



ANDREW O. ISAR

4423 POINT FOSDICK DRIVE, NW
SUITE 306
GIG HARBOR, WA 98335
TELEPHONE: 253.851.6700
FACSIMILE: 866.474.3630
WWW.MILLERISAR.COM

Via Electronic Comment Filing System

September 28, 2011

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

ATTN: Chief, Consumer and Government Affairs Bureau

RE: Healinc Telecom, LLC Petition for Waiver, CG Docket No. 10-51

Dear Ms. Dortch:

Healinc Telecom, LLC hereby submits its *Petition for Waiver* of Commission Rules 64.604(c)(5)(iii)(N)(i) and (ii). These waiver requests are predicated on Healinc's desire to be considered in fully compliance with Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) to the extent that its past compliance may not be deemed complete.

Thank you for your attention to this matter. Questions may be directed to the undersigned.

Sincerely,

MILLER ISAR, INC.

Andrew O. Isar

Regulatory Consultants to
Healinc Telecom, LLC

Attachment

cc: Joel Gurin (via electronic delivery Joel.Gurin@fcc.gov)
Karen Peltz-Strauss (via electronic delivery karen.strauss@fcc.gov)
Greg Hlibok (via electronic delivery Gregory.Hlibok@fcc.gov)
Diane Mason (via electronic delivery Diane.Mason@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)

To the Commission:

PETITION FOR WAIVER

Healinc Telecom, LLC (“Healinc” or “Company”), pursuant to the Section 1.3 of the Commission’s Rules¹ and the Commission’s April 6, 2011 *VRS Practices Report and Order* in the instant proceeding,² hereby respectfully requests a temporary waiver of recently promulgated Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii)³ of the Commission’s Rules. Healinc requests that waiver of Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) be granted retroactively to June 1, 2011, the effective date of these rules, through September 23, 2011. These waiver requests are predicated on Healinc’s desire to be considered in fully compliance with Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) to the extent that its past compliance may not be deemed complete. In support of its request, Healinc states as follows.

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 (April 6, 2011) [“VRS Practices R&O”], and specifically paras. 62 and 63.

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

I. INTRODUCTION

On June 9, 2006, Healinc was granted certification to receive compensation from the Fund, independent from any certified state TRS program. Healinc has faithfully served as a provider of video relay services (“VRS”) to the Public, since.⁴

On April 6, 2010, the Commission released the *VRS Practices R&O*, promulgating amendments to the Commission’s relay services rules, principally to Section 64.604, the Mandatory Minimum Standards. In pertinent part, the amended rules implemented a new Section 64.604(c)(5)(iii)(N)(1), *Eligibility for reimbursement from the TRS Fund*. Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) (and (iv)) predicate compensation from the Telecommunications Relay Service Fund (“Fund”) to Fund eligible certificated providers to the extent their Fund ineligible sub-contractors clearly identify the Fund eligible certified provider. These requirements became effective June 1, 2011

The *VRS Practices R&O* accorded Fund ineligible providers an opportunity to request a waiver of newly promulgated rules in order to make adjustments to their operations to come into

⁴ *Certification Report and Order* at ¶21, citing to *In the Matter of Healinc Telecom, LLC for Video Relay Service and IP Certification of Eligibility for Compensation from the Interstate TRS Fund*, CH Docket No. 03-123 (2006). Extended through November 4, 2011. See, *Consumer and Governmental Affairs Bureau Announces Extension of Expiring Certifications for Providers of Internet-Based Telecommunications Relay Services, Public Notice*, DA 11-849, CG Docket Nos. 03-123 and 10-51 (rel. May 6, 2011).

compliance,⁵ “along with documentation demonstrating the applicant’s plan and ability to come into compliance.”⁶

On September 20, 2011, the Fund Administrator withheld payment of Healinc’s July 2011 submission for reimbursement.⁷ Such denial was predicated in part on a finding that Healinc was in non-compliance with Section 64.604(c)(5)(iii)(N)(1)(i)⁸ governing identification of the Fund eligible certificated provider, and of 64.604(c)(5)(iii)(N)(1)(ii)⁹ governing use of a single Uniform Resource Locator (“URL”) address. Although Healinc demonstrated to the Commission¹⁰ that the use of its well-established “LifeLinks” brand name effectively complies with Section 64.604(c)(5)(iii)(N)(1)(i), and that it has been properly routing calls in compliance with Section 64.604(c)(5)(iii)(N)(1)(ii) of the Commission’s rules, Healinc now seeks temporary waiver of these Sections through September 23, 2011, the date on which Healinc made additional adjustments to the manner in which it complies with these rules, to resolve any potential lingering concerns regarding the Company’s full and complete compliance.

⁵ 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.” Though applicable specifically to Fund ineligible providers, promulgation of the amendments to Section 64.604 similarly impacted Fund eligible providers. Though the opportunity for waiver was explicitly accorded to Fund ineligible providers, Healinc respectfully requests waiver of Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) as these new provisions have also impacted the Company as a Fund eligible certified provider and caused Healinc to reevaluate its compliance and adjust elements of its own operations, accordingly.

⁶ Id. para 63.

⁷ Reimbursement applicable to Healinc’s own VRS was subsequently made by the Fund Administrator.

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

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

¹⁰ See, e.g. *Healinc Telecom, LLC Request for Reimbursement* (September 23, 2011).

II. SECTION 64.604(c)(5)(iii)(N)(1)(i).

Healinc requests waiver of Section 64.604(c)(5)(iii)(N)(1)(i). Section 64.604(c)(5)(iii)(N)(1)(i) requires that: “Only an eligible VRS provider, as defined in subsection (c)(5)(iii)(F), may hold itself out to the general public as providing VRS.” Since its inception, Healinc adopted the “Lifelinks” brand as an easily identifiable, descriptive name for subscribers and callers to remember through which the Company’s services have been provided. Subscribers and the Public readily recognize the LifeLinks brand, while the Company’s identity as the certified provider has been clearly identifiable consistent with the Commission’s rules. To that end, Healinc has held itself out the Fund eligible certificated provider as has been clearly understood by the Company’s subscribers and the Public. Healinc has maintained that its operations complied with Section 64.604(c)(5)(iii)(N)(1)(i) for the entirety of its five years of operations as a certified provider and has had no indication to the contrary.

Healinc now requests waiver of Section 64.604(c)(5)(iii)(N)(1)(i), where such waiver had not been previously understood to be necessary. Though Healinc maintains that it has been compliant with Section 64.604(c)(5)(iii)(N)(1)(i), when the Company’s learned of the concern regarding use of Healinc’s “LifeLinks” name in identifying the Company, Healinc made immediate adjustments to the manner in which it identified itself to subscribers and the Public, to remove any doubt regarding its strictest compliance with Section 64.604(c)(5)(iii)(N)(1)(i). Healinc’s web site now reflects the “Healinc Telecommunications, LLC” name in its entirety, while retaining the LifeLinks name to promote subscriber and Public recognition of the Company as a well known, established VRS provider, and to limit confusion. A view of

Healinc's web site is attached here to at Appendix A.¹¹ To the extent that the Commission determines that Healinc's compliance did not more closely meet the requirements set forth in Section 64.604(c)(5)(iii)(N)(1)(i), Healinc requests a temporary waiver of this rule beginning June 1, 2011 through September 23, 2011. Healinc is prepared to make further immediate amendment of its operations in accordance with further Commission directives or guidance.

III. SECTION 64.604(c)(5)(iii)(N)(1)(ii).

Healinc also requests a waiver of Section 64.604(c)(5)(iii)(N)(1)(ii). Pursuant to Section 64.604(c)(5)(iii)(N)(1)(ii):

(ii) VRS service must be offered under the name by which the eligible VRS provider offering such service became certified and in a manner that clearly identifies that provider of the service. Where a TRS provider also utilizes sub-brands to identify its VRS, each sub-brand must clearly identify the eligible VRS provider. Providers must route all VRS calls through a single URL address used for each name or sub-brand used.

Again, Healinc maintains that it has complied with the requirements to clearly identify itself as the Fund eligible certified provider in all instances. Healinc calls have been routed to the llvrs.tv URL. Healinc's use of this URL and the lifelinksvrs.com URL in no way suggested that Healinc was not otherwise identified clearly as the certificated provider to callers. The rules do not indicate *how* – or *if* the URL *itself* must identify the certificated provider by name. Healinc's URLs were understood to meet both the requirements of identification of the certificated

¹¹ Though the Company has also viewed sub-contractors' as compliant with the Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) since they became effective on June 1, 2011, Healinc coordinated with its sub-contractors to ensure full compliance with these requirements with an understanding of Commission compliance expectations, immediately upon learning of the issues arising from the Fund Administrator's actions.

provider and use of a single URL for each name or subbrand used, while ensuring that subscribers and the public clearly recognize a known, certificated provider.¹²

As noted, Healinc's compliance with the Commission's rules had not formerly been questioned. To the extent that the Commission determines that Healinc's compliance has not more closely met the requirements set forth in Section 64.604(c)(5)(iii)(N)(1)(ii), Healinc requests a temporary waiver of this rule beginning June 1, 2011 through September 23, 2011. Healinc's is prepared to make further immediate adjustment of its operations in accordance with further Commission directives or guidance.

IV. HEALINC'S REQUEST IS IN THE PUBLIC INTEREST.

The Commission has underscored the expectation that a company requesting a waiver of the rules "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 ... and that it will come into compliance with those rules within a *short* period of time [emphasis supplied]."¹³ Further the Commission has underscored that the public interest showing represents a high bar to be met.¹⁴

¹² Notwithstanding the foregoing, in an effort to more clearly identify Healinc as the certificated entity to the public, the Company has implemented "healinctelecom.com" as its URL. Until October 1, 2011 when 47 C.F.R. §64.604(c)(5)(iii)(N)(1)(iii) becomes effective, Healinc "white label" partners will be accessed through "[partner].healinctelecom.com. URLs only.

¹³ *Id.* para. 62. "The Commission further specified that it would grant waivers "only after 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 [the *VRS Practices R&O*] to eliminate the fraud and abuse that have plagued the VRS program." *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Order, DA 11-1542, (rel. September 13, 2011), para. 6.

¹⁴ *Id.* para 5. "In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁴ Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.¹⁴ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver."

If Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) are not waived, Healinc stands to be deprived of compensation for services it provided and be unable to fully compensate employees and vendors. Healinc will be effectively deprived of the very opportunity to bring itself into closer compliance that was originally accorded by the Commission without adverse impact to its operations, if the Commission has since deemed the manner in which Healinc complied with these requirements has not met the Commission's expectations. Healinc's compliance also has far reaching implications for its soon to be filed application for Fund eligibility re-certification, which could be jeopardized if compliance concerns remain.

Healinc readily recognizes the Commission's intent to eliminate fraud and abuse through the strictest compliance with its rules. Healinc has strived to meet those expectations. Clearly, the Commission did not intend to create hardships on providers or prospective providers in an effort to demand compliance, but rather to accord providers an opportunity to demonstrate that they comply and wish to comply in complete accord with Commission regulations and policies, as Healinc has done.

V. CONCLUSION

In view of the foregoing, Healinc submits that it has established a solid basis and good cause for a waiver of Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) of the Commission's rules.

Respectfully submitted, this 28th day of September, 2011.

Healinc Telecom, LLC



By: _____

Andrew O. Isar
MILLER ISAR, INC.
4423 Point Fosdick Drive, NW
Suite 306
Gig Harbor, WA 98335
Telephone: 253.851.6700

Its Regulatory Consultants

STATE OF NEW YORK
COUNTY OF BRONX

)
) ss.
)

VERIFICATION

I swear under penalty of perjury that I am Stanley F. Schoenbach, M.D., Managing Member, President and Chief Executive Officer of Healinc Telecom, LLC, an officer of the above-named petitioner, and that I have examined the foregoing submission, and that all information contained therein, is true, and accurate, to the best of my knowledge, information, and belief.

Respectfully submitted this 28th day of September, 2011,

Healinc Telecom, LLC

By: 

Stanley F. Schoenbach, M.D.
Managing Member, President and
Chief Executive Officer
3333 Henry Hudson Parkway, Suite 1A
Riverdale, NY, 10463

APPENDIX A

Healinc Telecom LLC



HOME | ABOUT US | SERVICES | INVESTORS | 10-DIGIT ACCOUNT | SUPPORT | NEWS | CONTACT US

Welcome to LifeLinks

Real-time, cost-effective online solutions for your interpreting needs in over 180 languages, including American Sign language.

WHAT'S NEW?

LifeLinks and NexTalk – advanced and affordable VRI. [More »](#)

Article: LifeLinks has introduced real time captioning and recording between more than 180 languages including American Sign Language. [More »](#)

HOW CAN WE HELP YOU?



Are you a deaf or hard of hearing person, or trying to reach one? [More »](#)

Are you a hospital or health care provider? [More »](#)

QUICK LINKS

What languages do we support? [More »](#)

What is LifeLinks? Check out our award winning short video [More »](#)

Check out our ASL health tips. Online videos on a wide range of topics [More »](#)

DON'T MISS . . .

LifeLinks' Conocimiento – bringing together the deaf, hard-of-hearing, and hearing Latin American and mainstream communities. [More »](#)

CONTACT US

Deaf VRS users
LLVRS.TV or LLSPANISH.TV for Spoken Spanish

Hearing VRS users
877 744 6111

Technical support
Call LLTECH.TV from any VP, Ojo or Vpad

FOLLOW US



© LifeLinks – Communications for a better world [Privacy](#)