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

In the Matter of	)	
	)	
Structure and Practices	)	
of the Video Relay Service	)	
Program	)	CG Docket No. 10-51
	)	
Comments of CSDVRS	)	
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COMMENTS OF CSDVRS, LLC

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COMMENTS OF CSDVRS, LLC

CSDVRS, LLC, (hereinafter "CSDVRS") by and through undersigned counsel, hereby submits it comments to the Notice of Inquiry ("NOI") released by the Federal Communications Commission ("FCC" or "Commission") on June 28, 2010 concerning the general inquest into the Video Relay Service ("VRS") program.[1] CSDVRS lauds the issuance of the NOI as a positive and definitive step in establishing clear rules and regulations for this vital service for deaf and hard-of-hearing people.

CSDVRS believes that there are six key issues that need to be considered and addressed by the Commission in the wake of the NOI: (1) eliminating fraud; (2) continuation of the tiered reimbursement structure; (3) return on investment as part of the future rate; (4) marketing and outreach rules; (5) certification rules; and (6) provider audits. CSDVRS addresses these matter in its response to the NOI, and reasserts positions it has raised in prior filings with the Commission as they pertain thereto. In response to the NOI, CSDVRS herein addresses specific questions raised, by section and paragraph number in kind, and as permitted by Commission rules during this comment period.

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[1] *See, In the Matter of Structure and Practices of the Video Relay Service Program,* Notice of Inquiry, CG Docket 10-51, FCC 10-111, (June 28, 2010)(hereinafter "NOI").

A. Part I – Adjustments and Modifications to Improve the Current Video Relay Service Compensation Methodology

1. Accounting Issues

CSDVRS has always been, and continues to be, a strong proponent for the continued use of a multi-tier, multi-year rate as it allows equitable treatment of all providers despite their market size and levels of efficiency. CSDVRS submits that a variance to the tiered rate in favor of a single tier, while theoretically possible, could ultimately do immense damage to the industry as it could force out smaller providers and sustain the market dominance of the largest provider.

Paragraph 11: Comment on Part 32 of the Uniform System of Accounts

CSDVRS submits that while Part 32 encompasses costs related to VRS entities, it is clearly designed for more traditional capital intensive telecommunications companies that rely on significant physical assets to foster communication.

Where traditional telecom companies are heavily weighted towards capital investments ("Plant accounts") as such investments are the primary conduit for communication, VRS companies are labor intensive as the primary conduit for communication is the video relay interpreter or communications assistant ("CA"). A proficient CA is typically a certified interpreter highly skilled in ASL, and accordingly, the primary cost driver of VRS. Achieving this level of proficiency takes years of study and practice, and such skills are in demand in the community as well as within the VRS industry, creating a demand that requires significant compensation.

Part 32 of the Uniform System of Accounts defines the required balance sheet and income statement accounts for a traditional telecom company. However, the below excerpted sections are not applicable to VRS entities due to the labor-intensive nature of the industry:

- Subpart C--Section 32.2000 series defines numerous types of plant accounts. The structure and definitions for these accounts are not applicable to the VRS industry.
- Subpart D--Section 32.4999 / 32.5000 series defines numerous types of revenue accounts comprising of five major groups: Local Network Services, Revenues, Network Access Services Revenue, Long Distance Network Services Revenues, Miscellaneous Revenues and Uncollectible Revenue. None of these are applicable to the VRS industry. Revenue for VRS entities is simplified, consisting primarily of the Fund Administrator's reimbursement for minutes.
- Subpart E--Section 32.5999 / 32.6000 series defines expense accounts comprised of four major expense groups: Plant specific Operations, Plant Nonspecific Operations, Customer Operations and Corporate Operations. This section heavily focuses on the first two groups associated with "Plant" assets. These groups are not applicable to VRS entities. As stated above, "Plant" assets are immaterial to the VRS industry. In the VRS industry, "Plant" assets mirror a traditional company, consisting of an office building for administration, engineering and customer service, and some equipment related to call platform to distribute calls to various call centers. In addition, a VRS entity may own Call Centers which could be classified as a Plant Asset. The third and fourth groups in general apply to the VRS industry. They include traditional expense accounts which are non-specific industry based.

In summary, CSDVRS believes that a reconstituted chart of accounts, more applicable to the cost structure within the VRS industry, is a necessity.

More importantly, CSDVRS does not believe it is necessary to specifically define accounts and account structures. An entity should not be restricted by specific account groups and subaccounts considering that every company is unique and should be given the authority to establish an account structure that best fits their organization for efficient reporting. As stated elsewhere within this document, financial audits by a qualified CPA firm, with a firm deadline for providing such an audit to the Interstate TRS Fund (the "Fund") Administrator, and the ability of the Commission or its Administrator to selectively audit a VRS company, would provide assurance that the costs being submitted are accurate. Furthermore, systems audits and random testing of data by qualified IT auditors should help minimize fraud within the Fund.

Currently there are no such periodic or annual requirements of financial results, and even when an audit has been requested by the Commission, certain providers have simply stonewalled and not allowed such access. The Annual Interstate TRS Fund Data Collection ("Annual Data") is the only required financial submission, and the categories are not in sync with the reporting Requirements of Part 32. A reconstituted Part 32 should clearly group appropriate accounts for ease of compilation for both VRS providers and for review by auditors that may want to verify the accuracy of such a submission. Furthermore, although CSDVRS believes that many costs that are not currently reimbursable are crucial to companies operating within the industry and should be allowable, any items deemed non-reimbursable should be clearly identified, and the Annual Data should be reconciled to the company's audited financial statements prepared in accordance with GAAP.

Paragraph 12: Comment on Whether the Commission Should Cap Limits on the Compensability of Costs and to What Extent the Fund Should Support Debt Repayment to Capitalize for Growth.

CSDVRS believes that the current methodology for payment to VRS providers is flawed, including analyses of historical and projected costs, the return on investment calculation, and disallowed costs that should be permitted. CSDVRS submits that there are four specific areas that must be addressed and improved upon in regard to historical versus projected costs: ten digit numbering, E911 support, outreach, and the cost of videophones.

CSDVRS submits that the commission should not cap or set reasonable limits as suggested in the NOI. CSDVRS believes a proper rate setting process leading to an appropriate rate will force providers to limit spending in certain areas or sacrifice profitability or incur loss. The Commission rate order issued in 2003 states specifically that VRS companies should be allowed an 11.25% after tax return on investment.[2] CSDVRS extrapolated considerably on these calculations in its May 2010 Comments in response to the Commission's Public Notice concerning the proposed new VRS rates.[3] The 11.25% return on investment, when calculated properly, and incorporated into the rate should be sufficient to cover dividend payments and debt repayments to investors inclusive of debt repayment for capitalization for growth. This figure was reiterated in the 2010-2011 TRS Filing Presentation on April 8, 2010 in Baltimore.

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[2] *See, In the Matter of Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Order, CC Docket 98-67, FCC DA03-2111 (June 30, 2003) referencing *In the Matter of Prescribing the Authorized Unitary Rate of Return for Interstate Services of Local Exchange Carriers*, Notice Initiating a Prescription Proceeding and Notice of Proposed Rulemaking, CC Docket 98-166, FCC 98-222 (October 5, 1998) (hereinafter "2003 Rate Order").

[3] *See, In the Matter of Structure and Practices of the Video Relay Service Program,* Comments of CSDVRS, LLC, CG Docket 10-51, May 10, 2010 (hereinafter "May Comments").

In the May Comments, CSDVRS proposed three distinct methods of calculation that would comply with the 2003 Rate Order. CSDVRS submits and reasserts that any of those proposed methods would be more representative of both the spirit of the law and the economic realities of the VRS industry if properly implemented by the Fund Administrator (or "NECA"). Indeed, the tiered structure that has been in place since 2007 has fostered competition and improved service to deaf and hard-of-hearing consumers. The Commission should continue to account for this fact when calculating per minute reimbursement rates moving forward. CSDVRS therefore restates the following alternatives as drawn from the May Comments:

Option 1: Reasonable Return on Investment

The majority of VRS providers are billing within the first and second tier, with their minutes seldom breaking the 500,000 minute threshold. Accordingly, CSDVRS will first comment on Tier II rate setting.

CSDVRS believes that the Commission can appreciate the reasonableness of the Tier II actual costs versus the Tier II projections. The NECA adjusted historical costs for Tier II averaged approximately $5.74, excluding the 1.6% allowance for cash/working capital, the 11.25% Return on Investment (as erroneously calculated by NECA), and the 3.2% adjustment to the Fund due to inflation. The NECA adjusted cost projection in the 2010 TRS Rate Filing for Tier II is $5.88 ($6.1758 less adjustments). With the exception of disallowed costs (research and development, video phones, and numbering), CSDVRS submits that this represents a very reasonable and logical projection of costs by NECA in 2010, particularly when considered in light of historical cost submissions.

CSDVRS believes the intent of the 2003 Rate Order concerning implementation of a Return on Investment methodology was that VRS providers would generate a fair and reasonable return based on a company's equity.[4] The FCC borrowed this Return on Investment methodology directly from that used for Local Exchange Carriers ("LECs")[5]. Per the LEC Filing, Return on Investment is defined as the weighted average return on debt, cost of preferred stock and the cost of equity.[6] Therefore, when determining the annual rate, these three components should be used. However, NECA is not following the Return on Investment methodology as prescribed by the FCC (see Figure 1 for a true return on investment), but is instead basing it on an 11.25% Return on Net Book Value of Depreciable Assets. These are two completely different methodologies, and the methodology utilized by NECA has no basis or relationship to either the LEC or TRS industry.

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[4] *See, In the Matter of Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech* Disabilities, Order, CC Docket 98-67, FCC DA03-2111 (June 30, 2003), ¶35.
[5] *Id.*, referencing *In the Matter of Prescribing the Authorized Unitary Rate of Return for Interstate Services of Local Exchange Carriers*, Notice Initiating a Prescription Proceeding and Notice of Proposed Rulemaking, CC Docket 98-166, FCC 98-222 (October 5, 1998) (hereinafter "LEC Filing").
[6] *See*, LEC Filing ¶8.

Figure 1 Return on Investment

TIER II SAMPLE COMPANY		
EQUITY	$	25,000,000
Pre-tax Return on Investment (11.25% Post Tax)		18.75%
Cash Return on Ivestment	$	4,687,500
Annual Minutes		4,000,000
COST PER MINUTE	$	5.7391
TOTAL EXPENSES	$	22,956,408
PRE-TAX RETURN	$	4,687,500
TOTAL REVENUE TO PRODUCE RETURN	$	27,643,908
Resulting Rate per Minute	*$*	*6.9110*
Per Minute (pre-tax) Return on Investment	**$**	**1.17**

Utilizing NECA's calculated Return on Investment, Providers in Tier 2 earned a pre-tax 1% - 2% mark-up over costs, or approximately $.09 per minute.[7] At such a minimal rate of return, most providers would never be able to attract future investors, nor be able to operate at a competitive level. Figure 1 above demonstrates what a true Return on Investment would yield for a Tier II provider with $25M in equity. This provider should have earned a per-minute Return on Investment of $1.17 versus the $.09 as calculated by NECA. A true Return on Investment, as originally prescribed by the FCC, would be preferable to the current approach utilized by NECA. The method as used by NECA will quash new development efforts of current providers, as there would be no business incentive to operate or innovate. CSDVRS believes the FCC and NECA should follow the intent of the 2003 Order and use calculations as demonstrated above for rate setting in the 2011 period and beyond.

[7] *See*, *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate (April 30, 2010) (hereinafter "2010 TRS Rate Filing") at page 18.

If the FCC does not intend to follow the Return on Investment approach as outlined in the 2003 Order and LEC Filing, CSDVRS submits the remaining two alternative methods for computing the return providers are allowed to earn.

Option 2: Hybrid Capital

As an alternative to the Return on Investment method, CSDVRS would propose that the FCC adopt a Return on "Hybrid Capital", which would treat the cost of Video Interpreters, call centers, telephony and related technology associated with providing VRS, and the net book value of depreciable assets as capital for the purpose of calculating the Return on Capital. Within the VRS industry, the key investment and instrument for translating and transmitting information is the Video Interpreter, not a switch, cable or other piece of equipment as found in a traditional telecommunications company. The $2.79 per minute cost associated with providing the video interpreter, call centers, and related telephony as provided by NECA in the 2010 TRS Rate Filing[8] is a reasonable representation of the Hybrid Capital with the exception of return on net book value of depreciable assets. As demonstrated in Figure 2 below, an 11.25% return on Hybrid Capital results in a per-minute mark-up of $.73.

[8] *Id.*

Figure 2 Return on Hybrid Capital

		2009 Industry Avg.
A. Annual Recurring Fixed Expenses	$	0.2487
B1+E3 Interpreter Costs	$	2.0742
B Relay Center other Than Interpreter	$	0.4649
Hybrid Capital Costs Per Minute	$	2.7878
11.25 % Return on Hybrid Capital (1)	$	0.6433
F Return on Investment (2)	$	0.0855
Total Pre-Tax Return per Minute	**$**	**0.7288**

(1) Pre-tax return is 18.75% assumed a 40% tax effect utilizing NECA's methods

(2) NECA defines Return on Investment as a return on net book value of depreciable assets

Utilizing the Hybrid Capital method above, Figure 3 below illustrates a redistribution of the funds and margins to more accurately represent the costs within each Tier. In addition, this methodology would save the Fund approximately $115M in 2010 versus 2009, assuming total minutes have stabilized.

Figure 3 Rates Based on Hybrid Capital

	TIER 1	TIER 2	TIER 3	TOTAL	
REVENUE	$ 29,693,543	$ 130,272,744	$ 342,838,199	$ 502,804,486	5.12
Costs	$ 25,139,328	$ 110,821,281	$ 275,344,390	$ 411,304,998	5.54
INCOME (LOSS)	$ 4,554,215	$ 19,451,463	$ 67,493,810	$ 91,499,487	
Pre-Tax Margin%	15.34%	14.93%	19.69%	18.20%	
After Tax Margin (40% Tax Rate)	9.20%	8.96%	11.81%	10.92%	
MINUTES	4,574,826	19,309,864	74,272,292	98,156,982	
Historical Costs (less mark-ups)	$ 5.4951	$ 5.7391	$ 3.7072		
Other Adustments (WC, AGR)	$ 0.2667	$ 0.2785	$ 0.1799		
Hybrid Return per Minute	$ 0.7288	$ 0.7288	$ 0.7288		
2010 Reimbursement Rate	$ 6.4906	$ 6.7464	$ 4.6160		
2010 Fund Requirement	$ 502,804,486				
2009 Fund Requrement	$ 617,839,653				
2010 Savings to the Fund	**$(115,035,167)**				

Option 3: Consistent Margin

Another alternative to the Return on Investment is a Consistent Margin methodology in which the rate (11.25%) for each Tier would be determined by the companies within that group cost structure. A Consistent Margin methodology sets a fair and reasonable return for each Tier based on the cost structure within those Tiers. Adopting this structure would allow for competition between Tiers by recognizing and addressing the anti-competitive effects economies of scale may produce.

A utilization of the Consistent Margin method, as illustrated in Figure 4 below, would provide fair returns for all efficient providers across all Tiers while still saving the Fund $95M.

Figure 4 Rates Based on Consistent Margin

	TIER 1	TIER 2	TIER 3	TOTAL
REVENUE	$ 31,930,814	$ 140,760,076	$ 349,729,735	$ 522,420,626
Costs	$ 25,139,328	$ 110,821,281	$ 275,344,390	$ 411,304,998
INCOME (LOSS)	$ 6,791,486	$ 29,938,795	$ 74,385,346	$ 111,115,627
Pre-Tax Margin%	21.27%	21.27%	21.27%	21.27%
After Tax Margin (40% Tax Rate)	12.76%	12.76%	12.76%	12.76%
MINUTES	4,574,826	19,309,864	74,272,292	98,156,982
Historical Costs (less mark-ups)	$ 5.4951	$ 5.7391	$ 3.7072	
Other Adustments (WC, AGR)	$ 0.2667	$ 0.2785	$ 0.1799	
Consistent Margin per minute	$ 1.2179	$ 1.2719	$ 0.8216	
2010 Reimbursement Rate	$ 6.9797	$ 7.2895	$ 4.7088	
2010 Fund Requirement	$ 522,420,626			
2009 Fund Requrement	$ 617,839,653			
2010 Savings to the Fund	**$ (95,419,027)**			

Recognizing the concern the FCC may have over cost escalation, CSDVRS would propose an annual rate increase not to exceed the greater of ten percent or twice the rate of CPI.

*****Note on Capital Adjustment***

CSDVRS also addresses the issue of the 1.6% cost of capital adjustment as utilized by NECA.[9] The 2010 TRS Rate Filing states that NECA's calculation is based on a monthly rate.[10] This cost of capital adjustment may be reasonable in an environment of payment of thirty (30) days after services are rendered. However, in the VRS industry, a provider does not receive payment from NECA until, on average, sixty-five (65) days after the service is rendered. Taking the established 1.6% rate by NECA and applying the 65 day average period requiring working capital, an appropriate return would be 3.39%. It bears mentioning that the original 1.6% was set at a time when NECA reimbursed providers within 30 days of month's end. Starting July 2009, NECA changed this payment cycle to the 15th business day of the month following the month of submission. This flaw in the working capital adjustment formula resulted in NECA shorting the reimbursement rate by approximately $.11 per minute. The following Figures represent all-inclusive costs and an appropriate return necessary to provide VRS under the foregoing methodologies:

[9] *See*, 2010 TRS Rate Filing, page 15, note 31
[10] *Id.*

Figure 5 Rates Based on Return on Investment

	TIER 1	TIER 2	TIER 3	TOTAL
REVENUE	$ 33,876,530	$ 147,928,696	$ 410,748,986	$ 592,554,213
Costs	$ 25,139,328	$ 110,821,281	$ 275,344,390	$ 411,304,998
INCOME (LOSS)	$ 8,737,202	$ 37,107,415	$ 135,404,597	$ 181,249,215
Pre-Tax Margin%	25.79%	25.08%	32.97%	30.59%
After Tax Margin (40%)	15.47%	15.05%	19.78%	18.35%
MINUTES	4,574,826	19,309,864	74,272,292	98,156,982
Historical Costs (less mark-ups)	$ 5.4951	$ 5.7391	$ 3.7072	
Other Adustments (WC, AGR)	$ 0.2885	$ 0.3003	$ 0.2017	
Return on Investment	$ 1.1719	$ 1.1719	$ 1.1719	
Numbering Adjustment	$ 0.0895	$ 0.0895	$ 0.0895	
Video Phone Costs	$ 0.3100	$ 0.3100	$ 0.3100	
Research & Development	$ 0.0500	$ 0.0500	$ 0.0500	
2010 Reimbursement Rate	$ 7.4050	$ 7.6608	$ 5.5303	

2010 Fund Requirement	$ 592,554,213
2009 Fund Requrement	$ 617,839,653
2010 Savings to the Fund	**$ (25,285,440)**

Figure 6 Rates Based on Hybrid Capital

	TIER 1	TIER 2	TIER 3	TOTAL
REVENUE	$ 31,849,715	$ 139,373,721	$ 377,843,647	$ 549,067,083
Costs	$ 27,195,712	$ 119,501,065	$ 308,729,785	$ 455,426,562
INCOME (LOSS)	$ 4,654,003	$ 19,872,656	$ 69,113,863	$ 93,640,522
Pre-Tax Margin%	14.61%	14.26%	18.29%	17.05%
After Tax Margin (40%)	8.77%	8.56%	10.97%	10.23%
MINUTES	4,574,826	19,309,864	74,272,292	98,156,982
Historical Costs (less mark-ups)	$ 5.4951	$ 5.7391	$ 3.7072	
Other Adustments (WC, AGR)	$ 0.2885	$ 0.3003	$ 0.2017	
Hybrid Return per Minute	$ 0.7288	$ 0.7288	$ 0.7288	
Numbering Adjustment	$ 0.0895	$ 0.0895	$ 0.0895	
Video Phone Costs	$ 0.3100	$ 0.3100	$ 0.3100	
Research & Development	$ 0.0500	$ 0.0500	$ 0.0500	
2010 Reimbursement Rate	$ 6.9620	$ 7.2177	$ 5.0873	
2010 Fund Requirement	$ 549,067,083			
2009 Fund Requrement	$ 617,839,653			
2010 Savings to the Fund	**$ (68,772,569)**			

Figure 7 Rates Based on Consistent Margin

	TIER 1	TIER 2	TIER 3	TOTAL
REVENUE	$ 33,471,646	$ 147,078,233	$ 379,975,120	$ 560,524,999
Costs	$ 27,195,712	$ 119,501,065	$ 308,729,785	$ 455,426,562
INCOME (LOSS)	$ 6,275,934	$ 27,577,169	$ 71,245,335	$ 105,098,437
Pre-Tax Margin%	18.75%	18.75%	18.75%	18.75%
After Tax Margin (40%)	11.25%	11.25%	11.25%	11.25%
MINUTES	4,574,826	19,309,864	74,272,292	98,156,982
Historical Costs (less mark-ups)	$ 5.4951	$ 5.7391	$ 3.7072	
Other Adustments (WC, AGR)	$ 0.2885	$ 0.3003	$ 0.2017	
Consistent Margin per Minute	$ 1.0834	$ 1.1278	$ 0.7575	
Numbering Adjustment	$ 0.0895	$ 0.0895	$ 0.0895	
Video Phone Costs	$ 0.3100	$ 0.3100	$ 0.3100	
Research & Development	$ 0.0500	$ 0.0500	$ 0.0500	
2010 Reimbursement Rate	$ 7.3165	$ 7.6167	$ 5.1160	
2010 Fund Requirement	$ 560,524,999			
2009 Fund Requrement	$ 617,839,653			
2010 Savings to the Fund	**$ (57,314,654)**			

2. Company-Specific Compensation

Paragraph 13: Comment on the Feasibility and Advisability of Establishing Compensation Rates that are Specifically Tailored to the Individual VRS Companies.

CSDVRS submits that the Fund Administrator's use of an average, based on companies within a particular tier, obviates the need for company specific rates. The tiered rates encourage competition by not harming new and smaller entrants to the industry before they have achieved economies of scale typically enjoyed by the largest companies within an industry. CSDVRS submits that the tiered rate has encouraged competition, resulting in both improved service levels by all providers and product innovation that ultimately benefit the deaf and hard-of-hearing consumers. However, if the Commission were to abandon the tiered rate structure, CSDVRS would certainly prefer company specific rate calculations with incentives to inspire desired behavior. It must be stressed, however, that oversight of company-specific compensation methodologies must be clearly stated and include both financial and operational audits and timely responses at the request of the Commission or the Fund Administrator.

Paragraph 15: Comment on the Proper Use of Historical Cost Function

CSDVRS submits that the dominant provider's tendency to significantly overestimate the next year's costs in the annual data request, and past reliance upon such projections, has resulted in "supersized" operating margins for the dominant provider as a result of economies of scale not enjoyed by all other participants. Accordingly, CSDVRS is in favor of the historical cost approach with a factor for projection of reasonable costs increased by example not to exceed the greater of 10% or two times CPI. CSDVRS would note, however, that this method is flawed without a reasonable calculation of return on investment as noted previously. Failure to include a proper calculation of investment, and the proper return on investment as noted in Paragraph 12 of the NOI, has resulted in an artificially low per minute reimbursement rate for all providers with the exception of the dominant provider. By solely calculating return on investment based upon plant assets being deployed, the Fund Administrator has ignored the fact that VRS differs from other telecommunication delivery industries in that it is labor-intensive, not capital intensive. Any per minute rate must include both an historical cost component (with an appropriate adjustment for inflation), and a return on investment based upon the true investment necessary, not merely the depreciable assets of a provider. Lastly, CSDVRS would stress that once the new rate is calculated, it must continue for five years under a rate cap that accounts for increased cost over the five-year period measured by CPI.

3. Outreach and Marketing Costs

Paragraph 17: Comment on whether, and the extent to which, the Fund should compensate providers for outreach and marketing activities, including whether such funding should be capped for each provider.

CSDVRS submits that outreach and marketing costs, as well as other costs such as research and development and other auditable costs, should all be incorporated into the cost provider submissions to the Fund Administrator as they are inseparable components of running an efficient VRS service. CSDVRS believes that a proper rate setting exercise, combined with auditing of records for improper costs or accounting, will ultimately obviate the need to disallow certain costs. Indeed, with the data that has been historically provided on actual costs, inclusive of the 2010 year, the Commission will be in a position to set a rate considering these factors. Ultimately, with a proper rate in place, any provider that spends excessively will lose earnings and suffer individual company losses.

CSDVRS would further stress that a cap on those costs is unnecessary if the rate is determined properly including a fair rate of return. The expenses related to these efforts are part of an individual provider's business strategy, and one of several areas in which a specific provider may choose to differentiate themselves from competitors. CSDVRS believes such expenditures are important to promote the availability of the service, and each provider is motivated to not overspend outreach funds in order to sustain a profit or limit loss. CSDVRS submits that each provider's choice to spend funds in areas such as outreach, research and development, additional hiring (to decrease answer times), and other areas are ultimately geared toward improving the service offer for the consumer which will result in better market share.

Paragraph 18: To whom may providers direct outreach activities for which providers may be compensated from the Fund?

CSDVRS submits that outreach or marketing activities (absent an industry compliance issue such as the ten-digit numbering initiative) should be left to the individual provider and, given proper and adequate rate calculation, such funds would be used at the provider's discretion. CSDVRS believes in a free market business approach that demands marketing activities specifically meant to find new customers for a specific provider, or, more succinctly, to train and educate new VRS users that currently are not utilizing the service (rather than marketing to existing customer bases). A market-based initiative for outreach and marketing will ultimately drive the most efficient and cost-effective efforts.

Paragraph 19: Comment on whether the Commission or administrator would be able to more effectively conduct a TRS outreach program through a coordinated, nationwide effort

The concept of the Commission or the Fund Administrator conducting the outreach would not eliminate outreach by the individual VRS providers insofar as each provider would still undertaking outreach and marketing activities to demonstrate why they are a better option for the consumer. Moreover, FCC or Fund Administrator-driven outreach and oversight would create an additional tax burden to the Fund with no accountability. Also, assessing the efficiency of such efforts would be virtually impossible. Today VRS providers measure their efficiency though minutes of service. If minutes are low based on service or product, the provider has to limit its outreach and marketing expenses as they will eat into profitability or cause the provider a loss.

CSDVRS would further submit that outreach to the general public is inefficient to the point of absurdity for the individual VRS provider. Indeed, an outreach initiative to the general public at large could exponentially increase costs given the size of the general population as this outreach could become the sole purpose of reimbursement. Clearly this would not be an effective nor advisable use of Fund resources.

4. Research and Development Costs

Paragraph 20: Comment on whether and, if so, the extent to which the Commission should revise its rules to explicitly permit compensation for research and development

CSDVRS submits that research and development is not a significant portion of the costs incurred by a VRS provider unless the provider chooses to enigineer and develop products from inception to support the needs of its service. Today platform support is part of operations and encompasses a large part of the expense of being a VRS provider. CSDVRS believes the evolution of technology in video and mobile communications will continue to afford VRS providers multiple off the shelf products and the ability to provide services with a limited R&D budget. In order to provide functional equivalency, VRS providers need to stay up to date on current technology as innovations are continually made in video and mobile communications. CSDVRS would reiterate its belief that research and development, although limited, is indeed a necessary component of VRS and should be include in cost submissions to the Fund Administrator.

There is also a need for interoperability amongst VRS providers so that provider networks interoperate and provide seamless service to the deaf and hard of hearing utilizing VRS. In addition, there is a need for standards amongst VRS providers as well as equipment providers. CSDVRS recommends that an IETF Working Group be formed to address interoperability, seamless communication, and support for utilizing standard signaling for communication. The Working Group's goal would be to provide guidelines to the VRS industry aimed at the greater good of the VRS industry. The dominant provider has systematically used proprietary and non-standard products and methods to thwart competition. CSDVRS submits that the Commission must take the lead on this vital matter by establishing and participating in a Working Group so that the VRS providers can take advantage of research and development innovations in technology from standards already set forth in the communications industry.

5. Videophone Equipment

<u>Paragraph 21: Comment on videophones</u>

The NOI's inquiry into the issue of videophone equipment is extremely broad, and CSDVRS would caution that the topic is rather complex requiring directed answers. CSDVRS herein addresses particular questions as raised.

<u>a. How should the Commission compare the costs and quality of different videophones with the cost and quality of different voice telephones?</u>

CSDVRS submits that videophone equipment costs considerably more than voice telephony equipment. There is certainly more complexity and more hardware and software inclusive of an expensive video codec and the need for an expensive screen. The average price for a videophone is $300 or more. In addition, a personal computer can be converted to a videophone for the costs of a capable computer, and a software videophone client which averages more that $100 per software application. There is no VRS without a videophone and equipment costs necessarily have to be part of the business of VRS.

b. Do VRS users have similar [equipment] options [to voice users] and if so, what are they?

In order to support the provisioning of VRS a user *must* have either a videophone or a software application inclusive of appropriate equipment to connect it to the internet. This equipment, or software application, is expensive to develop, distribute and maintain. Because of this, and attendant voids in interoperability amongst the providers, VRS users are somewhat limited in the choices afforded to them as opposed to those available to hearing users. Additionally, the entire field of Communications over the internet has historically been an unregulated service for the hearing world. In the amendments to the Commission rules made in 1996 it was deemed that communication between two devices over internet protocol was an "information service." This definition completely contradicts the existing rules for videophone equipment as it pertains to VRS.

CSDVRS submits that standards from telecommunications governing bodies such as the ITU already exist, and these standards can facilitate the interoperability between devices distributed by VRS providers. These standards should be defined as statutory minimum requirements for videophone in order for the devices to be eligible to be distributed through a "voucher" program (discussed below). CSDVRS submits that the minimum standards that should be adopted are SIP, RFC 3261, H.323v2, H.264, and G.722. Again, CSDVRS would urge the Commission to facilitate the creation of a VRS Working Group which meets on a periodic basis to ensure interoperability for all videophone devices. If no alterations are made, then, at an absolute minimum, the Commission should maintain the existing rules, whereby, any phone *distributed in any subsidized fashion* by a provider *must* communicate with all other VRS provider services. This simple requirement would ensure that there is always at least one method of interoperability between a service provider and the videophone equipment used to access VRS.

CSDVRS would urge the Commission to re-affirm that any provider may utilize existing technology available to the public to facilitate the use of VRS. To that end as stated above, CSDVRS submits that FCC rules on interoperability should only apply to subsidized phones with specific subsidy for the deaf and hard-of-hearing related to the provision of VRS. Therefore, if a phone is available and purchased in the open market, it would not be subject to interoperability rules. For example, the Apple iPhone 4 and Samsung Epic are devices that can provide the access required between a deaf consumer and an interpreter. CSDVRS believes there is no need to regulate these devices or impede their use to be used in the provisioning of relay service. The same would hold true for use of any of the off the shelf and customized software applications uses to facilitate video communications such as AOL Instant Messenger or Apple iChat. However, should the implementation of these technologies require research and development, CSDVRS believes that these costs should be captured and applied to any of the other capital costs associated with the provisioning of video relay service.

c. Should the Commission create a program to create direct user subsidies for the provision of videophones?

In regard to a direct consumer subsidy, or "voucher" system, for the acquisition of videophones, CSDVRS submits that a system whereby deaf consumers receive a voucher for one new video phone every three years would be appropriate for a standalone videophone or a videophone that uses a television as the monitor. In the case of videophones that operate on a personal computer, CSDVRS submits that the costs for these soft phones should be included in the annual provider cost submission, thus allowing providers to subsidize the costs. Indeed, the creation of a voucher program that is tied to a unique identifier such as the local phone number in the iTRS database could be used as a mechanism to determine eligibility for the voucher program.

d. Should VRS providers be allowed to require long-term contracts with VRS users …as many wireless telephone companies do now?

CSDVRS fully supports a firm fixed contract agreement when a deaf or hard-of-hearing consumer selects their default provider or ports to a new provider (preserving, however, the option to dial around), and CSDVRS submits that this would be equivalent to contractual obligations hearing telephony users when they select a cellular carrier. CSDVRS contemplates that a one year agreement to remain with the VRS provider of choice will result in a significant decrease in outreach expenses and eliminate multiple videophones in a household where the second and third devices are not in use. Ultimately, this will inure to the benefit of the Fund.

6. Protection of Providers from Under-Compensation and Avoidance of Over-Compensation

Paragraph 22: Comment on the concept of a "true up"

CSDVRS submits that a "true up" mechanism is not necessary if a proper rate setting methodology is implemented. Such a provision would eliminate the need for providers to develop and understand the key financial metrics necessary to run a successful business. Again, use of historical costs combined with a reasonable increase in costs for projected costs eliminates the need for any true up. .

Paragraph 23: Comment on whether the current rate-of-return methodology remains appropriate

In regard to rate-of-return methodology, as indicated above per the May Comments, CSDVRS believes that the Fund Administrator's current rate of return calculation with respect to a "current rate of return method" proscribed in the 2003 Rate Order is fundamentally flawed, and the flaw is magnified in a labor intensive environment such as VRS. The Fund Administrator inappropriately interprets "capital" to be investment in fixed assets, or capital expenditures, which has little, if any, correlation to the concept of return on investment as proscribed. The 2003 Rate Order, however, specified a return on investment of 11.25% after taxes. A properly calculated return on investment compensation plan would still attract potential investors while not offering oversized returns to the overleveraged dominant provider. A proper calculation would eliminate certain debt for repayment and dividend payments from being considered in the rate methodology process.

7. Certification

Paragraph 24: What kind of certification process is appropriate for providers of videophone equipment, video communication service, or relay interpreter service?

It is the overall view of CSDVRS that the current certification process for VRS providers is flawed. This is evidenced by the amount of fraud the Fund witnessed over the last three years. CSDVRS submits that an entirely new certification process should be established that factors in many of the concerns the Commission voiced in the NOI. In prior submissions concerning "white label" entities and certification procedures, CSDVRS specifically delineated express criteria that the Commission should consider when permitting non-certified providers to operate.[11] CSDVRS submits that similar criteria coupled with current certification requirements should apply when an entity seeks FCC certification. These additional criteria should include the following:

1. The entity seeking certification must be a recognizable and duly organized corporate entity with directors/executives accountable for corporate acts. The entity should also have a cognizable management structure that assigns respective responsibilities.
2. The entity must maintain operational facilities including corporate offices and at least one functioning call center.
3. The entity must maintain a proper web site and interactive voice/video response system ("IVVR") on the video leg of its calls that clearly identifies its name or logo.
4. The entity must generate and implement a code of ethics that reflects adherence to Commission rules. The code of ethics should be executed by all employees, agents, and subcontractors of the entity.
5. The entity must agree to complete audits by the Commission and/or by the Fund Administrator upon reasonable notice.

[11] *See, In the Matter of Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CSDVRS Response to GoAmerica Petition for Rulemaking, CG Docket 03-123 (April 21, 2009); *In the Matter of Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CSDVRS Comments and Petition for Declaratory Ruling, CG Docket 03-123 (April 27, 2009); *In the Matter of the Video Relay Service Program,* CSDVRS Comments on Notice of Proposed Rulemaking, CG Docket 10-51 (June 10, 2010)("NPRM Comments").

6. The CEO, CFO or equivalent corporate officer of the entity must attest to the veracity of billing submissions (as is required for certified providers under the instant Declaratory Ruling).

Providers should be able to document and demonstrate how they meet each of the minimum standards established by the Commission, as well as be accountable to consumers for all acts and omissions that may occur in the provision of services to the deaf and hard-of-hearing community.

B. Part II – Broader Economic Issues Concerning Video Relay Service

1. Components of Video Relay Service

Paragraph 34: To what extent does existing videophone equipment rely on proprietary protocols rather than common standards?

Current video phones use one of two protocols - H.323 and/or SIP. The devices put to market by the dominant provider use a proprietary implementation of H.323 with many critical features of H.323 disabled on those specific phones. CSDVRS estimates that over 90% of the videophone equipment in use today is provided by the dominant provider with this proprietary codec that does not support the current standard in videophone equipment, and therefore the devices do not always function seamlessly with videophones distributed by other providers. This is clearly against the intent of the interoperability ruling. Accordingly, and to address the Commission's inquiry, CSDVRS submits that it is absolutely essential that the FCC compel the industry to follow standards for video phones supporting either H.323 or SIP protocol standards. CSDVRS believes that an IETF working group should be formed to address interoperability and support for utilizing standard signaling for all videophones, and interoperability testing and certification processes should be established as part of the standard. Network standards should also be implemented in the form of minimum network uptime and availability requirements to process VRS calls. If the feature is housed "in network" then the deaf user must have the capability to export and import the information contained in the "in network" feature (e.g. contact list or call). Ultimately, an established standard will allow videophones to be moved between providers and maintain standard functionality. Moreover, clear standards will result in a device paradigm that fosters the development of new video products and adaptation of current products to meet the needs and expectations of the deaf community. This will eventually lead to increased competition and development of videophone products.

Paragraph 36: Is there any off the shelf hardware or software, such as webcams or other general user technology that could serve as an acceptable substitute for videophone equipment and software that are specially designed for VRS users?

In this regard, CSDVRS submits that owing to the fact that videophone devices on the open market need to be integrated into the VRS providers network in order to provide ten-digit numbering functions (as well as enhanced features), VRS users generally must rely on the equipment distributed by VRS providers. Moreover, as VRS providers must keep the iTRS database updated with the current IP address for the associated ten-digit numbers as well as provide E911 support, externally distributed videophones would require significant re-engineering in order to be operable on provider platforms. CSDVRS has tested commercial off the shelf videophone equipment (hardware, software and mobile) and found that it can be used for VRS calls, and often exceeds functional equivalent requirements. However, in each case, the device must be accessible enough for the VRS provider to integrate it into its network to support ten-digit numbering and E911 requirements. CSDVRS notes, however, that the public market in videophone telephony products has been problematic at best with the only demonstrable successful Video Phones produced by companies like Tandberg, Polycom and Cisco at significatntly greater expense than the phones offered in VRS.

Paragraph 37: What are the functionalities that VRS users need from video communication service providers?

Since the implementation of interoperability, and the continued sustained growth in the industry, CSDVRS has learned that VRS users need and expect a base set of features from a video phone. They are as follows:

a) The ability to make a VRS call through any VRS provider

b) The ability to receive a call from any VRS provider

c) The ability to make a VRS call using a ten digit number or service name of a provider (e.g. CSDVRS.tv)

d) The ability to make a point-to-point call using a ten digit number

e) The ability to receive a call from any other deaf user with a ten digit number and hardware provided by an authorized VRS provider

f) The ability to have 911 call automatically routed through the default provider to the appropriate PSAP

g) The ability to make a manual 911 call through any VRS provider should the default provider not be available or not answer a 911 call fast enough

h) The ability to have call list that shows:

- Received calls (name and number of caller)
- Placed calls (number called)
- Missed calls (name and number of caller)

i) The ability to have a contact list and ability to manage the entries.

j) The ability to move entries from the call list into the contact list

k) The ability to import and export the contact and call lists for transfer to another video phone or mobile phone

l) The ability to manage user location information to make changes needed for 911 support

m) The ability to create, receive and view video mail

n) The ability to control the establishment of an audio channel as part of the call to support VCO and HCO requirements

o) Caller ID

CSDVRS and other VRS providers have undertaken significant R&D efforts in the past several years to offer these functionalities to consumers, yet, as raised in the NOI, certain proprietary standards oftentimes interfere with effective implementation.

CSDVRS notes that broadband internet service is the primary necessity for access to VRS. Accordingly, CSDVRS submits that the Commission should take action to require broadband providers to offer service bundles to deaf and hard-of-hearing persons that support minimum requirements needed to VRS services. This should include a minimum bandwidth of 512 Kbps, no data caps for VRS calls, and no bandwidth throttling of VRS calls during high network utilization periods (e.g 3:00 p.m. to 9:00 pm). This requirement must be factored into any discussion on net neutrality rule discussion to ensure that VRS calls don't become marginalized in the major carriers' quest to monetize the broadband connection. In regard to quality of service, CSDVRS believes that the open competitive market that exists today will provide for a continued push on quality. Indeed, CSDVRS surveys of deaf consumers consistently rank quality of interpreting of the primary importance to VRS users, and quality of Video/Service second. These rankings are in addition to the video phone equipment, features, portability, etc.

Paragraph 38: What are the functionalities that VRS users need from ASL relay interpreter services?

In regard to the needs of VRS users pertaining to CAs, CSDVRS submits that quality and professionalism are paramount to this issue. Indeed, while the Commission rules state that reaching a CA should be the equivalent of receiving a dial tone on a hearing call, and that functional equivalency means that CAs must be available at all times and sufficient in number so that a VRS user may reach a CA without long waiting times, CSDVRS believes CAs hold an infinitely more important role. CSDVRS users have come to expect its CAs to be of the highest quality, professional in behavior and in presentation, and uphold the in code of conduct of the interpreting profession. CSDVRS only employs those CAs who have met a minimum criterion, which includes but is not limited to, national certification, three to five years of experience in the field of interpreting, and a genuine passion for customer service. As for additional functionalities of the CA to ensure functional equivalence, CAs are asked to culturally mediate situations real time between callers who do not see each other, and they are expected to keep VRS users informed throughout a call of things that may not necessarily be spoken by the audio caller they are connected to. The most difficult work in the entire industry is done by the CA, and their work does not compare to that undertaken in other forms of TRS. Only CAs in VRS allow callers to communicate in real time with full emotions being expressed as part of the call. The future needs of VRS users may include the need for specialized services or specialized communication needs, and to that end, CSDVRS would remind the Commission that the cost of quality interpreting is on the rise. Indeed, to continue to offer truly excellent service, CSDVRS submits that the Commission should ensure that only certified interpreters are utilized in the provision of this vital service. CSDVRS is comfortable with its ability to respond to the needs for interpreting, as well as the quality demands on CAs, and would implore the Commission to ensure the same exacting standards are upheld across the industry. Of course, demanding such qualifications would reduce the number of CAs that could perform in this environment, which would undoubtedly increase CA costs until more certified CAs are available. Market dynamics suggest shortage of qualified CAs would lead to greater compensation, which would in turn lead to more people pursuing certification, which would then result in compensation stabilizing and quality interpreting improving.

Paragraph 39: General View of VRS Components

a. What are the primary qualities that VRS users look for when selecting a provider?

First, as referenced above, CSDVRS has learned that the quality of the actual interpreting is the primary concern of consumers, and second to that is the quality of the service and video phone (defined as video quality and speed of answer). As time has lapsed, and providers have improved their service offerings, a less perceived difference between providers in these two areas has evolved. Following these issues in importance to consumers is the video phones themselves and the various features that are on par with the hearing world...

Second is the matter of access and quality of video calls between two or more deaf users (point to point calling). CSDVRS estimates that 80% of calls made from VRS supplied video phones are point to point. Without excellent support of this primary application, a user will not use the phone for VRS. In light of this, CSDVRS submits that the Commission needs to enact rules that clearly define point to point calling as a deaf to deaf call also which would fall under the ambit of functional equivalency.

b. Why do end users switch providers?

In regard to switching of providers, CSDVRS believes that VRS number portability today emulates the wireless world with the exception of a firm period commitment. CSDVRS has found that port-ins to its service are largely driven by the videophones CSDVRS has put to market. CSDVRS also has port outs very often driven by confusion associated with communication from the dominant provider. CSDVRS would note, however, that a very real disincentive is in place that obviates that Commission's initiative on full equipment portability, and that is the dominant provider's de-featuring of a ported-out videophone. CSDVRS futher submits a consistent form with signature of the deaf consumer and clear communication is necessary to prevent miscommunication and misinformation when porting phones. The provider should be required to have this form subject to audit and fines.

Paragraph 40: Are there any other necessary components or different ways to consider the structure of this vital service?

CSDVRS submits that the technology demands to support a platform with interoperability, the ability to produce an accurate call detail record, the ability to detect foreign calls, the ability to support enhanced features such as video mail, call forwarding, ringing two phones at the same time, and point to point calls between different standards and devices makes VRS more and more complex but more functionally equivalent to the consumer. CSDVRS believes that ultimately this harkens to gets back to the issue of certification: if the purpose of the new company is simply to have a new brand and go to the existing installed base with no platform of substance of differentiation CSDVRS does not believe such an entity should be certified. The Commission must protect the cost of outreach where it is simply getting customers going back and forth with providers who simply market friends and family or brand.

2. The Demand for Video Relay Service

The Commission has sought comment on the growth and demand for VRS.[12] There has indeed been considerable growth in the industry in the past three years, as evidenced by the size, contributions, and distributions from the Fund, and CSDVRS submits that program has been extremely effective and life-changing for many deaf and hard-of-hearing persons.

[12] *See*, NOI at pp 14-16

Paragraph 42: Comment on the number of users served

In regard to the numbers of users served, CSDVRS, of course, has information based on each telephone number, registered by CSDVRS in the iTRS database, including user's name, email address, street address which is used for E911, IP address, the type of device, and the VRS call detail records placed to and from the telephone number. CSDVRS is open to more transparency with the Commission and the Fund Administrator. However, the information should be provided with anonymity of the user information and handled as strictly confidential information that is not publicly accessible and not available to other VRS providers. The additional information will allow additional analysis to determine market dynamics and anomalies in the VRS industry. However, the additional information still has flaws in accurately reflecting the number of VRS users due to the fact that in many households and communities users share a single videophone. In addition, there are many cases where users have more than one videophone from different VRS providers so it is difficult to determine the actual number of VRS users. Further, CSDVRS does not have reliable data as to the actual number of people in the United States that are deaf or hard-of-hearing. However, CSDVRS believes the dominant provider, or national organizations such as Gallaudet Research Institute and Rochester Institute for Technology – National Institute for the Deaf (NTID) may have this type of data.

Paragraph 44: Comment on the extent to which there may be technological barriers to using VRS

CSDVRS submits that de facto technological barriers to using VRS are extremely limited and are lessening even more so as technology improves. However, the cost associated with accessing broadband for VRS is indeed a limiting factor to its usage, and there is a large group of deaf and hard-of-hearing people that do not use VRS because of this cost issue. This applies equally to mobile phone access where data plans for internet access or even text messaging can be cost prohibitive. The costs of videophones would likewise be cost prohibitive were it not for the subsidization of equipment that occurs industry-wide.

Paragraph 45: What factors are driving total VRS minutes of use per user?

In regard to the driving factors of minutes of use and their comparison to functionally equivalent voice telecom, CSDVRS would only comment that the deaf community, like the hearing community, uses email and text messaging and chat to communicate. CSDVRS believes that over time this will result in less minutes of use of VRS. In addition, as hearing people that are able to communicate in ASL gain access to Video equipment, there will also be a trend of less minutes of VRS use as inter-ASL communications are done point to point. As for utilizing other video communication approaches such as Skype as opposed to video relay, CSDVRS submits that such platforms can be effective for point to point calls between deaf users, but it is not appropriate for VRS calls. As to the final point on providing ten-digit phone numbers to hearing people to communicate point to point, rather than through VRS, CSDVRS believes that allowing this will ultimately reduce the number of VRS calls and consequential billing to the Fund.

Paragraph 46: Comment on why potential users do not actually use VRS

As to the final inquiry in the section CSDVRS again asserts that the greatest factor affecting access and potential use is the cost and availability of high speed internet. CSDVRS believes another factor is the fear of new technology.

3. The Supply of Video Relay Service

The NOI seeks information concerning VRS provision limitations, from the provider's prospective, in regard to obstacles to competition and efficiency.[13] CSDVRS submits that there are several concerns to be considered in this regard and addresses specific questions in kind.

Paragraph 49: What are the cost drivers for, and the cost structure of relay interpreter service (e.g. start-up versus operating costs, fixed versus variable costs)?

CSDVRS submits that the primary cost driver in the provision of VRS is the actual cost of CAs and other costs of operating a call center followed by platform and platform operational costs. The costs of rents, utilities, management and equipment have risen consistently over the past several years, but most volatility has been with the most expensive cost driver, which is the CA. Although CSDVRS does not currently see a shortage of CAs, it experienced a great deal more difficulty finding qualified interpreters a mere eighteen months ago. Naturally, larger call centers would allow the "fixed costs" of a call center to be amortized over more minutes, but at the risk of creating a shortage of community interpreters. Additionally, CSDVRS has found that while the gains in growing a small center to a moderate center are significant, there is a point in which the benefits of growth are negligible.

The fixed costs of a center are the facility and the call center manager (platform and broadband costs increase with more volume but not as rapidly as interpreting expenses). The bigger the center, the more such fixed costs are amortized across the actual interpreting expenses. Bigger centers with greater volume have lower fixed cost per minute. However, at a certain size these differences become insignificant. The challenge for smaller providers comes at night and

[13] *Id.* at ¶¶48-52.

on weekends, or if they elect to support Spanish VRS. Then the challenge of efficient calls centers is exacerbated. CSDVRS would caution against larger call centers because they tend to reduce the availability of interpreters for community based interpreting. CSDVRS has been able to open very efficient smaller centers in suburban areas allowing it to recruit efficiently, and has also developed a very secure means to offer at-home office interpreting (which is referred to by the company as Secure Remote Interpreting or "SRI") that allows for increased interpreter safety, better overnight and weekend efficiency, eliminate of commuting, and better recruitment.[14] Additionally, while the cost to purchase and maintain the platform through which these calls are routed is generally fixed, there is a point in which additional investment is needed to efficiently handle more VRS calls. While costs generally reduce as a call center handles more minutes, there will be instances in which the additional call load over the entire network necessitates additional investment.

a. How many potential CAs are there in the United States? Are there enough to meet current demand and will there be enough interpreters to meet projected demand?

While there is not an apparent shortage of interpreters, CSDVRS would note that the demand for qualified VRS CAs will always exist and will be ongoing for the next three to five years. According to the commissions Declaratory Ruling, Order and Notice of Proposed Rulemaking released May 27, 2010, there are 15,000 members of the Registry of Interpreters for the Deaf, the national membership organization for professional sign language interpreters in the United States. Today, relay services are offered by a number of providers, on demand, 24 hours per day, 365 days per year. However, not all CAs are equal in quality and/or level of

[14] *See, In the Matter of Structure and Practices of the Video Relay Services Program*, Comments of CSDVRS, LLC, CG. Docket 10-51 (June 10, 2010)(describing the utility and security of at-home interpreting).

certification. Accordingly, shifting the provision of CAs to a national pool for all providers to utilize on an "on-demand" basis would ultimately operate to the detriment of the consumers and providers. Therefore, CSDVRS is vehemently opposed to centralized structure for the provision of CAs in VRS.

Paragraph 50: How many hearing individuals use video communication services? Do the business models and practices of mass market video communication services providers (e.g. Skype) provide a good analogue for understanding this component of the market?

CSDVRS would first note that soft phones utilized in VRS, such as the CSDVRS' Z-4, are modeled, at least in part, on internet-based video communication modules for hearing telephony. However, CSDVRS would note that the VoIP model is not analogous to VRS. Indeed, the Z4, and other similar products in the market, are dramatically better quality than Skype or other internet based services. It is also worth noting that consumer-based video communication models have been unsuccessful in hearing telephony whereas it has met with great success for deaf and hard-of-hearing persons in VRS. And while business-based video communication models have been successful (led by companies like Cisco, Tandberg and Polycom), the video phones and the cost of these services are at a minimum ten times the cost of VRS. The providers in the VRS industry have thus done an outstanding job of providing quality video to consumers at a dramatically less cost than any successful public video offer. Accordingly, the models between the hearing telephony video communications model and the VRS model cannot be reconciled.

Paragraph 51: What is the cost structure of the videophone market?

In consideration of the foregoing, CSDVRS notes that the business class video market is a muti-billion dollar market (again led by Cisco, Tandberg and Polycom). It has not intersected with the VRS market with the exception of CSDVRS and its efforts in the government, schools and big business where the high end videophone products are being utilized. Mobile video is becoming a reality and the development of open development platforms by mobile video phone providers will result in a new market. CSDVRS does not plan any subsidization directly from VRS providers but would welcome support directly from the Commission or from the States. CSDVRS would urge the Commission, however, to be proactive and get ahead of the mobile video development curve and dictate subsidization rules as that clearly seems to be the direction of the market. In terms of cost of non-mobile video phone equipment, the only thing that will reduce the cost is a successful consumer based SIP federated market for video phones which does not exist today.

Paragraph 52: What are the advantages and disadvantages of a single entity providing relay service and videophone equipment?

CSDVRS submits that there is a direct connection between providing the phone and providing the service. It is simply easier to use the phone that was provided even in lieu of dial around. CSDVRS has suggested an alternative to porting and a new default selection period in its most recent petition for rulemaking whereby the videophones would become fully portable amongst the providers without losing their enhanced features.[15] This rule, if implemented, would open up competition in the VRS marketplace based on quality of interpreters, rather than

[15] *See, See*, *In the Matter of Structure and Practices of the Video Relay Services Program*, CSDVRS Petition for Rulemaking, CG Docket 10-51 (August 8, 2010).

the size of the provider and/or its ability to widely distribute subsidized videophones. If this rule prohibiting de-featuring of phones is enacted it will also be important for the Commission to demand a new open default selection period.

4. The Regulation of Video Relay Service

The NOI next seeks comment on existing reimbursement structures and other aspects of FCC oversight and regulation of the industry.[16] CSDVRS offered significant commentary on reimbursement structures in its May Comments, but again stresses some important points as raised and addresses this section of the NOI at large.

CSDVRS first comments that there simply is no way around the cost of VRS. It is a labor intensive industry and it is expensive to operate a quality service. Outreach and marketing are a real part of a successful enterprise in VRS, as are platform development, network expenses, telephony costs, and overhead. Currently, certain significant costs are incurred that are necessary to comply with FCC requirements and to operate within an industry that can attract capital, but those costs are specifically excluded from TRS reimbursement structure. Among these costs are the costs of providing videophones, which is necessary to truly compete and offer full functionality to the user. Other significant costs include the expenses of complying with the ten-digit numbering and E911 support. As noted in its May Comments, CSDVRS estimates that the cost of compliance is approximately $.05 per minute before taking into account non-recurring costs related to issuance of new numbers and manpower expenses needed to monitor or execute according to the requirements. Indeed, the total cost for compliance for CSDVRS, including new numbers and manpower, is almost $.09 per minute.

[16] *See*, NOI at ¶¶53-62.

Unfortunately, the current compensation structure has operated to incent fraud against the Fund in the past and may have been perpetrated, at least in part, to overcome losses occasioned by the rate compensation methodology utilized by the Fund Administrator. CSDVRS believes that recent Commission rulings have provided a far more stringent and appropriate oversight which has resulted in a healthier industry for consumers, the Fund and VRS providers that have operated in an ethical manner. In the past year, CSDVRS has witnessed a stabilization of minutes in the industry, with the reduction in fraud offset by more consumers becoming aware of the benefits afforded by VRS. CSDVRS submits that a proper rate calculation methodology (as referenced in the May Comments and reiterated earlier in this document), combined with diligent and fair oversight and substantial civil and criminal penalties for wrongdoers, will ultimately protect the integrity of the Fund and inure to the ultimate benefit of VRS consumers.

Finally the Commission raises the issue of possible economic distortions stemming from the current cost-recovery aspects of VRS regulations in Paragraphs 60 and 61. CSDVRS submits that the current rate structure has indeed caused distortions in components of VRS communications insofar as the underlying structure of VRS has been modeled after a Local Exchange Carrier ("LEC") which has high fixed equipment costs and investments. This inevitably leads to a cost structure that rises in a step function as traffic increases. A set of fixed assets can process a specified amount of traffic, and processing the maximum amount of traffic the equipment can handle before further investment is required optimizes costs. This makes the cost/minute cost of the asset essentially flat until the investment in the asset is recouped. Thereafter, for a LEC the only cost associated with the asset to process a traffic load is maintenance. However, in VRS the major component of cost to process a minute of VRS traffic is a video interpreter. VRS providers of course must invest in equipment to house equipment that distribute video calls, create billing records, and maintain support systems, but this is only a minor portion of the costs associated with VRS. The major cost is the salary and benefits paid to the CAs that process the VRS calls. This cost is a completely variable and increases in lock step with traffic load. CSDVRS offered comprehensive dialog on this matter in its May Comments. Ultimately, CSDVRS believes that the current rate structure should be enforced and not misinterpreted, focusing on a rate of return on investment rather than return on fixed assets. This would allow the VRS providers to focus on improving the efficiencies of their services and create a reasonable basis to acquire equity investment in equipment R&D, marketing, and sales and ultimately to grow and expand to serve a greater number of deaf and hard-of-hearing consumers. CSDVRS is aware of the Commission's challenges concerning overpayment, particularly to the dominant provider, but submits that enforcement of the 11.25% rate of return combined with historical costs with a modest factor for projected increased costs ultimately solves the issue.

5. The Incentives of Providers

Paragraph 63: What measures should the Commission take to better realize the goal of reimbursing VRS providers for the costs of providing relay service, to ensure that VRS providers have incentive to provide and promote use of VRS, without creating incentives for VRS providers to encourage high-volume use that VRS users would otherwise not incur?

CSDVRS would first affirm that it does not undertake any actions that would motivate users to place VRS calls that they would not ordinarily make, nor would it ever condone such behavior. In an effort to curtail any such activity, CSDVRS submits that a statistical analysis of the annual cost data would reveal providers that do create such incentives. For example if the average call length of a provider with a statistically significant call volume varies significantly from another provider's average call length, it may suggest the provider with the higher average call length is offering improper incentives. For example, at CSDVRS the average call length is 4.x minutes. If the average call length at another provider is 5.5 minutes, the FCC should question what is driving that difference and audit the records of the suspect provider. If it is indeed an improper incentive, the Commission could then take appropriate action on the matter.

CSDVRS has offered significant additional discussion on incentives to VRS providers in its May Comments, particularly as to financial incentives as they are clearly what drive for-profit companies in the industry. In regard to the five initial inquiries concerning provider incentives as presented in the Paragraph 63 of the NOI, CSDVRS responds in kind as follows:

(1) CSDVRS submits that if the Commission desires to encourage competition within the VRS marketplace, then it must take definite steps within its rulemaking to establish predictability and more definite standards. Primarily, the Commission must establish a reasonable, equitable, and stable rate based upon standing predicate (and as more fully described and examined in the May Comments). CSDVRS would also submit that the Commission must clear up any remaining "gray areas" as to the compensability of certain types of calls, establish means for payment withholding according to fundamental concepts of due process, establish more stringent certification rules, and ardently pursue fraud and wrongdoing in the marketplace. These measures will stabilize the market, weed out potential wrongdoers, and promote innovation and competition among the VRS providers – all to the ultimate benefit of the consumers.

(2) CSDVRS submits that it is not necessary for the Commission to "channel [its] efforts" to "foster innovation and improve services for VRS users." Indeed, this statement is the core of the VRS industry! CSDVRS, for example, prides itself as the most innovative company in the industry. In the past two years, CSDVRS has released three new video phones to the market (Z340, Z150 and the ZOjo), a software client available for download for both the PC and MAC systems (Z4) and recently VRS on the Apple iPhone 4. These are only a sampling of some of the innovations brought to the industry from CSDVRS. Nonetheless, in consideration of the points raised in the preceding paragraph and the May Comments, CSDVRS submits that a clear-cut system to fund ongoing research and development efforts of technological and practical innovations would be extremely beneficial to providers and consumers. As such, if the Commission intends to channel efforts in promoting innovation and improving services so as not to limit what could be done by a truly passionate provider, the establishment of a comprehensive rate that adequately funds R&D and platform operations should be the Commission's primary focus.

(3) The question posed is extremely overbroad. CSDVRS cannot adequately comment beyond the bounds of what is expressed generally in this document as well as the comments submitted in response to the last Notice of Proposed Rulemaking,[17] and the May Comments. CSDVRS submits that the Commission must view all comments submitted from the providers and consumers, and carefully consider the analyses and data most pertinent for review and incorporate them into subsequent rulemaking.

[17] *See generally,* NPRM Comments.

(4) Without a sense of what the direction the commission may take as it relates to VRS or the regulations of VRS, it is difficult for CSDVRS (or any provider) to ascertain what impact(s) there might be to service provision. However, as with any new procedure or process incorporated into the industry, clear expectations, training, and time are the crucial needs so as to be able to explain and account for changes. As such, for any major shifts or changes to VRS regulations, the Commission must ensure that providers are given ample time to generate the necessary materials for employees and customers, conduct training and outreach efforts on any new procedure(s), and time to implement the new process(es). With clear guidelines from the Commission, a transition to a new structure should not cause major service disruptions.

(5) CSDVRS fully supports efforts by the FCC and the Fund Administrator to demand accountability from VRS providers, and lauds recent efforts to combat waste and fraud. CSDVRS would stress that full and adequate oversight must include a system of financial audits of VRS providers, and harsh penalties for those that refuse to comply. Indeed, provider audits should be mandatory and cannot simply be refused or perpetually delayed, as has happened in the past, without penalty. Furthermore, the requirement of annual audited financial statements prepared in accordance with GAAP by a CPA firm that participates in a peer review as required by a State Board of Accountancy should be mandated as well. In addition to audits, CSDVRS would urge the Commission (as it has through prior filings) to require automation of call records and even the potential implementation of other safeguards to minimize/eliminate improper calls (such as using Quova or similar software to identify international to international calls). CSDVRS is eager to participate in any discussion that would eliminate fraud, waste or abuse, and allow VRS to remain a viable industry to serve the deaf and hard of hearing community.

Paragraph 64: Comments on the choice of VRS provider and feasibility of competitive bidding

CSDVRS is patently opposed to the implementation of a competitive-bidding approach to the provision of VRS, particularly based on the intrastate model. Indeed, a bidding system would stifle growth and innovation in the marketplace and obliterate smaller VRS providers that have a higher cost basis for their services. While CSDVRS can understand certain benefits of a bidding system such as loosening the market dominance of the largest provider, it could have a reverse effect as the dominant provider would be able to under bid the other providers and thereby further entrench its near monopoly status. Most of all, a bidding process would decimate consumer choice and undermine competition which currently works to drive costs down and alleviate fiscal strains to the Fund.

Paragraph 65: Could rate-of-return be a solution?

The NOI inquires as to whether a rate of return regulation would control costs and work to eliminate industry fraud. CSDVRS submits that the possibility that rate of return would contain fraud seems unlikely. Many of the efforts already in process by the FCC serve this purpose, although in some instances the "dial" to detect fraud has been turned up so high as to reject payment for legitimate calls, in spite of overwhelming evidence that a call is valid. However, CSDVRS does anticipate that rate of return would reduce the Fund's cost as the dominant provider's rate of return (absent the questionable business decision to be highly leveraged) far exceeded the prescribed 11.25% after tax return. Using historical costs with an appropriate limit on projected increase (along with the ability to require submission to an audit of such costs upon a reasonable request from the Fund Administrator) would provide an environment for fair rate setting moving forward. To that end, CSDVRS also believes that it is imperative that the Commission have the ability to impose penalties on providers that refuse to comply with an audit request.

Paragraph 66: Could a modified price cap compensation system work either on an individual or an individual-provider or industry-wide basis?

CSDVRS considers this inquiry to be similar to the issue regarding use of tiers or a company-specific approach for reimbursement. CSDVRS does not believe the current system needs to be completely overhauled, but merely modified to allow for an appropriate return on capital investment for efficiently managed organizations and inclusion of all costs necessary to provide service. CSDVRS firmly believes in a tiered structure. A combination of a multi-year tiered structure with a price-cap is the best solution..

Paragraph 68: Comments on the feasibility of a reverse auction system.

The Commission has raised the issue of reverse auctions for services in the NOI,[18] but CSDVRS strongly asserts that a reverse auction would be an enormous disservice to the deaf and hard of hearing community as the lowest cost provider would always win the contract. This would have one of three possible effects: (1) poor service due to less qualified interpreters (to whom they will pay reduced wages), who will typically be working to a higher capacity, increasing hold times and probably increasing call length (and consumer frustration) due to a lack of skill; (2) predatory pricing to eliminate long-term competition; or (3) provider collapse owing to ignorance of the total costs of running a VRS organization (as evidenced in the Relay Services Data Request as detailed by the Fund Administrator on April 30, 2010 in which one small provider thought its cost was under $2/minute), and an inability to obtain additional capital. Finally, such a reverse auction program

[18] *Id.* at ¶68

would eliminate any development, innovation and positive competition within the industry. The ultimate result would essentially be akin to the FCC turning its back on the deaf and hard of hearing community after many years of progress.

Paragraph 69: Comments on whether structural and accounting safeguards might be effective at encouraging efficiency in the VRS market.

CSDVRS submits that structural separation will lead to more costs as more company's oversight and inefficiency is promoted. The only exception may be in regard to hardware as more videophones come to the market. CSDVRS submits that a separation of equipment production from the provision of services will ultimately drive down costs and save the Fund considerable resources. By way of example, CSDVRS currently does not manufacture a video phone but instead modifies publically available video phones to meet the needs of the deaf community. The dominant provider, on the other hand, manufactures and distributes its own videophones, and integrates those expenses into its overall costs. In either instance, equipment costs take their toll on the Fund. By separating the phones from the services, the Commission could effectively extricate the Fund from the financial resource pool which currently pays for videophones, and instead compel general market competition to produce and market videophones suitable for use on any provider's platform. Essentially then, the "equipment side" of VRS would be required to sell and support the videophones, and thereby put all the providers on an equal basis in support of all videophones. This would truly reach to the intent of interoperability and would ultimately promote more competition and development in the videophone marketplace.

Paragraph 70: Comments on the effectiveness of jurisdictional separation of VRS (interstate versus interstate).

CSDVRS notes that moving compensation to the states of any portion of interstate VRS would result in dramatically increased cost of oversight with no improvement in services. Indeed, as noted previously, shifting to the intrastate paradigm will ultimately result in poorer service and a detriment to the deaf and hard of hearing community. CSDVRS therefore believes the system that is in place today is effective with some modifications as discussed in these Comments.

6. The Incentives and Needs of VRS Users

The NOI next addresses the incentives of VRS users with the cost-causation principles outlined elsewhere in the document. CSDVRS first notes that many of the issues addressed in the portions of this section are addressed elsewhere in the NOI and in the comments offered thereto. Accordingly, CSDVRS would reassert all commentary thus far expressed and incorporate it herein by reference.

Paragraph 72: Comments on functionally equivalent services and rates

In regard to analogous service and rates, CSDVRS notes that apart from ten-digit numbering and E911 support, voice telephony services are incongruous with VRS and point-to-point communication, primarily owing to the fact that voice services are switch-based, and VRS is internet based. There are similarities in features as raised by the Commission such as voice/video mail, speed dialing, etc., as well as in wireless market applications such as text messaging, instant messaging, and email, but the equivalencies tend to stop there.

Paragraph 74: Would VRS users be better serves if the Commission did not subsidize particular components of VRS communications, but instead subsidized the VRS needs of those individuals?

As far as costs are concerned, deaf and hard-of-hearing consumers are not compelled to pay more than hearing persons for telecommunications services other than the costs of broadband connection (discussed infra). However, owing to the historic underemployment of deaf and hard-of-hearing people, and the enormous expense of videophone equipment, CSDVRS would certainly support individual subsidizations but only to the extent of actual videophone costs and the cost of braodband.

Paragraph 75: Should the Commission issue vouchers directly to deaf and hard-of-hearing individuals to spend on the TRS program?

In the alternative to the option outlined in Paragraph 74, CSDVRS would be entirely supportive of a voucher system for the acquisition of videophone equipment provided it is combined with a strict rule on non-subsidization of phones. CSDVRS submits that an effective voucher system could be implemented whereby a consumer could receive a $300 voucher to purchase a phone of their choosing, once every three years. CSDVRS would also support the use of a voucher system or subsidization for broadband services or any other means to make broadband more affordable for deaf consumers.

Paragraph 76: Comment on whether the lack of usage restrictions on VRS creates any incentives for VRS use that do not exist for voice telephone use.

CSDVRS submits that the lack of usage restrictions does not create an incentive to place VRS calls, particularly when compared to hearing telephony. Most (if not all) hearing users in the wireless and wire line market are on unlimited talk times. Similarly, VRS users, in a manner functionally equivalent to wire line, are not limited to the amount of time they may utilize the phone. Indeed, to place such a limit on deaf and hard-of-hearing consumers would fly in the face of functional equivalency and do an enormous disservice to deaf and hard-of-hearing consumers. In regard to broadband access, or lack thereof, acting as a disincentive to use VRS, CSDVRS submits that the Commission must establish some consistency through its broadband initiatives to require high speed internet providers to provide sufficient bandwidth at a reasonable cost for deaf and hard of hearing consumers.

7. Other Regulations Affecting VRS Communications

In concluding the NOI, the Commission seeks additional comment on other aspects of its rules and regulations that may affect the efficiency, sustainability, and effectiveness of VRS programs.[19]

Paragraph 78: Does the link between videophone service and relay interpreter service help or hinder the development of competition in each of these potential markets?

CSDVRS submits that the registration requirement for VRS users, combined with the impact to the various components of VRS inclusive of videophone equipment, video communication service and CAs, does in fact directly hinder competition in the marketplace. Indeed, it is much easier for a consumer to place a call through the service that provided the equipment, rather than dialing around to another provider as permitted by Commission rules. With an established videophone base well in excess of 100,000 units in the market, the dominant VRS provider's videophones connect most easily to that provider's service. In a dial around call, the user of this equipment must first choose to add to their speed dial another provider's contact information, select that contact, connect with a relay interpreter, and then fingerspell the number of the person they wish to call. In a situation where the videophone and services are tied together the caller only needs to dial the number of the individual they wish to communicate with. All of this is born out of the default provider registration requirements contained within the Commission's rules. CSDVRS believes that separating the services and the equipment (discussed infra) will allow a caller to select their videophone independently of the provider which would open up competition within the industry. In the alternative, CSDVRS would urge the Commission to adopt continued support of videophone equipment after a port as outlined in its most recent petition for rulemaking.

[19] *See*, NOI at ¶¶77-80

<u>Paragraph 79: Should the Commission impose additional reporting requirements on VRS providers?</u>

CSDVRS fully supports additional reporting requirements being imposed on VRS providers. CSDVRS believes more thorough reporting would aid in identifying statistical anomalies when analyzing call activity, and thereby assist the Commission and the Fund Administrator in identifying and preventing fraud. In this vein, CSDVRS would remind the Commission, as asserted in the NPRM Comments,[20] that the current process of withholding of payments on suspicious minutes/calls oftentimes lacks due process and also lacks a defined timetable and process for a review of questionable calls. Accordingly, CSDVRS submits that payments should not be held during the review process.. Furthermore, as cost of capital are included within the per minute rate, any delayed payment should be adjusted by the statutory rate of 18.75% pretax cost of capital. CSDVRS is very supportive of transparency and requests for additional information, but firmly asserts that no payments should be withheld while a review takes place, particularly when such withholdings raise significant substantive and procedural due process concerns.

<u>Paragraph 80: How can the Commission reform the VRS program to ensure its continued effectiveness, efficiency, and sustainability over the next three to five years?</u>

CSDVRS reasserts all comments made herein in response to the NOI. Further, CSDVRS again stresses that the following points (as raised hereinabove as well as in prior filings with the FCC) as the most significant aspects of VRS that the Commission must address and consider moving forward:

(1) Fraud. CSDVRS commends all Commission efforts to preclude fraud in the VRS industry. Nonetheless, CSDVRS submits that the Commission must be cautious and sensible in its actions to eliminate fraud as some efforts have the [inadvertent] potential to harm legitimate

[20] *See*, NPRM Comments, pp. 9-11

providers in the course of repudiating wrongdoers. To this end, the Commission must ensure fair and equitable processes are in place regarding review of provider call records and withholding of payments to make certain that the due process rights of providers are preserved, regardless of any inferences of fraud or wrongdoing. Indeed, an abrogation of due process will not assist the Commission in preventing or stopping fraud, and could also expose the Commission to liability.

(2) Tiered Reimbursement Plan. CSDVRS submits that the current tiered reimbursement system is the most equitable and workable means to pay providers, and with adequate structured rules, it remains the superlative plan for compensation. The tiered system has allowed greater competition in the marketplace, it has lowered costs, and it has ultimately inured to the greater benefit of deaf and hard-of-hearing consumers.

(3) Return on Investment. CSDVRS submits that all VRS providers are entitled to a return on investment as contemplated in Commission rules. VRS is a labor intensive business and not a capital intensive business, and those labor costs are on the rise. CSDVRS stresses that the Commission must consider these aspects of remuneration, as expressed in the May Comments, when initiating its next rate proceeding.

(4) Rules regarding outreach, marketing, and videophones. CSDVRS restates that outreach and marketing are the same enterprise, unique to each provider, and cannot be effectively managed or administered by the Commission or the Fund Administrator. However, CSDVRS believes that requiring consumers to have a firm commitment period would save outreach and marketing costs (and taxing of the Fund) as port-backs and "porting wars" would decrease with the implementation of such a rule.

(5) True interoperability. CSDVRS submits that the installed base of videophones must function on all provider platforms without the elimination of enhanced features upon a port or default selection. This is the only way that true interoperability can be achieved to further the functional equivalency mandate. CSDVRS has addressed this matter thoroughly in its most recent petition for rulemaking with the FCC.[21]

(6) Certification. CSDVRS reasserts that the Commission must enact rules to fortify the provider certification process and make the prerequisites to certification much more stringent than they exist currently. CSDVRS submits that all pending applications for certification should be adjudicated according to the new criteria, and all existing certifications be reviewed against the same standard.

(7) Audits. CSDVRS submits that regular and systematic provider audits by the FCC or the Fund Administrator will ensure more reliability in reporting, and will result in a significant reduction in fraud. Audits must be made part of the certification process and should ongoing. No provider should ever be permitted to refuse to submit to an audit, or unreasonably delay in responding to an audit, without being subject to severe penalties up to and including suspension of certification and/or remuneration from the Fund.

Conclusion

CSDVRS submits that the video relay service program is one of, if not the most valuable communications resource available to deaf and hard-of-hearing persons in the United States. Although the industry is not without its flaws, CSDVRS believes those imperfections can be easily addressed, and it commends the Commission's continued ongoing support of the program.

[21] *See, In the Matter of the Video Relay Service Program*, Petition for Rulemaking of CSDVRS, CG Docket 10-51 (August 9, 2010).

CSDVRS stands ready to assist the Commission in any way possible as it grapples with its considerable task of addressing the issues raised in the instant Notice of Inquiry. Most of all CSDVRS looks forward to establishment of new equitable and predictable rules that will ensure the ongoing success in this vital and invaluable service to deaf and hard-of-hearing people.

Respectfully Submitted,

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