



Via Electronic and Overnight Delivery

May 24, 2011

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
9300 East Hampton Drive  
Capital 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*, CD Docket No. 10-51

Dear Ms. Dortch:

In reference to the Commission's April 6, 2011 Report and Order and Further Notice of Proposed Rulemaking in the above referenced Docket, Deaf Link, Inc. ("Deaf Link") is submitting a Petition for Temporary Waiver ("Petition") of the newly promulgated Sections 64.604(c)(5)(iii)(N)(i) and 64.604(c)(5)(iii)(N)(iii) so that Deaf Link may continue to provide Video Relay Services ("VRS") to the public under an existing arrangement with a Telecommunication Relay Service Fund eligible provider, pending approval of Deaf Link's own application for certification as a VRS provider. Deaf Link will be submitting its application within the next thirty days.

Deaf Link respectfully requests that supporting documents included as Exhibits 1, 5, and 6 be deemed confidential and protected from public disclosure. Deaf Link asserts that these documents contain proprietary information including confidential leases, licensing agreements, personal employee and Board member information. Deaf Link would not otherwise make this information available to the public, and requests that the Commission treat the information likewise.

A redacted version of the enclosed petition has been filed electronically via the Commission's ECFS. If you have any questions regarding this filing, please feel free to contact me.

Sincerely,

Dan Heller  
President  
danheller@deaflink.com

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## **Background**

On April 6, 2011, The Federal Communications Commission (“Commission” or “FCC”) published new rules regarding the provision of Video Relay Service (“VRS”) with an effective date of June 1, 2011 (CG Docket 10-51). Those rules prohibit the use of subcontracted VRS providers who are not eligible to receive reimbursement from the Telecommunication Relay Service (TRS) Fund by providers who are eligible to receive TRS Funds. In that ruling, the Commission also recognized that it would not be possible for many of the current VRS providers to comply with all of the rules of the new regulation by the June 1<sup>st</sup> implementation date. To that end, the Commission also allowed non-eligible providers to seek a temporary waiver of the new requirements, until they can make the necessary changes to become compliant. Deaf Link, Inc. (“Deaf Link”) hereby submits its Request for Temporary Waiver from some of the new VRS rules adopted in CG Docket 10-51, while it submits its own application for certification as an eligible provider.

## **About Deaf Link**

Deaf Link is a Delaware corporation based in Texas. Its corporate office and communications complex is located at 500 N. Loop 1604 E. Suite 105, San Antonio, Texas 78232. Deaf Link was established in 2002 as an outgrowth of thirteen years of experience providing onsite community ASL interpreting. Deaf Link is a HUB certified business. Kay Chiodo, Deaf Link’s CEO and majority shareholder has lifelong experience in serving sensory disabled individuals.

Deaf Link's primary mission is to offer a suite of services providing seamless access for individuals with sensory disabilities. A key component of these services includes Video Relay Service, as well as IP Relay Service. Deaf Link also provides:

- Video Remote Interpreting (VRI), which provides on-demand 24/7/365 ASL interpreting services for hospitals, law enforcement, and commercial clients.
- Accessible emergency information through its Accessible Hazard Alert System (AHAS™) for government entities at local, state, and federal levels.
- Pre-recorded Video (PRI), providing ASL signed videos for websites and in-house playback at client sites (e.g. health care clinics, airports, etc.).

Deaf Link has worked with, and provided services for the Federal Emergency Management Agency (FEMA) in disaster recovery centers, as well as providing services to the Integrated Public Alert and Warning System (IPAWS) program, managed by FEMA. Deaf Link has participated in FCC hearings reference a common alerting protocol and WARN programs for providing accessible emergency information.

Deaf Link operates its own secure 24/7 call center staffed with Deaf Link employees, all of whom are either state or nationally certified. Deaf Link's CAs operate in individual rooms (not cubicles, nor shared offices) to ensure confidentiality and privacy for VRS and VRI calls. This level of security also provides maximum HIPAA compliance. Deaf Link subcontracts its service to other VRS providers for overnight and weekend coverage. Likewise, Deaf Link subcontracts with other VRS providers to provide overflow and backup coverage for Deaf Link.

## **Waiver Request**

Pursuant to Paragraph 62 of the FNPRM, the Commission, Deaf Link is requesting expedited handling of this waiver request, so that Deaf Link can continue to operate as a sub-contracted call center to the CAC/NorthStar LLC group until Deaf Link's application for Certification as a VRS Provider is approved. Deaf Link will be submitting its application for certification very soon, well in advance of the July 1, 2011 deadline date.

Paragraphs 62 and 63 of the FNPRM specify the requirements for submitting this waiver request. In paragraph 62, the Commission stated that "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." Deaf Link will address each of these points in this waiver request.

#### In the Public Interest

As noted in the introduction to this request, Deaf Link provides several services to sensory disabled individuals in addition to VRS (VRI, AHAS accessible alerts, and Pre-Recorded Interpreting). However, VRS Revenue comprises a significant portion of Deaf Link's revenue. Deaf Link's goal is to provide seamless access to communication for all sensory disabled individuals. One component of this seamless access is VRS. Deaf Link provides all of its services from its own call center 24/7/365. Deaf Link processes VRS calls as a subcontractor to other VRS providers for overnight and weekend shifts. This waiver request is in the public interest because, if Deaf Link is no longer able to provide VRS services to its customers, Deaf Link would have to significantly reduce its operating staff, which would reduce its ability to provide its AHAS Accessible alerts and VRI services. Further, those VRS providers and customers that rely

on Deaf Link to handle their overnight and weekend calls would no longer be able to complete their calls with their desired service provider.

#### Waiver Request Does Not Undermine the Purposes of the Rules

The Commission adopted the rules outlined in Docket 11-54 primarily to reduce or eliminate fraud and abuse of the TRS Fund by certain VRS Providers. Deaf Link has provided VRS service since May, 2010 and has never submitted minutes for reimbursement from the Fund through its eligible provider that have not been paid by NECA. Deaf Link has never, nor will it ever, submit any minutes for reimbursement which it knows are not fully reimbursable from the TRS Fund.

#### Compliance With Rules Within A Short Period of Time

The only TRS rule that Deaf Link does not currently comply with (including existing Section 606 rules, as well as the newly adopted Rule and Order from Docket CG 11-54) is the requirement to be a certified provider to receive reimbursement from the TRS Fund. Deaf Link will be submitting its application for certification to the Commission before the end of June 2011.

#### **Conclusion**

Deaf Link respectfully requests the Commission grant this temporary waiver of the newly adopted rule regarding TRS Revenue Sharing between eligible providers and non-eligible sub-contractors until Deaf Link receives its own certification as an eligible VRS Provider. Deaf Link believes that the requested waiver is in the public interests for the reasons stated above, and, because of Deaf Link's existing policies, procedures, and practices, as well as its existing

compliance with all other TRS rules (other than revenue sharing), knows that by granting the requested waiver, the Commission will not “undermine the measures adopted...to eliminate the fraud and abuse that have plagued the VRS program.”

Should the Commission have any questions or need further information, please do not hesitate to contact us.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Dan Heller', with a long horizontal flourish extending to the right.

Dan Heller  
President  
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**Exhibit 1**  
**CONFIDENTIAL**  
**Copy of Lease**

Redacted for Public View

**Exhibit 2**  
**Individuals Holding at Least a 10% Equity Stake**

Kay Chiodo  
Bruce Flohr  
Gregg Weston  
Fred Phillips

**Exhibit 3**  
**Description of Deaf Link's Organizational Structure**

Deaf Link, Inc., is a "C" corporation.

The CEO reports to the Board of Directors. The President reports to the CEO. All other employees report directly to the President.

**Exhibit 4**  
**Deaf Link's Executive Officers**  
**and Board of Directors**

Executive Officers

Kay Chiodo – CEO

Dan Heller – President

Board of Directors

Kay Chiodo

Bruce Flohr

Gregg Weston

Tim Maloney

Dr. Larry Miller

Michela Steele

**Exhibit 5**  
**CONFIDENTIAL**  
**Deaf Link's Full and Part-Time Employees**

Redacted for Public view

**Exhibit 6**  
**CONFIDENTIAL**  
**Technology License Agreement**

Redacted for Public View

**Exhibit 7**  
**Employment Agreements**

Deaf Link operates one call center in San Antonio, Texas. All of its employees work in Texas. Texas is an "at-will" work state, and as such, employees may resign or be terminated at any point in time. Due to this at-will employment arrangement, Deaf Link does not have Employment Agreements with any of its employees.

**Exhibit 8**  
**Financing Arrangements**

Deaf Link has no financing arrangements in place for any equipment, technology, or other tools used in providing VRS.