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Via Overnight Delivery

May 23, 2011

Ms. Marlene Dortch, Secretary
Federal Communications Commission
9300 East Hampton Drive
Capitol Heights, MD 20743

Attention: Consumer & Government Affairs Bureau, Office of Disability Rights

RE: *In the Matter of Structure and Practices of the Video Relay Service Program*, CG
Docket No. 10-51

Dear Ms. Dortch:

Pursuant to the Section 1.3 of the Commission's Rules¹ and the Commission's April 6, 2011 *Report and Order and Further Notice of Proposed Rulemaking* in the above-referenced proceeding,² enclosed for filing with the Commission is one confidential and one redacted public copy of ASL Holdings, LLC ("ASL") *Petition for Waiver* ("Petition"). By this Petition, ASL requests temporary waiver of newly promulgated Section 64.604(c)(5)(iii)(N)(1)(iii) of the Commission's Rules³ so that it may continue providing video relay services ("VRS") to the public under an existing arrangement with a Telecommunications Relay Service Fund ("Fund") eligible certificated VRS provider, pending a grant of ASL own Fund eligibility certification by the Commission being filed contemporaneously. ASL's Petition is being submitted in accordance with *R&O* paragraph 63.

Request for Confidential Treatment. Pursuant to Section 0.459 of the Commission's rules,⁴ ASL respectfully requests that documents supporting the Petition in exhibits 1 to 5 be deemed confidential and protected, accordingly. In support of its request, ASL states as follows. These documents constitute "trade secrets" as set forth in Section 0.457 of the Commission's rules,⁵ in that the documents contain sensitive proprietary information including, but not limited to, highly confidential leases, purchase agreements, personal employee

¹ 47 C.F.R. §1.3.

² *In the Matter of Structure and Practices of the Video Relay Services, Report and Order and Further Notice of Proposed Rulemaking*, CG Docket No. 10-51, 26 FCC Rcd. 5545 (rel. April 6, 2011) ["R&O"].

³ 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii).

⁴ 47 C.F.R. §0.459.

⁵ 47 C.F.R. §0.457.

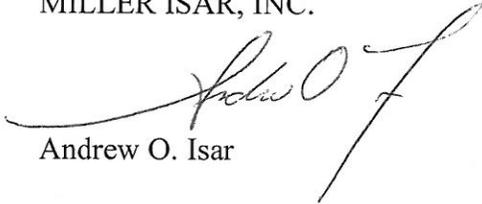
Ms. Marlene Dortch
May 23, 2011
Page 2

information, and financing documents. These documents reveal sensitive company operations and scope that would be useful to competitors. Further, employee information contains highly confidential personal information not intended for public consumption. ASL would not otherwise make these documents publically available under any circumstance. Release of these data to the public could cause ASL, or its employees, irreparable and inestimable harm.

A redacted public version of the enclosed Petition has been filed electronically via the Commission's Electronic Comment Filing System in this proceeding. Thank you for your attention to this matter. Questions regarding this matter may be directed to the undersigned

Sincerely,

MILLER ISAR, INC.

A handwritten signature in black ink, appearing to read "Andrew O. Isar", written over a horizontal line.

Andrew O. Isar

Enclosures

cc: Ms. Karen Peltz-Straus (via electronic delivery (redacted) karen.strauss@fcc.gov)
Ms. Mark Stone (via electronic delivery (redacted) mark.stone@fcc.gov)
Mr. Gregory Hlibok (via electronic delivery (redacted) gregory.hlibok@fcc.gov)

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

**ASL Holdings, LLC
PETITION FOR WAIVER**

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May 23, 2011

SUMMARY

ASL Holdings, LLC (“ASL”) is the only woman and minority-owned Video Relay Service (“VRS”) provider which also focuses its services on Spanish language interpretation. ASL has provided Sign Language interpretation services throughout the United States and Puerto Rico since 1998, serving companies such as Apple, Disneyworld and other notable clients. ASL has provided Spanish and English language VRS through agreements with federal Telecommunications Relay Service (“TRS”) Fund (“Fund”) eligible certificated providers for more than six years. Since 2008, ASL has provided VRS under partnering agreements as well as served as an outsourced provider of Spanish VRS on behalf of several major Fund eligible certificated providers. VRS has been provided under, and readily known by the “Gracias VRS” label.

The Commission acknowledges that “Spanish is the most widely spoken non-English language in the United States,” and that “the number of Spanish-speaking persons is significantly larger than any other non-English speaking population and is rapidly growing.”¹ In its 2005 *Order on Reconsideration* finding that Spanish VRS was compensable from the Fund, the Commission found

that it is *essential* that members of the large Spanish-speaking population in this country who are deaf, hard of hearing, or have a hearing disability, and for whom ASL is their primary language, have the means to communicate via the telephone system with persons without such disabilities who speak Spanish, in keeping with the goal of universal service.²

¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd at 5155, para. 30. (March 6, 2000) (“*Improved TRS Order & FNPRM*”)

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 98-67, and 03-123, *Order on Reconsideration*, FCC 05-139, para. 19, emphasis supplied (July 19, 2005). (“*Order on Reconsideration*”)

ASL is uniquely situated to deliver on the promise of full *functional equivalency* for Spanish and English language speakers, and now seeks to serve the Public, and members of the Spanish speaking Deaf Community in particular, as a Fund eligible certificated VRS provider.

The Commission's April 6, 2011 *Report and Order and Further Notice of Proposed Rulemaking* in this proceeding *inter alia* established a prohibition on a Fund eligible certified provider entering into any form of arrangement with a Fund ineligible provider Section 64.604(c)(5)(iii)(N)(1)(iii) of the Commission's rules. Yet the Commission explicitly accorded Fund ineligible providers, such as ASL, who are pursuing Fund eligibility certification to request a temporary rule waiver, supported by documentation demonstrating the entity's plan and ability to come into compliance with applicable Commission relay services requirements.

The Commission may grant waiver of its rules for good cause where "the particular facts make strict compliance inconsistent with the public interest." ASL maintains that good cause for a waiver exists in this instance. As demonstrated herein, and through ASL's contemporaneously filed Application for Fund eligibility certification and subsequent supplemental application - to be made upon promulgation of the proposed amendments to Section 64.606 of the Commission's rules - ASL meets and exceeds the amended Mandatory Minimum Standards and proposed certification requirements for Fund eligibility certification, and respectfully requests waiver of the prohibition pending a grant of the Company's application for Fund eligibility certification, consistent with the public interest. ASL's Petition meets the public interest standard and merits approval.

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

To the Commission:

ASL, Inc.
PETITION FOR WAIVER

ASL Holdings, LLC (“ASL” or “Company”), pursuant to the Section 1.3 of the Commission’s Rules³ and the Commission’s April 6, 2011 *Report and Order and Further Notice of Proposed Rulemaking* in CG Docket No. 10-51,⁴ hereby respectfully requests that the Commission grant a temporary waiver of newly promulgated Section 64.604(c)(5)(iii)(N)(1)(iii)⁵ of the Commission’s Rules that prohibits an eligible Video Relay Service (“VRS”) provider to “contract with or otherwise authorize any third party to provide interpretation services or call center functions (including call distribution, call routing, call setup, mapping, call features, billing, and registration) on its behalf, unless that authorized third party also is a[n] [Telecommunications Relay Service Fund (“Fund”)] eligible provider.” ASL requests temporary waiver of Section 64.604(c)(5)(iii)(N)(1)(iii) of the Commission’s Rules until such time as the Commission grants ASL’s application for Telecommunications Relay Service Fund eligibility, to be further supplemented under Section 64.606, TRS Certification, when the proposed

³ 47 C.F.R. §1.3.

⁴ *In the Matter of Structure and Practices of the Video Relay Services, Report and Order and Further Notice of Proposed Rulemaking*, CG Docket No. 10-51, 26 FCC Rcd. 5545 (rel. April 6, 2011) [“R&O”].

⁵ 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii).

amendments are promulgated, in accordance with the *R&O*.⁶ ASL's request is predicated on its desire and operational imperative to continue providing responsible and compliant VRS to the public through its current underlying Fund eligible partner pending a grant of its Fund eligibility certification.

As discussed below, the circumstances surrounding this matter have established a unique situation for ASL precipitating this request for temporary waiver. The prohibition against Fund eligible providers engaging Fund ineligible providers, such as ASL, under newly promulgated Section 64.604(c)(5)(iii)(N)(1)(iii) becomes effective on June 1, 2011. Unless this Section 64.604(c)(5)(iii)(N)(1)(iii) prohibition is granted ASL will have to cease its VRS operations for a potentially extended period of time, and many Spanish speaking Deaf users will be severely limited from, if not deprived of, access to Spanish language VRS. ASL's non-Spanish VRS subscribers will similarly be deprived of the high quality of services they have come to rely upon.

The *R&O* accords Fund ineligible providers an opportunity to request a temporary waiver of the newly promulgated rules "to make adjustments to their operations in order to come into compliance with the new requirements adopted."⁷ ASL's request for temporary waiver is necessary to enable the Company to continue serving its subscribers during the pendency of its application for certification as a Fund eligible provider, to be filed contemporaneously with the instant Petition, as will be supplemented under the new certification rules when promulgated. ASL's request is also necessary to continue serving as the Spanish VRS subcontractor of several Fund eligible VRS providers who rely exclusively on ASL's competency and expertise in native Spanish VRS, as well as serving its non-Spanish speaking subscribers.

⁶ *R&O* para. 63.

⁷ *I d.*, at para. 62.

Over the course of the past three years, ASL has made considerable investment in its VRS operations and staff, to meet entirety of the obligations established under the Commission's recently amended Mandatory Minimum Standards ("MMS") for the provision of directly compensable VRS, as demonstrated by its pending application for certification as a Fund eligible provider, and showing herein. ASL maintains that the public interest will be served if ASL is allowed to continue providing VRS. ASL submits that good cause exists for the requested waiver, accordingly, consistent with the public interest.

I. INTRODUCTION

ASL is a privately-held, woman and minority-owned, Florida limited liability company with significant experience in providing VRS and Spanish VRS in particular. Headquartered in Kissimmee, Florida, the Company has provided tri-lingual (English, Spanish and American Sign Language) interpreter services for the Deaf and Hard-of-Hearing community since 1998. ASL employees are highly-trained English and Spanish speaking American Sign Language interpreters serving as Communications Assistants ("CAs") from four full staffed call centers in Florida and Puerto Rico. ASL separately provides non-compensable video relay interpreting services throughout the United States and Puerto Rico under contracts with Apple, ESPN, American Library Association, Walt Disney World, Disneyland, Avon, Orlando Regional Healthcare Systems, Steiner Education, Photoshop, and many other government and educational institutions.

In its *Order on Reconsideration* the Commission found

that it is *essential* that members of the large Spanish-speaking population in this country who are deaf, hard of hearing, or have a hearing disability, and for whom ASL is their primary language, have the means to communicate via the

telephone system with persons without such disabilities who speak Spanish, in keeping with the goal of universal service.⁸

Due principally to the Commission's finding that ASL to Spanish interpretation is compensable from the Fund ASLs tri-lingual interpretation services were sought by several established VRS providers in 2006 to supplement their VRS offerings. In 2008, ASL formed Gracias VRS.⁹ Gracias VRS, drawing from ASL's prior experience in providing VRS as a subcontractor, and entered into an arrangement with a Fund eligible certified provider in September 2008 as a partner entity to provide VRS under its own name. The Company currently continues to provide tri-lingual CAs to process calls requiring Spanish-English-ASL interpretation on behalf of several major VRS providers, under the readily recognized Gracias VRS label.¹⁰

On April 6, 2010, the Commission released the *R&O*, promulgating amendments to the Commission's relay services rules, principally to Section 64.604, Mandatory Minimum Standards. In pertinent part, the amended rules implement a new prohibition in Section 64.604(c)(5), effectively precluding the provision of compensable VRS by Fund ineligible providers:

An eligible VRS provider may not contract with or otherwise authorize any third party to provide interpretation services or call center functions (including call distribution, call routing, call setup, mapping, call features, billing, and registration) on its behalf, unless that authorized third party also is an eligible provider.¹¹

⁸ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket Nos. 98-67, and 03-123, *Order on Reconsideration*, FCC 05-139, para. 19, emphasis supplied (July 19, 2005). (“*Order on Reconsideration*”)

⁹ While Gracias VRS serves both Spanish and English VRS calls, the preponderance of calls served by Gracias VRS are Spanish-to-American Sign Language calls.

¹⁰ ASL has been recently reorganized to include what had been Gracias VRS operations and other subsidiary companies into a single legal entity with separate VRS and VRI operations. ASL proposes to retain the widely known and recognized Gracias VRS name as a brand name, while clearly identifying ASL as the Fund eligible certified provider.

¹¹ 47 C.F.R. § 64.604(c)(5)(iii)(N)(1).

The newly promulgated rule amendments, including the prohibition of compensable VRS by Fund ineligible providers, now go into effect on June 1, 2011.¹²

Recognizing that some Fund ineligible providers intend on – or are, as is the case with ASL - pursuing Fund eligibility to be compensated for the provision of VRS in their own right, the Commission accorded such providers the opportunity to request a temporary waiver of applicable rules,¹³ supported by documentation demonstrating the applicant’s plan and ability to come into compliance with applicable Commission relay services requirements.¹⁴ Fund ineligible providers seeking temporary waiver of Commission rules are specifically directed to provide a description of the requirements from which the applicant seeks waiver and documentation demonstrating the applicant’s plan and ability to come into compliance with applicable amended (MMS) requirements within three months of the date on which the rules become effective.

The applicant’s plan and ability to comply with the amended MMS must include:

- A. A detailed plan for modifying its business structure and operations in order to meet the new requirements, and
- B. Submission of relevant documentation to support the waiver request comprising:
 - (1) a copy of each deed or lease for each call center the applicant currently owns or plans to acquire;

¹² *Federal Register*, Structure and Practices of Video Relay Service Program, Vol. 76, No. 84, 24393–24402 [2011–10342] (May 2, 2011).

¹³ *Id.*, para. 62: “We recognize that some companies currently offering VRS through an arrangement with an eligible provider may wish to continue providing this service on their own, yet may require additional time to make adjustments to their operations in order to come into compliance with the new requirements adopted in this *Order*. To give these entities an opportunity to continue to provide VRS as a subcontractor with an eligible provider until such time as they obtain certification under new procedures to be adopted pursuant to the accompanying FNPRM, we will consider requests for a temporary waiver of the new requirements. A company requesting a waiver of the rules adopted in this *Order* will have the burden of showing that the waiver is in the public interest, that grant of the waiver request will not undermine the purposes of the rules that we adopt today, and that it will come into compliance with those rules within a short period of time [footnote in original omitted].”

¹⁴ *Id.*, para. 63.

- (2) a list of individuals or entities that hold at least a 10 percent equity interest in the applicant, have the power to vote 10 percent or more of the securities of the applicant, or exercise de jure or de facto control over the applicant, a description of the applicant's organizational structure, and the names of its executives, officers, partners, and members of its board of directors;
- (3) a list of the applicant's full-time and part-time employees;
- (4) proofs of purchase or license agreements for the use of equipment and/or technologies that the applicant currently uses or intends to use for its call center functions, including but not limited to, call distribution, routing, call setup, mapping, call features, billing for compensation from the Fund and user registration;
- (5) copies of employment agreements for the provider's executives and CAs; and
- (6) a list of financing arrangements pertaining to the provision of VRS, including documentation for financing of equipment, inventory, and other property.

Petitioners must further file for certification¹⁵ within one month after the amended certification rules become effective.¹⁶

In light of the fact that ASL's application for Fund eligibility certification is being filed with the Commission, that the effective date of the proposed prohibition on Fund eligible providers partnering with Fund ineligible providers is quickly approaching, and that ASL has made a considerable investment in its operations and seeks to continue providing service to the public and other Fund eligible certificated VRS providers, ASL hereby seeks waiver of Section 64.604(c)(5)(iii)(N)(1)(iii). Pursuant to the Commission's stated temporary rule waiver requirements, ASL offers the following in support of its request.

II. DESCRIPTION OF THE REQUIREMENTS FROM WHICH THE APPLICANT SEEKS A WAIVER.

ASL requests temporary waiver of Section 64.604(c)(5)(iii)(N)(1)(iii) of the Commission's rules until such time as the Commission grants ASL's application for Fund

¹⁵ Or presumably supplement existing applications for Fund eligibility certification.

¹⁶ *R&O* para. 63. "we require applicants requesting a temporary waiver to provide, in writing, a description of the specific requirement(s) for which it is seeking a waiver, along with documentation demonstrating the applicant's plan and ability to come into compliance with all of these requirements (other than the certification requirement) within a specified period of time, which shall not exceed three months from the date on which the rules become effective.¹⁶ In addition, the waiver applicant must file for certification within thirty days after the final certification rules become effective [footnote in original omitted]."

eligibility certification, to be supplemented in accordance with amended Section 64.606, TRS Certification, as ultimately promulgated. In anticipation of the likely demands to be placed on the Commission with similar requests by Fund ineligible providers following promulgation of the Commission's rule amendments to Section 64.604, the pendency of the Commission's final certification regulations, and the uncertain timing for Commission action on the Company's pending application for certification, ASL seeks this waiver to continue its operations. Specifically, ASL seeks this temporary waiver in order to continue in the uninterrupted provision of VRS ultimately as a Fund eligible certified provider, to retain its subscribers, to retain the professional communications assistants ("CAs") and staff under its employ, to attract new employees, to maintain its current service platform and operations in tact, and to fully comply with the Commission's certification requirements when ultimately adopted, pending the Company's final certification as Fund eligible. Further, ASL seeks a waiver of Section 64.604(c)(5)(iii)(N)(1)(iii) in order to continue its sub contractual relationship with those Fund eligible certified providers who rely on ASL's services to supplement the Fund eligible providers' Spanish and English language interpretation services.

Section 64.604(c)(5)(iii)(N)(1)(iii) limits Fund eligible certificated providers to contract solely with other Fund ineligible providers. Although ASL is now submitting an application for certification as a Fund eligible provider, the Company remains a Fund ineligible provider. In consideration of the MMS rule amendments becoming effective on June 1, 2011, ASL now seeks to be able to continue providing its services and maintain its current operations, without interruption, under its existing agreement with its Fund eligible providers,¹⁷ until ASL is certified to provide compensable VRS (and IP Relay) as a Fund eligible provider.

¹⁷ See Confidential Exhibit 3.

III. APPLICANT'S PLAN AND DOCUMENTED ABILITY TO COMPLY WITH THE AMENDED MMS.

Pursuant to the *R&O*, the grant of a temporary waiver request under the amended MMS is predicated in part upon a showing that the requesting party maintains a plan and documents its ability to comply with the amended MMS.¹⁸ ASL maintains that it already complies with the entirety of the Commission's existing VRS MMS, as is being addressed in the Company's pending application for Fund eligibility. Further, ASL continues to invest in, refine, and improve on its operations, and team of professional skilled interpreters and managers to better serve its subscribers and the public.

ASL also maintains that it currently complies with the entirety of the amended MMS regulations, as it will demonstrate in detail through submission of its initial and supplemental application, the latter to be submitted upon promulgation of the Commission's new certification regulations, and the instant Petition.

For purposes of demonstrating a petitioner's immediate plan and documented ability to comply with the amended MMS, the *R&O* establishes that "Evidence of the applicant's plan and ability to come into compliance with the new rules shall include the applicant's detailed plan for modifying its business structure and operations in order to meet the new requirements."¹⁹ Such evidence of a "detailed plan" for modification of the petitioner's business structure and operations to meet the new requirements includes documentation demonstrating compliance with six key obligations and employment plans. Evidence of ASL's current compliance and amended certification rule compliance plan and documented ability to comply with the amended MMS pursuant to the *R&O*, is as follows.

¹⁸ *R&O* para. 63.

¹⁹ *Id.*

- 1. a copy of each deed or lease for each call center the applicant currently owns or plans to acquire;**

ASL currently maintains four fully supervised call centers located in Florida and Puerto Rico. A copy of ASL's leases for each call center location are attached hereto at confidential **Exhibit 1.**

- 2. a list of individuals or entities that hold at least a 10 percent equity interest in the applicant, have the power to vote 10 percent or more of the securities of the applicant, or exercise de jure or de facto control over the applicant, a description of the applicant's organizational structure, and the names of its executives, officers, partners, and members of its board of directors;**

ASL's founder and CEO, Angela Roth, maintains a controlling interest in the Company. ASL is also owned by Ms. Gabrielle Joseph, Vice President, and Vanessa Mistelske, Director of Operations, both of whom own a minority cumulative share equal to ten percent.

- 3. a list of the applicant's full-time and part-time employees;**

A list of the ASL's part-time and full-time employees is attached hereto at confidential **Exhibit 2.**

- 4. proofs of purchase or license agreements for the use of equipment and/or technologies that the applicant currently uses or intends to use for its call center functions, including but not limited to, call distribution, routing, call setup, mapping, call features, billing for compensation from the Fund and user registration;**

Pursuant to the proposed certification rules,²⁰ applicants for Fund eligibility certification would be required to provide "proof of purchase *or license agreement* for use of all equipment and/or technologies..." (hereinafter collectively termed a "VRS Platform") used to provide service as Fund eligible certified provider. Clearly, the cost of developing a VRS Platform and

²⁰ See *R&O* at para. 97; proposed rule 47 C.F.R. §64.606(a)(2)(ii)(D).

related software and equipment infrastructure could prove prohibitively costly for all but the existing certificated providers and exceptionally capitalized prospective providers in the short term.

ASL's service and supporting functions are provided through use of a shared platform/equipment with its Fund eligible partner provider under its current partnership agreement, a copy of which is attached hereto at **Exhibit 3**. Though Section 64.604(c)(5)(iii)(N)(1)(iii) prohibits Fund eligible providers to engage Fund ineligible providers, this section also provides a limited exception which enables Fund eligible certificated providers to engage other Fund eligible certificated providers for the provision of call center functions, "including but not limited to, call distribution, routing, call setup, mapping, call features, billing for compensation from the Fund and user registration." Regarding this exception, the Commission notes, "This exception will allow eligible VRS providers to contract with other entities who are also eligible providers to provide core components of its VRS. We are satisfied that because eligible entities have already met the Commission's eligibility requirements, they pose less risk to the integrity of the program."²¹ Though ASL is not currently a Fund eligible certificated provider, through this Petition, ASL seeks waiver of the prohibition against Fund eligible certificated providers engaging with Fund ineligible providers so that it may maintain its existing relationship with its Fund eligible certificated partner, to include use of its partner's "core components," *e.g.* VRS Platform.

²¹ *R&O*, footnote 164.

5. copies of employment agreements for the provider’s executives and CAs; and

Copies of employment agreements for the provider’s executives and CAs; are attached hereto at confidential **Exhibit 4**.

6. a list of financing arrangements pertaining to the provision of VRS, including documentation for financing of equipment, inventory, and other property.

ASL is internally funded, and will require no additional external funding to underwrite additional capital investments in equipment, inventory, and property.

7. Plan for hiring of new Communications Assistants.

ASL currently employs 63 communications assistants (“CAs”) and staff in addition to the Company’s owners and senior management team identified at item 2, *supra*. ASL is employing ten additional individuals who serve as independent contractors. These individuals will be employed on or before June 1, 2011. ASL believes that with the employment of these individuals, it will be well staffed to meet its current service levels and poised for its planned growth over the coming year.

The attached documentation underscores the Company’s long standing investment in its operations and commitment to the ongoing provision of VRS, and compliance with the amended MMS and the proposed certification rules.

The *R&O* also establishes that those requesting temporary rule waiver must seek “certification within thirty days after the final certification rules become effective.”²² ASL is already complying with this requirement at least in so far that its application for certification is being filed contemporaneously with the Commission. ASL states further, that it is prepared to submit a supplemental application for certification within thirty days following the effective date

²² *R&O* para. 63.

of the amended certification rules when promulgated. The Exhibits attached hereto clearly demonstrate that ASL is already prepared to supplement its certification application immediately.

The Commission states that a “rigorous showing that the applicant has workable plans and the ability to continue providing VRS in a manner that will not undermine the measures adopted in this *Order* to eliminate the fraud and abuse that have plagued the VRS program.”²³ By its showing herein, ASL maintains that its submission will withstand the appropriate rigor and scrutiny the Commission seeks to apply in determining the merit of granting ASL’s request, and ultimately in granting the Company’s certification application as a responsible, compliant VRS provider.

IV. APPLICANT’S REQUEST FOR TEMPORARY WAIVER IS IN THE PUBLIC INTEREST AND SHOULD BE GRANTED.

ASL maintains that the public interest will be served if ASL is allowed to continue providing uninterrupted VRS service to subscribers and the public, and that good cause exists for the requested waiver. That the Commission itself has anticipated the public interest of explicitly according Fund ineligible providers to seek a waiver in order to enable them to pursue Fund eligibility, suggests that the Commission readily recognizes the benefits and necessity of enabling responsible providers such as ASL, that meet (as is the case with ASL) - or can readily meet - the obligations for the continued provision of VRS to seek temporary rule waivers in anticipation of demonstrating full compliance.

Clearly, a temporary waiver of the prohibition against continued operations by Fund ineligible providers pending certification, as is requested herein, is necessary for legitimate providers who seek to become Fund eligible providers. With respect to ASL specifically, in the

²³ *Id.*

absence of a grant of the temporary rule waiver sought herein, thousands of Spanish speaking Deaf VRS users will be significantly limited in their access to – if not deprived of - professional, native-speaking Spanish language VRS. ASL’s non-Spanish subscribers would also be similarly affected. ASL is the only woman and minority-owned, Spanish VRS provider. Functional equivalency dictates that Spanish language VRS users should have unfettered access to VRS which would be effectively lost in the absence of the waiver requested herein. This loss would impact not only ASL’s subscribers, but subscribers of the host of other Fund eligible certificated VRS providers that rely on ASL’s native Spanish language capabilities to serve the Public generally, and Spanish Deaf Community specifically.

Further, long time employees could immediately become unemployed as the Company would have to cease providing VRS immediately pending certification. Though ASL would continue to exist as a VRI provider, it would likely no longer require the number of CAs currently employed. The Company could continue paying its full staff, as it would arguably not need them until certified, making the prospect of reemploying CAs or employing new CAs even more challenging. And the Company would otherwise need to restart its VRS operations, rather than maintaining them through the certification, which would add to the Company’s operational challenges and costs.

The Deaf Community has made it clear of their preference for a number of VRS provider alternatives.²⁴ Foreclosing the opportunity to such a unique provider as ASL to continue its operations pending certification would limit, rather than expand, the number of VRS providers and significantly limit Spanish VRS capabilities to the public for no meritorious reason.

²⁴ See e.g. panelists comments regarding VRS competition during the Commission’s December 17, 2009 public hearing.

ASL has through this temporary request for rule waiver and pending application demonstrated that it meets the MMS and proposed additional certification requirements to become a Fund eligible provider. The Company is a long standing provider of Spanish VRS and has long since made significant investments in call centers, employees, and operations. ASL is prepared to welcome the Commission to corroborate the Company's representations in person, as proposed under the new certification rules. The grant of the Company's instant request for temporary waiver will simply accord the Company and Commission with the time necessary to enable ASL to continue its operations, while the Commission verifies the Company's ability to meet the current and proposed requirements to provide compensable VRS directly as a Fund eligible certificated provider.

ASL has fully disclosed the extent of its operations and compliance with Commission regulations governing the provision of VRS and IP Relay. ASL's showing demonstrates that the Company is prepared to provide compliant services as a responsible provider consistent with the Commission's intent to eliminate fraud, waste, and abuse. ASL has a legacy of providing responsible compliant VRS to the public. ASL's request is fully consistent with the Commission's goals to stem VRS fraud and abuse, and promote efficient provision of VRS services, in accordance with the public interest.

V. CONCLUSION

Through the temporary rule waiver process specifically accorded to VRS providers under the *R&O*, responsible, compliant providers such as ASL have been accorded the opportunity to demonstrate that they warrant authority to provide uninterrupted VRS, despite their current Fund ineligible provider status, pending Commission verification of their compliance with the entirety of the MMS and proposed certification requirements. ASL has a history of responsible service to

the Public and specifically to the Spanish Deaf Community; has demonstrated that it complies with the MMS, as now amended; has demonstrated its commitment to the responsible provision of VRS through its employees, investment in platform and other delivery technologies, and deployment of four call centers staffed by professional CAs and supervisors with ample long-term experience. Through the instant Petition, ASL also demonstrated that it has “workable plans and the ability to continue providing VRS in a manner that will not undermine the measures adopted in [the *R&O*] to eliminate the fraud and abuse that have plagued the VRS program.”

In view of the foregoing, ASL submits that it has established a solid basis and good cause for a waiver of Section 64.604(c)(5)(iii)(N)(1)(iii) of the Commission’s rules on or before June 1, 2011, pending a grant of the Company’s application for Fund eligibility certification.

Respectfully submitted, this 23rd day of May, 2011.

ASL Holdings, LLC

By: 

Andrew O. Isar
MILLER ISAR, INC.
4423 Point Fosdick Drive, NW
Suite 306
Gig Harbor, WA 98335

Its Regulatory Consultants

Angela M. Roth
President, Chief Executive Officer,
and Founder
3700 Commerce Blvd., Suite 216
Kissimmee, Florida 34741

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

EXHIBITS LISTING

EXHIBIT	CONTENTS
1	A copy of each deed or lease for each call center the applicant currently owns or plans to acquire (CONFIDENTIAL)
2	A list of the applicant's full-time and part-time employees (CONFIDENTIAL)
3	VRS Platform Sharing Agreement (CONFIDENTIAL)
4	Copies of employment agreements for the provider's executives and Communications Assistants (CONFIDENTIAL)

Exhibit 1

A copy of each deed or lease for each call center the applicant currently owns or plans to acquire
(CONFIDENTIAL)

REDACTED FOR PUBLIC INSPECTION

Exhibit 2

A list of the applicant's full-time and part-time employees
(CONFIDENTIAL)

REDACTED FOR PUBLIC INSPECTION

Exhibit 3

VRS Platform Sharing Agreement
(CONFIDENTIAL)

REDACTED FOR PUBLIC INSPECTION

Exhibit 4

Copies of employment agreements for the provider's executives and
Communications Assistants
(CONFIDENTIAL)

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