services to the Deaf Community, and give the Deaf Community a meaningful choice of VRS providers.

Applicant has also assembled a team of certified, American Sign Language CA professionals, each with years of experience in serving the Deaf Community. The Company's mandate is to strive to exceed the MMS and provide an exceptional, personalized client calling experience. The management and CA team's long-standing experience and strong desire to provide the Deaf Community with service that surpasses the "functionally equivalent" standard, translate into an effective, compliant, and responsible organization that is eager and prepared to immediately begin meeting the needs of users and subscribers commensurate with the grant of the instant Application

Applicant has engaged an advanced, interoperable, Internet Protocol ("IP")-based VRS calling platform technology that has been custom-designed to provide maximum flexibility to its users when placing VRS calls. Say-Hey's VRS platform was designed and developed in conjunction with an established service delivery platform design firm, utilizing a technologically-advanced software application and IP transmission medium, over broadband facilities. Through Applicant's experience in providing underlying VRS and IP Relay services, Applicant has identified specific requirements needed from its VRS platform that have been incorporated and tested to ensure the highest level of

quality and flexibility of VRS possible. The VRS platform has also been designed to incorporate extensive automated reporting, ten-digit dialing, and emergency 911 access capabilities to enable effective corporate management and meet regulatory compliance obligations. The VRS platform is scalable to accommodate the Company's anticipated growth, and can be continually updated to incorporate additional features as deemed desirable or necessary in the future. Applicant's VRS platform is interoperable with other VRS and telecommunications relay service ("TRS") applications, including other VRS provider-specific equipment, and does not preclude callers from accessing other TRS/VRS providers.

Say-Hey now seeks to draw from federal TRS program Fund to provide its VRS to and for the Deaf Community pursuant to section 64.606 (a)(2) of Commission rules. As demonstrated below, Say-Hey meets or exceeds federal Mandatory Minimum operational, technical, and functional Standards for the provision VRS to the public including ten-digit dialing and emergency 911 access capabilities, is meeting or has met waived Mandatory Minimum Standards for VRS, and should be deemed eligible for purposes of qualifying for federal funding of the Company's direct VRS costs through the TRS program fund.

Approval of the instant Application and certification of Say-Hey to draw from the federal TRS fund for the provision of VRS furthers the objectives of section 225 of federal law, and the stated goals of this Commission. Certification of Say-Hey will enhance competition, giving consumers greater choice and innovation to the provision of

VRS.⁴ Certification of Say-Hey will indeed introduce an innovative, technologically-advanced competitor to the VRS markets. Certification of Say-Hey will also stimulate greater broadband deployment,⁵ as broadband connectivity is an integral component of Say-Hey's service, and will bring the provision of VRS a quantum step closer to "functional equivalency" to voice services. Say-Hey respectfully requests that the Commission certify Say-Hey's compliance with federal Mandatory Minimum Standards and eligible for compensation from the federal Telecommunications Relay Service program Fund for VRS and IP relay, accordingly.⁶

II. BACKGROUND

According to a 1994 National Center for Health Statistics, National Health Interview Survey, more than 20 million Americans, or 8.6 percent of the U.S. population over the age of three were reported as having an inability to hear properly.⁷ Gallaudet University more recently reported that:

About 2 to 4 of every 1,000 people in the United States are "functionally deaf," though more than half became deaf relatively late in life; fewer than 1 out of every 1,000 people in the United States became deaf before 18 years of age.

However, if people with a severe hearing impairment are included with those who are deaf, then the number is 4 to 10 times higher. That is, anywhere from 9 to 22

⁴ See, e.g., *Report and Order* at para.21; 47 U.S.C. 225.

⁵ See, e.g., *Report and Order* at para. 21, and footnote 81.

⁶ Applicant is well aware of growing concern over the prospect of fraud in the VRS industry. Say-Hey commits to working with the Commission and industry to ensure the absolute legitimacy of all conversation minutes submitted for TRS Fund compensation following certification, and in maintaining ongoing controls to preclude any and all forms of potential abuse.

⁷ Center for Assessment and Demographic Studies, Gallaudet University, *Demographic Aspects of Hearing Impairment: Questions and Answers*, Third Edition (1994) <http://gri.gallaudet.edu/Demographics/factsheet.html#Q1>

out of every 1,000 people have a severe hearing impairment or are deaf. Again, at least half of these people reported their hearing loss after 64 years of age.

Finally, if everyone who has any kind of "trouble" with their hearing is included then anywhere from 37 to 140 out of every 1,000 people in the United States have some kind of hearing loss, with a large share being at least 65 years old.⁸

Title IV of the Americans with Disabilities Act of 1990⁹ was designed to further promote universal service objectives set out in the Communications Act of 1934, as amended (the "Act"), by providing to individuals with hearing or speech disabilities telephone services that are "functionally equivalent" to those available to individuals without such disabilities.¹⁰ Congress recognized that persons with hearing and speech disabilities have long experienced barriers to their ability to access, utilize, and benefit from telecommunications services.¹¹ Attendant federal regulations implementing the provisions of Title IV and section 225 of the Act have been codified in Part 64, Subpart F, Telecommunications Relay Services and Related Customer Premises Equipment for Persons With Disabilities as subsequently amended.¹²

⁸ See [Gallaudet Research Institute \(GRI\)](http://gri.gallaudet.edu/Demographics/deaf-US.php), Demographics, <http://gri.gallaudet.edu/Demographics/deaf-US.php>

⁹ Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990), adding Section 225 to the Communications Act of 1934 (Communications Act), as amended, 47 U.S.C. § 225; implementing regulations at 47 C.F.R. § 64.601 *et seq.* In Title IV, Congress announced that "[i]n order to carry out the purposes established under section 1 [of the Communications Act of 1934], to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States." 47 U.S.C. § 225(b)(1).

¹⁰ See, e.g., H.R. Rep. No. 485, Pt. 2, 101st Cong., 2d Sess. at 129-130 (1990) ("House Report") (Section 225 "imposes on all common carriers providing interstate or intrastate telephone service[] an obligation to provide to hearing and speech-disabled individuals telecommunications services that enable them to communicate with hearing individuals. These services must be functionally equivalent to telephone service provided to hearing individuals."); 47 U.S.C. § 225(a)(3).

¹¹ See, e.g., *House Report* at 129.

¹² 47 C.F.R. §64.601 *et. seq.*

Federal TRS/VRS regulation has evolved and adapted to new technology and changes in an increasingly competitive industry. In March 2000, the FCC tentatively concluded that VRS is a form of TRS.¹³ The FCC found that TRS encompasses VRS, and that VRS would make relay services functionally equivalent to conventional telephone service for individuals whose first language is American Sign Language.¹⁴ The FCC did not at that time mandate the provision of VRS, given its technological nascence.¹⁵ Yet the FCC encouraged the use and development of VRS and established that all VRS calls would be eligible for cost recovery from the Interstate TRS Fund on an interim basis.¹⁶

The desirability of technologically advanced VRS by the Deaf Community is well documented. In its 2004 Report to Congress, *Availability of Advanced Telecommunications Capability in the United States*, the Commission addressed the growing importance of VRS and IP relay as tools for the hearing and speech impaired,

Broadband-based Internet services have also become a critical communications tool for the deaf and hard-of-hearing, through the use of Internet Protocol Relay (IP Relay) and Video Relay Service (VRS), two forms of telecommunications relay services (TRS) that rely on the Internet. This report shows that there has been more than a 640 percent increase in IP Relay usage and more than a 2,000 percent increase in VRS in the past two years.¹⁷

¹³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 5140 (March 6, 2000).

¹⁴ *Id.* 15 FCC Rcd at 5152-5153, para. 23.

¹⁵ *Id.*, 15 FCC Rcd at 5152, para. 22.

¹⁶ *Id.*, 15 FCC Rcd at 5152-5154, paras. 23-27.

¹⁷ *Availability of Advanced Telecommunications Capability in the United State*, (FCC Fourth Report to Congress (September 9, 2004) (http://www.neca.org/wawatch/wwpdf/091004_1.pdf)) at 9. The FCC's *Fourth Report to Congress* notes specifically that in June 2002, consumers used 35,443 VRS minutes. In May 2004, consumers used 733,040 VRS minutes; a more than 2,000 percent increase in VRS in the past two years (*Fourth Report to Congress* at 37).

The Commission's 2005 TRS *Report and Order*¹⁸ underscored the importance of VRS as a significant advancement toward achieving "functional equivalency."

The advent of VRS as a form of TRS has been one of the most important developments in the short history of TRS. VRS allows a deaf person whose primary language is ASL to communicate in ASL with the CA, who is a qualified interpreter, through a video link; the CA, in turn, places an outbound telephone call to a hearing person. During the call, the CA communicates in ASL with the deaf person and by voice with the hearing person. As a result, the conversation between the two end users, deaf and hearing, flows in near real time and in a faster and more articulate manner than with a TTY or text-based TRS call. As a result, VRS calls reflect a degree of "functional equivalency" unimaginable in a solely text-based TRS world. The use of VRS reflects this reality: in April 2005 the monthly minutes of use were approximately 1.8 million, a ten-fold increase in the past two years, and more than the number of interstate traditional TRS minutes.¹⁹

To promote "functional equivalency," Congress further sought to ensure that attendant FCC TRS regulation would in no way stifle technological advancement.

Pursuant to section 225(d)(2) of the Act,

The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 157(a) of this title, the use of existing technology and do not discourage or impair the development of improved technology.

Also in 2005, Commissioner Michael J. Copps addressed the critical importance of technologic advancement in communications for those with speech and hearing disabilities, noting that

¹⁸ *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, CG Docket No. 03-123, CC Docket No. 98-67, FCC 05-140 (July 19, 2005).

¹⁹ *Report and Order* at 3. See TRS Fund Performance Status Report as of May 31, 2005, www.neca.org (under Resources, then TRS Fund).

Americans with disabilities spend much of their time fighting for the opportunities for advancement that others of us just take for granted.... Advances in technology have already made a huge difference for many people with visual, auditory, and ambulatory challenges, and technology can do far more.²⁰

Until recently, the Deaf and hard of hearing could avail themselves of a limited number of TRS/VRS alternatives to communicate. Such alternatives, including existing VRS applications, historically relied on specialized communications equipment that limited user mobility and potentially restricts accessibility to alternative TRS/VRS applications. These solutions have in some respects not yet fully reached the technological “functional equivalency” standard contemplated by Congress and the Commission, to enable the Deaf, speech and hearing impaired individuals to communicate with the facility, flexibility, and mobility which non-disabled individuals often take for granted. Further, some entrenched dominant providers seemingly pursue efforts to tie subscribers to equipment and their service through the transition to ten-digit dialing, also contributing to a limitation of competitive alternatives. Say-Hey seeks to offer the Deaf Community a new choice of provide and innovative services.

Say-Hey has deployed a proven, technologically-advanced VRS solution, which approximates the “functional equivalency” standard set forth in the Act. By providing a simplified, VRS solution, coupled with a highly-dedicated, motivated, professional and experienced team of CAs and managers, Say-Hey is capable of providing a VRS calling experience that approximates “functional equivalency.” Say-Hey seeks to bring the

²⁰ Remarks of FCC Commissioner Michael J. Copps, Cellular Telecommunications and Internet Association Wireless Accessibility Workshop, New Orleans, LA, March 14, 2005.

tangible benefits of its VRS solutions to the Deaf Community as a new technologically-advanced VRS provider.

Say-Hey is well aware of the issues and concerns regarding the provision of relay services currently before the Commission. Yet such issues should not serve as the basis for precluding entry of responsible providers who seek Fund eligibility under current regulations through a demonstration of meeting the criteria for Fund eligibility. The Deaf Community's demand for additional relay service alternatives is well documented.²¹ Applicant maintains that through its demonstrated compliance with the criteria for TRS Fund eligibility, it is prepared to meet the demand for new, responsible, VRS and IP Relay service providers desperately sought by the Deaf Community.

Say-Hey respectfully requests timely Commission certification of Say-Hey's compliance with federal Mandatory Minimum Standards pursuant to sections 64.604 and 64.605, 64.606, 64.611 and 52.34 of the Commission's rules for purposes of drawing compensation from the federal Telecommunications Relay Service program Fund, in order to begin serving the Deaf Community, speech and hearing disabled, and those who contact them subject to federal funding, and to bring subscribers one step closer to "functional equivalency."

III. Say-Hey, Inc.

Applicant's name, address and telephone number are as follows:

SAY-Hey, Inc.
1474 Stone Point Drive,
Roseville, CA 95661
Telephone: 916.412.4728
Email: matt@say-hey.com

²¹ See, e.g. FCC Workshop on VRS Reform (December 17, 2009).

Correspondence regarding the instant Petition should also be addressed to Applicant's regulatory consultant,

Andrew O. Isar
Miller Isar, Inc.
4423 Pt. Fosdick Dr. NW, Ste. 306
Gig Harbor, WA 98335
Telephone: 253.851.6700
E-Mail: aisar@millerisar.com

IV. SAY-HEY IS ELIGIBLE FOR COMPENSATION FROM THE FEDERAL TRS FUND FOR THE PROVISION OF VIDEO RELAY AND IP RELAY SERVICES AS IT MEETS, AND WILL CONTINUE TO MEET, APPLICABLE MANDATORY MINIMUM STANDARDS FOR THE PROVISION OF VIDEO RELAY SERVICES.

The Commission's *Report and Order* created for the first time an opportunity for federal certification of VRS provider compliance with the Mandatory Minimum Standards for purposes of drawing from the federal TRS Fund. The Commission's *Report and Order* specifically allowed common carriers seeking to offer VRS or IP Relay, and who are not otherwise able to seek certification through a state program, to qualify for compensation from the federal TRS Fund through a Commission certification process.²² This Commission certification process, codified at section 64.606(a)(2) of the Commission's rules, establishes the basis for Commission certification that that the VRS and/or IP Relay provider meets the Commission's Mandatory Minimum Standards for the provision of VRS and IP relay services, and is therefore eligible for compensation from the federal TRS Fund.

The information contained in the instant Application is intended to provide the Commission with detailed evidence that Say-Hey currently meets or exceeds all non-

²² *Report and Order* at para.19.

waived operational, technical, and functional Mandatory Minimum Standards contained in the Commission's rules, that the Company has adopted adequate procedures and remedies for ensuring ongoing compliance with the Commission's rules, including reporting requirements to the Commission and Fund Administrator and availability of informational materials regarding complaint procedures sufficient for users to know the proper procedures for filing complaints; that the Company acknowledges its future obligation to responsibly meet and exceed currently waived Mandatory Minimum Standards applicable to VRS and is working toward compliance; that the Company has met more recently established obligations which include *inter alia* VRS 911 access and ten digit number assignment; and that its services in no way violate applicable Mandatory Minimum Standards and related Commission orders governing those standards.

A. Documentation for VRS Provider Pursuant to 47 C.F.R. §64.606(a)(2).

Section 64.606(a)(2) of the Commission's rules establish the requisite documentation to be submitted by a VRS and IP Relay provider seeking Commission certification independent from any certified state program. Say-Hey has expended considerable effort and resources in meeting the Commission's Mandatory Minimum Standards and currently waived Mandatory Minimum Standards for VRS providers, as documented below.

1. **A description of the forms of TRS to be provided (*i.e.*, VRS and/or IP Relay), 47 C.F.R. §64.606(a)(2)(i).**

Say-Hey proposes to provide video relay services services to the public.²³

Applicant's VRS will be supported by a technologically-advanced, software-based, proven VRS platform, utilizing IP over broadband facilities, which Say-Hey has deployed and thoroughly tested. Through this advanced VRS platform, Say-Hey provides VRS with virtually immediate interpreter access, and a multitude of features and reporting data, supported by an established and recognized communications platform solution developer. Say-Hey's VRS platform is also designed to support all call types, including Instant Messaging, Text calling (TRS), and IP relay text messaging.

Applicant's VRS will be provided to end users via its VRS platform. The Platform intelligently routes multi-media communications to CAs anywhere, while quickly processing calls in a manner that is entirely transparent to callers. The platform provides extensive management oversight capabilities; capabilities that have been demonstrated effective in meeting Commission TRS Fund administrator reporting obligations, and tools supporting CA productivity enhancements and retention.

The platform software includes an enterprise-grade automatic call distribution system. The platform also includes CA performance optimization features including customer experience survey capabilities, CA scoring analysis, call monitoring, call recording, workforce scheduling and forecasting tools to reduce CA attrition, and targeted training delivered to the CA desktop. Further, the VRS platform is an all-in-one

²³ Applicant will also have the capability to provide access to other communications media for the public, although it will focus its services exclusively on the provision of VRS.

on-demand platform that delivers rapid application development tools for information technology control, and a perpetually managed network with carrier-grade redundancy.

Software Enabled. As a software-based solution, Applicant's VRS platform is scalable, reliable, and is automatically upgraded as new versions become available. The platform consists of several applications modules, each designed to perform specific functions including call management and CA distribution, management reporting, call and CA performance analysis, among others. Applicant's VRS platform is constantly being updated and can be customized to add new applications and features consistent with client requests and Company experience.

VRS user clients will access Say-Hey at any location with broadband Internet access, and at no cost. Users may connect to Say-Hey VRS by D-link, VP-100/200, VPAD, OJO, MVP, Z, or any broadband h.323 Videophone, by accessing the Applicant's secure web site portal, say-hey.tv, a downloadable client that works on personal computers and Apple's MacIntosh computer operating systems, or through the Skype softphone application.

IP Enabled. Applicant's VRS platform and VRS client application utilizes IP as a transmission medium. Coupled with broadband connectivity and software, Applicant's VRS provides reliable, high-quality video and audio transmission capabilities that approximate in-person communications between the caller, interpreter, and called party.

Broadband Connectivity. Applicant's VRS relies on broadband connection with the Internet. The provided broadband facilities are capable of supporting uploading speeds in upwards of 768 kbs and download speeds of 4 to 6 mbs, ensuring high-quality communications. And, with the advent of Wi-Fi and Wi-Max wireless broadband

connectivity now becoming increasingly available to the public, clients may utilize laptop computers to place calls from any location having high-speed Internet access, when away from their Say-Hey registered location, according users additional communications mobility. Say-Hey's product offering is compatible with home based internet services. Even with the most basic high speed internet, Say-Hey's product will work without hindrance. In addition, Say-Hey's product is firewall friendly and will work with home and work based firewalls.

Virtually Instant Interpreter Access. Callers have the capability to connect to an interpreter, typically in less than eight seconds, 24 hours per day, seven days per week.

Unlimited Access and Interoperability. No limitations are imposed on subscribers' VRS usage or access to alternative providers. Subscribers may place as many or as few VRS calls utilizing Applicant's VRS platform as desired. Subscribers' use of Applicant's VRS in no way limits the subscriber's access to alternative VRS or TRS providers. Say-Hey does not block access to other providers, and is fully interoperable with other TRS/VRS equipment, including legacy D-Link VRS equipment.

Enhanced Security. Applicant's VRS platform utilizes encryption software to ensure the complete confidentiality of all communications processed through the platform. Such encryption provides added security protection for subscribers against illegal monitoring of communications.

Enhanced Features. Applicant's VRS enables subscribers to create and maintain a list of frequently called numbers via the software client, facilitating call setup for those individuals with whom the subscriber communicates most often at the click of a computer screen icon.

Call Tracking and Other Data Collection. A variety of call and usage data are captured and can be organized and made available in real time, historical, and custom formatted management and TRS Fund management reports via Applicant's VRS platform. The flexibility of the platform's call detail accounting and data retrieval capability has enabled Say-Hey to structure detailed conversation minute, call detail, and *ad hoc* reports that will be used to provide annual and periodic reporting to the Commission and National Exchange Carriers Association, the TRS Fund Administrator. As such, Applicant already has the capability to provide automated compensable minute reporting to the Fund Administrator as contemplated in the May 27, 2010 NPRM proposed rules.²⁴ Sample call detail and conversation minute reports are attached hereto at **Exhibit B**.

Say-Hey's comprehensive VRS platform, functions and features, offer several advantages over other TRS and VRS applications, that simplify communications for disabled users.

2. A description of how the provider will meet all non-waived mandatory minimum standards applicable to each form of TRS offered), 47 C.F.R. §64.606(a)(2)(ii).

Say-Hey currently meets all non-waived Mandatory Minimum Standards applicable to the provision of VRS, as follows.

Section 64.604(a) of the FCC's rules, as amended, establishes Mandatory Minimum operational, technical, and functional Standards governing the provision of TRS/VRS. Pursuant to section 64.606(a)(2) of the Commission's rules, a TRS/VRS

²⁴ Proposed rule 47 C.F. R. § 64.604(a)(6)(i).

provider may draw upon federal TRS program funding to recoup its costs of providing TRS/VRS, when demonstrating that the provider fully complies with the Mandatory Minimum Standards contained in federal regulation.²⁵ As set forth below, Say-Hey maintains that it meets or exceeds federal Mandatory Minimum Standards applicable to the provision of its VRS,²⁶ ²⁷ and merits Commission certification of compliance for purposes of recouping costs from federal TRS program funds.

3. A description of the provider’s procedures for ensuring compliance with all applicable TRS rules, 47 C.F.R. §64.606(a)(2)(iii).

Say-Hey currently meets all Mandatory Minimum Standards applicable to the provision of VRS and IP relay as set forth in Section 64.604²⁸ of the Commission’s rules, as follows:

²⁵ 47 C.F.R. §64.604(a)(2).

²⁶ For purposes of demonstrating MMS compliance, Applicant interprets the acronym and term “TRS” as synonymous with “VRS” unless the requirement is clearly inapplicable with the provision of VRS services

²⁷ On June 30, 2004, the FCC released a *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking* in its ongoing TRS proceeding, adopting *inter alia* waivers of the Mandatory Minimum Standards in 47 C.F.R. §64.604 for IP Relay and VRS providers for a specified period of time. Citations to these waivers as set forth therein, are addressed under each Mandatory Minimum Standard to which they apply. *See e.g. In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities* CC Docket No. 90-571, CC Docket No. 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 04-137 (June 30, 2004) [hereinafter “2004 TRS Report and Order”] Amended further by *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, DA 07-5098 (Dec. 26, 2007); *See also Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, CG Docket 03–123, DA 07–098; DA 08–45; *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities E911 Requirements for IP-Enabled Service Providers*, CG Docket 03–123 and WC Docket No. 05-196, *Report and Order*, FCC 08-78 (March 19, 2008).

²⁸ 47 C.F.R §64.604.

Operational Standards

1. Communications Assistant (“CA”) – Training (47 C.F.R.

§64.604(a)(1)).

Standard (i): “TRS providers are responsible for requiring that all CAs be sufficiently trained to effectively meet the specialized communications needs of individuals with hearing and speech disabilities.”

Compliance: Say-Hey readily recognizes the importance of engaging professional CAs to serve all callers. To qualify for employment, CA candidates must first meet Applicant’s minimum qualifications for employment, and demonstrate complete understanding of Applicant’s operating standards, before the CA can begin interpreting.

CA candidates are then screened for typing ability, ASL skills and skill certification,²⁹ and then judged for attitude and orientation toward helping the speech and hearing impaired.³⁰ As part of the initial qualifying process, each CA’s experience and skill set is scrutinized. Each candidate CA’s stated qualifications are reviewed and tested, and the individual’s orientation to the position is judged. Screening also includes in depth ASL performance utilizing tools such as the Sign Language Proficiency Index

²⁹ Prospective CAs must maintain one or more of the following certifications Registry of Interpreters for the Deaf (RID), SCS, National Interpreter Certificate, CI or CT, or National Association of the Deaf.

³⁰ Applicant’s minimum CA standards are consistent with those set forth by the Commission in its TRS re-certification application, *In the Matter of Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, DA-02-1006, *TRS State Re-Certification Application, Request of the New York State Public Service Commission for Re-Certification of its Telephone Relay Service* (September 30, 2002), “Telecommunication Relay Service (TRS) CAs must, at a minimum, possess the following qualifications: (1) spelling skills at a 12th grade level and the ability to exercise proper telephone etiquette; (2) basic skills in English grammar at a minimum of a 12th grade level; (3) minimum typing speed of 60 words per minute; (4) the ability to understand ASL users as they borrow English, and to translate such communication into English; and, (5) the ability to convey the full content, context, and intent of relay communication they translate. CAs must strive to maintain functional equivalence for both TTY relay users and the non-TTY relay users when a communication is relayed.”

(“SLPI”)³¹ as well as a comprehensive analysis of ASL to voice skills that is critical to conveying the deaf users message accurately. Candidates are then tested in mock calls to determine operating capabilities. If the candidate passes initial testing and is recommended for employment, security/references are verified. Employees may be subject to drug screening. Only then do candidates qualify for employment at the Company’s relay center.³²

Each newly hired CA undergoes an initial orientation with presentations from senior management regarding company mission, objectives, obligations, and compliance. New hires receive detailed orientation from senior CAs, and are provided reference materials, including a listing of compliance requirements and metrics. New CAs receive training on each type of call that may be received, and are given an opportunity to engage in mock practice calls to gain confidence in equipment usage and procedures. The new

³¹ The Sign Language Proficiency Index (“SLPI”) is an established conversational interview technique used to assess sign language communication skills. SLPI enables the interviewer to evaluate individual sign language communication skills (*see* Caccamise & Newell 1995, 1999a; Newell *et al* (1983)). The SLPI is based on, and adapted from, the Language Proficiency Interview (“LPI”)/Oral Proficiency Interview (“OPI”), which was developed to assess the communicative competence in a foreign or second language. The SLPI assesses sign language proficiency as used among skilled sign language communicators in the United States, and includes pure, linguistic descriptions of ASL to English influenced meaning based signing. Proficiency is characterized by: (a) meaning-based sign language vocabulary selection consistent with standardized signs in current use by skilled language users, and (b) a variety of grammatical features that are consistent with effective use of gestural/visual language for communication. Grammatical features include: (a) space, indexing, eye gaze, sign movement directionality, and body shifts to separate ideas and to identify and discuss persons, places, and objects and their movements (for example, use of the index finger to represent a person); (b) sign-word order which facilitates effective communication in gestural-visual language; and (c) facial expressions and other body movements (non-manual signals) to support and add to information communicated (for example, affirmative and negative head movements). In addition to vocabulary and grammatical features, clarity of sign production, fluency, and comprehension are important considerations in effective communication when using a gestural-visual language, and therefore are considered in SLPI ratings. The SLPI was developed at the National Technical Institute for the Deaf (NTID), Rochester Institute of Technology, USA.

³² Contract CA’s must also qualify to meet minimum employment standards, even if engaged under contract.

hire is then monitored closely for a minimum of one week, until standards of performance are exceeded. Ongoing monitoring of performance is maintained with identified areas for improvement given a training plan.

On an ongoing basis, CA's will routinely be monitored and provided guidance regarding performance. Each CA will be formally evaluated by a supervisor, to ensure that the CA maintains proficiency and meets operational standards. Those CAs who are found substandard are required to engage in remedial training subject to more frequent evaluation, and ultimately dismissal if performance fails to meet minimum standards.

CAs are required to sign a statement agreeing to be bound by the Registry of Interpreters for the Deaf or National Association of the Deaf Code of Professional Conduct through the course of their employment with Say-Hey.

Standard (ii): “CAs must have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech disability cultures, languages and etiquette. CAs must possess clear and articulate voice communications.”

Compliance: CA professional accreditation is a prerequisite for employment. A CA's typing, grammar, and spelling skills, as well as the CA's ability to interpret ASL, and familiarity with hearing and speech disability cultures, languages and etiquette, and ability to communicate articulately, are judged as part of the initial screening process, and ongoing post-hire evaluations. Only those who qualify based on the determination of the initial screening, are considered for employment or engagement. Although many new hires or contractors will have practical interpreting experience, Say-Hey's CA screening team will also consider educational experience and teacher evaluations for candidates who recently graduated from accredited colleges or training courses.

Standard (iii): “CAs must provide a typing speed of a minimum of 60 words per minute. Technological aids may be used to reach the required typing speed. Providers must give oral-to-type tests of CA speed.”

Compliance: As Applicant offers VRS, primary skill set focus is placed upon the CA’s ability to interpret from ASL. Applicant’s VRS platform further utilizes pre-programmed macros and auto-correcting software to facilitate text interpretation. Nevertheless, because Applicant’s VRS supports instant text messaging, CAs are expected to meet the minimum 60 words per minute standard, which is incorporated into initial screening tests and subsequent evaluation of CAs.

Standard (iv): “TRS providers are responsible for requiring that VRS CAs are qualified interpreters. A “qualified interpreter” is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.”

Compliance: CAs must maintain professional accreditation through the Registry of Interpreters for the Deaf (RID), SCS, National Interpreter Certificate, CI or CT, or National Association of the Deaf, have demonstrated practical experience as an ASL interpreter and/or be a graduate of an accredited institution’s ASL interpreter program. These minimum requirements, coupled with the extensive screening, ensure that CAs are effective in understanding and meeting the communications needs of Applicant’s clients.

Standard (v): “CAs answering and placing a TTY-based TRS or VRS call must stay with the call for a minimum of ten minutes. CAs answering and placing an STS call must stay with the call for a minimum of fifteen minutes.”³³

Compliance: Applicant has adopted this standard to the extent applicable to VRS calls and includes the requirement in training and in performance evaluations. Say-Hey has incorporated the standard in planning for interpreter staffing requirements, as a function

³³ STS calling requirements are waived indefinitely. *2004 TRS Report and Order*, para 138 and 139.

of subscribers served and the probability of TTY-based and STS calls. Call detail record report data appears at **Exhibit B**. As a general matter, CAs are instructed to remain on each call until the call is terminated, even if the call extends beyond the CA's shift, unless a change in CA's is expressly authorized by the subscriber.

Standard (vi): "TRS providers must make best efforts to accommodate a TRS user's requested CA gender when a call is initiated and, if a transfer occurs, at the time the call is transferred to another CA."

Compliance: Applicant will honor requests for gender-specific CAs upon request. Applicant is developing an automated process for enabling callers to select the gender at the time the call is placed.

Standard (vii): "TRS shall transmit conversations between TTY and voice callers in real time."

Compliance: Although only a minority of calls are anticipated to be TTY calls in light of the fact that Applicant's service is intended specifically to provide VRS, CAs are required to support text messaging, including TTY calls, as noted *supra* at "Standard (v)."

To evaluate ongoing CA operational standard compliance, Applicant has adopted a quality assurance initiative comprised of three key functions:

1. **Frequent Informal Reviews** – Applicant will conduct periodic informal reviews of CA performance to evaluate work performance, personal effectiveness, and attendance. Results are used to provide CAs with objective performance measures.

2. **Quality Assurance Test Calls** – Test calls will be placed to CAs to evaluate call-processing capabilities. Each CA is given immediate critiques and areas for improvement are underscored.
3. **Subscriber Feedback** – Applicant will also refer to subscriber comments and observations to gage CA performance.

Applicant’s CA review process ensures that standards are met, and moreover, that subscribers’ calling experience is exceptional, and that CAs remain proficient in serving subscribers.

2. Communications Assistant– Confidentiality and conversation content. (47 C.F.R. §64.604(a)(2)).

Standard (i): “Except as authorized by section 605 of the Communications Act, 47 U.S.C. 605, CAs are prohibited from disclosing the content of any relayed conversation regardless of content, and with a limited exception for STS CAs, from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law. STS CAs may retain information from a particular call in order to facilitate the completion of consecutive calls, at the request of the user. The caller may request the STS CA to retain such information, or the CA may ask the caller if he wants the CA to repeat the same information during subsequent calls. The CA may retain the information only for as long as it takes to complete the subsequent calls.”

Compliance: Applicant has adopted strict privacy standards, not only regarding communications content, but also with regard to subscriber data. Communications contact standards pursuant to 47 U.S.C. 605 and applicable provisions of the Commission Customer Proprietary Network Information rules,³⁴ are incorporated into Say-Hey’s policies, training program, Code of Professional Conduct compliance, and compliance checklist provided to all CAs. CAs are bound to comply with Applicant’s confidentiality

³⁴ 47 C.F.R. §§64.2001 to 64.2011, implementing section 222 of the Communications Act of 1934, as amended, 47 U.S.C. 222.

policy. CA's found to have violated prohibition regarding the disclosure of call content and any relayed conversation regardless of content, will be subject to immediate disciplinary action, up to and including termination of employment, following a full investigation of claims of a breach of confidentiality.

CAs retain access to call data and the identity of the caller (collectively "call set up data") only so long as the caller is connected to the CA. Call set up data remains confidential and cannot be used for any other purposes, unless in the case of an emergency situation. Following disconnection of a call, the CA does not maintain any ability to review or retain call set up data. Call detail is stored in a separate server and available exclusively for management reporting purposes in aggregate, and is not accessible to any CA.

Only supervisory staff may monitor a calls for quality assurance and training, and then, only with the expressed approval of the caller. CAs receive calls in work centers, which are physically isolated and preclude inadvertent viewing of a call by other individuals. CA's work from secured premises. CAs work in fully secured and enclosed offices with cubicles, further ensuring privacy of content. CAs utilize hands-free headsets which preclude others from hearing call content.

Standard (ii): "CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization, or if the user requests interpretation of an ASL call. An STS³⁵ CA may facilitate the call of an STS user with a speech disability so long as the CA does not interfere with the independence of the user, the user maintains control of the conversation, and the user does not object. Appropriate measures must be taken by relay providers to ensure that confidentiality of VRS users is maintained."

³⁵ Speech-to-Speech.

Compliance: CA's are generally bound to this standard through compliance with national interpreter association codes of professional conduct, adopted by Say-Hey. Consistent with Applicant's policies regarding call content security, prohibitions against altering or summarizing a relayed conversation without the expressed direction of the subscriber are incorporated into Say-Hey's training program and compliance checklist provided to all CAs. CAs found to have violated such prohibition may be subject to immediate termination of employment following investigation. No call information is retained by the CA once the inbound call is released from the CA position.

3. Types of Calls (47 C.F.R. §64.604(a)(3)).

Standard (i): "Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services."

Compliance: This standard is incorporated into Applicant's training program and compliance checklist provided to all CAs, and is verified through Say-Hey's quality assurance. Operationally, the inherent nature of Applicant's VRS precludes any CA who is on duty at an interpreting station to refuse any VRS call that has been directed to the CA's station. Any confirmed intentional premature call termination is subject to disciplinary action, up to and including termination of employment.

Standard (ii): “Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call.”³⁶

Compliance: Applicant’s VRS is designed specifically to process VRS calls, although other calls including text and other non-VRS calls are supported through the Applicant’s VRS platform, as discussed *infra*. As Say-Hey does not bill subscribers or called parties for calls. Alternative billing calls such as person-to-person, reverse bill, or third-party billed typically placed as operator-assisted calls are inapplicable to Say-Hey’s offerings, and not supported, accordingly.

Standard (iii): “Relay service providers are permitted to decline to complete a call because credit authorization is denied.”

Compliance: No Say-Hey subscriber will be denied access to place calls for financial reasons, as VRS is in any event, provided to subscribers at no cost.

³⁶ Types of Calls requirements are waived through July 1, 2010, originally January 1, 2008 per the *2004 TRS Report and Order*, para 113 through 115, as extended. “We agree with the parties that it remains technologically infeasible for VRS providers to offer operator assisted calls and to bill for certain types of long distance calls because one leg of the VRS call is transmitted over the Internet. We therefore grant VRS providers a waiver of this TRS requirement until January 1, 2008, conditioned on the filing of an annual report with the Commission as indicated above. We will also continue to require VRS providers to allow calls to be placed using calling cards and/or to provide free long distance calls during the waiver period.” “The waivers of certain TRS mandatory minimum standards for VRS and IP Relay will expire on January 1, 2009, except the waiver of the speed dialing requirement for VRS, which will expire on April 30, 2008.” See, e.g. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, DA 07-5098 (Dec. 26, 2007) [“*Extension Order*”]; See also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, CG Docket 03–123, DA 07–098; DA 08–45; *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities E911 Requirements for IP-Enabled Service Providers*, CG Docket 03–123 and WC Docket No. 05-196, *Report and Order*, FCC 08-78 (March 19, 2008), and *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, DA 09-2634 (Dec. 24, 2009) [“*2009 TRS Waiver Order*”].

Standard (iv): “Relay services shall be capable of handling pay-per-call calls.”³⁷

Compliance: Say-Hey avers to comply to the extent ultimately required by the FCC. CAs do have the capability of placing pay-per-call calls utilizing a subscriber’s calling card or credit card if so directed by the subscriber.

Standard (v): “TRS providers are required to provide the following types of TRS calls: (1) Text-to-voice and voice-to-text; (2) VCO, two-line VCO, VCO-to-TTY, and VCO-to-VCO; (3) HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO.”³⁸

Compliance: Applicant has the capability of supporting all types of calls, although the focus remains on the provision of VRS. Applicant’s VRS platform has the capability of supporting Voice Carry Over (“VCO”), allowing a user to speak directly to the person he or she is calling and receiving responses through the CA and vice-versa. Applicant has the capability to support VCO-VCO calls, VCO-HCO calls, VCO-TTY, and Two-Line VCO calls. Applicant’s VRS is also capable of supporting Hearing Carry Over (“HCO”) that allows an individual to listen to the called party and respond in text to be voiced by the CA and vice-versa. HCO users are able to hear the call set-up, ringing, and the called party answering the telephone. Say-Hey supports HCO-HCO calls, HCO-VCO calls, HCO-TTY calls, and Two-Line HCO calls.

³⁷ Pay-per-call Service requirements are waived for IP Relay and VRS providers through January 1, 2009. *2004 TRS Report and Order*, para 130 through 132. “We agree with the parties that VRS providers do not have the technology to complete pay-per-call (900 number) calls, and therefore we waive this TRS requirement until January 1, 2008. We believe that technology will be developed to allow VRS providers to handle these types of calls, and will require VRS providers to submit a report annually to the Commission as indicated above and detailing advancements that may enable VRS providers to comply with this requirement.” Amended by *Extension Order*.

³⁸ Types of Calls requirements are waived for IP Relay and VRS providers through January 1, 2009. *2004 TRS Report and Order*, paras. 134, 135. “This waiver is conditioned on the annual submission of a report to the Commission [FCC] as detailed above.” Amended by *Extension Order*.

Standard (vi): “TRS providers are required to provide the following features: (1) Call release functionality; (2) speed dialing functionality; and (3) three-way calling functionality.”

Compliance: Applicant’s VRS platform has built-in subscriber termination capabilities and a frequently called number listing accessible by clicking the appropriate function on the subscriber’s computer screen, as shown in **Exhibit C**. Callers can also access speed dialing capabilities directly through Applicant’s platform. Say-Hey VRS platform supports, and CAs are trained to perform, three-way calling.

Standard (vii): “Voice mail and interactive menus. CAs must alert the TRS user to the presence of a recorded message and interactive menu through a hot key on the CA's terminal. The hot key will send text from the CA to the consumer's TTY indicating that a recording or interactive menu has been encountered. Relay providers shall electronically capture recorded messages and retain them for the length of the call. Relay providers may not impose any charges for additional calls, which must be made by the relay user in order to complete calls involving recorded or interactive messages.”

Compliance: Applicant will record voice mail messages for subscribers who currently use voice mail devices, as requested by the subscriber. Applicant is working with its platform provider to establish a process for recording video mail and informing subscribers of new messages, which can be accessed directly by the subscriber. Subscribers may now request that the CA assist in recording a video or voice mail message when the subscriber encounters a busy or do-not-answer call on an *ad hoc* basis.

Standard (viii): “TRS providers shall provide, as TRS features, answering machine and voice mail retrieval.”

Compliance: As noted *supra*, voice mail will be made available to requesting subscribers.

4. Handling of emergency calls. (47 C.F.R. §64.604(a)(4)) and amended Section 64.605.

Standard: “(4) Emergency call handling requirements for TTY-based TRS providers. TTY-based TRS providers must use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to an appropriate Public Safety Answering Point (PSAP). An appropriate PSAP is either a PSAP that the caller would have reached if he had dialed 911 directly, or a PSAP that is capable of enabling the dispatch of emergency services to the caller in an expeditious manner.”³⁹

“Our rules require TRS providers to automatically and immediately transfer emergency calls to an appropriate public safety answering point (PSAP).⁴⁰ The VRS Waiver Order granted VRS providers a two-year waiver of this requirement, but also required VRS providers to clearly explain on their website and in any VRS promotional materials “the shortcomings and potential dangers of using VRS to place an emergency call using 911.”^{41 42} “In the *Interim Emergency Call Handling Order*, the Commission terminated the temporary waivers of the emergency call handling rule, effective May 21, 2008, for VRS, IP Relay, and IP CTS in light of the “present imperative to provide Internet-based TRS users a reliable means of accessing emergency services.”⁴³ The Commission required Internet-based TRS providers to “accept and handle emergency calls” and to access, either directly or via a third party, a commercially available database that will allow the provider to determine an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller’s location, and to relay the call to that entity. Further, the Commission promulgated the following Standards under Section 64.605, as amended by the Commission’s June 2008 *Report and Order and Further Notice of Proposed Rulemaking*.^{44 45 46}

³⁹ See *Telecommunications Relay Services And Speech-to-Speech Services For Individuals With Hearing And Speech Disabilities, E911 Requirements For IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, *Report and Order*, 23 FCC Rcd 5255 (Mar. 19, 2008) (“*Interim Emergency Call Handling Order*”), [FCC 08-78], amended *Telecommunications Relay Services And Speech-to-Speech Services For Individuals With Hearing And Speech Disabilities, E911 Requirements For IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, *Order*, [FCC 08-210], (rel. September 19, 2008), Appendix B.

⁴⁰ See 47 C.F.R. § 64.604(a)(4); see also *Second Improved TRS Order & NPRM* at ¶¶ 37-42.

⁴¹ *VRS Waiver Order* at ¶ 14.

⁴² 2004 *TRS Report and Order*, ¶ 116, footnotes from original.

⁴³ *Interim Emergency Call Handling Order*, para. 16.

⁴⁴ See *id.*; 47 C.F.R. § 64.605 (setting forth additional operational standards applicable to Internet-based TRS).

Compliance: Applicant does not propose to provide TTY-based TRS, although maintains the ability to support TTY-based TRS. The provisions of amended Section 64.604(a)(4) governing TTY services are inapplicable, accordingly.⁴⁷ As Applicant proposes to provide Internet-based VRS, Applicant’s compliance focuses on the amended provisions of Section 64.605(b) governing emergency call handling requirements for VRS providers, and related requirements for Internet-based TRS Registration in Sections 64.611⁴⁸ and 52.34⁴⁹ applicable to Internet-Based TRS providers adopted under the *Interim Emergency Call Handling Order and Report and Order and Further Notice of Proposed Rulemaking*, addressed further below. Applicant’s VRS platform has been designed to comply with amended section 64.605 for emergency call handling, and is

⁴⁵ See, e.g. *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123 and WC Docket No. 05-196, *Report and Order and Further Notice of Proposed Rulemaking*, [FCC 08-151](#) (Rel. June 24, 2008)[“*Report and Order and Further Notice of Proposed Rulemaking*”].

⁴⁶ First extended to June 29, 2009 Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the *Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, WC Docket No. 04-36, WT Docket No. 96. 198, CG Docket No. 03-123 & CC Docket No. 92-105, Order, 24 FCC Rcd 5707 (CGB April 1, 2009), and again extended through June 29, 2010. In the Matters of IP-Enabled Services Implementation of Sections 255 and 251(a)(2) of The Communications Act of 1934, as Enacted by The Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities Telecommunications Relay Services and Speech-to-Speech services for Individuals with Hearing and Speech Disabilities The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CG Docket Nos. 03-123 and 92-105, Order (June 26, 2009).

⁴⁷ “We note that, as amended by the *Interim Emergency Call Handling Order*, section 64.604(a)(4) now applies exclusively to TTY-based TRS providers. The emergency call handling requirements applicable to Internet-based TRS providers are now set forth in section 64.605 of the Commission’s rules.” See *Interim Emergency Call Handling Order*, 23 FCC Rcd at 5275–76, Appendix B.” *Report and Order and Further Notice of Proposed Rulemaking* footnote 36.

⁴⁸ 47 C.F.R. §64.611.

⁴⁹ 47 C.F.R. §52.34.

currently compliant, as demonstrated in **Exhibit D**. The platform has the capability to determine callers' physical locations through access to the Neustar Registered Location database, and route emergency 911 calls to the Public Safety Answering Point responsible for serving each caller, through arrangements with other carriers, including incumbent local exchange carriers. Applicant will receive ten digit North American Number Plan telephone number assignments for subscribers through its arrangement with DASH Carrier Services, LLC as a "numbering partner," pursuant to new Section 64.611 promulgated under the Commission's June 24, 2008 *Report and Order and Further Notice of Proposed Rulemaking* governing assignment of uniform, conventional ten-digit telephone numbers by all Internet based telecommunications relay service providers, as discussed further *infra*.

Further, Say-Hey avers to prominently inform subscribers of the process for placing emergency VRS 911 calls in promotional materials, Say-Hey's website, and when users access Say-Hey's VRS platform via the Internet. Text of this notice is attached hereto at **Exhibit E**.

With respect to the specific requirements set forth in amended Section 64.605, Applicant provides the following statement of compliance.

§64.605 Emergency Calling Requirements

(b) E911 Service for VRS and IP Relay

(1) *Scope.* The following requirements are only applicable to providers of VRS or IP Relay. Further, the following requirements apply only to 911 calls placed by users whose Registered Location is in a geographic area served by a Wireline E911 Network.

(2) *E911 Service.* As of December 31, 2008:

(i) VRS or IP Relay providers must, as a condition of providing service to a user, provide that user with E911 service as described in this section;

(ii) VRS or IP Relay providers must transmit all 911 calls, as well as ANI, the caller's Registered Location, the name of the VRS or IP Relay provider, and the CA's identification number for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter, provided that "all 911 calls" is defined as "any communication initiated by a VRS or IP Relay user dialing 911";

Compliance: Say-Hey will access Neustar, Inc.'s, Registered Location numbering assignment administrator's database and populate user data with assigned ten digit numbers that reflect the user's physical location for use in proper routing of emergency calls to the local public safety access point emergency authority that corresponds to the caller's location, and to relay the call to that entity. Applicant recognizes that it is currently precluded for registering with Neustar, Inc. for access to the Registered Location Database until certified by the Commission as eligible for compensation from the federal TRS Fund. Applicant's compliance therefore is predicated on Commission certification. Applicant avers compliance immediately upon certification.⁵⁰

⁵⁰ Applicant has attempted to register with Neustar, Inc. for access to the Registered Location Database. See, e.g., **Exhibit F.**

As applicant will begin maintaining the caller's registered location from the onset of its operations, the Registered Location will be a matter of record for all subscribers. Nevertheless, in an abundance of caution, CAs will be directed to confirm the registered location on each 911 emergency call before directing the call to the appropriate PSAP through the VRS platform.

Applicant's VRS Platform will automatically transmit both the caller's name and Registered Location. The Platform will also identify Applicant as the VRS provider and the CA's identification and call back numbers with the data transmitted to the PSAP.

(iii) All 911 calls must be routed through the use of ANI and, if necessary, pseudo-ANI, via the dedicated Wireline E911 Network; and

Compliance: Applicant's VRS Platform will transmit automatic number identification ("ANI") based on the assigned ten-digit number established in the Registered Location database for Applicant's subscribers. ANI data will be transmitted to the serving PSAP through dedicated 911 routing facilities and arrangements with interconnecting carriers. [this process needs to be addressed with more specificity by Say-Hey's VRS platform provider.

(iv) The Registered Location, the name of the VRS or IP Relay provider, and the CA's identification number must be available to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority from or through the appropriate automatic location information (ALI) database.

Compliance: Applicant's VRS Platform is configured to automatically identify Applicant and the CA's identification number to the PSAP, in conjunction with ANI information obtained through Neustar's Registered Location database.

(3) Service Level Obligation. Notwithstanding the provisions in paragraph (b)(2) of this section, if a PSAP, designated statewide default answering point, or appropriate local emergency authority is not capable of receiving and processing either ANI or location information, a VRS or IP Relay provider need not provide such ANI or location information; however, nothing in this paragraph affects the obligation under paragraph (c) of this section of a VRS or IP Relay provider to transmit via the Wireline E911 Network all 911 calls to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter.

Compliance: Applicant so acknowledges.

(4) Registered Location Requirement. As of December 31, 2008, VRS and IP Relay providers must:

(i) Obtain from each Registered Internet-based TRS User, prior to the initiation of service, the physical location at which the service will first be utilized; and

(ii) If the VRS or IP Relay is capable of being used from more than one location, provide their Registered Internet-based TRS Users one or more methods of updating their Registered Location, including at least one option that requires use only of the CPE necessary to access the VRS or IP Relay. Any method utilized must allow a Registered Internet-based TRS User to update the Registered Location at will and in a timely manner.

Compliance: In order for subscribers to select Applicant as a preferred provider, subscribers will be required to register with Say-Hey. Through this registration process, subscribers will be asked to provide necessary contact information, including physical location, needed to populate the Registered Location database. Subscribers will be able to register and update information over a secure Internet web site, via email, or by contacting Applicant's customer service in writing or telephonically, with proper verification of identity. Further Applicant's operating procedures dictate that CAs verify Registered Location information on all emergency calls. Applicant will provide

background information on the use of customer proprietary network information to be collected and in its use specifically for complying with 911 access requirements.

(c) Deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of the outbound leg of an emergency call, at a minimum, the name of the relay user and location of the emergency, as well as the name of the relay provider, the CA's callback number, and the CA's identification number, thereby enabling the PSAP, designated statewide default answering point, or appropriate local emergency authority to re-establish contact with the CA in the event the call is disconnected; and

(d) In the event one or both legs of an emergency call are disconnected (*i.e.*, either the call between the TRS user and the CA, or the outbound voice telephone call between the CA and the PSAP, designated statewide default answering point, or appropriate local emergency authority), immediately re-establish contact with the TRS user and/or the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority and resume handling the call, when feasible;

Compliance: Although all required information will be transmitted under Applicant's VRS platform, Applicant's standard operating procedure directs CAs to obtain PSAP contact information immediately, and establish the CA's identity to ensure that in the event that the call is disconnected, the call can immediately be reestablished.

(e) Ensure that information obtained as a result of this section is limited to that needed to facilitate 911 services, is made available only to emergency call handlers and emergency response or law enforcement personnel, and is used for the sole purpose of ascertaining a customer's location in an emergency situation or for other emergency or law enforcement purposes.

Compliance: Applicant avers to strictly protect the confidentiality of all customer proprietary information pursuant to the requirements set forth in this section, Section 64.604(a)(2)(i), and to be voluntarily bound by the provisions of the Commission's Customer Proprietary Network Information rules, at Section 64.2001 *et seq.*⁵¹

⁵¹ 47 C.F.R. §64.2001 *et seq.*

5. STS Called Numbers (47 C.F.R. §64.604(a)(5)).

Standard: “Relay providers must offer STS users the option to maintain at the relay center a list of names and telephone numbers which the STS user calls. When the STS user requests one of these names, the CA must repeat the name and state the telephone number to the STS user. This information must be transferred to any new STS provider.”⁵²

Compliance: Applicant’s VRS platform has the ability to process STS calls, as well as the capability of maintaining a list of names and telephone numbers which STS users might call, based on caller usage. Say-Hey’s VRS platform enables subscribers to maintain a list of frequently contacted individuals and telephone numbers which enable the subscriber to initiate a call to the individual by clicking the option on the user’s screen. The subscriber’s personal list is maintained on the VRS Platform obviates the need for maintaining a list at the relay center, and creates an additional level of security for the user.

Technical Standards

1. ASCII and Baudot. (47 C.F.R. §64.604(b)(1)).

Standard: “TRS shall be capable of communicating with ASCII and Baudot format, at any speed generally in use.”

Compliance: Applicant’s VRS supports text messaging, and may be accessible through other forms of conventional text/data transmissions including ASCII and Baudot format, generated through most TRS equipment.

⁵² STS calling requirements are waived indefinitely. *2004 TRS Report and Order*, paras. 138 and 139.

2. **Speed of Answer. (47 C.F.R. §64.604(b)(2)).**⁵³

Standard (i): “TRS providers shall ensure adequate TRS facility staffing to provide callers with efficient access under projected calling volumes, so that the probability of a busy response due to CA unavailability shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.”

Compliance: Say-Hey has developed an algorithm that enables accurate calculation of the number of CAs needed to support registered subscribers in order to maintain a P.01 voice grade of service equivalency and Commission answer time standards, based on anticipated call volumes by time of day. This algorithm has been tested and has been demonstrated effective in ensuring proper staffing. The algorithm generally calls for 40 CAs to support the first 1,000 subscribers, and 30 CAs per each additional 1,000 users, based on standard usage data available to the Company. Say-Hey further engages in active usage monitoring to determine staffing adjustments by time of day, in accordance with actual calling volumes by time, which will be used to refine the algorithm. The relay center supervisor will monitor available interpreters both directly and through real time VRS platform call management reports. If call volumes appear particularly high, the supervisor will be able to contact “on-call” CAs and bring them online within minutes. This flexibility ensures that Say-Hey maintains sufficient staffing to exceed service quality standards, even under exceptional instances of heavy call volumes.

⁵³ Speed of Answer calling requirement waiver for VRS providers expired on April 30, 2008. *Extension Order.*

Standard (ii): “TRS facilities shall, except during network failure, answer 85% of all calls within 10 seconds by any method which results in the caller's call immediately being placed, not put in a queue or on hold. The ten seconds begins at the time the call is delivered to the TRS facility's network. A TRS facility shall ensure that adequate network facilities shall be used in conjunction with TRS so that under projected calling volume the probability of a busy response due to loop trunk congestion shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.

- (A) The call is considered delivered when the TRS facility's equipment accepts the call from the local exchange carrier (LEC) and the public switched network actually delivers the call to the TRS facility.
- (B) Abandoned calls shall be included in the speed-of-answer calculation.
- (C) A TRS provider's compliance with this rule shall be measured on a daily basis.
- (D) The system shall be designed to a P.01 standard.
- (E) A LEC shall provide the call attempt rates and the rates of calls blocked between the LEC and the TRS facility to relay administrators and TRS providers upon request.”

Compliance: Initial live test data results indicate that subscribers are able to reach interpreters within five seconds and no more than 20 seconds from the time a call is connected even during the busiest calling times. The ability to actively monitor call volumes and assign CAs to support Applicant's VRS service in real time noted *supra*, ensures that the minimum service quality standards are met and exceeded on a daily and ongoing basis as projected call volumes are expected to increase. Broadband facility capacity is constantly monitored by Say-Hey's technical staff to gauge usage and anticipate the need to augment facilities. Say-Hey avers to submit to the FCC annual MMS compliance report, which summarizes the provider's speed of answer data for the prior twelve-month period, set forth in the *2004 TRS Report and Order*, as amended.

Standard (iii) “Speed of answer requirements for VRS providers are phased-in as follows: by January 1, 2006, VRS providers must answer 80% of all calls within 180 seconds, measured on a monthly basis; by July 1, 2006, VRS providers must answer 80% of all calls within 150 seconds, measured on a monthly basis; and by January 1, 2007, VRS providers must answer 80% of all calls within 120 seconds, measured on a monthly basis. Abandoned calls shall be included in the VRS speed of answer calculation.”

Compliance: Applicant’s VRS platform is designed to enable virtual immediate call answering, as most users are able to identify which CAs are available and directly connect to them. Applicant has instituted a daily, weekly, and monthly call data review to verify ongoing compliance, and will make such data available to the Commission and Fund Administrator upon request.

3. Equal access to interexchange carriers. (47 C.F.R. §64.604(b)(3)).

Standard: “TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services, to the same extent that such access is provided to voice users.”⁵⁴

Compliance: Applicant’s VRS is a supplement to, but does not replace existing subscriber interexchange services if the subscriber is presubscribed to a telecommunications provider. Subscribers retain access to their presubscribed interexchange (and local) carriers. To the extent that a subscribers will exclusively rely

⁵⁴ On December 31, 2001, the FCC granted a temporary waiver of the requirement for VRS providers in response to a request by Hamilton Telephone Company. “Accordingly, we grant Hamilton’s request for a temporary waiver of the requirement to offer operator assisted calls and billing for certain types of long distances calls. VRS providers must, however, allow VRS calls to be placed using calling cards and/or provide free long distance calls during the wavier period.” The waiver period remains in effect. *See e.g. In the matter of Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, DA 01-3029 (December 31, 2001) at para. 10 Extended indefinitely for IP Relay providers and until January 1, 2008 for VRS providers by the *2004 TRS Report and Order* at para 124 through 129. “Until such time, however, we will require VRS providers to provide free long distance service to their VRS customers. We also condition this waiver on VRS providers submitting an annual report to the Commission [FCC] ...” para. 127.

on Applicant as the subscriber's presubscribed service provider, as envisioned under the Commission's *Report and Order* governing assignment of uniform ten digit telephone numbers, subscribers will not, as a practical matter, require access to a wireline interexchange carrier.

As Applicant's VRS is accessed through the Internet, interexchange calls placed through Applicant are billed to Say-Hey, rather than to the subscriber, obviating the need for a subscriber to require access to a particular carrier. Applicant intends to provide domestic interstate and international long distance services, as required by the Commission, at no cost callers. Nevertheless, Say-Hey has the technical capability to route interexchange calls to the subscriber's interexchange carrier of choice and place calling card calls to carriers using the subscriber's calling card, should the subscriber so request.

4. TRS facilities. (47 C.F.R. §64.604(b)(4)).

Standard (i): "TRS shall operate every day, 24 hours a day. Relay services that are not mandated by this Commission need not to be provided every day, 24 hours a day."⁵⁵

Compliance: Applicant's relay center will operate 24 hours per day, 7 days per week, and will be supplemented by remote call centers throughout the U.S. Applicant has engaged an initial complement of ten CAs to provide ample perpetual coverage based on anticipated call volumes during Applicant's initial five months of operation. Applicant

⁵⁵ Amended by the FCC's *Report and Order* in CG Docket No. 03-123 and CC Docket No. 98-67, as discussed below. The *2004 TRS Report and Order* notes that pursuant to 47 C.F.R. §64.604(b)(4), "Relay services that are not mandated by this Commission are not required to be provided every day, 24 hours a day." The FCC goes on to state that "VRS is not a mandatory TRS service" and therefore not subject to perpetual staffing requirements.

will engage additional CAs in accordance with actual call volumes to maintain perpetual staffing requirements and meet answer time obligations.

Standard (ii): “TRS shall have redundancy features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use.”

Compliance: Say-Hey system utilizes an uninterruptible power supply (“UPS”), to supply emergency backup power to maintain its servers and infrastructure of the system for up to 24 hours after a power failure. During a power outage, the UPS will provide a seamless power transition. Emergency generators are used in the event of a catastrophic emergency at the Company’s primary call center location. Emergency power is maintained to all CA equipment, servers, and facilities that support the relay center. Call and other support data are backed up no less than daily and copies are backed up off site, to ensure that data cannot be lost. In exceptional cases of extreme service affecting outages, Say-Hey also has the capability to route VRS calls to other call centers that are prepared to support users. Say-Hey’s relay center is housed in a commercial building that meets applicable codes for fire suppression. Say-Hey has further installed portable fire extinguishers throughout the relay center to enable immediate fire suppression in the event of containable fires.

5. Technology. (47 C.F.R. §64.604(b)(5)).

Standard: “No regulation set forth in this subpart is intended to discourage or impair the development of improved technology that fosters the availability of telecommunications to person with disabilities. TRS facilities are permitted to use SS7 technology or any other type of similar technology to enhance the functional equivalency and quality of TRS. TRS facilities that utilize SS7 technology shall be subject to the Calling Party Telephone Number rules set forth at 47 CFR 64.1600 *et seq.*”

Compliance: Applicant’s VRS platform is designed and built by [VRS platform provider], and represents one of the most technologically advanced VRS solutions available today. Say-Hey’s system draws on the power of computer processing, Voice over Internet Protocol transmission, wireless technology, the Internet, and relay center call distribution and management technology, to provide reliable VRS communications for the speech and hearing impaired. Applicant’s VRS is provided utilizing Internet Protocol, although SS7 technology may be used.

6. Caller ID. (47 C.F.R. §64.604(b)(6)).

Standard: “When a TRS facility is able to transmit any calling party identifying information to the public network, the TRS facility must pass through, to the called party, at least one of the following: the number of the TRS facility, 711, or the 10-digit number of the calling party.”

Compliance: Applicant’s VRS platform passes through the number of the center from which the CA is placing the call. With the advent of ten digit telephone number assignments discussed *infra*, Say-Hey’s platform will also have the capability of passing through the called party’s assigned ten digit telephone number.

Functional Standards

1. Consumer Complaint Logs. (47 C.F.R. §64.604(c)(1)).

Standard (i): “States and interstate providers must maintain a log of consumer complaints including all complaints about TRS in the state, whether filed with the TRS provider or the State, and must retain the log until the next application for certification is granted. The log shall include, at a minimum, the date the complaint was filed, the nature of the complaint, the date of resolution, and an explanation of the resolution.”

Compliance: Applicant avers to maintain and annually submit a complaint log consistent with the format established by the Commission. Subscribers have the ability to initiate complaints to the CA, a CA supervisor, via electronic mail, and via the Company’s web site. The complaint is logged into Say-Hey’s complaint tracking system. The CA who received the complaint, or an assigned CA in instances where complaints are not directed to an individual CA, will assign a complaint tracking number, will investigate the issue, and will respond to the complainant in no more than 48 hours. The response is recorded in Say-Hey’s complaint log. A supervisor will monitor complaint status and will ensure that action is taken within the specified period.

If the complaint entails a technical issue, then a trouble ticket is prepared, documents, and the trouble investigated and resolved by an on-site technician. The technician is responsible for responding to the assigned CA who then communicates with the complainant, and the result is documented.

Standard (ii): “Beginning July 1, 2002, states and TRS providers shall submit summaries of logs indicating the number of complaints received for the 12-month period ending May 31 to the Commission by July 1 of each year. Summaries of logs submitted to the Commission on July 1, 2001 shall indicate the number of complaints received from the date of OMB approval through May 31, 2001.

Compliance: Say-Hey avers to comply. Say-Hey will submit complaint logs to the FCC and Commission annually and upon request.

2. Contact Persons. (47 C.F.R. §64.604(c)(2)).

“Contact persons. Beginning on June 30, 2000, State TRS Programs, interstate TRS providers, and TRS providers that have state contracts must submit to the Commission a contact person and/or office for TRS consumer information and complaints about a certified State TRS Program's provision of intrastate TRS, or, as appropriate, about the TRS provider's service. This submission must include, at a minimum, the following:”

Standard(i): “The name and address of the office that receives complaints, grievances, inquiries, and suggestions.”

Compliance: The senior individual responsible to receive complaints, grievances, inquiries, and suggestions for Say-Hey is:

Mr. Matt Idler
Say-Hey, Inc.
1474 Stone Point Drive,
Roseville, CA 95661
Telephone: 916.412.4728
Email: matt [at] say-hey [dot] com

All CAs are immediately responsible for receipt of complaints they receive, pursuing timely resolution, responding to the complainant, and for documentation, subject to supervisory review. Applicant avers to inform the Commission of the name and address of the senior individual responsible for complaints, grievances, inquiries, and suggestions within one business day of the date of a change in designated individual.

Standard(ii): “Voice and TTY telephone numbers, fax number, e-mail address, and web address;”

Compliance: Voice and TTY telephone numbers, fax number, e-mail address, and web address are:

Voice telephone: 800-285-7460
Fax number: 916-404-4899
E-Mail Address: help@say-hey.com
Web Address: http: www.say-hey.com
Say-Hey Access: say-hey.tv , www.say-hey.com

Standard(iii): “The physical address to which correspondence should be sent.”

Compliance: Correspondence should be sent to:

Say-Hey, Inc.
1474 Stone Point Drive
Roseville, CA 95661

Commission inquiries should also be addressed to:

Andrew O. Isar
Miller Isar, Inc.
4423 Pt. Fosdick Dr. NW, Ste. 306
Gig Harbor, WA 98335
Telephone: 253.851.6700
E-Mail Address: aisar [at] millerisar [dot] com

3. **Public Access to Information.** (47 C.F.R. §64.604(c)(2)).

Standard: “Public access to information. Carriers, through publication in their directories, periodic billing inserts, placement of TRS instructions in telephone directories, through directory assistance services, and incorporation of TTY numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and use of all forms of TRS. Efforts to educate the public about TRS should extend to all segments of the public, including individuals who are hard of hearing, speech disabled, and senior citizens as well as members of the general population. In addition, each common carrier providing telephone voice transmission services shall conduct, not later than October 1, 2001, ongoing education and outreach programs that publicize the availability of 711 access to TRS in a manner reasonably designed to reach the largest number of consumers possible.”

Compliance: Applicant will engage in an outreach program entailing marketing and targeted educational services targeted to the Deaf Community:

Advertising. Applicant will encourage its CAs to remain active in the Deaf Community, to participate in events, maintain contact with community service organizations, and serve as ambassadors for the Company to the Deaf Community. Applicant will also explore effective use of Internet advertising and outreach through its web site, and outreach activities in person at major events such as DeafNation. Applicant will also advertise to other markets that do not primarily serve the ASL community. These markets include the Oral Deaf and the Late Deafened. Applicant will advertise in various publications and media formats serving these communities.

Partnerships and Affiliations. Say-Hey will also broaden partnerships and affiliations primarily with local service organizations devoted to serving the Deaf community to make information concerning the Company’s VRS services widely available. Some of the many partnerships opportunities include partnerships with AG Bell, NAD, and Hearing Loss Association with whom Applicant’s executive team has

strong ties. Applicant will also form partnerships with various Deaf professional organizations serving hearing loss professionals such as doctors, lawyers, and accountants. In addition to these deaf organizations, Applicants will also seek to partner up with organizations such as AARP to reach the Senior Citizen community. Additionally, Say-Hey will engage in corporate marketing and educational programs, and consider sponsorship opportunities to broaden company name and service recognition. Further, Say-Hey encourages its CAs to provide interpreting services to local community service groups.

4. Rates. (47 C.F.R. §64.604(c)(4)).

Standard: “TRS users shall pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from the point of origination to the point of termination.”

Compliance: Inapplicable. Applicant’s subscribers will not be charged for VRS service.

3. A description of the provider’s procedures for ensuring compliance with all applicable TRS rules, 47 C.F.R. §64.606(a)(2)(iii).

A description of Applicant’s proposed procedures for ensuring compliance with all applicable TRS rules is attached hereto at **Exhibit H**. Applicant is developing a compliance plan that incorporates three key objectives: (1) establishment of an objective basis for enabling Say-Hey to demonstrate that it meets or exceeds Mandatory Minimum Standard quality standards pursuant to federal regulations and Commission regulations and policies; (2) the placing of primary responsibility on Say-Hey to demonstrate compliance and implement corrective action if needed, and (3) the minimization, to the

greatest extent possible, of Commission resources necessary to verify Say-Hey's ongoing compliance.

Say-Hey plan entails use of quantifiable metrics available for performance reporting consistent with current Commission reporting requirements based on management reports generated through its platform and supervisory analysis, source documentation review to enable first hand Commission review of performance and operations data where required, *ad hoc* Commission review including test calls, and customer survey result reporting. This proposed plan ensures verifiable ongoing Company compliance with mandatory minimum standards.

4. A description of the provider's complaint procedures, 47 C.F.R. §64.606(a)(2)(iv).

Say-Hey has implemented a complaint procedure for the timely resolution of user complaints including complaint processing procedures for CAs and related training, documentation procedures consistent with FCC Complaint Log reporting requirements, and escalation procedures. Say-Hey is also adding a link to its web site, which takes users to a complaint information screen that will provide information on how to make a complaint, as well as enable the user to make a complaint, whether telephonically, via email, to Say-Hey's customer service group.

5. A narrative describing any areas in which the provider's service will differ from the applicable mandatory minimum standards, 47 C.F.R. §64.606(a)(2)(v).

Say-Hey has undertaken an exhaustive review of its VRS compliance with the Commission's Mandatory Minimum Standards, as documented herein. Say-Hey maintains that its VRS, now and in the future, will comply with, and will not differ or

deviate from, applicable Commission's Mandatory Minimum Standards for the provision of these services.

6. A narrative establishing that services that differ from the mandatory minimum standards do not violate applicable mandatory minimum standards, 47 C.F.R. §64.606(a)(2)(vi).

Inapplicable. Applicant's services will in all respects comply with, and in no way violate, applicable MMS, as noted *supra*.

7. Demonstration of status as a common carrier, 47 C.F.R. §64.606(a)(2)(vii).

Say-Hey maintains status as a common carrier⁵⁶ for purposes of TRS Fund eligibility as an interexchange carrier, demonstrated through its Certificate of Public Convenience and Necessity to provide resold interexchange telecommunications services as a common carrier in its headquarters state of Oregon, granted by the Oregon Public Utility Commission.⁵⁷ Evidence of Applicant's common carrier status is attached hereto at **Exhibit H**.

8. A statement that the provider will file annual compliance reports demonstrating continued compliance with these rules, 47 C.F.R. §64.606(a)(2)(viii).

Applicant avers that it will file annual compliance reports demonstrating continued compliance with Commission regulations for the provision of VRS under its proposed ongoing compliance process and/or other documentation as may be required by the Commission, including, but not limited to annual financial reporting and projections,

⁵⁶ 47 U.S.C. §153(10).

⁵⁷ See, e.g. *Verified Application for WATS CTA Issuance*, (CTA # 0808-5), Indiana Utility Regulatory Commission (August 26, 2008).

annual MMS waiver and non-waived compliance reports, complaint logs, and any such *ad hoc* report as may be requested by the Commission or TRS Fund Administrator, on behalf of the Commission. Matt Idler, Say-Hey's Co-Chief Executive Officer, has been designated to assume regulatory compliance responsibilities, including timely reporting and liaison with the Commission on all regulatory matters.

9. Specific Compliance with Sections 64.604(c)(5) and 64.606(f)(2) of the Commission's rules.

Applicant is aware that the Commission has in the past, requested additional information regarding planned compliance with sections 64.604(c)(5)⁵⁸ and 64.606(f)(2)⁵⁹ of the Commission's rules as they apply to the provision of compensable VRS services. As set forth below, Say-Hey acknowledges its obligations under sections 64.604(c)(5) and 64.606(f)(2) of the Commission's rules, and demonstrates that it will comply with the applicable provisions of both regulations with respect to its provision of VRS.

a. Compliance With 47 C.F.R. §64.604(c)(5).

Section 64.604(c)(5) of the Commission's rules, Jurisdictional Separation of Costs, *inter alia* establishes the basis for jurisdictional separations procedures and standards pursuant to section 410 of the Communications Act of 1934, as amended.⁶⁰ The Commission, has expressed particular interest in compliance with section 64.604(c)(5)(C), Data Collection from TRS Providers.

⁵⁸ 47 C.F.R. §64.604(c)(5).

⁵⁹ 47 C.F.R. §64.605(f)(2).

⁶⁰ 47 U.S.C. §410.

According to Subsection C,

(C) Data collection from TRS Providers. TRS providers shall provide the administrator with true and adequate data necessary to determine TRS fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with part 32 of the Communications Act, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. The administrator and the Commission shall have the authority to examine, verify and audit data received from TRS providers as necessary to assure the accuracy and integrity of fund payments.

Applicant's VRS platform provider, has developed and deployed fully automated management reports for TRS Fund Administration reporting. Applicant's platform provider's established reporting capabilities procedures will ensure effective reporting compliance. Further, Applicant's VRS platform reporting capabilities will enable Applicant to fully document and archive operational data for subsequent verification and audits by the Commission and/or TRS Fund Administrator. Say-Hey is prepared to assume full VRS usage and cost reporting obligations at the time its certification is granted.

b. Compliance With 47 C.F.R. §64.606(f)(2).

Section 64.606(f)(2) of the Commission's rules, Notification of Substantive Changes, obligates VRS providers to inform the Commission of "substantive changes in their [VRS] programs, services, and features within 60 days of when such changes occur, and must certify that the interstate [VRS] provider continues to meet federal minimum standards after implementing the substantive change." Say-Hey readily acknowledges its responsibility to inform the Commission of substantive changes in the provision of its VRS and ongoing certification of compliance with federal minimum standards after

implementing the substantive change. Say-Hey avers that it will comply with these responsibilities as set forth in the Commission's rules and any applicable underlying policies.

As a certified VRS provider, Say-Hey recognizes that the entirety of its operations is subject to appropriate Commission oversight. Because of the dynamic nature of any enterprise, Say-Hey readily acknowledges its obligation to keep the Commission timely informed of any changes to the Company's services and the effect that such changes may have on ongoing compliance with other MMS. Say-Hey avers that it will immediately inform the Commission of any substantive change in service features and operations, of the impact of those changes, and certify ongoing compliance with the MMS, in what ever form or process as the Commission may establish or operations pursuant to section 64.606(f)(2). Further, Say-Hey will maintain frequent informal contact with the Commission, as a courtesy to inform the Commission of Company operations and plans.

V. SAY-HEY COMPLIES WITH APPLICABLE PROVISIONS OF SALIENT FCC ORDERS AND NEWLY PROMULGATED REGULATIONS PERTAINING TO VRS.

In addition to the foregoing, Say-Hey avers compliance with FCC decisions regarding the provision of VRS and to its efforts to comply with currently waived MMS:

A. Salient Commission Decisions and Newly Promulgated Rules

1. Financial Incentives Declaratory Ruling. On January 26, 2005, the FCC's Consumer & Governmental Affairs Bureau issued a *Financial Incentives*

*Declaratory Ruling.*⁶¹ The Ruling concluded that “any program that offers any kind of financial incentive or reward for a consumer to place a TRS call, including minimum usage arrangements or programs (whether or not tied to the acceptance of equipment), violates Section 225 of the Communications Act.” According to the Ruling,

in view of the intent and nature of Section 225, and the obligation placed on entities providing voice telephone services to also offer TRS as an accommodation to persons who, because of a disability, cannot meaningfully use the voice telephone system, we interpret Section 225 and the implementing regulations to prohibit a TRS provider’s use of any kind of financial incentives or rewards, including arrangements tying the receipt of equipment to minimum TRS usage, directed at a consumer’s use of their TRS service.

On July 28, 2005, in a related Order, the FCC concluded that “any TRS provider offering to TRS consumers financial incentives relating to free or discount long distance service, as set forth above, SHALL BE ineligible for compensation from the Interstate TRS Fund.”⁶²

Compliance: Applicant will provide VRS exclusively as a subscriber service. Applicant avers not to offer inducements of any kind to promote usage for subscribers, increase, or otherwise inflate conversation minutes, subject to the Commission’s and/or Fund administrator’s ongoing verification. Applicant’s advertising and outreach will be

⁶¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, CG Docket No. 03-123, Declaratory Ruling, 20 FCC Rcd 1466, at 1467-1468, para. 4 (Jan. 26, 2005) (*Financial Incentives Declaratory Ruling*) as clarified further in the FCC’s July 28, 2005 *Order* in this proceeding. “We find that offering free or discount long distance service (subject to the exceptions noted below) to TRS consumers as an incentive to use a particular TRS provider’s relay service, or as an incentive for a consumer to make more or longer TRS calls, constitutes an impermissible financial incentive in violation of the *Financial Incentives Declaratory Ruling*.”

⁶² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, CG Docket No. 03-123, Order, FCC 05-2066 (July 28, 2005), at 4. Emphasis in original.

limited solely to advise prospective subscribers of the availability and desirable characteristics of Applicant's VRS as an alternative option.

2. Spanish Language Translation Capabilities. On July 19, 2005, the FCC, in an Order on Reconsideration in response to a Texas Public Utilities Commission petition for reconsideration of the *2004 TRS Report and Order* concluded that “non-shared language Spanish translation [VRS] – relay service in which the CA translates what is signed in ASL into spoken Spanish, and *vice versa* – is a form of TRS compensable from the Interstate TRS Fund. Therefore, although we do not mandate this service, providers offering ASL-to-Spanish VRS may be compensated from the Interstate TRS Fund.”⁶³

Compliance: Applicant confirms that it will not be offering translation services (other than ASL-to-English and ASL-to-Spanish) that involve a CA translating ASL to another language for which it will seek compensation from the Fund; and the Company recognizes that interpretation into languages other than English and Spanish are non-compensable from the Telecommunications Relay Service Fund. Applicant plans to engage CAs who can provide ASL- Spanish translation services.

3. Internet-Based TRS Registration and Obligations regarding local number porting to and from interconnected VoIP or Internet-based TRS providers.

The Commission's June 24, 2008 *Report and Order and Further Notice of Proposed Rulemaking*, as amended, also promulgated two additional regulations associated with emergency call handling procedures established under amended Section

⁶³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, CG Docket No. 03-123, Order on Reconsideration, FCC 05-139 (July 19, 2005).

64.605; 1) an Internet-based TRS registration pursuant to Section 64.611;⁶⁴ and 2) an obligation for local number portability pursuant to Section 52.34.⁶⁵ ⁶⁶ As discussed *supra* and below, Applicant is prepared to comply with both requirements.

§ 64.611 Internet-Based TRS Registration

(a) *Default Provider Registration.* Every provider of VRS or IP Relay must, no later than December 31, 2008, provide users with the capability to register with that VRS or IP Relay provider as a “default provider.” Upon a user’s registration, the VRS or IP Relay provider shall:

(1) Either:

(i) Facilitate the user’s valid number portability request as set forth in 47 C.F.R. § 52.34; or

(ii) If the user does not wish to port a number, assign that user a geographically appropriate North American Numbering Plan telephone number; and

(2) Route and deliver all of that user’s inbound and outbound calls unless the user chooses to place a call with, or receives a call from, an alternate provider.

Compliance: Applicant is developing the equivalent of a “letter of agency” establishing Applicant as the user’s default provider, when the user elects Applicant as the default provider consistent with section 64.1130 of the Commission’s rules.⁶⁷ If the user has been assigned a ten-digit number from a former default provider, Applicant will coordinate with the former provider to obtain transfer the assigned number and amend the Registered Location/TRS Number Directory, consistent with the Commission’s number

⁶⁴ 47 C.F.R. §64.611.

⁶⁵ 47 C.F.R. §52.34.

⁶⁶ The Report and Order and Further Notice of Proposed Rulemaking also promulgated new Section 64.613, Numbering Directory for Registered Internet-based TRS Users, 47 C.F.R §64.614, applicable to establishment of the TRS Numbering Directory, now administered by Neustar, Inc.

⁶⁷ 47 C.F.R. §64.1130.

portability requirements pursuant to Section 52.34. Alternatively, Applicant will obtain a new telephone number from its numbering partner, DASH Carrier Services, LLC, which will be assigned to the user and incorporated into the TRS Number Directory. Once the number has been implemented, Applicant will serve as the user's default provider and provide the user in bound and outbound calling.

(b) Mandatory Registration of New Users. As of December 31, 2008, VRS and IP Relay providers must, prior to the initiation of service for an individual that has not previously utilized VRS or IP Relay, register that new user as described in paragraph (a) of this section.⁶⁸

Compliance: Applicant will register all new users in accordance with section 64.611(a), through its new subscriber registration process, as discussed *supra*.

(c) Obligations of Default Providers and Former Default Providers.

(1) Default providers must:

(i) Obtain current routing information, including IP addresses or domain names and user names, from their Registered Internet-based TRS Users;

(ii) Provision such information to the TRS Numbering Directory; and

(iii) Maintain such information in their internal databases and in the TRS Numbering Directory.

⁶⁸ First extended through June 30, 2009 in *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791 (Dec. 19, 2008). Extended through November 12, 2009. See e.g., *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123 and WC Docket No. 05-196, *Order*, (June 15, 2009); "In this *Order*, we find good cause to extend the June 30, 2009, date for the end to the permissive calling period during which Internet-based Telecommunications Relay Service (TRS) providers may continue to complete the non-emergency calls of unregistered users. Pursuant to this *Order*, TRS providers may continue to complete such calls until November 12, 2009. After that date, however, providers will have to ensure that a user has registered with a default provider before completing the user's non-emergency calls.

Compliance: Applicant avers compliance through its internal procedures in conjunction with its numbering partner and VRS Platform provider.

(2) Internet-based TRS providers (and, to the extent necessary, their Numbering Partners) must:

(i) Take such steps as are necessary to cease acquiring routing information from any VRS or IP Relay user that ports his or her number to another VRS or IP Relay provider or otherwise selects a new default provider; and

(ii) Communicate among themselves as necessary to ensure that:

(A) Only the default provider provisions routing information to the central database; and

(B) VRS and IP Relay providers other than the default provider are aware that they must query the TRS Numbering Directory in order to obtain accurate routing information for a particular user of VRS or IP Relay.

Compliance: Applicant avers compliance through its internal procedures in conjunction with its numbering partner and VRS Platform provider.

(d) Proxy Numbers. After November 12, 2009,⁶⁹ a VRS or IP Relay provider:

(1) May not assign or issue a proxy or alias for a NANP telephone number to any user; and

(2) Must cease to use any proxy or alias for a NANP telephone number assigned or issued to any Registered Internet-based TRS User.

Compliance: Applicant avers not to assign proxy or alias numbers to any user.

(e) Customer Premises Equipment (CPE).

(1) Every VRS or IP Relay provider must ensure that all CPE they have issued, leased, or otherwise provided to VRS or IP Relay users delivers routing

⁶⁹ *Id.*

information or other information only to the user's default provider, except as is necessary to complete or receive "dial around" calls on a case-by-case basis.

(2) All CPE issued, leased, or otherwise provided to VRS or IP Relay users by Internet-based TRS providers must be capable of facilitating the requirements of this section.

Say-Hey Compliance: Applicant will not issue CPE.

(f) *User Notification.* Every VRS or IP Relay provider must include an advisory on its website and in any promotional materials addressing numbering or E911 services for VRS or IP Relay.

(1) At a minimum, the advisory must address the following issues: (i) the process by which VRS or IP Relay users may obtain ten-digit telephone numbers, including a brief summary of the numbering assignment and administration processes; (ii) the portability of ten-digit telephone numbers assigned to VRS or IP Relay users; (iii) the process by which persons using VRS or IP Relay may submit, update, and confirm receipt by the provider of their Registered Location information; and (iv) an explanation emphasizing the importance of maintaining accurate, up-to-date Registered Location information with the user's default provider in the event that the individual places an emergency call via VRS or IP Relay.

(2) VRS and IP Relay providers must obtain and keep a record of affirmative acknowledgement by every Registered Internet-based TRS User of having received and understood the advisory described in this subsection.

Compliance: Applicant is posting an advisory on its web site, www.say-hey.com to comply with subsection f(1). Applicant's advisory will also be provided to new subscribers at the time of subscription. Applicant will maintain a permanent hard copy record of all new subscriptions and number assignments obtained via the Internet, via email, or via letter or telephonic subscriptions.

(g) Toll Free Number Assignments.

Compliance: In its *Second Internet-based TRS Order*,⁷⁰ the Commission concluded that “Internet-based TRS users should transition away from the exclusive use of toll free numbers” and required all Internet-based TRS users to obtain “ten-digit geographically appropriate numbers, in accordance with our numbering system.”⁷¹ The Commission also concluded that after June 30, 2009 – later extended to November 12, 2009 - an “Internet-based TRS user may retain a current toll free number or obtain a new toll free number so long as that toll free number is directed to the ten-digit, geographically appropriate number.”⁷² On August 11, 2009, the Commission clarified that

an Internet-based TRS user’s “toll free number be directed to the ten-digit, geographically appropriate number”⁷³ means that a user’s toll free number must be directed to the user’s ten-digit geographic number in the Service Management System (SMS)/800 database,⁷⁴ and not in the Internet-based

⁷⁰ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; CC Docket No. 98-67, *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, 806-07, 815-16, paras. 29-32, 52-54 (2008) (*Second Internet-based TRS Order*). On June 15, 2009, the Consumer & Governmental Affairs Bureau extended from June 30, 2009 to November 12, 2009 the date for the end to the permissive calling period during which Internet-based Telecommunications Relay Service providers may continue to complete the non-emergency calls of unregistered users. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Order, DA No. 09-1323 (rel. June 15, 2009). [subsequent footnotes from original].

⁷¹ See *Second Internet-based TRS Order*, 24 FCC Rcd. at 806-07, para. 32.

⁷² *Id.* at 807, para. 32. In finding that the costs relating to the use and acquisition of a toll free number are not compensable from the Interstate TRS Fund, we reiterated that “any toll free number held by an Internet-based TRS user should, on or before June 30, 2009 [extended to November 12, 2009], point to the user’s assigned ten-digit, geographically appropriate number.” *Id.* at 815, para. 53. Thus, we concluded, “[a]fter June 30, 2009 [extended to November 12, 2009], Internet-based TRS providers may not route calls to users’ telephone numbers other than their ten-digit, geographically appropriate numbers that have been associated with the users in the numbering database.” *Id.*

⁷³ See *id.* at 807, para. 32.

⁷⁴ The SMS/800 database is the centralized database for all toll free numbers in the North American Numbering Plan (NANP) along with the electronic records for those numbers. See *Toll-Free*

TRS numbering directory.⁷⁵ Thus, as of November 12, 2009, any toll free number retained or acquired by Internet-based TRS users must be directed to their ten-digit geographic number in the SMS/800 database. Toll free numbers and ten-digit geographic numbers should not be directed to the same Uniform Resource Identifier (URI)⁷⁶ in the Internet-based TRS numbering directory. At a user's request, Internet-based TRS providers are permitted to assign a toll free number along with a ten-digit geographic number to an Internet-based TRS user only so long as that toll free number points to the user's assigned ten-digit number in the SMS/800 database.⁷⁷

Applicant avers compliance, though does not anticipate usage of toll free numbers, unless otherwise required by the subscriber.

Service Access Codes, CC 95-155, Order on Reconsideration, 22 FCC Rcd 22188, 22188-89, paras. 2-3 (2007) (describing the toll free number administration system).

⁷⁵ The Internet-based TRS numbering directory is the central numbering directory mechanism, created pursuant to our prior orders, "that maps the Internet-based TRS user's ten-digit NANP telephone number to the current Internet address of his or her end device." *See Second Internet-based TRS Order*, 24 FCC Rcd. at 794, para. 6. Likewise, our statement that "any toll free number held by an Internet-based TRS user should . . . point to the user's assigned ten-digit, geographically appropriate number," *see id.* at 815, para. 5, means that the toll free number must point to the ten-digit geographic number in the SMS/800 database, not the Internet-based TRS numbering directory.

⁷⁶ Internet-based TRS providers must provision routing information to the Internet-based TRS numbering directory on behalf of their registered users in the form of a URI. *See id.* at 791, para. 6. As we have explained, "[a]t its simplest, a URI specifies both how (the protocol) and where (the address) to access a resource on the Internet." *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11612 n.132. (2008) (*First Internet-based TRS Order*). For Video Relay Service (VRS) devices, the URI "must contain information other than a user's [Internet Protocol (IP)] address (*e.g.*, a device-specific protocol identifier and, in some instances, a non-standard port number)." *Id.* at 11612-13, para. 51. For purposes of the Internet-based TRS numbering directory, we note that URI uniqueness is defined solely by the combination of the URI scheme (either "H323" or "SIP"), the user's IP address, and the port number, and does not include optional user information that may be provided as part of generic URI syntax. We remind providers that if multiple ten-digit geographic telephone numbers are assigned to a single URI, made up of a VRS device's URI scheme, IP address, and port number, "they must all be provided by a single Internet-based TRS provider . . . [who] is responsible for managing the Registered Location information associated with that URI." *Second Internet-based TRS Order*, 24 FCC Rcd at 812, para. 44. Having properly updated Registered Location information serves a critical public safety goal of these proceedings. *See id.* ("This requirement will reduce the likelihood of conflicting Registered Location information for the same URI.").

⁷⁷ *Clarification Regarding the Use of Toll Free Numbers for Internet-Based Telecommunications Relay Services*, CG Docket No. 03-123, CC Docket No. 98-67; WC Docket No. 05-196, *Public Notice*, [DA 09-1787](#) (August 11, 2009)[footnotes retained from original.]

§ 52.34 Obligations regarding local number porting to and from interconnected VoIP or Internet-based TRS providers.

(a) An interconnected VoIP or VRS or IP Relay provider must facilitate an end-user customer's or a Registered Internet-based TRS User's valid number portability request, as it is defined in this subpart, either to or from a telecommunications carrier or an interconnected VoIP or VRS or IP Relay provider. "Facilitate" is defined as the interconnected VoIP or VRS or IP Relay provider's affirmative legal obligation to take all steps necessary to initiate or allow a port-in or port-out itself or through the telecommunications carriers, if any, that it relies on to obtain numbering resources, subject to a valid port request, without unreasonable delay or unreasonable procedures that have the effect of delaying or denying porting of the NANP-based telephone number.

(b) An interconnected VoIP or VRS or IP Relay provider may not enter into any agreement that would prohibit an end-user customer or a Registered Internet-based TRS User from porting between interconnected VoIP or VRS or IP Relay providers, or to or from a telecommunications carrier.

Compliance: Applicant avers to compliance as evidenced by the attached advisory, subject to subsequent Commission verification.

B. Say-Hey Compliance With Waived MMS for VRS

The Commission, in its *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking* in CH Docket No. 03-123 *et al.*,⁷⁸ as amended, extended waivers of certain telecommunications relay service ("TRS")⁷⁹ mandatory minimum standards for the provision of VRS. Specifically, the *2004 TRS Report and Order* extend waivers of the TRS mandatory minimum standards to VRS applicable for:

(1) types of calls that must be handled; (2) emergency call handling; (3) speed of answer;

⁷⁸ *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, CC Docket Nos. 90-571 and 98-67, CH Docket No. 03-123, FCC Rcd. at 12520-12521, para. 111 *et seq.* ["2004 TRS Report and Order"], Amended most recently by *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities and E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123 and WC Docket No. 05-196, DA 09-2634, (rel. December 24, 2010) ["2009 TRS Waiver Order"].

⁷⁹ *See*, 47 C.F.R. §64.604.

(4) equal access to interexchange carriers; and (5) pay-per-call services. Further, the *2004 TRS Report and Order* extended waivers for Voice Initiated Calls and HCO, VCO-to-TTY; HCO-to-TTY; VCO-to-VCO; HCO-to-HCO; Call Release; 3-way Calling; and Speed Dialing.⁸⁰ The *2009 TRS Waiver Order* extended waivers governing (1) one-line Voice Carry Over (VCO), VCO-to-TTY, and VCO-to-VCO; (2) one-line Hearing Carry Over (HCO), HCO-to-TTY, and HCO-to-HCO; (3) call release; (4) pay-per-call (900) calls; (5) types of calls; (6) equal access to interexchange carrier; (7) *Equal Access to Interexchange Carriers* and (8) Speech-to-Speech (STS) through July 1, 2010.⁸¹

As discussed below, Applicant avers compliance with the Commission's *2004 TRS Report and Order* current waiver extension conditions, as most recently amended by the *2009 TRS Waiver Order*.

⁸⁰ 2004 TRS Report and Order at ¶112 and Appendix E, as amended; One-line voice carry over (VCO); VCO-to-teletypewriter (TTY); VCO-to-VCO; one-line hearing carry over (HCO); HCO-to-TTY; HCO-to-HCO; call release; speech-to-speech (STS); pay-per-call (900) calls; types of calls; equal access to interexchange carriers; and speed dialing extended for one year (four months in the case of speed dialing for VRS), "because the record demonstrates that it is technologically infeasible for VRS and IP Relay providers to offer these services at this time." "The Bureau allowed the waivers of three-way calling for VRS and IP Relay to expire on January 1, 2008. The waivers of certain TRS mandatory minimum standards for VRS and IP Relay will expire on January 1, 2009, except the waiver of the speed dialing requirement for VRS, which will expire on April 30, 2008." .See, e.g. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, DA 07-5098 (Dec. 26, 2007); See also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, CG Docket 03-123, DA 07-098; DA 08-45; *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities E911 Requirements for IP-Enabled Service Providers*, CG Docket 03-123 and WC Docket No. 05-196, *Report and Order*, FCC 08-78 (March 19, 2008)[*"Interim Emergency Call Handling Order"*] . Most recently extended by the *2009 TRS Waiver Order*.

⁸¹ The Commission waived the Speech-to-Speech requirement indefinitely for VRS. *2004 TRS Report & Order*, 19 FCC Rcd at 12526-27, paras. 134-35 (waiving indefinitely STS requirement for VRS).

1 and 2 Ability to process One-line Voice Carry Over (VCO), VCO-to-TTY, and VCO-to-VCO; and One-line Hearing Carry Over (HCO), HCO-to-TTY, and HCO-to-HCO;

Compliance: Please refer to response to Types of Calls (47 C.F.R. §64.604(a)(3)).

Standard (v) page 29, *supra*.

3. Call Release. Call release allows a CA to set up a TTY-to-TTY call that, once established, does not require the CA to relay the conversation.

Compliance: Applicant already meets this standard. Please refer to response to Equal access to interexchange carriers. (47 C.F.R. §64.604(a)(3)). Standard (vi) page 30, *supra*.

4. Pay-Per-Call Services – 900 number calls. Our rules require TRS providers to be capable of handling pay-per-call calls (i.e., 900 number calls).⁸² The VRS Waiver Order granted VRS providers a two-year waiver of this TRS requirement, noting that demand for pay-per-call VRS was expected to be low and the cost of compliance was high.^{83 84}

Compliance: Applicant avers to already having the capability to process such calls.

Please refer to response to the pay-per-call requirement (47 C.F.R. §64.604(a)(3))

Standard (iv) page 26 *supra*.

⁸² See 47 C.F.R. § 64.604(c)(6).

⁸³ VRS Waiver Order at ¶¶ 19-20.

⁸⁴ 2004 TRS Report and Order, ¶ 130, footnotes from original.

5. *Types of Calls.* Commission rules require TRS providers to handle any type of call normally handled by common carriers.⁸⁵ In the *VRS Waiver Order*,⁸⁶ the Commission granted VRS providers a two-year waiver of the requirement to offer operator assisted calls and to bill certain types of long distance calls to the end user.⁸⁷ The Commission conditioned this waiver on VRS providers allowing “VRS calls to be place[d] using calling cards and/or provid[ing] free long distance calls during the waiver period.”^{88 89}

Compliance: Applicant’s VRS platform already enables compliance with the *Types of Calls* requirement. Applicant maintains the capability of providing any type of call function otherwise available from common carriers including, but not limited to, operator assisted calls and the ability to support pay-per call services. Applicant has established procedures that enable use of operator assisted calling through the caller’s preferred carrier or Applicant’s default presubscribed carrier’s operator services if not otherwise specified, and the ability to pass along caller credit card information for purposes of billing pay-per-call calls. Applicant will not bill callers for long distance services, consistent with Equal Access VRS waiver obligations.

⁸⁵ See 47 C.F.R. § 64.604(a)(3).

⁸⁶ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98-67, DA 01-3029, 17 FCC Rcd 157 (Dec. 31, 2001) (“*VRS Waiver Order*”)[footnote supplied].

⁸⁷ *VRS Waiver Order* at ¶ 10.

⁸⁸ *Id.*

⁸⁹ *2004 TRS Report and Order*, ¶ 113, footnotes from original.

6. Equal Access to Interexchange Carriers. Our rules require that TRS users have access to their chosen interexchange carrier through TRS to the same extent that such access is provided to voice users.⁹⁰ In the *VRS Waiver Order*, the Commission granted VRS providers a two-year waiver of this TRS mandatory minimum standard, recognizing that the systems necessary to hand off a video teleconferencing call to a carrier preferred by the end user do not yet exist.^{91 92}

Compliance: Applicant already meets this standard. Please refer to response to Equal access to interexchange carriers. (47 C.F.R. §64.604(b)(3)). page 40 *supra*

7. Speech-to-Speech;

Compliance: Although the requirement for Speech-to-Speech remains indefinitely waived for VRS providers, Applicant avers to provide such services in the unlikely event that such calls may be received, albeit under whatever new regulations and standards may be adopted by the Commission.

C. Say-Hey Avers to Comply With, and be Bound by, the Regulations and Requirements Resulting Form the Commission’s May 27, 2010 NPRM

The Commission’s May 27, 2010 NPRM *inter alia* amends Section 64.604(c)(5)(iii)(I)⁹³ of the Commission’s rules, in pertinent part, to establish that:

The Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a provider submitting minutes to the Fund for compensation must, in each instance, certify, under penalty of perjury, that the minutes were handled in compliance with section 225 and the Commission’s rules and orders, and are not the result of impermissible financial incentives or payments to generate calls. The CEO, CFO, or other senior executive of a provider submitting cost

⁹⁰ See 47 C.F.R. § 64.604(b)(3); *see also Second Improved TRS Order & NPRM* at ¶¶ 54-61.

⁹¹ *VRS Waiver Order* at ¶¶ 17-18.

⁹² 2004 TRS Report and Order at ¶ 124, footnotes from original.

⁹³ 47 C.F.R. § 64.604(c)(5)(iii)(I).

and demand data to the TRS Fund administrator shall certify under penalty of perjury that such information is true and correct.

Compliance: Applicant's senior officers will be responsible for personally overseeing, and certifying compliance with section 225 and the Commission's rules and orders, and are not the result of impermissible financial incentives or payments to generate calls of all submitted minutes to the Fund for compensation of all such minutes. Applicant's senior officers will also certify under penalty of perjury, that all submitted information is true and correct. Applicant is painfully aware of the fraud perpetrated by unscrupulous individuals and entities that perpetrated the need for such a requirement. Applicant has made significant investments in its technology, processes, employees and associates to ever risk any potential of losing eligibility once granted, and maintains that the need for senior company officers to certify compliance and legitimacy of submitted minutes for compensation to the fund is paramount to maintaining fund and provider integrity. Applicant avers to comply.

With respect to the proposed regulations which are the subject of the NPRM including Location of VRS Call Centers, VRS CAs Working from Home and Compensation, Procedures for the Suspension of Payment, detection and cessation of illegitimate calls, and the specific call practices addressed therein, Applicant has thoroughly reviewed the Commission's proposed regulations and avers to comply with each requirement, as may be subsequently amended or adopted. Applicant views the direction of the proposed regulations generally as necessary and an appropriate means to put an end to the abusive practices that have permeated the provision of relay services and tainted the reputation of responsible providers. To that end, Say-Hey avers

compliance with such additional regulations and standards as may ultimately be promulgated by the Commission.

VI. THE GRANTING OF THE INSTANT PETITION IS IN THE PUBLIC INTEREST

Although certification of compliance with federal mandatory minimum standards pursuant to sections 64.604 and 64.606 is fact-based and does not impose a public interest standard test, Applicant maintains that the granting of the instant Petition is in the public interest and will benefit the public throughout the U.S.

A. Say-Hey’s Service Will Introduce A Technologically-Advanced IP-Based VRS Option To the Public That Brings Deaf and Disabled Users a Step Closer to “Functionally Equivalent” Communications.

Applicant’s deployment of a retail VRS, made possible through the grant of the instant Petition, will enable users to gain additional flexibility in communications. As Say-Hey’s software, IP-based VRS is accessible from any computer having a wireline or wireless broadband connection users gain mobility and enhanced ease in connection. Users will not require specialized equipment, but will be able to expand the utility of their computers for sight-based, interactive communications from a home, office, or remote location. These capabilities bring the speech and hearing disabled a major step closer to the “functionally equivalent” communications they deserve, and that Congress and the FCC have established as a matter of public policy.

B. The Granting of the Instant Application Will Promote Innovation and Improved Service by All Providers

The granting of the instant Application and Say-Hey’s subsequent provision of VRS services will provide the public, and Deaf users in particular, with an added choice of service providers. This new alternative will create competitive pressure on existing

providers to innovate, incorporate new advanced technology approaches, and improve service offerings and capabilities, to the ultimate benefit of consumers. While Say-Hey will use a VRS platform that adopts some standard conventions, the platform nevertheless is technologically advanced, and has allowed the Company to further invest in innovative technology designed to meet the MMS, and moreover, approximate functionally equivalency. Yet the key to Say-Hey's success will ultimately be in how the Company differentiates itself from other providers, consistent with basic competitive business practices. Applicant maintains that its established connection with the Deaf Community and dedication to providing an exceptional caller experience by focusing on caller needs through service and technology, among other factors, will directly contribute toward making Say-Hey a desirable provider of VRS services.

C. The Granting of the Instant Application Will Enhance Access to Information Through Say-Hey's Outreach Efforts

Say-Hey will engage in outreach, which will include information regarding VRS accessibility and moreover, a host of information that will benefit the speech and hearing impaired community, as discussed above. Say-Hey commits to fund an outreach program that will increase the accessibility of information and program content geared to enhancing the lives of speech and hearing impaired.

D. Say-Hey Will Contribute to the Expansion of the Pool of Certified CAs.

Say-Hey will devote resources to accredited educational institutions that maintain certified CA training programs to help expand the pool of CAs. Say-Hey is evaluating a number of successful interpreter training programs to improve access and quality of such programs with the goal of expanding the supply of highly qualified interpreters available

to the Deaf community in all settings. Further, Say-Hey will create job opportunities for graduates, and will assist educational institutions with job placement, as desired by the institution.

E. Say-Hey Will Contribute to the Deployment of Broadband Access.

As Say-Hey's VRS is broadband-based, use of Say-Hey's VRS will increase demands for broadband services. This will accelerate broadband deployment, consistent with federal and state policies.

VII. CONCLUSION

The Commission's *Report and Order* establishes a process whereby a VRS - and IP relay - provider may seek Commission certification of compliance with applicable minimum mandatory standards. This certification process now enables companies like Say-Hey, to draw from the federal TRS fund for the provision of compensable VRS, when not otherwise associated with a state program, when demonstrating compliance with the MMS and meeting the other requirements under section 605(a)(2).

Say-Hey has invested considerable resources and effort in developing desirable full-featured VRS services for the Deaf Community, consistent with Congress' and the Commission's established policy of promoting "functionally equivalency" in telecommunications services between the disabled and others. Say-Hey's ability to make its services generally available to the Deaf Community and other callers is predicated on its ability draw from the federal TRS fund to recoup the costs associated with the provision of these services.

Say-Hey has ensured ongoing compliance with the Commission's Mandatory Minimum Standards, currently waived Standards, and Orders, through a plan that incorporates complementary tools, adequate procedures and remedies. Say-Hey has implemented a process for providing users with information regarding complaint procedures, and maintains a fully staffed customer service center and complaint logging capabilities, consistent with existing complaint logging requirements.

Finally, Say-Hey has demonstrated that its services do not differ, or in any way violate, the Commission's applicable Mandatory Minimum Standards.

Say-Hey further avers to comply with ongoing reporting and audit requirements and such additional requirements as may from time to time be imposed by the Commission with respect to VRS services, including reports or response to *ad hoc* information requests, on-site visits, inspection of books, materials, and operations.

Say-Hey acknowledges Commission certification of compliance is not static, but entails ongoing verification. Say-Hey will at all times cooperate with the Commission and assist the Commission in verification of compliance, response to complaints and inquiries, and in any such requirement or request as may be made by the Commission to Say-Hey. Say-Hey will also provide the Commission with such information regarding Say-Hey's operations as will be needed by the Commission to comply with FCC state TRS/VRS re-certification requirements pursuant to sections 64.604 and 64.606, as amended, of the FCC's rules.

WHEREFORE, Say-Hey, Inc. hereby respectfully requests that the Commission certify compliance with Mandatory Minimum Standards for the provision of VRS and IP relay as a provider eligible for compensation from the federal TRS fund, for the provision of VRS and IP relay.

Respectfully submitted, this 22nd day of June 2010.

For Say-Hey, Inc.

A handwritten signature in cursive script that reads "Andrew O. Isar".

By:

Andrew O. Isar
Miller Isar, Inc.
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335

Regulatory Consultant to
Say-Hey, Inc.

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

In the Matter of)	
)	
Application of Say-Hey, Inc. for Eligibility to)	
be Compensated From the Interstate)	CG Docket No. 03-123
Telecommunications Relay Service Fund For the)	
Provision of Video Relay Services)	

LISTING OF EXHIBITS

- A Senior Management Experience, Representative Communications Assistant
Curriculum Vitae
- B Sample Call Detail Record Data Format
- C User VRS Call Screen
- D 911 Call Processing
- E 911 User Advisory
- F Service Quality Verification Mechanisms
- G Oregon Public Utility Regulatory Commission Certificate of Public
Convenience and Necessity; Evidence of Status as a Common Carrier

Exhibit A

Senior Management Experience Representative Communications Assistant *Curriculum Vitae*

Matt Idler (*CO-CEO*): Matt will oversee all TRS operations. For the past 12 years he has worked with the deaf and hard of hearing in various professional capacities. Five years ago, he entered the growing TRS field by joining Purple Communications where he played a crucial role in the start-up process as the head of Customer Care. He grew the department from one employee to 20 and achieved such high quality that it became known as the “place to go,” even for the competitions customers. Matt brings a wealth of TRS knowledge in operations, sales, marketing, and product/business development. He is deeply involved in the hearing loss community. Matt has been deaf since birth.

Eli Steele(*CO-CEO*): Eli will oversee all operations and content development for the Social Network. He has worked extensively in the entertainment business, ranging from production assistant to producer. In the last five years h’s developed, written, directed, and produced an awarding winning independent feature film and an MTV Network commissioned television pilot. He has also developed content for other studios. He brings a wealth of content development knowledge and industry contacts. Eli is active in the hearing loss community and currently sits on the board of two non-profits that assist children with hearing loss. Eli has been deaf since birth.

Brett Morris (*Creative Director*): Brett will oversee the website and both its TRS and Social Network functions. After arriving in Los Angeles five years ago, he has risen in a short amount of time to become one of the city’s top creative directors. His client list includes among many: Fox Studios (24, Prison Break), Showtime (Weeds), CinemaNow, Filmaka, Toyota, and Pedigree. He has also developed and designed several Internet startups.

Nolan Erck (*Development*): Nolan has been developing software professionally for more than 14 years. Starting in the video game industry as a Tools Programmer, Nolan advanced to web development in 1999 and has worked on high-profile projects for LucasArts, Maxis, Lisa "Left Eye" Lopes, Schools Credit Union, and Alive N Kicking Magazine among others. His list of credits includes Star Wars: The Phantom Menace, SimPark, SimSafari, and Grim Fandango, as well as high-traffic websites for a variety of technology based companies. Nolan currently co manages the Sacramento ColdFusion User Group and is active member of the Web Developer community, giving presentations on Object-Oriented and Web Development for groups across Northern California. As the founder of South of Shasta Productions, Nolan is experienced in all aspects of professional software development. Nolan is also certified in Adobe ColdFusion, and is an in-demand consultant, providing training and development experience for a variety of companies.

Exhibit A
(continued)

David Birchell (*Technology*): David will oversee all aspects of technology and infrastructure operations for SayHey's VRS operations. David is deaf since birth, a UCSB graduate in business and a strong proponent of total communications with co-existence of signed English and ASL. A seasoned veteran of the VRS business going on 8 years, having joined Purple Communications in 2003 as a Systems Administrator. David oversaw the implementation of the business from a small, home-spun organization into a major player in the VRS market. Oft-denoted as a 'jack of all trades', David dealt with planning, vendor relations & procurement, operations, and maintenance of the corporate and VRS infrastructure. A sales engineer by trade, David also has immense sales experience with the public sector, working sales and marketing for a small time DVD production company, as well as enterprise sales accounts, the main objective being low outlay, high ROI with aggressive budgeting strategies. With his multiple-faceted skills and experience in synergy, David brings a powerful "all in one" resource to SayHey's small management team. David has been deaf since birth.

Sarah Himmelmann (*Customer Care and Quality Assurance*) will oversee the customer care infrastructure, tools, processes and services for say-hey, Inc focusing on the most important elements of our business – serving and retaining our customers. Bringing more than 20 years of experience as a consumer of the relay industry and over 12 years of providing top notch support, establishing processes, and training within various companies and institution. Most recently, Sarah worked for Purple Communications where she implemented the use of a new systems to streamline customer care processes, cultivate team collaboration and efficiency resulting in greater customer satisfaction. Sarah has a Bachelors in Information Technology from Rochester Institute of Technology. Sarah has been deaf since birth.

Jeremy Jack(*Interpreter relations and Operations*) Jeremy will oversee and coordinate the day to day operations for VRS, including the supervision, training, and scheduling of interpreters. Jeremy has been a professional interpreter for nearly 12 years and is nationally certified with the Registry of Interpreters for the Deaf and the National Association of the Deaf. He entered the VRS field in 2004 where his previous Operations management experience with the California Independent System Operator lead to him working as a Call Center Manager for the center located at headquarters, then Operations Coordinator, and eventually Senior Operations Manager on the national level. In these roles Jeremy strove for operational excellence while fighting hard for ethical practices in VRS and to marry the interpreting profession with the business of VRS.

Exhibit A
(continued)

Video Interpreter / Communications Assistant (Name withheld)

Certificates/Education

RID Certificate of Interpretation
RID Certificate of Transliteration
NAD Certificate level IV
Interpreting training program Certificate, American River College

Summary

Twenty years experience of Interpreting English to ASL and ASL to English in a variety of settings including but not limited to medical, educational with a focus on the post secondary level, corporate, government, National/local conferences and community services

VRS/VRI and corporate interpreting

- Train new and existing VI's on current platforms and company policy
- Consult and assist with testing modifications/enhancements of VRS platforms
- Market new products and services while obtaining new customers at various company sponsored events such as Deaf Nation, Deaf Hope etc.
- Market new products and services by participating in video commercials shown on the website and at deaf events
- Participate in mentorship program for interpreters taking on mentees from the local Interpreter Training Program
- Interpret highly confidential corporate meetings (off-site also)
- Represent the company as an interpreter at the National Association of the Deaf Bi-annual conference, as well as Gallaudet's Deaf President Now 2006

Memberships

Registry of Interpreters for the Deaf
National Association of the Deaf
Sacramento Valley Registry of Interpreters for the Deaf

Exhibit C

User VRS Call Screen



Interpreter Call Screen



Exhibit D

911 Call Processing (U.S. Originated 911 Calling Only)

The **911 outbound-to-VRS use case**, where a deaf caller reaches 911 emergency services through VRS, his or her own 10-digit telephone number is made available to these emergency services, is as follows:

1. A registered deaf caller places an outbound video call by dialing 911 into a video endpoint capable of passing a pre-specified telephone number to the VRS provider. The video call is routed to a priority queue for the default VRS provider, and awaits the next available video interpreter (VI). The priority queue ensures that this video call will be answered before non-emergency calls.
2. When the video call is connected to the VI, the VRS platform displays to the VI the deaf caller's registered location, which is derived from the deaf caller's 10-digit telephone number.
3. The VI reviews and confirms the registered location information with the deaf caller.
4. If the registered location information is correct, the VI places an outbound voice call to 911.
5. Based on the deaf caller's 10-digit telephone number and registered location, the VRS platform identifies the appropriate PSAP and routes the outbound voice call to that PSAP via the Wireline E911 network .
6. When the outbound voice call is connected to the PSAP, the VI and PSAP interact to provide emergency services to the deaf caller.
7. Emergency services are dispatched as appropriate.
8. If an error occurs anywhere in this process, the call will automatically be forwarded to the Emergency Call Center (ECC) for exception handling

The 911-Outbound-via-VRS use case flow is as follows:

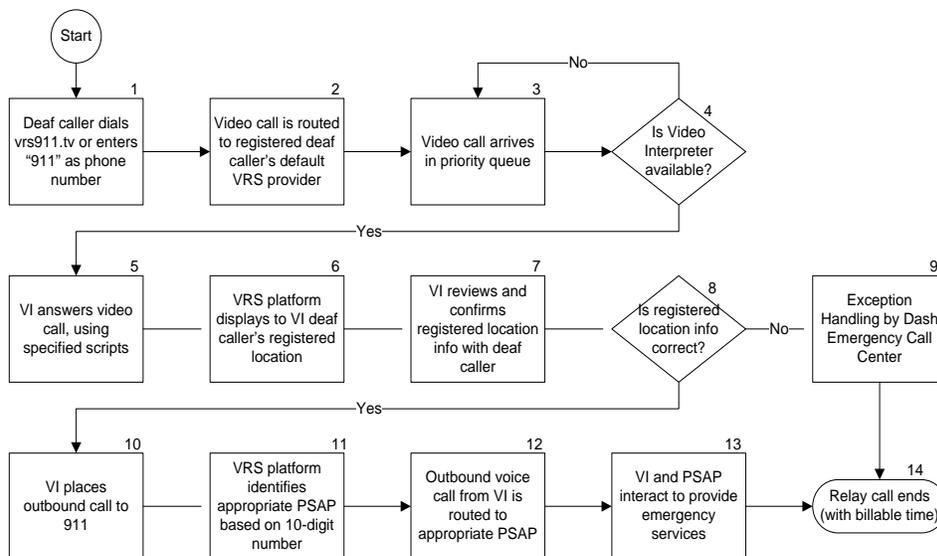


Exhibit E

911 User Advisory

Thank you for using Say-Hey! The following is important information about using video relay services to place 911 calls in the event of an emergency.

Under a recent Federal Communications Commission ruling, you will be able to use VRS to place 911 emergency calls that will be routed to the local emergency dispatcher (public safety access point) located closest to you!

When using VRS on your computer or videophone to place an emergency call, you will be connected to a Say-Hey interpreter or operator first, before being connected to your closest emergency response center. You will be asked to give your full name and location information at the beginning of the call, or if you have previously provided this information, you will be asked to confirm that the information provided remains current. The interpreter or operator will contact an emergency response center in your area and relay your information to the dispatcher at the center.

911 VRS calling capabilities are scheduled to be fully implemented by the industry later this year. Until then, please note the following:

Since a TTY call is a direct call, and does not involve an interpreter or operator, your calls are automatically routed to your closest emergency response center. Calling 911 through your TTY or home phone and leaving the phone off the hook is the best and fastest way to get response from the local emergency response center closest to you until VRS 911 capabilities are fully functional.

Every minute is important in an emergency, and any relay call is not as fast as a direct TTY or silent phone-off-hook call. In the near term, it will often be faster to call 911 through TTY or silent phone-off-hook instead of through relay. There are some things you need to remember when you make a 911 call through your computer, videophone or pager. Your computer needs to be on and connected to the Internet for you to be able to call 911 through Internet-based text or video relay services. If your Internet connection is not working, call 911 through your TTY. If your videophone is not on, connected to the Internet, or you can't see the interpreter, use your TTY to call 911 instead.

We will soon have more information on E-911 procedures and how you can make an emergency video relay call through us. Additional information is available through the Federal Communications Commission at <http://www.fcc.gov/cgb/consumerfacts/voip911.html>

or by contacting Say-Hey at 800.285.7460. or via electronic mail at help@say-hey.com Thank you for using Say-Hey!

Exhibit F

Service Quality Verification and Ethics Policies Mechanisms

Say-Hey is committed to serving as an ethical, quality relay service provider. The Company's commitment is realized through development of strict policies, and thorough communications with employees and associates.

Say-Hey has developed and implemented extensive measures to specifically to combat fraudulent calls, and generally to preclude all unethical practices. Say-Hey has made these measures a mandatory part of the Company culture and has gone great lengths to ensure that every employee fully understands these strict policies. Further, in light of the Commission's specific proposed rules governing "whistleblower" protections,⁹⁴ Say-Hey has proceeded in implementing the proposed provisions as if they had already been promulgated. All employees and associates have received briefings regarding their rights and protections, should they witness unethical behavior.

The Company's specific quality and ethics initiatives include:

- Implementing mandatory initial and ongoing training for *every new and existing* employee and associate that works in any capacity at Say-Hey. This training includes specific Commission requirements and regulations, as well as discussion on current issues before the FCC;
- Engaging in Case Conferencing for all Interpreters both in VRS and Text capacity. This will facilitate confidential discussion and allow interpreters to discuss certain practices and policies;
- Hiring only qualified interpreters and managers that support elimination of fraud and waste. As part of the interview process questions will be asked about situational examples and hiring will be determined on how candidates answer;
- Maintaining direct and transparent communication with the Commission;
- Establishing mandatory auditing compliance with each interpreter;
- Establishing a public informational forum for customers to read about Commission and Company announcements and policies as they pertain to relay services to ensure that the public is informed and clearly understands policies.
- Implement whistleblower protection policies and encourage employees and associates to identify any behaviors believed to be fraudulent for investigation;
- Ensure that all employees and associates make a wholehearted commitment to ethical service practices as an integral part of the Company's culture.

⁹⁴ See, e.g. the NPRM at page 21.

Exhibit G

Oregon Certificate of Public Convenience and Necessity; Evidence of Status as a Common
Carrier
(Attached)

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

CP 1456

In the Matter of)
)
SAY-HEY, INC.) ORDER
)
Application for a Certificate of Authority to Provide)
Telecommunications Service in Oregon and)
Classification as a Competitive Provider.)

DISPOSITION: APPLICATION GRANTED

Note: By issuing this certificate, the Commission makes no endorsement or certification regarding the certificate holder's rates or service.

INTRODUCTION

Say-Hey, Inc. (Applicant) filed the application on August 19, 2009. Applicant requests authority to provide interexchange telecommunications service in Oregon as a competitive provider.

The Commission served notice of the application on September 2, 2009. The Commission did not receive any protests.

Based on the record in this matter, the Commission makes the following:

FINDINGS AND CONCLUSIONS

The Proposed Operation

Applicant will provide intrastate, interexchange, switched telecommunications service (toll) statewide in Oregon. Applicant indicates that it intends to resell the services of other certified carriers. Applicant did not indicate that it would operate as a facilities based provider. Applicant may purchase network elements and finished services for resale only from other certified carriers.

Applicant will not directly provide operator services as defined in OAR 860-032-0001. Applicant will not be an 'operator service provider' as defined in ORS 759.690(1)(d).

Applicant stated that it seeks authority as a “common carrier”. However, the Oregon Public Utility Commission does not grant authority or designate telecommunications providers as “common carriers”. This Order grants Applicant authority to provide telecommunications as a “competitive provider”.

Applicable Law

ORS 759.020 governs Applicant’s request to provide telecommunications as a competitive provider. Under ORS 759.020(5), the Commission shall classify Applicant as a competitive provider if Applicant demonstrates that its services are subject to competition, or that its customers or those proposed to become customers have reasonably available alternatives. In making this determination, the Commission must consider the extent to which services are available from alternative providers that are functionally equivalent or substitutable at comparable rates, terms and conditions, existing economic or regulatory barriers to entry, and any other factors deemed relevant.

OAR 860-032-0015 authorizes the Commission to suspend or cancel the certificate if the Commission finds that (a) the holder made misrepresentations when it filed the application, or (b) the certificate holder fails to comply with the terms and conditions of the certificate.

Resolution

Existence of Alternatives. AT&T, Sprint Communications Company, Qwest Corporation, Verizon Northwest Inc. and others provide toll and operator services in the service area requested by Applicant.

Suitability of Alternatives. Applicant's customers or those proposed to become customers have reasonably suitable alternatives to Applicant's services. Subscribers to Applicant's services can buy comparable services at comparable rates from other vendors.

Barriers to Entry. The level of competition in the market shows that both economic and regulatory barriers to entry are relatively low.

Conditions of the Certificate

There are several conditions listed in the application. Oregon Administrative Rules relating to certificates of authority are generally included in OAR chapter 860, division 032. Conditions applicable to certificate holders include, but are not limited to, the following: OARs 860-032-0007, 860-032-0008, 860-032-0011, 860-032-0012, 860-032-0013, 860-032-0015, 860-032-0020, 860-032-0060, and 860-032-0090. The conditions listed in the application and those contained in Oregon Administrative Rules are adopted and made conditions of this certificate of authority. A condition of this certificate of authority is that Applicant shall comply with applicable laws, Commission rules, and Commission orders related to provision of telecommuni-

cations service in Oregon. Further, Applicant shall comply with the following conditions:

1. Applicant shall not take any action that impairs the ability of other certified telecommunications service providers to meet service standards specified by the Commission.
2. Applicant shall comply with all conditions listed in the application.
3. Applicant shall pay an annual fee to the Commission pursuant to ORS 756.310 and 756.320 and OAR 860-032-0095. The minimum annual fee is \$100. Applicant is required to pay the fee for the preceding calendar year by April 1.
4. Applicant shall make quarterly contributions to the Oregon Universal Service fund based on a Commission approved schedule and surcharge percentage assessed on all retail intrastate telecommunications services sold in Oregon, pursuant to ORS 759.425. If Applicant bills the surcharge to its end-users, Applicant shall show the charges as a separate line item on the bill with the words "Oregon Universal Service Surcharge ____%".*
5. If Applicant provides services to a subscriber who, in turn, resells the services, including operator services, then Applicant and the subscriber must comply with ORS 759.690 and OAR 860-032-0007.

Conclusions

Applicant has met the requirements for a certificate to provide telecommunications service as a competitive provider. The application should be granted.

ORDER

IT IS ORDERED that:

1. The application of Say-Hey, Inc. for authority to provide interexchange switched (toll) telecommunications service is granted.
2. Applicant is designated as a competitive telecommunications provider.

* The current surcharge percent that the company would enter on this line is found at <http://www.oregonusf.gov/ousrate.htm>. The company must use the most current surcharge rate.

3. Applicant may provide authorized services statewide in Oregon.
4. Applicant shall comply with conditions of the certificate.

Made, entered, and effective OCT 01 2009.



A handwritten signature in black ink, appearing to read "Lee Sparling", is written over a horizontal line.

Lee Sparling
Director
Utility Program

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.