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November 18, 2011

CONFIDENTIAL TREATMENT REQUESTED

By ECFS and Overnight Delivery

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

Re: Request for (i) Expedited Reconsideration of Denial and Review of Evidence Demonstrating Compliance with the minimum standard codified in Section 64.604(b)(4)(i) of the Commissions Rule and, (ii) Provisional Certification pending Consideration of the Internet-based TRS Certification Application of PAH! VRS Support Services, LLC d/b/a PAH Relay

Dear Secretary Dortch:

On September 19, 2011, PAH Relay submitted to the Federal Communications Commission (the "Commission") a new Internet-based TRS Certification Application requesting certification as a provider of internet-based video relay service ("VRS") which would grant PAH Relay eligibility to receive reimbursement directly from the Federal Telecommunications Relay Service Fund (the "Fund"). On November 15, 2011, PAH Relay received a copy of a public notice indicating that PAH Relay's application for certification was denied because the Commission was "unable to determine that it is capable of meeting this mandatory minimum standard codified in section 64.604(b)(4)(i) of the Commission's rules." The purpose of this letter is to respectfully request expedited reconsideration of its application in light of the evidence that PAH Relay is able to provide 24/7 support as recorded in the Call Detail Record (CDR), and staffing report during the month of September, 2011, and to ask that the Commission consider granting PAH Relay conditional approval pending the Commission's review of the Application for permanent eligibility.

History

In November of 2008, PAH Relay filed its initial application for certification with the Commission, and in March and April of 2009, PAH Relay met with members of the Consumer and Governmental Affairs Bureau ("CGB") to address the outstanding concerns the Commission had with respect to their application. Shortly thereafter, PAH Relay amended its application to satisfy all concerns raised at that time. Subsequent to such amendments, PAH Relay made several inquiries as to the status and sufficiency of its application and was advised that nothing more was needed; however, to PAH Relay's detriment, the Commission never acted on their original application.

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New Rules

On April 5, 2011 the Commission adopted a new set of rules.¹ At the time of adoption, PAH Relay was already in compliance with the vast majority of these rules and was quickly able to make the changes necessary to address any rules with which it might not have been in compliance to the best of its ability given the limited initial guidance and the short time frame imposed by the Commission.

Based on the Commission's *Second R&O and Order* issued on July 28, 2011,² which made several substantial changes to the original VRS Practices Report and Order and FNPRM, PAH Relay updated their original application and submitted a new application on September 19, 2011, indicating compliance under the new rules. This step was taken following a telephone conversation with the Head of the Disability Rights Office, Greg Hlibok, in early September who had asked that PAH Relay submit its application as soon as possible so that the Commission could begin to review the application and render a decision by October 1, 2011, even though the Office of Management and Budget (OMB), had not yet approved the new rules. There was no indication in either the updated Rules and Order or on their call with Greg Hlibok, that applicants needed to demonstrate their ability to provide 24/7 support. Even during subsequent communication with Greg Hlibok regarding changes PAH Relay had made to conform with the new rules effective June 1, 2011, there was no mention that 24/7 support was a concern of the Commission.³

PAH Relay was proactive and fully understood the Commission's intent and implemented this rule as of September 1, 2011, and stated such in its application submitted on September 19. The application clearly identifies not just a promise to comply with this standard, but the actual compliance prior to the published deadline. All of the calls PAH Relay handled during the month of September were handled by PAH Relay call centers staffed with PAH Relay employees, who provided uninterrupted 24/7 support. Nonetheless, PAH received notification on November 15, 2011, that the Commission didn't believe that PAH Relay had demonstrated its ability to provide 24/7 support and thus denied PAH Relay's application for certification. Therefore, PAH Relay is submitting documentation showing that for the month of September, 2011, PAH Relay did in fact, provide 24/7 support with its own call centers and by its own CA staff and exceeded the guidelines for speed of answer. PAH Relay's staffing model was developed using an Erlang model based on three years of traffic data that projects staffing needs and adapts to fluctuations in volume. As evidence of same, we are submitting a copy of PAH Relay's Call Detail Record on the enclosed DVD and a copy of the monthly staffing report attached as Appendix 1.

Conclusion

The new rules published in April, 2011, essentially required that all ineligible providers, if they wished to continue providing VRS services and expected to be reimbursed by the TRS Fund, had to be able to provide 24/7 support utilizing its own call centers and CAs. PAH Relay, through the attached reports, clearly demonstrates its ability to provide 24/7 support utilizing its own call

¹ *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011) ("*VRS Practices R&O and FNPRM*").

² *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order ("*Second R&O and Order*").

centers and CAs with a speed of answer well above the published minimum standard as set by the FCC.

Given PAH Relay's three year history, the fact that its application has been pending for three years, and the current timing situation facing the deaf community and PAH Relay with respect to the implementation of the new rules, it is our belief that PAH Relay is exactly the type of provider that was intended to be addressed by such conditional certification, in that such conditional certification would have allowed for PAH Relay to avoid the current, actual interruption of its services. The grant of such a conditional certification on an expedited basis would certainly minimize the existing interruption in services and allow the consumers of PAH Relay to continue to rely upon the service with which they have become accustomed as well as allowing for PAH Relay to continue to provide employment to its employees without any further interruption.

PAH Relay understands and fully supports the Commission's desire to eliminate fraud and abuse through strict compliance with its rules. PAH Relay has consistently strived to meet those expectations. Clearly, the Commission did not intend to create hardships on prospective providers to achieve compliance, but rather to accord prospective providers with an opportunity to demonstrate that they do comply and wish to comply in complete accord with the Commission's regulations and policies, as PAH Relay has done. PAH Relay desires to continue to provide VRS services to its customer base ensuring it remains completely in compliance.

Based on the foregoing, PAH Relay respectfully requests an expedited review of the evidence that PAH Relay can, in fact, provide 24/7 support and provisional certification pending the final decision on its Application.

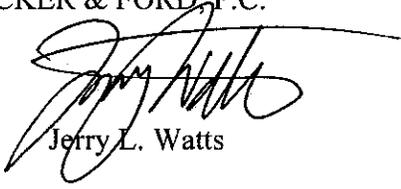
Confidentiality Request

This letter contains certain sensitive and/or proprietary information that may be useful to competitors and is not intended for public consumption, the release of which could cause PAH Relay irreparable and inestimable harm. Therefore, PAH Relay respectfully requests that this letter be given confidential treatment pursuant to Section 0.459 of the Commission's rules.

Respectfully submitted,

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By:


Jerry L. Watts

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Enclosures

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Mr. Greg Hlibok (via electronic delivery, Gregory.Hlibok@fcc.gov)

APPENDIX 1

Monthly Staffing Report

[Attached]

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