

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	

COMMENTS OF ASL SERVICES HOLDINGS, LLC

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SUMMARY

ASL/Gracias VRS generally supports the proposal for standardization of VRS access technologies addressed in the *Request for Additional Comment* as one option in furtherance of the Commission's interoperability and sustainability goals, with qualification. ASL/Gracias VRS also supports the proposed utilization of an enhanced iTRS numbering directory for user registration, validation, call routing and usage accounting purposes, again with qualification. These two proposals represent a significant and positive shift toward Program standardization, management, and control, which ASL/Gracias VRS welcomes, to the extent that the public is not otherwise deprived of competitive choice and providers are not limited in their ability to innovate and distinguish themselves on the basis of service and meeting their subscribers' and the public's needs. ASL/Gracias VRS proposes a three-tiered framework that in addition to standardizing key operational functions continues to enable providers to innovate and distinguish themselves from other providers. ASL/Gracias VRS further proposes adoption of advisory groups that will engender participation by the Deaf and Hard of Hearing community, from underrepresented Communications Assistants who are the "front line" service providers, and from knowledgeable Deaf and Hard of Hearing Community organizations including TDI, National Black Deaf Advocates, and the National Council of Hispano Deaf and Hard of Hearing.

As these proposals represent a major departure from the Program's *status quo*, ASL/Gracias VRS maintains that a radical restructuring of the Program's rating structure is premature until access technology and enhanced iTRS database restructuring have been implemented. The Company generally supports interim adoption of Rolka Loube Saltzer Associates' ("RLSA") phased, two-tier compensation methodology pending further restructuring with additional considerations. Once final Commission implementation of the technology and database operations proposals is concluded, the Commission can better evaluate changes in compensation methodology with the benefit of actual cost data based on the significant structural reforms being proposed.

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COMMENTS OF ASL SERVICES HOLDINGS, LLC

ASL Services Holdings, LLC (“ASL/Gracias VRS”) comments on the Commission’s request for additional comment regarding a further restructuring of the video relay service (“VRS”) Program and proposed compensation structure.¹ ASL/Gracias VRS has witnessed the marked effects of the Commission’s structural reforms to date.² ASL/Gracias VRS comments on the Commission’s proposed further restructuring of the three “interlinked” VRS components and compensation framework.³

ASL/Gracias VRS generally supports the proposal for standardization of VRS access technologies addressed in the *Request for Additional Comment* as one option in furtherance of the Commission’s interoperability and sustainability goals, with qualification. ASL/Gracias VRS also supports the proposed utilization of an enhanced iTRS numbering directory for user registration, validation, call routing and usage accounting purposes, again with qualification.

¹ See, *Additional Comment Sought on Structure and Practices of the Video Relay Service (VRS) Program and on Proposed VRS Compensation Rates*, CG Docket Nos. 03-123 and 10-51, DA 12-1644 (October 15, 2012) [*Request for Additional Comment*].

² *Request for Additional Comment* at 2.

³ VRS access technologies, video communication service, and relay service provided by American Sign Language (ASL)-fluent communications assistants (CAs). *Request for Additional Comment* at 1 citing to *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Notice of Inquiry, 25 FCC Rcd at 8608, ¶¶ 32-33 (2010) (*2010 VRS NOI*).

The benefits for standardization, including, but not limited to, enhanced Commission oversight, competitive-neutrality, maintaining Program integrity, and improved service to the Deaf and Hard of Hearing (“HoH”) community are clear. Yet further considerations must be made before implementation.

ASL/Gracias VRS proposes a three-tiered framework that in addition to standardizing key operational functions continues to enable providers to innovate and distinguish themselves from other providers. ASL/Gracias VRS further proposes adoption of advisory groups that will engender participation by the Deaf and HoH community, from underrepresented Communications Assistants who are the “front line” service providers, and from knowledgeable Deaf and HoH Community leaders. Until these significant structural reforms are adopted and the financial impact of these reforms is quantified, no further compensation reforms should be adopted.

I. INTRODUCTION.

ASL/Gracias VRS is an established woman and minority-owned Florida limited liability company with corporate offices and relay service call centers located in Florida and Puerto Rico. ASL/Gracias VRS has provided English and Spanish video relay service (“VRS”), with particular expertise in processing Spanish language calls. Virtually all of its employees are either members of the Deaf and HoH communities or and/or have personal and professional ties to these communities.

With the benefit of its experience and close ties to the Deaf and Hard of Hearing (“HoH”) Community, ASL/Gracias provides the following comments in response to the Commission’s *Request for Additional Comment* regarding relay service technology standardization and changes to the Fund’s compensation methodology." ASL/Gracias VRS has a

sincere desire to work closely with the Commission and the Fund administrator to ensure continued sustainability of the relay services program and to meet the communication needs of the Deaf and HoH Communities we serve. As an interpreter-owned and operated VRS provider ASL/Gracias VRS takes this opportunity to represent the historically under represented group of those individuals who are ‘in the field,’ masterfully perform the work of interpreting every day, seriously. It is from this experienced perspective that ASL/Gracias VRS provides the following comments.

II. THE COMMISSION SHOULD FORMALLY IMPLEMENT THE PROPOSED STRUCTURAL REFORMS AFTER FULL DEVELOPMENT AND TESTING HAS BEEN COMPLETED.

The Commission notes that it has taken, “significant further steps to protect the VRS program’s integrity and increase its efficiency ...”⁴ since June 2010 when it undertook a major reformation of the relay services program. Indeed ASL/Gracias VRS has witnessed firsthand, the favorable changes in the industry that have contributed to Fund integrity and the routing out of waste, fraud, and abuse, but is also concerned about the rapidity of subsequent changes without further analysis of a stabilized VRS provider base and the proposed operational reforms fully developed and tested.

ASL/Gracias VRS readily supports the Commission’s efforts to rid the waste, fraud, and abuse that have existed in the relay services Program, and concepts now advanced by the Commission as it pursues reform efforts, discussed *infra*. Yet the Company also maintains that too many significant reforms in program structure initiated in such a relatively short period of time may actually have a destabilizing effect on VRS providers, who have already themselves had to restructure their own operations to maintain strict compliance with Commission rules. Further, in light of the precipitous decline in providers, it is unclear if further program changes

⁴ *Request for Additional Comment* at 2.

should not be adopted until such reforms are fully developed and tested and at a minimum, not before the passage of a complete fiscal year.

ASL/Gracias VRS recognizes, if not supports, the anticipated benefits of technology standardization in support of interoperability and compensation reform. And the Company acknowledges that the Commission has been considering such reforms for several years. ASL/Gracias VRS' concern arises from the rapidity of such amendments and now the potential for further significant reforms, particularly in with compensation reform *before* the Commission has had an opportunity to fully analyze the impact that its recent reforms have made on the industry and fully developed and tested the proposed additional structural reforms.

In two short years, we have witness a dramatic reduction in the number of providers from 52 to 6 providers.⁵ Of those, the industry remains dominated by a single provider which dwarfs ASL/Gracias VRS' operations by comparison. This reduction in providers, while demonstrated necessary and with beneficial consequences for routing out program waste, fraud, and abuse, has occurred in such an unprecedented time frame, that it is unclear just what impacts further significant program reforms could have on remaining providers and on smaller providers such as ASL/Gracias VRS in particular in the near term. Further ASL believes that the proposed reforms would benefit further from additional data regarding the remaining provider under existing reforms, before further reform is implemented. ASL/Gracias VRS proposes that no further structural compensation reforms be formally implemented for a minimum of one full fiscal year, until July 2014, to allow the Commission and remaining providers to fully assess the impact of the proposed reforms on their operations. The proposed standardization initiatives should be developed now. Yet the resulting structural reforms should be not be formally adopted until these reforms have been fully developed with the benefit of industry and Deaf and HoH

⁵ See, *Ed's Alert*, October 17, 2012 (<http://www.edsalert.com/>)

community involvement, tested, and providers may verify the effectiveness of their operations under recently adopted reforms.

III. ADOPTION OF A UNIFIED VRS ACCESS TECHNOLOGY IS DESIRABLE IN PROMOTING INTEROPERABILITY, SUPPORTING STANDARDIZATION, AND ELIMINATING FRAUD, WASTE, AND ABUSE, SO LONG AS PROVIDER INNOVATION AND DEVELOPMENT ARE NOT PRECLUDED.

The Commission seeks comment on a proposal to migrate “all VRS access technologies to a standard, software based VRS access technology application that could be used on commonly available off-the-shelf hardware as a means of furthering the Commission’s interoperability and portability goals.”⁶ ASL/Gracias VRS readily supports VRS access technology standardization as a means for achieving historically illusive interoperability between providers, so long as VRS providers are not otherwise precluded from innovating and distinguishing themselves from other providers.

Standardized VRS access technology has indeed been discussed in several *fora* for years, though the concept of what constitutes “standardization” varies. Many have viewed standardization as provider-independent, competitively-neutral “off the shelf” technology, utilizing a single shared platform incorporating standard software, interfaces, VRS equipment, and Application Programming Interface (“API”). The proposal to standardize VRS access technologies represents one possible approach, though if pursued, should be designed as a multi-tiered solution giving individual providers control over implementation of non-“core” tiers.⁷

⁶ *Request for Additional Comment* at 3 and 4.

⁷ A tangentially related issue that must also be considered in the context of technology standardization relates to relay service equipment and national distribution. ASL/Gracias VRS has heard from many subscribers and Deaf and HoH community members who fear compulsory use of “off the shelf” equipment. Many feel that such equipment will be inferior to equipment that is readily available in the open market. Still others remain fearful that if they change providers, they will lose certain functionalities available with proprietary equipment that has distributed by the provider. ASL/Gracias VRS has previously commented on the need to bifurcate equipment standards and distribution from platform and iTRS database standardization initiatives and reiterates this point. However the Commission’s structural reforms are implemented, the Commission should keep equipment considerations separate and allow individuals the freedom to determine whether to accept nationally-distributed equipment or purchase

A. A Three-Tiered Client-Server Architecture Would Achieve Standardization and Commission Control, While Enabling Providers to Innovate and Compete.

ASL/Gracias VRS envisions a three-tiered client-server architecture consisting of two “core” tiers – standardized tiers that are not subject to individual provider design – and one non-“core” tier that would be designed and implemented by the provider, as follows: 1) a non-core end user interface – or “Presentation” tier used by the public to place VRS calls; 2) a core application processing or “Logic” Tier using standard APIs; and 3) a core data management or “Data” Tier.⁸ Each tier’s functions would be logically separated. Under this three-tiered framework approach, the non-core Presentation Tier would be developed, maintained, and supported by the individual VRS provider. The Presentation Tier would interface with a set of standardized APIs that would act as the core Logic Tier enabling communications with the core Data Tier, developed and implemented by a Commission designated entity(ies). The Data Tier could then serve as the enhanced iTRS database, supporting VRS user registration, validation, ten digit number assignment, and presubscription to the user’s VRS provider. The Data Tier would also be designed to support vertical features including video mail and address book features through a standardized framework.

A multi-tiered approach offers the highest level of security against fraud, waste, and abuse by allowing customer proprietary network information to remain under the complete control and oversight of the Commission and/or its designee. The Commission or designee would be able to directly create automated standard usage and operations reports for each

equipment of their choosing, so long as the equipment remains compatible with Commission standards, consistent with current TTY equipment distribution programs. This approach will provide a safety net for individuals who cannot afford, or do not wish to purchase, equipment on the market, while enabling others to purchase equipment of their choosing. Further, this approach will preclude providers from maintaining captive customers on the basis of equipment, and force providers to focus on service and technology as a means for attracting and retaining subscribers. This will compel providers to focus on service innovations and not keep a stranglehold and fear over the Deaf and HoH community.

⁸ Also known as a “reference platform.”

provider from the Logic and Data tiers that would be sent to each VRS provider's designated officer for review and approval. Once approved, the usage data would be automatically submitted to the Fund administrator for reimbursement. The burden would otherwise be on the provider to demonstrate why a report was inaccurate.⁹

ASL/Gracias VRS maintains that this multi-tiered approach will promote competitive diversity and provider innovation, establish standard interfaces that are imperative for interoperability and functional equivalency, and provide virtually full automated reporting under the complete control of the Commission.

B. The Presentation Tier Should Not Be Standardized or Under the Control of a Single VRS Provider.

The ASL/Gracias VRS emphatically opposes a "one size fits all" standard device or application to access VRS at the Presentation Tier, nor does ASL/Gracias VRS support the concept of a single VRS provider being contracted directly by the Commission for this purpose. The communications needs of the Deaf/HoH and hearing population, including the Latino and other ethnic populations, are varied. Hearing callers have access to a plethora of devices, equipment, and technology to place calls. Deaf and HoH callers should have no less options. The extremely diverse Deaf and HOH culture and communications needs further necessitates a wide range of communications devices, service options, and expertise that can only be met through different access technology and service providers. Strict service access standardization at the Presentation Tier will not provide Deaf and HoH individuals with communications options designed to meet their individual needs, much less promote functional equivalency.

⁹ The Commission would then be able to monitor VRS usage and provider operations at any given moment, and moreover, would be fully in control of the reimbursement process, rather than relying on provider platforms to generate usage data and reimbursement reports. The entire process could ultimately be fully integrated with the Fund administrator so that Commission reports would be automatically provided to the Fund administrator and compensable upon automated certification by the provider, unless the provider were to dispute the report through a separate dispute process. This would shift all control of the reimbursement process from the provider to the Commission's automated reporting process.

C. Data Tier Design Must Support Standardization, Remain Current with Technological Advancements, and Benefit from Objective Recommendations.

The manner in which the Data Tier is developed, whether by internal acquisition of resources or by external contract, is less critical than how the Data Tier is designed. ASL/Gracias VRS maintains that five critical considerations must go into the Data Tier design:

1) The back-end Data Tier must be Session Initiation Protocol (“SIP”)-based. It has become evident that communications are overwhelmingly becoming Internet-enabled. Internet VRS by necessity relies on SIP. Any standardized Data Tier must be capable of supporting SIP-based relay services. Regardless of the fact that the American VRS market has been saturated with devices that are based on H.323 protocol, standards must be progressive. If existing providers wish to maintain the use of outdated technology then they must develop their own solutions, while complying with new standards of advancing technology. ASL/Gracias VRS recommends consultation with SIP resource groups, such as the SIP Forum,¹⁰ to provide technical guidance.

2) That Data Tier technology be reviewed and updated on a regular basis to ensure that the current technology is being utilized and full interoperability maintained. Given the rapidity of technology advancement, it would be prudent to conduct annual Data Tier technology reviews. Such reviews would ensure that the Data Tier technology is current and interoperable with advances in standard APIs in continued support of functional equivalency. Annual reviews would also address ongoing compliance with technical mandatory minimum standard compliance;

3) That the Data Tier be compatible with a variety of APIs, giving the VRS consumer

¹⁰ <http://www.sipforum.org/>

true functional equivalency and choice from a wide range of call applications including video devices; Windows, Mac or Linux-based applications, mobile devices, and tablets;

4) That independent consumer input is solicited before proceeding with the development or acquisition of the Data Tier. ASL/Gracias VRS has, since its inception, relied upon an independent Deaf Advisory Team that provides objective feedback regarding the Company's service. This independent group has served ASL well in making service and operational improvements to more closely meet customer needs and expectations. An independent advisory group, whether the current advisory council or other group formed specifically for this purpose,¹¹ will accomplish the same purposed for development and implementation of a Data Tier.

5) That independent American Sign Language Communications Assistant ("CA") input be solicited before proceeding with the development or purchase of the Data Tier and its implementation. CAs utilize technology daily, but are often overlooked when considering technology design and standardization. ASL/Gracias VRS proposes formation of an interpreter or CA advisory team consisting of representatives from national and local interpreter organizations, including those representing minority populations, to consult on Data Tier design and functionality.

IV. A COMMISSION-APPOINTED THIRD PARTY SHOULD BE DESIGNATED TO DEVELOP AND OVERSEE INTEROPERABILITY STANDARDS.

Standardization of VRS access technologies has clear benefits, as have been addressed. Yet equally as clear are corresponding operational challenges that must be considered. Among

¹¹ An independent advisory council should be comprised of members representing a variety of Deaf organizations including organizations that serve smaller populations within the Deaf Community: those serving ethnic groups, Deaf-Blind individuals, latten deaf and oral deaf. and Deaf individuals with other disabilities "such as cerebral palsy and down syndrome"

them:

- How could the Commission ensure consumers have functionally equivalent options for VRS technology solutions?
- What policies and procedures could be established to ensure that standards and technology keep pace with technological advancements and the needs of the Deaf and HoH communities?
- How will system design best incorporate CA needs and be simplified, *e.g.* “user friendly” so that CAs may focus on serving callers rather than on functioning as technical system experts?
- How will redundancy be assured to maintain 24 hour operations for all VRS providers?
- How will competitive-neutrality be maintained to avoid preferential treatment to providers for system outages and otherwise?
- How could providers be notified of system outages?
- Would providers be compensated for system outages outside of their control?

These challenges and other technical and procedural issues are best addressed by a Commission-designated third party, knowledgeable in VRS technology, thoroughly experienced with the unique needs of Deaf and HoH consumers, and knowledgeable of CA professional standards and needs. This entity or individual can oversee interoperability and identify non-compliance to the Commission for enforcement.¹²

ASL/Gracias VRS maintains that this alternate solution creates a balance between innovation/advances in technology, interoperability, and compliance. If VRS providers were unable to come into compliance with the minimum standards for interoperability within an adequate timeframe set forth by the FCC then funds could then be appropriately withheld until the provider could give evidence to the third party administrator of interoperability.

¹² ASL/Gracias VRS believes qualified individuals, such as Dr. Christian Vogler and the Technology Access Program at Gallaudet University's Department of Communications Studies, would be an excellent candidate for this position.

V. COMPENSATION RESTRUCTURING IS PREMATURE PENDING ANALYSIS OF THE IMPACT OF OTHER STRUCTURAL PROGRAM REFORMS ON PROGRAM AND OPERATIONAL COSTS.

The Commission seeks comment regarding the Fund Administrator's proposal for determining how VRS providers are to be compensated by the Fund.¹³ ASL/Gracias VRS acknowledges that such the Rolka Loube Saltzer Associates, LLC ("RLSA") proposal represents a significant departure from the Program's *status quo*, and for that very reason maintains that a radical restructuring of the Program's rating structure is premature until VRS technology and enhanced iTRS database restructuring have been concluded. Only then will the Commission and providers have a complete picture of the actual Program service costs.

Compensation reform is understood to be a key element of the Commission's overall structural reform efforts. Yet to initiate implementation at this juncture before standardization reform and its effects are identified and quantified would appear premature and a precursor of yet subsequent adjustments at best, and full scale reform for a second time, at worst. To initiate compensation reform at this point without fully understanding, let alone quantifying, the impact of other structural reforms, would result in a compensation methodology that would be tied to historical data with no correlation to the standardization reforms envisioned in whatever manner ultimately adopted.

The Commission should alternatively defer action on financial reforms in favor of reevaluating the RLSA proposal and the comments received through this *Request for Additional Comments* with the benefit of quantified program cost data and analysis following

¹³ Citing to *RLSA, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate (filed October 15, 2012).

implementation of the structural reforms and standardization initiatives that has been proposed. This will further enable providers to quantify their own operational costs under Commission reforms, which will provide additional accurate cost data to the Commission and Fund Administrator to factually support compensation reforms as may be adjusted.

Once such structural reforms are implemented, the Commission can then release a further notice of proposed rulemaking as a separate proceeding, and ultimately establish the course for future compensation reform. At a minimum, ASL/Gracias VRS requests that the Commission defer action on compensation reform of a minimum of one fiscal year – until July 1, 2014 – to enable initial implementation of the proposed structural reforms and quantification of the resultant financial impacts of those reforms.

VI. IF ADOPTED, THE RLSA COMPENSATION METHODOLOGY SHOULD ACCOUNT FOR CHANGES IN THE UNDERLYING RATE OF RETURN RATE WHILE PRESERVING COMPENSATION FOR PROVIDER MARKETING, OUTREACH, AND RESEARCH AND DEVELOPMENT COSTS.

ASL/Gracias VRS does not oppose the RLSA-proposed two-tiered compensation methodology consisting of a \$6.2335 per minute rate for the first 500,000 minutes per month and \$5.0668 per minute beginning with the 500,001st minute each month generally, but maintains that the proposed rate of return should reflect today's cost of service and capital. Additionally, providers should continue to be compensated for marketing, outreach, and research and development (“R&D”) regardless of what structural reforms are ultimately adopted.¹⁴

¹⁴ Although the two tiered system has merit, it fails to account for the significant compliance and operational costs that new Program entrants such as ASL/Gracias VRS assume, because of the two tiered approach reliance on cost averaging over all providers. It is unclear that a two-tiered compensation methodology contains a sufficient level of granularity to account for the disparate differences between new and entrenched providers who benefit from economies of scale. Despite the fact the provision of Fund-supported relay services is a federal program and not a competitive market, market competition very much exists, even within the six remaining providers. To the extent

A. The Rate of Return on Investment Has Not Kept Pace With Current Costs.

A delicate balance must be maintained in developing a compensation methodology that protects Fund integrity, is sustainable, and enables VRS providers to be fairly compensated for the actual costs they assume in providing service. The 11.25% rate of return on investment adopted in 1990 is inconsistent with current cost structures 22 years following its adoption and should be re-examined. The underlying assumptions that supported this rate of return have changed in the more than two decades since adoption, resulting in an artificially lower rate of return that bears little relationship with current costs, risks, and challenges. ASL/Gracias VRS supports the Commission's limitation on the capital investments that may be recovered. Yet the Company maintains that RSLA's proposed 11.25% rate of returned on invested capital, despite the long-standing basis for this amount, should factor in today's higher costs of capital and tax rates, among other costs that have steadily risen since 1990 in today's destabilized economy.

B. Providers Should be Compensated for Marketing, Outreach and R&D costs.

ASL/Gracias VRS also supports maintaining compensation for direct costs associated with marketing, outreach, and research and development.¹⁵ These three functions serve as the

that new providers will be allowed to enter into the provision of relay services, they too will incur significant entry costs. Such costs should not be callously relegated to the cost of doing business associated with serving this specialized segment of the population. New entrants spur innovation and competition compels all providers to meet the needs of their subscribers. Such competitive entry should remain open to new entrants. Yet too, the unique costs of entering this specialized market should continue to be factored in to compensation methodology. To the extent that the two tiered compensation methodology is adopted, ASL/Gracias VRS proposes that the existing tier 1 rates be extended to new market entrants for a three year period, and then move to the two-tiered compensation structure. This will enable new entrants to become meaningful providers, rather undermining their ability to grow solely because of their limited longevity in the program. The Commission has succeeded in cutting fraud, waste, and abuse and commendably pursued reforms to promote Program efficiency. Yet there remains a fine balance between promotion of efficiency and the impact of reduced compensation on undermining provider service quality and capabilities, let alone a provider's ability to continue to serve as a Fund-eligible provider. It is in the Deaf and HoH community's, the Commission's and the public's benefit that more, rather than less qualified, reputable providers remain capable of providing VRS.

¹⁵Three year averages of \$0.047033, \$0.26470 and \$0.0517, respectively for a combined cost of cost of \$0.363433 per minute based upon RSLA's calculations.

underpinnings for VRS provider operations, serve to support Commission Program policy objectives, and should be retained. Providers should continue to be compensated for these key elements of a provider's operations which directly support Commission policies and functional equivalency, promote Deaf and HoH community awareness of service options, and enable providers to innovate and better serve the public. Removal of compensation for these functions stands to undermine the very initiatives the Commission seeks to pursue.

Marketing and Outreach Cost Compensation. The Commission has emphasized the importance of outreach to the Deaf and HoH community given the significant number of individuals who still do not have communication access. It is through the successful efforts of provider marketing and outreach programs that so much effective work is being conducted to support the Commission in fulfilling that specific mandate.

Marketing and outreach compensation should be provider-specific and not be averaged. Clearly the dominant and larger providers are capable of leveraging their size to realize significant costs savings through economies of scale, not generally available to smaller providers. New VRS providers, and/or those with a smaller market share generally need to expend more funds initially on marketing campaigns and outreach community programs than do well-established VRS providers possessing significant market shares. Those providers with smaller volumes must also expend more funds to reach new markets as they face higher entry barriers in light of entrenched incumbent provider control. Smaller providers assume a far greater cost than the proposed averaged \$0.0466 per minute for marketing and \$0.2594 per minute for outreach.

Alternatively, the Commission should compensate providers in proportion to their individual specific call volume and with justification of outreach costs in proportion to their

volume size. Unless the Commission assumes full responsibility for outreach – which ASL/Gracias VRS does not propose – providers should continue to be fairly compensated for their marketing and outreach efforts in relationship to their reasonable, documented costs, as a supplement to the Commission’s outreach efforts.

Research and Development Cost Compensation. Standardization will eliminate some, but not all provider R&D costs. As discussed *supra.*, providers should retain the flexibility to differentiate their brand and services and innovate to meet customer needs, and to attract and retain subscribers. Under ASL/Gracias VRS’ proposed provider-developed “Presentation Tier,” providers would still need to expend resources to develop their own “front-end” VRS access applications, supporting information technology, operational support. And although providers would likely shift away from back end/equipment distribution under the Commission’s proposed structural reforms and the focus on services, operations, and front end Presentation Tier access, their efforts to innovate and differentiate as they compete for subscribers would necessarily entail R&D costs. Further, given the rapid advancement of technology R&D funds must continue to be allocated to VRS providers and not overlooked if providers are to stay current and have an incentive to adapt new technology to VRS consistent with the Commission’s own rules.¹⁶ R&D cost compensation should be retained regardless of what structural reforms are ultimately adopted, as continue to be factored as an allowable cost basis for determining VRS rates.

¹⁶ 47 C.F.R. §64.604(b)(5), “(5) Technology. No regulation set forth in this subpart is intended to discourage or impair the development of improved technology that fosters the availability of telecommunications to person with disabilities...”

C. Additional Funding Should be Considered to Implement Third Party Interoperability Support to the Commission Through a Per Minute Offset.

To the extent that the proposed structural reforms associated with engaging third party support impose additional financial demands on the Program that cannot be readily compensated, ASL/GraciasVRS proposes a lowering of the averaged cost of the three core cost tiers by \$0.05, from \$0.363433 per minute in allowable costs adjusted downward to the proposed amount of \$0.313433 per minute.¹⁷ The \$0.05 per minute off-set of costs can be set aside for the cost of the third party administrator of interoperability and/or used for the funding of the proposed multi-tier system.

According to the Commission's *Further Notice of Proposed Rulemaking*,¹⁸ the average monthly VRS call minutes was reported at 8,853,827. If a \$0.05 per minute offset is multiplied by the three core costs offsets under the reported monthly usage, a total of \$442,691.35 per month - \$5,312,296.20 annually – would be available for interoperability management and oversight. Such an offset would be expected to not only fund a third party administrator and/or the development of a multi-tier system, but to support the on-going oversight costs in the long term.

There are additional funding options beyond discrete TRS Fund contribution revenues that may be considered. ASL/Gracias VRS has developed a proposal for supplemental Program funding through a federal Internet usage tax, unused broadband development funds, and/or federal universal service fund support allocated to support Program interoperability,

¹⁷ Under the current structure the \$0.05 per minute reduction would result in per minute VRS compensation of \$6.1890 Tier I, \$6.1835 Tier II, and \$5.0168 Tier III, respectively.

¹⁸ See, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, *Further Notice of Proposed Rulemaking*, FCC 11-184 (December 15, 2011) Table 1 at 17.

standardization and further supplement Program expenses. ASL/Gracias VRS's proposal will be submitted separately from these Comments.

ASL/Gracias VRS also encourages the Commission to report on the status of the third party administrator for interoperability and/or of the multi-tier system, as well as the costs of the new proposed system and ensure to those Deaf and HoH, and Sign Language stakeholders can become informed and recognize there is proper oversight and guidance throughout the entire process and that the funds have been utilized efficiently.

VII. PROVIDERS SHOULD BE REQUIRED TO PROMOTE PROFESSIONAL DEVELOPMENT AND BE COMPENSATED FOR ADVANCING PROFESSIONAL CA SKILLS.

Another entirely overlooked cost element pertains to professional advancement of CAs and building the pool of fully certified CAs. Training and professional advancement impose significant costs on providers that are not acknowledged, let alone compensated under the current structure.

As the Commission now considers additional reductions in compensation methodology, it must also consider that in the absence of some form of compensation for training and professional development, the CA quality stands to deteriorate as providers seek to cut costs. Additionally, there is no provider incentive to encourage individuals to enter the profession or to enhance current skills. Providers have an inherent obligation to the public and Commission to maintain a qualified CAs and maintain proper staffing, yet reductions in compensation undermine professional development.

The issue of professional development raises another concern that warrants discussion within the context of additional structural reforms; the needed regulatory flexibility for providers

to utilize the most qualified CAs to process calls. As a long-standing professional interpreting company with roots in specialized cultural interpretation, ASL/Gracias VRS is sensitive to the linguistic and cultural issues faced by the Deaf and HoH community it serves. The Company serves as a unique interpreter ally to the Deaf and HoH community, accordingly. ASL/GraciasVRS believes that the interpreting of phone calls should be interpreted under the same cultural sensitivities and orientation as interpreting done in the community outside of the provision of VRS. To be sure, there are a range of interpreting needs and skill sets necessary to effectively meet varied situations. On any given community assignment, as in any given VRS call, there are specific considerations in the manner in which interpretation is performed including the nature of the communication, situational needs, and cultural nuances that will determine the what level and type of skills an interpreter should possess to effectively process call. This is a critical element toward functional equivalency.

A CA should have the professional latitude, based on their knowledge and expertise, to immediately route the caller to the most qualified CA to meet the caller’s needs. Section 64.604(a)(v) requires CAs answering and placing a TTY-based TRS or VRS call to stay with the call for a minimum of ten minutes.¹⁹ ASL/Gracias VRS proposes that the ten minute requirement be explicitly amended or interpreted to begin once the most qualified CA to process a call has been assigned. No caller should suffer through ten minutes of wasted time because that particular CA is not the most effective interpreter for that call. For example, a pre-certified CA who was previously in nursing environment would be more qualified to process medical related calls than a CA who has never worked in the medical profession.

Being “certified” is not the answer to ensuring that is the appropriate person for handling that call, particularly since there are such variances in certifying test results nationally that have

¹⁹ 47 C.F.R. §64.604(a)(v).

been causing major problems in community interpreting work and manifests itself in the provision of VRS. There is also a compatibility consideration. A caller should continue to be able to request another interpreter without jeopardizing the provider's compliance. This is not functional equivalency, nor the kind of working conditions conducive to upholding professional standards.

As part of the additional structural reforms being proposed, the Commission should now too consider requiring providers to support and develop the number of qualified/certified Sign Language interpreters to be utilized by the entire Deaf/HoH community as a segment of its work force. ASL/Gracias VRS is becoming increasingly concerned over the potential for the VRS industry to employ a vast majority of certified interpreters without supporting the entry of new interpreters or promoting professional development for existing interpreters. This situation stands to leave the community interpreting and Video Remote Interpreting services bereft of highly qualified Sign Language interpreters. It has been recently reported that more than 3 million highly skilled jobs in the U.S. cannot be filled because of a dearth of qualified candidates. Industry must now work with educational institutions to ensure that the skills needed to meet those jobs are taught to increase the pool of qualified works. VRS sponsorships to professional development workshops alone, while commendable, do not mitigate this concern particularly when such sponsorships are intended to drive their own recruitment efforts.

The Commission should consider requiring providers to engage in professional development and education programs with specific stipulations and documentation, to develop and support pre-certified, qualified, Sign Language interpreters within a mentoring program utilizing paid Deaf/Hard of Hearing and hearing interpreter mentors. Utilizing highly successful models in other countries, such as Germany, that require industry partnership in developing a

high level professional work force, the Commission could be the leverage needed to allow for appropriate growth within the profession of Sign Language interpreters, ensuring the sustainability of "qualified" ASL CAs being used in the VRS environment.

ASL/Gracias VRS also urges the Commission to compensate VRS providers that have implemented and can document effective training programs that enable pre-certified CAs to achieve national certification and encourage individuals to enter the profession. Compensation of training program costs will induce providers to recruit new CAs to grow the pool of certified interpreters and support continuing professional development of CAs to the benefit of the Deaf and HoH community.²⁰ Professional development cost compensation will also promote development of specialized CA skills such as ASL-Spanish language CAs.²¹

VIII. CONCLUSION.

ASL/Gracias VRS supports the Commission's continued structural reforms with those further considerations addressed herein, though urges the Commission to formally implement additional reforms, including reform to the compensation methodology, once design and testing of the proposed operational standardizations initiatives is completed. A three-tiered approach to standardization should be adopted that allows providers to have the ability to differentiate

²⁰ Although Gracias/VRS supports CA certification, the reality is even if all CAs were certified not all would be "qualified." There are many pre-certified CAs who well qualified to process certain types of VRS calls, but not all calls. ASL/Gracias VRS believes that the current government ADA definition of "qualified" remains appropriate course to take in the hiring of Sign Language interpreters. *See* Registry of Interpreters for the Deaf, Setting Standards, <http://www.rid.org/interpreting/Setting%20Standards/index.cfm>.

²¹ Consistent with efforts to expand the pool of professional CAs, as the Commission considers further structural reforms, it should now too reconsider its prohibition on engagement of contract CAs and the ability of CAs to work from home. ASL/Gracias VRS clearly recognizes that the original intent of these prohibitions was to curb fraud, waste, and abuse. Yet as the Commission has been successful in routing out much of the fraud, waste, and abuse that was perpetrated by disreputable providers, these prohibitions now contribute to increased labor cost for legitimate providers primarily in insurance costs, while forcing CAs to be locked into exclusivity contracts, which conflict with standard professional interpreter practices, and in many instances preclude qualified CAs from interpreting altogether. The ability to engage contract CAs or allow CAs to work from home with appropriate oversight on compliance creates a significant labor cost reductions. Now that only six Fund-eligible providers are engaged in the provision of Fund-eligible VRS, the prohibition on contract CAs and CAs working from home should be authorized with proper documentation demonstrating that the individual is fully supervised and that the Company will remain be capable of complying with Commission regulations.

themselves from others based on innovation and service. Additionally, a third party should be designated to oversee standardization and interoperability, funded in part through an allocation of per minute compensation to providers. Compensation reforms should continue to fairly compensate providers for their direct VRS costs including compensation for marketing and outreach efforts and further for programs designed to attract new interpreters and promote professional development.

[Signature on Following Page.]

Respectfully submitted this 14th day of November, 2012,

ASL Services Holdings, LLC

By:

A handwritten signature in black ink, appearing to read "Angela Roth", is written over a horizontal line.

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STATE OF FLORIDA)
) ss.
COUNTY OF OSCEOLA)

CERTIFICATION

I swear under penalty of perjury that I am the Managing Member, President and Chief Executive Officer of ASL Services Holdings, LLC, an officer of ASL Services Holdings, LLC, and that I have personally examined the foregoing *Comments of ASL Services Holdings, LLC*, and that all statements of fact and representations contained therein, are true, accurate, and complete.

ASL Services Holdings, LLC

By:



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Subscribed and sworn to me this 14th day of November 2012


Notary Public

