September 2, 2010

Federal Communications Commission
445 Twelfth St., S.W.,
Washington, DC. 20554

In the Matter of Structure and Practices of the Video Relay Service Program – Docket No. 10-51

Re: NOTICE OF INQUIRY – Released on June 28th, 2010.

REPLY COMMENT TO CSDVRS' NOI COMMENT

Please allow me to introduce myself briefly; I am Todd Elliott, an ordinary Deaf citizen and a VRS consumer. While I am not an accountant, I have earned a Bachelor's in Accounting. I do own a Z-340 VP and my default VRS Provider is CSDVRS. I wish to respond to CSDVRS's NOI Comment ("CSDVRS NOI") on the issue of rates of return on investments (ROI). I also want to thank CSDVRS for participating in the NOI process. I also want to thank the FCC in undertaking the NOI "fresh look" on the VRS industry; as an ordinary citizen, I am grateful for having contributed a small part on the NOI discourse, on such a transformative industry.

A. DISCUSSION OF THE ROI RATE

CSDVRS talks about earning an 11.25% ROI (after-tax).[1] It's understandable; profit can be the main motive in fostering a competitive business climate in the VRS industry.[2] CSDVRS maintains that the ROI was set artificially low, at nine cents per minute, or a 1-2% markup over costs.[3] If true, I agree that the ROI is **unattractive** and many VRS companies will not survive in the competitive VRS market, let alone attract investment capital at favorable terms.

However, the free markets that characterize the VRS industry do not agree with CSDVRS' assertions about the ROI being set too low. There are 30+ VRS providers clamoring

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[1] CSDVRS NOI, Page 7.
[2] Sorenson NOI, Page 20, 2nd Paragraph, "[I]t is the possibility of earning a profit that motivates firms to compete to provide the best […] service in the most efficient manner to the greatest number of customers in the first place."
[3] CSDVRS NOI, Page 10.

for the piece of the VRS pie.[4] Obviously, the VRS industry is profitable. However, profit is in the eye of the beholder; what may be profit to one provider may be unsustainable to another. Also, the profits may be insufficient to garner much needed investment capital.

Secondly, the rate-setting process is largely closed to the public. The ROI issue is one prime example of why it should be open to the public. If the ROI is artificially low, then it must be revised, in order to have a robust and competitive VRS industry for the years to come. Potential investors will also benefit from such transparency, as they can see if the VRS industry is a worthwhile investment. VRS stakeholders can see how rates are structured, and give advice on the rate-setting process to ensure a healthy and competitive VRS marketplace.

B. CSDVRS' PROPOSED SOLUTIONS IN COMPUTING ROI.

CSDVRS did bring forth proposed solutions in their NOI Comment; Basing the ROI on a company's equity[5], ROI based on Hybrid Capital[6], and ROI based on Consistent Margins[7]. They all raise interesting points and merit consideration from the FCC. (Admittedly, their explanation on consistent margins wasn't that clear to me, though.) Out of the proposed solutions, I would like to focus on the idea of "Hybrid Capital", an interesting and seemingly suitable model for a ROI rate tailored for the VRS industry.

CSDVRS is correct in stating that the FCC computes the ROI on the "net book value of depreciating assets."[8] Perusal of NECA's Relay Services Data Request forms seem to confirm this. In a nutshell, VRS companies make capital investments and/or acquire capital assets. They are subject to depreciation and the ROI is computed accordingly. And apparently, the ROI is now computed at a too low a rate, insufficient for profit, let alone tapping the capital markets.

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[4] PURPLE NOI, Page 23, last paragraph. Includes certified and white-label VRS providers.
[5] CSDVRS NOI, Page 10.
[6] Ibid, Page 11.
[7] Ibid, Page 13.
[8] Ibid, Page 9.

However, as CSDVRS stated, the bulk of the VRS company's expenditures lies within the *specialized labor-intensive nature of the industry*, and as well as the technology and equipment needed to service that labor pool. The FCC has **provisioned** such costs in their per-minute rate, but CSDVRS proposes that the FCC pays a ROI for such expenses, in addition to the usual ROI on capital investments, as VRS companies spend heavily in those areas.[9]

Applying a Hybrid Capital ROI on specific tiers will ensure that VRS providers get a rate of return on their investments in their technology, equipment, specialized labor, and as well as capital assets. (In CSDVRS's NOI comment, they seemed to apply a **single** Hybrid Capital ROI rate across all three tiers.[10] Rather, the Hybrid Capital ROI, if used at all, should be computed accordingly for each tiered rate to reflect economies of scale.)

C. ISSUES TO CONSIDER IN COMPUTING THE ROI

In detailing their Hybrid Capital ROI approach in their NOI Comment, CSDVRS glossed over two **crucial** aspects. One, it will have *inflationary pressures* and may in fact, increase contributions to VRS providers from the Fund, instead of having the claimed savings. Two, it would *be applied to a multi-year tiered rate*. What may be a reasonable ROI in the first year of a multi-year tiered rate may be an *unreasonably high* ROI in the final year.

The bulk of the costs associated with the VRS industry are the interpreter workforce and their unique and specialized skills, notwithstanding recent deflationary pressures. (There have been layoffs.[11]) Plus, the labor pool is highly fluid; people join, leave, join a competitor, rejoin the community interpreting market, etc. While it is not impossible, it is difficult for a company to retain a talent pool for long periods of time and make investments in maintaining that talent base. All of this effort is subject to **wage inflation**.

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[9] Ibid, See pages 26 and 38.
[10] Ibid, Page 12.
[11] One such example is Sorenson VRS: http://www.sorensonvrs.com/layoffs

Targeting the ROI rate on a "fluid" class of investments and subject to inflationary pressures may not be a well advised course for the FCC to undertake in overhauling their ROI formulas ideally tailored for the VRS industry. It may increase contributions to VRS providers from the TRS Fund, potentially leading to a cycle in which inflationary pressures assault the TRS Fund into **oblivion**. Not to mention that it may exacerbate the shortage of interpreters affecting community interpreting, and its practical implications in meeting the mandates of Titles I, II, and III of the ADA.

By contrast, the ROI is currently computed to a net book value of depreciated assets. These are capital investments and assets acquired by a VRS provider in their course of business and are subject to depreciation. Deflationary pressures are huge in this current economy, allowing VRS providers the opportunity to profit even further by snapping up office space and other capital assets for far cheaper prices than 3, 4, or 5 years ago. Another benefit is that it does not impact the community interpreting pool, as the *FCC already has made provisions for such costs in their per-minute rate, forcing providers to make* ***judicious use*** *of their interpreter assets.*

Secondly, CSDVRS is talking about the practical use of their Hybrid Capital ROI method on **multi-year** tiered rates. Thanks to *efficiency and productivity gains in later years*, the ROI on the **final year** of a multi-tiered rate may be *unreasonably high or even absurd*. The ROI as currently based on the net book value of depreciated assets, relies on the fact that VRS providers acquire capital assets and depreciate them over a period of time. Depreciation is considered as an **expense** on the balance sheet, **offsetting** the eventual productivity and efficiency gains *on a year to year basis*. While these two competing forces may not align perfectly or reflect actual realities of the VRS industry, the ROI in a multi-year tiered rate should be **evened year to year**. You *cannot do the same thing with a salaried workforce*, depreciating salaries over a period of time.

D. CONCLUSION

In accounting, I learned about benefits and trade offs in various accounting methods. Computing the rate of return on investments is no different. I thank CSDVRS for their discussion on rates of return on investments and how to ideally tailor it to the VRS industry. This is one aspect of the VRS industry that may need retooling, in order to attract investment capital to handle the latest revolution coming on the horizon; *mobile VRS/VP calling*.

In closing, I advocate that the rate-setting process to be **transparent** to the public. The discussion on the ROI process has given me invaluable insight on how long a multi-year tiered rate should be; **three years at the most**. Any longer, the **distortions** to ROI may grow out of sync of FCC's expectations for the VRS industry. Lastly, should the FCC decide to come up with a new ROI basis or formula tailored for the VRS industry, that it will consider the needs of community interpreting, and that it will not be impacted severely. Thank you.

Sincerely,

Todd Elliott
9705 Hammocks Blvd., #203
Miami, FL 33196