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VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: **WRITTEN EX PARTE PRESENTATION**

*Telecommunications Relay Services and Speech-to-Speech Services for Individuals
with Hearing and Speech Disabilities*
CG Docket No. 03-123

Dear Ms. Dortch:

This letter is filed on behalf of Hamilton Relay, Inc. ("Hamilton") in connection with the Petition for Rule Making (the "Petition") filed by Speech Communications Assistance by Telephone, Inc. ("SCT") proposing various changes to the Speech-to-Speech relay service program ("STS").¹ Disability Policy Collaboration ("DPC") separately filed comments in support of the Petition.²

Hamilton appreciates the efforts by Dr. Segalman, SCT, DPC and others to improve STS which provides critical services to individuals with speech disabilities. While Hamilton agrees with the nationwide outreach coordinator proposal set forth in the Petition, Hamilton is concerned that some of the proposals in the Petition may lead to less competition and reduced quality of service for STS users.

¹ Speech Communications Assistance by Telephone, Inc., Petition for Rule Making, CG Docket No. 03-123 (filed Nov. 12, 2010) ("Petition").

² Ex parte comments of Maureen Fitzgerald on behalf of DPC, CG Docket No. 03-123 (filed Nov. 15, 2010).

Hamilton Supports a Nationwide STS Outreach Coordinator

As an initial matter, Hamilton supports the proposal of STC and others to establish a nationwide coordinator for STS outreach.³ By pooling the additional per-minute amounts added to the STS compensation rate⁴ and selecting one entity to administer STS outreach, the Commission will help ensure that those funds are being best spent on targeted efforts designed to maximize STS awareness and inform potential users about the availability of the STS service.

In selecting a nationwide STS outreach coordinator, the Commission should be guided by two principal concerns: 1) ensuring that the entity selected has sufficient expertise and resources to carry out a nationwide outreach program; and 2) ensuring the impartiality of the entity selected. With regard to the latter concern, Hamilton submits that the best way to ensure impartiality would be to require that the entity selected have no ties, financial or otherwise, to any provider of any form of eligible Telecommunications Relay Services (“TRS”).

A Single Nationwide STS Provider Would Harm Competition and Reduce Quality of Service

The Petition proposes that STS be exclusively administered by the FCC rather than along traditional intrastate/interstate jurisdictional lines, and suggests that the FCC should contract with just one STS provider.⁵ Hamilton opposes this proposal. First, the proposal appears to be inconsistent with the jurisdictional separation of costs requirements set forth in the Communications Act of 1934, as amended.⁶ Unlike Video Relay Services, which historically have been difficult to separate along jurisdictional lines, there is no difficulty in separating STS along state and federal lines. Accordingly, Hamilton believes the proposal is barred by statute.

Second, Hamilton believes it is incorrect to suggest that states are improperly or inefficiently handling their state STS programs; on the contrary, Hamilton believes that the individual state STS programs do an extraordinarily good job in providing critical relay needs to their citizens. Moreover, the Commission is statutorily authorized to certify each state TRS program and thus already possesses a means of monitoring and improving state STS programs as necessary.

Third, the SCT proposal for a nationwide STS provide is contrary to the Commission’s long-held policy of fostering competition where possible. The Commission has consistently held

³ Petition at 2; *see also* AT&T comments at 6 (filed May 14, 2010).

⁴ *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, FCC 10-115, paras. 22-23 & n.5 (rel. June 28, 2010).

⁵ Petition at 2-3.

⁶ 47 U.S.C. § 225(d)(3).

that a competitive environment creates a “dynamic process” that produces “socially beneficial results.”⁷ Moving toward a single-provider STS policy would not only be contrary to that longstanding policy, it would also unfairly penalize current STS providers that have complied with state and federal TRS requirements but simply might not be the fortunate provider selected as the nationwide STS provider. Nor does the Petition suggest how that provider might be selected.

Fourth, a move to a single-provider system would likely impair the development of innovative STS technologies. In this regard, the Petition’s proposal appears to be inconsistent with the Commission’s statutory mandate to ensure that TRS regulations “do not discourage or impair the development of improved technology.”⁸ By reducing the number of providers eligible to provide STS, the Commission will almost certainly be reducing the potential for the type of innovative technologies that are routinely fostered through competitively provided services. As a corollary effect, a single provider would have no incentive to innovate, which would likely lead to a reduction in quality of service over time. Combined with the loss in quality of service associated with eliminating competition, Hamilton believes this lack of incentive would have severe quality of service consequences for STS users.

Finally, a decision to create a single-provider system paid out of the interstate TRS Fund would necessarily mean that the STS rate is decoupled from the Multistate Average Rate Structure (“MARS”) rate.⁹ Hamilton believes that the MARS rate, which is based on competitively bid state TRS rates, has been immensely successful since its adoption in 2007, because it better approximates providers’ reasonable costs of providing TRS, and has eliminated the unnecessary costs and burdens associated with other rate methodologies currently and previously in use by the Commission. Use of the MARS methodology also has resulted in regulatory certainty from year to year, which is a principal concern for private enterprise. For all of these reasons, Hamilton urges the Commission not to move forward with a single-provider STS regime paid out of the interstate TRS Fund.

This filing is made in accordance with Section 1.1206(b)(1) of the Commission’s rules, 47 C.F.R. § 1.1206(b)(1).

⁷ *Policy and Rules Concerning Rates for Dominant Carriers, Report and Order and Second Further Notice of Proposed Rulemaking*, CC Docket No. 87-313, 4 FCC Rcd 2873, 2889-90 (1989); see also *Promotion of Competitive Networks in Local Telecommunications Markets, Notice of Proposed Rulemaking and Notice of Inquiry*, WT Docket No. 99-217, 14 FCC Rcd 12673, 12684 & n.50 (1999).

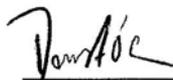
⁸ 47 U.S.C. § 225(d)(2); *id.* § 157(a).

⁹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, FCC 07-186, para. 16 (2007).

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In the event that there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,
WILKINSON BARKER KNAUER, LLP



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cc: Joel Gurin
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